

APPENDIX 3

**ALBERTA RECYCLING MANAGEMENT AUTHORITY**

**Paint and Paint Container Recycling Bylaw**

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**1. DEFINITIONS**

1.1 In this Bylaw,

- (a) "advance disposal surcharge" means the advance disposal surcharge referred to in section 4.1;
- (b) "applicant" means a supplier who applies for registration with the Authority;
- (c) "Authority" means the Alberta Recycling Management Authority;
- (d) "Designated Material Regulation" means the *Designated Material Recycling and Management Regulation* (Alta. Reg. 93/2004) or any replacement thereof as may be amended from time to time;
- (e) "end user" means a person who purchases new paint for the end user's intended use;
- (f) "POP registrant" has the meaning set out in section 4.7 of this Bylaw;
- (g) "Regulation" means the *Paint and Paint Container Designation Regulation* (Alta. Reg. 200/2007) or any replacement thereof as may be amended from time to time;

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- (h) “security interest” means a security interest within the meaning of the Personal Property Security Act (Alberta) (R.S.A. 2000, c P-7) or Bank Act (Canada) (S.C. 1991, c 46) or any replacement thereof as may be amended from time to time;
- (i) “supplier” means
  - (i) a manufacturer of paint who supplies the manufacturer’s own brand of paint to a retailer, or an end user, in or into Alberta;
  - (ii) a marketer who supplies paint to a retailer, or an end user, in or into Alberta, where the paint was manufactured for the marketer by another person and the marketer owns the brand or is the licensee of the brand;
  - (iii) a wholesaler, including a retail distributor, who supplies paint to a retailer, or an end user, in or into Alberta;
  - (iv) a retailer who supplies to the end user paint that the retailer has imported in or into Alberta;
  - (v) any other supplier of paint in or into Alberta; or
  - (vi) an end user who is described in section 4.6 of this Bylaw.

1.2 Terms that are defined in the Regulation 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.

## 2. REGISTRATION

2.1 All suppliers 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 advance disposal 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;

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- (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 an applicant it shall assign a registration number and shall notify the supplier in writing of the number and the effective date of registration.
- 2.6 A supplier who supplies new paint 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 paint prior to the supplier's registration;
  - (b) remit to the Authority any outstanding advance disposal surcharges that arise from such supply of paint prior to registration, regardless of whether the supplier has collected the advance disposal surcharges in respect of such supply; and
  - (c) pay to the Authority any interest that has accrued on any outstanding advance disposal surcharges as calculated in accordance with this Bylaw.

### **3. SECURITY INTEREST**

- 3.1 The Authority may require an applicant 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 applicant 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.

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#### 4. ADVANCE DISPOSAL SURCHARGE

4.1 The advance disposal surcharge to be remitted by a supplier is:

- (a) unpressurized paint containers
  - (i) 100 ml to 250 ml \$0.10
  - (ii) 251 ml to 1 L \$0.25
  - (iii) 1.01 L to 5 L \$0.75
  - (iv) 5.01 L to 23 L \$2.00
- (b) aerosol paint containers all sizes \$0.10

4.2 Subject to section 5, below, the advance disposal surcharge applies to any supply of new paint, regardless of where the sale, gift or transfer occurs.

4.3 A supplier who supplies paint through any of the transactions described in section 1.1(i)(i)-(v) of this Bylaw shall levy and collect as a surcharge from the person to whom the paint is supplied an advance disposal surcharge in the amount prescribed for that class or type of paint 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 advance disposal 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 paint from someone who is not registered with the Authority is required to remit the advance disposal surcharge in the amount prescribed for that class or type of paint as set out in this Bylaw

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

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 advance disposal surcharges to a registered supplier. Where a POP registrant purchases paint from a supplier which is not a registered supplier, the POP registrant shall remit all applicable advance disposal surcharges to the Authority.

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- 4.9 Without limiting the generality of sections 4.3 and 4.4, a supplier who supplies to a POP registrant described in section 4.7 of this Bylaw is liable to remit to the Authority all advance disposal surcharges applicable to supplies of paint made to the POP registrant.
- 4.10 A supplier is required to remit the advance disposal 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 his registration number and certifies in writing that the paint is not to be used by him, 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 advance disposal surcharge to the Authority where the supplier or end user has paid the advance disposal surcharge to a supplier registered with the Authority.
- 4.12 A courier, transporter, carrier or mail service who carries or supplies paint in or into Alberta shall be liable to remit the advance disposal surcharge in respect of that paint where the supplier on whose behalf or under whose direction the paint is supplied or carried, is not registered with the Authority or the advance disposal surcharge is not paid by that supplier to the Authority.
- 4.13 It is the intent of this Bylaw that the advance disposal surcharge in respect of a particular paint material be paid to the Authority only once.

### **5. EXEMPTIONS**

- 5.1 Suppliers who supply less than the amount of paint 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 advance disposal surcharge is payable in the following supply transactions:
- (a) where the supply is effected solely to create a security interest;
  - (b) where the paint 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.

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#### **6. RETURN AND PAYMENT OF SURCHARGE**

- 6.1 Each supplier required to pay to the Authority the advance disposal 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 advance disposal 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.
- 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 advance disposal 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 paint and of the amount of the applicable advance disposal surcharge, and
  - (b) make such records available:
    - (i) for inspection by the Authority and representatives of the Ministry of Environment and Sustainable Resource Development, and
    - (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 paint.

Approved July 15, 2009, Amended August 1, 2011, Amended November 16, 2011, Amended July 8, 2014.

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### 8. ASSESSMENTS

#### 8.1 Where:

- (a) a supplier fails to file a return in accordance with section 6.1, or
- (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 advance disposal surcharge under this Bylaw has failed to do so in whole or in part,

the Authority may assess the amount of advance disposal 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 an advance disposal surcharge with respect to a reporting period, the Authority may assess the advance disposal surcharge in an amount equal to the amount of the advance disposal 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 advance disposal 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 advance disposal surcharges in trust for the Authority.

### 11. RECOVERY OF CHARGE

#### 11.1 An advance disposal surcharge and any interest owing in respect of it are recoverable by the Authority in an action in debt.