



ELECTRONICS ADS COMPLIANCE PROCEDURE

I. LEGISLATIVE MANDATE

1. Designated Material Recycling and Management Regulation (the “Designated Material Regulation”)

Section 3(3) of the Designated Material Regulation requires suppliers to remit the advance disposal surcharge (“ADS”) to ARMA, and to account for all of the ADS that must be remitted in the form and manner as required by ARMA bylaws:

- 3(3) A supplier shall, in accordance with the Bylaws,
 - (a) remit all advance disposal surcharges to the Association, and
 - (b) account to the Association for all advance disposal surcharges remitted.

Section 7 of the Designated Material Regulation allows ARMA to require security from any supplier applying for registration:

- 7 The Association may require a supplier
 - (a) to provide security to the Association, or
 - (b) to provide to the Association evidence of security

in a form and amount that are acceptable to the Association for the purpose of ensuring that the supplier exercises his or her powers and carries out his or her duties as a supplier in accordance with the Act, this Regulation, the relevant material designation regulation and the Bylaws.

Section 9 of the Designated Material Regulation prohibits a supplier from supplying a designated material if not registered:

9 No person shall supply a designated material in Alberta unless the person is registered in accordance with the Bylaws and the registration is not under suspension.

Section 3(2) of the Designated Material Regulation requires payment of the ADS for each designated material or class of designated material for which it is prescribed:

3(2) If an advance disposal surcharge for a designated material or class of designated material is prescribed, a supplier shall remit to the Association the prescribed advance disposal surcharge in accordance with the Bylaws.

Section 4 of the Designated Material Regulation deems that all ADS held by remitters is held in trust for ARMA:

4 A supplier holds all advance disposal surcharges that the supplier is obliged to remit under section 3 in trust for the Association.

Section 5 of the Designated Material Regulation provides that ADS and interest owing in respect of it is recoverable by ARMA as a debt:

5 Advance disposal surcharges required to be remitted by a supplier and any interest owing in respect of them are recoverable by the Association in an action in debt.

Section 12(1) of the Designated Material Regulation allows ARMA to make bylaws in respect of matters relating to the ADS:

12 The Association may make bylaws

...

(e) respecting the registration of suppliers, including prescribing registration fees;

(f) subject to any material designation regulation, prescribing the advance disposal surcharges that are to be collected and remitted;

(h) respecting the form and manner in which and the times at which an accounting must be made and advance disposal surcharges must be remitted to the Association;

(i) respecting the payment of interest on advance disposal surcharges that are not remitted as required;

(j) providing for the assessment by the Association of the amount of advance disposal surcharges owing to the Association where a return has not been made by a supplier, where a return has been made but is incorrect or misleading or where surcharges that should have been remitted were not remitted;

(n) respecting the records that suppliers must keep in respect of supply transactions in designated materials and the making of those records available for inspection by the Association and representatives of the Department of Environment.

2. The Electronic Designation Regulation

Section 2 of the Electronics Designation Regulation provides that electronics are a designated material under the *Environmental Protection and Enhancement Act* and the Designated Material Regulation:

2 Electronics are a designated material for the purposes of Part 9, Division 1 of the Act and the *Designated Material Recycling and Management Regulation*.

Section 3 of the Electronics Designation Regulation prescribes the maximum ADS for the following electronics:

3 For the purposes of the *Designated Material Recycling and Management Regulation*, the maximum advance disposal surcharge that may be prescribed for the following electronics is as follows:

Televisions

18" screen and smaller - \$15

19" to 29" screen - \$25

30" to 45" screen - \$30

46" screen and larger - \$45

desktop computers (including CPU, mouse, keyboard, cables and other components in the computer) - \$10

computer monitor - \$12

laptops and notebooks (including CPU, mouse, keyboard, cables and other components in the laptop or notebook) - \$5

printers (including printers that have scanning or fax capabilities, or both) - \$8

3. The Electronics Recycling Bylaw

Article 3.1 of the Electronics Recycling Bylaw provides for the ADS to be remitted:

- 3.1 The advance disposal surcharge to be remitted by a supplier is:
- (a) Televisions
 - 18" screen and smaller \$15
 - 19" to 29" screen \$25
 - 30" to 45" screen \$30
 - 46" screen and larger \$45
 - (b) desktop computers (including CPU, mouse, keyboard, cables and other components in the computer) \$10
 - (c) computer monitor \$12
 - (d) laptops and notebooks (including CPU, mouse, keyboard, cables and other components in the laptop or notebook) \$5
 - (e) printers (including printers that have scanning or fax capabilities, or both) \$8

Article 5.1 requires suppliers to remit both the ADS and the form of report required by ARMA:

- 5.1 Each supplier required to pay the advance disposal surcharge under this bylaw shall
- (a) complete and file with the Association at its head office a return in respect of a reporting period not later than 30 days after the end of a reporting period, and
 - (b) remit to the Association at its head office with the return all advance disposal surcharges owing in respect of supply transactions entered into during the reporting period.

Article 6.1 of the Electronics Recycling Bylaw provides for the provision of records to ARMA upon request:

- 6.1 A supplier shall
- (a) keep records in respect of his transactions in electronics and make them available for inspection by the Association or its agents, and

- (b) provide to the Association on request information in respect of his transactions in electronics.

Article 7 of the Electronics Recycling Bylaw provides that ARMA may make assessments in respect of the ADS either not paid by a supplier or not completely paid by a supplier:

7.1 Where

- (a) a supplier fails to file a return in accordance with section 5, or
- (b) the Association reasonably believes a return that has been filed is incorrect or misleading,

the Association may assess the amount of advance disposal surcharges to be remitted by the supplier in respect of the reporting period.

7.2 Where a supplier fails to remit an advance disposal surcharge with respect to a reporting period, the Association may assess the advance disposal surcharges in an amount assessed by the Association to be equal to the amount of advance disposal surcharges that the supplier failed to remit.

7.3 Where the Association makes an assessment under section 7.1 or 7.2, the supplier shall remit

- (a) the amount of the assessment, or
- (b) where a return has been filed and a remittance made, the amount, if any, by which the amount of the assessment exceeds the amount remitted

and the remittance is due and payable from the time the supplier receives notice of the assessment.

Article 8 of the Electronics Recycling Bylaw provides for the payment of interest in respect of ADS that is not remitted to ARMA on a timely basis:

- 8.1 Interest is payable by a supplier on advance disposal surcharges that the supplier fails to remit as required by this Bylaw, and is payable at the rate per annum established by the Association from time to time, from the date the unpaid amount is due until it is paid.

4. Assessment Operations Policy (the “Policy”)

The Policy provides for procedures to encourage voluntary compliance, procedures to initiate assessment proceedings, and procedures relating to the assessment hearings held by ARMA. The Policy also sets out the responsibilities of the Assessment Committee as set out in Article II.:

3. Responsibilities of Assessment Committee

- (a) The Assessment Committee is responsible for:
 - (i) holding assessment hearings for the purpose of assessing the amount if any of advance disposal surcharges to be remitted from retailers; and
 - (ii) determining all matters of procedures at assessment hearings subject to any assessment hearing procedures established by the Board.
- (b) The Assessment Committee shall observe all procedures established by the Board respecting the matters outlined above.

II. BACKGROUND

ARMA is a not-for-profit society whose objects include the establishment and administration of a waste minimization and recycling program for Alberta in accordance with sound environmental principles.

ARMA is accountable to its members, the Minister and the public in accordance with its objects, bylaws, the provisions of the *Environmental Protection and Enhancement Act*, the *Societies Act*, the Designated Material Regulation and the Electronics Designation Regulation.

Through its programs, ARMA provides funding to eligible applicants for eligible activities under the program, and requires that eligible applicants meet all program criteria in order to apply for, and receive, funding under the program. ARMA's programs are funded by the ADS prescribed by it under the authority of the Designated Material Regulation, the Electronics Designation Regulation, and ARMA Bylaws. ARMA has adopted this procedure in order to randomly and equitably review compliance by suppliers with the requirement to remit the ADS on specified designated materials supplied in Alberta.

III. PURPOSE OF THE ADS COMPLIANCE PROCEDURE

The purpose of the ADS Compliance Procedure is to ensure compliance with the requirement of remission of ADS by suppliers under the Designated Material Regulation and Bylaws.

The ADS Compliance Procedure:

- (a) applies to all suppliers under the Designated Material Regulation and Electronics Recycling Bylaw;
- (b) includes an element of randomness inherent in the procedure in order that the results may be more reliable;

- (c) requires that compliance reports arising as a result of the procedure should be relevant, reliable, neutral, understandable and complete;
- (d) requires that compliance reports are relevant to the extent they ensure accountability of suppliers, including reporting requirements imposed on suppliers;
- (e) requires that compliance reports are also reliable in that the items reported against are consistent criterion so that the form and content of the report itself is not dependant upon a particular person having made the report;
- (f) requires that compliance reports are neutral in that they do not mislead the users or readers of the report;
- (g) requires that compliance reports must be understandable and not subject to different interpretations or understandings;
- (h) requires that compliance reports be complete in that all criteria that could affect the conclusions in the compliance report have been identified and included in the report.

IV. SCOPE OF THE ADS COMPLIANCE PROCEDURE

Selection of the particular supplier subject to the ADS Compliance Procedure is based on risk, materiality and randomness. All suppliers may be reviewed on the basis of the following:

- (a) Suppliers who have been assessed by ARMA more than once in the previous two fiscal years of ARMA will be reviewed;
- (b) Suppliers, where information has come to the attention of ARMA, that may not be in compliance or are under-remitting, will be reviewed;
- (c) Suppliers who have received less than satisfactory ADS compliance review reports in the previous fiscal year and have not appropriately reviewed and upgraded their systems, or have not otherwise complied with the review report, shall be reviewed;
- (d) A random sample of suppliers within each class of supplier, being classified as small, medium or large based on sales volume with the proportion to be reviewed within each class determined by a plan approved by ARMA.

V. PROCEDURES

In order to prepare the compliance review report regard shall be had to the following procedures:

- (a) All relevant material in the possession of ARMA or the supplier, including the relevant sales data, inventory data, documents submitted, permits issued, payments under the Designated Material Regulation and Bylaws, and other contracts and documentation relating directly or indirectly to the ADS, should be compiled and reviewed;
- (b) The above information should be reviewed with a view to reporting upon whether the ADS has been satisfactorily remitted and reported on, and whether appropriate control and reporting procedures are in place by the supplier. Where additional documentation or information is required in order to make an assessment at this level, additional information should be requested from the supplier and further review the material submitted;
- (c) Interview the supplier and its staff with regard to all aspects of the ADS to supply further missing information, and confirm the validity of information already received;
- (d) Make observations, which may include visits or interviews with third parties such as purchasers or suppliers of designated material, as the case may be, in order to confirm the information in the forms remitted, and other documentation or certificates supplied by the supplier to ARMA;
- (e) Review and report on the supplier's internal control procedures and internal reporting procedures in order to identify any areas where information may be missing or inadequate as a result of inadequate internal procedures;
- (f) Document the findings and prepare a report as a result of the above procedures taken, and as a result of the review and comparisons made. More specifically, the reviewer should report on specific areas of compliance, where applicable:
 - (i) To the extent practical, verify the supplier's remission of the ADS. The report should address whether appropriate amount of ADS has been remitted in accordance with the Designated Material Regulation and Bylaws, and all prescribed forms and reports were also remitted to ARMA;
 - (ii) To the extent practical and necessary, verify the sales documentation provided in support. All sales documentation must be consistent with the ADS that was remitted, or to be remitted. Where sales documentation identifies exempt electronics or product, this may have to be verified with third parties;
 - (iii) To the extent practical, verify the supplier is otherwise in compliance with ARMA guidelines and policies, and where it is not, identify deficiencies, possible reasons for the deficiencies, and recommendations;

- (iv) Comment on the supplier's internal reporting and control systems as they relate to all relevant matters reviewed and reported on;
- (v) Make recommendations for change, whether by the supplier, ARMA or the review itself, if any;
- (vi) Provide a final summary report, indicating whether the supplier is in compliance with ARMA's Bylaws, the Designated Material Regulations, and whether the appropriate ADS has been remitted. All reviews may indicate the degree of certainty associated with any findings indicated in the report.

A summary of the reviewer's report should be provided to the supplier once ARMA is satisfied with the form and content of the report.

VI. CONSEQUENCES OF REVIEW

As a consequence of the review, ARMA may, at its reasonable discretion, do any or all of the following:

- (a) require payment, or additional payment, of the ADS from the supplier;
- (b) require further reports or documentation from the supplier from time to time in respect of the ADS or any other relevant matter;
- (c) take any steps or otherwise carry out the Assessment Operations Policy of ARMA, or otherwise take steps to assess the supplier;
- (d) cancel the registration, and declare the former supplier ineligible as a supplier of designated material;
- (e) require the supplier take any remedial action that may be appropriate in the circumstance;
- (f) take any other steps or make any other requirements or do any other acts that may, in all the circumstances be reasonable.