

## 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 “Aggregate Substitution” means the use of waste used in construction as a direct replacement for gravel aggregate;
  - 2.1.2 “Alberta Registration Number” means the registration number assigned to a Container by the BCMB in accordance with this By-law;
  - 2.1.3 “Approved Method of Recycling” means Closed Loop Recycling or Open Loop Recycling, or a combination of the two;
  - 2.1.4 “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;
  - 2.1.5 “Beverage” means any liquid that is a ready-to-serve drink and is not exempt from the Regulation;
  - 2.1.6 “Board” means the Board of Directors of the BCMB;
  - 2.1.7 “Closed Loop Recycling” means any operation by which end of life products or materials are reprocessed into new products, materials, or substances (solids, liquids or gases) whether for original or other purposes, to replace virgin equivalents of that material;
  - 2.1.8 “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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- 2.1.9 "Composting" means the decomposition of waste through a controlled bio-oxidation process, including a thermophilic phase, that results in a stable humus-like material;
- 2.1.10 "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;
- 2.1.11 "Container Components" means all the components of a Container including but not limited to components that make up the core structure of the Container such as the "cup" which holds the Beverage, and other components such as the lid or closure, label and label application method, any attachments including but not limited to straws, and any inserts;
- 2.1.12 "Land Application" means the application of waste to land with beneficial use that is authorized by the Director under section 176(b) of the Environmental Protection and Enhancement Act;
- 2.1.13 "Manufacturer" means a person who manufactures a beverage and includes
- 2.1.13.1 a person who carries on the business of filling containers with a beverage, and
  - 2.1.13.2 a person who imports a beverage in a container into Alberta for the purpose of distribution or sale in Alberta;
- 2.1.14 "Material Stream" means each category of Container for which a specific handling commission is payable as identified in the By-laws;
- 2.1.15 "Open Loop Recycling" or "Downcycling" means any operation that results in providing a use for a thing that otherwise would be disposed of or dealt with as waste but does not replace the primary or raw materials from which the thing was produced and which thing is practically unrecoverable for the original purpose it was created and includes Waste-to-Energy, Aggregate Substitution, Land Application and Composting but does not include incineration, landfill disposal or deepwell injection;
- 2.1.16 "Permit" means a permit to operate a depot issued by the BCMB in accordance with the Regulation and By-laws;
- 2.1.17 "Permit Holder" means an individual or corporate entity named in a Permit;
- 2.1.18 "Recycling Plan" means the Approved Method of Recycling for a Container registered by BCMB;
- 2.1.19 "Regulation" means the Beverage Container Recycling Regulation AR 101/97, as amended;

2.1.20 “Retailer” means a person who sells Beverages in Containers to consumers;

2.1.21 “Waste-to-Energy” means the combustion of waste for the purpose of producing heat or electricity and has a net heat value equal to or greater than 12,780 kilojoules.

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 For the purposes of sections 3, 4 and 5 of this By-law, the Manufacturer shall be:

3.1.1 the person who manufactures the Beverage, which includes carrying on the business of filling the Container with a Beverage, if the Beverage is manufactured in Alberta or the Container is filled in Alberta;

3.1.2 if there is no person described in section 3.1.1, the person other than a Retailer who imports the Beverage in a Container into Alberta for the purpose of distribution or sale in Alberta; or

3.1.3 if there is no person described in sections 3.1.1 or 3.1.2, a Retailer who imports the Beverage in a Container into Alberta for the purpose of sale in Alberta;

and may be represented by an agent approved by the BCMB for the purposes of:

3.1.4 applying for registration of the Manufacturer under section 3; and

3.1.5 applying for registration of a Container under section 4.

3.2 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.

3.3 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.

3.4 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.

3.5 If the BCMB requires a Manufacturer to provide further information in order to process an application for registration of the Manufacturer and the Manufacturer fails to respond to the BCMB’s request for that further information within 30 days, the BCMB may reject the application for registration and retain the fee submitted by the Manufacturer.

3.6 Following the initial registration of a Manufacturer, the Manufacturer must promptly notify the BCMB of any changes to the Manufacturer’s contact information. If a Manufacturer is represented

by an agent, contact information must be provided for the Manufacturer as well as the agent, and the BCMB may send any notice or request directly to the Manufacturer. Any notice or request sent by the BCMB to the Manufacturer using the contact information most recently provided by or for the Manufacturer shall be deemed to have been received by the Manufacturer.

## **4. APPROVAL AND REGISTRATION OF CONTAINERS**

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 Container is registered in accordance with this By-Law.

4.2 A Container is registered when the BCMB provides written notification of registration to the Manufacturer and provides a Container registration number to the Manufacturer at the address provided by the Manufacturer for that purpose or provides electronic confirmation of the registration.

4.3 A Manufacturer must register every Container that is distinguishable from any other Container registered by that Manufacturer on the basis of Container Components, size, brand name, the type of Beverage it contains, the flavour of Beverage it contains or Universal Product Code.

4.4 Any time that a Manufacturer seeks registration of a Container the Manufacturer must submit to the BCMB an application for registration of the Container in the form specified by the BCMB for that purpose., and containing the information required by the BCMB, which may include but is not limited to the following:

4.4.1 brand name;

4.4.2 type of Beverage;

4.4.3 flavour of Beverage;

4.4.4 Container Components (including the weight of each component);

4.4.5 Container size;

4.4.6 Universal Product Code;

4.4.7 Final Container images or, if final images are unavailable at the time the application is submitted, digital renderings of the entire label to be replaced with final Container images once available; and

4.4.8 a beverage container review, which may include samples, proposed Recycling Plan, and other information as requested by the BCMB.

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- 4.5 The BCMB may register a Container which is the subject of an application under section 4.3 if the BCMB is satisfied that the Container Components can be recycled by an Approved Method of Recycling.
- 4.6 In determining whether the Container Components can be recycled by an Approved Method of Recycling, the BCMB may consider the following:
- 4.6.1 whether one or more Container Components includes materials that are not part of an existing Material Stream;
  - 4.6.2 the proposed method of recycling for each Container Component, if applicable;
  - 4.6.3 whether the Container can be recycled without contamination to the common collection system;
  - 4.6.4 whether the Container Components can be disassembled in order to avoid contamination to the common collection system;
  - 4.6.5 the cost of recycling, including the cost of any disassembly of Container Components;
  - 4.6.6 the marketability of the material used in each Container Component;
  - 4.6.7 whether the Container can be visually identified as being distinct from other approved Containers; and
  - 4.6.8 any other criteria relevant to recyclability that the BCMB may consider appropriate;
- and may request and rely on relevant information from the Manufacturer and from other parties with expertise in recycling.
- 4.7 If, during the registration process, the BCMB determines that the Container, when empty, cannot reasonably be identified as having contained a Beverage, the BCMB may require the Manufacturer to display on the Container in a manner approved by the BCMB that the Container is returnable to a depot for a deposit refund prior to registration of the Container.
- 4.8 The BCMB shall not register any Container that cannot be recycled by an Approved Method of Recycling.
- 4.8.1 As of November 20, 2024, ceramic and crystal Containers are deemed to be recyclable by an Approved Method of Recycling.
- 4.9 Subject to section 4.8, the decision whether or not to register a Container is in the sole discretion of the BCMB. If the BCMB does not register a Container, it will provide the applicant with notice of the decision and reasons for the decision within 10 days.
- 4.10 Following the initial registration of a Container, a Manufacturer shall promptly notify the BCMB of any change to information set out in section 4.4, including but not limited to a change to any

of the Container Components or the Recycling Plan. The BCMB may require a new application for registration.

- 4.11 The BCMB may cancel the registration of a Container in the following circumstances:
- 4.11.1 if the BCMB determines that the Manufacturer provided inaccurate information in its application for registration and the Container should not have been registered;
  - 4.11.2 if the Manufacturer fails to notify the BCMB of changes to information as required by section 4.10; or
  - 4.11.3 if the BCMB determines that the Container can no longer be recycled by an Approved Method of Recycling.
- 4.12 A Container cancelled under section 4.11 may no longer be sold or distributed or offered for sale or distribution in Alberta.
- 4.13 If the BCMB cancels the registration of a Container under section 4.11.1 or 4.11.2, the BCMB may also take enforcement steps against the Manufacturer as set out in section 9 of this By-law.

## 5. MANUFACTURER COLLECTION, REUSE AND RECYCLING REQUIREMENTS

- 5.1 Manufacturers of Beverages in non-refillable Containers for sale or distribution in Alberta shall use and maintain a common collection system for the collection 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.
- 5.2 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.
- 5.3 Non-refillable Containers, including Container Components, shall be able to be recycled by the Approved Method of Recycling set out in the Recycling Plan.
- 5.4 Manufacturers of Beverages in refillable Containers for sale or distribution in Alberta shall:
- 5.4.1 Provide a collection service capable of collecting the Manufacturer's empty refillable registered Containers from all Depots and Retailers accepting such Containers; or
  - 5.4.2 Use the common collection system referred to in the Regulation for the collection of those Containers.
- 5.5 A Manufacturer of a Beverage in a refillable Container shall:
- 5.5.1 re-use the Container as a refillable Container if the Manufacturer considers the Container to be suitable for re-use as a Container, or

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- 5.5.2 cause the Container, including Container Components, to be recycled by the Approved Method of Recycling set out in the Recycling Plan, if the Manufacturer considers the Container is not suitable for re-use as a Container.
  - 5.6 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.
  - 5.7 Section 5.6 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, in which case the Retailer shall:
    - 5.7.1 sort refillable Containers into groups of Containers that contained Beverages that have been manufactured or distributed by the same Manufacturer; and
    - 5.7.2 place the sorted Containers into cases provided by the Manufacturers.
  - 5.8 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.

## 6. MANUFACTURER REIMBURSEMENT REQUIREMENTS

- 6.1 A Manufacturer who collects or causes a non-refillable Container to be collected from a Depot or Retailer, shall on collecting those Containers:
  - 6.1.1 reimburse the Permit Holder or Retailer for each Container collected in the amount specified in the Regulation; and
  - 6.1.2 pay a Permit Holder a handling commission in the amount specified in the By-laws for each Container collected.

## 7. MANUFACTURER RECORD KEEPING AND REMITTANCE OF INFORMATION REQUIREMENTS

- 7.1 A Manufacturer shall compile and submit, or in the case of non-refillable Containers cause the CSA to submit to the BCMB the information specified by the BCMB from time to time and in the manner specified by the BCMB, which may include any of the following:
  - 7.1.1 the number of Containers sold by the Manufacturer;
  - 7.1.2 the number of Containers of each Material Stream collected from each Depot and each Retailer;
  - 7.1.3 With respect to each Material Stream:
    - 7.1.3.1 the weight of material collected;

- 7.1.3.2 the weight of material collected that was recycled by Closed Loop Recycling;
- 7.1.3.3 the weight of material collected that was recycled by Open Loop Recycling, broken down by the method of Open Loop Recycling including but not limited to:
  - a. Waste-to-Energy;
  - b. Aggregate Substitution;
  - c. Land Application; and
  - d. Composting.
- 7.1.3.4 the weight of material collected that is not processed by an Approved Method of Recycling; and
- 7.1.3.5 any other information required by the BCMB, which may include but is not limited to collection rates and recycling rates, or either of them, as compared to aspirational targets that may be set by the BCMB from time to time; and
- 7.1.4 Any other information the BCMB may consider necessary.
- 7.2 In addition to complying with the reporting requirements set out in section 7.1, Manufacturers of non-refillable Containers shall maintain the common collection system by:
  - 7.2.1 collecting and reporting to the Collection System Agent, information concerning the number of Containers of each Material Stream sold by the Manufacturer;
  - 7.2.2 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
  - 7.2.3 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.
- 7.3 The Collection System Agent shall, from time to time and in the manner specified by the BCMB, report to the BCMB as to whether each Manufacturer of non-refillable Containers has met the reporting requirements in section 7.2.

## 8. RETAILER REQUIREMENTS

- 8.1 No Retailer shall sell or offer to sell any Beverage in a Container unless the Container is registered.
- 8.2 When a person presents to a Retailer at the Retailer's premises an empty refillable registered Container that:



- 8.2.1 is the same size or type of Container as Containers that are sold by the Retailer;
- 8.2.2 is not exempt from the Regulation; and
- 8.2.3 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.

- 8.3 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.
- 8.4 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.
- 8.5 A Retailer shall not accept or pay a cash refund for an empty non-refillable Container.

## 9. REGULATORY COMPLIANCE AND ENFORCEMENT

- 9.1 Manufacturers and Retailers are required to comply with the Regulation and By-laws.
- 9.2 The failure of a Manufacturer to comply with Container registration requirements and with reporting and remittance requirements will result in progressive enforcement actions.
- 9.3 The failure of a Retailer to comply with advertising requirements will result in progressive enforcement actions.
- 9.4 If the BCMB Complaints Director determines that there has been a breach of the Regulation, the Complaints Director may, instead of or in addition to other steps taken under this section 9, refer the matter to the appropriate department under the Environmental Protection and Enhancement Act, in accordance with any relevant Memorandum currently in effect.

### *Container Registration Compliance*

- 9.5 A Manufacturer who fails to register a Container with the BCMB in accordance with this By-law enters Level 1, and 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 registers the Container, the Manufacturer will exit the compliance framework. 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.

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- 9.6 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 registers the Container, the Manufacturer will exit the compliance framework. 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.
- 9.7 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 registers the Container, the Manufacturer will exit the compliance framework. 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.

### *Reporting and Remittance Compliance*

- 9.8 A Manufacturer who fails to comply with its *Reporting and Remittance Compliance* obligations under this By-law enters Level 1, and 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 meets the Reporting or Remittance Compliance obligations within the time required, the Manufacturer shall exit the compliance framework. 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.
- 9.9 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 meets the Reporting or Remittance Compliance obligations within the time required, the Manufacturer shall exit the compliance framework. 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.
- 9.10 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 meets the Reporting or Remittance Compliance obligations within the time required, the Manufacturer shall exit the compliance framework. 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*

- 9.11 A Retailer who fails to advertise the deposit obligations under this By-law enters Level 1.

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- 9.12 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 meets the *Advertising Compliance* requirements within the time required, the Retailer shall exit the compliance framework. If the Retailer does not meet the *Advertising Compliance* requirements within 30 days following notification from the BCMB, the Retailer shall enter Level 2.
- 9.13 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 meets the *Advertising Compliance* requirements within the time required, the Retailer shall exit the compliance framework. If the Retailer does not meet the *Advertising Compliance* requirements within 30 days following notification from the BCMB, the Retailer shall enter Level 3.
- 9.14 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 meets the *Advertising Compliance* requirements within the time required, the Retailer shall exit the compliance framework. If the Retailer does not meet the *Advertising Compliance* requirements within 15 days following notification from the BCMB, the *Advertising Compliance* history shall be forwarded to the Complaints Director.