

October 3, 2025

Beverage Product Brand Owner

New NB Designated Materials Regulation

The Government of New Brunswick has recently replaced the prior Designated Materials Regulation under the Clean Environment Act with a new version. This new version has a number of structural changes. Most of the changes do not impact brand owners, with the exception of one notable change: responsibilities imposed on “producers”. The old Regulation imposed annual reporting and certain other obligations on “brand owners”, whereas the new Regulation imposes such obligations on “producers”:

- (i) The new Regulation provides that a producer of a beverage container is a person with a permanent establishment in Canada who owns or licences a brand, or who otherwise has rights to market a product under that brand (a brand holder).
- (ii) If there is not a brand holder with a permanent establishment in Canada, then the importer of the beverage container who has a permanent establishment in New Brunswick is considered to be the producer. If there is no such importer, then the retailer of the beverage container is considered to be the producer.
- (iii) If there is no such importer, then the retailer of the beverage container is considered to be the producer.

Under the old Regulation, some brand owner responsibilities could have previously been fulfilled by other distributors or importers in the supply chain. In light of the terminology under the new Regulation, this is no longer permitted if the brand holder has a permanent establishment in Canada.

Amendments to Existing Brand Owner Agreements

Encorp expects that the majority of beverage container brand owners are both “brand owners” (under the old Regulation) and “producers” (under the new Regulation) and have already appointed Encorp as agent to carry out obligations under the Regulation. Due to the changes, beverage container brand owners who have already signed up with Encorp will be required to sign a short amendment to the current brand owner agreements, to reflect the changes to the Regulation. The amending agreement and execution instructions will be provided for all registered brand owners in due course.

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New Brand Owner Agreements

While most beverage container brand owners have already appointed Encorp as agent, it may be that some would not have been caught by the old Regulation. If a newly designated producer wishes to appoint Encorp as an agent, they will need to enter into a new brand owner (producer) agreement with Encorp, which will mirror, in all material respects, the existing brand owner agreements, as amended.

Encorp is requesting your assistance with determining who now fits the new definition of producer, to ensure that all beverage container deposits are properly received. The new Regulation provides that if a producer has not registered with Recycle New Brunswick as of June 2025 and appointed an agent to carry out the requirements under the Regulation, they are prohibited from selling their product in New Brunswick. If you have knowledge of any party in your supply chain who is not currently registered with Encorp, who now falls under the definition of producer, please advise Encorp. Alternatively, you may provide a copy of this letter relaying our request to such party.

Additionally, please advise Encorp if you believe you are no longer captured by the definition of producer. If this is the case, please advise whether another party in your supply chain would now be captured and should enter into an agreement with Encorp. If Encorp does not hear from you, Encorp will assume that you continue to be a producer under the new Regulation. Please email Encorp if you have any further questions about the changes.

New PEI Beverage Container Program – For Your Information

Encorp has been in discussions with the PEI government in connection with their introduction of a new EPR program. Ultimately, Encorp aims to enter into brand owner/producer agreements with all producers operating in PEI.

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Under the new PEI regulation, the definition of a “beverage container producer” is:

- (i) a manufacturer of the beverage container,
- (ii) a distributor of the beverage container in or into the province, or
- (iii) where the beverage container is imported into the province, the first person to sell the beverage container in or into the province.

The PEI EPR program will be implemented as of April 2026. **Given that many of you also sell products in PEI, if you fall under the PEI definition of “beverage container producer”, please email Encorp to confirm (i) your intention to continue selling beverage containers in PEI; and (ii) that you wish to appoint Encorp as your agent.** Encorp will distribute brand owner/producer agreements early in the new year in anticipation of the April 2026 start to the program.

Thank you for navigating these new changes with us.

In summary, **we would kindly ask that you Reply All to this email with your answers to the following questions based on this communication:**

1. Do you fit the new definition of “producer” in New Brunswick?
2. Are you aware of any party in your supply chain who would fall under the new definition of “producer” and who is not already registered with Encorp?
3. Do you intend to sell beverage containers in PEI?
 - a. If yes, do you fit the definition of “producer” in PEI and wish to appoint Encorp as your agent for the PEI EPR program?

Regards,

A handwritten signature in black ink, appearing to read "Gilles Doucette", with a stylized flourish at the end.

Gilles Doucette
President & Chief Executive Officer
Encorp Atlantic

Please see the attached supplemental document for additional details.

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