



Province of Alberta

ENVIRONMENTAL PROTECTION AND
ENHANCEMENT ACT

**DESIGNATED MATERIAL RECYCLING
AND MANAGEMENT REGULATION**

Alberta Regulation 93/2004

With amendments up to and including Alberta Regulation 104/2016

Office Consolidation

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(Consolidated up to 104/2016)

ALBERTA REGULATION 93/2004

**Environmental Protection and
Enhancement Act**

**DESIGNATED MATERIAL RECYCLING AND
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Table of Contents

1	Definitions
2	Management board established
3	Advance disposal surcharge
4	Surcharge in trust
5	Recovery of surcharge
6	Industry operated recycling funds
6.1	Advances
7	Security
8	Cancellation and suspension of registration
9	Registration
10	Dispute resolution
11	Reporting
12	Bylaws
13	Notice to Minister
14	Offence
15	Freedom of information and protection of privacy
16	Annual report
17	Repeal
18	Expiry
19	Coming into force

Definitions

1 In this Regulation,

- (a) “Act” means the *Environmental Protection and Enhancement Act*;
- (b) “Association” means the Association referred to in section 2;
- (c) “Bylaw” means a Bylaw of the Association made under section 12;

- (d) “designated material” means a material designated by a material designation regulation;
- (e) “fund” means a fund established under section 6;
- (f) “material designation regulation” means a regulation that designates a material for the purposes of this Regulation;
- (g) “Minister” means the Minister responsible for the Act;
- (h) “supplier” means a supplier of a designated material as defined in the Bylaws;
- (i) “supply” means with respect to a designated material to sell or otherwise transfer a designated material.

Management board established

2(1) The Tire Recycling Management Association of Alberta, being a society incorporated under the *Societies Act*, is continued as a management board within the meaning of section 175(jj) of the Act and is charged with the administration of the funds.

(2) Where the society referred to in subsection (1) changes its name, a reference in subsection (1) to the previous name is deemed to be a reference to its new name.

Advance disposal surcharge

3(1) The Association may, subject to a material designation regulation, by Bylaw prescribe an advance disposal surcharge for any designated material or class of designated material.

(2) If an advance disposal surcharge for a designated material or class of designated material is prescribed, a supplier shall remit to the Association the prescribed advance disposal surcharge in accordance with the Bylaws.

(3) A supplier shall, in accordance with the Bylaws,

- (a) remit all advance disposal surcharges to the Association, and
- (b) account to the Association for all advance disposal surcharges remitted.

Surcharge in trust

4 A supplier holds all advance disposal surcharges that the supplier is obliged to remit under section 3 in trust for the Association.

Recovery of surcharge

5 Advance disposal surcharges required to be remitted by a supplier and any interest owing in respect of them are recoverable by the Association in an action in debt.

Industry operated recycling funds

6(1) The Association shall establish a separate industry operated recycling fund for each designated material, which shall be used to provide or pay for any or all of the following in respect of the specific designated material:

- (a) establishing and administering waste minimization and recycling programs;
- (b) education programs for the purpose of waste minimization and recycling;
- (c) expenditures incurred in the collection, transportation, storage, processing and disposal of the designated material;
- (d) research and development activities related to recycling or management of the designated materials;
- (e) promotion and development for marketing the products of recycling;
- (f) education programs related to, or expenditures incurred in the collection, transportation, storage, processing and disposal of, or the promotion and marketing of any activity undertaken by the Association in relation to, the designated material.

(2) The Association shall administer the funds in accordance with this Regulation and the Bylaws and the objects and bylaws of the Association under the *Societies Act*.

(3) The following shall be deposited into the appropriate fund:

- (a) advance disposal surcharges remitted to the Association;
- (b) gifts, donations, grants and bequests to the fund.

(4) Investment income earned on deposits of a fund accrues to and forms part of the fund.

(5) Salaries, fees, costs, expenses and liabilities incurred in the management of a designated material under this Regulation shall be paid out of the relevant fund.

(6) The Tire Recycling and Management Fund established under the *Tire Recycling and Management Regulation* (AR 206/96) is continued as a fund under this section for the purpose of tires under the *Tire Designation Regulation*.

Advances

6.1(1) In this section, “industry operated recycling fund” means an industry operated recycling fund that the Association is charged with administering under the regulations.

(2) Notwithstanding section 6(1), the Association may, subject to its bylaws, make advances of money from one industry operated recycling fund to another industry operated recycling fund.

(3) Before making an advance under subsection (2), the Association shall provide the Minister with a written notice of the advance setting out the amount of the advance, the time for repayment, and any other terms or conditions on which the advance is to be made or that are applicable to its repayment.

(4) An advance made under subsection (2) must be repaid to the fund from which it was made.

(5) Any interest earned on money advanced under this section is deemed to form part of the advance to be repaid under subsection (4).

AR 193/2009 s2

Security

7 The Association may require a supplier

- (a) to provide security to the Association, or
- (b) to provide to the Association evidence of security

in a form and amount that are acceptable to the Association for the purpose of ensuring that the supplier exercises his or her powers and carries out his or her duties as a supplier in accordance with the Act, this Regulation, the relevant material designation regulation and the Bylaws.

Cancellation and suspension of registration

8(1) The Association may cancel or suspend the registration of a supplier if the supplier contravenes the Act, this Regulation, the relevant material designation regulation or the Bylaws.

(2) The Association may cancel the registration of a supplier

- (a) who ceases to supply a designated material in Alberta, or
- (b) if the supplier applies to surrender his or her registration.

Registration

9 No person shall supply a designated material in Alberta unless the person is registered in accordance with the Bylaws and the registration is not under suspension.

Dispute resolution

10 The Association may establish a dispute resolution process for any aspect of its business.

Reporting

11 Subject to the Bylaws, any person who

- (a) provides a designated material to a depot, processor or recycler,
- (b) transports a designated material within Alberta, or
- (c) transports a designated material into Alberta

shall provide reports required by the Association.

Bylaws

12 The Association may make Bylaws

- (a) identifying and classifying designated materials for the purposes of this Regulation or the Bylaws;
- (b) defining “supplier” for the purposes of this Regulation;
- (c) respecting agreements between the Association and any person and concerning any aspect of the collection, disposal, processing, waste minimization or recycling of designated material;
- (d) respecting the collection and remittance of advance disposal surcharges;
- (d.1) respecting advances referred to in section 6.1 and the terms and conditions on which advances may be made, including terms and conditions applicable to repayment;
- (e) respecting the registration of suppliers, including prescribing registration fees;

- (f) subject to any material designation regulation, prescribing the advance disposal surcharges that are to be collected and remitted;
- (g) exempting supply transactions from the application of this Regulation or the Bylaws;
- (h) respecting the form and manner in which and the times at which an accounting must be made and advance disposal surcharges must be remitted to the Association;
- (i) respecting the payment of interest on advance disposal surcharges that are not remitted as required;
- (j) providing for the assessment by the Association of the amount of advance disposal surcharges owing to the Association where a return has not been made by a supplier, where a return has been made but is incorrect or misleading or where surcharges that should have been remitted were not remitted;
- (k) respecting the form and amount of security to be given by a supplier;
- (l) respecting the manner in which and the conditions under which any security given by a supplier may be forfeited or returned, in whole or in part;
- (m) respecting the form and manner of providing reports required by this Regulation and the Bylaws and the times at which they must be provided;
- (n) respecting the records that suppliers must keep in respect of supply transactions in designated materials and the making of those records available for inspection by the Association and representatives of the Department of Environment and Sustainable Resource Development;
- (o) respecting the collection and recovery of designated materials;
- (p) respecting the establishment, operation, transfer and winding-up of a fund.

AR 93/2004 s12;193/2009;31/2012;170/2012

Notice to Minister

13 Where the Association proposes to change its Bylaws or its objects or bylaws under the *Societies Act*, it shall give reasonable prior notice of the nature of the proposed change to the Minister.

Offence

14 A person who contravenes section 3(3), 9 or 11 is guilty of an offence and liable to a fine of not more than

- (a) \$50 000 in the case of an individual, or
- (b) \$500 000 in the case of a corporation.

Freedom of information and protection of privacy

15(1) The Association shall comply with the *Freedom of Information and Protection of Privacy Act* in the course of carrying out its powers, duties and functions under this Regulation.

(2) The Association shall designate a person to be responsible for matters under the *Freedom of Information and Protection of Privacy Act*.

(3) If a request for access to information under the *Freedom of Information and Protection of Privacy Act* is made, the Association shall

- (a) in the case of a request made directly to the Association, immediately direct the request to the Department's Freedom of Information and Protection of Privacy Co-ordinator, and
- (b) in every case, comply with such directions regarding the request as may be provided by the Co-ordinator.

(4) All records in the custody or under the control of the Association that are required in the carrying out of its powers, duties or functions under this Regulation are subject to the *Records Management Regulation* (AR 224/2001).

(5) All information and records, created or maintained in the course of carrying out the powers, duties and functions under this Regulation become and remain the property of the Crown in right of Alberta.

(6) The Association shall designate a person to be responsible for records management matters.

Annual report

16(1) The Association shall

- (a) not less than 30 days before the start of its fiscal year provide to the Minister a business plan for the Association that indicates its goals for the coming fiscal year, and

- (b) not more than 6 months after the end of its fiscal year provide to the Minister an annual report summarizing the activities of the Association and containing the audited financial statements of the Association for the fiscal year.
- (2) The financial statements or a note or schedule to the financial statement must include the remuneration and benefits that were paid to
- (a) members of the board of directors of the Association, and
 - (b) management personnel who report directly to one or more of the members of the board of directors during the fiscal year.
- (3) The remuneration and benefits must be reported
- (a) on an individual basis by name in the case of the persons referred to in subsection (2)(a), and
 - (b) on an aggregate basis in the case of the persons referred to in subsection (2)(b).
- (4) The Minister is authorized to disclose personal information reported under this section, and this subsection constitutes an authorization for the purposes of section 40(1)(f) of the *Freedom of Information and Protection of Privacy Act*.

Repeal

17 The *Tire Recycling and Management Regulation* (AR 206/96) is repealed.

Expiry

18 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on June 30, 2018.

AR 93/2004 s18;64/2014;97/2015;104/2016

Coming into force

19 This Regulation comes into force on June 1, 2004.



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