

1. GENERAL

Application and Interpretation

- 1.1 Unless otherwise agreed to by all of the Interested Parties and by the BCMB or unless otherwise directed by the Board, the matters contained in this By-law must be applied in the determination of Handling Commissions during the course of a Handling Commission Review and any resulting Arbitration.

Definitions

- 1.2 In this By-law
- a) Arbitration means an arbitration conducted pursuant to section 4(9) of the Administrative By-law;
 - b) BCMB means the Beverage Container Management Board;
 - c) BCMB Management means the staff of the BCMB;
 - d) Collection Service Provider means a manufacturer of a beverage in a refillable container who is providing a collection service capable of recovering that manufacturer's empty refillable registered containers pursuant to section 9 of the Regulation;
 - e) Collection System Agent means the agent appointed by manufacturers of beverages in non-refillable containers to operate a common collection system for the recovery of those non-refillable containers under section 8 of the Regulation;
 - f) DCA means the Data Collection Agent appointed by the BCMB;
 - g) Deposit means the cash refund paid by a depot operator in accordance with section 10 of the Regulation;
 - h) Depot means a building used for the operation of a business for the collection of empty beverage containers;
 - i) Depot Manager means a person at a Depot responsible for managing and supervising all aspects of the operation at that Depot and may include a Depot Operator;

- j) Depot Operator means the owner or operator of a Depot;
- k) Depot Permit means a permit issued by the BCMB for the operation of a Depot in accordance with the Regulation;
- l) Handling Commission means the amount payable by the Collection System Agent or by a Collection Service Provider to Depot Operators for beverage containers collected from the Depot Operators in accordance with section 13(b) of the Regulation;
- m) Handling Commission Review means a review of Handling Commissions directed by the Board pursuant to section 4(1) or 4(2) of the Administrative By-law, and where the context requires, also includes the adjustment of Handling Commissions in accordance with section 4(5);
- n) Regulation means the *Beverage Container Recycling Regulation (Alta Regulation 101/97 as amended)*;
- o) Return Margin Methodology means a return margin utility model whereby Depot return margins are determined based on an analysis of return margins for similar businesses with similar risk profiles
- p) Revenue Requirement means the amount of money that all bottle depot operators as a group must collect through handling commissions in a given period of time in order to recover prudently-incurred costs, expenses and taxes and to earn a fair return;
- q) UCA means the Uniform Code of Accounts adopted by the BCMB from time to time.

1.3 Unless otherwise indicated, terms that are defined in the Regulation, the BCMB Administrative By-law and in the Handling Commissions Rules of Practice and Procedure have the same meaning when they are used in this By-law.

1.4 This By-law is made pursuant to Section 18 of the Regulation.

2. PURPOSE OF HANDLING COMMISSION CALCULATIONS

2.1 Handling Commissions are to be calculated for the following purposes:

- a) to provide sufficient funds to Depot Operators as a group to enable them to recover prudently-incurred costs, expenses and taxes and to earn a fair return;

- b) to maintain a viable Depot network;
- c) to minimize the net cost of handling commissions on manufacturers and end-use consumers and any cross-subsidization between different container streams;
- d) to share 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 equitably between the manufacturers and the Depot Operators; and
- e) to maximize beverage container return rates.

3. SPECIFIC CONSIDERATIONS IN CALCULATING HANDLING COMMISSIONS

Timing

- 3.1 To the extent possible and practicable, Handling Commissions are to be adjusted to reflect the forecast costs and return volumes anticipated during the period the Handling Commissions are to be in effect.

Performance Based Depot Size Cap

- 3.2 For the purposes of a Handling Commission Review, each Depot shall be classified based on the volume of beverage containers handled annually by that Depot as follows:
- a) Small Depots – less than 6 million beverage containers;
 - b) Medium Depots – between 6 million and 15.5 million beverage containers;
 - c) Large Depots – Bottle Depots handling more than 15.5 million beverage containers.
- 3.3 The maximum building size of any Depot to be taken into account for the purpose of calculating the Revenue Requirement shall be capped based on the classification of that Depot as provided for in section 3.2 as follows:
- a) Small Depots – 3,000 square feet;
 - b) Medium Depots – 5,000 square feet;
 - c) Large Depots – 7,500 square feet.

- 3.4 Notwithstanding sections 3.2 and 3.3, the maximum building size of a Depot cannot be capped at a building size which is lower than the minimum size prescribed in the Depot Permit issued by the BCMB for that Depot.

Deemed Lease Rate

- 3.5 For the purpose of determining the Revenue Requirement, all Depot buildings shall be deemed to have been leased at a rate to be determined through the Handling Commission Review (“Deemed Lease Rate”).

Rate Structure

- 3.6 Although smaller Depots experience higher fixed operating costs than larger Depots, Handling Commissions shall be determined using a variable rate structure with no fixed rate component.

Return Margin Methodology

- 3.7 The fair return component of the Revenue Requirement shall be determined using the Return Margin Methodology.
- 3.8 The Return Margin Methodology shall be applied to operating expenses and to Deposits.
- 3.9 The Return Margin Methodology shall be applied on an after-tax basis.

Income Tax Calculation

- 3.10 For the purpose of determining the Revenue Requirement, income tax expense shall be calculated for each individual Depot separately rather than for all Depots collectively.

Depot Manager Cost Determination

- 3.11 For the purpose of determining the Revenue Requirement, a Depot Manager shall be considered a full-time equivalent salaried position, and the salary level for the Depot Manager shall be determined through the Handling Commission Review process.