

Summary of Amendments to the Hazardous Waste Regulation – December 2008

There have been several recent high profile examples of hazardous waste management facilities either not complying with or abusing provisions of the Hazardous Waste Regulation. Also, we are advised by many stakeholders that the regulation is very difficult to understand, not user-friendly and in some instances difficult to enforce. Accordingly, the ministry initiated a comprehensive review process for the Hazardous Waste Regulation that is intended to simplify and strengthen the regulatory regime for managing hazardous wastes and that will result in a new, more user-friendly and significantly enhanced regulation.

During 2008, two policy intention papers were posted; one in January addressing minor and housekeeping amendments, and a second in April addressing comprehensive and substantial amendments. The current amendment package is the latest component in the process of improving the regulatory framework for the management of hazardous waste and will be followed up with more substantive changes. The current amendments are based principally on changes proposed in the first intentions paper, but also contain several changes from the second paper.

The current set of changes will come into effect on April 1, 2009. A copy of the amendments is posted at the ministry web page and can be viewed by clicking the link below:

<http://www.env.gov.bc.ca/epd/hazwaste/regs/schedule-haz-waste-reg.pdf>

These changes will be consolidated into the current regulation by April 1, 2009, and copies of the updated regulation will be available from the Crown Publication Inc. (see the Web Link below).

<http://www.crownpub.bc.ca/>

A summary of the amendments is outlined below:

PART 1 – INTERPRETATION AND APPLICATION

Section 1: Interpretation

- Several new definitions have been introduced to clarify the intent of some changes to the regulation:
 - authorized consignee,
 - disposal in a secure building,
 - provincial identification number,
 - secure building,
 - secure disposal, and
 - storage.
- Definitions of temporary storage, short-term storage and long-term storage have been deleted, in favour of a re-defined “storage”.
- Several other definitions have been revised to remove references to “temporary storage”, “long term storage”, or “short-term storage” and in some cases replacing them with the appropriate new wording.
- The definition of hazardous waste has been revised to restore the pH criteria for corrosive (TDGR class 8) hazardous wastes to pH less than 2.0 or greater than 12.5.

- The definition of “treatment” is revised to widen its scope. ”Treatment” is no longer limited by the phrase “... eliminating or reducing the volume, or one or more hazardous properties of the hazardous waste”.

Section 2: General

- The provisions in subsections 2(13) and (14) have been removed, as they are redundant due to the elimination of “temporary storage”.

PART 3 – OPERATIONAL REQUIREMENTS FOR ALL HAZARDOUS WASTE FACILITIES

Section 5: Waste Information

- The intent of the amendment to Sub-section 5(4) is to provide a more flexible way for receivers of hazardous waste to accept incorrectly documented quantities of hazardous waste on the manifest if they are authorized to receive the actual waste shipped. The time period for submitting the copies of the manifest has not changed, rather, it is further emphasized here. The need to notify a director to obtain authorization to receive the incorrectly manifested material is substituted by the requirement for receivers to describe the discrepancy in the manifest itself and to submit an annual report with a summary of all the discrepancies and actions taken to reduce further occurrences of such discrepancies.

PART 4 – ADDITIONAL REQUIREMENTS

Division 8: Disposal in a Secure Building

- The entire division formerly known as “Long Term Storage Facility” has been re-titled to “Disposal in a Secure Building”.

PART 6 – MANAGEMENT OF SPECIFIC HAZARDOUS WASTES

Section 41: Waste Oil

- The amendment to this section restricts the mixing of waste oil with other materials for use as fuel or to sell as fuel to only product fuels such as diesel, bunker C fuel oil, etc. which meet the Canadian General Standards Board fuel specifications. Mixing of waste oil with any other waste or product must receive prior written approval from a director. The amendment clarifies the intent of the regulation.
- The term “product fuel” is defined in order to ensure that other materials such as solvents and chlorinated solvents that do not fit the definition are not authorized for mixing with waste oil for use a fuel.
- One of the changes clarifies that analysis using acceptable analytical methods must be used to demonstrate that waste oil meets the quality specifications set out in section 41(5).
- The amendment also emphasizes that the waste oil must meet the specifications prior to it being mixed or blended with a product fuel. A person using waste oil as fuel will be required to keep a written record demonstrating that the oil meets the appropriate specifications for its use.

Section 42.2: Collection and storage of household hazardous waste

- Amendment to Subsection 42.2(3) clarifies that 25,000 kg (by weight) or 25,000 L (by volume) is the maximum amount that can be stored, at any moment in time, and it encompasses all and any type of household hazardous waste. This amount is not for each category of household hazardous waste.

Section 42.3(1) Requirements for establishment and operation of a return collection facility

- This section is amended to change the registration for return collection facilities from generator registration to receiving site registration.

PART 7 – ADMINISTRATIVE REQUIREMENTS

Section 43: Registration of hazardous waste

- The intent of the revisions to Section 43 was to clearly describe the different requirements for those who generate hazardous waste and/or store it at an on-site storage facility and those who manage the waste at an off-site facility.
- It is important to note that storage of waste that was not generated on-site would require a registered site registration number (RS Number) in order to differentiate waste generated and/or stored on- site by the generator.

Note: An inadvertent regulatory language drafting error was identified in the amendment affecting generator registration (Section 43(1)) that inadvertently changes the current policy intent of this section. No policy change was intended; i.e.: generators producing within a 30 day period or storing at any time hazardous waste in quantities above the threshold levels in Schedule 6 will still require registration.

The ministry intends to correct this error before the implementation date of April 1, 2009.

Section 44: Provincial Identification Number

- The changes in this section are intended to:
 - clarify and differentiate between the 3 different types of provincial identification numbers that are used in completing the manifest and in which Parts of the manifest, A,B or C, these numbers should be written; i.e.: BCG# in part A of the manifest; LT# in part B of the manifest; RS# in part C of the manifest.
 - introduce explicit requirements for each party, based on the prescribed quantity of hazardous waste:
 - Generators must use the services of only licensed carriers and authorized receivers of hazardous waste, reducing the likelihood of generators using cheaper, unauthorized companies. Also, generators must be registered and have an assigned BCG#, where required.
 - Carriers must transport hazardous waste to only authorized receivers of hazardous waste
 - Receivers must not receive a hazardous waste unless they are authorized to receive that particular hazardous waste.

Section 45: Transport Licence

- The responsibility of all carriers to transport hazardous waste only to an authorized facility is clarified in this section, which now explicitly states that he/she must not transport hazardous waste to a person unless that person is an authorized consignee.

Section 45.1: Classification of Hazardous Waste

- This is a new section added to explicitly require proper and correct waste classification. A person cannot ship, transport waste or accept waste unless the waste has been properly classified.
- The section describes classification.
- The section contains requirements for proper naming of hazardous waste on labels and manifests, and differentiates naming of wastes with respect to the Hazardous Waste Regulation and the federal Transportation of Dangerous Goods Regulations.

Section 46: Manifest Requirements

- This section introduces a new subsection where one of the aspects of generator's due diligence is emphasized and a receiver's responsibility towards a generator is checked. At present, a receiver must submit a copy of the manifest to generator within 3 days of receiving the waste. The new requirement requires that a generator who has not received his /her copy within that time frame must attempt to obtain the copy from the receiver. If the generator is unable to obtain the copy from the receiver, the generator must notify the Ministry within 10 days after the hazardous waste was shipped.

PART 9 – SPECIFIC EXEMPTIONS

Section 51: Application for change in requirements

- A new subsection was added to allow a director to cancel a previous decision at the request of the applicant.

SCHEDULE 3: WASTE PROHIBITED FROM SECURE DISPOSAL

- The heading of the schedule was changed to reflect the changes in the definition.

SCHEDULE 5: FORMS

- Form 1 was changed to reflect “Generator Registration No.” where it was “Registration No.” only, and to reflect the changes in the mentioned section of the regulation (from 43(1) or (3) to 43(1) (2) or (4)).