

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

Proposed Hazardous or Prescribed Household Material 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

HAZARDOUS OR PRESCRIBED HOUSEHOLD MATERIAL STEWARDSHIP PROGRAM

- 3 Prohibitions
4 Requirements for a hazardous or prescribed household material 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

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.

"**category**", in relation to hazardous or prescribed household material, means one of the categories set out in the first column of the table in the Schedule.

"**container**" means a container that is manufactured for the purpose of holding hazardous or prescribed household material or in which that material is supplied.

"**designated material**" means material designated in section 2.

"**hazardous or prescribed household material**" means any of the devices, equipment, material, products or substances that are designated as designated material in section 2.

"**hazardous or prescribed household material stewardship program**" means a waste reduction and prevention program for waste material approved under section 6.

"**operator**" means a person who operates a hazardous or prescribed household material 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 a designated material to another person; or

(b) a person who, in the course of business in Manitoba, uses a 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).

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

"waste material" means

(a) hazardous or prescribed household material

(i) 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

(ii) that, for any other reason, the owner or person in possession of the material intends to dispose of; and

(b) the container in which hazardous or prescribed household material was supplied.

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) This regulation does not apply to a container as defined in the *Used Oil, Oil Filters and Containers Stewardship Regulation*, Manitoba Regulation 86/97.

DESIGNATION OF MATERIAL

Designation of material

2 Devices, equipment, material, products or substances that are in the following categories of hazardous or prescribed household material, and their containers, are designated as designated material for the purpose of the Act:

(a) automotive antifreeze category;

(b) automotive lead-acid batteries category;

(c) consumer paint products category;

(d) fluorescent lighting tubes and compact fluorescent lights category;

(e) pesticides category;

(f) pharmaceuticals category;

(g) waste household hazardous materials category.

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

HAZARDOUS OR PRESCRIBED HOUSEHOLD MATERIAL 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 a hazardous or prescribed household material stewardship program; or

(b) the person operates or subscribes to a hazardous or prescribed household material 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 a hazardous or prescribed household material 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 a hazardous or prescribed household material stewardship program.

Requirements for a hazardous or prescribed household material stewardship program

4(1) A hazardous or prescribed household material 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 hazardous or prescribed household material stewardship program must 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 in accordance with any written guidelines 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 expenditures 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 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

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

regulation and of the Act as it relates to hazardous or prescribed household material; 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 a hazardous or prescribed household material stewardship program may include

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

(b) provision for training and educational activities related to the management of waste material;

(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 hazardous or prescribed household material stewardship program must be the calendar year.

Application for approval

5(1) A person who intends to operate a hazardous or prescribed household material 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 hazardous or prescribed household material 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 hazardous or prescribed household material 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 a hazardous or prescribed household material stewardship program plan or renewal of an approval.

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

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

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 hazardous or prescribed household material 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 hazardous or prescribed household material 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.

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 hazardous or prescribed household material 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 a hazardous or prescribed household material 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 hazardous or prescribed household material stewardship program plan, the minister must serve a notice of the proposal and a

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

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 hazardous or prescribed household material 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 plan under subsection (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 and operation of plan

14 An operator must ensure that the hazardous or prescribed household material 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 hazardous or prescribed household material stewardship program requested by the minister.

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

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 and 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.

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 a hazardous or prescribed household material 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 hazardous or prescribed household material stewardship program and the

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

operation of such a program;

(b) the management of waste material;

(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.

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.

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

SCHEDULE

Category Name	Description of Included Devices, Equipment, Material, Products or Substances	Examples (if applicable)
Automotive Antifreeze		
Automotive Lead-Acid Batteries	Devices that convert chemical energy to electrical energy, but not including zinc-carbon or alkaline-type batteries.	Automotive batteries.
Consumer Paint Products	<p>1. Latex, oil- and solvent-based architectural coatings, whether tinted or untinted, including paints and stains for commercial and homeowner use, but not including unpressurized coatings supplied in containers with a capacity of more than 30 L.</p> <p>2. Paints and stains sold in pressurized aerosol containers.</p>	Any paint, stain or coating sold to the public.
Fluorescent Lighting Tubes and Compact Fluorescent Lights		
Pesticides	Control products, as defined in the <i>Pest Control Products Act</i> (Canada), that are registered under that Act and required to be labelled with the product class designation "Domestic".	Products for the control or elimination of pests, vermin, weeds, mildew, etc.

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

Category Name	Description of Included Devices, Equipment, Material, Products or Substances	Examples (if applicable)
Pharmaceuticals	<p>All solid, liquid or gaseous substances or mixtures of substances manufactured, sold or represented for use in</p> <p>(a) the diagnosis, treatment, mitigation or prevention of a disease, disorder or abnormal state, or its symptoms; or</p> <p>(b) restoring, correcting or modifying organic functions;</p> <p>including, but not limited to, prescription and non-prescription medications, as defined by the Drugs Directorate of Health Canada, but not including contact lens disinfectants, antidandruff products and shampoos, cosmetics, antiperspirants, antiseptic or medicated skin-care products, sunburn protectants, mouthwashes, fluoridated toothpastes, and veterinary medications and products.</p>	

MANITOBA CONSERVATION PUBLIC CONSULTATION DRAFT

Category Name	Description of Included Devices, Equipment, Material, Products or Substances	Examples (if applicable)
Waste Household Hazardous Materials	<p>Devices, equipment, material, products and substances that meet the criteria for waste household hazardous materials set out in the CSA Standard Z752-03, <i>Definition of Household Hazardous Waste</i>, including, but not limited to, devices, equipment, material, products and substances that meet the criteria for</p> <p>(a) flammable materials;</p> <p>(b) corrosive materials;</p> <p>(c) physically hazardous materials, including, but not limited to,</p> <p style="padding-left: 40px;">(i) explosives (but not including ammunition), and</p> <p style="padding-left: 40px;">(ii) medical sharps carrying pathogens;</p> <p>(d) toxic materials; or</p> <p>(e) environmentally hazardous materials, including those materials that meet the criteria of being "toxic", "persistent" or "bioaccumulative" as those terms are described in Clauses 7.6.2.2. to 7.6.2.4. of that Standard.</p>	