

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

1. Introduction

The Ministry of Environment is in the process of reviewing and revising the Hazardous Waste Regulation of the *Environmental Management Act*. The review process follows the ministry policy of continuous improvement and commitment to review regulations on a regular basis and revise provisions as appropriate.

The ministry is revising the Hazardous Waste Regulation in two stages – the first addressing some housekeeping and other minor revisions (intentions paper posted in January 2008), and the second incorporating more substantive and complex issues (to be completed in 2008 and discussed in this intentions paper).

The *Environmental Management Act* (EMA), was brought into force in July 2004. It 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.

The regulation review process consists of five phases:

1. **Scoping** – including commissioned assessments of specific technical issues and ministry staff assessment of issues and alternatives.
2. **Policy Intentions Paper for Consultation** (intentions paper) – outlining the ministry's proposed revisions for the regulation and any outstanding issues or questions.
3. **Consultation** – with affected stakeholders and the general public, using the intentions paper and response forms posted on the ministry website, and other means as required.
4. **Drafting** – preparation of legal language for consideration by the Minister and Lieutenant Governor-in-Council.
5. **Implementation** – informing ministry staff and external stakeholders of the approved regulation, and developing guidelines and/or best management practices.

The purpose of this intentions paper is to seek responses and comments from stakeholders and the

public on the proposed revisions to the Hazardous Waste Regulation.

This document provides: a summary of the ministry's mandate and government goals (section 2); background information regarding hazardous waste and its regulation in B.C. (section 3.1-3.4); proposed revisions to the regulation (section 4.1-4.9), information regarding consultation with First Nations, Best Management Practices, guidelines, Director's Requirements and assuring compliance (sections 5-7); and directions for providing comment on the proposed intentions to the ministry (section 8).

The intentions paper and response form for providing comments to the ministry, and links to related legislation, are posted on the ministry's website: www.env.gov.bc.ca/epdiv/ema_codes_of_practice/index.

Further information on the ministry's Hazardous Waste Management Program can be accessed by clicking on the address below, or from the Ministry of Environment homepage, by following the Environmental Protection Division and "Hazardous Waste" links (see: www.env.gov.bc.ca/epd/hazwaste/index.htm).

2. Ministry and Government Goals

The Ministry of Environment provides leadership in environmental management through innovative legislation and programs, compliance activities and shared stewardship initiatives. The ministry's mandate is to protect human health and safety, and maintain and restore the diversity of native species, ecosystems and habitats.

The development and enactment of the *Environmental Management Act* and its associated regulations facilitate implementation of outcome-based regulations that provide clear roles for governments and stakeholders, consistent performance standards, updated fee structures, decreased remedial and legal costs, and a greater focus on those not in compliance with regulatory requirements. The ministry team responsible for reviewing the Hazardous Waste Regulation has developed a set of principles to guide the review based on these objectives. These principles are described in section 3.4 below.

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

3. Background Information

3.1 Hazardous wastes

Hazardous wastes are wastes that could harm human health or the environment if not properly handled or disposed of. Material may be considered hazardous due to its physical, chemical or infectious characteristics (e.g., it may be corrosive, ignitable, infectious, reactive, toxic or waste requiring special management such as waste oil).

Hazardous wastes are generated primarily by industrial and manufacturing processes, however, they can also be generated by commercial and institutional sectors, as well as households. Hazardous wastes include a broad range of materials such as manufacturing residues (e.g., waste acids, contaminated sludges and complex chemicals), biomedical wastes, heavy metals, waste pesticides, PCBs, oils, paints and solvents. These wastes require special handling to minimize the likelihood of adverse effects to human health and the environment.

3.2 Regulation of hazardous waste in B.C.

The *Environmental Management Act* establishes the framework for regulating hazardous wastes in British Columbia. The Hazardous Waste Regulation, under provisions of the Act, sets out detailed requirements, including: identification and registration of hazardous waste; requirements for storage and transportation; licensing of carriers; requirements for treatment, mobile and other types of facilities; and additional requirements for specific types of hazardous wastes. With limited exceptions, any person generating hazardous waste must register the waste and obtain a provincial generator identification number. Any person receiving and/or managing hazardous waste is also required to register, obtain a management facility registration number and meet the requirements of the regulation, including some actions requiring a director's approval.

The British Columbia *Environmental Assessment Act* and Reviewable Projects Regulation are also of relevance, as they specify the types and categories of facilities and projects that may be subject to detailed review.

Federal acts and regulations related to hazardous wastes include the *Transportation of Dangerous Goods Act* and Regulations, and regulations governing the export, import and inter-provincial movement of hazardous wastes.

Additional information concerning the legislative framework for hazardous waste can be found in the Hazardous Waste Legislation Guide¹ and other documents available as pdf files on the ministry's hazardous waste homepage.²

3.3 Past amendments to the regulation

The ministry has completed a series of reviews and revisions to the Hazardous Waste Regulation (originally named the "Special Waste Regulation") since the legislation came into force in 1988. The regulation has been amended to maintain consistency with the *Environmental Management Act* (when it was enacted in 2004) and with changes to the federal *Transportation of Dangerous Goods Act* and Regulations, to correct errors and omissions, and to clarify policy and legislative intent. The most recent amendments to the regulation were approved by Cabinet in September 2006.³

The ministry has also recently initiated an update of the regulation, addressing "housekeeping" and other minor revisions. The intentions paper describing these changes was posted on the ministry's hazardous waste website in January 2008.⁴ These revisions include removal of forms from the regulation, inclusion of a business licence number as a requirement of registration, consolidated requirements for plans and several clarifications or amendments to definitions, reporting requirements or manifest responsibilities.

¹ See:

www.env.gov.bc.ca/epd/hazwaste/regs/pdf/haz_waste_leg_guide.pdf

² See: www.env.gov.bc.ca/epd/hazwaste/index

³ See:

www.env.gov.bc.ca/epd/hazwaste/regs/pdf/amend_haz_waste_fall06.pdf

⁴ See:

www.env.gov.bc.ca/epdiv/ema_codes_of_practice/haz_waste/index.html or
www.env.gov.bc.ca/epdiv/ema_codes_of_practice/haz_waste/haz_waste_intentions.pdf

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

3.4 Information and principles guiding the current review and revision process

The ministry has recently commissioned targeted technical reviews of the hazardous waste regime in British Columbia and other jurisdictions, building on reviews and discussion documents undertaken over the past ten years. These reviews have confirmed the need for the ministry to undertake revisions to the regulation. The ministry's proposed revisions are intended to address concerns regarding the regulation's complexity, and the ministry's ability to effectively ensure compliance with and enforce the regulation.

On the basis of this information, the ministry has developed the following set of principles to guide consideration of revisions to the regulation:

- ◆ *Accountability* – regulated parties should be accountable for their actions and responsible for complying with regulatory requirements – shared stewardship with industry should be promoted to share the responsibility and the cost of ensuring safe management of hazardous waste in B.C.;
- ◆ *Clarity and simplicity* – ministry expectations should be clear and the regulation understandable – to improve compliance and reduce potential legal challenges related to interpretation;
- ◆ *Effective oversight and enforcement* – due to the possible impacts that hazardous waste may have on human health and the environment, the public expects a high level of oversight on the part of the ministry and industry associations – effort should be taken to minimize risk by taking a strong and proactive approach to enforcement;
- ◆ *Reduce and streamline regulatory burden* – reduce complex administrative requirements, when appropriate, by specifying performance standards, using prescriptive requirements when necessary to protect human health and the environment, and providing additional detail in Director's Requirements; and
- ◆ *Harmonization (consistency)* – the regulation should be consistent with the intent of other B.C. legislation and, when possible, with similar legislation in other jurisdictions – to support

inter-governmental cooperation and promote compliance.

4. Proposed Revisions to the Hazardous Waste Regulation

The following sections (4.1 to 4.9) discuss the ministry's considerations and intentions for revising the regulation, structured under the following headings:

- 4.1 Organization of the regulation, definitions and classifications, including:
 - ◆ Revising the structure and organization of the regulation,
 - ◆ Characterizing and defining a hazardous waste,
 - ◆ Adopting a Harmonized Uniform Waste Code,
 - ◆ Clarifying provisions addressing “empty containers” of hazardous wastes, and
 - ◆ Additional terms and definitions;
- 4.2 Registration requirements;
- 4.3 Strengthened accountability of:
 - ◆ Generators,
 - ◆ Generators, carriers and receivers when “storing” hazardous waste,
 - ◆ Carriers (including driver training),
 - ◆ Receivers (hazardous waste management facility operators), and
 - ◆ Qualified professionals;
- 4.4 Requirements for “plans;”
- 4.5 Financial security;
- 4.6 Use of a “Qualified Professional:”
 - ◆ Defining a Qualified Professional, and
 - ◆ Clarifying the role of a Qualified Professional;
- 4.7 Currency and consistency with scope and intent of other legislation, including:
 - ◆ Resolving overlaps with the Contaminated Sites Regulation, and
 - ◆ Updating standards in the regulation;

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

4.8 Waste oil provisions and recycling of “hazardous materials:”

- ◆ Clarifying provisions addressing the definitions and management of waste oil and related wastes, and
- ◆ Encouraging appropriate recycling and recovery of “hazardous materials;” and

4.9 Additional regulatory provisions, addressing:

- ◆ The acceptance of incorrectly manifested hazardous wastes at authorized facilities,
- ◆ Use of orders to prevent abandonment of hazardous waste,
- ◆ Exempting “field operations” from carrier requirements,
- ◆ Clarifying requirements for lead-acid and other types of batteries,
- ◆ Harmonizing storage requirements for PCB waste with federal requirements, and
- ◆ Exempting hazardous waste management facilities that deal solely with neutralization of corrosive hazardous waste.

4.1 Organization of the regulation, definitions and classifications

This set of proposed changes is intended to clarify regulatory provisions, enable accurate interpretation and support effective enforcement of the regulation.

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 (Parts 2, 3 and 4 of the regulation) and consolidating them in a separate set of “Director’s Requirements” – linked to the regulation to ensure that the requirements remain enforceable; 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.

These proposed actions would: 1) allow more frequent updating of technical elements of the regulation; 2) improve understanding of the intent and content of the regulation; and 3) support effective

compliance monitoring and enforcement (by setting out clear expectations).

The ministry is also considering structuring the regulation along the lines of the following “divisions” (headings):

- (1) Interpretation ;
- (2) Application;
- (3) General Provisions;
- (4) Generator Responsibilities;
- (5) Carrier/Transporter Responsibilities;
- (6) Receiver/Waste Management Facility Responsibilities;
- (7) Prohibited Management Practices;
- (8) Specific Exemptions; and
- (9) Offences and Penalties.

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

The current system of characterizing and defining hazardous waste has a number of problems:

- ◆ Definitions are complex and ambiguous – leading to confusion for those governed under the regulation, and to difficulties in enforcing it;
- ◆ Definitions and standards used to determine if a waste is hazardous are not consistent with those used in other jurisdictions (several of which are our principal trading partners in the trans-boundary movement of goods, including hazardous waste) – increasing costs and paperwork for companies involved with cross-jurisdictional transport of hazardous waste, and the potential for errors (and inadvertent hazards) in monitoring, enforcement and emergency response activities related to differences in how wastes are defined and labeled;
- ◆ For some waste types (e.g., mercury containing lamps), the tests required for classification are time consuming, costly or difficult to carry out; and
- ◆ Linkage to the federal Transportation of Dangerous Goods Regulations for classification of hazardous wastes is problematic as changes to these regulations could impact the provincial

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

Hazardous Waste Regulation, while remaining outside of the legal purview of the ministry.

The ministry's intent is to clarify and simplify the characterization of hazardous waste, reduce unnecessary testing and analytical requirements and provide a self-contained definition within the regulation. The ministry proposes adopting an approach to characterizing hazardous wastes that is consistent with the classification and definition of hazardous waste in neighbouring jurisdictions (Alberta and Washington), as well as other jurisdictions. The proposed approach would define "hazardous wastes" in a manner that is more consistent with: Alberta's Waste Control Regulation (under the *Environmental Protection and Enhancement Act*); Ontario's *Environmental Protection Act*, Regulation 347; and federal Export and Import of Hazardous Wastes and Hazardous Recyclable Material Regulations (under the *Canadian Environmental Protection Act*); as well as the US Environmental Protection Agency's *Resource Conservation and Recovery Act*.

Using the ministry's proposed approach, a "hazardous waste" would include a waste that:

- ◆ Is listed as a "hazardous industrial waste" in an associated schedule of the regulation (similar to Schedule 7 of the current regulation) and includes waste types from generic and specific industrial operations and sectors – for example, spent solvents (generic) and emission control dust/sludge from secondary lead smelting (specific) – these wastes are considered hazardous unless proven otherwise by testing that would indicate the specific hazard for which the waste was originally listed is not present;
- ◆ Is listed as an "acute hazardous waste chemical" or "hazardous waste chemical" in an associated schedule of the regulation – including such chemicals as cyanide compounds and several pesticides, benzene and mercury; or
- ◆ Exceeds the criteria assigned to core defined "hazard characteristics," including:
 - a. Ignitability or flammability (such as alcohols and other common industrial solvents),
 - b. Reactivity (such as organic peroxides),

- c. Corrosivity (such as sulphuric and hydrochloric acids and caustic soda), or
- d. Acute Toxicity (such as phenols, disinfectants and pesticides).

Defining hazardous wastes under these categories captures wastes currently defined as "dangerous goods" by the Transportation of Dangerous Goods Regulations, as well as those listed in Schedule 7 in the current Hazardous Waste Regulation.

In addition, the definition of a "hazardous waste" would include a waste that is:

- ◆ A "leachable toxic waste" as defined in the regulation;
- ◆ A "designated hazardous waste" as defined in the regulation (such as PCB wastes, biomedical waste, waste oil and waste asbestos), with the addition of other listed or defined materials (such as waste batteries and some types of waste paint);
- ◆ A mixture of a "hazardous waste," as defined in the regulation, and any other waste or material;
- ◆ Derived from the treatment, incineration or thermal treatment of any of the wastes described above, unless the derived waste is produced in accordance with an authorization under the Regulation and is not any of the hazardous wastes listed above; and/or
- ◆ Specified common waste streams that contain a hazardous or potentially hazardous contaminant or may be considered hazardous – such as antifreeze and mercury light bulbs and tubes.

The ministry hopes to achieve a more straightforward and self-contained definition, making it easier for the various parties to classify and manage their hazardous wastes.

In keeping with the current regulation, a list of waste streams that would be exempted from the definition of a hazardous waste (e.g., household refuse collected from residential premises, domestic sewage, dangerous goods returned directly to a manufacturer or supplier) would be identified in the regulation.

Hazardous Waste Regulation Review Process Policy Intentions Paper for Consultation

The ministry proposes to include antifreeze and mercury light bulbs and tubes in the definition of hazardous waste. This would place the onus for exclusion of these specific waste sources from classification as “hazardous waste” on the proponent. A proponent would be required to demonstrate that a particular waste source or material is not a “hazardous waste” using established testing procedures (such as the Toxicity Characteristic Leaching Procedure for leachable toxic wastes), or other procedures approved by the director, if an exclusion is desired.

It should be noted that recent amendments to the federal Transportation of Dangerous Goods Regulations removed a list of compounds which, if present in a waste mixture at a concentration greater than or equal to 100 ppm, were considered dangerous goods under “Environmentally Hazardous Substances” (Class 9) of the regulations. As a result of the change, this group of wastes is no longer defined as hazardous waste under the current provincial Hazardous Waste Regulation. The ministry does not intend to include this category of wastes in the revised regulation (in concurrence with the federal legislation).

To assist stakeholders with understanding waste determination and naming (as well as coding), the ministry would also develop and disseminate supporting guidance documents.

C. Adopting a “Harmonized Uniform Waste Code”

The ministry is considering adopting a “Harmonized Uniform Waste Code” (developed for use specifically in classifying hazardous waste) as a requirement under the revised regulation. Variations of this three-digit coding convention have been implemented by Alberta, Quebec and Ontario.⁵ The code is easier to determine and more appropriate for hazardous waste management purposes than the “UN number” required under the federal Transportation of Dangerous Goods Regulation.

⁵ See, for example, Ontario’s waste class code listing: www.ene.gov.on.ca/envision/env_reg/er/documents/2000/ra00e0002d_a2.pdf

Note that the UN number would still need to be determined and provided on a manifest if a hazardous waste that is a “dangerous good” is being transported – under requirements of the federal Transportation of Dangerous Goods Regulations.

The ministry recognizes that introduction of this coding convention could increase classification and documentation responsibilities – and is explicitly seeking comment regarding the utility and effectiveness of this proposal.

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

i) Expanding provisions addressing “empty containers” of hazardous wastes

The regulation currently does not include a definition of “empty containers” for hazardous wastes other than pesticides. The ministry intends to expand provisions for empty containers and other hazardous waste by:

- ◆ Introducing a general definition of “empty containers”⁶ – containers that have previously held hazardous materials – that would put explicit limits on the amount of material left in the container combined with implied limits linked to the practices commonly employed to remove the material from the container (e.g., pouring, pumping and aspirating);
- ◆ Providing criteria in the definitions section of the regulation that clarify when “empty containers” are included (or are exempt) from the definition of hazardous waste; and
- ◆ Clarifying that undiluted and uncontaminated hazardous material recovered from empty product containers is not a hazardous waste if the material is used for its original intended purpose.

ii) Revising provisions addressing “empty pesticide containers”

The ministry is proposing the following amendments to the regulation, intended to update and

⁶ For example, Alberta’s Waste Control Regulation defines an “empty container” as a container that contains less than 2.5 centimeters of the original contents or less than 3% of the original contents, whichever is the lesser amount. See: www.qp.gov.ab.ca/Documents/REGS/1996_192.CFM

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

clarify provisions relevant to empty pesticide containers (section 42 of the current regulation):

- ◆ The definition of an “appropriate solvent” would be replaced with “appropriate diluent” (water or another liquid used to dilute the pesticide concentrate for application or for cleaning a pesticide container);
- ◆ The option to bury waste product containers that have been emptied and rinsed on land owned or leased by the person who owns the containers would be removed from the regulation – instead, the return of containers to pesticide dealers (where accepted) would be required and, where the option of recycling is not available, empty pesticide containers would be required to be disposed of in an authorized landfill; and
- ◆ Rinsing of paper containers would be required only if the pesticide involved requires dilution before application (revising the requirements set out in the table in section 42(5) of the current regulation).

E. Additional terms and definitions

As well as the terms discussed previously in this section (4.1 A-D), the ministry is proposing to refine the definition of “manage” – and to introduce definitions for the following new terms:

- ◆ Director-approved recycling facility;
- ◆ Generator;
- ◆ Hazardous waste generation facility;
- ◆ Hazardous waste management facility;
- ◆ Receiver;
- ◆ Shipment; and
- ◆ Transport.

These changes are intended to provide simplicity and clarity for regulated parties in understanding their responsibilities under the regulation.

A “*director-approved recycling facility*” would be defined as a facility that carries out one or more recycling operations⁷ and meets all the necessary

⁷ For example, recycling operations set in the CEPA “R” list (see footnote 8 below).

expectations and conditions for such facilities (see also section 4.8 B of this intentions paper below).

A “*generator*” would be defined as a person responsible for the management and operation of a hazardous waste generation facility.

A “*hazardous waste generation facility*” would be those facilities, equipment and operations that are involved in the production, collection, handling or passive storage of hazardous waste generated, on site. Generating facilities that carry out activities beyond those listed above would be considered “*hazardous waste management facilities*” and would be required to meet additional requirements associated with such facilities under the regulation.

A “*hazardous waste management facility*” would be any facility or works (including a transfer station) that handles or stores waste, and: (a) treats, recycles or reuses hazardous waste; or (b) treats, destroys or disposes of hazardous waste.⁸ A hazardous waste management facility could include storage facilities, treatment facilities, incinerators, thermal treatment facilities, mobile facilities, secure landfills, piles, surface impoundments, land treatment facilities, in-situ management facilities and/or director-approved recycling facilities – but would not include transportation of waste by carriers or passive storage of waste by generators.

The term “*manage*”⁹ would be revised to include the recovery, recycling or reuse of hazardous waste.

The term “*receiver*” will be defined as a consignee who: (a) accepts hazardous wastes or hazardous recyclable material generated by another party; and/or (b) manages hazardous waste or hazardous recyclable materials produced by others.

⁸ The regulation could make use of “recycling (R) list” operations and “disposal (D) list” operations set out in the Export/Import Regulations of the *Canadian Environmental Protection Act* (CEPA) to delineate the extent of operations under each of these categories. See: www.ec.gc.ca/ceparegistry/documents/regs/g2-13911_r1.pdf

⁹ The term would not (by definition) encompass passive storage of waste by generators.

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

The term “*shipment*” would be defined for the purpose of manifesting as the transport of hazardous waste from one or more consignor’s sites to the intended consignee site where the hazardous waste is off-loaded or stored. The definition could include specifics regarding “one (or a) shipment” – e.g., one truck with the same driver carrying the same waste between the same consignor and consignee in one calendar day, provided that documentation of each load is maintained.

“*Transport*” would mean to carry, convey or move waste from one place to another by road, rail or water.

4.2 Registration requirements

Historically, there have been data inconsistencies and compliance and enforcement challenges with registration requirements – and gaps and inaccuracies in hazardous waste information submitted by registered parties. The ministry is proposing administrative actions, as well as changes to the regulation to address these challenges and to improve the registration system.

The ministry is proposing the following changes to the regulation:

- ◆ Making a clear distinction between generators of hazardous waste and hazardous waste management facilities by emphasizing distinct identification number and the activities associated with each – i.e., a “B.C. Generator number” (BCG#) for generators and a “Registered Site number” (RS#) for hazardous waste management facilities;
- ◆ Requiring generators of hazardous waste to register on an annual basis (i.e., generators generating or storing waste would have to update and submit their registration information to the ministry by a specified date each year) – note that this requirement would come into effect only after an online registration system has been developed and implemented by the ministry;
- ◆ Lowering the threshold limits for the requirement to register to align with the limits for use of a manifest under the regulation (improving clarity and consistency with other jurisdictions);

- ◆ Streamlining and revising the information required for registration – information requested of an applicant would be consistent with other regulations and codes of practice – with the provision that the director may specify additional required information when appropriate; and
- ◆ Clarifying that to be “registered” under terms of the regulation, a generator must have received confirmation from the ministry indicating that they are registered and have a B.C. Generator number – and that to legally operate, receiver/hazardous waste management facility applicants must have received written approval from the ministry.

The ministry is proposing the following supporting administrative changes to reduce the regulatory burden for some regulated parties:

- ◆ Hazardous waste management facilities whose primary business is waste management and who also generate waste as part of the waste management process would not be required to register separately as a generator and to obtain a B.C. Generator number, as they would no longer be defined as a “generator” – instead they would provide all required information as part of waste management facility registration; and
- ◆ One generator registration number for a single company or individual that is operating multiple generation sites would be allowed, provided that required information for each site operated by the generator is updated as part of the generator’s annual registration – hazardous waste management facilities would still need to register and comply with plan requirements for each facility/site.

4.3 Strengthened accountability

One of the guiding principles of the ministry in reviewing the regulation is “accountability.” Regulated parties should be accountable for their actions and share responsibility for complying with regulatory requirements. “Shared stewardship” entails recognition that waste generators, transporters and receivers share the responsibility and cost of ensuring safe management of hazardous waste in B.C.

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

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.

The ministry is also considering incorporating the concept of “joint and several liability,” as used in several other provincial regulations,¹⁰ into the legislative and regulatory framework for managing hazardous waste as one option for addressing the accountability and liability of responsible parties. We invite comments and suggestions on this concept.

A. Accountability of generators

The ministry is proposing the following revisions to the regulation and administrative changes to promote generator accountability:

- ◆ Clarifying in the regulation that only “authorized receivers/hazardous waste management facilities” and “authorized carriers” (through registration, permit or licence) may perform their respective activities under terms of the regulation – thus requiring generators to deal only with receivers and licensed carriers authorized under the regulation;
- ◆ Amending the regulation (sections 5 and 48) to explicitly require both generators and receivers to properly identify and classify their wastes, irrespective of the amount of waste involved;
- ◆ Requiring out of province generators who ship waste to B.C. to register both their operation and the wastes being shipped into the province;
- ◆ Requiring generators to obtain and retain copies of transporter and receiver documentation and licences (i.e., a copy of the relevant ministry approval letter and licence to transport hazardous waste) from the authorized receivers and authorized carriers that the generator does business with prior to shipping their waste off

site – to ensure that generators undertake due diligence when contracting these services;

- ◆ Developing and disseminating guidance documents for generators – addressing responsibilities to check, obtain and retain copies of licences of carriers and permits and/or operational plans of receivers in support of proper handling and management of hazardous waste; and
- ◆ Encouraging and supporting generators to conduct reviews and audits of their operating procedures and facilities – as a component of shared stewardship and accountability.

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

The current regulation includes definitions for “temporary,” “short term” and “long term” storage of hazardous waste. These definitions are not appropriate, subject to misinterpretation or abuse and do not reflect the regulatory intent of the ministry. The ministry intends to remove these definitions, and their associated provisions, from the regulation and, instead, establish clear provisions for: 1) *storage*; and 2) *secure disposal* of hazardous waste.

“Storage” of hazardous waste would be subject to all provisions set out in the current regulation for “short term storage.” There would be no reference to either “short term” or “temporary storage” in the revised regulation.

Provisions for “*secure disposal*” of hazardous waste (replacing the concept of “long term storage”) would be included in the revised regulation, drawn from pertinent provisions of the existing regulation – secure landfills” (section 6) and “long term storage” (section 8). All references to “long term storage” would be removed from the regulation.

Note that carriers storing hazardous waste would be required to meet the same regulatory provisions as a hazardous waste management facility (irrespective of the length of storage time involved).

As well, facilities storing waste would be required to keep records of waste information, such as waste

¹⁰ See, for example, the Contaminated Sites Regulation www.qp.gov.bc.ca/statreg/reg/E/EnvMgmt/EnvMgmt375_96/375_96_00.htm

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

name, quantity of waste, reason for storage, anticipated time and manner of disposal and to mark containers with the starting date of storage.

The ministry is also interested in receiving comments and suggestions regarding appropriate safeguards/requirements for a generator that may be storing hazardous waste for an extended period of time. Generators in such situations could be required to submit further information on the waste, to notify the director of how and when the waste will be disposed of, and/or to produce and implement a waste minimization program if the waste stored exceeds a certain percentage of storage space available at the site. The ministry's objective for this provision of the regulation 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 waste at a generating site.

C. Accountability of carriers/transporters

i) Responsibilities of carriers

To carry hazardous waste under the current regulation, a carrier is required to obtain a licence to transport with the ministry and to meet requirements addressing licensing, manifest, storage, transportation and loads from multiple consignors or carriers or involving different wastes (set out in sections 45, 46-47(2) and 50 of the current regulation). To clarify carriers' responsibilities and support enforcement, the ministry proposes to amend the regulation to specifically prohibit the transport of hazardous waste if:

- ◆ Requirements for transport of hazardous waste set out in the regulation are not met; or
- ◆ The carrier has not confirmed that the facility receiving the material is authorized to accept the waste material (i.e., receiving facility has a registered site number and an approved operational plan in accordance with provisions of the regulation).

ii) Responsibility of carriers for driver training

Training of drivers who handle and/or transport hazardous waste is an important aspect of protecting human health and the environment. The current

regulation does not contain specific provisions for driver training.

The ministry intends to amend the regulation by:

- ◆ Introducing training requirements for drivers carrying hazardous waste in British Columbia – to ensure knowledge of provincial requirements under the Hazardous Waste Regulation and *Environmental Management Act* (supplementing information and training requirements that exist under the federal *Transportation of Dangerous Goods Act* and Regulations);
- ◆ Requiring transportation companies applying for a new licence, or renewing or revising an existing licence, for transportation of hazardous waste to certify that: 1) they have an appropriate training program in place; and 2) that their drivers, dispatch personnel or any staff directly involved in the aspects of transporting hazardous waste have received the required training (similar to training responsibilities under federal regulations); and
- ◆ Specifying that drivers cannot transport hazardous waste without appropriate training, and that they must carry their training certificate when transporting hazardous waste.

The ministry is also planning to develop a training module to assist transporters in preparing an appropriate training program, and to establish consistent content for training programs. The module would review relevant B.C. waste management legislation and indicate the necessary waste management knowledge required for transport of different categories and types of hazardous waste.

D. Accountability of receivers/hazardous waste management facility operators

The *Environmental Management Act* and the Hazardous Waste Regulation at present provide little practical guidance concerning “waste ownership” and the responsibility for hazardous waste as it is transferred between generators and receivers. The ministry is considering a proposal to amend Section 132 of the Act to clarify the term “accepted” – so that “ownership” would not be considered as transferred from the generator to the receiver until (or unless) the “waste has been treated, rendered safe,

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

or disposed of properly.” Generators would thus retain accountability and liability for safe treatment and disposal of hazardous waste that they generate if the wastes are not managed in an appropriate manner at a receiving facility.

Alternatively, the concept of “joint and several liability” could be introduced in the Act. Joint and several liability is a liability framework in which responsible persons are liable on an individual and several basis for the entire cost associated with proper management of hazardous wastes, if other responsible persons cannot or will not pay their share. Introducing this concept would be a means of ensuring generator, transporter and receiver responsibility for proper management, and liability for mismanagement, of hazardous waste.

The ministry also proposes the following administrative actions to support receiver accountability:

- ◆ The “non-compliance list” prepared by the ministry’s Compliance Division (or a link to the list) will be posted on the ministry’s hazardous waste website (supporting the dissemination of information on the track record of business operators) – the ministry is also considering posting additional information related to regulatory compliance (e.g., response letters to audit reports, compliance issues) on its hazardous waste website;
- ◆ Requiring that any instance of non-compliance be reported within 30 days of occurrence – and setting out this requirement in Director’s Requirements under the regulation;
- ◆ Posting hazardous waste management facility operational plan approval letters and/or registration information on the ministry’s hazardous waste website; and
- ◆ Providing guidance documents on the ministry’s hazardous waste website – in clear and easily downloaded format, (e.g., check lists, sample audit reports) and targeted to the needs of specific audiences (e.g., generators, receivers).

E. Accountability of “Qualified Professionals”

Qualified professionals undertaking specified tasks described in the regulation assume significant responsibilities (see section 4.6 below).

The ministry is proposing to amend the regulation to support accountability of Qualified Professionals, and other individuals with responsibilities set out in the regulation, by specifying that it would be an offence for anyone, including a Qualified Professional, to make false statement and/or provide false or misleading information while fulfilling any of the requirements of the regulation.

4.4 Requirements for “plans”

The current regulation contains various provisions for preparation of plans (e.g., facility design and specifications, operational plan, contingency plan, etc.), as well as exemptions from those requirements for particular parties. The nature and organization of these provisions can be confusing to proponents.

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 intends to update the regulation so that all plan requirements and associated exemptions are grouped and consistently named in appropriate sections of the regulation. The ministry also intends to prepare and disseminate targeted Director’s Requirements documents describing requirements for plans under the regulation specific to: 1) generators; 2) carriers and 3) hazardous waste management facility operators.

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. This would provide a basis for the ministry to objectively assess requests

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

for the return of facility financial security (see section 4.5 below).

4.5 Financial security

The Hazardous Waste Regulation is intended to encourage good stewardship practices. Financial security provisions are included in the regulation to ensure that adequate resources are available to the ministry, if required, to address or redress threats and/or liabilities to human health and/or the environment. These potential threats may result from the actions or inactions of generators, transporters or receivers of hazardous waste.

The ministry intends to amend the regulation and current guidelines in order to clarify the purpose and potential use of financial security. Proposed regulatory actions include:

- ◆ Specifying that any security held under the regulation may be used for addressing human health or environmental protection issues that arise during facility operations or closure;
- ◆ Specifying that financial security is a mandatory requirement for receivers/hazardous waste management facilities (security for storage by generators would only be required at the director's discretion);
- ◆ Introducing provisions for periodic review and adjustment of security – to account for inflation and other changes to waste management costs; and
- ◆ Introducing conditions for the return of financial security (e.g., following site closure acceptable to the ministry, which may include remediation in accordance with the requirements of the Contaminated Sites Regulation).

The ministry plans to prepare a guide describing methods of determination and potential uses of financial security (e.g., to address problems that arise during a facility's construction, decontamination of structures, conducting waste inventories, and disposal and site cleanup costs). This guide would provide proponents with consistent and clear information regarding ministry policies and procedures for determining and triggering financial security obligations.

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 – relying on a site assessment and associated recommendations prepared by a Qualified Professional as part of the facility's closure plan; and/or
- ◆ A formula-based approach – taking the waste type, maximum storage quantity and estimated management costs into account.

Note that a combination of the two approaches could also be used.

4.6 Use of a "Qualified Professional"

A. Defining Qualified Professional

The ministry proposes amending the regulation to define a "Qualified Professional" as:

"an applied scientist or technologist specializing in a particular applied science or technology including, but not necessarily limited to, agrology, biology, chemistry, engineering, geology, or hydrogeology and (a) who is registered in British Columbia with their appropriate professional organization, acting under that association's code of ethics and subject to disciplinary action by that association, and (b) who, through suitable education, experience, accreditation and knowledge, may be reasonably relied on to provide advice within their area of expertise, which area of expertise is applicable to the duty or function under this regulation."

This is consistent with definitions of a Qualified Professional in related regulations and codes of practice.

In addition, the ministry is proposing to define two subsets of Qualified Professionals:

- ◆ *Facility Qualified Professional* – a Qualified Professional as defined in the regulation, and employed and under the direct management of the subject hazardous waste facility; and

Hazardous Waste Regulation Review Process Policy Intentions Paper for Consultation

- ◆ *Independent Qualified Professional* – a Qualified Professional as defined in the regulation and who is not employed by the subject hazardous waste facility.

The proposed role of each of these types of Qualified Professionals is discussed below.

B. Clarifying the role of a Qualified Professional

The ministry intends to prepare Director’s Requirements under the regulation, setting out requirements for use of a Qualified Professional, as well as the role of the ministry in review and/or approval of specified documents.

The ministry also intends to amend the regulation to include a “duty of care” requirement for Qualified Professionals. The regulation would stipulate that all work undertaken by a Qualified Professional acting under the requirements of the regulation must be accompanied by a certified signed and sealed statement from the Qualified Professional, indicating that all required documents were prepared and/or reviewed by the named individual to the best of his/her ability, that they meet all requirements of the regulation, and that the recommendations and/or plans are adequate for the design, construction and operation of the associated facility.

Table 1 below provides additional detail on the proposed roles of the types of Qualified Professional and the ministry in relation to plan preparation, reporting and approval.

Table 1: Plan Preparation, Reporting and Approving Roles of Qualified Professionals and Ministry of Environment

Hazardous Waste Management Facilities: Required Documents	Documents prepared by:		Approved by:
	Facility QP	Independent QP	
Design and specifications	x	x	
Facility design and management plan	x	x	
Operational plan	x	x	MoE
Design of environmental monitoring program	x	x	MoE
Assessment of environmental monitoring program.	x	x	
Contingency plan	x	x	
Closure plan		x	
Demonstration trials	x	x	
Facility audits		x	
Annual report Note: Anyone can prepare but QP is required if there is assessment of results	x	x	
Spill assessment report		x	
Closure Plan report		x	MoE
Determination of financial security		x	MoE

4.7 Currency and consistency with scope and intent of other legislation

A. Resolving overlaps with the Contaminated Sites Regulation

Currently both the Hazardous Waste Regulation and the Contaminated Sites Regulation can be viewed as applying to the designation of a site as contaminated and to the remediation of a contaminated site. While this overlap may provide “additional” regulatory oversight, it is also a source of uncertainty and differing interpretations – for both property owners and ministry staff.

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

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.

The ministry also intends to delete the section of the Hazardous Waste Regulation pertaining to “hydrocarbon contaminated soil” management (section 41(1) and amending the Contaminated Sites Regulation to include these provisions (as they more appropriately belong in the latter regulation).

B. Updating standards in the regulation

Many of the standards set out in the current regulation are based on the best available technology of the 1970s and 1980s. The ministry proposes to review and update, where necessary, effluent and air emission standards to ensure adequate environmental protection by:

- ◆ Expanding the list of contaminants to include contaminants not currently listed;
- ◆ Revising the standards for discharges to ensure they are sufficient for the protection of the environment;
- ◆ Reviewing and updating standards to ensure that they are consistent with the ministry’s intent to encourage the use of cleanest available practices and technologies, toxicologically based and (to the degree possible) harmonized with related regulations in B.C. and other jurisdictions; and
- ◆ Clarifying ministry’s intention that contaminants not listed still would require the approval of the director, if any environmental impact is anticipated.

This work can involve technical and other considerations and may not result in immediate changes to the regulation (in the context of the proposed regulatory amendments that are the subject of this intentions paper). The ministry will consult with

stakeholders as substantive updates to standards are proposed.

4.8 Waste oil provisions and recycling of “hazardous materials”

A. Clarifying provisions addressing waste oil

The current generic definition of waste oil includes dissimilar categories of oily wastes that are not reflective of handling and management requirements associated with the variety of wastes involved. This limits the utility of current regulatory provisions.

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*.

i) Liquid waste oil

A “liquid waste oil” definition would support understanding and compliance with relevant regulatory provisions (contained in section 41 of the current regulation).

Liquid waste oil would be defined as any oil that has been refined from crude oil (or any synthetic oil) that has been used as a lubricant, coolant (non-contact heat transfer fluids), hydraulic fluid, fuel or for similar uses, and as a result of such use, is contaminated by physical or chemical impurities, or otherwise has become unusable for its original purpose, or is no longer needed, wanted or usable.

Liquid waste oil would include: used motor, fuel or gear oil; machine cutting and coolant oils; hydraulic and brake fluids; electrical insulation oils; and electrical insulation, heat transfer and refrigeration oils.

The following materials would be excluded from the definition of liquid waste oil:

- ◆ Waste oils that qualify as flammable (e.g., gasoline);
- ◆ Waste oil mixed with hazardous materials (except where allowed by the regulation);
- ◆ Oil (crude or synthetic) based products used primarily as solvents or antifreeze;

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

- ◆ Wastewaters from which the oil has been recovered; and
- ◆ Waste materials contaminated with oil.

While the above waste streams are not defined as “liquid waste oil” under terms of the Hazardous Waste Regulation, they may be “hazardous wastes,” and if so, must be managed according to all applicable requirements of the regulation.

The ministry proposes to amend liquid waste oil specifications for use as a fuel in the regulation by adding flash point and ash content (in section 41(5) of the current regulation) and reducing the total organic halogen limit for uses other than cement kilns from 1500 mg/L to 1000 mg/L.¹¹ The intent of the ministry is to provide additional safeguards against inappropriate mixing of liquid waste oil with other materials. The ministry is also proposing to amend the regulation to explicitly restrict any mixing of liquid waste oil for burning as fuel to liquid fossil fuels (such as diesel) (in section 41(6) of the current regulation). Any other substance to be mixed with liquid waste oil for use as a fuel would require approval by the director through a case-specific “change in requirements” (as set out in section 51 of the current regulation).

The ministry also proposes to clarify that the waste liquid oil specifications set out in tables in section 41 of the current regulation would be the standards for waste oil prior to any mixing with other acceptable substances.

ii) Waste materials contaminated with oil

Waste materials contaminated with oil would be defined as waste materials including but not limited to waste oil filters, dirt, debris and water, which are contaminated with and contain extractable petroleum hydrocarbon¹² (EPH) in concentrations greater than 3%, by weight. One of the implications of this change would be to replace the existing

¹¹The proposed limits are flash point of 37.7°C minimum and ash content of 0.6% maximum.

¹² “Extractable petroleum hydrocarbons” (EPH) can include light extractable petroleum hydrocarbon (LEPH) and/or heavy extractable petroleum hydrocarbon (HEPH). Determination of a “light” or “heavy” extractable petroleum hydrocarbon can be made using a method approved by the director.

“special waste oil and grease” (SWOG) test in the ministry’s laboratory manual with the “EPH” analytical procedure.

The following materials would be conditionally excluded from the definition of waste materials contaminated with oil and hence their management would not be regulated under the Hazardous Waste Regulation: 1) hydrocarbon contaminated soil (see section iii below); and 2) used oil filters, if they have been crushed and drained such that oil content is less than 6%, by weight, and if the crushed filters are shipped to a scrap metal dealer or directly to a secondary metal smelter.” These exemptions are intended to reduce regulatory burden and overlap.

Other than the specific waste types discussed in the above paragraph (soil and filters), waste materials contaminated with oil would continue to be regulated and managed as hazardous wastes under the Hazardous Waste Regulation.

iii) Hydrocarbon contaminated soil

Hydrocarbon contaminated soil would be explicitly defined as “soil, sand and gravel, rock or similar naturally occurring material that is contaminated only with extractable petroleum hydrocarbons, including (but not limited to) liquid waste oil or crude oil in a total concentration of greater than 3%, by weight.” Liquid waste oil or waste materials contaminated with oil would be excluded from the definition of hydrocarbon contaminated soil.

The intent of a separate definition for this sub-category of “oily wastes” is to enable management of this specific type of hazardous waste soil under provisions of the Contaminated Sites Regulation. Off-site movement of this waste stream would still be regulated 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 residual management” approach to managing wastes. Appropriate recycling and recovery of hazardous materials as defined under the current regulation may be discouraged because of the negative connotations associated with the term “hazardous waste.” In keeping with the

Hazardous Waste Regulation Review Process Policy Intentions Paper for Consultation

ministry's desired "5Rs" approach to material and environmental management, the ministry 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.

i) Exemption for recycling facilities

The ministry is proposing to expand the current exemption for recycling facilities from "hazardous waste management facility" requirements. The current regulation would be amended by removing the 5% limit on feed rate. The intent of this proposed change is to remove regulatory requirements for very specific types of "recycling" facilities that are in effect recovering materials and generating "products." The exemption would be provided if: the proponent can demonstrate that the material being recycled will be "wholly utilized" (i.e., "with no element of pre-treatment or discard"), *and*:

- ◆ The material is being used in an agricultural, commercial, manufacturing or industrial process or operation, where the principal purpose of the process is not waste management;
- ◆ The material is being promptly packaged for retail sale to meet a market demand; *or*
- ◆ The material is being offered for retail sale to meet a market demand.

This exemption would not apply to hazardous wastes (or residues of hazardous waste) that are intended for land application, or disposal by burning, burning as a fuel or mixing with a fuel before burning.

ii) "Delisting" exemption for specified recycled product streams

The ministry is proposing to amend the regulation to exempt specific "product" streams (namely, re-refined liquid waste oil and recovered solvent and antifreeze) of ministry-designated recycling operations from residue management requirements described under section 19(2)(b) of the current regulation. Waste streams generated by these processes may be hazardous and therefore their management would be subject to the regulation.

iii) Appropriate incentives and regulatory safeguards for recycling and recovery

The ministry is considering a number of incentives for other legitimate "recycling" operations that do not meet the strict requirements for the facilities described in sections i) and ii) above. For example, the ministry is proposing to establish a list of "director-approved recycling facilities" that would be exempt from specified administrative requirements under the regulation, such as manifesting. Eligible operations would have to be consistent with Schedule 2 of the federal Export and Import of Hazardous Waste and Hazardous Recyclable Materials Regulation (the "R list" of recycling operations") and would be required to:

- ◆ Comply with all relevant hazardous waste management facility requirements (e.g., submission of plans); and
- ◆ Submit annual reports containing information on the hazardous recyclable materials they receive, treat, recycle or store, as well as regular audits, to the ministry.

One incentive for recycling being considered by the ministry would be to exempt generators and carriers from manifest requirements if a waste is being shipped to a director-approved recycling facility. A simplified shipping document, similar to the "recycle docket" currently used in Alberta,¹³ could be used for record keeping in these situations.

The ministry is seeking comments and suggestions on other incentives to recycling or reuse of hazardous materials that might be appropriate for consideration in revising the Hazardous Waste Regulation and associated administrative processes.

The ministry is also 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. The ministry is seeking comment on appropriate regulatory or administrative provisions

¹³ See a sample Alberta recycle docket at:
www.environment.gov.ab.ca/info/library/7326.pdf

Hazardous Waste Regulation Review Process

Policy Intentions Paper for Consultation

that might provide reasonable safeguards from such abuse – while still supporting appropriate recycling and recovery of materials.

4.9 Additional regulatory provisions

A. Allowing acceptance of incorrectly manifested hazardous waste

Section 5(2) of the present regulation prohibits the acceptance of hazardous waste that does not match the description on the accompanying manifest unless authorization to accept from the director is granted. The ministry proposes to amend the regulation to allow the acceptance of this waste by a hazardous waste management facility – if the facility is authorized to manage the waste, or to re-direct it to an authorized facility, *and* notifies the director of the occurrence. A note would also have to be made in part C of the manifest – indicating the correct waste name and its final disposition. This provision would reduce red tape, minimize the transportation risk of returning the shipment to the consignor and encourage the responsible management of mis-manifested hazardous waste shipments.

B. Using orders to prevent abandonment of hazardous waste

The ministry is considering introducing an amendment to the *Environmental Management Act* that would expand the current order provisions to empower a director to more effectively deal with a person who (in the opinion of the ministry, based on reasonable grounds) abandons or appears to be about to abandon the accumulated waste in storage at a site. These provisions would allow the ministry to more readily issue an order to stop waste shipments to a site, seize vehicles and works and other assets, and/or use any of these assets and any financial security to appropriately manage the waste. Non-compliance with such an order would be designated an offence under the Act.

The ministry is seeking comments regarding the appropriateness and feasibility of introducing such a provision to the Act – intended to support those who comply with the regulation by enabling more timely and appropriate response to those who don't.

C. Exempting “field operations” from carrier requirements

Some trades and health care workers collect or deal with small quantities of hazardous waste in the course of their daily work. The provisions of the regulation are overly onerous and not intended for these situations. However, the ministry wishes to ensure that these wastes are appropriately managed.

The ministry is proposing to include in the regulation a definition for such “field operations” (explicitly excluding waste management operations) and provisions for appropriate management of hazardous wastes in these situations.

Persons who provide (non-waste management) service from site to site at various locations in a day, and accumulate small quantities of hazardous waste in their vehicle(s), would be required at the end of the work day, or at the end of their service trip, to off load the waste to an appropriate storage site at their base or at a waste management facility. The ministry is proposing to exempt these persons from full carrier requirements (e.g., training, documentation) for transportation to such a facility. However, storage of hazardous waste at the base facility, transportation of the collected hazardous waste from the base facility and all subsequent waste management, would still have to meet requirements of the regulation.

D. Clarifying requirements for lead-acid and other types of batteries

The existing regulation contains liberal thresholds for the application of registration, transportation and storage requirements for batteries that were intended to encourage collection of lead acid batteries – no distinction is made between different categories of batteries. The ministry is intending to amend the regulation to clarify and distinguish between lead acid and other types of batteries, in order to establish appropriate registration and management requirements specific to each type.

Hazardous Waste Regulation Review Process Policy Intentions Paper for Consultation

E. Harmonizing regulatory requirements for storage of PCB waste

At present, the storage of PCB waste is regulated under both federal legislation (the *Canadian Environmental Protection Act*) and the provincial Hazardous Waste Regulation. To reduce duplication and regulatory confusion, the ministry is proposing to delete requirements for storage of PCB waste in the provincial Hazardous Waste Regulation that are already specified in federal legislation.

F. Exempting hazardous waste management facilities that deal solely with neutralization of corrosive hazardous waste

Some facilities that treat hazardous wastes deal solely with neutralizing the acidity or alkalinity of a waste whose only hazardous characteristic is corrosivity. The ministry is proposing that these facilities be exempted from requirements for demonstration trials.¹⁴

The ministry is also proposing that generators be exempt from treatment facility requirements if the facility is used only to neutralize the acidity or alkalinity of a waste whose only hazardous characteristic is corrosivity. Wastes that cannot be neutralized with the addition of alkali or acid (e.g., mercury) would not be eligible for exemption.

5. Consultation with First Nations

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

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

The regulation will be supported by legally-enforceable "Director's Requirements" and other supporting documents such as guidelines and/or Best Management Practices. These documents provide information regarding how parties involved in

the generation, storage, transport, handling and management of hazardous waste can meet ministry goals for protection of public health and the environment in a manner that is consistent with the *Environmental Management Act* and Hazardous Waste Regulation.

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. Note that guidelines or Best Management Practices would not necessarily have the force of law – rather, they may be viewed as assistance to persons governed by a regulation in meeting their legal obligations. Director's Requirements, however, would be enforceable under terms of the Hazardous Waste Regulation.

7. Assuring Compliance

7.1 Compliance promotion

The ministry will develop a strategy for the promotion of voluntary compliance with the requirements of this regulation, in cooperation with industry associations and other interests. Compliance promotion may entail training for ministry staff, as well as information and education for those concerned with the generation and management of hazardous waste.

7.2 Compliance verification

The ministry's approach to assuring compliance with the Hazardous Waste Regulation will include regular and random compliance reviews and inspections, as well as reviews and inspections in response to identified or potential issues or concerns regarding protection of the environment or public health and safety.

The ministry is committed to using compliance verification data to guide the ongoing management of hazardous waste and to ensure that the goals for environmental protection are being met in the various operations involved in the generation, transport and receiving/treatment of hazardous waste.

¹⁴ That is, when such trials are intended to demonstrate the process that neutralize the acidity or alkalinity of a hazardous waste which is hazardous waste only because it is corrosive.

Hazardous Waste Regulation Review Process Policy Intentions Paper for Consultation

7.3 Enforcement

The ministry response to non-compliance will entail written advisories, warnings, directives, tickets and prosecutions. The choice of response will be based on: ministry-wide policy; the compliance history for the party or parties involved (generator, carrier or receiving facility); and the significance of the impact from the non-compliance occurrence.

8. Providing Comment on Proposed Intentions for the Regulation

The ministry is intending to finalize the revisions to the Hazardous Waste Regulation in 2008. Comments regarding the proposed intentions of the ministry are being solicited and will be carefully considered in the review and development process. The ministry welcomes all suggestions with respect to any aspect of the regulation.

Submissions will be compiled and summarized, without specific attribution, by an independent contractor and the summary posted on the ministry website. Following review of comments and submissions, the ministry will complete legal drafting of the regulation for legislative review and implementation.

This intentions paper and a response form with questions based on proposed intentions for the regulation have been posted on the ministry's web site: www.env.gov.bc.ca/epdiv/ema_codes_of_practice/index.

Those interested are invited to submit comments using the instructions and questions provided on the 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.

All submissions will be reviewed for inclusion in a consultation summary report. Comments received will be treated with confidentiality by ministry staff and contractors when preparing consultation reports. Please note that comments 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*.

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

If you have any questions or comments regarding the consultation process, review the information posted on the ministry website, or contact Cindy Bertram of C. Rankin & Associates, who has been contracted to manage consultation comments, at:

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Thank you for your time and comments!