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October 21, 2019

Joint Senate and Assembly Public Hearing  
Senate Hearing Room  
250 Broadway, 19<sup>th</sup> Floor  
New York, NY

Honorable Senators and Assembly Members:

Thank you for the opportunity to testify today. My name is Thomas Outerbridge and I am General Manager of Sims Municipal Recycling. Sims has a long-term contract with the NYC Department of Sanitation (DSNY) to process and market all of the metal, glass and plastic (MGP) and approximately half of the paper collected by DSNY through the NYC curbside recycling program. We also process and market recyclables from a number of Long Island municipalities.

Municipal recycling programs are in a state of crisis today due to the collapse of markets for recycled paper and challenging market conditions for other materials. This issue affects every local government and resident in New York State.

Fortunately, there is something that can be done at the State level, which will radically alter the current situation for the better, and provide permanent support to sustain and grow recycling programs into the future. That is to pass Extended Producer Responsibility (EPR) legislation for packaging. Packaging EPR will effectively de-couple curbside recycling programs from commodity market fluctuations.

EPR is not a new concept or practice. NYS has EPR legislation for electronic waste, batteries, tires and motor oil, and last year passed EPR legislation for paint. The bottle bill is a version of EPR. Other states have EPR laws for mattresses, carpeting, solar panels, and pharmaceuticals.

EPR for packaging materials is also not a new idea. Europe has had various packaging EPR laws for decades. Closer to home, the province of Quebec has had a very successful packaging EPR program since 2005. EPR for packaging has been slow to come to the US, but Maine is now a few months away from having packaging EPR legislation, and packaging EPR legislation is in development or under consideration in Vermont, Connecticut, Massachusetts, California and Oregon.

Recycling has always had costs associated with it. These have often been partly or largely offset by the commodity values of recycled materials. This old model is now upside down due to depressed commodity values, and municipalities are dealing with steep increases in costs and in some cases scaling back or cancelling recycling programs. And unfortunately, there is no end in sight for the market conditions we are now experiencing.

The basic principal of packaging EPR is quite simple. Producers who sell packaging that ends up in the municipal waste stream pay a fee that covers or helps to offset the costs of municipalities to

recycle that material. The fee associated with the package is tied to the value or cost of managing that material. Not only will packaging EPR save existing programs, it will motivate and incentivize municipalities to institute the most robust and inclusive programs possible, and it will incentivize product manufacturers to choose materials that are most favorable for recycling.

I said it before, but I want emphasize this point. If we think of recycling as a public service and an environmental necessity, you can look at EPR as a way to decouple that service from volatile commodity markets.

There are many variations in packaging EPR – what items are covered, fee structures, incentives for manufacturers to create recyclable packaging or packaging with recycled content. I have attached to my testimony summaries of the proposed Maine legislation and the Quebec program because both of these are models that could be readily adapted to New York. Both of them take advantage of existing recycling programs and infrastructure that have been developed over decades. Both of them would be compatible with the range of recycling systems deployed across New York, where we have programs run by Counties, by solid waste authorities, and by individual municipalities, where we have public and private collection fleets, and where we have processing infrastructure that is publicly owned, privately owned or organized as a public-private partnership.

While there are many details that go into packaging EPR legislation, I would emphasize that we are not re-inventing wheel. For the past several months, I have been working with the New York Product Stewardship Council (NYPSC) and the Product Stewardship Institute to review the many EPR programs already in existence and identify the best and most applicable elements for a New York program.

The NYPSC has representation from across the State, including New York City, Onondaga County, Niagara County, Broome County, Monroe County, the Oneida-Herkimer Solid Waste Authority, Tompkins County, the Town of Oyster Bay, the Town of Southold, the City of Ithaca and the NYS DEC. Through engagement with the NYS Recycling Association (NYSAR3), the NY Chapter of the Solid Waste Association, the NYS Association for Solid Waste Management, the NY Chapter of the National Waste & Recycling Association, and the NY Chapter of ISRI, we are able to ensure input from virtually the entire recycling sector (public and private) and incorporate it into an EPR model that is tailored for New York State.

Last year NYS banned the sale of single-use plastic bags, which will be a help to recycling programs, and reduce litter. Last year there was also a proposal to expand the bottle bill to include additional non-alcoholic beverages – something most of us in the recycling sector (public and private) opposed because it would divert additional valuable plastic and metal containers from curbside programs at a time when they are already in financial crisis. Many of us do support including wine and spirit containers in the deposit program because they are predominantly glass, which is problematic in curbside programs, and NYSDEC is currently studying the wine and spirits issue.

Regardless of what happens with the wine and spirits question, I am asking that this year you do not revive last year's proposal to expand the bottle bill to other plastic and metal containers, for the same compelling reasons we fought it last year. Instead, you should focus on the much bigger prize of passing the far more comprehensive packaging EPR approach, which covers not only beverage containers without a deposit, but also cereal boxes, pickle jars, yogurt cups, cardboard boxes, and all the other packaging materials that municipalities are responsible for recycling.

Packaging EPR would be the single largest action the State can take to save public recycling programs.

The recycling crisis is very real and we need a game-changer like this. While Europe and Canada are well along the way with packaging EPR, New York can lead the US in ensuring the proper allocation of responsibility to those companies that create the packaging materials that end up in the waste stream, and the resources to the municipalities that must responsibly manage these materials.

There will no doubt be pushback from various commercial interests, but the major brands who sell products into the New York market already participate, and have for many years, in similar programs across Europe and Canada. This is only a new idea in the US, and I would venture that many consumer product companies would welcome a well-designed EPR program that supports recycling of the products they sell. You only have to look at those companies that have signed on to the many various efforts to create a circular economy. They know it is coming and want to be part of a rational and responsible solution.

I appreciate your attention to recycling. It is incredibly important to those of us who work on it, and it is an environmental activity that virtually all New Yorkers have access to and that most participate in daily.

Now more than ever, it requires State action. If we believe public recycling programs are necessary and important, then packaging EPR is the fairest and most sure way to fix the problem.

Thank you.



Éco  
Entreprises  
Québec

Recycling is  
our business



# Printed Paper and Packaging Extended Producer Responsibility in Québec

Solid Waste & Recycling Conference

The Sagamore Resort, Bolton Landing, NY

Mathieu Guillemette | May 21, 2019



## **Mathieu Guillemette** **Senior Director** **Services to Municipalities**

- Various responsibilities over the years:
- Curbside recycling net cost negotiation
  - Fee schedule calculation
  - Waste audit and activity based costing management
  - Out of home recovery program management; etc. etc.

# Québec context

## Information about the province of Québec

- 8.5 million people (~pop. NYC)
- 600,000 sq miles (~twice size Texas)
- Winter lasts 8 months (~Alaska's weather)
  
- 1,100 municipalities
  - > Biggest: Montréal (pop. 1,800,000)
  - > Smallest: Saint-Louis-de-Gonzague-du-Cap-Tourmente (pop. 5)



## Curbside recycling in the province of Québec

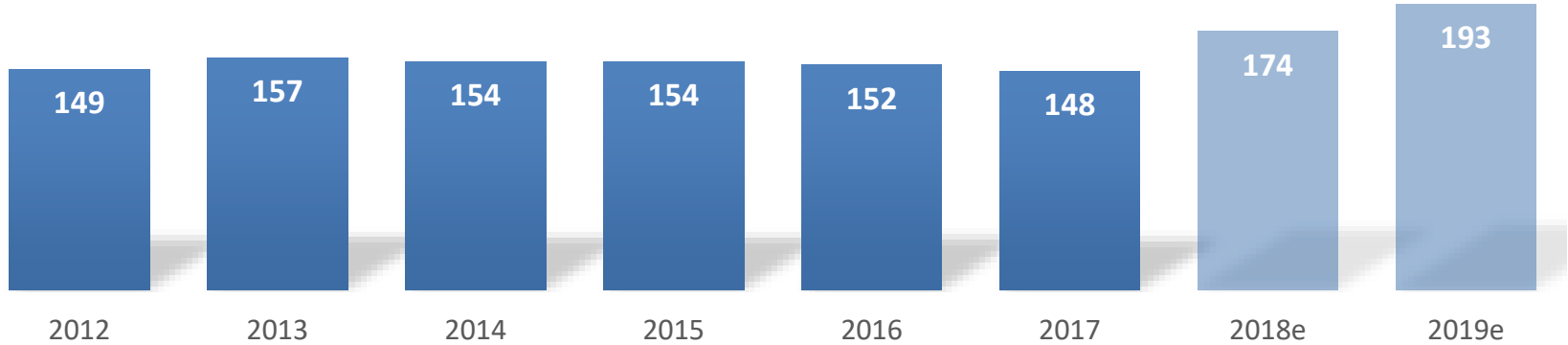
- Recycling began in the 80s
- More than 99% of the population has access to door-to-door recycling
- 800 000 tons recovered yearly
- 64% recovery rate
- Net cost per ton under \$200





# Annual curbside recycling net costs

(CAD million)



# Quebec Compensation Plan and ÉEQ's role

## A quick reminder about Extended producer responsibility

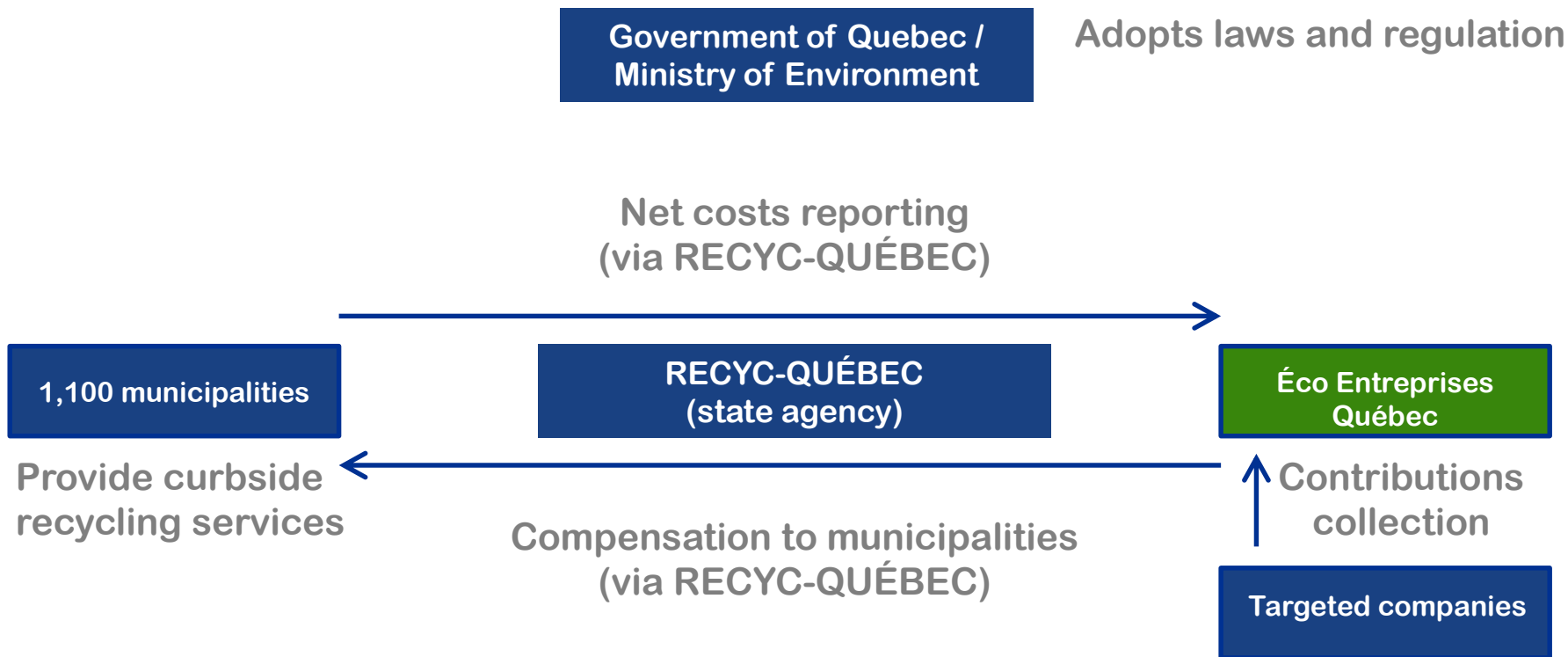


“EPR is a policy approach under which producers are given a significant responsibility – financial and/or physical – for the treatment or disposal of post-consumer products.

Assigning such responsibility could in principle provide incentives to prevent wastes at the source, promote product design for the environment and support the achievement of public recycling and materials management goals.”

OECD

# Québec Regulatory Framework Summary



## Legal Context and obligation

- Legal obligation since 2005
  - > Québec's Environment Quality Act
  - > Regulation
  
- Companies that put on the Québec's market containers, packaging and printed matter are responsible to finance 100% of the net costs of municipal curbside recycling program



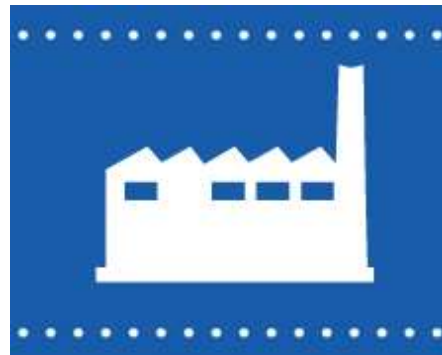
## Compensatable costs



**Collection**



**Transportation**



**Sorting**

## Designated Materials

- Containers and Packaging
- Printed Matter



## Éco Entreprises Québec

- Certified by the Quebec government
- Represent the 3,400 companies that put on the market containers, packaging and printed matter
- Private, non-for-profit organization based in Montreal, Quebec





## Companies' contribution

- Based on the Fee Schedule
- Rate (in \$/t) by types of material is established every year
- Each company individual contribution is based on the quantity of material put on the market times the specific rate for each material



## Companies' contribution per material (fee rate)

### - A few examples



	<u>2019 fee rate</u>
Newsprint inserts and circulars	\$205
Corrugated cardboard	\$184
PET bottles and containers	\$285
Expanded polystyrene for food products; protective polystyrene	\$793
Aluminium food and beverage containers	\$181

## Compensation paid to municipalities since 2005



**\$1,3 billion**  
**(approx. \$150 M last year)**

## Impacts of EPR implementation



- Impact on competition between curbside recycling companies: none
- Impact on contributing companies bottom line: variable
- Impact on packaging design: positive

# An incentive towards optimization

## Ecodesign and circular economy

- Publication of the first study on circular economy in Québec
- Launch of the [quebeccirculaire.org](http://quebeccirculaire.org) circular economy portal
- Direct support to contributing companies for ecodesign initiatives



## Glass Works Plan

**A concrete solution for 100% of the glass containers  
Quebecers place in their recycling bins**

- \$13 millions invested on equipment in 6 sorting centers and on market development
- Sorting centers now reaching glass purity of 97%+



VERRE  
L'INNOVATION



## Second life for plastic: a global concern

- ÉEQ initiatives in 2019:
  - “Plastics solutions: Innovations in recycling on either side of the Atlantic”
- Forum Québec-France in partnership with Citeo – Paris, Feb. 4–5
- Focus on molecular (chemical) recycling





## Best practices initiative for effective curbside recycling

- Presentation of best practices in curbside recycling to elected officials and municipal general managers
- Publication of tools and case studies
- Direct support to municipalities seeking to adopt best practices in the specifications of their calls for bids



**BEST PRACTICES  
INITIATIVE**  
*For effective  
curbside recycling*

**Is there room for  
improvement?**

## Some benefits of EPR



- Alleviates the financial burden of waste management
- Offers stability in times of crisis
- Provides municipalities with some information about others' performance (emulation)

## An incentive towards continuous improvement



- Compensation paid to a municipality is adjusted according to its performance (to a certain extent...)
  - Amount recovered per person
  - Cost per ton recovered
- Material recovered is compensated, but not material sent to landfill

## Curbside recycling challenges



- To improve traceability of material and increase transparency to maintain public confidence in recycling



- To help consumers better understand what to place in recycling bins
- To improve the quality of materials placed in recycling bins (reduce contamination)

Is there room for improvement?

## What contamination?



Is there room for improvement?

## What contamination?



## What contamination?





## What contamination?



FLEETS & TECHNOLOGY > SAFETY

### Five-Alarm Fire at Queens, N.Y., Recycling Plant Caused by Lithium Battery, FDNY Says

The fire began Friday afternoon and burned until the next morning.

Waste360 Staff | Mar 19, 2018

The fire caused four branches of the Long Island Rail Road (LIRR) to shut down on Friday afternoon due to the thick smoke emanating from the facility and over the tracks. Firefighters remained at the facility after the fire was brought under control to remove debris as a precaution.

## Curbside recycling challenges



- Improve capture rate of recyclable material in sorting centers
- Improve outbound material quality



- Feed “local” markets for recovered material in a circular perspective
- Develop new markets for hard-to-recycle material
- Adapt system to increasing e-commerce

A photograph of a man in a dark jacket holding a young child in a pink jacket. They are standing outdoors next to a blue recycling bin with its lid open. The man is holding a white plastic jug. A white graphic element, resembling a speech bubble tail, frames the text 'Lessons learned'.

# Lessons learned

**Thank you  
for your  
attention!**

**Mathieu Guillemette**

Senior Director, Services to Municipalities

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JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



GERALD D. REID  
COMMISSIONER

## Resolve to Support Municipal Recycling Programs, Conceptual model

### Key features:

- Establish a cost share system managed by one or more not-for-profit third-party stewardship administrators that 1) internalizes most of the cost of municipal management of end-of-life packaging within the purchase price of a product and 2) provides incentives for producers to use – and, to the extent costs are passed in the purchase price, for consumers to buy – less packaging and packaging that is more recyclable.
  - The cost to a producer is based on the recyclability and recycling value of the packaging it places on the market and adjusted to reward or dis-incent recycled content, toxicity, labeling for recycling, and tendency to disrupt established recycling streams as determined through consultation between the Department and any stewardship organizations.
  - Producers only pay when the cost of collecting, transporting, and recycling a packaging material exceeds its recycling market value; they pay a higher per ton fee for packaging that is not readily recyclable.
  - Individual producers will benefit from packaging adjustments in the form of lower program costs in the short-term; all will benefit from lower system costs and better materials management in the long-term.
- Producers can lessen their payment obligations through participation in non-municipal recycling programs. This provides producers additional control over costs: if producers want to recycle their own products instead of using the municipal system, they are free to do so.
  - If a producer or group of producers creates a take back program that collects and recycles a material across the State, the quantity recycled will be subtracted from the quantity of that material produced for the purposes of paying into the system that covers municipal management costs.
  - Take back programs can partner with Maine businesses to take advantage of the commercial recycling that already occurs in the state, promote increased commercial recycling, increase takeback opportunities for consumers, or partner with municipalities, among other options.
- Municipalities maintain control of their recycling systems, and the system provides financial incentives to manage recycling operations efficiently.
  - Payments municipalities receive will be based on average costs experienced by similarly situated municipalities, thereby preventing the creation of premium collection systems that are not justified by resulting commodity value.

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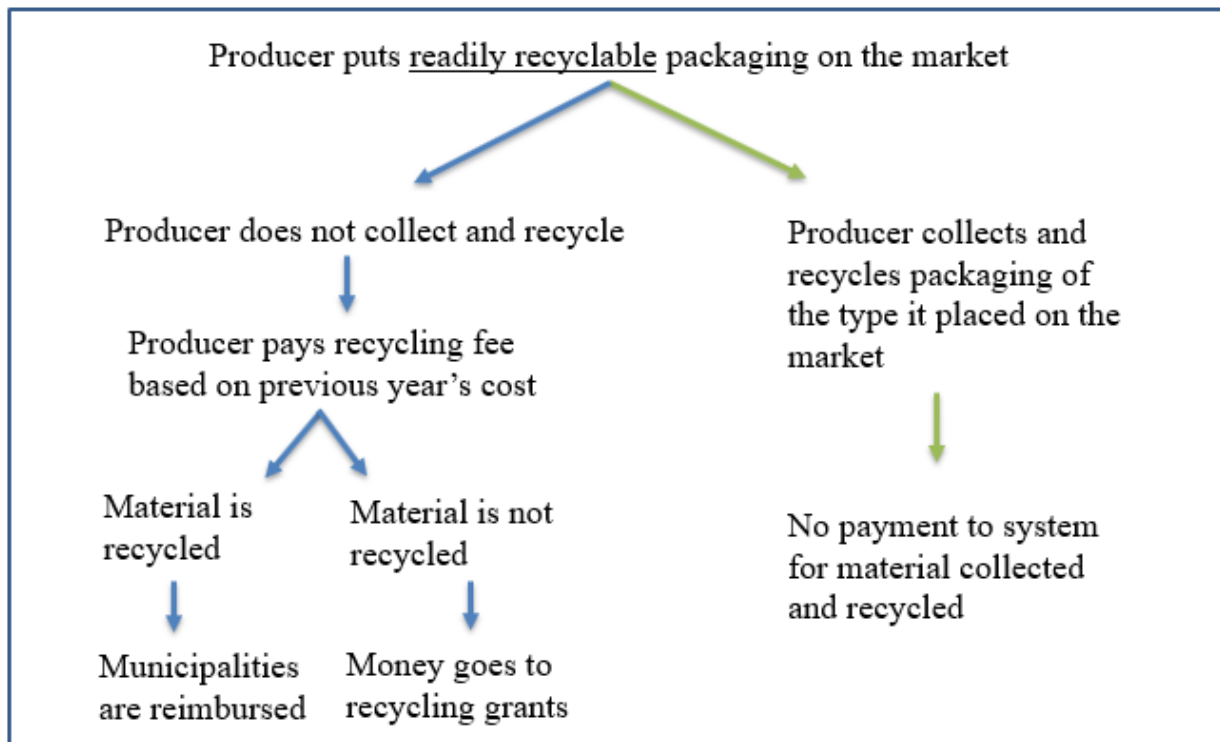
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(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
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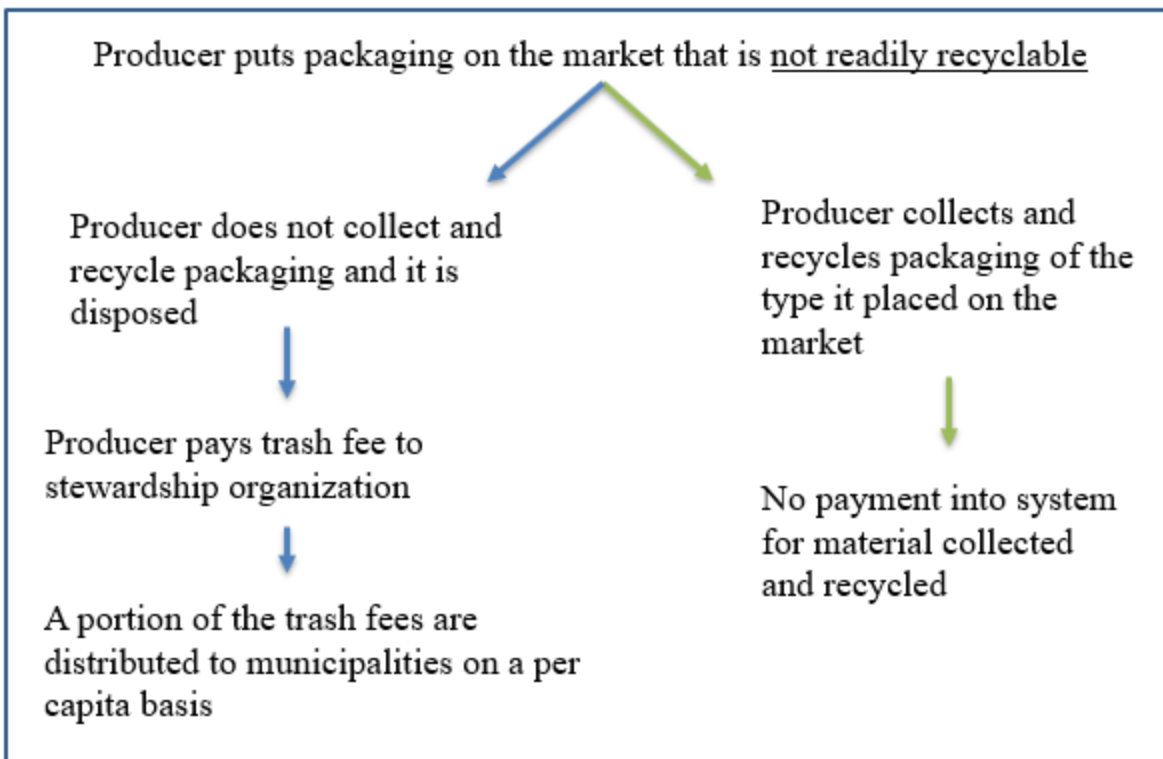
PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
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- Maintaining municipal control of recycling minimizes disruption to the current waste management system, allowing municipalities to continue collecting and sorting material as they see fit and protecting existing investments.
- Distributed control of recycling helps prevent excessive consolidation of the recycling industry and the concentrated control of resources that could result if a single entity is awarded control over all materials state-wide.
- Requires good municipal data on downstream tracking and costs and periodic audits of contents of the recycling stream.
- Municipalities receive per capita payments to help defer the cost of disposing packaging that is not readily recyclable.
  - Producers pay money into the system for the introduction into the marketplace of material that is not readily recyclable. Part of this stream of money will be sent to municipalities on a per capita basis to help cover the cost of managing materials that cannot be readily recycled.
- Any funds paid by producers in excess of municipal payment and operational expenses is remitted to the Department as dedicated revenue for disbursement through the *Maine Solid Waste Diversion Grant Program* under 38 M.R.S. § 2201-B to support increased recycling of packaging.

General Schematic:



OR



Reporting requirements:

- Municipal recycling program to stewardship organization
  - Annual data on the cost of recycling: collection costs, transportation costs, and tipping fee or payment by material type. If both trash and recycling are collected through a common mechanism, collection costs should be divided between the two streams in a manner that adequately reflects the resources required for each stream. Likewise, if multiple material types are collected and transported through a common mechanism, collection costs should be divided between the two streams in a manner that adequately reflects the resources required for each stream. The Department or stewardship organization may provide guidance on these points.
  - Annual data on the amount of material recycled by material type. This must track material until the point at which it is a commodity ready for processing into post-consumer recycled (PCR) material. For example, shipment records for 3-7 plastic do not meet this criterion because 3-7 plastic requires further sorting before it can be processed into PCR material. If a municipality sends 3-7 plastics to a processing facility it needs to have shipping records in combination with information from the processing facility regarding the outcome of the components of that stream, for example: 70% of stream is #5 plastic which is recycled; 30% of stream is #3, 6, and 7 which goes to landfill. Data on single stream recycling can be figured at the level of the processing facility and divided among participating towns according to the percent of the facility's total material contributed by each.

- The stewardship organization will conduct random audits of bale quality and makeup to determine the amount and types of packaging in each stream and municipal recycling numbers will be adjusted accordingly.
- Producers to stewardship organization
  - Total pounds of packaging sold into Maine for each material type, including multi-material categorization; may be based on national figures adjusted by Maine populations percentage (e.g., 0.43%).
  - Information on the qualities of the packaging sufficient to determine the applicability of adjustments based on toxicity, recycled content, labeling, and disruption.
  - Brands for which packaging material is reported
  - Pounds per packaging type recycled through producer initiatives. This must track material until the point at which it is a commodity ready for processing into PCR material. Pounds recycled must be adjusted according to random audits for bale quality and makeup, which should occur at the same rate and frequency as those audits to which the municipal stream is subjected.
- Stewardship organization to DEP
  - Summary tables showing costs per cost category reported by all municipal recycling programs.
  - Summary tables showing recycling reported by each municipal recycling program by material type.
  - Calculations used to determine municipal reimbursement and the amount of money reimbursed to each municipality.
  - Summary tables of the pounds of packaging sold into Maine by producer and material type.
  - Calculations used to determine producer fees.
  - A list of producers for which packaging toxicity adjustments were applied and information on the brands on which such packaging is used.
  - An analysis of priority investments in education and infrastructure that it assesses would benefit Maine's recycling system
  - Results of all audits of baled recyclables, information on the sampling procedures, and details of any adjustments made to recycling numbers as a result.
- DEP to stewardship organizations in the case of multiple organizations managing programs for producers of a packaging type
  - Percentage of municipal reimbursement for which each organization is responsible by material type

#### Key definitions

- “Packaging” means primary packaging that contains a product at the point of sale, secondary packaging used to group products for multi-unit sale, tertiary packaging used for transportation or distributional purposes, service packaging intended to be filled at sale, and ancillary elements hung or attached to a product and performing a packaging



function. Packaging does not include material subject to chapter 33 or packaging with a life of at least 5 years used for the long-term protection or storage of a product.

- “Producer” means a person that:
  - Has legal ownership of the brand on packaging sold in or into the State;
  - Imports packaging branded by a person that meets the requirements of paragraph A and has no physical presence in the United States; or
  - Sells products in packaging in the State at wholesale or retail, does not have legal ownership of the brand of producers, but is the sole Maine distributor of the packaging and elects to fulfill the responsibilities of the producer for that producer.
  - Companies that can document that they place less than 100 pounds of packaging on the market in Maine in a given calendar year are exempt but may participate if they choose to do so. A company includes all members of a franchise.
- "Readily recyclable" means possessing physical and economic characteristics that allow a material to be processed into materials that are usable or marketable for use in the manufacturing of new products. Readily recyclable materials include, but are not limited to mixed paper, paperboard, corrugated cardboard, polyethylene terephthalate plastic (PET), high-density polyethylene plastic (HDPE), polypropylene plastic (PP), glass, and metals that are easily separated. A material is not readily recyclable if fewer than 90% of Maine residents have access to recycling of the material through curbside collection or drop-off within 15 miles of their residence.
- "Recycling" or "recycle" means a series of activities by which material that has reached the end of its current use is processed into material for use in the production of new products. Recycling does not include burning material for energy.
- “Municipal recycling program” means recycling collection or drop-off provided to residents by a municipality, group of municipalities, or an entity contracted or registered by one or more municipalities to provide this service.
- “Material type” means a category of packaging delineated by the Department based on similar recycling management systems and costs and/or materials value resulting from recycling. Material types may be proposed to the Department by a stewardship organization.

Outstanding points: these are organized by stakeholder type for convenience, but please provide feedback on any issues of interest.

- Recyclers
  - Who has data on bale contamination rates, incoming contamination rates, and bale contents? How can this data be used to refine recycling numbers?
  - How might audits work? Who would perform them? Is anyone collecting this data currently (downstream processors...)?
  - How can we track/ensure/prove recycling?

- What is the limiting factor when loading a truck, weight or volume? If volume, how can material-specific cost of transporting a mixed load be calculated?
- Who should control money for infrastructural investments and education?
- Do you have thoughts on readily recyclable definition?
- Are there international standards for reporting/tracking/defining recycling?
  
- Brand owners
  - Audits to see packaging in mixed paper/other mixed streams: How many? How often? How detailed?
  - What needs to be reported for verification of recycling?
  - What is expensive enough to dis-incent trash?
  - What would you like to see done with money for education and infrastructural investment?
  - Where should the de minimus threshold be? How does a company establish they place less into the Maine marketplace?
  - Ecommerce sites: What is your relationship with 3rd party sellers? How can this best be handled?
  - What is a reasonable timeline for implementation?
  
- Towns
  - Who should receive payments?
  - If to towns, what is the best way to be sure that the money is dedicated to recycling?
  - What should be reimbursed?
  - What is included in the cost of recycling? How might factors for labor and infrastructure depreciation be developed?
  - What documentation can towns provide to support cost claims?
  - Timing of reimbursement (more reporting means more timely payment): how often should this happen?
  - Who should control money for education and infrastructural investment? If through the DEP grant process, how can DEP help ensure that all towns are able to participate regardless of staff resources?