

EPR AFFILIATION POLICY



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PREAMBLE

Alberta Recycling Management Authority (the “**Authority**”) is authorized by the EPR Regulation to register producers, producer responsibility organizations, processing facilities and communities in the Extended Producer Responsibility Program for Hazardous and Special Products (the “**HSP Program**”) and the Extended Producer Responsibility Program for Single-use Products, Packaging and Paper Products (the “**PPP Program**”).

Registrations by the Authority are subject to the EPR Regulation and ARMA’s bylaws for the PPP Program (the “**PPP Bylaws**”) and the HSP Program (the “**HSP Bylaws**”, collectively the “**Bylaws**”) and ARMA’s policy framework (the “**Policies**”), all as amended and replaced from time to time.

This Policy outlines matters relating to (i) the EPR Regulation, Bylaws and the Policies including (ii) the Authority’s discretion to register Applicants, and (iii) the Authority’s process.

DEFINITIONS

1. In this Policy,

- (a) “**Act**” means the *Environmental Protection and Enhancement Act*, RSA 2000, c E-12, as amended or replaced from time to time;
- (b) “**Applicant**” means an entity or individual who applies to register with the Authority to participate in the PPP Program or the HSP Program;
- (c) “**EPR Regulation**” means the *Extended Producer Responsibility Regulation*, AR 194/2022, as amended or replaced from time to time;
- (d) “**Not-for-Profit Organization**” means an entity established pursuant to Part 9 of the *Companies Act*, RSA 2000, c C-21 or the *Canada Not-for-profit Corporations Act*, SC 2009, c 23 , a society established under the *Societies Act*, RSA 2000, c S-14 or, as may be permitted by the Authority in accordance with the Bylaws, a not-for-profit entity established pursuant to similar legislation in a Canadian province or territory that is legally permitted to conduct business or otherwise pursue its objects in Alberta; and
- (e) “**Restricted Affiliation**” means any affiliation of an Applicant which is restricted in the EPR Regulation, Bylaws, or Policies, as amended or replaced from time to time.

Any capitalized undefined terms have the meaning attributed to them in the EPR Regulation and the Bylaws.

SCOPE

2. Upon and application by an Applicant to register, the Authority shall first identify whether the Applicant is eligible to register as set in the EPR Regulation, Bylaws, and Policies.
3. The Authority may accept an application to register with the Authority (an “**Application**”) from:
 - (a) a Producer if:
 - i. the Application is made in accordance with the Bylaws and Policies¹;
 - (b) a Producer Responsibility Organization if:
 - ii. the Application is made in accordance with the Bylaws and Policies²;
 - iii. the Producer Responsibility Organization is a Not-for-Profit Organization³; and
 - iv. the Producer Responsibility Organization does not have a Restricted Affiliation⁴;
 - (c) a Processing Facility if:
 - i. the Application is made in accordance with the Bylaws and Policies⁵; and
 - ii. if none of the Producer Responsibility Organizations which are already registered with the Authority have a Restricted Affiliation with the Processing Facility⁶; and
 - (d) a Community if:
 - i. the Application is made in accordance with the Bylaws and Policies.⁷
4. If the Applicant is a Producer Responsibility Organization or a Processing Facility, the Authority shall conduct a detailed review of the Applicant’s business and activities (“**Due Diligence**”) to identify any concerns, including without limitation, a Restricted Affiliations.
5. All Applicants of the same type, (e.g. all Producer Responsibility Organizations), shall undergo the Due Diligence process.

¹ Section 4(2) of the EPR Regulation

² Section 4(2) of the EPR Regulation

³ Sections 20(2)(b) and 27(2)(b) of the EPR Regulation

⁴ Sections 20(2)(a) and 27(2)(a) of the EPR Regulation

⁵ Section 4(2) of the EPR Regulation

⁶ Sections 20(2)(a) and 27(2)(a) of the EPR Regulation

⁷ Section 4(2) of the EPR Regulation

6. If the Authority is not permitted to register an Applicant, the Authority must reject the Application.

RESTRICTED AFFILIATION

7. An entity is deemed to be affiliated with another entity if one of them is a subsidiary of the other or both are controlled by the same entity or the same person.

- (a) An entity is a subsidiary of another entity if it is controlled by that other entity;
- (b) A corporation is controlled by an entity or an individual if:
 - i. securities of the corporation to which are attached more than 50% of the votes that may be cast to elect directors of the corporation are held, directly or indirectly, whether through one or more subsidiaries or otherwise, otherwise than by way of security only, by or for the benefit of that entity or individual; and
 - ii. the votes attached to those securities are sufficient, if exercised, to elect a majority of the directors of the corporation; and
- (c) An entity other than a corporation is controlled by an entity or individual if the entity or individual, directly or indirectly, whether through one or more subsidiaries or otherwise, holds an interest in the entity that is not a corporation that entitles them to receive more than 50% of the profits of that entity or more than 50% of its assets on dissolution.

8. The Authority may not register an Applicant if the Applicant has a Restricted Affiliation.

9. The following affiliations are Restricted Affiliations:

- (a) a Producer Responsibility Organization in the PPP Program which is affiliated an entity or individual that provides recycling services or waste management services for PPP Designated Materials;⁸
- (b) a Producer Responsibility Organization in the PPP Program if more than 50% of the members of the Producer Responsibility Organization are affiliated with an entity or individual that provides recycling services or waste management services for PPP Designated Materials;⁹

⁸ Section 20(2)(a) of the EPR Regulation and Section 3.12 of the PPP Bylaws.

⁹ Section 3.12 of the PPP Bylaws.

- (c) a Producer Responsibility Organization in the HSP Program which is affiliated an entity or individual that provides recycling services or waste management services for HSP Designated Materials;¹⁰ and
- (d) a Producer Responsibility Organization in the HSP Program if more than 50% of the members of the Producer Responsibility Organization are affiliated with an entity or individual that provides recycling services or waste management services for HSP Designated Materials.¹¹

10. For the purposes of this section, “**recycling services or waste management services**” includes for profit services at any stage in the processing of waste or recycled items including collecting, transporting, handling, storing, sorting, separating and processing of waste or recycled items.

DECISION

11. The Authority is not required to accept an Application if it is permitted to do so. If the Authority is permitted to accept an Application, the Authority shall determine whether the Application should be:

- (a) accepted; or
- (b) rejected (the “**Decision**”).

12. When making the Decision, the Authority shall:

- (a) consider all relevant information, including the objectives of the EPR Regulation and the Act, the impact of the Decision on the extended producer responsibility regulatory scheme in Alberta, and the impact of the Decision on the Applicant;
- (b) make reasonable efforts finalize the Decision in a timely manner, while considering the importance of Due Diligence;
- (c) provide the Applicant with written reasons explaining the Decision and identifying any Restricted Affiliations, if applicable.

13. The Authority shall have the authority to make the Decision with unfettered discretion. The Decision may not be prescribed in policy as the Authority must consider the specific facts and business of the Applicant.

¹⁰ Section 27(2)(a) of the EPR Regulation and Section 3.12 of the HSP Bylaws.

¹¹ Section 3.12 of the HSP Bylaws.

14. If rejected, an Applicant may re-apply to register with the Authority, at any time, if the Authority's rationale to reject the Application is no longer accurate.

POLICY REVIEW

15. The Authority shall periodically review this Policy considering the Authority's objectives, evolving industry practices, and regulatory changes.