

Hazardous Waste Regulation Guidance

Application for a Change in Requirements under Section 51

Revision 1.0
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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). By providing complete and accurate information in accordance with Ministry guidance documents, your application is less likely to experience delays or rejection.

This guideline and accompanying checklist were created to assist applicants in the process of applying for a change in requirements.

What is a section 51?

The Hazardous Waste Regulation (HWR) provides an opportunity for a person to apply for a change in requirements under Section 51 by proposing a substitution to a particular requirement.

Will the application meet the criteria for consideration?

Prior to submitting an application, assess whether you can demonstrate 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:

- 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 this regulation; or
- c) site specific natural conditions mitigate the hazards associated with the hazardous waste.

Meet with the Ministry prior to application

Having a preliminary application meeting is required, as it is the opportunity for the ministry to advise of any posting requirements under HWR section 51(4). The Director may require you to publish 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. For information on how apply, please see the Ministry's website.

Please note a successful preliminary application meeting does not imply that an application request under Section 51 will be approved.

Posting the application for public notification

Within 15 days of signing the application, you must post the signed application 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, the notice must include the Ministry's mailing address (regional office), or alternate contact information as provided by the Ministry, should any affected parties wish to submit written communication to the Director.

Proof of such communication, including trace mail sheets and copies of published newspaper advertisements, must be retained and submitted as part of the application process.

Anyone concerned with the application must notify the Director of any concerns in writing within 30 days of the date of the latest publication.

Meeting with stakeholders, if required

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

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

Subsequent Submissions

After the public notification period has ended, a consultation report must be submitted to Victoria Permit Administration, as part of the application. 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.

Once the consultation report is received, the ministry will review the application. During the review, the ministry may contact any affected parties that have notified the Director and 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.

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 Hazardous Waste Regulation.

The direction may cancel or amend a decision made under section 51 if:

1. New information shows that the previous decision was incorrect or incomplete;
2. The previous decision was made in error;
3. The applicant provided incorrect information in the application package; or
4. The applicant requests that a previous decision be cancelled.

Disclaimer

This document does not supersede or replace the *Environmental Management Act* or its regulations; in the case of omissions or discrepancies, the Act and the Hazardous Waste Regulation apply. It is intended for guidance only.