



Sent by Fax to: 416-314-6748

July 9, 2007

Hon. Laurel Broten  
Minister of the Environment  
12th Floor, 135 St Clair Ave W  
Toronto Ontario M4V1P5

Dear Minister Broten:

**Re: EBR Registry Number 010-0558**

The Association of Municipal Recycling Coordinators (AMRC) and the Association of Municipalities of Ontario (AMO) are pleased to submit comments on the Municipal Hazardous or Special Waste (MHSW) Plan, EBR #010-0558.

The AMRC and AMO commend Waste Diversion Ontario and Stewardship Ontario for completing the tasks outlined by the Minister's Program Request letter in such a short time frame. The MHSW Plan is welcomed by municipalities as a first step in shifting the burden of cost for managing MHSW materials away from the municipal taxpayer and onto the industries responsible for their manufacture and sale.

The following comments are intended as constructive suggestions offered in the spirit of municipal/industry cooperation.

**1. Phase 1 vs. Subsequent Phases:** It is essential that the Program Request letter for Phase 2 of the MHSW Program include ALL remaining materials, not just those listed in the Minister's December 13, 2006 letter. The remaining phases must be brought in concurrently if the present extensive municipal involvement is to form the backbone of the MHSW Program.

- The issues and costs arising from segregating, managing and tracking the selected (defined) materials scoped from the list in the Minister's Program Request letter add unnecessary operational and administrative burden,
- Any incremental costs incurred during transition due to phasing in materials under the MHSW Plan should be borne by industry.

**2. Extended Producer Responsibility:** The cost split directed by the Minister's Program Request letter has effectively precluded any non-municipal role in MHSW collection. Stewards cannot include collection costs in fees levied. It is strongly urged that this be amended for remaining MHSW materials, and retroactively for existing ones, so that there can be effective take back options for a much broader range of items. This would move the MHSW Program a great deal closer to the EPR principles it should enshrine.



While the functional split for Phase 1 is understood, there is strong municipal support for full EPR for all phases of the Plan. Full EPR should be a component of the next phase (which should encompass Phase 1 as well).

It is noted that the Waste Electronics and Electrical Equipment (WEEE) Program Request letter has required stewards to cover all material management costs, not just 'post collection'.

**3. MHSW Program Accessibility and Collection/Diversion Targets:** Given the role of collection and diversion targets in the assessment of MHSW Program accessibility, it is important that all targets (material by material) be reviewed annually and that this is a transparent process which includes municipal and public input and involvement.

- The MHSW Plan as posted fails to adequately address the issue of MHSW Program accessibility in areas where municipality(s) opt not to deliver collection programs. There should be clear acknowledgement that it is the responsibility of the IFO (program stewards) to ensure MHSW Program access and delivery in areas not serviced by municipalities.
- Accessibility targets must meet "reasonable" standards that are grounded in factual information and supported by the public (i.e., not just arbitrary negotiated numbers).

**4. Ministry of Environment's Role:** With respect to increasing access to MHSW programs, the MHSW Plan indicates that municipalities will be asked to expand or offer new MHSW program collection service. It is emphasized that the participation of municipalities is entirely voluntary.

The MOE's critical role in expediting approvals for municipal MHSW program delivery or expansion cannot be overstated. Many municipalities have expressed the concern that opening up an existing site Certificate of Approval – for example at a landfill – in order to implement or expand a MHSW depot will not be considered if the process could result in requirements for substantive changes to unrelated site operations beyond the scope of MHSW management.

**5. Liaison with MHSW Program Stewards:** Effective liaison and communication between municipalities and stewards for the continued development and continuous improvement of the MHSW Plan over time is essential. Resources should be funded by industry to support municipal activities in this area, as is the case with the Blue Box Program.

**6. Used Motor Oil:** Although not a component of the MHSW Plan, many municipal programs incur costs for receiving and managing waste oil. While revenues currently received for oil may offset collection and handling costs in some cases, this will not be the case for all programs, which will continue to incur costs for receiving, testing and bulking oil. The MOE is urged to consider the inclusion of municipal management of used oil in future phase(s) of the MHSW Plan.

**7. Small Quantity Waste from IC&I Businesses:** The challenges arising from inclusion of small quantity wastes from IC&I businesses as outlined in the MHSW Plan are acknowledged. It is urged that the IFO and MOE allocate sufficient resources to these issues such that they are dealt with in a timely manner. Further, municipalities need to be included in any discussions that could result in impacts to existing MHSW programs.

Some key points in the MHSW Plan that require mention are:

### **Promotion and Education**

- Clarification is needed on whether there is to be a per capita Promotion and Education (P & E) allotment to municipalities to use in local promotional efforts.
- The Municipal Advisory Committee as outlined in the MHSW Plan, needs to be representative of municipal MHSW program types and demographics.

### **Anticipated 5 Year Collection and Diversion Targets for phase 1 Materials**

- Too much depends on the reduction elements of the MHSW program to offset a natural growth in sales of consumable products (paint, solvent, fertilizer and pesticides). This effectively allows the “available for collection” tonnage of these MHSW items to remain unchanged for 5 years. Many residents (particularly those without regular or any access to MHSW collection programs) tend to store these items for long periods, thus the reduction elements could be substantially offset with the addition of new programs and increased access. By leaving “available for collection” unchanged over five years, and using these collection/diversion targets as one of the criteria for evaluating accessibility, the argument could be made that there is no need to expand or grow programs if the “available for collection” targets are met.

### **Definitions**

- Previous submissions have noted that the scoped material definitions for Phase 1 have eliminated a broad array of wastes/items currently managed by municipal MHSW programs. This remains an issue. Municipalities will continue to bear substantial costs for managing materials defined out of the Plan. Some of the definitions remain confusing and contradictory. It is suggested that MOE require clarification from stewards as outlined in the comments on specific definitions in the MHSW Consultation Document.

### **Paints and Coatings**

- Clarity is needed on the type of paints sold in aerosol containers that will be included in the Plan. Is a rust paint or primer considered “an architectural paint and coating for household and industrial use”?

### **Oil filters**

- It is noted that the paragraph: *“Due to the difficulty in tracking the ultimate destination of new vehicles, oil filters installed at the time of manufacture of the motor vehicle are excluded from this program with regard to fees. These filters, however, are accepted by the program after use. This is consistent with the approach taken by used oil stewardship programs in place in other provinces.”* which appeared in the April 13<sup>th</sup> version of the MHSW Plan does not appear in the posted version. Is the statement still true?

### **Single Use dry cell batteries**

- The collection target by year 5 has increased to 25% from 10% in the previous version of the draft Plan, while year one collection costs have declined substantially. Is this based on more robust data?

## Fertilizers

- The fertilizers included in the Plan appear to be only those with a *Fertilizer Act* registration number on the label. Because this is such a limited range of products, it is suggested that material-specific promotion and education emphasize this fact until the remaining fertilizers are included in subsequent phase(s).

## Pesticides

- Previous submissions have noted that the narrow definition of items included in the Plan reflect only a limited proportion of what is received at municipal programs. This remains an issue. As noted above, this should be addressed in subsequent phase(s) of the Plan.

## Cost Internalization Options

- It is noted that the Minister's Program Request letter required that the Plan "consider options with respect to internalizing program costs and determine which option is most appropriate for Ontario as part of the program." The Plan does not appear to address this specifically, but rather refers to a previous study on Waste Electronic and Electrical Equipment (WEEE). In the absence of provincial confirmation that costs be internalized in keeping with EPR principles, there is a concern that program costs could be passed directly to consumers, potentially in the form of visible fees at the point of sale. Such fees could be misconstrued as taxes.

## Municipal Post-collection Cost

- The MHSW Plan suggests that between 75 to 80% of the cost of managing Phase 1 materials is transferred from municipalities to Stewardship Ontario. This percentage cost transfer is supported if stewards are held to it.
- However, analysis of some current municipal HHW program costs has indicated that the actual cost transfer could be considerably lower, depending on such variables as program type (permanent depot vs. event), on site activities (bulking, reuse) and the range of materials actually defined to be included in Phase 1. **The percentage transfer was found to range from a low of 14% to a high of 53%. Thus, stewards should be required to take on additional collection and promotional costs in order to get to the 75-80% cost diversion requirement.**

## Year 1 MHSW Program Plan Budget

- The statement: "Estimates of the Stewardship Ontario program delivery cost assume stand-alone MHSW Program implementation and management of the MHSW program plan activities as a worst case scenario," is very confusing. As opposed to what? What is a best case scenario and would the costs be markedly lower? Clarification is needed.

## General

What assurances are there in the MHSW Plan to protect municipalities from incurring additional costs if the stewards fail to provide effective disposal service (e.g., they end up with a poor subcontractor who does not pick up in a timely manner or does not fill out manifests correctly, etc.)? It is recommended that the MHSW Plan provide municipalities with proper recourse and cost coverage in the event there is a service failure on the part of the IFO's subcontractor.

What if operational changes are required of municipalities under the Plan and it is later decided that these changes are unsatisfactory? Municipalities require assurance that they will not bear these costs. As an example: A depot-based program now bulks all paint and most flammables received. This saves on current transportation and disposal costs, and reduces storage requirements between pick-ups. Under the Plan, it is likely that paint and many flammables will no longer be required to be bulked to maximize 3Rs options. This could result in more frequent pick-ups if the municipality does not have the space to store quantities of lab packed paints and flammables. What if it is decided by the IFO that the more frequent pick-ups are cost prohibitive and a return to bulking is required? Municipalities need assurance that any costs for operational changes as a result of disposal or transportation requirements will be compensated by the IFO.

We trust that you will find these comments helpful in your review of the Plan. If you have any questions or require any further details regarding these comments, please contact Dave Gordon, Chair, AMO, MHSW Task Group, at 905-791-7800 X4816.

Sincerely,



Doug Reycraft  
President  
Association of Municipalities of Ontario



Mike Birett  
Chair, Board of Directors  
Association of Municipal Recycling Coordinators

cc: John Vidan, Director, Waste Management Policy Branch, Ministry of the Environment  
Peter Hargreave, Senior Policy Advisor, Land and Waste, Minister's Office, Ministry of the Environment  
Cindy Buckingham, Senior Policy Advisor, Non-Hazardous Waste Policy Section, Ministry of the Environment  
Mark Kurschner, President, Product Care Association  
Derek Stephenson, Program Manager, Stewardship Ontario  
AMO-AMRC MHSW Municipal Group  
AMO-AMRC Waste Management Task Force