

Environmental Protection and Enhancement Act

BEVERAGE CONTAINER MANAGEMENT BOARD

ADMINISTRATIVE COMPLIANCE BYLAW

ARTICLE 1 - DEFINITIONS AND INTERPRETATION

Definitions

1.1 In this Bylaw, unless the context otherwise requires:

- (a) “Act” means the *Societies Act* (Alberta) as may be amended from time to time;
- (b) “AEPEA” means the Alberta Environmental Protection and Enhancement Act of Alberta, as may be amended from time to time;
- (c) “BCMB” means the Beverage Container Management BCMB, a society incorporated under the Act;
- (d) “Managing Director” means the Managing Director of the BCMB;
- (e) “Permit” means a permit to operate a beverage container collection depot;
- (f) “Regulation” means the *Beverage Container Recycling Regulation*, A.R. 101/97, as may be amended from time to time.

Interpretation

- 1.2 In this Bylaw, unless the context otherwise requires, the Interpretation Act, AEPEA and the Act, as amended, apply to this Bylaw.
- 1.3 Words importing the singular include the plural and vice versa; words importing gender include the masculine, feminine and neuter genders; and words importing persons include individuals, bodies corporate, partnerships, trusts and unincorporated associations.
- 1.4 The headings used throughout this Bylaw are inserted for reference purposes only, and are not to be considered or taken into account in construing the terms or provisions of any article nor to be deemed in any way to qualify, modify or explain the effect of any such terms or provisions.

## ARTICLE 2 - FEES AND ENFORCEMENT

- 2.1 The events listed in the Schedule to this Bylaw are the events in respect of which a compliance fee may be levied by the BCMB.
- 2.2 In addition to those events listed in the Schedule to this Bylaw, the BCMB may levy any other fee or costs that may be authorized by the Regulation, BCMB bylaw or policy.
- 2.3 The BCMB shall issue a notice of the fee to be levied. The notice of fee must contain the following information:
  - (a) the name of the person required to pay the fee;
  - (b) particulars of the event which is the basis for the fee being levied;
  - (c) the name of the Bylaw or policy under which the fee is being levied;
  - (d) the amount of the fee, any applicable costs, the manner in which interest will accrue, and the time by which it must be paid;
  - (e) a statement of the right to appeal the levying of the fee to a sub-committee established by the BCMB.
- 2.4 A notice of fee may not be issued more than two years after the later of:
  - (a) the date on which the event to which the notice relates occurred, or
  - (b) the date on which evidence of the event first came to the notice of the Managing Director.
- 2.5 The amount of a fee shall be the amount stipulated in the Schedule to this Bylaw, or such other amount authorized under any other Bylaw or policy of the BCMB.
- 2.6 A person who is served with a notice of fee shall pay the full amount of the fee, including all interest and other charges levied, within 30 days of the date of service of the notice.
- 2.7 If a party, who has received notice as set out in section 2.3, above, fails to comply with the terms or requirements of the notice within 30 days from the date of service of the notice, the BCMB may:
  - (a) take the necessary steps to remedy the event or to fulfil the terms imposed at that party's cost;
  - (b) add any costs incurred by the BCMB for enforcement, remedying the event or fulfilling the terms of the notice, to the fee levied against the party hereunder;
  - (c) levy any additional fee or interest as may be permitted by the Bylaw or any other bylaw or policy of the BCMB;

- (d) take steps to collect the outstanding fee;
  - (e) withhold or suspend any permit, renewal, or approval until all amounts owing to the BCMB have been paid;
  - (f) set off any amount owing by the BCMB to the party against whom a fee has been levied;
  - (g) direct a third party, including a collection system agent, to pay amounts owing by the third party to the party against whom a fee has been levied, to the BCMB;
  - (h) direct a third party, including a collection system agent, to collect the outstanding fee on behalf of the BCMB;
  - (i) collect all outstanding amounts by any other reasonable and lawful means.
- 2.8 Any fee or amount payable by a depot operator to the BCMB shall be paid by the collection system agent on behalf of the depot operator, at the request of the BCMB.
- 2.9 The fees payable pursuant to this Bylaw may be changed by resolution of the directors of the BCMB and the amended fee will be effective as of the date specified in the resolution.
- 2.10 The time and manner for payment of any fees and interest rate per annum payable pursuant to this Bylaw may be changed by Resolution of the Directors of the BCMB and will be effective as of the date specified in the Resolution.
- 2.11 Interest is payable on fees that are required to be paid under this Bylaw, and is payable at the rate per annum established by the BCMB from time to time, from the date the unpaid amount is due until it is paid to the BCMB.
- 2.12 Any person subject to a fee holds all fees to be remitted to the BCMB in trust for the BCMB.
- 2.13 All Permits issued by the BCMB to operate depots are hereby amended to include and make binding upon all depots, the provisions of this Bylaw.
- 2.14 As this Bylaw relates to enforcement generally, in the event of any conflict between this Bylaw and any other bylaw of the BCMB, the other bylaw shall prevail.
- 2.15 Any reference in this Bylaw to collection or enforcement of a duly levied fee, shall include collection or enforcement of any costs or interest associated with the fee levied.

### ARTICLE 3 – APPEAL PROCESS

- 3.1 A person who is served with a notice of fee may appeal the decision of the BCMB to levy the fee to a sub-committee established by the BCMB, provided such appeal is filed within 30 days of the date of service of the notice.
- 3.2 All appeals must be in writing and must contain a clear, concise statement setting out the basis for the appeal and providing all documentation the person appealing intends on relying on.
- 3.3 If the appeal is in respect to the levying of a compliance fee, the filing of the appeal must be accompanied with the payment of the fee in dispute which will be held by the BCMB in escrow pending a determination of the matter.
- 3.4 The BCMB administrative staff shall provide all relevant material in respect to the subject matter of the appeal to the sub-committee, with copies of such materials to be sent to the person appealing.
- 3.5 The sub-committee established to deal with the appeal will consider the material provided and either render a decision, direct that further information or material be provided, or direct that a hearing be held.
- 3.6 In the event a hearing is directed 14 days notice will be provided to the person appealing setting out the date, time and place of the hearing.
- 3.7 At the hearing the sub-committee will allow submissions from the person appealing and, if necessary, submissions from BCMB staff or such other third parties as the sub-committee deems necessary.
- 3.8 The person appealing may appear at the hearing on their own behalf or may be represented by their counsel.
- 3.9 The award costs of the appeal in the discretion of the sub-committee.

**SCHEDULE to the Administrative Compliance Bylaw of the  
Beverage Container Management Board**

1. The fees payable under this Bylaw shall be in the amount up to \$200.00 per event or per day for each event or each day the event continues.
2. Events for which fees which shall be payable under this Bylaw shall include, but are not limited to:
  - (a) sale of unregistered beverage containers, in contravention of section 6(3) of the Regulation;
  - (b) failure to register beverage containers as required by section 7 of the Regulation;
  - (c) failure to use and maintain a common collection system as required by sections 8(1) and 9 of the Regulation;
  - (d) failure to return full deposits on returned beverage containers under section 10(2) of the Regulation;
  - (e) a contravention of any term or condition of a Permit or operating a depot without a Permit or while a Permit is under suspension, in contravention of section 14 of the Regulation;
  - (f) failure by a retailer to advertise the amount of deposits payable under section 15 of the Regulation;
  - (g) failure of a manufacturer to re-use or recycle refillable beverage containers, in contravention of section 16 of the Regulation;
  - (h) failure to provide information and reports required by the BCMB, in contravention of section 17 of the Regulation or any bylaw or policy of the BCMB;
  - (i) failure of a collection system agent to operate the collection system so as to protect proprietary information of manufacturers, in contravention of section 17 of the Regulation;
  - (j) failure to rectify any deficiencies detected by BCMB inspectors in the time required by the BCMB;
  - (k) failure of a common collection agent to comply with the requirements of the Regulation, applicable BCMB bylaws, any contract with the BCMB or any contract with manufacturers where it impacts the BCMB's operations or jurisdiction;
  - (l) failure to comply with the BCMB's Uniform Code of Accounts;

- (m) failure to accurately sort and count Registered Containers placed in designated receptacles for pick-up by common collection agents; and
- (n) failure to comply with any policy, bylaw, order, levy, decision or ruling of the BCMB.