



NEWFOUNDLAND AND LABRADOR REGULATION 101/18

Waste Management Regulations, 2003 (Amendment)
under the
Environmental Protection Act
(O.C. 2018 - 221)

(Filed November 1, 2018)

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, November 1, 2018.

Ann Marie Hann
Clerk of the Executive Council

REGULATIONS

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NLR 59/03
as amended

1. The *Waste Management Regulations, 2003* are amended by adding immediately after section 31.33 the following:

**PART VI
USED OIL AND USED GLYCOL**

Definitions

31.34 In this Part

- (a) "agent" means a corporation appointed by a brand owner to act on behalf of the brand owner;
- (b) "brand owner", means a person who
 - (i) manufactures oil, oil filters or glycol in the province and sells, offers for sale or distributes the oil, oil filters or glycol in the province,
 - (ii) is an owner or licensee in the province of a registered or unregistered trademark under which oil, oil filters or glycol is sold, offered for sale or distributed in the province,
 - (iii) brings oil, oil filters or glycol into the province for sale or distribution, or
 - (iv) brings oil, oil filters or glycol into the province for use in a commercial enterprise;
- (c) "consumed in use", with respect to oil or glycol, means unavailable for recovery as a result of being
 - (i) fully or partially consumed in an internal combustion engine,
 - (ii) lost due to leakage, accident or mishap,
 - (iii) incorporated into another product, or

- (iv) used for another purpose in compliance with the Act;
- (d) "consumed in use rate" means the amount of oil or glycol that was consumed in use, divided by the amount of oil or glycol that was sold, expressed as a percentage;
- (e) "consumer" means a person who uses oil, oil filters or glycol for his or her own purposes and not for the purpose of resale;
- (f) "glycol" means ethylene or propylene glycol used or intended for use as a vehicle or commercial engine coolant, but does not include the following:
 - (i) plumbing antifreeze,
 - (ii) windshield washer antifreeze,
 - (iii) lock de-icer and lock antifreeze, and
 - (iv) gasoline and diesel fuel antifreeze;
- (g) "glycol container" means a container with a capacity of 50 litres or less manufactured for the purpose of holding glycol;
- (h) "oil" means
 - (i) petroleum or synthetic derived crankcase oil, engine oil and gear oil,
 - (ii) hydraulic fluid, transmission fluid and heat transfer fluid, and
 - (iii) fluid used for lubricating purposes in machinery or equipment;
- (i) "oil container" means a container with a capacity of 50 litres or less manufactured for the purpose of holding oil;
- (j) "oil filter" means a spin-on style or element style fluid filter that is used in hydraulic, transmission or internal combustion engine applications and includes a diesel fuel filter, a storage tank fuel filter, a household furnace oil filter but does not include a gasoline filter;

- (k) "recovery rate" means
 - (i) for oil and glycol, the amount of used oil or used glycol recovered divided by the amount of oil or glycol that was sold less the amount consumed in use, expressed as a percentage,
 - (ii) for oil filters, the number of used oil filters recovered divided by the number of oil filters sold, expressed as a percentage, and
 - (iii) for oil containers and glycol containers, the number of oil containers or glycol containers recovered divided by the number of oil containers or glycol containers sold, expressed as a percentage;
- (l) "retailer" means a person who sells or offers for sale oil, oil filters or glycol in the province to a consumer;
- (m) "return facility" means a facility that accepts used oil, used oil filters, oil containers, used glycol and glycol containers from persons who wish to return them and that is identified as a return facility through an approved oil and glycol stewardship plan;
- (n) "reuse", with respect to used oil or used glycol, means to process the used oil and used glycol so that it is capable of being used by a consumer in a manner that would be compliant with the Act;
- (o) "used glycol" means glycol that, through use, storage or handling, can no longer be used for its original purpose;
- (p) "used oil" means oil that, through use, storage or handling, can no longer be used for its original purpose;
- (q) "used oil filter" means an oil filter that, through use, storage or handling, can no longer be used for its original purpose; and
- (r) "wholesaler" means a person who sells oil or glycol to retailers, merchants or industrial, institutional and commercial users for resale or business use.

Registration
required

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

(2) A brand owner shall submit an oil and glycol 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 oil and glycol stewardship plan in accordance with section 31.39 which is satisfactory to the board,

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

Restriction on
supply of oil and
glycol

31.36 (1) A brand owner shall not sell, offer for sale or distribute oil, oil filters or glycol 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 oil, oil filters or glycol in or into the province unless the brand owner from whom the product was acquired holds a valid registration under these regulations.

Appointment of
agent

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

(2) 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.

(3) 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.

Transitional
registration
requirements

31.38 (1) A brand owner who is selling, offering for sale or distributing oil or glycol 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) Notwithstanding section 31.35, a brand owner referred to in subsection (1) is not required to submit an oil and glycol stewardship plan with its application for registration, but shall submit a oil and glycol stewardship plan to the board no later than 120 days after the coming into force of this Part.

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

(4) Notwithstanding section 31.36, a brand owner referred to in subsection (1) may continue selling, offering for sale or distributing oil and glycol within the province until the board renders a decision with respect to 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 oil and glycol.

Contents of oil and
glycol stewardship
plan

31.39 (1) An oil and glycol stewardship plan shall provide for the following:

- (a) a plan for the collection, storage and transportation of used oil, used oil filters, oil containers, used glycol and glycol containers in the province, including the collection of used oil, used oil filters, oil containers, used glycol or glycol containers of other brand owners;
- (b) information on the number of units of oil, oil filters and glycol sold on the market;
- (c) a description of the methods of collection, storage, transportation, consolidation and recycling of used oil, used oil filters, oil containers, used glycol and glycol containers;

- (d) a description of the facilities to be used in the collection, storage, transportation, consolidation and recycling of used oil, used oil filters, oil containers, used glycol and glycol containers;
- (e) the estimated number of units to be collected, reused, recycled and recovered and the associated costs;
- (f) the management of used oil, used oil filters, oil containers, used glycol and glycol containers in adherence with the following, in order of preference:
 - (i) reuse,
 - (ii) recycle,
 - (iii) recovery of energy, and
 - (iv) disposal;
- (g) a description of the methodology to be used by the brand owner to determine the amounts used to calculate the consumed in use rate;
- (h) a description of the efforts being made by the brand owner to redesign oil or glycol products to improve reusability and recyclability;
- (i) a description of the efforts made by the brand owner to maximize the local economic benefits created through the implementation of the oil and glycol stewardship plan;
- (j) an education awareness plan for consumers and users of the oil and glycol stewardship program, including information on the reasonable and free access to return facilities;
- (k) the establishment of return facilities that will ensure reasonable and free consumer access for the return of used oil, used oil filters, oil containers, used glycol and glycol containers;
- (l) the assessment of the performance of the brand owner's plan by an independent auditor; and

- (m) the elimination or reduction of the environmental impacts of used oil, used oil filters, oil containers, used glycol and glycol containers.

Approval or
imposition of plan

31.40 (1) Where an oil and glycol 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; or
- (c) reject the plan with written reasons.

(2) Where the board rejects an oil and glycol stewardship plan, it may

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

(3) 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.

(4) Where the board rejects an oil and glycol stewardship plan submitted by a brand owner and the brand owner does not submit a revised oil and glycol 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.

(5) Where a brand owner does not submit an oil and glycol stewardship plan within the 120 day period referred to in section 31.38 as required, the board may impose an oil and glycol stewardship plan on the brand owner and the brand owner shall comply with that plan.

Amendment by the board

31.41 (1) The board may amend an approved or imposed oil and glycol 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 oil and glycol stewardship plan amended and sections 31.40 and 31.42 apply with the necessary modifications to the application.

Compliance required

31.42 (1) A brand owner shall implement the oil and glycol stewardship plan as approved or imposed by the board under section 31.40 and shall comply with that plan within 180 days of the approval or imposition of the plan.

(2) A brand owner shall comply with the oil and glycol stewardship plan as amended by the board under section 31.41.

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

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

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

Renewal of oil and glycol stewardship plan

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

(2) Sections 31.40 and 31.42 apply with the necessary modifications to a plan submitted under this section.

Recovery rates for oil, oil filters and oil containers

31.44 (1) Within 2 years after the implementation of an oil and glycol stewardship plan and in the subsequent calendar year, a brand owner shall achieve the following recovery rates:

- (a) for oil, at least 50%;
- (b) for oil filters, at least 25%; and
- (c) for oil containers, at least 25%.

(2) Within 4 years after the implementation of an oil and glycol stewardship plan, a brand owner shall achieve the following recovery rates:

- (a) for oil, at least 65%;
- (b) for oil filters, at least 50%; and
- (c) for oil containers, at least 50%.

(3) Within 5 years after the implementation of the oil and glycol stewardship plan, and in each subsequent calendar year, a brand owner shall achieve the following recovery rates:

- (a) for oil, at least 75%;
- (b) for oil filters, at least 75%; and
- (c) for oil containers, at least 75%.

Recovery rates for glycol and glycol containers

31.45 (1) Within 4 years after the implementation of an oil and glycol stewardship plan and in the subsequent calendar year, a brand owner shall achieve a recovery rate of at least 50% for glycol and glycol containers.

(2) Within 6 years after the implementation of an oil and glycol stewardship plan, a brand owner shall achieve a recovery rate of at least 65% for glycol and glycol containers.

(3) Within 7 years after the implementation of the oil and glycol stewardship plan, and in each subsequent calendar year, a brand owner shall achieve a recovery rate of at least 75% for glycol and glycol containers.

Annual report and other requirements

31.46 (1) A brand owner shall, on or before March 31 each year, provide the board with an annual report detailing the effectiveness of the brand owner's oil and glycol stewardship plan during the previous calendar year which includes the following:

- (a) the total amount of used oil and used glycol and the total number of used oil filters, oil containers and glycol containers collected in the province by the brand owner;
- (b) the total amount of used oil and used glycol and the total number of used oil filters, oil containers, and glycol containers processed and in storage;
- (c) the percentage of used oil, used oil filters, oil containers, used glycol and glycol containers collected that was reused, recycled, recovered for energy, contained or otherwise disposed;
- (d) the overall achievement of recovery rates;
- (e) a description of the types of processes utilized to reuse, recycle, recover for energy, contain or otherwise dispose of used oil, used oil filters, oil containers, used glycol and glycol containers;
- (f) a description of efforts to redesign oil, oil filters or glycol to improve reusability and recycleability;
- (g) the location of return facilities;
- (h) the location of processing or containment facilities for used oil, used oil filters, oil containers, used glycol and glycol containers;
- (i) the types of consumer information, educational materials and strategies adopted by the brand owner;

(j) the 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 oil and glycol stewardship plan;

(k) an assessment of the performance of the brand owner's oil and glycol stewardship plan prepared by an independent auditor; and

(l) other information requested by the board that relates to the oil and glycol 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 oil and glycol sold by it during the previous calendar year.

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

Consumer
information

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

(a) the brand owner's oil and glycol stewardship plan;

(b) access to return facilities including their location and hours of operation; and

(c) the environmental and economic benefits of participating in the oil and glycol 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 oil and glycol are 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 oil and glycol 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 (1).

Passing on of costs

31.48 A brand owner shall not charge a retailer and a retailer shall not charge a consumer a separate fee with respect to the costs associated with implementing or operating an oil and glycol stewardship plan or carrying out the brand owner's duties under this Part.

Fees

31.49 (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 the oil and glycol stewardship plan.

(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.

Remittance of fees,
imposition of
interest and
penalties

31.50 (1) A brand owner shall remit fees referred to in section 31.49 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.

Use of fees, interest and penalties

31.51 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 used oil and used glycol and for no other purpose.

Management and disposal

31.52 (1) A person shall manage oil, used oil, oil filters, used oil filters, oil containers, glycol, used glycol and glycol containers 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 oil, used oil, used oil filters, oil containers, glycol, used glycol or glycol containers unless that disposal is made

- (a) to a return facility;
- (b) a waste material disposal site established under the Act and approved for that purpose by the minister; or
- (c) an area that the minister may designate as appropriate for the purpose of the disposal of oil, used oil, used oil filters, oil containers, glycol, used glycol and glycol containers.

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