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Proposed Tire Stewardship Regulation under THE WASTE REDUCTION AND PREVENTION ACT

INTERPRETATION

Definitions and interpretation

1(1) The following definitions apply in this regulation.

"Act" means *The Waste Reduction and Prevention Act*.

"business" includes farming.

"operator" means a person who operates a tire stewardship program approved by the minister in accordance with this regulation.

"person" includes a partnership.

"powered vehicle" means a vehicle in or on which a person or thing may be transported or may ride, whether on or off a highway, that has its own source of motive power and includes an aircraft, but does not include a motorized mobility aid, as defined in *The Highway Traffic Act*, or a vehicle that is powered exclusively or partly by human muscular power.

"registry" means the public registry established under section 17 of *The Environment Act*.

"scrap tire" means a tire that through use, storage, handling, defect, damage or another similar circumstance can no longer be used for its original purpose.

"steward" means a steward of tires.

"steward of tires" means

(a) the first person who, in the course of business in Manitoba, supplies a tire to another person; or

(b) a person who, in the course of business in Manitoba, uses a tire obtained in a supply transaction outside of Manitoba.

"supply" means to transfer a property interest by

(a) sale, whether conditional or otherwise;

(b) exchange;

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(c) barter;

(d) lease or rental, whether with an option to purchase or otherwise; or

(e) gift;

but does not include a supply that is effected solely to create a security interest within the meaning of *The Personal Property Security Act* or the *Bank Act* (Canada).

"tire" means a tire that is manufactured for use on the wheels of a powered vehicle or a trailer that is designed to be towed by such a vehicle and includes a tube that is manufactured for use inside such a tire, whether the tube is supplied in conjunction with a tire or separately.

"tire stewardship program" means a waste reduction and prevention program for scrap tires approved under section 6.

1(2) A supply of a tire by a person is a supply "for consumption" if it is a supply

(a) by the person for consumption by a final consumer in Manitoba and not for the purpose of its being supplied again; or

(b) to a second person followed by one or more supply transactions, any of which is a transaction in which the tire is supplied for consumption by a final consumer in Manitoba and not for the purpose of being supplied again.

DESIGNATION OF MATERIAL

Designation of material

2 Tires are designated as designated material for the purpose of the Act.

TIRE STEWARDSHIP PROGRAM

Prohibitions

3(1) No person shall supply a tire for consumption unless

(a) the steward of tires operates or subscribes to a tire stewardship program;
or

(b) the person operates or subscribes to a tire stewardship program.

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3(2) No person shall in the course of business use in Manitoba a tire obtained in a supply transaction outside of Manitoba unless the person operates or subscribes to a tire stewardship program.

3(3) No person shall supply a tire for consumption in a retail sale in Manitoba unless the person makes available to the consumer point of sale information under a tire stewardship program.

Requirements for a tire stewardship program

4(1) A tire stewardship program must be

- (a) consistent with the principles set out in subsection 1(2) of the Act;
- (b) consistent with any written guidelines established by the minister respecting such programs; and
- (c) open to any steward who wishes to subscribe to the program in accordance with the plan for the program approved by the minister under this regulation.

4(2) A plan for a tire stewardship program must include provision for

- (a) the establishment and administration of a waste reduction and prevention program for tires;
- (b) the appropriate management of scrap tires in accordance with any written guidelines established by the minister;
- (c) a province-wide, convenient collection system for scrap tires without user fees for users of the system;
- (d) a system for the payment of expenditures incurred in the collection, transportation, storage, processing and disposal of scrap tires in connection with the waste reduction and prevention program;
- (e) the orderly collection of revenues from subscribers to the program in balance with expenditures for the program;
- (f) the establishment and administration of education programs for the purpose of the waste reduction and prevention program;
- (g) the establishment and administration of a point of sale information program for the purpose of the waste reduction and prevention program;
- (h) the payment of salaries and other costs of government for the administration and enforcement of this regulation and of the Act as it relates to tires; and
- (i) ongoing consultations about the stewardship program with persons who the operator considers the stewardship program may affect, including members of the public, in accordance with any guidelines respecting consultation that the minister may establish.

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4(3) A plan for a tire stewardship program may include

(a) provision for the establishment and administration of research and development activities related to the management of scrap tires;

(b) provision for training and educational activities related to the management of scrap tires;

(c) provision for activities related to pollution prevention and waste reduction; and

(d) any other activities that the minister may approve.

4(4) The fiscal year of a tire stewardship program must be the calendar year.

Application for approval

5(1) A person who intends to operate a tire stewardship program must submit a plan for the program and apply to the minister for approval of the plan.

Before submitting the plan and application the person must comply with any guidelines that the minister has established respecting consultation about stewardship programs before the application stage.

5(2) An application for approval of a plan for a tire stewardship program or renewal of an approval must

(a) be in the form and contain the information required by the minister; and

(b) include

(i) a business plan for the implementation of the applicant's responsibilities under the Act and this regulation covering the period for which the approval is being sought, and

(ii) a description of the consultations about the proposed stewardship program carried out by the applicant before applying and a summary of the results of the consultations.

5(3) After receiving a plan for a tire stewardship program, or for the renewal of an approval, the minister must file it in the registry. The minister is to

(a) receive comments on the plan for 28 days from the date it is filed in the registry; and

(b) consider the comments before making a decision on whether or not to approve the plan under subsections 6(1) and (2).

5(4) An application for renewal of an approval must be received by the minister no later than 60 days before the expiry of the existing period of approval.

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Applicant must meet requirements for approval

6(1) An applicant must meet the requirements of the Act, this regulation and any written guidelines established by the minister before being entitled to an approval of a tire stewardship program plan or renewal of an approval.

6(2) The minister may grant an approval subject to conditions.

6(3) The minister may grant an approval on an interim basis subject to conditions to be complied with by the applicant pending confirmation or refusal of the approval.

Issuance of approval

7(1) In this section "**approval**" includes an interim approval granted under subsection 6(3).

7(2) The minister must issue a letter of approval to an applicant who is entitled to an approval of a tire stewardship program plan or a renewal of approval.

7(3) A letter of approval must set out any conditions imposed by the minister.

7(4) An approval expires on the date stated in the letter of approval.

7(5) An approval is not transferable.

Minister may impose new or additional conditions

8 The minister may impose new or additional conditions on an approval granted under section 6.

Procedure for refusal of approval or renewal

9(1) When the minister proposes to refuse to grant or renew an approval of a tire stewardship program plan, the minister must serve a notice of the proposal and a statement of the reasons for it on the applicant.

9(2) A notice under subsection (1) must inform the applicant that he or she may, within 10 days after the notice is served, make representations in writing about the proposal.

9(3) If the applicant does not respond within the time stated in the notice, the minister may carry out the proposal stated in the notice.

9(4) If the applicant responds within the time stated in the notice, the minister must consider the representations by the applicant before

- (a) carrying out the proposal; or
- (b) granting the approval or renewal.

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Continuance when renewal pending

10 When an applicant applies for renewal of the approval of his or her program plan within the time limit prescribed in subsection 5(4), the approval is deemed to continue

(a) until the renewal is granted; or

(b) if the applicant is served with a notice under subsection 9(1), until the minister carries out his or her proposal or issues the renewal.

Suspension or cancellation of approval

11(1) The minister may suspend or cancel the approval of a plan for a tire program where the operator is in breach of any provision of the Act or this regulation.

11(2) Where the approval of a plan for a tire stewardship program is suspended under subsection (1), the operator must not operate the program until he or she satisfies any requirements for reinstatement imposed by the minister.

11(3) When the minister proposes to cancel or suspend the approval of a tire stewardship program plan, the minister must serve a notice of the proposal and a statement of the reasons for it on the operator and subsections 9(2) to (4) apply to the notice and the proposal with necessary modifications.

Cancellation in certain circumstances

12 Despite anything in this regulation, the minister may cancel the approval of an operator who

(a) ceases to operate a program; or

(b) applies to surrender his or her approval.

Amendment of plan

13(1) An operator may apply for approval of an amendment to a tire stewardship program plan subsequent to the approval of the plan by the minister and must

(a) file the amended program plan with the minister without delay for the minister's approval; and

(b) provide the minister with such information as he or she may require about the amendment and its effect on the program plan.

13(2) An operator must not act on any amendment to a program plan until the minister has notified the operator in writing that the amendment has been approved.

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13(3) After receiving an amended program plan, the minister must file it in the registry. The minister is to

(a) receive comments on the amended program plan for 28 days from the date it is filed in the registry; and

(b) consider the comments before making a decision on whether or not to approve the amended program plan under subsection 13(4).

13(4) The minister may approve the amendment or, subject to subsection (5), may refuse to approve the amendment.

13(5) When the minister proposes to refuse to approve an amendment, he or she must serve a notice of the proposal on the operator and subsections 9(2) to (4) apply to the notice and the proposal with necessary modifications.

Implementation of plan

14 An operator must ensure that the tire stewardship program plan, as approved under section 6 or amended under section 8, or approved as amended under section 13, is implemented and operated substantially in accordance with its intent, subject to any conditions imposed by the minister.

Providing information

15 An operator must provide any information about the tire stewardship program requested by the minister.

REPORTS AND CONFIDENTIALITY

Annual report

16(1) Within 90 days after the end of the fiscal year, an operator must provide to the minister an annual report summarizing the program activities of the operator in the fiscal year and containing audited financial statements covering the program for the fiscal year.

16(2) Without limiting the generality of subsection (1), the annual report must include

(a) a description of the consultations about the stewardship program carried out by the operator during the fiscal year and a summary of the results of the consultations; and

(b) any information about program performance recommended by the Auditor General for programs of the same nature as the stewardship program.

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Information to be confidential

17(1) Except as provided in subsection (2), information in any document upon which a report provided under section 16 is based is confidential to the extent that any information in the document would be reasonably expected to identify the volume of sales of any designated material or type of designated material, or the market share of any designated material or type of designated material, of any steward. No person who obtains the document shall knowingly disclose, or permit any person to disclose that information, except with the consent of the person who provided the report or document.

17(2) A report provided under subsection (1) or any document upon which the report is based may be disclosed

- (a) for the purpose of the administration or enforcement of the Act or this regulation or legal proceedings related to that enforcement;
- (b) when required by law; or
- (c) when the information in the report or document is publicly available.

Availability of annual report

18(1) The minister must

- (a) table a copy of the annual report in the Assembly within 15 days after receiving it if the Assembly is sitting or, if it is not, within 15 days after the next sitting begins; and
- (b) file a copy of an annual report received by him or her under section 16 in the registry.

18(2) After providing the minister with an annual report under section 16, the operator of a tire stewardship program must make a copy of the report available without cost to any person on request.

GENERAL PROVISIONS

Minister may establish guidelines

19 The minister may establish written guidelines respecting

- (a) the requirements for a tire stewardship program and the operation of such a program;
- (b) the management of scrap tires;
- (c) the criteria for program performance evaluation;
- (d) any other matter provided for under this regulation.

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Service of notice

20(1) A notice that is required to be served by the minister must be served on a person in accordance with subsection (2), and

- (a) if the person is an individual, on the individual;
- (b) if the person is a corporation, on a director or officer of the corporation; or
- (c) if the person is a partnership, on a partner who is an individual or a corporation, in the manner set out in clause (a) or (b), as the circumstances require.

20(2) A notice may be served on a person or on a director or officer of a corporation

- (a) by personally giving a copy to the person, director or officer;
- (b) by sending a copy to his or her address last known to the minister by any method, including registered mail, certified mail or prepaid courier, if there is a record of delivery by the party who delivered the copy; or
- (c) by telephone transmission of a facsimile of the notice or by other electronic transmission to the person, director or officer, if there is a record
 - (i) of the telephone number to which the transmission was sent,
 - (ii) of the date on which the transmission was sent, and
 - (iii) that the transmission included the full text of the notice.

20(3) A notice sent by mail is deemed to be received by the intended recipient on the earlier of

- (a) the day the intended recipient actually receives it; and
- (b) the fifth business day after the day it is mailed.

20(4) A notice sent by a method referred to in clause (2)(c) is deemed to be received by the intended recipient on the earlier of

- (a) the day the intended recipient actually receives it; and
- (b) the first business day after the day it is sent.