
Hazardous Waste Regulation Review Process Response Form

This response form follows discussion issues outlined in the Ministry of Environment Hazardous Waste Regulation Review Process policy intentions paper for consultation (intentions paper). The ministry is intending to finalize revisions to the regulation in 2008.

Comments regarding the proposed intentions of the ministry are being solicited and will be carefully considered in revising the regulation. The ministry welcomes all suggestions with respect to potential changes discussed in the intentions paper, or other aspects of the regulation.

Comments to the ministry should be made on or before June 5, 2008.

The intentions paper, and this response form with questions based on intentions of the ministry for the proposed revisions to the regulation, have been posted on the ministry's regulatory review website, see: http://www.env.gov.bc.ca/epdiv/ema_codes_of_practice/index. Further information about the Hazardous Waste Regulation can also be accessed from the ministry's "Hazardous Waste" homepage, see: <http://www.env.gov.bc.ca/epd/hazwaste/index.htm>.

Those interested are invited to submit comments on the ministry's intentions – using the instructions and questions provided on this response form. Individuals or organizations may also make written submissions to the ministry without following the format set out in the response form – as desired.

A summary report of comments and submissions received, including both printed and web-based responses, will be compiled and summarized without specific attribution by an independent contractor and posted on the ministry website. Comments received will be treated with confidentiality by ministry staff and contractors, however, comments that you provide and information that identifies you as the source of those comments may be publicly available if a Freedom of Information (FOI) request is made under the *Freedom of Information and Protection of Privacy Act*.

Following review of comments and submissions, the ministry will complete legal drafting of the revised regulation for legislative review and implementation.

If you have any questions or comments, check the website address above, or contact Cindy Bertram of C. Rankin & Associates who has been contracted to manage consultation comments, at:

Email: cindybertram@shaw.ca

Mail: PO Box 5293
Victoria, B.C. V8R 6N4

Fax: (250) 598-9948

Completed response forms or submissions may be returned by any of the means listed above (email, fax or mail), or by directly submitting the web-based response form on the ministry website.

Thank you for your time and comments!

Hazardous Waste Regulation Review Process Response Form

Discussion Areas and Questions – Hazardous Waste Regulation

The Ministry of Environment is presently reviewing the Hazardous Waste Regulation of the *Environmental Management Act* – with the goal of amending the regulation. The review process follows the ministry policy of continuous improvement and the ministry’s commitment to review regulations on a regular basis and revise provisions as appropriate. The following discussion areas and questions are based on a policy intentions paper for consultation available from the Ministry of Environment website: www.env.gov.bc.ca/epdiv/ema_codes_of_practice/index.

The ministry is revising the regulation in two stages – the first addressing some housekeeping and other minor revisions (posted in January 2008), and the second incorporating more substantive and complex issues (discussed in this response form and accompanying intentions paper).

The *Environmental Management Act* (EMA), brought into force in July 2004, is the principal environmental statute in British Columbia. The EMA prohibits the confinement, management, storage, disposal and transportation of hazardous waste unless in accordance with the regulations. The Hazardous Waste Regulation (HWR) under the Act addresses the proper handling and disposal of hazardous wastes.

1. Principles guiding the proposed revisions

The ministry has developed the following set of principles to guide consideration of revisions to the regulation (see intentions paper section 3.4):

- ◆ *Accountability;*
- ◆ *Clarity and simplicity;*
- ◆ *Effective oversight and enforcement;*
- ◆ *Reduce and streamline regulatory burden;* and
- ◆ *Harmonization (consistency).*

1.1 Do you have any comments or suggestions regarding these principles and how the ministry uses them to guide proposed revisions to the regulation?

2. Organization of the regulation, definitions and classifications

The ministry intends to revise the regulation to clarify regulatory provisions, enable accurate interpretation and support effective enforcement of the regulation (see intentions paper sections 4.1 A-E).

Hazardous Waste Regulation Review Process Response Form

A. Revising the structure and organization of the regulation

The ministry is considering the following changes to better structure and organize regulatory provisions:

- ◆ Removing detailed technical requirements from the regulation, establishing them in a separate set of “Director’s Requirements” – enforceable under the regulation; and
- ◆ Re-organizing the regulation to group provisions applicable to *generators, carriers and hazardous waste management facility operators* in distinct sections with consistent headings where appropriate.

2.1 Do you have any comments regarding the ministry’s proposal to separate technical requirements from the regulation, establishing instead a set of “Director’s Requirements”?

2.2 Do you have any comments regarding the ministry’s proposed outline for structuring the regulation?

2.3 Do you have any other comments or suggestions regarding the structure and organization of the regulation?

B. Revising the approach to characterizing and defining a “hazardous waste”

The intentions paper describes the ministry’s proposed approach to characterizing hazardous wastes in a manner that is intended to be consistent with classifications and definitions in British Columbia’s neighbouring jurisdictions – and to clarify and simplify the regulation (see intentions paper section 4.1 B).

2.4 Do you have any comments or recommendations regarding the ministry’s intention to establish a clear definition of a “hazardous waste” in the regulation?

Hazardous Waste Regulation Review Process Response Form

2.5 Do you have any comments or suggestions regarding appropriate and practical approaches to characterizing hazardous waste under the regulation?

C. Adopting a “Harmonized Uniform Waste Code”

The ministry is considering adopting a “Harmonized Uniform Waste Code” as a requirement under the revised regulation (see intentions paper section 4.1 C). The ministry recognizes that introduction of this coding convention could increase classification and documentation responsibilities – and is explicitly seeking comment regarding this proposal.

2.6 Do you have any comments or recommendations regarding the utility and effectiveness of adopting the “Harmonized Uniform Waste Code” for the Hazardous Waste Regulation?

D. Clarifying provisions addressing “empty containers” of hazardous wastes

The ministry intends to expand provisions for empty containers and other hazardous waste and to update and clarify provisions relevant to empty pesticide containers (see intentions paper section 4.1 D).

2.7 Do you have any comments regarding definition and management of “empty containers”?

2.8 Do you have any comments or suggestions regarding the ministry’s intentions for updating and clarifying provisions relevant to “empty pesticide containers” in the regulation?

Hazardous Waste Regulation Review Process Response Form

E. Additional terms requiring clarification or definition

In addition to the changes in definitions associated with questions 2.1 to 2.8 above, the ministry intends to refine the definition of manage and introduce the following definitions: director-approved recycling facility; generator; hazardous waste generation facility; hazardous waste management facility; receiver; shipment; and transport (see intentions paper section 4.1 E).

2.9 Do you have any comments or recommendations regarding the list of terms and proposed definitions that should be included in the revised regulation?

3. Registration requirements

The ministry is proposing a number of changes to the regulation to improve the registration system, including:

- ◆ Making a clear distinction between generators of hazardous waste and hazardous waste management facilities by emphasizing distinct identification number for each;
- ◆ Requiring generators of hazardous waste to register on an annual basis – brought into effect only after an online registration system has been developed and implemented by the ministry;
- ◆ Revising the threshold limits for the requirement to register – to align with the limits for use of a manifest under the regulation;
- ◆ Streamlining and revising the information required for registration – with the provision that the Director may specify additional required information when appropriate; and
- ◆ Clarifying in the regulation that to be registered, a generator must receive a letter from the ministry indicating that they are registered and have B.C. Generator number, and that receiver/hazardous waste management facility applicants must receive a written approval from the ministry in order to operate.

The ministry is also proposing a number of supporting administrative changes to accompany changes to the regulation (see intentions paper section 4.2).

3.1 Do you have any comments or suggestions regarding the proposed regulatory changes to registration requirements in the Hazardous Waste Regulation?

Hazardous Waste Regulation Review Process Response Form

- 3.2 Do you have any comments or suggestions regarding administrative changes that the ministry could or should make to support objectives for hazardous waste management and compliance with registration requirements?

4. Strengthened accountability

The ministry is proposing revisions to the regulation and associated administrative actions to ensure that hazardous wastes are properly managed “from cradle to grave.” These revisions are intended to support the accountability of generators, carriers and hazardous waste management facility operators, as well as of Qualified Professionals who may be responsible for activities specified in the regulation (see intentions paper sections 4.3 A-E).

The ministry is considering incorporation of the concept of “joint and several liability,” used in several other provincial regulations into the Hazardous Waste Regulation.

- 4.1 Do you have any comments or suggestions regarding the concept of “joint and several liability” and its effectiveness in supporting strengthened accountability for handling and management of hazardous wastes?

A. Accountability of generators

- 4.2 Do you have any comments or suggestions regarding the ministry’s proposed regulatory revisions and administrative changes intended to promote generator accountability?

Hazardous Waste Regulation Review Process Response Form

B. Clarifying accountability and responsibilities of generators, carriers and receivers when “storing” hazardous waste

The ministry intends to remove existing definitions for “temporary,” “short term” and “long term” storage of hazardous waste, and their associated provisions, from the regulation and, instead, establish clear provisions for: 1) *storage*; and 2) *secure disposal* of hazardous waste. Carriers storing hazardous waste would be required to meet the same regulatory provisions as a hazardous waste management facility (see intentions paper section 4.3 B).

4.3 Do you have any comments or recommendations regarding the ministry’s proposal to clarify the definition and responsibilities associated with storage of hazardous waste?

The ministry is also interested in establishing appropriate regulatory provisions for a generator that may be storing hazardous waste for an extended period of time. The ministry’s objective would be to support timely and safe shipping of waste from generators to receivers – rather than encouraging or enabling speculative, unsafe or inappropriate accumulation of hazardous waste at a generating site.

4.4 Do you have any suggestions regarding appropriate safeguards/requirements for a generator who may be storing hazardous waste for an extended period of time without an acceptable reason?

C. Accountability of carriers/transporters

To clarify carriers’ responsibilities, the ministry intends to amend the regulation to explicitly prohibit the transport of hazardous waste if specified requirements are not met (see intentions paper section 4.3 C. i.).

4.5 Do you have any comments or suggestions regarding appropriate regulatory provisions to ensure accountability of carriers who transport hazardous waste?

Hazardous Waste Regulation Review Process Response Form

The ministry intends to establish provisions for driver training in the Hazardous Waste Regulation – to ensure knowledge and compliance of provincial requirements for drivers. The ministry is also planning to develop a training module to assist transporters in preparing an appropriate training program, and to establish consistent contents for training programs (see intentions paper section 4.3 C. ii.).

- 4.6 Do you have any comments or suggestions regarding institution of an effective and practical training program for drivers who transport hazardous waste?

D. Accountability of receivers (hazardous waste management facility operators)

The ministry is considering amendments to the regulation or the Act and administrative actions intended to support receiver accountability (see intentions paper section 4.3 D).

- 4.7 Do you have any comments or suggestions regarding effective and practical actions for ensuring accountability of receivers under the Hazardous Waste Regulation?

E. Accountability of “Qualified Professionals”

- 4.8 Do you have any comments regarding the ministry’s intention to amend the Hazardous Waste Regulation to make it an offence for anyone, including a Qualified Professional, to make a false statement while fulfilling requirements of the regulation (see intentions paper section 4.3 E)?

Hazardous Waste Regulation Review Process Response Form

5. Requirements for “plans”

The ministry is proposing amendments to the regulation that will: 1) clarify the distinction between hazardous waste management facility plan requirements and generator plan requirements; 2) clearly specify that plan holders are responsible for ensuring that all plans are current and implemented; and 3) provide the director with the authority to require a review and update of plans at an appropriate frequency, and on reasonable notice. The ministry is also proposing to introduce provisions for the submission and approval of a closure report as a means of ensuring that hazardous waste management facilities are closed in an environmentally-responsible manner (see intentions paper section 4.4).

5.1 Do you have any comments or suggestions regarding requirements for plans under the Hazardous Waste Regulation?

6. Financial security

The ministry intends to amend the regulation and to develop guidelines that clarify the purpose and potential use of financial security for receivers of hazardous waste (i.e., hazardous waste management facilities) (see intentions paper section 4.5).

6.1 Do you have any comments or suggestions for the ministry regarding regulatory provisions and guidance documents addressing financial security requirements for hazardous waste management facilities?

The ministry is seeking comment on potential options for determining the amount of financial security that is required for a hazardous waste facility. Options under consideration include an assessment-based approach, a formula-based approach or a combination of the two approaches.

6.2 Do you have any comments or recommendations regarding these (or other) options?

Hazardous Waste Regulation Review Process Response Form

7. Use of a “Qualified Professional”

The intentions paper (see section 4.6) outlines the ministry’s intentions with respect to defining a “Qualified Professional” and clarifying the role and responsibilities of two different types of Qualified Professionals (i.e., “facility” or “independent”) under the regulation.

7.1 Do you have any comments or suggestions regarding appropriate provisions for use of a Qualified Professional with respect to regulatory provisions for hazardous waste management?

8. Currency and consistency with scope and intent of other legislation

A. Resolving overlaps with the Contaminated Sites Regulation

The ministry plans to amend the Hazardous Waste Regulation to clarify that soil and groundwater with the characteristics of hazardous waste at a contaminated site would be classified as “hazardous waste” (and be subject to the provisions of the Hazardous Waste Regulation) only when they are collected and moved off the site to an authorized hazardous waste management facility. On-site management of the material would be subject only to the provisions of the Contaminated Sites Regulation (see intentions paper section 4.7 A).

8.1 Do you have any comments or suggestions regarding the ministry’s intention to remove regulatory responsibility for “on-site” management of hazardous waste (soil and groundwater) on contaminated sites from the Hazardous Waste Regulation?

B. Updating standards in the regulation

The ministry proposes to review and update effluent and air emission standards referenced in the regulation (see intentions paper section 4.7 B).

Hazardous Waste Regulation Review Process Response Form

8.2 Do you have any advice or suggestions for the ministry with respect to updating effluent and air emission standards?

9. Waste oil provisions and recycling of “hazardous materials”

A. Clarifying provisions addressing waste oil

The ministry is proposing to revise the existing definition of waste oil, establishing three separate definitions – *liquid waste oil*, *waste materials contaminated with oil* and *hydrocarbon contaminated soil* – and to establish regulatory provisions that are reflective of handling and management requirements (see intentions paper section 4.8 A).

9.1 Do you have any comments or suggestions regarding proposed definitions and provisions addressing waste oil under the Hazardous Waste Regulation?

B. Encouraging appropriate recycling and recovery of “hazardous materials”

The ministry supports a tiered “5Rs – reduce, reuse, recycle, recover and residue management” approach to managing wastes and is intending to amend the regulation to encourage and increase appropriate recycling and recovery of materials in a manner that maintains human health and protection of the environment. The intentions paper (see section 4.8 B) describes several proposed measures for encouraging appropriate recycling and recovery of hazardous materials, including:

- ◆ Exemption from provisions of the regulation for recycling facilities that recycle “product” type hazardous wastes;
- ◆ “Delisting” exemption for specified recycled products;
- ◆ Establishing a list of “director-approved recycling facilities” that would be exempt from specified administrative requirements under the regulation; and
- ◆ Additional incentives and regulatory safeguards for recycling and recovery (such as exempting generators and carriers from manifest requirements if a waste is being shipped to a director-approved recycling facility).

Hazardous Waste Regulation Review Process Response Form

9.2 Do you have any comments regarding the proposed revisions to the regulation to encourage recycling and recovery, or other suggested incentives for recycling or reuse of hazardous materials for the ministry to consider?

The ministry is concerned that provisions intended to support appropriate and safe recycling of hazardous materials could be misused, leading to unsafe accumulation or handling of hazardous materials. Of particular concern to the ministry is preventing “sham recycling” operations and providing appropriate disincentives for indefinite (i.e., “speculative”) storage.

9.3 Do you have any suggestions regarding appropriate regulatory or administrative provisions that might provide reasonable safeguards from abuse of regulatory provisions intended to support recycling and recovery of hazardous materials?

10. Additional regulatory provisions

The ministry is proposing amendments to the regulation that address a number of specific topics that have been identified by ministry staff (see sections 4.9 A-F of the intentions paper). These are:

- ◆ Allowing acceptance of incorrectly manifested hazardous waste;
- ◆ Using orders to prevent abandonment of hazardous waste;
- ◆ Exempting “field operations” from carrier requirements;
- ◆ Clarifying requirements for lead-acid and other types of batteries;
- ◆ Harmonizing regulatory requirements for storage of PCB waste; and
- ◆ Exempting hazardous waste management facilities that deal solely with neutralization of corrosive hazardous waste from specified regulatory provisions.

Hazardous Waste Regulation Review Process **Response Form**

10.1 Do you have any comments regarding the ministry's intention to include provisions to enable acceptance and reporting of incorrectly manifested hazardous waste in the regulation?

10.2 Do you have any comments regarding appropriate provisions for and use of orders to prevent abandonment of hazardous waste?

10.3 Do you have any comments regarding the ministry's intention to exempt "field operations" from carrier requirements under the regulation?

10.4 Do you have any comments regarding appropriate provisions under the regulation for handling and management of lead-acid and other types of batteries?

10.5 Do you have any comments regarding the ministry's intention to harmonize legislation for storage of PCB waste with federal legislation?

Hazardous Waste Regulation Review Process Response Form

10.6 Do you have any comments regarding the ministry's intention to exempt hazardous waste management facilities that deal solely with neutralization of corrosive hazardous waste?

11. Consultation with First Nations

Information concerning consultation with First Nations with respect to the proposed revisions to the Hazardous Waste Regulation will be developed in accordance with legal requirements, ministry policy and government direction (see intentions paper section 5).

11.1 Do you have any comments or recommendations for the ministry regarding consultation with First Nations in relation to the Hazardous Waste Regulation?

12. Guidelines, Director's Requirements and Best Management Practices

The regulation will be supported by guidelines, "Director's Requirements" and/or Best Management Practices documents. The requirements, practices and procedures could be based on existing guidelines and policies set out by the ministry, developed by the industry associations and/or developed jointly with government (see intentions paper section 6).

12.1 What advice or suggestions do you have for the ministry regarding development and use of guidelines, Director's Requirements and/or Best Management Practices documents?

Hazardous Waste Regulation Review Process Response Form

13. Assuring compliance

The ministry is seeking comments and suggestions regarding means of ensuring compliance with the revised regulation. It will be important for those involved in hazardous waste management, government staff (from the Ministry of Environment, and other agencies at provincial, federal and local levels) and other key interests to understand the intent and content of relevant elements of the regulation, and to ensure that the regulation is effectively enforced (see intentions paper section 7).

- 13.1 Do you have any comments or suggestions for the ministry regarding “compliance promotion”? (Information dissemination, for example, could include targeted workshops or presentations, printed materials and/or web-based information.)

- 13.2 Do you have any comments or suggestions for the ministry regarding “compliance verification”?

- 13.3 Do you have any additional comments or suggestions for the ministry regarding effective enforcement of the regulation?

14. Protection of human health and the environment

- 14.1 Are there any aspects of the regulation and management of hazardous waste management that could significantly **affect human health or the environment** that are not, in your view, sufficiently addressed in the proposed revisions to the regulation?

- Yes
 No

Hazardous Waste Regulation Review Process

Response Form

If "Yes", what are they? What suggestions do you have for the ministry to improve the manner in which these concerns are addressed?

14.2 Do you have any other comments or suggestions for the ministry?

Please remember to return this response form to the ministry on or before June 5, 2008.

If you wish, you may also provide contact information on the following page. This information will be compiled separate from responses and used to inform respondents of posting of the summary of comments and subsequent ministry actions to revise the regulation.

Hazardous Waste Regulation Review Process Response Form

(Optional) Contact Information

If you wish to have your name placed on the ministry listserve to receive further information concerning the Hazardous Waste Regulation, please provide your contact information – **including an email address** – below. Note that all submissions will be treated with confidentiality by ministry staff and contractors, however information that identifies you as the source of those comments may be publicly available if a Freedom of Information request is made under the *Freedom of Information and Protection of Privacy Act*.

Contact Name: _____

Business or Organization
Name (if appropriate): _____

Email: _____

Mailing address: _____

Telephone #: _____

Fax #: _____

Background and Area of Interest

Please mark an "x" in the appropriate boxes if your primary interest in the regulation relates to your:

- Work in industry:**
- Operations or activities that generate hazardous waste
 - Transport of hazardous waste
 - Operation of a hazardous waste receiving facility
 - Recycling and/or recovery of one or more hazardous wastes
 - Other (please describe): _____

- Work for a government regulatory agency:**
- Federal
 - Provincial
 - Municipal

First Nation

Involvement or work for an environmental or community interest group

Other interest
Please describe: _____

Thank you once more for your time and interest in the development of this regulation.

If you have any further questions, please contact Cindy Bertram at: cindybertram@shaw.ca