

# ACCESS TO INFORMATION AND PRIVACY POLICY

Last Revised: October 2024

This Policy dictates how Divert NS collects, uses, and discloses information. This includes Divert NS' collection and use of information through its websites, as well as the collection and use of information related to its regulatory duties and authority.

You should read this Policy before using our websites, and if you disagree with this Policy, you should refrain from using our websites.

## COMMITMENT

Divert NS respects the privacy of its partners and those who engage in its services. Accordingly, Divert NS is committed to protecting commercially sensitive information and personal information it collects and retains in the course of performing its regulatory functions while facilitating access to public information to the extent required by law.

## DEFINITIONS

In this Policy, the following terms have been defined:

- a) **Access** means access by an individual or an organization to information in the custody or control of Divert NS;
- b) **Commercially Sensitive Information** means information that, if disclosed, could reasonably be expected to prejudice the commercial interests of a person;
- c) **Divert NS** means the Resource Recovery Fund Board, Inc., and its Board of Directors, staff, contractors, and agents;
- d) **EPR Agreement** means the agreement entered into between Divert NS and the Minister referred to in section 12 of the *EPR Regulations*;
- e) **EPR Regulations** means the *Extended Produce Responsibility for Packaging, Paper Products and Packaging-Like Products Regulations*, NS Reg 139/2023 as amended from time to time;
- f) **Minister** means the Minister of Environment and Climate Change;
- g) **Personal Information** means information about an identifiable individual, or by which an identifiable individual can be deduced, whatever the format;
- h) **Registry** means the registry required to be established pursuant to section 15 of the *EPR Regulations*;
- i) **SWR Agreement** means the agreement entered into between Divert NS and the Minister referred to in section 5(2)(b) of the *SWR Regulations*; and,

- j) **SWR Regulations** means the *Solid Waste-Resource Management Regulations*, NS Reg 25/1996 as amended from time to time.

## PRINCIPLES

The following principles apply to the management of information by Divert NS:

1. Information will be collected only to the extent necessary to fulfill Divert NS' dual stewardship and EPR Oversight mandates arising from the *SWR Regulations* and the *EPR Regulations* respectively;
2. Information will only be used for the purpose of fulfilling Divert NS' dual regulatory mandates;
3. Information collected by Divert NS will be managed and retained in compliance with Divert NS' duties and legal obligations;
4. Information will be kept confidential, except where disclosure is authorized and/or required by law; and,
5. Everyone will have access to information that is subject to public disclosure.

## APPLICATION

This Policy applies to Divert NS.

## PURPOSES FOR WHICH INFORMATION IS COLLECTED, USED, DISCLOSED, AND RETAINED

Divert NS will collect, use, disclose, and retain information solely for purposes related to the performance of its duties or exercise of its powers.

At the time of collection, Divert NS shall provide the purpose for which the information is being collected and could be used or disclosed, except where information is being collected as part of a compliance inspection or investigation.

In order to preserve confidentiality, Divert NS shall only use information it collects for the purpose that it was collected for, subject to the following exceptions:

- a) Where the consent of the person to whom the information pertains has been obtained;
- b) Where the information is lawfully disclosed to the public; or,
- c) Where otherwise as authorized by law.

Divert NS' limited-use of collected information will include restricting the use of information collected in the performance of its solid-waste management duties arising from the *SWR Regulations* and from use in the performance of its enforcement duties arising from the *EPR Regulations*. Divert NS will implement safeguards to ensure the confidentiality of such information is preserved.

Examples of instances that may result in the collection, use, disclosure, or retention of information include, but are not limited to:

- a) The operation of the Registry by Divert NS;
- b) The operation of solid-waste management programs in accordance with Divert NS' stewardship mandate arising from the *SWR Regulations*;
- c) The collection of data from stakeholders for the annual datacall;
- d) The filing of information with the Minister, including annual reports, in accordance with the *EPR Regulations* and *EPR Agreement*;
- e) Acquiring evidence related to compliance in accordance with Divert NS' EPR Oversight mandate arising from the *EPR Regulations*;
- f) Disclosure of information to law enforcement pursuant to a warrant;
- g) Disclosure of the names, registered addresses, and primary email addresses of producers registered under the *EPR Regulations*; and,
- h) Collecting and using information to facilitate Divert NS' performance of its duties and exercise of its powers.

Personal Information will be collected, wherever possible, directly from the individual to whom it belongs, but under certain circumstances and consistent with its duties and powers, Divert NS may also collect Personal Information from third-parties who have the authority to disclose the Personal Information or where the collection is otherwise authorized by law.

## PUBLIC ACCESS TO INFORMATION

Divert NS may at times be authorized or required to publicly disclose information either by publication, filings with the Minister, requirements of the *SWR Agreement* and *EPR Agreement*, or otherwise as authorized by law.

Divert NS will make certain information public from time to time through publications. This information may be accessible to the public through various forms including on the Registry; Divert NS' websites; marketing initiatives, including those on social media; email newsletters presentations; events; and printed reports.

Examples of the types of publicly available information published by Divert NS include:

- a) Annual reports;
- b) Information related to the Registry, including public consultation, compliances activities, and performance management data;
- c) Information regarding local waste educators; and,

- d) Information related to companies and persons who have partnered with Divert NS.

In addition, information collected, used, and retained by Divert NS may be subject to public disclosure from time to time pursuant to the *Freedom of Information and Protection of Privacy Act*, SNS 1993, c 5. In particular, information filed with the Minister, including Commercially Sensitive Information and Personal Information, will be deemed public and subject to potential access to information legislation, as contemplated by section 11 of the *SWR Regulations*.

Examples of the type of information filed with the Minister and deemed public subject to access to information legislation include:

- a) Annual reports; and,
- b) Annual financial statements.

Divert NS will not make public certain types of information, subject only to instances where disclosure is permitted or required by law, or where consent has been obtained. This includes, but is not limited to:

- a) Personal Information;
- b) Commercially Sensitive Information;
- c) Information subject to legal privilege;
- d) Commercial agreements between Divert NS and other parties, and related documents and communications;
- e) Minutes of meetings of Divert NS' Board of Directors;
- f) In-camera minutes of meetings of Divert NS' Board of Directors; and,
- g) Information related to inspections, investigations, and other compliance activities that are in progress.

Those who wish to request information that is not published nor filed with the Minister may contact Divert NS directly by email to [info@divertns.ca](mailto:info@divertns.ca) or by mail at Divert NS, 35 Commercial Street, Suite 400, Truro, Nova Scotia, B2N 3H9. Divert NS may require those who request such information to cover reasonably incurred costs to process and respond to the request.

## CONSENT

Divert NS respects and values a person's right to provide or withhold consent in relation to their Personal Information. Except where the law authorizes collection and use of Personal Information without consent, prior to collecting and using Personal Information, Divert NS will obtain the consent of the person to whom the Personal Information belongs or from someone duly authorized to act on that person's behalf. Divert NS will obtain that consent at the point of collection.

Consent will not be sought where Personal Information is required by law to be provided to Divert NS.

## ACCURACY

Accurate information is vital to the ability of Divert NS to carry out its mandate. Divert NS will take reasonable steps to ensure that the information that it collects, uses, discloses, and retains is accurate. This may include contacting individuals who have provided Divert NS with information in order to verify accuracy, refusing to accept information that does not comply with applicable requirements, and any other steps considered necessary to ensure accuracy of the information.

Any information that is submitted to the Registry will be accessible to the submitter and the Terms and Conditions of the Registry will dictate the procedure for updating information or providing corrections to previously submitted information contained within it.

## RETENTION OF INFORMATION

Divert NS will only retain information it collects and possesses, including Personal Information and Commercially Sensitive Information, only for as long as is necessary to fulfill the purposes for which it was collected unless required otherwise in order to meet its legal obligations. In all cases, information that is no longer required will be securely deleted following the expiry of the applicable retention period.

## SAFEGUARDS AND ADDRESSING PRIVACY BREACHES

Divert NS uses commercially reasonable administrative, technical, and physical safeguards to protect information it possesses, including, in particular, Commercially Sensitive Information and Personal Information, from unauthorized access, theft, loss, use, and disclosure. This approach applies to both electronic records and paper records.

In the event of a confirmed or reasonably suspected privacy breach, Divert NS shall take timely steps to investigate and remedy the means by which the breach occurred, measure the extent of the breach and inform affected persons, comply with law enforcement and governing law as the circumstances require, and review Divert NS' privacy safeguards to maintain future effectiveness.

## TRAINING

Divert NS' Board of Directors and staff will receive training on the requirements of this Policy and all procedures related to the management and use of information acquired by Divert NS.

## ACCOUNTABILITY

The Manager, Communications is accountable for monitoring compliance with the requirements of this Policy.

## INFORMATION MANAGEMENT RELATED TO DIVERT NS WEBSITES

Divert NS hosts websites in order to facilitate its regulatory duties and roles.

No data transmission over the internet or other network can be guaranteed to be 100% secure. As a result, while Divert NS strives to protect information transmitted on or through its websites, your use of the websites is at your own risk.

By using our websites, you consent to the collection, use, and disclosure of your Personal Information in accordance with this Policy.

Divert NS' websites automatically collect aggregate and other information. This information may include the type of web browser being used, the type of device being used, the pages viewed, the date and time of website visits, and other such information. If this automatically collected information is capable of being associated with a person, directly or indirectly, that information is treated as Personal Information.

1. **Tracking & Cookies:** Divert NS' websites use cookies and other automated tools to collect and track certain information. A cookie is a file placed on the user's computer to identify that computer and browser. These tools assist Divert NS in improving the experience and functionality of the websites. Users may refuse or manage cookie preferences, though doing so may result in certain features of the websites not working.
2. **Transfer of Data:** Information collected by Divert NS' websites may be transferred to, and maintained on, servers located outside a user's home jurisdiction. Data protections laws may be different in these jurisdictions than in a user's home jurisdiction. Information collected from users outside of Canada will have their information transferred to Canada.
3. **Links & Third-Parties:** Divert NS' websites may contain links to other websites operated by third-parties. Divert NS has no control over these third-party websites, and assumes no responsibility for the content, privacy policies, or practices that may apply.

Divert NS may engage third-parties to provide and assist in the management of its websites. This may include the use of third-party monitoring services to review and analyze the use and function of the websites. These services may include Google Analytics.

In addition, Divert NS uses remarketing services to advertise on third-party websites targeting visitors to its own websites. These services may include Google Ads (AdWords), and Meta services (Facebook and Instagram).

The activity of third-party remarketing and monitoring services, including the collection and control of information in the operation of those services, is governed by the third-parties' own privacy policies.

4. **Social Media:** Divert NS, in its management of its digital property, also hosts social media sites. Comments on social media sites are required to be relevant and respectful. Divert NS may delete comments that, in Divert NS' judgement, are inappropriate. Divert NS may suspend the access of any user to its social media sites in order to maintain a respectful and relevant digital environment.
5. **Accessibility:** Divert NS websites are built to adhere to Web Content Accessibility Guidelines (WCAG) 2.1 AA. These guidelines explain how to make web content more accessible for people with disabilities. Divert NS intends to make the website user-friendly for all people; however, it may not be possible in all areas of the website.

## COMPLAINTS

Any person wishing to make a complaint related to Divert NS' management of information may do so by email to [info@divertns.ca](mailto:info@divertns.ca) or by mail at Divert NS, 35 Commercial Street, Suite 400, Truro, Nova Scotia, B2N 3H9.

Any complaint received will be addressed and recorded in accordance with Divert NS' procedures, which will be publicly available on the website, along with this Policy.

## EFFECTIVE DATE

This Policy comes into effect on October 1, 2024, and will be reviewed and updated from time to time as required by Divert NS. Divert NS encourages frequently checking this Policy to stay informed about changes to its information management practices.