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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

**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](#)[Back to Top](#)**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.

[59/03 s19](#)[Back to Top](#)**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.

[59/03 s20](#)**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, 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.

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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.

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## Repeal

**32.** The *Waste Management Regulations*, Newfoundland and Labrador Regulation 90/99, are repealed.

[59/03 s32](#)

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