



**THE NEWFOUNDLAND
AND LABRADOR GAZETTE
EXTRAORDINARY**

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**NEWFOUNDLAND AND LABRADOR
REGULATION**

15/02



NEWFOUNDLAND AND LABRADOR REGULATION 15/02

Waste Management Regulations (Amendment)
under the
Waste Management Act
(O.C. 2002-654)

(Filed March 7, 2002)

Under the authority of section 7 of the *Waste Management Act*,
the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, March 6, 2002.

Deborah E. Fry
Clerk of the Executive Council

REGULATIONS

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NLR 90/99
as amended

**1. (1) Subsection 20(2) of the *Waste Management Regulations* is
repealed and the following substituted:**

(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.

(2) Section 20 of the regulations is amended by adding immediately after subsection (5) the following:

(6) A person who does not comply with a provision of this 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.

2. Sections 21 and 22 of the regulations are repealed and the following substituted:

PART III USED TIRE RECYCLING

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, and
 has 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.

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.

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 *Waste Material Disposal 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 2(i), this section shall apply to a tire or used tire from a vehicle referred to in subparagraphs (iii) and (iv) of that paragraph.

Designation

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

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.

Suspension, rein-
statement 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.

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.

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.

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.

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.

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.

Commencement

3. These regulations shall come into force on April 1, 2002.

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