

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

Proposed Electrical and Electronic Equipment Stewardship Regulation under *The Waste Reduction and Prevention Act*

TABLE OF CONTENTS

Section

INTERPRETATION

- 1 Definitions and interpretation

DESIGNATION OF MATERIAL

- 2 Designation of material

ELECTRICAL AND ELECTRONIC EQUIPMENT STEWARDSHIP PROGRAM

- 3 Prohibitions
4 Requirements for an electrical and electronic equipment stewardship program
5 Application for approval
6 Applicant must meet requirements for approval
7 Issuance of approval
8 Minister may impose new or additional conditions
9 Procedure for refusal of approval or renewal
10 Continuance when renewal pending
11 Suspension or cancellation of approval
12 Cancellation in certain circumstances
13 Amendment of plan
14 Implementation and operation of plan
15 Providing information

REPORTS AND CONFIDENTIALITY

- 16 Annual report
17 Information to be confidential
18 Availability of annual reports

GENERAL PROVISIONS

- 19 Minister may establish guidelines
20 Service of notices
21 Coming into force

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

INTERPRETATION

Definitions and interpretation

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

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

"**business**" includes farming.

"**designated material**" means the devices, equipment, material or products designated in section 2.

"**electrical and electronic equipment**" means any of the devices, equipment, material or products that are designated as designated material in section 2.

"**electrical and electronic equipment stewardship program**" means a waste reduction and prevention program for waste electrical and electronic equipment approved under section 6.

"**operator**" means a person who operates an electrical and electronic equipment stewardship program approved by the minister in accordance with this regulation.

"**person**" includes a partnership.

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

"**steward**" means a steward of designated material.

"**steward of designated material**" means

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

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

"**supply**" means to transfer a property interest by

(a) sale, whether conditional or otherwise;

(b) exchange;

(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).

"**waste electrical and electronic equipment**" means electrical and electronic equipment

(a) that through use, storage, handling, defect, damage, expiry of shelf life or other similar circumstance can no longer be used for its original purpose; or

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

(b) that, for any other reason, the owner or person in possession of the equipment intends to dispose of.

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

(a) by the person for use by a final user 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 designated material is supplied for use by a final user in Manitoba and not for the purpose of being supplied again.

1(3) For the purpose of clause (a) of the definition "steward of designated material" in subsection (1), a person who

(a) solicits orders, directly or through an agent, for the designated material from persons in Manitoba by advertising or other means;

(b) accepts orders for the designated material that originate in Manitoba; and

(c) causes the designated material to be delivered in Manitoba;

is deemed to be the first person who supplies designated material to another person in the course of business in Manitoba.

DESIGNATION OF MATERIAL

Designation of material

2 The following are designated as designated material for the purpose of the Act:

(a) batteries of any kind, including, but not limited to, devices that convert chemical energy to electrical energy and rechargeable batteries, but not including lead-acid automotive batteries or zinc-carbon or alkaline batteries;

(b) electrical and electronic products, materials, devices or equipment, including, but not limited to,

(i) televisions,

(ii) desktop computers and laptop and other portable computers,

(iii) desktop computer monitors,

(iv) computer printers,

(v) peripherals for desktop computers, laptop and other portable computers and computer printers,

(vi) personal digital assistants and other similar handheld devices,

(vii) cellular telephones, and other telephones primarily intended for personal use,

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

- (viii) microwave ovens,
- (ix) parts and components for any item referred to in subclauses (i) to (viii),
- (x) video display equipment,
- (xi) video cassette recorders and players,
- (xii) digital video players and recorders,
- (xiii) audio equipment, including, but not limited to, radios, receivers, amplifiers, speakers, component audio cassette players, component compact disk players and recorders, portable cassette players, mp3 players and other digital music recorders and players,
- (xiv) facsimile machines,
- (xv) photocopy machines,
- (xvi) digital cameras,
- (xvii) analog and digital video cameras, and
- (xviii) parts and components for any item referred to in subclauses (x) to (xvii).

ELECTRICAL AND ELECTRONIC EQUIPMENT STEWARDSHIP PROGRAM

Prohibitions

3(1) No person shall supply designated material for consumption unless

- (a) the steward of the designated material operates or subscribes to an electrical and electronic equipment stewardship program; or
- (b) the person operates or subscribes to an electrical and electronic equipment stewardship program.

3(2) No person shall in the course of business use in Manitoba designated material obtained in a supply transaction outside of Manitoba unless the person operates or subscribes to an electrical and electronic equipment stewardship program.

3(3) No person shall supply designated material for consumption in a retail sale in Manitoba unless the person makes available to the consumer point of sale information under an electrical and electronic equipment stewardship program.

Requirements for electrical and electronic equipment stewardship program

4(1) An electrical and electronic equipment 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.

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

4(2) A plan for an electrical and electronic equipment stewardship program must include provision for

- (a) the establishment and administration of a waste reduction and prevention program for electrical and electronic equipment;
- (b) the appropriate management of waste electrical and electronic equipment in accordance with any written guidelines established by the minister;
- (c) a province-wide, convenient collection system for waste electrical and electronic equipment without user fees at the point of collection;
- (d) a system for the payment of expenditures incurred in the collection, transportation, storage, processing and disposal of waste electrical and electronic equipment 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 electrical and electronic equipment; 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.

4(3) A plan for an electrical and electronic equipment stewardship program may include

- (a) provision for the establishment and administration of research and development activities related to the management of waste electrical and electronic equipment;
- (b) provision for training and educational activities related to the management of waste electrical and electronic equipment;
- (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 an electrical and electronic equipment stewardship program must be the calendar year.

Application for approval

5(1) A person who intends to operate an electrical and electronic equipment 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 an electrical and electronic equipment stewardship program or renewal of an approval must

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

(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 an electrical and electronic 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.

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 an electrical and electronic equipment 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 an electrical and electronic equipment 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 an electrical and electronic equipment 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.

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

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.

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 an electrical and electronic equipment stewardship 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 an electrical and electronic equipment 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 an electrical and electronic equipment 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 an electrical and electronic equipment 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 that 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.

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

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

plan under subsection (4).

13(4) The minister may approve the amendment or may, subject to subsection (5), 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, with necessary changes, to the notice and the proposal.

Implementation and operation of plan

14 An operator must ensure that the electrical and electronic equipment 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 electrical and electronic equipment 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.

Information to be confidential

17(1) Except as provided in subsection (2), information given to the minister under section 15 or 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) Information given to the minister under section 15 or a report provided under section 16 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.

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

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 any 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 an electrical and electronic equipment 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 an electrical and electronic equipment stewardship program and the operation of such a program;

(b) the management of waste electrical and electronic equipment;

(c) the criteria for program performance evaluation; or

(d) any other matter provided for under this regulation.

Service of notices

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.

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

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.

Coming into force

21(1) Subject to subsection (2), this regulation comes into force on the day it is registered under *The Regulations Act*.

Coming into force: subclauses 2(b)(x) to (xviii)

21(2) Subclauses 2(b)(x) to (xviii) come into force one year after the day on which this regulation is registered under *The Regulations Act*.