



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 212/2019

Current as of January 1, 2020

Office Consolidation

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(Consolidated up to 212/2019)

ALBERTA REGULATION 93/2004

**Environmental Protection and
Enhancement Act**

**DESIGNATED MATERIAL RECYCLING AND
MANAGEMENT REGULATION**

Table of Contents

1	Definitions
2	Management board established
3	Responsibilities of supplier
6	Industry operated recycling funds
6.01	Transfer of responsibility and fund for lubricating oil material
6.1	Advances
7	Security
8	Prohibition
9	Registration, cancellation and suspension
10	Dispute resolution
11	Reporting
11.1	Surcharges
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) “Authority” means the management board referred to in section 2;
 - (c) “Bylaw” means a bylaw made under this Regulation;

- (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 manufacturer, distributor or retailer of a designated material;
- (i) “supply”, in relation to a designated material, means to manufacture, distribute, sell or otherwise transfer a designated material;
- (j) “surcharge” means a surcharge prescribed under section 11.1.

AR 93/2004 s1;98/2018;212/2019

Management board established

2(1) The Alberta Recycling Management Authority, formerly known as 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, at any time after the coming into force of this section, the society referred to in subsection (1) changes its name, a reference in this Regulation or any other regulation under the Act to its previous name or to the “Authority” is deemed to be a reference to its new name.

AR 93/2004 s2;98/2018

Responsibilities of supplier

3(1) A supplier shall, in accordance with the Bylaws,

- (a) remit the prescribed surcharge to the Authority, and
- (b) account to the Authority for all surcharges remitted.

(2) A supplier shall hold all surcharges required to be remitted under subsection (1)(a) in trust for the Authority.

(3) The Authority may, in an action in debt, recover all surcharges required to be remitted under subsection (1)(a) along with any interest owing in respect of those surcharges.

AR 93/2004 s3;98/2018;212/2019

4 and 5 Repealed AR 212/2019 s3.

Industry operated recycling funds

6(1) The Authority 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 Authority in relation to, the designated material.

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

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

- (a) surcharges remitted to the Authority;
- (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*.

AR 93/2004 s6;98/2018

Transfer of responsibility and fund for lubricating oil material

6.01(1) In this section,

- (a) “Association” means the Alberta Used Oil Management Association referred to in section 3 of the *Lubricating Oil Material Recycling and Management Regulation* (AR 82/97);
- (b) “fund” means the fund established by section 2 of the *Lubricating Oil Material Recycling and Management Bylaw* (AR 227/2002) pursuant to section 8 of the *Lubricating Oil Material Recycling and Management Regulation* (AR 82/97);
- (c) “programs and activities” means programs and activities established under section 2 of the *Lubricating Oil Material Recycling and Management Bylaw* (AR 227/2002), pursuant to section 8 of the *Lubricating Oil Material Recycling and Management Regulation* (AR 82/97), that exist on October 1, 2018.

(2) The Association is hereby disestablished as a management board within the meaning of section 175(jj) of the Act.

(3) The fund is deemed to have been established under section 6 as a separate industry operated recycling fund for lubricating oil material and section 6 applies in respect of the fund.

(4) The responsibility for administration of the fund is transferred from the Association to the Authority.

(5) The responsibility for the programs and activities is transferred from the Association to the Authority.

AR 98/2018 s8

Advances

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

(2) Notwithstanding section 6(1), the Authority 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 Authority 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;98/2018

Security

7 The Authority may require a supplier

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

in a form and amount that are acceptable to the Authority 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.

AR 93/2004 s7;98/2018

Prohibition

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

AR 93/2004 s8;98/2018

Registration, cancellation and suspension

9(1) The Authority may, on application, register a person as a supplier.

(2) An application for registration must be made in accordance with the Bylaws.

(3) The Authority may cancel or suspend the registration of a supplier who contravenes the Act, this Regulation, a material designation regulation or a Bylaw.

- (4) The Authority may cancel the registration of a supplier who
- (a) ceases to supply a designated material in Alberta, or
 - (b) applies to surrender the registration.

(5) A person whose registration is cancelled or suspended under this section shall immediately surrender the certificate of registration to the Authority.

AR 93/2004 s9;98/2018

Dispute resolution

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

AR 93/2004 s10;98/2018

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 Authority.

AR 93/2004 s11;98/2018

Surcharges

11.1(1) The Authority may, subject to this section, by Bylaw prescribe surcharges for designated materials or classes of designated materials.

(2) Before prescribing surcharges, the Authority shall notify the Minister no less than 30 days prior to the coming into effect of the surcharges.

(3) The Authority shall determine the amount of a surcharge on the basis of an analysis of

- (a) the actual and projected costs of providing for the programs, expenditures and activities in respect of the specific designated material, and
- (b) any other factors specified by the Minister that relate to the specific designated material.

- (4) The Authority shall provide the Minister with a report setting out the analysis required by subsection (3) and any other information requested by the Minister, at the time of notification under subsection (2).
- (5) The Minister may provide feedback on the report provided under subsection (4) and may request additional analysis.
- (6) After prescribing a surcharge for a designated material, the Authority may at any time, and shall whenever requested by the Minister, evaluate whether the amount of the surcharge continues to reasonably reflect the costs referred to in subsection (3)(a).
- (7) If, on an evaluation under subsection (6), the Authority finds that the amount of the surcharge no longer reasonably reflects the costs referred to in subsection (3)(a), the Authority shall determine a modified amount of surcharges and notify the Minister under subsection (2).

AR 212/2019 s4

Bylaws**12** The Authority may make Bylaws

- (a) identifying and classifying designated materials for the purposes of this Regulation or the Bylaws;
- (b) repealed AR 212/2019 s5;
- (c) respecting agreements between the Authority 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 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) repealed AR 212/2019 s5;
- (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 surcharges must be remitted to the Authority;

- (i) respecting the payment of interest on surcharges that are not remitted as required;
- (j) providing for the assessment by the Authority of the amount of surcharges owing to the Authority 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 Authority and representatives of the Department;
- (o) respecting the collection and recovery of designated materials;
- (p) respecting the establishment, operation, transfer and winding-up of a fund.
- (q) protecting the confidentiality of information provided by applicants for registration and persons registered as suppliers;
- (r) subject to the Act and the regulations made under the Act, respecting any other matter the Authority considers necessary or advisable for the purpose of carrying out its powers, functions or duties in respect of designated materials.

AR 93/2004 s12;193/2009;31/2012;170/2012;98/2018
212/2019

Notice to Minister

13 Where the Authority 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.

AR 93/2004 s13;98/2018

Offence

14 A person who contravenes section 3(1), 8, 9(5) 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.

AR 93/2004 s14;98/2018;212/2019

Freedom of information and protection of privacy

15(1) The Authority 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 Authority 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 Authority shall

- (a) in the case of a request made directly to the Authority, 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 Authority 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 Authority shall designate a person to be responsible for records management matters.

AR 93/2004 s15;98/2018

Annual report

16(1) The Authority shall

- (a) not less than 30 days before the start of its fiscal year provide to the Minister a business plan for the Authority 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 Authority and containing the audited financial statements of the Authority 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 Authority, 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*.

AR 93/2004 s16;98/2018

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, 2021.

AR 93/2004 s18;64/2014;97/2015;104/2016;99/2018

Coming into force

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



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