

GUIDANCE

REGIONAL OPERATIONS BRANCH | June 2020

Change in Requirements (s.51) for Registered Sites Hazardous Waste Regulation

Purpose of this document

This document provides guidance on how to request a change in requirements under section 51 of the Hazardous Waste Regulation (HWR) for a registered site. By providing complete and accurate information in accordance with the Ministry of Environment and Climate Change Strategy (ENV) guidance documents, your application is less likely to experience delays or rejection.

What is a Section 51?

The HWR provides an opportunity for a person to apply for a change in requirements under section 51 by proposing a substitution to a specific requirement.

Conditions to be considered

Prior to applying for a change in requirements, assess whether it can be demonstrated that the requested changes will satisfy at least one of the three conditions provided in section 51(7) of the HWR (listed below), and the extent to which there will not be any substantial impairment to human health and the environment.

At least one of the following conditions must be met to have an application considered for approval:

- (7) An applicant must demonstrate to the satisfaction of the director that
 - (a) the waste does not fit the criteria for classes 2 to 6, 8 or 9 of the federal dangerous goods regulations,
 - (b) the system used to manage or recycle the hazardous waste provides equal or better protection than the protection offered by the HWR, or
 - (c) site specific natural conditions mitigate the hazards associated with the hazardous waste, to such an extent that human health and the environment will not be substantially impaired.

Approval Process

Authorization for a change in requirements under section 51 of the HWR is obtained by following the ministry's routine application process. The application process involves intake, preliminary application, final application, screening and review and decision phases. Detailed information regarding the ministry application processes are [available online](#).

Preparing the Application

The application process begins with the submission of Change in Requirements (S.51) application form (EPD-HWR-03), and a Preliminary Application and Registration form (EPD-HWR-01), along with additional documents as detailed on the forms. The forms can be found on the ministry's website.

The application package can be completed and filed with ENV by the applicant or the applicant's agent. If an agent is used, the applicant must complete the agent authorization part of the application form. Section 51 of the regulation is not intended to act as a waiver from the requirements of the regulation. Section 51 provides an opportunity for clients to apply for a change in requirements of the HWR by providing **equal or better protection** for human health and the environment using alternative methods. A clear rationale for the request would be part of the supporting documentation for the application.

Preliminary Application Phase

Once the completed application passes the intake phase, the applicant will be contacted to arrange a pre-application meeting. During this meeting, the initial proposal is discussed which will inform what is required for the final application package. The preliminary application phase ends with the issuance of two key documents; an application instruction document (AID) and an information requirement table (IRT).

These two key documents list technical information details and notification/engagement required to inform the decision maker. The applicant's response to the AID and IRT will make up the final application package.

The ministry's expectations for notifications and engagements with the general public, indigenous groups and other government agencies are drafted during the preliminary application phase. The pre-application meeting is also the opportunity for the ministry to advise of any posting requirements under HWR section 51. The director may require publishing the application in newspapers or serve a signed copy of the application to anyone who, in the director's opinion, may be affected by the proposed changes.

Proof of meetings, such as meeting minutes and copies of notifications of meetings as published in newspapers, must be submitted as part of the application process.

Posting the Application for Public Notification

Section 51(3) of the HWR requires an application to be posted in a publicly available location, at or near the point where the hazardous waste is produced or managed. This provides potentially affected parties with an opportunity to understand the application and to provide their input to the proposed change(s).

If the director has required additional public notification, in accordance with HWR section 51(4), the notice must include ministry's mailing address (regional office) or alternate contact information as provided should any affected parties wish to submit written communication to the director.

Anyone concerned with the application must notify the director of any concerns in writing within 30 days of the date of the latest publication (HWR section 51(5)).

Meeting with stakeholders, if required

A director may require that the applicant meet with anyone who, in the director's opinion, may be adversely affected by the proposed changes. The purpose of the meeting(s) is for the applicant to explain and clarify the intent of the application to the affected party (HWR section 51(6)).

Subsequent Submissions

After the public notification period has ended, the applicant must submit a consultation report to PermitAdministration.VictoriaEPD@gov.bc.ca, as part of the final application package. The report should confirm that posting occurred at an appropriate place as required under section 51(3)(a) and include a summary of any comments that were received from affected parties and their contact information.

During the review of the final application package, ENV may contact any affected parties that notified the director during the consultation process. The director may require the applicant to meet with the affected parties, if such a meeting has not already taken place.

If necessary, the ministry may request additional information that is necessary to fully evaluate the application. Multiple communications may be required with the applicant in order to achieve that enough information is provided to inform decision making.

Director's Decision

The director's decision may:

1. Grant all or part of the requested changes;
2. Specify a definite or indefinite period of time during which the authorization would be valid;
3. Add conditions the director deems appropriate; or
4. Refuse to grant the change in requirements.

Once a decision is made the director will provide a signed copy of the decision to the applicant and give notice of the decision to every person who submitted written comments as an affected party.

Any decision made by the director is appealable under Part 8 of the *Environmental Management Act*.

The director may rescind or change their decision

A director may cancel or amend a decision under section 51. The authority to change a director's decision is provided in section 51(10) of the HWR.

Disclaimer

The guidance provided in this document helps to clarify ministry policy and the provisions of the Environmental Management Act (the Act) and the Hazardous Waste Regulation (HWR). This is not a legal document and the information in it does not constitute legal advice or impose any legally binding requirements. Guidance provided in this document does not replace the Act, the HWR or any other applicable law. Any amendments to the Act, the HWR and other legislation referred to in this document may affect provisions of the guidance; in the event of an inconsistency, the Act, HWR or other applicable legislation will prevail.

REVISION HISTORY			
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