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**NEWFOUNDLAND AND LABRADOR
REGULATION 59/03**

Waste Management Regulations, 2003
under the
Environmental Protection Act
(O.C. 2003- 226)

Amended by:

2004 c36 s53
2006 c40 s20
100/10
85/12

**NEWFOUNDLAND AND LABRADOR
REGULATION 59/03**

Waste Management Regulations, 2003
under the
Environmental Protection Act
(O.C. 2003- 226)

(Filed May 23, 2003)

Under the authority of section 111 of the *Environmental Protection Act* , the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's , May 21, 2003 .

Deborah E. Fry.
Clerk of the Executive Council

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Short title

1. These regulations may be cited as the *Waste Management Regulations, 2003* .

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Definitions

2. In these regulations

- (a) "Act" means the *Environmental Protection Act* ;
- (b) "board" means the Multi-Materials Stewardship Board;
- (c) "inspector" means a person appointed as an inspector under subsection 11(1); and
- (d) "trust fund" means the Newfoundland and Labrador Waste Management Trust Fund continued under section 10.

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PART I MULTI-MATERIALS STEWARDSHIP BOARD

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Composition of the board

3. (1) The board shall consist of

- (a) the deputy minister of the Department of Environment, who may designate an employee of that department to act in his or her place; and
- (b) not fewer than 7 other members appointed by the minister.

(2) The members of the board appointed by the minister shall include

- (a) one representative of distributors under Part II;
- (b) one representative of consumers;
- (c) one representative of the Newfoundland and Labrador Federation of Municipalities; and
- (d) 4 or more representatives-at-large, one of whom shall be a resident of Labrador .

(3) A member of the board shall be appointed for a term of 3 years and is eligible for reappointment.

(4) A member of the board whose appointment has expired continues to be a member of the board until a successor is appointed.

(5) The minister shall designate one member of the board to be chairperson.

(6) Where there is a vacancy on the board, the minister shall appoint a successor, in accordance with subsection (2), who shall hold office for the remainder of the unexpired term of the member being replaced, and the successor is eligible for reappointment.

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Remuneration of the board

4. The Lieutenant-Governor in Council shall set the remuneration to be paid to a member of the board.

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Annual report

5. The board shall submit an annual report to the minister in a form and at a date prescribed by the minister.

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Budget of the board

6. (1) The board shall, not later than a date to be set by the minister, submit to the minister a budget for the next financial year containing

- (a) detailed estimates of expenses of the board for the next financial year;
- (b) detailed estimates of expenses for each waste management program for the next financial year;
- (c) detailed estimates of revenue of the board for the next financial year from all sources;
- (d) estimates of a surplus projected to accrue to the board in the current financial year;
- (e) an estimate of the amount to be paid into the trust fund under subsection 19(2); and
- (f) other information that may be required by the minister.

(2) The minister may approve or disapprove a budget submitted by the board.

(3) The minister may give a direction to the board in the preparation of its budget, including a direction relating to the operation of the board or a waste management program.

(4) The board shall not in a financial year incur, contract for or become liable for an expenditure or debt that is more than the estimated expenditure or debt set out in its annual budget except with the prior written approval of the minister.

(5) The minister may appoint a person to examine the books of account and other financial records of the board and, at the request of that person, the board shall provide him or her with its books of account and other financial records and an officer or employee of the board shall answer questions pertaining to them and provide other assistance that the person may request.

(6) The board shall use revenue from a waste management program for its expenses.

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Powers of the board

7. The board may

- (a) investigate the feasibility of a waste management program;
- (b) employ staff;
- (c) enter into a contractual arrangement to carry out its duties and responsibilities;
- (d) subject to the approval of the minister, make by-laws to govern the procedures of the board; and
- (e) prescribe a form for the purpose of these regulations, including a form to be used for an application to the board.

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Duties of the board

8. The board shall

- (a) implement and operate a waste management program approved by the minister;

- (b) implement and operate a waste management program in accordance with these regulations;
- (c) manage the trust fund;
- (d) supervise and direct inspectors; and
- (e) direct the collection and disposition of money under a waste management program.

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Power to delegate

9. Subject to the approval of the Lieutenant-Governor in Council, the board may delegate a power or a duty assigned to it under section 7 or 8 to another person or body and that person or body shall exercise the power or duty according to the terms of the legislation.

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Trust fund

10. (1) The Newfoundland and Labrador Waste Management Trust Fund established under section 4 of the *Beverage Container Control Regulations* is continued.

(2) A person or organization may apply to the board for a grant or loan from the trust fund.

(3) Subject to the approval of the minister, the board may grant or refuse in whole or in part an application under subsection (2), or may grant the application subject to conditions.

(4) In making a decision under subsection (3), the board shall include consideration of whether the application relates directly to the basic objectives of waste management, and whether the application includes

- (a) support for the development of a municipal, institutional or regional recycling program which supports existing programs approved by the minister;
- (b) support for the planning, development and upgrading of a regional or municipal waste management system;
- (c) support for workshops, seminars or educational or promotional programs or activities which would enhance waste management;
- (d) support for community service groups, municipalities, schools and others for waste material cleanup activities;
- (e) support for government or board initiatives for waste management;
- (f) support for the investigation and demonstration of new technologies that would enhance waste management; and
- (g) support for market analysis and feasibility studies related to business development opportunities resulting from a waste management activity.

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Inspectors

11. (1) The board may appoint inspectors to determine compliance with the Act and regulations.

(2) For the purpose of determining compliance with the Act and regulations, an inspector may at a reasonable time and without a warrant enter and inspect a vehicle, equipment, place and premises, other than a dwelling place, and may demand the production of and inspect the books, documents, papers, correspondence and records, and a person occupying or in charge of the vehicle, equipment, place or premises shall answer questions pertaining to compliance with the Act and regulations, and shall produce for inspection and the making of copies or extracts the books, documents, papers, correspondence and records that the inspector may demand.

(3) Where an inspector believes on reasonable grounds that a person has contravened the Act or regulations, the inspector may, with a warrant issued under subsection (4), at a reasonable time enter a vehicle, equipment, place or premises, and may examine and remove for the purpose of making copies, books, documents, papers, correspondence and records that the inspector believes on reasonable grounds contain information relevant to the enforcement of the Act and regulations.

(4) A Provincial Court judge who is satisfied by information upon oath or affirmation that there are reasonable grounds for believing that there is in a vehicle, equipment, place or premises anything that shall afford evidence with respect to an offence under the Act or regulations may issue a warrant authorizing an inspector named in the warrant to enter and search that vehicle, equipment, place or premises and to make those inquiries and copies of books, documents, papers, correspondence and records that are considered necessary, subject to those conditions that may be specified in the warrant.

(5) The owner or person in charge of the vehicle, equipment, place or premises referred to in this section and every person found in the vehicle, equipment, place or premises shall give an inspector all reasonable assistance to enable the inspector to carry out his or her duties and functions under this section and shall furnish information which the inspector may reasonably require.

(6) Notwithstanding subsection (3), an inspector may exercise the power of search referred to in that subsection without a warrant issued under subsection (4) where the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be practical to obtain the warrant.

(7) For the purpose of subsection (6), "exigent circumstances" include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence.

(8) A person contravenes these regulations who interferes with or hinders an inspector conducting a search or making an investigation or exercising a right or discharging a duty conferred or imposed on him or her by the Act or regulations.

[59/03 s11; 2004 c36 s53](#)

PART II BEVERAGE CONTAINER CONTROL PROGRAM

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Definitions - Part II

12. In this Part

- (a) "alcoholic liquor" means alcoholic liquor as defined in the *Liquor Corporation Act* but does not include beer;
- (b) "beer" means beer as defined in the *Liquor Corporation Act* ;
- (c) "beverage" means a ready-to-serve liquid intended for human consumption, including
 - (i) a carbonated or non-carbonated soft drink,

(ii) bottled water, naturally or artificially carbonated,

(iii) a fruit juice or fruit drink,

(iv) a vegetable juice,

(v) beer, and

(vi) alcoholic liquor,

but does not include,

(vii) milk,

(viii) an infant formula, or

(ix) all medicinal nutritional supplements formulated for special dietary needs;

(d) "beverage container" means a container that contains or has contained a beverage delivered sealed to a retailer where the container is made of

(i) glass,

(ii) steel,

(iii) aluminium,

(iv) plastic,

(v) aseptic packaging, or

(vi) other recyclable material,

but does not include

(vii) a plastic cup, styrofoam cup or other unsealed container sold to a service industry for on-site consumption, or

(viii) a container that

(A) is refillable,

(B) holds more than 5 litres,

(C) contains or has contained a premixed fountain beverage, or

(D) contains or has contained a concentrated product;

(e) "deposit" means an amount of money paid to the distributor or retailer by the purchaser of a beverage in a beverage container;

(f) "depot" means a place where used beverage containers are collected;

(g) "depot operator" means a person who owns, manages or operates a depot;

(h) "distributor" means a person who

(i) manufactures a beverage in the province,

- (ii) by wholesale or other means, sells a beverage in a beverage container to a retailer,
 - (iii) bottles a beverage in a beverage container for sale in the province, or
 - (iv) is described in section 15;
- (i) "label" includes a sticker, word or marking on a beverage container or the lid, cap or cover of a beverage container which identifies the contents;
- (j) "refillable" means a beverage container which can be returned to a distributor for reuse as a beverage container where the distributor has established a system for the collection of the container;
- (k) "refund" means the amount paid for the delivery of a beverage container to a depot; and
- (l) "retailer" means a person who sells a beverage in a beverage container for consumption on or off its premises and includes a person who sells by a coin-operated vending machine.

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Beverage containers

13. (1) A distributor shall not manufacture, sell or distribute a beverage in a beverage container unless the beverage container is

- (a) refillable or recyclable; and
- (b) registered under this section.

(2) Upon application by a distributor, the board may register a beverage container, and may prescribe terms and conditions in the registration.

(3) In determining whether to register a beverage container, the board shall include consideration of

- (a) the size, shape, colour, composition and UPC code of the container; and
 - (b) whether there is on the container an adequate notice that it may be returned for refund.
- (4) The board may cancel the registration of a beverage container.

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Deposits

14. (1) A distributor shall collect a deposit of \$0.08 when a beverage in a beverage container is purchased, but where the beverage container contains alcoholic liquor, the deposit collected shall be \$0.20.

(1.1) The amount of the deposit referred to in subsection (1) and the refund of the deposit referred to in section 18 includes any applicable tax imposed under Part IX of the *Excise Tax Act* (Canada).

(2) A deposit collected by a distributor shall be held in trust for the board by the distributor.

(3) A distributor shall remit a deposit held in trust under subsection (2) to the board in accordance with an agreement with the board or, in the absence of an agreement, within 7 days after

the end of a month.

(4) Notwithstanding subsection (3), the board may direct the distributor to remit the deposit held in trust under subsection (2), and the distributor shall remit the deposit within 7 days after receiving the direction of the board.

(5) A beverage in a beverage container is considered to be purchased where, for the purpose of marketing or sales promotion, the purchaser receives the beverage without cost or at a reduced cost.

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Interpretation

15. For the purpose of sections 13 and 14, where a retailer

- (a) manufactures a beverage in the province;
- (b) bottles a beverage in a beverage container in the province; or
- (c) imports a beverage in a beverage container into the province,

and sells the beverage on its premises, the retailer shall be considered to be a distributor.

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Depots

16. (1) A person shall not operate a depot without a permit.

(2) The board may issue a permit to operate a depot, and may prescribe terms and conditions in the permit.

(3) The board may cancel a permit to operate a depot where the depot operator fails to comply with a provision of the Act or regulations or a term or condition of the permit.

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No depot

17. (1) The board may authorize an alternate collection scheme for beverage containers where a depot does not exist.

(2) Section 18 applies, with the necessary changes, to a collection scheme under subsection (1).

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Returns and refunds

18. (1) A depot operator shall pay a refund of \$0.05 on a beverage container delivered to the depot, but where the beverage container contained alcoholic liquor the refund shall be \$0.10.

(2) A depot operator shall not refuse to accept a beverage container for refund, except where

- (a) the beverage container is crushed, broken or contaminated;
- (b) the beverage container has no labelling which identifies what it contained; or
- (c) the beverage container was rejected or discarded by the manufacturer during the manufacturing process.

[59/03 s18](#)

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Program operating budget

19. (1) The board shall use revenue from a program under this Part for the implementation and operating expenses of the program.

(2) Notwithstanding paragraph 8(e), in accordance with a direction of the minister, the board shall pay into the trust fund an amount prescribed by the minister after consultation with the board.

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Offence

20. (1) A person who fails to comply with subsection 13(1) is guilty of an offence and is liable to a fine of not more than \$5,000.

(2) A person who fails to comply with a provision of section 14 or section 29 is guilty of an offence and is liable on summary conviction to a fine equal to

- (a) the amount of the deposits that would have been collected or remitted by the distributor under section 14 had that distributor complied with that section; and
- (b) the amount of the levies that would have been paid or remitted by the supplier under section 29 had that supplier complied with that section.

(3) A depot operator who negligently or wilfully misrepresents the number or type of beverage containers for which compensation is claimed from the board is guilty of an offence and liable to a fine equal to twice the amount claimed at the time the misrepresentation is made.

(4) A person who fails to comply with a reasonable request of an inspector under section 11 is guilty of an offence and liable on summary conviction to a fine of not more than \$600 or 30 days' imprisonment for a first offence and not more than \$1,000 or imprisonment for a term of not more than one year for a subsequent offence.

(5) Where a person is convicted of an offence under these regulations and as a result

- (a) the board pays out an amount that would not have been paid if the offence had not been committed; or
- (b) the board does not receive an amount which would have been remitted to it if the offence had not been committed,

the court shall, in addition to imposing a fine, order the offender to pay to the board the amount paid out or not received under paragraphs (a) and (b).

(6) A person who does not comply with a provision of the Act for which a penalty is not otherwise provided is guilty of an offence and is liable on summary conviction to a fine of not less than \$500 and not more than \$5,000.

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PART III USED TIRE RECYCLING

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Definitions

21. (1) In this Part

- (a) "consumer" means a person who, in the province, is supplied with a new tire for use on a vehicle;
- (b) "highway" means a highway as defined in the *Highway Traffic Act* ;
- (c) "new tire" means a tire that is
 - (i) provided with a vehicle, or
 - (ii) provided separately for use on or with a vehicle, andhas been manufactured but not first supplied to a consumer;
- (d) "register" and "registration" means registered under section 25;
- (e) "supplier" means a person who, in the province, supplies new tires to a consumer;
- (f) "supply" means to transfer or offer to transfer a property interest by deed, gift, exchange, barter or a transaction by way of sale, lease, option or rental but does not include a transfer for the sole purpose of creating a security interest within the meaning of the *Personal Property Security Act* or the *Bank Act* (Canada),
- (g) "tire" means a tire that is air filled or designed to be air filled and that is designed for use on the wheel of a vehicle;
- (h) "used tire" means a tire that is post use material and is no longer suitable for its original purpose because of wear, tear, damage, defect or another reason; and
- (i) "vehicle" means a device in, upon or by which a person or property is or may be transported or drawn upon a highway or private road but does not include
 - (i) a motorized wheelchair,
 - (ii) a device moved by human power,
 - (iii) a vehicle to which the *Motorized Snow Vehicles and All Terrain Vehicles Act* applies,
 - (iv) a farm implement or farm machinery not used on a highway, and
 - (v) a device used exclusively on fixed rails.

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Deemed supply

22. A supplier who uses or consumes a new tire in the province is considered to have supplied that tire to another person.

[59/03 s22](#)

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Prohibition

23. (1) A person shall not dispose of a tire or a used tire in the province except by disposal

- (a) to a supplier;
- (b) in an area of a waste material disposal site established under the Act and approved for that purpose by the minister;
- (c) in another area that the minister designates for the purpose of the disposal of tires.

(2) A supplier shall not refuse to accept tires and used tires for disposal and collection provided that the rate of that tire collection need not exceed the rate of supply of new tires to consumers by that supplier.

(3) In the absence of evidence to the contrary, a tire or a used tire shall be considered to have been disposed of in contravention of subsection (1) where that tire or used tire has been gathered, collected, stockpiled, kept or retained in an area.

(4) Subsections (1) and (3) shall not apply to a tire that is

- (a) in actual use on a vehicle; or
- (b) secondarily used in a manner and for a function for which the tire was not originally designed.

(5) Notwithstanding paragraph 21(1)(i), this section shall apply to a tire or used tire from a vehicle referred to in subparagraphs (iii) and (iv) of that paragraph.

[59/03 s23; 2006 c40 s20](#)

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Designation

24. The minister may designate areas within a waste material disposal site established under the Act and other areas in the province for the disposal and collection of tires for the purposes of the Act and this Part.

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Supplier registration

25. (1) A supplier shall not supply a new tire to a consumer in the province unless that supplier is registered under this section.

(2) The board may, where it considers it to be appropriate, exempt a supplier or a class of suppliers from the application of subsection (1) where, in the opinion of the board, the supply of tires by that supplier or class of suppliers will be reported and levies will be remitted with respect to those tires by another supplier who is registered under this section.

(3) The board may impose terms and conditions with respect to an exemption under subsection (2).

(4) The board may register a supplier where the

- (a) supplier makes an application to the board in the form required by the board;

(b) supplier provides to the board the information that the board may require; and

(c) application is accompanied by the fee that the board may establish.

(5) The board may require a supplier who applies for registration under this section to comply with terms and conditions that the board considers to be appropriate before registering that supplier.

(6) Subsections (1) to (5) apply to an application for a renewal or an amendment of a registration under this section.

(7) The board may require a supplier to provide security in the manner and amount that the board may establish.

(8) The board may refuse to issue or amend the registration of a supplier applicant under this section where

(a) the board is satisfied that the applicant has violated a provision of the Act or another Act or regulation of the province or of Canada relating to the disposal, management or handling of tires and used tires;

(b) the board is satisfied that the applicant has not complied with a term or condition imposed upon that applicant as a supplier under these regulations or a registration of that applicant under this section;

(c) the applicant has not provided the security required by the board ; and

(d) a supplier registration previously held by the applicant was revoked by the board within the previous 5 years.

(9) A supplier registration is not transferable.

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Suspension, reinstatement and cancellation

26. (1) The board may suspend or cancel a registration where

(a) the board is satisfied that the registered supplier or a person acting under that supplier has violated a provision of the Act or of another Act or regulation of the province or of Canada with respect to the disposal, management or handling of tires or used tires;

(b) the board is satisfied that the registered supplier or a person acting under that supplier has not complied with a term or condition of that supplier's registration;

(c) the registered supplier has not provided or maintained security as required under this Part; and

(d) the board is satisfied that the registered supplier is no longer a supplier.

(2) The board may, with terms and conditions that the board considers appropriate, reinstate a registration that has been suspended.

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Security

27. (1) The board may require that an applicant for registration, amendment or reinstatement of

registration provide security in the manner and amount that the board may establish.

(2) The amount of security that the board may establish under subsection (1) shall not exceed the amount of the levies that the board reasonably estimates would be remitted under section 29 during a period of 2 months as averaged for a typical year.

(3) Where a supplier does not remit levies in accordance with section 29, security provided by that supplier as required by the board shall be forfeited to the board 14 days after the remittance of the levies is due.

(4) Money forfeited under subsection (3) shall, after deducting costs, be paid to the account of the board.

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Reports

28. (1) A supplier shall, at the times and in the form and manner required by the board,

- (a) report the number of tires that the supplier has supplied; and
- (b) maintain a record of a transaction made with respect to a tire for a period of 3 years after that transaction.

(2) A person shall not falsify, make misleading, unlawfully alter, deface, destroy, erase or obliterate a report, record or information required to be made, maintained or kept under this Part.

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Levy

29. (1) A supplier shall pay to the board a levy of

- (a) \$3 upon a new tire that has a rim size diameter equal to or less than 43.18 centimetres; and
- (b) \$9 upon a new tire that has a rim size diameter that is greater than 43.18 centimetres and less than 63 centimetres,

that the supplier supplies to a consumer.

(2) A levy referred to in subsection (1) shall be held in trust for the board by the supplier.

(3) A supplier shall remit a levy held in trust under subsection (2) to the board in accordance with an agreement with the board or, in the absence of an agreement, within 7 days after the end of each month in which the supplier has supplied a new tire to a consumer.

(4) Notwithstanding subsection (3), the board may direct the supplier to remit the levy held in trust under subsection (2) and the supplier shall remit the levy not more than 7 days after receiving the direction of the board.

(5) A new tire shall be considered to be supplied where, for the purpose of marketing or sales promotion, the consumer is supplied with the new tire without cost or at a reduced cost.

(6) The board shall use revenue from the collection of levies under this Part for the costs of implementing, operating and administering a tire collection, transportation, recycling, processing, disposal and handling program under this Part.

(7) A supplier shall not ask for or receive from a person a sum intended to represent an amount equivalent to a levy under this section with respect to the supply of a replacement tire, if no consideration is given for the replacement tire and if the replacement is made because the original tire was defective.

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Standards

30. The board may establish standards relating to the distribution, supply, packaging, labelling, use, storage, collection, transportation, recycling, processing, disposal and other handling of tires and used tires in the province.

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Agreements

31. (1) The board may enter into an agreement with a person or agency with respect to the collection, transportation, processing and recycling of used tires in the province.

(2) A supplier may enter into an agreement with a person, including a manufacturer or distributor of tires, to act as that supplier's agent with respect to the administration of a program or requirement established under this Part.

[59/03 s31](#)

PART IV WASTE PAINT

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Definitions

31.1 In this Part

- (a) "agent" means a corporation appointed by a brand owner to act as an agent on behalf of the brand owner;
- (b) "brand owner" means a person who
 - (i) manufactures paint in the province and sells, offers for sale or distributes that paint in the province,
 - (ii) is the owner or licensee in the province of a registered or unregistered trademark under which paint is sold, offered for sale or distributed, or
 - (iii) brings paint into the province for sale or distribution;
- (c) "capture rate" means the amount of waste paint collected under all paint stewardship programs in the province divided by the amount of waste paint produced in the province during the same time period expressed as a percentage;
- (d) "dispose", with respect to waste paint, means final disposal of that waste paint in a facility approved by the department;
- (e) "empty container" means a paint container that holds less than 3% residual paint by volume (by weight);

- (f) "paint" means
 - (i) a tinted or untinted latex, oil or solvent-based architectural coating used for a commercial or household purpose, and includes stain and the coating's container, or
 - (ii) a coloured or clear paint or stain sold in an aerosol container and includes the paint's or stain's container, but does not include coatings intended for marine antifouling or industrial applications;
- (g) "paint stewardship program" means a program respecting paint stewardship implemented by a brand owner in accordance with the requirements of that brand owner's paint stewardship plan which
 - (i) establishes a process for the collection, transportation, recycling and, where no further options exist, disposal of residual components of waste paint, and
 - (ii) incorporates the principles of extended producer responsibility and internalization of costs;
- (h) "recover" with respect to waste paint means to process it in a way that converts it into transferable energy;
- (i) "recycle" with respect to waste paint means to process it into a useful product;
- (j) "retailer" means a person who sells or offers for sale paint in the province to a consumer;
- (k) "return collection facility" means a place operated by or on behalf of a brand owner for the collection of waste paint;
- (l) "reuse", with respect to waste paint, means to process in a way that it is capable of being used by a consumer as paint;
- (m) "reuse rate" means the amount of paint, excluding containers, reused under a paint stewardship plan divided by the amount of paint, excluding containers, collected that is reusable, expressed as a percentage;
- (n) "waste paint" means a paint and its container that is no longer used or required by a consumer, but does not include an empty container; and
- (o) "wholesaler" means a person who sells a consumer paint product to retailers, other merchants or industrial, institutional and commercial users, for resale or business use.

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Registration required

31.2 (1) A brand owner shall apply to the board for registration as a brand owner.

(2) A brand owner shall submit a paint stewardship plan with its application for registration for the approval of the board.

(3) Where the board has received

(a) an application for registration by the brand owner; and

(b) a paint stewardship plan as required under section 31.6 which is satisfactory to the board,

the board shall register a brand owner and may prescribe terms and conditions in the registration.

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Restriction on supply of paint

31.3 (1) A brand owner shall not sell, offer for sale or distribute paint to a person in the province unless the brand owner holds a valid registration under these regulations.

(2) A retailer or wholesaler shall not sell, offer for sale or otherwise distribute a paint product within or into the province unless the brand owner from whom the product was acquired holds a valid registration under these regulations.

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Appointment of an agent

31.4 (1) A brand owner may appoint an agent to carry out its duties under these regulations and before the agent begins to carry out those duties, the brand owner shall notify the board in writing that it has appointed an agent and specify the duties that the agent will perform on behalf of the brand owner.

(2) An agent shall

(a) before that agent begins to carry out duties on behalf of a brand owner, confirm in writing to the board the duties under these regulations that the agent will perform on behalf of the brand owner; and

(b) carry out the duties the agent has undertaken to perform.

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Transitional registration requirements

31.5 (1) A brand owner who is selling, offering for sale or distributing paint within the province immediately before the coming into force of these regulations shall submit an application to the board for registration within 30 days of the coming into force of these regulations.

(2) Notwithstanding section 31.2, a brand owner referred to in subsection (1) is not required to submit a paint stewardship plan with its application for registration, but shall ensure that a plan is submitted to the board no later than 90 days after the coming into force of these regulations.

(3) The board may refuse to register or may suspend the registration of a brand owner if the brand owner does not submit a paint stewardship plan within the period of time specified under subsection (1).

(4) Notwithstanding section 31.2, a brand owner referred to in subsection (1) may continue selling, offering for sale or distributing paint within the province until the board renders a decision in respect of the brand owner's application for registration.

(5) Where the board denies the application of a brand owner under this section, that brand owner shall, when it receives written notice that the board has denied its application, immediately cease selling, offering for sale or distributing paint.

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Contents of paint stewardship plan

31.6 A paint stewardship plan shall provide for the following:

- (a) the collection of waste paint by the brand owner, including the collection of the waste paint of other brand owners;
- (b) the management of waste paint in adherence with the following, in order of preference:
 - (i) reuse,
 - (ii) recycle,
 - (iii) recover, and
 - (iv) dispose;
- (c) the brand owner's expected capture rate;
- (d) the brand owner's plan for achieving at least a 70% reuse rate;
- (e) a description of the efforts being made by the brand owner to redesign paint products to improve reusability and recyclability;
- (f) a description of the efforts made by the brand owner to maximize the local economic benefits created through the implementation of the paint stewardship plan;
- (g) a communications plan for informing consumers of the brand owner's paint stewardship plan and the location of all return collection facilities, in addition to the brand owner's obligations under section 31.13 ;
- (h) the establishment of return collection facilities that will ensure reasonable and free consumer access for the return of waste paint and paint containers;
- (i) the assessment of the performance of the brand owner's plan by an independent auditor; and
- (j) the elimination or reduction of the environmental impacts of waste paint.

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Approval or imposition of plan

31.7 (1) Where a paint stewardship plan has been submitted to the board, the board shall, as soon as practicable,

- (a) approve the plan for a period of time not to exceed 5 years;
 - (b) reject the plan with written reasons; or
 - (c) request additional information that the board considers necessary to make a decision on approval of the plan.
- (2) Where the board rejects a paint stewardship plan, it may
- (a) require the brand owner to comply with a paint stewardship plan prepared and approved by the board;
 - (b) require the brand owner to comply with a paint stewardship plan prepared by an agent and approved by the board; or

- (c) require the brand owner to submit a revised paint stewardship plan within the period of time specified by the board.

(3) A plan referred to in subsection (1) expires on the date set by the board, but the period of time for which the plan may be effective shall not exceed 5 years.

(4) If the board rejects a paint stewardship plan submitted by a brand owner and the brand owner does not submit a revised paint stewardship plan as required under paragraph (2)(c), the board shall refuse to register the brand owner or shall suspend or cancel the registration of the brand owner.

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Amendment by board

31.8 (1) The board may amend an approved or imposed paint stewardship plan

- (a) to correct a clerical error;
- (b) to reflect a change in the name or address of a brand owner; or
- (c) on the request of the brand owner.

(2) A brand owner may apply to have its paint stewardship plan amended and sections 31.7 and 31.9 apply with the necessary modifications to the application.

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Compliance required

31.9 (1) A brand owner shall implement and comply with the paint stewardship plan as approved or imposed by the board under section 31.7 .

(2) A brand owner who fails to comply with the paint stewardship plan as approved or imposed by the board under section 31.7 commits an offence.

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Renewal of paint stewardship plan

31.10 (1) At least 90 days before the expiry date of a paint stewardship plan approved or imposed by the board, a brand owner shall submit a paint stewardship plan to the board for review and approval.

(2) Sections 31.7 and 31.9 apply with the necessary modifications to a plan submitted under this section.

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Reuse rate

31.11 A brand owner shall ensure that it achieves a reuse rate for waste paint of at least 70% within one year after the coming into force of these regulations, and that it achieves an annual reuse rate for waste paint of at least 70% in every subsequent year.

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Annual report and other information

31.12 (1) A brand owner shall, before May 1 in each year, provide the board with an annual report detailing the effectiveness of the paint stewardship plan during the previous calendar year including, but not limited to, the following:

- (a) the total amount of waste paint collected in the province by the brand owner;
- (b) the total amount of waste paint processed or in storage;
- (c) the percentage of waste paint collected that was reused, recycled, contained, or otherwise treated;
- (d) a description of the types of processes utilized to reuse, recycle, contain, or otherwise treat or dispose of, waste paint;
- (e) a description of efforts to redesign paint products to improve reusability and recyclability;
- (f) the location of all return collection facilities;
- (g) the location of processing or containment facilities for waste paint;
- (h) the types of consumer information, educational materials and strategies adopted by the brand owner;
- (i) the annual financial statements prepared by an independent auditor of the revenues received and the expenditures incurred by the paint stewardship plan;
- (j) an assessment of the performance of the brand owner's plan prepared in partnership with the board; and
- (k) other information requested by the board that relates to the paint stewardship plan.

(2) When a brand owner submits its annual report, it shall at the same time provide the board a statement in writing as to the total amount of paint sold by it during the previous year.

(3) The information provided to the board by the brand owner under subsection (2) shall be treated as confidential.

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Consumer information

31.13 (1) A brand owner shall provide educational and consumer material, including printed handouts, to each retailer of its paint respecting

- (a) the brand owner's paint stewardship plan;
- (b) access to return collection facilities including their location and hours of operation; and
- (c) the environmental and economic benefits of participating in the paint stewardship plan.

(2) A brand owner shall not release educational and consumer material referred to in subsection (1) unless the material has been submitted to the board at least one month before its intended release.

(3) A retailer shall post or distribute the educational and consumer material it receives from brand owners at the area inside the retailer's premises where paint is displayed, and

- (a) at the main entrance of the retailer's premises; or
- (b) at the area inside a retailer's premises where the transaction to purchase paint takes place.

(4) Subsection (2) applies with the necessary modifications to changes proposed to be made to the information supplied in the material referred to in subsection (2) .

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Passing on of costs

31.14 A brand owner shall not charge a retailer and a retailer shall not charge a consumer a separate fee with respect to

- (a) the costs associated with carrying out the brand owner's duties under this Part; or
- (b) supplying material required under section 31.13 .

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Fees

31.15 (1) The board may charge a brand owner those fees that are established by the board to cover the board's annual administrative costs in carrying out its duties under the Act and this Part in relation to waste paint.

(2) The annual administrative costs include office, operational and inspection expenses and the cost of salaries, benefits and expenses of members and employees of the board that are attributable to the board's duties referred to in subsection (1).

(3) The annual administrative costs of the board incurred or to be incurred by it in relation to the administration of this Part, together with a sum needed to make up a deficiency in the assessment for the preceding year, if required, shall be borne equally by each brand owner.

(4) The board shall assess up to one half of the amount determined under subsection (1) before April 2 of the fiscal year in which the costs are incurred, and assess the remaining amount after December 1 of that fiscal year.

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Remittance of fees, imposition of interest

31.16 (1) A brand owner shall remit fees referred to in section 31.15 at the times and in the manner directed by the board.

(2) If the board is satisfied that a brand owner has not remitted fees fully in accordance with subsection (1), the board may serve written notice on the brand owner requiring payment of the following amounts:

- (a) the full amount of the fees that are outstanding;
- (b) interest on the amount of the outstanding fees calculated monthly at a rate not exceeding 2% a month; and

(c) an administrative fee in an amount established by the board, which shall not exceed the amount of the outstanding fees.

(3) A written notice under subsection (2) shall include the time and manner in which the payments required under that subsection are to be made.

(4) A brand owner served with a written notice under subsection (2) shall pay the amounts set out in the notice in accordance with the notice.

(5) All fees and interest that are not paid to the board in accordance with a written notice constitute a debt due to the board.

(6) The board may, under the signature of the proper officer, issue a certificate setting out the name of a brand owner who has not paid fees or interest in accordance with a written notice and certifying the total amounts of the fees or interest remaining unpaid and the certificate, without proof of the appointment, authority or signature of the person purporting to have signed it, is admissible in evidence and is, in the absence of evidence to the contrary, proof of the amount of the fees or interest remaining unpaid.

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Use of fees and interest

31.17 The board shall use the fees and interest remitted to it or paid to it under this Part solely to meet its purpose in relation to paint as established under the Act and these regulations and for no other purpose.

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PART V ELECTRONIC WASTE

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Definitions

31.18 In this Part

- (a) "agent" means a corporation appointed by a brand owner to act as an agent of behalf of the brand owner;
- (b) "brand owner", with respect to an electronic product sold, offered for sale or otherwise distributed in or into the province, means
 - (i) a manufacturer of an electronic product,
 - (ii) a distributor of an electronic product in or into the province,
 - (iii) an owner or licensee of the intellectual property rights to an electronic product, or
 - (iv) where an electronic product is imported into the province, the first person to sell the electronic product in the province;
- (c) "consumer" means a person who owns or uses electronic products, and includes
 - (i) a business,
 - (ii) a not-for-profit organization,

- (iii) a school, and
- (iv) a department of the government of the province;
- (d) "dispose", with respect to electronic waste, means the final disposition of unwanted electronic material in a facility approved by the minister after the steps referred to subsection 31.33(1) have been pursued;
- (e) "e-waste" means an electronic product that is no longer used or required by a consumer;
- (f) "electronic product" means an electronic product whether intended for consumer, industrial or commercial use, and includes
 - (i) a television,
 - (ii) a desktop, laptop and notebook computer, including a central processing unit, keyboard, mouse and associated cables,
 - (iii) a computer monitor,
 - (iv) a computer desktop printer, including a desktop printer that has scanning or fax capabilities, or both,
 - (v) a desktop scanner,
 - (vi) an audio and video playback and recording system,
 - (vii) a telephone or fax machine,
 - (viii) a cell phone and other wireless communication device but does not include a factory-installed communication device developed for embedded use in motor vehicles, and
 - (ix) those other electronic products designated by the board;
- (g) "electronic product stewardship program" means a program that
 - (i) establishes a process for the collection, transportation, recycling and, where no further options exist, disposal of any residual components of e-waste, and
 - (ii) incorporates the principles of extended producer responsibility;
- (h) "recover", with respect to an electronic product, means a method of processing that product so that it may be converted into transferable energy;
- (i) "recycle", with respect to e-waste, means to process it into a useable electronic product;
- (j) "reduce" means to reduce the negative environmental impacts of an electronic product;
- (k) "retailer" means a person who sells or offers for sale electronic products in the province to a consumer;
- (l) "return collection facility" means a place operated by or on behalf of a brand owner for the collection of e-waste;
- (m) "return collection method" includes
 - (i) a mail or ship back return program,
 - (ii) agreements with local governments or regulatory authorities which have agreed to provide facilities for the collection of e-waste,

- (iii) collection events,
- (iv) any combination of the return collection methods referred to in subparagraphs (i) to (iii) which effectively provides for the acceptance of e-waste through means that are available to and reasonably convenient for consumers; and
- (n) "reuse", with respect to e-waste, means to process that e-waste so that it is capable of being used by a consumer as an electronic product.

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Registration required

31.19 (1) A brand owner shall apply to the board for registration as a brand owner.

(2) A brand owner shall submit an electronic product stewardship plan with its application for registration for the approval of the board.

(3) Where the board has received

- (a) an application for registration by the brand owner; and
- (b) an electronic product stewardship plan as required under section 31.23 which is satisfactory to the board,

the board shall register a brand owner and may prescribe terms and conditions in the registration.

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Restriction on supply of electronic products

31.20 (1) A brand owner shall not sell, offer for sale or distribute electronic products to a person in the province unless the brand owner holds a valid registration under these regulations.

(2) A retailer or wholesaler shall not sell, offer for sale or otherwise distribute an electronic product in or into the province unless the brand owner from whom the product was acquired holds a valid registration under these regulations.

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Appointment of an agent

31.21 (1) A brand owner may appoint an agent to carry out its duties under these regulations.

(2) An agent may, on behalf of a brand owner, register with the board under these regulations as if the agent were the brand owner, and a registered agent shall comply with the requirements of these regulations as if the agent were the brand owner.

(3) An agent may act on behalf of one or more brand owners.

(4) Before the agent begins to carry out the duties of a brand owner, the brand owner shall notify the board in writing that it has appointed an agent and specify the duties that the agent will perform on behalf of the brand owner.

(5) An agent shall

- (a) before that agent begins to carry out duties on behalf of a brand owner, confirm in writing to the board the duties under these regulations that the agent will perform on behalf of the brand owner; and
- (b) carry out the duties the agent has undertaken to perform.

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Transitional registration requirements

31.22 (1) A brand owner who is selling, offering for sale or distributing electronic products within the province immediately before the coming into force of this Part shall submit an application to the board for registration within 120 days of the coming into force of this Part.

(2) The board may refuse to register or may suspend the registration of a brand owner if the brand owner does not submit an electronic product stewardship plan within the period of time specified under subsection (1).

(3) Notwithstanding section 31.19 , a brand owner referred to in subsection (1) may continue selling, offering for sale or distributing electronic products within the province until the board renders a decision with respect to the brand owner's application for registration.

(4) Where the board denies the application of a brand owner under this section, that brand owner shall, when it receives written notice that the board has denied its application, immediately cease selling, offering for sale or distributing electronic products.

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Contents of electronic products stewardship plan

31.23 An electronic product stewardship plan shall provide for the following:

- (a) the collection of e-waste in the province, including the collection of the e-waste of other brand owners through an electronic stewardship program;
- (b) the management of e-waste in adherence with the following, in order of preference:
 - (i) reuse,
 - (ii) recycle,
 - (iii) recover, and
 - (iv) dispose;
- (c) the brand owner's expected performance target and timelines for both the recovery amounts of e-waste and the reuse or recycling rates of the collected e-waste;
- (d) the brand owner's plan for achieving at least that performance target;
- (e) a description of the planned activities which will be undertaken to influence the redesign of electronic products to improve reusability, recyclability and to reduce e-waste;
- (f) a description of the efforts made by the brand owner to maximize the local economic benefits created through the implementation of the electronic product stewardship plan;
- (g) a communications plan for informing consumers of the brand owner's electronic product

stewardship plan which includes

- (i) a description of products accepted at return collection facilities,
 - (ii) the location of all return collection facilities,
 - (iii) how and when consumers can access return collection facilities,
 - (iv) the environmental benefits of participating in the electronic product stewardship program, and
 - (v) the types and frequency of media to be used in the promotion of the electronic product stewardship program;
- (h) the establishment of return collection facilities or other return collection methods that will ensure reasonable and free consumer access for the return of e-waste;
 - (i) ongoing consultations about the electronic stewardship program with persons who the brand owner believes the environmental stewardship program may affect, including members of the public, in accordance with the guidelines established by the board;
 - (j) a listing of all brand owners covered under a stewardship plan in the form prescribed by the board;
 - (k) brand owner qualification standards and information demonstrating how electronic products and e-waste collected will be managed in a manner that employs environmental and human health and safety standards meeting or exceeding applicable federal, provincial and municipal regulations;
 - (l) a description of how a brand owner will manage costs associated with the implementation and operation of an electronic stewardship plan;
 - (m) where a brand owner charges a separate fee with respect to the costs of implementing and operating an electronic stewardship plan, a description of how that fee will be collected and used;
 - (n) the assessment of the performance of the brand owner's plan by an independent auditor; and
 - (o) the elimination or reduction of the environmental impacts of electronic products and e-waste.

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Approval or imposition of plan

31.24 (1) Where an electronic product stewardship plan has been submitted to the board, the board shall, as soon as practicable

- (a) approve the plan for a period of not more than 5 years;
 - (b) request any additional information that the board considers necessary to assess the plan;
 - (c) require the brand owner to carry out a consultation in accordance with guidelines which may be established by the board; or
 - (d) reject the plan with written reasons.
- (2) Where a brand owner has been required to carry out consultations under paragraph (1)(c),

the brand owner shall, within a period of time set by the board, submit a revised electronic stewardship plan which includes any changes resulting from feedback received in the consultation process.

(3) Where a revised electronic stewardship plan has been submitted to the board under subsection (2), the board shall, as soon as practicable,

- (a) approve the plan for a period of not more than 5 years;
- (b) request any additional information that the board considers necessary to assess the plan; or
- (c) reject the plan with written reasons.

(4) Where the board rejects an electronic product stewardship plan, it may

- (a) require the brand owner to comply with an electronic product stewardship plan prepared and approved by the board;
- (b) require the brand owner to comply with an electronic product stewardship plan prepared by an agent and approved by the board; or
- (c) require the brand owner to submit a revised electronic product stewardship plan within the period of time specified by the board.

(5) A plan approved by the board expires on the date set by the board, but the period of time for which the plan may be effective shall not exceed 5 years.

(6) Where the board rejects an electronic product stewardship plan submitted by a brand owner and the brand owner does not submit a revised electronic product stewardship plan as required under paragraph (4)(c), the board shall refuse to register the brand owner or shall suspend or cancel the registration of the brand owner.

(7) Where a brand owner does not submit an electronic product stewardship plan within the 120 day period referred to in section 31.22 as required, the board may impose an electronic product stewardship plan on the brand owner and the brand owner shall comply with that plan.

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Amendment by board

31.25 (1) The board may amend an approved or imposed electronic product stewardship plan

- (a) to correct a clerical error;
- (b) to reflect a change in the name or address of a brand owner;
- (c) on the request of the brand owner; or
- (d) as the board considers appropriate, whether the plan has previously been approved or imposed by the board.

(2) A brand owner may apply to have its electronic product stewardship plan amended and sections 31.24 and 31.26 apply with the necessary modifications to the application.

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Compliance required

31.26 (1) A brand owner shall implement the electronic product stewardship plan as approved or imposed by the board under section 31.24 and shall comply with that plan within 120 days of the approval or imposition of the plan.

(2) A brand owner shall comply with the electronic stewardship plan as amended by the board under section 31.25.

(3) Where a brand owner fails to comply with an electronic stewardship plan referred to in subsection (1) or (2) the board may

- (a) direct the brand owner to comply with the electronic stewardship plan; or
- (b) suspend, cancel or revoke the registration of that brand owner.

(4) A brand owner who fails to comply with the electronic product stewardship plan as approved, imposed or amended commits an offence.

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Renewal of electronic product stewardship plan

31.27 (1) At least 90 days before the expiry date of an electronic product stewardship plan approved or imposed by the board, a brand owner shall submit an electronic product stewardship plan to the board for review and approval.

(2) Sections 31.24 and 31.26 apply with the necessary modifications to a plan submitted under this section.

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Annual report and other information

31.28 (1) A brand owner shall, 90 days after the end of the fiscal year, provide the board with an annual report detailing the effectiveness of the brand owner's electronic product stewardship plan during the previous calendar year which includes the following:

- (a) the total amount of e-waste collected in the province by electronic product type;
- (b) the total amount of e-waste processed and in storage;
- (c) the percentage of e-waste collected that was reused, recycled, contained, or otherwise treated or disposed;
- (d) a description of the types of processes utilized to reuse, recycle, contain, or otherwise treat or dispose of e-waste;
- (e) a description of efforts to redesign electronic products to improve reusability and recycleability and to reduce e-waste;
- (f) the location of all return collection facilities and a description of other return collection methods used;
- (g) the types and frequency of media used in the promotion of the electronic product stewardship program;
- (h) annual financial statements prepared by an independent auditor in a form and manner acceptable to the board indicating the revenues received and the expenditures incurred by

the electronic product stewardship plan;

- (i) records showing that the plan adheres to established brand owner qualification standards or information demonstrating that the electronic products and e-waste collected were managed in a manner that employs environmental and human health and safety standards meeting or exceeding applicable federal, provincial and municipal regulations;
- (j) an assessment of the performance of the brand owner's plan prepared in partnership with the board; and
- (k) other information requested by the board that relates to the electronic product stewardship plan.

(2) When a brand owner submits its annual report, it shall at the same time provide to the board a statement in writing as to the total amount of electronic product sold by it during the previous calendar year by electronic product type.

(3) The information provided to the board by the brand owner under subsection (2) shall be treated as confidential.

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Consumer information

31.29 A brand owner shall provide to each retailer of its electronic product, educational and consumer material about the brand owner's electronic product stewardship plan .

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Fees

31.30 (1) The board may charge a brand owner those fees that are established by the board to cover the board's annual administrative costs in carrying out its duties under the Act and this Part in relation to electronic waste.

(2) The annual administrative costs include office, operational, marketing and inspection expenses and the cost of salaries, benefits and expenses of members and employees of the board that are attributable to the board's duties referred to in subsection (1).

(3) The annual administrative costs of the board incurred or to be incurred by it in relation to the administration of this Part, together with a sum needed to make up a deficiency in the assessment for the preceding year, if required, shall be borne equally by each brand owner.

(4) The board shall assess up to one half of the amount determined under subsection (1) before April 2 of the fiscal year in which the costs are incurred, and assess the remaining amount after December 1 of that fiscal year.

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Remittance of fees, imposition of interest

31.31 (1) A brand owner shall remit fees referred to in section 31.30 at the times and in the manner directed by the board.

(2) If the board is satisfied that a brand owner has not remitted fees fully in accordance with subsection (1), the board may serve written notice on the brand owner requiring payment of the

following amounts:

- (a) the full amount of the fees that are outstanding;
- (b) interest on the amount of the outstanding fees calculated monthly at a rate not exceeding 2% a month; and
- (c) an administrative fee in an amount established by the board, which shall not exceed the amount of the outstanding fees.

(3) A written notice under subsection (2) shall include the time and manner in which the payments required under that subsection are to be made.

(4) A brand owner served with a written notice under subsection (2) shall pay the amounts set out in the notice in accordance with the notice.

(5) All fees and interest that are not paid to the board in accordance with a written notice constitute a debt due to the board.

(6) The board may, under the signature of the proper officer, issue a certificate setting out the name of a brand owner who has not paid fees or interest in accordance with a written notice and certifying the total amounts of the fees or interest remaining unpaid and the certificate, without proof of the appointment, authority or signature of the person purporting to have signed it, is admissible in evidence and is, in the absence of evidence to the contrary, proof of the amount of the fees or interest remaining unpaid.

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Use of fees and interest

31.32 The board shall use the fees and interest remitted to it or paid to it under this Part solely to carry out its duties under the Act and this Part in relation to electronic waste and for no other purpose.

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Management and disposal of e-waste

31.33 (1) A person shall manage e-waste in adherence with the following, in order of preference:

- (a) reuse;
- (b) recycle;
- (c) recover; and
- (d) dispose.

(2) A person shall not dispose of e-waste in the province unless that disposal is made

- (a) to a return collection facility or through a return collection method;
- (b) in an area which is a waste material disposal site established under the Act and approved for that purpose by the minister; or
- (c) in another area that the minister may designate as appropriate for the purpose of the disposal of e-waste.

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Repeal

32. The *Waste Management Regulations*, Newfoundland and Labrador Regulation 90/99, are repealed.

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