

BEVERAGE CONTAINER MANAGEMENT BOARD ADMINISTRATIVE BYLAW

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DEFINITIONS

- 1.(1) In this Bylaw, “**Association**” means the Beverage Container Management Board. The Beverage Container Management Board is the regulatory authority established under the *Environmental Protection and Enhancement Act (Alberta)* and the Regulation to establish, maintain and administer a waste minimization and recycling program for beverage containers.
- (2) In this Bylaw, “**Regulation**” means the *Beverage Container Recycling Regulation, Alta. Reg. 101/97* as amended.
- (3) In this Bylaw, “**Class “D” Beer Depots**” mean those depots to be issued Class “D” Beer Depot permits as recommended by motion at the Beverage Container Management Board members’ Meeting of November 5, 2001.
- (4) In this Bylaw, “**Handling Commission Review**” means a review of all of the handling commissions referred to in section 3(3) of this Bylaw.
- (5) Terms that are defined in the Regulation have the same meaning when they are used in this Bylaw.
- (6) This Bylaw is made pursuant to Section 18 of the Regulation.

REGISTRATION OF CONTAINERS

2. (1) For the purpose of registering a container, a manufacturer shall provide written notice to the Association setting out the following:
 - (a) the type and brand name of beverage in the container;
 - (b) the type and size of the container;
 - (c) the deposit on the container;
 - (d) the address of the manufacturer's attorney for service if the manufacturer is an extra-provincial manufacturer;
 - (e) in the case of a non-refillable container, confirmation that the container can be recycled by a method approved by the Association;
 - (f) confirmation that the container meets the requirements of the Consumer Packaging and Labelling Regulation, as may be amended or replaced from time to time;
 - (g) any additional information requested by the Association.
- (2) A manufacturer shall submit the information required in subsection (1) in a form and manner acceptable to the Association.
- (3) A container is registered when the Association confirms in writing to a manufacturer that the manufacturer's container is registered.

HANDLING COMMISSIONS

- 3.(1) Where the Association sets a handling commission for a category of container in subsections (2) or (3) below, the Association shall set a single handling commission payable to all universal depots or Class "D" Beer Depots, as the case may be, regardless of the location of the depot in the Province.
- (2) The handling commission payable by a manufacturer or collection system agent for containers returned to universal depots for the purposes of section 13(b) of the Regulation, effective June 1, 2009, shall be:
 - (a) 3.02¢ per container for pop cans, 0-1 litre volume;
 - (b) 3.02¢ per container for beer cans;
 - (c) 3.94¢ per container for PET, 0-1 litre volume;
 - (d) 3.96¢ per container for Industry Standard Bottles;
 - (e) 3.87¢ per container for Big Rock Bottles;
 - (f) 5.08¢ per container for glass, 0-500 ml in volume;
 - (g) 5.08¢ per container for glass, 501 ml-1 litre in volume;
 - (h) 3.81¢ per container for Tetra Brik 0-1 litre in volume;

- (i) 7.23¢ per container for PET Plastics over 1 litre in volume;
 - (j) 4.87¢ per container for import beer bottles;
 - (k) 11¢ per container for glass over 1 litre in volume;
 - (l) 10¢ per container for Gable Top over 1 litre in volume;
 - (m) 6¢ per container for Drink Pouch containers 0-1 litre in volume;
 - (n) 12¢ per container for HDPE Plastics over 1 litre in volume;
 - (o) 6¢ per container for Polycups 0-500 ml in volume;
 - (p) 6¢ per container for Bi-Metal 0-1 litre in volume;
 - (q) 6¢ per container for HDPE 0-1 litre in volume;
 - (r) 10¢ per container for Bi-Metal cans over 1 litre in volume;
 - (s) 6¢ per container for Gable top containers 0-1 litre in volume;
 - (t) 12¢ per container for Bag in Box over 1 litre in volume;
 - (u) 10¢ per container for Tetra Brick over 1 litre in volume;
 - (v) 12¢ per container for PVC Plastic containers over 1 litre in volume;
 - (w) 6¢ per container for polypropylene containers;
 - (x) 7¢ per container for PVC Plastic containers 0-1 litre in volume;
 - (y) 12¢ per container for Liquor and wine ceramic containers;
 - (z) 12¢ per container for aerosol 0-1 litre in volumes;
 - (aa) 4.12¢ per container for Sleemans bottles;
 - (bb) 6¢ per container for import beer PET 0-1 litre in volume;
 - (cc) 6¢ per container for import beer cans (Bi-Metal);
 - (dd) 6¢ per container for imports under 1 litre;
 - (ee) 12¢ per container for beer cans - deposit only;
 - (ff) 3.96¢ per container for unusable ISBs;
 - (gg) 12¢ per container for Molson obsolete containers;
 - (hh) 12¢ per container for bottles over 1 litre.
- (3) The handling commissions payable by a manufacturer or collection system agent for the following containers collected for return by Class “D” Beer Depots for the purposes of section 13(b) of the Regulation shall be:
- (a) 1.67¢ per container for empty aluminium beer containers and 2.08¢ per container for all other empty beer containers (refillable and non-refillable).

CHANGES TO HANDLING COMMISSIONS

- 4.(1) The Board of Directors of the Association may direct a Handling Commission Review if any of the following circumstances occur:
- (a) a change is made to the exemptions under section 3 of the Regulation resulting in a substantial change in the volume of containers handled by the system;
 - (b) a new category of container is added to section 3 of this Bylaw;

- (c) significant new sorting, handling or processing technologies are introduced or handling or processing tasks are redistributed between manufacturers and depot operators;
 - (d) significant changes occur in other major handling or processing costs;
 - (e) a Member of the Association requests a Handling Commission Review.
- (2) The Board of Directors of the Association shall direct a Handling Commission Review when three (3) years have passed since the last Handling Commission Review was completed.
- (3) Notwithstanding sections 4(1) and 4(2), the Board of Directors of the Association shall not direct a Handling Commission Review more than once within a 12 month period.
- (4) BCMB Management may set an interim handling commission for a new container stream in the absence of a Handling Commission Review in accordance with the Handling Commissions Rules of Practice and Procedure;
- (5) In conducting a Handling Commission Review, the following considerations shall be taken into account:
- (a) the benefits from more efficient handling or processing technologies implemented through the co-operation of manufacturers and depot operators, or from significant additions of new registered containers or from significant increases in volumes of certain types of existing containers shall be shared equitably between the manufacturers and the depot operators;
 - (b) providing depot operators with a reasonable opportunity to recover prudently-incurred costs, expenses and taxes and to earn a fair return in order to maintain a viable depot network which provides depot operators with a reasonable opportunity to earn a profit;
 - (c) minimizing the net cost of handling commissions on manufacturers and end-use consumers;
 - (d) the mandate of the BCMB to maximize container return rates;
 - (e) industry standard utility rate setting principles.
- (6) In conducting a Handling Commission Review, the Board of Directors of the Association must seek input from manufacturers and depot operators regarding handling commission amounts through fair process, negotiation and use of sound information having regard to the principles of natural justice. The gathering of sound information and the process for negotiations and submissions respecting handling commissions shall be governed by the Handling Commissions Rules of Practice and Procedure.

- (7) Handling Commissions may only be changed by motion of the Board of Directors carried by a majority of 2/3 of the Board of Directors.
- (8) The Board of Directors may refer the setting of Handling Commissions to arbitration. In the event that Handling Commissions have not been set within six months after the Board of Directors of the Association has received a report from the Data Collection Agent making recommendations about the amount of Handling Commissions, the setting of the Handling Commissions shall be referred to arbitration unless the Board of Directors of the Association is satisfied that there is a reasonable explanation for the delay.
- (9) The arbitration referred to in subsection 8 shall be carried out in accordance with the Handling Commissions Rules of Practice and Procedure and the resulting award shall be final and binding upon all Directors of the Association. The Board of Directors of the Association shall pass the Handling Commissions determined by the arbitration.

NUMBER OF DEPOTS

- 5.(1) In determining the number and location of depots to be permitted in Alberta, the Association shall have regard to the following criteria:
 - (a) patterns of population growth;
 - (b) closure of existing depots;
 - (c) the number and nature of complaints received from the public regarding the collection of containers generally;
 - (d) any other criteria the Association considers relevant in order to maintain a viable container recovery system.

REQUESTS FOR APPLICATIONS FOR PERMIT

- 6.(1) The Association shall provide all persons who wish to submit an application to operate a depot with an information package that contains
 - (a) the application and particulars of any other supporting information that is required with the application,
 - (b) information concerning the rights and obligations of a depot operator, and
 - (c) the Permit criteria that the Association will use in determining which applicant, if any, will be issued the permit.

PERMIT FOR DEPOT

- 7.(1) An application for a permit to operate a depot or for a renewal of a permit must be in a form acceptable to the Association and must be accompanied by any other information required by the Association.
- (2) The Association may issue a permit subject to any terms and conditions that the Association considers appropriate.
- (3) The Association may, on its own initiative or on the request of the depot operator, amend a term or condition of, add a term or condition to or delete a term or condition from a permit.
- (4) The Association may cancel or suspend a permit if the permit holder contravenes the Regulation or this Bylaw.
- (5) A permit is valid only for the location specified in it.
- (6) A permit is not transferable unless the Association consents to the transfer.
- (7) A permit may not be issued for more than 5 years from the date on which it is issued.
- (8) A permit does not come into effect until the later of:
 - (a) the expiry of any appeal period that may apply to the decision to grant a permit; or,
 - (b) the issuance of the decision on appeal to uphold a decision to grant a permit.

OPERATING AGREEMENT

- 8.(1) Manufacturers on their own behalf or through the collection system agent and bottle depots through the Association shall provide to the Association a plan acceptable to the Association providing for the following:
 - (a) the times at which and the manner in which containers will be collected from depot operators;
 - (b) storage and sorting of containers pending their collection;
 - (c) the times at which and the manner in which the collection system agent or manufacturer will pay to the depot operators any amounts they are required to pay under this Bylaw or the Regulation;
 - (d) any other matters considered necessary.

- (2) A Plan under subsection (1) is not valid until it has been approved by the Association.

COLLECTION FROM RETAILERS

- 9.(1) On the request of a retailer, a manufacturer shall, within the time prescribed by the Association and through the collection system agent or through a collection service provided by the manufacturer, collect from the retailer refillable containers that contained a beverage manufactured by the manufacturer.
- (2) Subsection (1) does not apply unless the retailer has in his possession at least the number of containers prescribed by the Association for the purposes of this section.
- (3) A retailer shall sort refillable containers into groups of containers that contained beverages that have been manufactured or distributed by the same manufacturer.
- (4) A retailer shall place the sorted containers into cases provided by the manufacturers.
- (5) A manufacturer or the collection system agent who collects refillable containers from a retailer shall at the time and in the manner prescribed by the Association pay to the retailer any amounts he is required to pay under this Bylaw or the Regulation.

RECORDS

- 10.(1) A manufacturer, a depot operator and the collection system agent shall, in a manner satisfactory to the Association, keep or cause to be kept books, documents, records and accounts for the purpose of this Bylaw and the Regulation.

INFORMATION TO BOARD

- 11.(1) A manufacturer, a depot operator and the collection system agent shall compile and submit, or cause to be submitted, to the Association in a form acceptable to the Association and at the times required by the Association, information concerning
- (a) in the case of a manufacturer, the number of containers sold by the manufacturer in each category identified by the Association,
 - (b) the number of containers collected from depots and retailers in each category identified by the Association,
 - (c) in the case of a manufacturer and the collection system agent, the volume of containers recycled under section 16 of the Regulation,

- (d) in the case of a depot operator, the Uniform Code of Accounts established by the Directors of the Association and such other financial information that the Directors of the Association determine is necessary for the administration of section 4 of this Bylaw; and
- (e) any other information the Association considers necessary for the administration of this Bylaw.

TRANSITIONAL - REGISTRATION

- 12.(1) A container is deemed to be registered under this Bylaw if it is a container for a beverage that was registered under section 3(2) for the Beverage Container Act, chapter B-4 of the Revised Statutes of Alberta 1980, or the Beverage Container Recycling Regulation (Alta. Reg. 128/93), or registered under any previous bylaw of the Association.

TRANSITIONAL - PERMITS

- 13.(1) Where on the approval of this Bylaw a person holds a subsisting approval under Part 2 of the Act in respect of a depot or under any previous bylaw of the Association,
- (a) that approval is deemed to be a permit for the purposes of this Bylaw, and
 - (b) that approval expires on the date on which it would have expired had this Bylaw not come into force unless it is renewed under this Bylaw.