

September 12, 2001

Navdeep Dhaliwal,
Senior Programs and Policy Officer
Waste Management Policy Branch
135 St. Clair Ave W.
7th Floor
Toronto, Ontario
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Re: EBR Registry Posting RA01E0003 (Hazardous Waste Change Initiative)

Dear Mr. Dhaliwal,

The Pembina Institute for Appropriate Development welcomes the opportunity to comment on this important initiative. We apologize for the lateness of our comments, and hope that the Ministry will consider them in decision-making.

The Institute strongly supports both of the initiatives contained in this proposal in principle. The establishment of annual registration requirements for hazardous waste generators will address a significant gap in the hazardous waste regulatory framework first put in place in the mid-1980's. In the absence of such requirements, no reliable information is available to the Ministry or the public regarding the total generation and fate of hazardous wastes in the province.

The concept of a hazardous waste charge has been advanced by the environmental community in Ontario for many years (See, for example, *An Environmental Agenda for Ontario* (April 1999)), as a means of encouraging waste reduction, and supporting certain initiatives by the Ministry.

However, we have specific comments on a number aspects of these proposals as follows.

Annual Generator Registration.

This initiative is strongly supported in principle. Over the past few years, gaps in the available information regarding hazardous waste generation and fates in Ontario, particularly with respect to on-site disposal, have been highlighted by the Canadian Institute for Environmental Law and Policy and others.

However, the proposed regulatory text (s.18(1)) fails to specify the contents of the Annual Generator Registration Reports. The Annual Generator Registration reports should be required to include the following information regarding each waste generating facility:

- Location and District Name
- Industrial sector (via three digit SIC code);
- Total hazardous and liquid industrial waste generation;
- Total Hazardous waste and liquid industrial waste generation broken down by waste class, code and type;
- The fates all wastes generated, broken down into on- and off-site fates, and within those categories to amounts sent to: landfill; incineration; energy recovery; physical, chemical or biological treatment; sewer disposal or transfer to sewage treatment plant, dust control, land application; underground injection; storage; or recycling. In the case of off-site fates, total amounts transferred to each receiving facility should also be reported.

The regulation should require that this information be provided in a standardized format to facilitate analysis and website posting.

Similarly, the proposed regulatory text is unclear on the nature of the information that is to be made available to the public as a result of posting on the Ministry of the Environment website (s.18(3)). In particular, it is unclear if any information beyond the generator name, date of posting, generator registration number and waste class identification numbers are to be posted.

Such limited information would be of marginal value to members of the public. The Ministry's website postings should include all information provided through the generator registration process, including industrial sector, total waste generation, total of each waste type generated, and total amounts of wastes sent to each fate. Specific policies, similar to those employed by Environment Canada for the purposes of the National Pollutant Release Inventory, should be adopted regarding information which may be subject to business confidentiality claims.

The Ministry's website should be designed in a manner which facilitates customized analysis of the posted data, in a manner similar to the NPRI Query page and North American Commission for Environmental Cooperation Pollutant Release and Transfer Registry website. This would facilitate analysis by the Ministry and members of the public.

Cost Recovery

The Pembina Institute supports introduction of a hazardous waste charge system for the province in principle. However, the proposed charges will be too low to have a significant impact on waste generation and disposal, and seem designed solely for the purpose of cost recovery.

Hazardous waste charges should vary by waste class, with larger charges being applied to the more hazardous waste classes. In the interests of fairness, and ensuring that perverse incentives are not provided to pursue inappropriate on-site disposal practices, charges should be applied to on-site disposal of wastes as well as manifested wastes.

The design of the proposed system also raises concerns regarding the long-term dependency of the Ministry on hazardous waste generation and generators for the funding of its hazardous waste programs. For these reasons it has been recommended in the past that the Ministry not rely on cost recovery for core regulatory functions such as abatement and enforcement, standards development, and emergency response. Rather, funds from a hazardous waste charge should go towards capital expenses such as moving the Hazardous Waste Information System onto a fully electronic format and the remediation of contaminated sites, and on-going non-regulatory activities such as technology development and technical assistance for source reduction/pollution prevention initiatives.

Given these considerations, the current charge proposal can only be supported if it will result in the generation of new resources for the Ministry, and thereby address gaps in the Ministry's current capacity. It cannot be supported, as proposed, if the revenues generated through the charge are offset by corresponding reductions in the Ministry's budgetary allocations from the Consolidated Revenue Fund.

I would be please to respond to any questions which you or your staff may have regarding our comments on this proposal.

Yours sincerely,

Mark S. Winfield, Ph.D.
Special Advisor

cc: The Hon. Elizabeth Witmer, Minister of the Environment.
James Bradley, M.P.P. Liberal Environment Critic.
Marilyn Churley, M.P.P. NDP Environment Critic.
Gordon Miller, Environmental Commissioner of Ontario.