

ALBERTA RECYCLING MANAGEMENT AUTHORITY

Used Oil Recycling Bylaw

T A B L E O F C O N T E N T S

1. DEFINITIONS..... 1
2. REGISTRATION..... 3
3. SECURITY INTEREST..... 4
4. SURCHARGE..... 4
5. EXEMPTIONS..... 5
6. RETURN AND PAYMENT OF SURCHARGE 6
7. RECORDS..... 7
8. ASSESSMENTS..... 7
9. INTEREST..... 8
10. CHARGES IN TRUST 8
11. RECOVERY OF CHARGE 8

1. DEFINITIONS

1.1 In this Bylaw,

- (a) “Act” means the *Environmental Protection and Enhancement Act* or any replacement thereof as may be amended from time to time;
- (b) “Authority” means the Alberta Recycling Management Authority;
- (c) “Bylaw” means this Used Oil Recycling Bylaw;
- (d) “Designated Material Regulation” means the *Designated Material Recycling and Management Regulation* or any replacement thereof as may be amended from time to time;
- (e) "end user" means a person who purchases and uses lubricating oil material or equipment containing lubricating oil for its intended use;
- (f) “POP registrant” has the meaning set out in section 4.7 of this Bylaw;
- (g) “registrant” means a supplier or end user who applies for registration with the Authority;

APPENDIX 4

- (h) “Regulation” means the *Lubricating Oil Material Designation Regulation* or any replacement thereof as may be amended from time to time;
 - (i) “security interest” means a security interest within the meaning of the *Personal Property Security Act* (Alberta) or *Bank Act* (Canada) or any replacement thereof as may be amended from time to time;
 - (j) “supplier” means:
 - (i) a manufacturer of lubricating oil material who supplies the manufacturer’s own brand of lubricating oil material to a jobber, a retailer, or an end user;
 - (ii) a marketer who supplies lubricating oil material to a jobber, a retailer, or an end user where the lubricating oil material was manufactured for the marketer by another person and the marketer owns the brand;
 - (iii) a marketer who supplies lubricating oil material to a jobber, a retailer, or an end user where the lubricating oil material was manufactured for the marketer by another person and the marketer is the licensee of the brand;
 - (iv) a wholesaler, including a retail distributor, who supplies lubricating oil material to a jobber, a retailer, or an end user;
 - (v) a jobber who supplies lubricating oil material that the jobber has imported into Alberta to a retailer or an end user;
 - (vi) a retailer who supplies to the end user lubricating oil material that the retailer has imported into Alberta; or
 - (vii) a wholesale equipment supplier who supplies equipment to its dealers, or the end user of the equipment where, as part of the transaction, lubricating oil material is also supplied; and
 - (k) “supply” means a sale or other transfer.
- 1.2 Terms that are defined in the Regulation, that are not defined in this Bylaw, have the same meaning when they are used in this Bylaw.
- 1.3 For the purposes of this Bylaw, all references to “Alberta” include the whole of the City of Lloydminster.

APPENDIX 4

2. REGISTRATION

- 2.1 All suppliers and end user who imports lubricating oil material into Alberta for the end user's own business shall be registered with the Authority.
- 2.2 The Authority may cancel or suspend a supplier's registration if the supplier:
- (a) fails to remit to the Authority or to the person designated by the Authority all surcharges the supplier is required to remit under this Bylaw;
 - (b) ceases to carry on business as a supplier;
 - (c) applies to surrender the supplier's registration with the Authority and the supplier does not carry on business as a supplier;
 - (d) contravenes the Act, the Designated Material Regulation, the Regulation, or this Bylaw; or
 - (e) provides inadequate, false or misleading information or representations in any application, return or other form required by the Authority.
- 2.3 The Authority may withhold any registration until sufficient verification or information has been provided by the supplier in relation to any matter reasonably requested by the Authority to be verified or supplied.
- 2.4 An application for registration by a supplier must be in a form acceptable to, or provided by, the Authority and must contain the information required by the Authority.
- 2.5 If the Authority registers a registrant it shall assign a registration number and issue a certificate of registration to the registrant and shall notify the supplier in writing of the number and the effective date of registration.
- 2.6 A supplier who supplies lubricating oil material prior to the supplier's registration with the Authority is required to:
- (a) complete any and all reports that may be required by the Authority with respect to such supply of lubricating oil material prior to the supplier's registration;
 - (b) remit to the Authority any outstanding surcharges that arise from such supply of lubricating oil material prior to registration, regardless of whether the supplier has collected surcharges in respect of such supply; and

APPENDIX 4

- (c) pay to the Authority any interest that has accrued on any outstanding surcharges as calculated in accordance with this Bylaw.

3. SECURITY INTEREST

3.1 The Authority may require a registrant or a supplier:

- (a) to provide a security interest to the Authority; or
- (b) to provide to the Authority evidence of a security interest

in a form and amount that is acceptable to the Authority for the purpose of ensuring that the registrant or supplier exercises the powers and carries out the duties as supplier in accordance with the Act, the Designated Material Regulation, the Regulation, and this Bylaw.

4. SURCHARGE

4.1 The surcharge to be remitted by a supplier or end user is:

- (a) for lubricating oil, \$0.05 per litre or per kilogram;
- (b) for lubricating oil containers, \$0.05 per litre of container size; and
- (c) for filters, \$0.50 for a filter less than 203 mm in length, and \$1.00 for a filter 203 mm or more in length.

4.2 Subject to section 5, below, a surcharge applies to any supply of lubricating oil material regardless of where the supply occurs.

4.3 A supplier shall levy and collect from the person to whom the lubricating oil material are supplied a surcharge in the amount prescribed for that class or type of lubricating oil material as set out in this Bylaw.

4.4 A supplier in section 4.3 of this Bylaw shall remit to the Authority with the returns required by the Authority all surcharges the supplier has collected or for which the supplier is required to have collected under section 4.3 of this Bylaw.

4.5 A supplier or end user who purchases lubricating oil material from someone who is not registered with the Authority is required to remit the surcharge in the amount prescribed for that class or type of lubricating oil material as set out in this Bylaw.

4.6 An end user who imports lubricating oil material into Alberta for the end user's own use shall pay to the Authority a surcharge in the amount prescribed for that class or type of lubricating oil material as set out in this Bylaw.

APPENDIX 4

- 4.7 A supplier may be registered by the Authority as a “Payment on Purchase” or “POP registrant” where that supplier meets the criteria for such registration as established by the Authority from time to time.
- 4.8 Where a supplier is a POP registrant, that supplier shall remit all surcharges to a registered supplier. Where a POP registrant purchases lubricating oil material from a supplier which is not a registered supplier, the POP registrant shall remit all applicable surcharges to the Authority.
- 4.9 Without limiting the generality of section 4.3, a supplier who supplies to a POP registrant described in section 4.8 of this Bylaw is liable to remit to the Authority all surcharges applicable to supplies of lubricating oil material made to the POP registrant.
- 4.10 A supplier is required to remit the surcharge to the Authority unless that supplier supplies to another supplier who is registered with the Authority under this Bylaw and who provides evidence of their registration number and certifies in writing that the lubricating oil material is not to be used by them, but is for supply to a third person
- 4.11 A supplier or end user in sections 4.4 or 4.6 of this Bylaw is not required to remit the surcharge to the Authority where the supplier or end user has paid the surcharge to a supplier registered with the Authority.
- 4.12 A courier, transporter, carrier, or mail service who carries or supplies lubricating oil material in or into Alberta shall be liable to remit the surcharge in respect of the lubricating oil material where the supplier on whose behalf or under whose direction the lubricating oil material is supplied or carried, is not registered with the Authority or the surcharge is not paid by that supplier to the Authority.
- 4.13 It is the intent of this Bylaw that the surcharge in respect of a particular lubricating oil material be paid to the Authority only once.

5. EXEMPTIONS

- 5.1 Suppliers who supply less than the amount of lubricating oil material prescribed by the Authority from time to time in or into the Province of Alberta may be exempt from the requirement to pay the surcharge to the Authority, upon application by the supplier and acceptance in writing by the Authority, and other terms acceptable to the Authority.
- 5.2 No surcharge is payable in the following supply transactions:
- (a) where the supply is effected solely to create a security interest;

APPENDIX 4

- (b) where the lubricating oil material is supplied directly to a point outside of Alberta; or
 - (c) in any other transaction where the Authority determines, and which otherwise give effect to the Designated Material Regulation, the Regulation, and this Bylaw.
- 5.3 No surcharge shall be levied or paid in the case of a transaction for the following types of lubricating oil:
- (a) two-cycle oil;
 - (b) chain oil;
 - (c) rockdrill oil;
 - (d) marine oil;
 - (e) metal working oil;
 - (f) saw guide oil used to cool and lubricate cutting operations;
 - (g) waylube oil used to lubricate metal machining operations; or
 - (h) textile oil used to lubricate sewing needles.
- 5.4 Section 5.3 does not exempt the oil container in which the lubricating oil is contained.
- 6. RETURN AND PAYMENT OF SURCHARGE**
- 6.1 Each supplier required to pay to the Authority the surcharge under this Bylaw shall:
- (a) complete and file with the Authority at its head office a return in respect of a reporting period not later than 30 days after the end of a reporting period, and
 - (b) remit to the Authority at its head office with the return all surcharges owing in respect of all supplies by the supplier during the reporting period.
- 6.2 A return shall be in a form acceptable to the Authority.
- 6.3 Unless the Authority directs otherwise, the reporting period for the purposes of this section is a calendar month.

APPENDIX 4

- 6.4 Notwithstanding section 6.3 above, a reporting period for a POP registrant shall be annually, unless the Authority otherwise directs.
- 6.5 The Authority may in writing at any time extend the time for filing a return.
- 6.6 At its sole discretion, the Authority may apply any amount remitted by a supplier first to the supplier's outstanding debts to the Authority (including, without limitation, unpaid surcharges and interest) with the amount remitted being applied to the oldest debts first, and second to the amounts owing by the supplier for the current reporting period

7. RECORDS

- 7.1 A supplier shall:
- (a) keep records of the supplier's transactions in lubricating oil material and of the amount of the applicable surcharge; and
 - (b) make such records available:
 - (i) for inspection by the Authority and representatives of the Ministry charged with the administration of the Act;
 - (ii) for audit at the times and by a person designated by the Authority; and
 - (iii) provide to the Authority on request information in respect of the supplier's transactions in in lubricating oil material.

8. ASSESSMENTS

- 8.1 Where:
- (a) a supplier fails to file a return in accordance with section 6;
 - (b) the Authority reasonably believes a return that has been filed is incorrect or misleading; or
 - (c) the Authority reasonably believes any person or organization required to remit the surcharge under this Bylaw has failed to do so in whole or in part,

the Authority may assess the amount of surcharges to be remitted by the supplier in respect of a reporting period or reporting periods.

- 8.2 Where a supplier fails to collect or remit a surcharge with respect to a reporting

APPENDIX 4

period, the Authority may assess the surcharge in an amount equal to the amount of the surcharge that the supplier failed to collect or remit.

8.3 Where the Authority makes an assessment under section 8.1 or 8.2, the supplier shall remit:

- (a) the amount of the assessment; or
- (b) where a return has been filed and a remittance made, the amount, if any by which the amount of the assessment exceeds the amount remitted,

and the remittance is due and payable from the time the supplier receives notice of the assessment.

9. INTEREST

9.1 Interest is payable by a supplier on surcharges that the supplier fails to remit as required by this Bylaw, and is payable at the rate per annum established by the Authority from time to time, from the date the unpaid amount is due until it is paid.

10. CHARGES IN TRUST

10.1 A supplier holds all surcharges in trust for the Authority.

11. RECOVERY OF CHARGE

11.1 A surcharge and any interest owing in respect of it are recoverable by the Authority in an action in debt.