

Draft for Discussion

Stewardship Regulation Guidelines

For Industry Stewards

**Hazardous or
Prescribed Household Material
Stewardship Regulation**

Green Manitoba

STEWARDSHIP REGULATION GUIDELINES FOR INDUSTRY STEWARDS

Introduction

This guide provides information to help stewards of hazardous household materials develop a product stewardship program under the proposed Hazardous or Prescribed Household Material Stewardship Regulation to be enacted under *The Waste Reduction and Prevention Act* (WRAP). This document was prepared by Green Manitoba to help industry stewards and other stakeholders understand the requirements of the regulation and clarify stakeholder roles and responsibilities. It provides guidance on performance, operational and reporting expectations of programs for managing designated hazardous household materials in Manitoba.

This guide has two parts:

- I. **Understanding Hazardous or Prescribed Household Material Stewardship in Manitoba** – general questions and answers to provide better understanding of the regulations and process for developing a stewardship plan.
- II. **Guideline for Hazardous or Prescribed Household Material Stewardship** – specific program requirements established by Manitoba intended to instruct and assist industry stewards in developing, implementing and operating a stewardship program.

Background

As the designated coordinating body, Green Manitoba, working in cooperation with Manitoba Conservation, product stewards, municipalities, ENGOs and consumer groups, is shifting Manitoba's product stewardship approach to a regulated steward responsibility model in which the companies that produce or distribute these products (stewards) in Manitoba are responsible for developing a program or programs to manage waste designated materials. The regulatory framework under Manitoba's WRAP Act is intended to:

- reduce the amount of waste disposed in Manitoba
- build on the success of current stewardship programs
- establish broad-based programs that are economically and environmentally sustainable
- provide more flexibility for industry stewards to establish program funding arrangements including setting program fees and revenues
- reduce government's direct involvement in program design and management
- reinforce the links between product design and environmental protection.

PART I UNDERSTANDING HAZARDOUS OR PRESCRIBED HOUSEHOLD MATERIAL STEWARDSHIP IN MANITOBA

The following questions and answers will help stewards understand their obligations under the regulation. Specific obligations are described in the regulation and Part II of these guidelines. Please consult these sources to ensure compliance.

1. What is Product Stewardship and Extended Producer Responsibility (EPR) in Manitoba?

- Manitoba has been actively working with stakeholders to implement EPR programs since 1990 in an effort to reduce the amount of waste going to landfill and conserve resources.
- Industry stewards have been assigned responsibility for the design and operation of EPR programs to reduce waste associated with their products.
- EPR program focus should be consistent with current national and international approaches whereby the appropriate costs of managing designated waste materials are transferred from the municipal tax base to the producers and users of designated products or materials, thereby eliminating the practice of treating these materials as municipal waste.
- Manitoba's WRAP Act (1990) provides the legislative framework for introducing product stewardship/extended producer responsibilities.
- Where practical and feasible, program approaches should be harmonized with other jurisdictions to allow for more consistent industry steward responsibilities and program operations.

2. Who is a product steward in Manitoba?

- A steward is the first person who, in the course of business in Manitoba, supplies a designated hazardous or prescribed household material to another person or who, in the course of business in Manitoba, uses a designated material obtained outside of Manitoba.
- The steward is sometimes referred to as the "first seller" or "first importer" of a product. This may include a brand owner, producer, manufacturer, distributor, retailer or a business that imports designated materials for its own use.

3. What is Manitoba's definition of a hazardous household material?

Under the draft regulation designated materials are identified as devices, equipment, material, products or substances in the following categories:

- (a) automotive anti-freeze;
- (b) automotive lead acid batteries;
- (c) consumer paint products;
- (d) fluorescent lighting tubes and compact fluorescent lights;
- (e) pesticides;
- (f) pharmaceuticals; and
- (g) waste household hazardous materials.

Category (g) waste household hazardous materials includes devices, equipment, material, products and substances that meet the criteria for waste household hazardous materials set out in the Canadian Standards Association Standard Z752-03, *Definition of Household Hazardous Waste*, including, but not limited to, devices, equipment, material, products and substances that meet the criteria for

- (a) flammable materials;
- (b) corrosive materials;
- (c) physically hazardous materials, including, but not limited to,
 - (i) explosives (but not including ammunition); and
 - (ii) medical sharps carrying pathogens
- (d) toxic materials; or
- (e) environmentally hazardous materials, including those materials that meet the criteria of being “toxic”, “persistent” or “bio-accumulative” as described in Clauses 7.6.2.2. to 7.6.2.4. of that Standard.

3. What are the obligations of product stewards in Manitoba?

- A steward must demonstrate participation in an approved Hazardous or Prescribed Household Material stewardship program in order to sell, distribute, offer for sale or supply by lease or rental, the designated material in Manitoba.
- This responsibility can be undertaken by joining with other stewards to operate a stewardship corporation or Industry Funding Organization (IFO) collectively, under a single program plan.

4. Do stewards need a program plan?

- Yes. Stewards who want to sell hazardous or prescribed household material in Manitoba or who bring designated material into the province for their own use will have to either provide a plan to the Minister of Conservation or subscribe to a plan for managing designated material.
- Stewards are responsible for having an approved stewardship plan in place. Stewards may join other stewards in operating a stewardship corporation or Industry Funding Organization (IFO) collectively under a single stewardship plan.

5. What is the operator of an approved plan responsible for?

- The operator of a proposed or an approved stewardship program plan can act on behalf of stewards to undertake duties that include, among other things, the preparation and implementation of the stewardship program plan.
- The operator of an approved program plan may represent more than one steward group, providing an administrative structure for managing the obligations of a cooperative group of stewards, including the preparation and implementation of a collective program plan.

6. What is the operator of an approved plan responsible for?

- The governance structure, operational systems, and revenue structures of an approved program are developed by the stewards as members.
- Stewards are responsible designing the program management structure and selecting representatives for the Board of Directors of a program. They may choose to include non-industry representatives as representatives or in an advisory capacity to the Board.

- Timely communication will take place with stakeholders and the public on program achievements and potential improvements.

7. Do programs need to be province-wide?

- A program operator must implement a province-wide management plan. A phased approach to implementation of a province-wide program may be considered. The design and implementation of a province-wide program shall be environmentally and economically sustainable.
- Proponents are encouraged to design an efficient collection system for the designated material and to consult with program partners.
- A province-wide program may be adapted at the local level to suit different regional waste management needs.

8. How is a stewardship program funded?

- Subject to the Minister's approval, applicants are responsible for determining how materials are managed and how the affected industry and potential program partners will bear the costs, or fund the program.
- The cost of the stewardship program is the responsibility of the stewards and users of the designated material.
- Stewardship programs must be both economically and environmentally sustainable.
- Fees required to support the implementation of an approved program plan will be set within an approved program plan and collected from product stewards. Stewards are responsible for informing consumers of how the program is funded.
- Funds raised will be directly related to the costs of managing that designated material or product category.
- Program operators must release an independently audited financial statement showing all revenues and expenditures as part of the annual report.
- Transparency of program operations will be provided through industry proposals, business plans and annual reports, which will be available to all stakeholders.
- Operators will undertake consultations on program plan proposals prior to submission of those proposals to the Minister for approval.

9. Do stewards need to consult with the public?

- Stewards shall ensure that their decisions and activities include processes or measures for informing those affected by decisions and actions in a timely manner, and provide meaningful opportunity for public consultation and due process, including the timely release of pertinent information. Where applicable, collaborative decision making and consensus-building processes will be applied.
- Stewards will ensure that the public has appropriate information about the program goals and results.
- Stewards will review proposed consultation processes and measures with Green Manitoba early in the plan development process.

10. When is a program plan submitted?

- A program plan must be submitted for approval by the Minister within the time frame to be set in the regulation.

- Approval of a program plan will be for a period of up to five years. The approval expiry date will be set out in the Minister's letter of approval.
- A new plan for approval must be submitted at least 60 days prior to the plan expiry date.

11. What if a program plan has not been submitted or approved?

- If a steward has not submitted a plan by the required date, the steward is subject to enforcement action within the powers of the regulation and The WRAP Act.
- If a plan is submitted but not approved, the Minister will establish a timeframe in which the program plan must be amended to achieve approval.
- A steward cannot sell a designated product in Manitoba without complying with the Regulation.

12. What are the grounds for program plan suspension or cancellation?

- The Conservation Minister will notify the program operator of a suspended or cancelled plan. The program operator must satisfy the Minister's requirements in order to continue to operate the program.

13. How is a program plan amended?

- An approved program plan may be amended by providing the plan amendment to the Minister at the earliest opportunity. The Minister must approve the amendment before the operator proceeds with the change.

14. How is a program plan implemented?

- The program operator must implement and operate the program substantially in accordance with the intent of the program plan.
- Key stakeholder groups proposed as partners in the program plan must be aware of their responsibilities in the plan.

15. How are the performance measures and targets for the program set?

- The program plan will propose program targets and performance measures after consultation with stakeholders. Interim targets may be established by the Minister for the purposes of plan development.
- Acceptable targets and performance measures will be set as part of the written guidelines to be established by the Minister.
- Established targets will be used to monitor the program performance.

16. What is the role of the provincial government?

- The Province of Manitoba enacts and enforces regulations to ensure a level playing field among stewards responsible for a designated waste material stream.
- Government promotes the principles of pollution prevention established by the Canadian Council of Ministers of the Environment (CCME) and the 4R hierarchy of reduce, reuse, recycle and recover. It may establish specific guidelines and management principles for each designated material.
- Government monitors and evaluates the efficiency of programs implemented.

- Government also promotes sustainable development as the integration of environmental and economic decisions that adequately reflect economic, environmental, human health and social effects and consequences.

17. What is the role of Green Manitoba?

- Consistent with government's Green and Growing strategic framework, Green Manitoba works to:
 - reduce the inefficient consumption of resources;
 - reduce greenhouse gas production associated with climate change;
 - protect and enhance Manitoba's diverse green environment;
 - help create clean, safe and vibrant communities people enjoy living in;
 - promote new ways of doing things that will achieve environmental, economic and social objectives simultaneously; and
 - improve the overall quality of life in Manitoba without diminishing it elsewhere.
- In regard to product stewardship, the Agency promotes the development of effective and efficient management programs for designated waste streams that will:
 - protect Manitoba's environment;
 - fairly allocate the costs for management of these materials;
 - ensure that these programs are both economically and environmentally sustainable; and
 - foster innovation and economic growth.
- The role of Green Manitoba, specific to stewardship programs, is to review program plans and recommend approval to Government, provide ongoing assistance to stewards and other stakeholders on understanding the requirements of the regulation, and to monitor program compliance.
- Green Manitoba may coordinate the delivery of specific programs in collaboration with program operators and other stakeholders.

18. What is the role of local governments?

- Local governments are not referenced in the regulation but may choose to become service providers to the program operator by providing collection and/or processing services, space, or infrastructure.
- Local governments may also participate in the operation of the program by:
 - helping inform the public that the stewardship program is available;
 - assisting with collection activities; and
 - adopting measures, such as bans on the landfilling of the relevant products, establishing bag limits or user pay waste disposal charges, as deemed necessary to achieve program objectives.
- The specific role of local governments is to be proposed as part of the program plan development and consultation process.

19. What is the role of retailers?

- Retailers are an important component of a stewardship program and are required to provide point-of-sale information on the stewardship program. Where appropriate, the role of retailers will be further clarified in the context of the proposed stewardship plan.

20. What is the role of consumers?

- Consumers will participate in stewardship programs approved for the post-consumer management of designated materials.

PART II GUIDELINE FOR HAZARDOUS OR PRESCRIBED HOUSEHOLD MATERIAL STEWARDSHIP

Section 19 of the regulation allows the minister to establish written guidelines to set additional requirements for the Hazardous or Prescribed Household Material stewardship program and its operation. The minister can also establish guidelines for the management of hazardous household material, or issue guidelines that set criteria for program performance evaluation or address any other matter provided for under the regulation.

The program requirements and plan evaluation criteria for hazardous or prescribed household material are:

A. STEWARDSHIP PLAN

Stewards are required to submit a business plan/proposal for approval by the minister. The following program requirements, as set out in the regulation, must be included in any proposed stewardship plans. Additional instructions pertaining to the requirements of the stewardship plan and program are provided in sections B through I.

A plan for a hazardous or prescribed household material stewardship program shall include provision for:

- a. the establishment and administration of a waste reduction and prevention program for hazardous or prescribed household material
- b. the appropriate management of waste material according to this guideline established by the minister
- c. a province-wide, convenient collection system for waste material without user fees at the point of collection
- d. a system for the payment of expenses incurred in the collection, transportation, storage, processing and disposal of waste material in connection with the waste reduction and prevention program
- e. the orderly collection of revenue from program subscribers in balance with expenses for the program
- f. the establishment and administration of education activities for the program
- g. the establishment and administration of a point-of-sale information for the program
- h. the payment of salaries and other costs for the administration and enforcement of the regulation and the Act as it relates to hazardous or prescribed household material
- i. ongoing consultations with people the program may affect, including members of the public, in accordance with any consultation guidelines the minister may establish

The plan may also deal with research and development, training and education activities, as well as activities related to waste reduction or pollution prevention.

The minister may provide additional program guidance to program operators.

B. PROGRAM PLAN EVALUATION

For the purpose of plan evaluation, proposed plans shall demonstrate how:

1. the cost of managing designated waste materials is borne by the stewards and users of the designated material rather than by the taxpayer.
2. the management of these materials is economically and environmentally sustainable.
3. product stewards determined how these materials are managed and how the affected industry and potential program partners will bear these costs.
4. how fees, if any, will be set and collected under an approved program plan established for that purpose.
5. a public awareness and education program will be undertaken.
6. the operator provides a province-wide collection system that provides public access in all regions of Manitoba that is convenient and consistent.
7. the product stewardship program in Manitoba is harmonized, where practical and feasible, with those of other provinces.
8. funds raised for the management of a material or product will relate to the costs of managing that designated material or product.
9. the transparency of program operations is provided through the development of industry proposals, program plans, and annual reports, which will be available to all stakeholders.
10. the operator undertook appropriate consultations on program plan proposals prior to submission of those proposals to Government.
11. the operator will resolve stakeholder disputes.
12. the operator will conform to regulatory requirements to ensure a level playing field among stewards responsible for a designated waste stream.
13. the operator will measure, monitor and report on program performance, including meeting designated material recovery rate targets.
14. the operator will adhere to guideline provisions for pollution prevention and best management practices (Section I)

C. PUBLIC CONSULTATION PROCESS FOR HAZARDOUS OR PRESCRIBED HOUSEHOLD MATERIAL

1. Stewards shall:
 - a. ensure that stewardship program decisions and activities include processes or measures for informing those affected by decisions and actions in a timely manner; and
 - b. provide meaningful opportunity for public consultation and due process, including the timely release of pertinent information, and
 - c. employ collaborative decision-making and consensus-building processes, where appropriate.
2. Stewards shall seek input at strategic points (development and amendment of program plan, annual reporting, continuous review of operations) from:
 - a. government;
 - b. service delivery agencies;
 - c. relevant external agencies; and
 - d. the public.

3. Prior to submitting its program plan to the Minister, the applicant is required to consult with affected stakeholders and the public. To do this stewards shall
 - a. at the outset of any program plan consultation, identify:
 - i. who they expect to consult with;
 - ii. the purpose of the consultation; and
 - iii. how they will conduct the consultation.
 - b. seek input from those who:
 - i. have a mandate or responsibility in an inter-related program area;
 - ii. are expected to implement the proposal;
 - iii. are expected to bear the cost of implementing the proposal;
 - iv. will be impacted by the proposed plan.
4. In its program plan proposal, identify to the Minister:
 - a. who has been consulted in the process of developing and evaluating the plan and/or proposal options;
 - b. any objections and concerns raised by those who were consulted; and
 - c. endorsement of proposed responsibilities by program partners.

D. DESIGN OF AN ADEQUATE COLLECTION SYSTEM

1. The program plan shall adequately provide for collecting and managing waste hazardous household material.
2. Stewards may partner with existing collection systems established by other stewards or another program plan for other designated materials.
3. Consultation with local governments, municipal corporations, Community Councils and First Nations should occur to determine the most effective collection system for the community.
4. The collection system design should consider and prioritize the degree of risk presented by the product.
5. The plan shall adequately provide for reasonable and free consumer access to collection facilities and recycling services. Accordingly, consumers are not to be charged a user fee at the point of collection.

E. ACHIEVING DESIGNATED MATERIAL PERFORMANCE TARGETS

1. In consultation with the program operator and other stakeholders, the Minister will confirm minimum performance targets for designated material that are ambitious, yet achievable.
2. The expectation is that all stewards will commit to continuous improvement in program performance. Accordingly, if the annual reported recovery rate or service performance is higher than that set by the Minister, that higher rate provides the baseline for subsequent years.
3. The Minister may establish other performance requirements in consultation with the program operator and other stakeholders.

F. ESTABLISHING APPROPRIATE PERFORMANCE MEASURES

1. A steward may recommend appropriate program performance measures in the plan submitted for approval. The measure(s) must be able to show both what is recovered and what is not.

2. The Minister may specify one or more performance measures or targets in approving the program plan.
3. Examples of performance measures by stewards, especially producers of consumable products, include, but are not limited to:
 - a. sales and recovery data
 - b. municipal waste composition study results
 - c. periodic surveys of public awareness of the program and use of the collection system
 - d. the amount of waste material collected by service providers
 - e. number of collection points
 - f. proportion of product to be managed, according to the principles of pollution prevention and 4R hierarchy.

G. DISPUTE RESOLUTION PROCEDURE

1. A program plan shall adequately provide for a dispute resolution process which allows for fair, transparent and unbiased independent processes where all views are known when stakeholder or public interests may be affected.

H. ANNUAL REPORT

Section 16(1) of the Hazardous or Prescribed Household Material Stewardship Regulation requires operators of approved program plans to submit an annual report within 90 days after the end of each fiscal year. In addition to Section 16 (2) of the regulation, which provides the minimum requirements for an annual report, operators shall:

1. post a copy of the report on the program website;
2. document the performance in adherence to the program plan; and
3. specify what the stewards will do to reduce or eliminate any gap between actual and projected performance.

An annual report should also include information on the following:

1. Educational Materials and Strategies

- a. Includes a description of educational materials and strategies.
- b. Meeting program plan performance measures likely will require a successful public education strategy.
- c. Some examples of educational tools include newspaper, radio and TV advertisements, web pages, flyers and posters.

2. Collection Facilities

- a. Include information about collection/processing facilities.

3. Reducing Environmental Impacts

- a. Include efforts taken to reduce environmental impacts through a reduction in the disposal of waste material. In reporting on these measures, program operators may consolidate and aggregate individual steward reporting requirements to protect proprietary information
- b. Identify efforts to reduce the environmental impacts of designated material throughout the product life-cycle, including increased reusability and recyclability.
- c. Demonstrate a commitment to continuous improvement.

4. Consistency with the principles of Pollution Prevention and the 4Rs Hierarchy

- a. Include a description of how the recovered product was managed in accordance with the principles of pollution prevention and the 4Rs hierarchy.
- b. The operator may report on what percentage of material is managed according to the principles of pollution prevention and at each level of the 4R hierarchy.

5. Recovery Rate

- a. Document product recovery rate information.
- b. Aggregated data of the total amount of product sold and collected, along with the recovery rate if applicable or an alternative performance measure if not, is a key performance measure, as long as it shows both what is recovered and what is not.
- c. The amount of product collected and processed in each regional district should be reported if possible.

6. Financial Statements

- a. Submit independently audited financial statements.
- b. Demonstrate commitment to financial transparency and accountability for how all funds collected from consumers are managed. Individual companies' proprietary information will not be disclosed in any documentation. The program operator/IFO is responsible for establishing secure data reporting and management systems.

I. POLLUTION PREVENTION AND BEST MANAGEMENT PRACTICES FOR WASTE HAZARDOUS OR PRESCRIBED HOUSEHOLD MATERIAL

1. For hazardous household material, Manitoba promotes the principles of pollution prevention and the 4Rs of reduce, reuse, recycle and recover. This means:
 - a. safely using the product for its originally intended purpose
 - b. recycling of waste hazardous or prescribed household material
 - c. using waste hazardous or prescribed household material for energy recovery
 - d. disposing waste hazardous or prescribed household material safely.
2. Manitoba prohibits the improper storage, illegal dumping, or landfilling, of waste hazardous household material.
3. Stewardship program operators shall:
 - a. where environmentally and economically sustainable, promote local processing, manufacture and use of products from waste material as an alternative to exporting recovered material to another jurisdiction; and
 - b. operate in a manner supportive of national and international agreements.