Summary of Federal Environmental Laws, Regulations and Policies for the Automotive Recycling Sector

1.0 Introduction

There are several federal legislative and policy requirements may apply to automotive recyclers located on Federal Lands. The Federal Acts that have a bearing on the processing of end-of-life vehicles on Federal Lands are listed below. Note that some of the Federal Acts will also apply to automotive recyclers on Provincial Lands – for example, the Federal Fisheries Act.

- *Transportation of Dangerous Goods Act and Regulations*;
- *Canadian Environmental Protection Act*;
- *Indian Act;* and
- *Fisheries Act*.

Within the Canadian Environmental Protection Act (CEPA), there are several regulations have a bearing on the work of automotive recyclers. The germane regulations under CEPA are:

- *Ozone-depleting Substances Regulations, 1998*;
- *Federal Halocarbon Regulations, 2003*;
- *Interprovincial Movement of Hazardous Waste Regulations* (2002);
- *Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations* (2005); and
- *Environmental Emergency Regulations* (2003).

In addition, CEPA provides Pollution Prevention Planning requirements related to safe removal of Mercury Switches from end-of-life vehicles.

Finally, the custodial Federal Departments or agencies responsible for the lands owned by the federal government (including reserves set apart for the use and benefit of a band under the *Indian Act* and treaty lands) are subject to the Treasury Board Federal Contaminated Sites and Solid Waste Landfills Inventory Policy and automotive recyclers on reserves are subject to the Contaminated Sites Policy of Indian and Northern Affairs Canada.

2.0 Federal Policies

Treasury Board of Canada Secretariat

The Treasury Board Federal Contaminated Sites and Solid Waste Landfills Inventory Policy requires that custodial departments establish and maintain a database of contaminated sites on their lands. The information is provided to the Treasury Board of Canada Secretariat for incorporation into the Federal Contaminated Sites Inventory.

Aboriginal Affairs Canada

Aboriginal Affairs (AA) Contaminated Sites Management Policy is intended to provide guidance on the management of contaminated sites located on reserve lands, on federal lands north of the 60th parallel, and on any other lands for which AA has custodial responsibility.

Automotive recyclers on reserves under the *Indian Act* would be affected by this and related AA policies. See Section 3.3 for more requirements of automotive recyclers on Federal Lands as required by the Indian Act.

3.0 Federal Acts and Regulations

3.1 Transportation of Dangerous Goods Act

The federal *Transportation of Dangerous Goods Act* and *Regulations* provide the detailed requirements for the transportation of dangerous goods (TDG) on Federal lands and roads. Waste lead–acid batteries and mercury are regulated under TDG while waste oil is only considered TDG if the oil has been mixed with solvent and meets the characteristics of a Class 3 material or has been contaminated by heavy metals and meets the characteristics of a Class 9 material. Waste antifreeze may also be considered a TDG Class 9 if it has been contaminated with heavy metals.

Automotive recyclers are considered the generator of dangerous goods and as such automotive recyclers are the consignor in the TDG Act and Regulations.

The TDG classifications from Schedule 1 of the TDG Regulations are listed below. Note that the mercury shipments from the automotive recycler to the Mercury Switchout Program are less than 5kg per shipment and as such automotive recyclers will not be subject to the TDG requirements. Further, contamination of oil with solvents is not permitted by waste haulers and heavy metal contamination of waste oil is not common. Metal contamination of antifreeze is more common and recyclers should assume that the antifreeze is a Class 9 TDG.

Summary of TDG Information for Automotive Recyclers

Waste	Class	Packing Group	UN#	Shipping Thresholds
Lead-Acid Batteries	8	III	2794	150kg
Mercury	8	III	2809	5kg
Contaminated Waste Oil	3 or 9 depending on contamination	III	N/A	150kg
Contaminated Waste Antifreeze	9 if contaminated with heavy metals	III	N/A	150kg

Section 1.15 of the TDG Regulations outlines the transportation exemptions with respect to shipments below 150kg. The 150kg threshold could apply for shipments of waste lead-acid batteries and contaminated oil and antifreeze.

For shipments of Dangerous Goods over 150kg, the automotive recycler as the consignor, the carrier and the consignee must comply with the safety, security and documentation requirement required under the Act's regulations (see Section 5 of the Act). The safety, security and documentation requirements for shipments over 150kg as defined by the TDG Regulations are:

1. the consignor must ensure the carrier displays the safety marks (see Section 4.4);
2. a person that transports Dangerous Goods must be adequately trained and hold a valid certificate in accordance with the Act (see Section 6.1),

3. carriers to have an approved emergency response assistance plan (see Section 7.1).

Security requirements in the TDG regulations for shipments over 150kg include the requirement for carrier to be Financially Responsible (see Section 14(1) of the TDG Act). While the regulations do not define Financial Responsibility, automotive recyclers must ensure that the carrier has adequate environmental insurance to deal with emergency situations.

Documentation requirements in the TDG regulations for shipments over 150kg require the automotive recyclers (as the consignor) to prepare a shipping document before the carrier can take possession of the Dangerous Goods.

In summary, the automotive recyclers on Federal Lands must ensure that the carrier is TDG certified, insured and the shipment has been adequately documented and has safety marks.

3.2 Canadian Environmental Protection Act

The *Canadian Environmental Protection Act* (CEPA) has a variety of sections and associated regulations that are germane to activities carried out by automotive recyclers.

On December 29, 2007, the Minister of the Environment issued a notice in the *Canada Gazette* requiring that vehicle manufacturers and steel mills prepare and implement Pollution Prevention Plans to deal with releases of mercury from mercury switches in end-of-life vehicles processed by steel mills. The focus will be on the recovery of mercury switches located in hood and trunk convenience lights and in anti-lock brake sensors.

Automotive recyclers need to be aware that the Mercury Switch-Out Program operated by the Summerhill Impact Group is the only approved mercury recovery program for end-of-life vehicles. Automotive recyclers on Federal Lands must be registered with the Mercury Switch-Out Program http://www.summerhillgroup.ca/programs.php to comply with CEPA.

3.2.1 Federal Halocarbon Regulations

The *Federal Halocarbon Regulations* applies to recovery systems that are owned by the Crown or are located on Federal Lands. The regulation covers both CFC-12 (R-12) and HFC-134a that are found in vehicles.

Section 3 of the regulation requires automotive recyclers on Federal Lands to recover all refrigerants from end-of-life vehicles using a certified person. A certified person is defined by the regulation as a service technician that holds a certificate indicating the successful completion of an environmental awareness course in recycling, recovery and handling procedures in respect of halocarbon refrigerants. The Heating, Refrigerant and Air Conditioning Institute (HRAI) is the main national organization that certifies service technicians for refrigerants.

Section 8 of the Regulation requires the automotive recycler to:

- recover halocarbons into a container designed and manufactured to contain that specific type of refrigerant;
- affix the owner's name and address on the vehicle;
- keep a record of the information listed below:
    - location of system before dismantling;
    - description of system;
    - name of service technician;
    - certificate number;
    - type and quantity of halocarbon and date recovered;

3.2.2 Ozone-depleting Substances Regulation

This regulation applies only to the CFC-12 (R12) recovered by automotive recyclers and fortunately, the use of R12 in vehicles was banned on January 1, 1996. The regulation prevents the import and export of recovered R12 without a permit.

3.2.3 Interprovincial Movement of Hazardous Waste Regulation

The regulation applies to the transport of hazardous waste between Provinces. Section 3 of the regulation requires that automotive recycler shall not transport more than 5 kg of hazardous waste across a Provincial boarder unless the waste is accompanied by a manifest.

The regulation defines hazardous waste as a solid or liquid that is included in any of Classes 2 to 6 and 8 of the *Transportation of Dangerous Goods Regulations*, or in Class 9 of those Regulations as if a reference to "disposal" in subparagraphs 2.43(*b*)(iv) and (v) means "disposal or recycling". For the purpose of automotive recyclers, the TDG definition of hazardous waste will apply to shipments of lead-acid batteries and contaminated oil and antifreeze.

The vast majority of automotive recyclers sell their lead-acid batteries to local recyclers; however, some automotive recyclers may transport lead-acid batteries across boarders for recycling and the regulation will apply to those shipments. The automotive recycler that is shipping lead-acid batteries will be considered the consignor and the consignor must keep at their principal place of business in Canada a copy of the manifest for a period of two years after the hazardous waste is received by the consignee.

See Section 4 of the regulation for the manifesting requirements for the interprovincial movement of lead-acid batteries. The information requirements of the manifest are outlined in Form 3 of Schedule II of the *Export and Import of Hazardous Wastes Regulations.*

Automotive recyclers wanting to obtain a manifest should contact the closest Environment Canada office http://www.ec.gc.ca/default.asp?lang=En&n=DA294545-1#offices

3.2.4 Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations

The application of the regulation is to manage the import or export of hazardous wastes. The regulation applies to all solids and liquids that are considered dangerous goods (e.g., lead-acid batteries, gasoline, contaminated oil and antifreeze) plus Schedule 3 of the regulation defines HAZ2 as used lubricating oils in quantities of 500 L. The used lubricating oils in HAZ2 includes oil from internal combustion engines or gear boxes, transmissions, transformers, hydraulic systems or other equipment associated with such engines.

In Canada, the export of hazardous waste is allowed if the following three conditions are met.

(i) the export is not prohibited under the laws of Canada,

(ii) the country of import is a party to the Convention, the Canada-USA Agreement or OECD Decision C(2001)107/Final and the import of the hazardous waste or hazardous recyclable material is not prohibited by that country, and

(iii) the country of transit does not prohibit the transit of the hazardous waste or hazardous recyclable material;

The regulation will apply primarily to automotive recyclers that export lead-acid batteries for recycling or recyclers that ship salvage vehicles containing lead-acid batteries and gasoline in containers.

Automotive recyclers that are exporting hazardous wastes and hazardous recyclable materials must obtain an export permit under Section 185 of the Act if the quantity is greater than 5 L. The same threshold applies to Hazardous Recyclable Materials (e.g, lead-acid batteries) except if the material is exported to OECD country is in a quantity of 25 kg or 25 L or less.

3.3 Indian Act

The *Indian Act* is the primary instrument providing for the management of affairs on reserves. The *Indian Act* authorizes the government to make regulations concerning certain aspects of environmental protection.

3.3.1 Indian Reserve Waste Disposal Regulation

Waste is defined by the regulation as liquid and scrap of all kinds and 3(*b*) of the regulation prevents anyone from using land in a reserve for the disposal or storage of waste except under the authority of a permit issued pursuant to paragraph 5(*a*) or (*b*) and in the manner specified in the permit.

The permit can be issued by Aboriginal Affairs and Northern Development Canada or a band council (if authorized by the Minister).

Automotive recyclers intending to establish waste disposal or storage areas on reserves under the *Indian Act* are required to obtain such a permit as well as follow the other environmental requirements under CEPA and TDG.

3.4 Fisheries Act

The *Fisheries Act* provides for the protection of fish and fish habitat in Canada. The act is of importance to automotive recyclers because runoff or groundwater that moves off-site may contain substances that are deleterious or harmful to fish. Runoff from snowmelt or precipitation events from automotive recyclers can include hazardous materials from vehicles as well as suspended solids.

Automotive recyclers must be aware that virtually every stream, tributary, and ditch is considered a fish-bearing stream by Fisheries and Oceans Canada. Also, automotive recyclers need to be aware that storm drains frequently discharge into fish-bearing streams.

In addition, section 38(4) requires automotive recyclers to report spills that deposit a deleterious substance in water frequented by fish and spills that damage fish habitat. The spills must be reported to an inspector or appropriate authority.