

WAIVER OF INTEREST GUIDELINES

DATE OF APPROVAL: JANUARY 17, 2006

AMENDED BY BOARD APPROVAL: MAY 21, 2008

AMENDED BY BOARD APPROVAL: NOVEMBER 12, 2015

I. Background

1. The Tire Recycling Bylaw, the Electronic Recycling Bylaw and the Paint and Paint Container Recycling Bylaw (the “Bylaws”) allow Alberta Recycling to establish or levy surcharges, fees, charges, advance disposal surcharges (the “surcharges”) and make assessments.
2. The Bylaws set the rates payable and provide that interest is payable by a supplier on surcharges that the supplier fails to remit as required.
3. The surcharge collection process is a self-remitting and self-reporting process. These interest waiver guidelines are intended to encourage suppliers to voluntarily correct deficiencies in their obligations to report and remit the surcharges.
4. Suppliers may request in writing that interest charges be waived in certain instances.
5. Suppliers who request interest be waived will receive a copy of these guidelines and may make written or oral submissions to the Assessment Committee appointed by the Board of Directors of Alberta Recycling (the “Board”) regarding the waiver of the interest and the guidelines.
6. Suppliers will be given reasonable notice of the time, date and location of the hearing at which their request will be considered. Suppliers may attend in person any hearing at which their request for a waiver of interest is being considered by the Assessment Committee.
7. The Assessment Committee shall be made aware of all relevant facts and be provided with copies of relevant documents, including correspondence, in the possession of Alberta Recycling in order to consider requests for waivers of interest.
8. The Committee may defer its decision on a request to waive interest, but in any event will make its decision within 14 days of hearing submissions on the matter. Deliberations of the Committee may be *in camera*.

II. Waiver of Interest Requests

1. The Assessment Committee will consider all requests to waive interest when the total amount is \$500.00 or greater. The Assessment Committee will follow these general guidelines when considering a request from a supplier to waive interest. Waiver of interest will be considered differently depending on which stage payment is made and the circumstances under which interest was accrued.

III. Factors to be Considered in all Cases

1. In all cases, the following factors will be considered in determining whether a waiver of interest charges is appropriate in all of the circumstances:
 - (a) Does the supplier have a history of late payment?
 - (b) Did the supplier have to be reminded of the obligation to pay?
 - (c) Was the supplier responsive to Alberta Recycling?
 - (d) Did the supplier act quickly to remedy the omission or the delay in compliance, which originally resulted in interest being charged?
 - (e) Was the supplier aware there was a balance outstanding?
 - (f) How long did the supplier knowingly allow an outstanding balance to exist upon which the interest has accrued?
 - (g) What was the nature of the error that allowed an outstanding balance to exist, i.e., was it a one time or a systemic error, should the error have been caught or caught earlier?
 - (h) Did the payment made by the supplier clear the entire outstanding balance?
 - (i) Did the late payment arise as a result of the supplier's own negligence or carelessness in the conduct of its affairs, or is there evidence that the supplier exercised reasonable care and diligence?
 - (j) Did the late payment result from circumstances beyond the supplier's control? Examples are:
 - (i) Natural or human-made disasters, such as fire;
 - (ii) Civil disturbances or disruptions in service, such as a postal strike;
 - (iii) Serious illness or accident, or serious emotional or mental distress (e.g. death in the immediate family).
 - (k) When did Alberta Recycling know, or ought to have known, of the debt owing, having regard to all circumstances?

- (l) Did the late payment result primarily from the actions of Alberta Recycling, such as:
 - (i) processing delays that result in a supplier not being informed, within a reasonable time, that an amount was owing;
 - (ii) errors in Alberta Recycling publications or incorrect information provided to suppliers;
 - (iii) delays in providing information, such as when a supplier is unable to make a payment because the necessary information was not available;
 - (iv) processing errors that result in a supplier being unaware of certain obligations.
- (m) Is the supplier otherwise in compliance with its obligations to Alberta Recycling?
2. During the evaluation of these factors, the supplier may make oral or written submissions or respond to questions for further clarification from Alberta Recycling concerning the circumstances under which interest becomes payable.

IV. General Policy relating to the Various Stages of Collection

1. The factors listed above will provide additional guidance to the Assessment Committee in determining whether interest should be waived in the particular circumstances. The following are general guidelines relating to which stage the request for waiver of interest is made.
2. **Late payment, but voluntarily made without any steps taken by Alberta Recycling:** when a supplier makes a voluntary payment of the required surcharges a few days late, interest charges at this stage will often be waived. Interest may be waived by Alberta Recycling without the approval of the Assessment Committee if it is appropriate in the circumstances in the opinion of both the Director of Financial Administration (DFA) and the Manager of Registrant Administration, and if:
 - (a) the supplier normally makes payments on time;
 - (b) the supplier does not have prior interest waivers exceeding \$100.00 within the last 12 months; and
 - (c) the amount of the interest is
 - (i) less than \$100.00, and the waiver is approved by the DFA; or
 - (ii) \$100.00 or above, but less than \$500.00, and the waiver is approved by the DFA and the Chief Executive Officer.

Such approvals are to be reported to the Assessment Committee as information and then to be reported by the Assessment Committee to the Board. All other cases will be presented to the Assessment Committee for approval.

3. **Procedures to encourage voluntary compliance instituted:** Interest may be waived at this stage if extraordinary circumstances are present and the supplier can show that it intends to comply with the voluntary reporting and payment system in the future.
4. **Assessment or collection proceedings initiated:** Interest will not normally be waived if the collection process has progressed to this stage. Allowing non-payment of surcharges to this stage normally indicates that the supplier is being uncooperative, and the voluntary reporting and collection system is not working in that case. However, interest may be waived if the Assessment process, or surcharge compliance procedure, shows that the supplier was correct in withholding payment.