

1. INTERPRETATION

- 1.1 This By-law is made pursuant to section 18(1) of the Regulation.
- 1.2 Unless the context otherwise requires, the Interpretation Act (Alberta) and the Environmental Protection and Enhancement Act (Alberta), as amended, apply to this By-law.
- 1.3 Words importing persons include individuals, bodies, corporate, partnerships, trusts and unincorporated associations.
- 1.4 The headings used throughout this By-law 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 of this By-law nor to be deemed in any way to qualify, modify or explain the effect of any such terms or provisions.

2. DEFINITIONS

- 2.1 In this By-law:
 - 2.1.1 “AGLC” means the Alberta Gaming Liquor and Cannabis;
 - 2.1.2 “Approved Container” means a Container that has been approved by the BCMB for registration in accordance with this By-law;
 - 2.1.3 “BCMB” means the Beverage Container Management Board. The BCMB is a management board within the meaning of the Environmental Protection and Enhancement Act (Alberta) whose mandate is to regulate and enhance a leading Beverage Container system that protects Alberta’s environment;
 - 2.1.4 “Beverage” means any liquid that is a ready-to-serve drink and is not exempt from the Regulation and includes meal supplements, cream, buttermilk, fluid coffee creamers and drinkable yogurts, but does not include:
 - 2.1.4.1 Any product packaged in a frozen, non-frozen or powdered format that requires any additive to transform it into a ready-to-serve drink (e.g. concentrates);
 - 2.1.4.2 Sour cream;
 - 2.1.4.3 Non-fluid coffee additives;
 - 2.1.4.4 Pre-whipped whipping cream;
 - 2.1.4.5 Single portion cream Containers less than 30 mL;
 - 2.1.4.6 Industrial milk bladders with a volume of 9 litres or greater.
 - 2.1.5 “Board” means the Board of Directors of the BCMB;
 - 2.1.6 “Collection System Agent” or “CSA” means the collection system agent appointed by manufacturers and approved by the BCMB in accordance with the Regulation and the By-laws;

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- 2.1.7 “Container” means a bottle, can, plastic cup or paperboard carton or a package made of metal, plastic, paper, glass or other material, or a combination of them, that contains or has contained a Beverage;
 - 2.1.8 “Container Composition” means the composition of all the components of a Container including the Container Material, the Container label and label application method, Container closures, Container attachments and Container inserts;
 - 2.1.9 “Container Material” means any material that comprises more than 2% by weight of a Container;
 - 2.1.10 “Material Stream” means each category of Container for which a specific handling commission is payable as identified in the By-laws;
 - 2.1.11 “Permit” means a permit to operate a depot issued by the BCMB in accordance with the Regulation and By-laws.
 - 2.1.12 “Permit Holder” means an individual or corporate entity named in a Permit.
 - 2.1.13 “Registrant” means a manufacturer that has been registered with the BCMB in accordance with this By-law;
 - 2.1.14 “Regulation” means the Beverage Container Recycling Regulation AR 101/97, as amended;
 - 2.1.15 “Retailer” means a person who sells Beverages in Containers to consumers;
- 2.2 Unless otherwise indicated, terms that are defined in the Regulation have the same meaning when they are used in this By-law.

3. REGISTRATION OF MANUFACTURERS

- 3.1 No manufacturer shall sell or distribute or offer to sell or distribute or permit to be sold or distributed in Alberta any Beverage in a Container unless the manufacturer has registered with the BCMB in accordance with this section.
- 3.2 An application for registration of a manufacturer must be submitted to the BCMB in the form specified by the BCMB for that purpose, along with the fee specified in the Fee By-law.
- 3.3 A manufacturer is registered by the BCMB when the BCMB provides written notification of registration to the manufacturer at the address provided by the manufacturer for that purpose or provides electronic confirmation of registration.
- 3.4 Notification of registration of a manufacturer shall include notification of the registration number assigned to the Registrant by the BCMB.

4. CONTAINER APPROVAL REQUIREMENTS

- 4.1 No manufacturer shall sell or distribute or offer to sell or distribute or permit to be sold or distributed in Alberta any Beverage in a Container unless the manufacturer has received written notice from the BCMB that the Container is registered.
- 4.2 Only Containers that have been approved by the BCMB in accordance with this By-law can be registered with the BCMB.
- 4.3 Any time that a Registrant seeks approval for a Container the Registrant must submit to the BCMB an application for approval of the Container in the form specified by the BCMB for that purpose, along with the fee specified in the Fee By-law.
- 4.4 The BCMB may approve a Container which is the subject of an application under section 4.3 if the Container can be recycled in a manner that is satisfactory to the BCMB in accordance with the criteria and the procedure set out in this By-law.
- 4.5 Once an Approved Container has been registered and a Registrant has been given a BCMB Container Code for that Container, any Container manufactured by that Registrant with the identical Container Composition is deemed to have been approved under this By-law, and the Registrant may submit an application under section 5 for registration of any such Container and the Beverage in that Container without submitting another application for approval of that Container.
- 4.6 Other than a Container which is deemed to have been approved under section 4.5, a Container is approved by the BCMB when the BCMB provides written notification of the approval to the Registrant at the address provided by the Registrant for that purpose or provides electronic confirmation of the approval.

5. APPROVED CONTAINER REGISTRATION AND BEVERAGE REGISTRATION REQUIREMENTS

- 5.1 A Registrant must register every Approved Container that is distinguishable from any other Approved Container registered by that Registrant on the basis of Container Composition, size, brand name, the type of Beverage it contains, the flavour of Beverage it contains or Universal Product Code.
- 5.2 An application for registration of an Approved Container containing a Beverage other than liquor must be submitted to the BCMB in the form approved by the BCMB for that purpose.
- 5.3 An application for registration of an Approved Container containing liquor must be submitted to the AGLC in the form approved by the AGLC for that purpose accompanied by the form approved by the BCMB for that purpose.
- 5.4 An application for registration of an Approved Container must be accompanied by the brand name, type of Beverage, flavor of Beverage, Container Composition, Container size, and the Universal Product Code (if applicable). The application must include or be followed by pictures or digital renderings of the entire label. Following the initial registration, if there are any changes to

the product with respect to the brand name, type of Beverage, flavor of Beverage, Container Composition, Container size, or the Universal Product Code, the manufacturer must advise the BCMB and provide new images.

- 5.5 An Approved Container and the Beverage it contains are registered when the BCMB provides written notification of registration to the Registrant and provides a Beverage registration number to the Registrant at the address provided by the Registrant for that purpose or provides electronic confirmation of the registration.

6. MANUFACTURER COLLECTION REQUIREMENTS

- 6.1 manufacturers of Beverages in non-refillable Containers for sale or distribution in Alberta shall use and maintain a common collection system for the recovery and recycling of empty non-refillable registered Containers from Depots and shall appoint a Collection System Agent satisfactory to the BCMB to act on behalf of the manufacturers with respect to the operation of the common collection system.

- 6.2 No manufacturer shall sell or distribute, offer to sell or distribute or permit to be sold or distributed in Alberta any Beverage in a non-refillable Container unless the manufacturer uses the common collection system.

- 6.3 Manufacturers of Beverages in refillable Containers for sale or distribution in Alberta shall:

6.3.1 Provide a collection service capable of recovering the manufacturer's empty refillable registered Containers from all Depots and Retailers accepting such Containers; or

6.3.2 Use the common collection system referred to in the Regulation for the recovery of those Containers.

- 6.4 On the request of a Retailer, a manufacturer shall, within the time prescribed by the BCMB and through the Collection System Agent or through a collection service provided by or on behalf of the manufacturer, collect from the Retailer refillable Containers that contained a Beverage manufactured by the manufacturer.

- 6.5 Subsection 6.4 does not apply unless the Retailer has in its possession at least the number of Containers prescribed by the BCMB for the purposes of this By-law.

- 6.6 A Retailer shall sort refillable Containers into groups of Containers that contained Beverages that have been manufactured or distributed by the same manufacturer.

- 6.7 A Retailer shall place the sorted Containers into cases provided by the manufacturers.

- 6.8 A manufacturer who collects refillable Containers from a Retailer shall at the time and in the manner prescribed by the BCMB pay to the Retailer any amounts it is required to pay under the By-laws or the Regulation.

7. MANUFACTURER REIMBURSEMENT REQUIREMENTS

- 7.1 A manufacturer who collects or causes a non-refillable Container to be collected from a Depot or Retailer, shall on collecting those Containers:
- 7.1.1 Reimburse the Permit Holder or Retailer for each Container collected in the amount specified in the Regulation; and
 - 7.1.2 Pay a Permit Holder a handling commission in the amount specified in the By-laws for each Container collected.

8. MANUFACTURER RECORD KEEPING AND REMITTANCE OF INFORMATION REQUIREMENTS

- 8.1 A manufacturer shall compile and submit, or cause to be remitted to the BCMB the information specified by the BCMB from time to time and in the manner specified by the BCMB, including information concerning:
- 8.1.1 The number of Containers sold by the manufacturer;
 - 8.1.2 The number of Containers of each Material Stream collected from each Depot and each Retailer;
 - 8.1.3 The volume of Containers recycled under section 16 of the Regulation; and
 - 8.1.4 Any other information the BCMB may consider necessary.
- 8.2 Manufacturers of non-refillable Containers shall maintain the common collection system by:
- 8.2.1 collecting and reporting to the Collection System Agent, information concerning the number of Containers of each Material Stream sold by the manufacturer;
 - 8.2.2 remitting to the Collection System Agent, the deposit specified in the Regulation and the Container recycling fee determined by the Collection System Agent for each Container sold by the manufacturer; and
 - 8.2.3 compiling and submitting to the Collection System Agent, on an annual basis, a sales verification package, in the format prescribed by the Collection System Agent, verifying the manufacturer's reported sales volume in Alberta.

9. MANUFACTURER RE-USE AND RECYCLING REQUIREMENTS

- 9.1 A manufacturer of a Beverage in a refillable Container shall:
- 9.1.1 re-use the Container as a refillable Container if the manufacturer considers the Container to be suitable for re-use as a Container, or
 - 9.1.2 cause the Container to be recycled in a manner that is satisfactory to the BCMB, if the manufacturer considers the Container is not suitable for re-use as a Container.

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- 9.2 Non-refillable Containers shall be recycled in a manner that is satisfactory to the BCMB.
- 9.3 In determining whether or not a Container can be recycled in a manner that is satisfactory to the BCMB, the BCMB may consider the following matters:
- 9.3.1 the proposed method of recycling, including whether the Container can be recycled by a method not previously found to be satisfactory by the BCMB;
 - 9.3.2 whether the Container can be recycled without contamination to the Beverage Container recycling system;
 - 9.3.3 whether the Container can be disassembled in order to avoid contamination to the Beverage Container recycling system;
 - 9.3.4 the percentage by weight of materials recoverable;
 - 9.3.5 the cost of recycling, including any costs of disassembly;
 - 9.3.6 the marketability of the Container Materials;
 - 9.3.7 whether the Container can be visually identified as being distinct from other Approved Containers; and
 - 9.3.8 any other criteria relevant to recyclability that the BCMB may consider appropriate.
- 9.4 The following end-use processes are methods of recycling that are not considered to be satisfactory to the BCMB:
- 9.4.1 incineration;
 - 9.4.2 thermochemical decomposition at elevated temperatures in the absence of oxygen; and
 - 9.4.3 disposal into landfills, bodies of water or outside of the Earth's atmosphere.
- 9.5 For the purposes of a determination as to whether or not a Container can be recycled in a manner that is satisfactory to it, the BCMB may request and rely upon relevant information from the Registrant and from other parties with expertise in recycling.

10. RETAILER REQUIREMENTS

- 10.1 No Retailer shall sell or offer to sell any Beverage in a Container unless the Container is registered.
- 10.2 When a person presents to a Retailer at the Retailer's premises an empty refillable registered Container that:
- 10.2.1 Is the same size or type of Container as Containers that are sold by the Retailer;
 - 10.2.2 Is not exempt from the Regulation; and

10.2.3 Is reasonably identifiable as having contained a Beverage of the same brand as sold by the Retailer,

the Retailer may accept the Container, and on accepting the Container, shall pay to the person a cash refund of not less than the amount specified in the Regulation, however, a Retailer is exempt from paying a refund in the circumstances specified in the Regulation.

10.3 No Retailer shall accept a Container or pay a cash refund for a Container that can reasonably be identified by the Retailer as having been transported into Alberta other than by a manufacturer for the purpose of selling a Beverage in the Container in Alberta.

10.4 A Retailer shall, in a manner that is acceptable to the BCMB, clearly advertise, in an open and conspicuous place in the retail premises and separate and apart from the price of the Container with contents, the amount of the deposit for each type of Container sold by the Retailer.

10.5 A Retailer shall not accept or pay a cash refund for an empty non-refillable Container.

11. REGULATORY COMPLIANCE AND ENFORCEMENT

11.1 Manufacturers and Retailers are required to comply with the Regulation and By-laws.

11.2 The failure of a manufacturer to comply with Container registration requirements and with reporting and remittance requirements will result in progressive enforcement actions.

11.3 The failure of a Retailer to comply with advertising requirements will result in progressive enforcement actions.

Container Registration Compliance

11.4 There are 4 Levels to *Container Registration Compliance*. A manufacturer who fails to register a Container with the BCMB in accordance with this By-law enters Level 1.

11.5 Where a manufacturer enters Level 1, the BCMB shall send a Level 1 warning letter advising that a Container has not been registered and that the manufacturer has 30 days to register the Container. If the manufacturer does not register the Container within 30 days following notification from the BCMB, the manufacturer shall pay a compliance fee and enter Level 2.

11.6 Where a manufacturer enters Level 2, the BCMB shall send a Level 2 warning letter advising that a Container has not been registered and that the manufacturer has 30 days to register the Container. If the manufacturer does not register the Container within 30 days following notification from the BCMB, the manufacturer shall pay a compliance fee and enter Level 3.

11.7 Where a manufacturer enters Level 3, the BCMB shall send a Level 3 warning letter advising that a Container has not been registered and that the manufacturer has 15 days to register the Container. If the manufacturer does not register the Container within 15 days following notification from the BCMB, the manufacturer shall pay a compliance fee and the *Container*

Registration Compliance history shall be forwarded to the Complaints Director and to the appropriate department under the *Environmental Protection and Enhancement Act*.

Reporting and Remittance Compliance

- 11.8 There are 4 Levels to *Reporting and Remittance Compliance*. A manufacturer who fails to comply with its *Reporting and Remittance Compliance* obligations under this By-law enters Level 1.
- 11.9 Where a manufacturer enters Level 1, the BCMB shall send a Level 1 warning letter advising of the *Reporting or Remittance Compliance* obligations that have not been met and advising that the manufacturer has 30 days to comply. If the manufacturer does not meet the *Reporting or Remittance Compliance* obligations within 30 days following notification from the BCMB, the manufacturer shall pay a compliance fee and enter Level 2.
- 11.10 Where a manufacturer enters Level 2, the BCMB shall send a Level 2 warning letter advising of the *Reporting or Remittance Compliance* obligations that have not been met and advising that the manufacturer has 30 days to comply. If the manufacturer does not meet the *Reporting or Remittance Compliance* obligations within 30 days following notification from the BCMB, the manufacturer shall pay a compliance fee and enter Level 3.
- 11.11 Where a manufacturer enters Level 3, the BCMB shall send a Level 3 warning letter advising of the *Reporting or Remittance Compliance* obligations that have not been met and advising that the manufacturer has 15 days to comply. If the manufacturer does not meet the *Reporting or Remittance Compliance* obligations within 15 days following notification from the BCMB, the manufacturer shall pay a compliance fee and the *Reporting and Remittance Compliance* history shall be forwarded to the Complaints Director.

Advertising Compliance

- 11.12 There are 4 Levels to *Advertising Compliance*. A Retailer who fails to advertise the deposit obligations under this By-law enters Level 1.
- 11.13 Where a Retailer enters Level 1, the BCMB shall send a Level 1 warning letter advising that the *Advertising Compliance* requirements have not been met and advising that the Retailer has 30 days to comply. If the Retailer does not meet the *Advertising Compliance* requirements within 30 days following notification from the BCMB, the Retailer shall pay a compliance fee and enter Level 2.
- 11.14 Where a Retailer enters Level 2, the BCMB shall send a Level 2 warning letter advising that the *Advertising Compliance* requirements have not been met and advising that the Retailer has 30 days to comply. If the Retailer does not meet the *Advertising Compliance* requirements within 30 days following notification from the BCMB, the Retailer shall pay a compliance fee and enter Level 3.
- 11.15 Where a Retailer enters Level 3, the BCMB shall send a Level 3 warning letter advising that the *Advertising Compliance* requirements have not been met and advising that the Retailer has 15 days to comply. If the Retailer does not meet the *Advertising Compliance* requirements within 15

days following notification from the BCMB, the Retailer shall pay a compliance fee and the *Advertising Compliance* history shall be forwarded to the Complaints Director.