

Hazardous Waste Regulation Review Process Policy Intentions Paper for Consultation

1. Introduction

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

The ministry intends to revise the Hazardous Waste Regulation in two stages – the first addressing some housekeeping and other minor revisions (identified and discussed in this document) and the second incorporating more substantive and complex issues (to be completed in 2008). The purpose of this Policy Intentions Paper for Consultation (Intentions Paper) is to inform stakeholders and the public of proposed housekeeping and other minor changes to the Hazardous Waste Regulation (HWR). The ministry will post an intentions paper and response form to seek responses and comments from stakeholders and the public on proposed substantive revisions at a later date.

The *Environmental Management Act* (EMA), brought into force in July 2004, is the principal environmental statute in British Columbia. The EMA prohibits the introduction of waste into the environment in such a manner or quantity as to cause pollution, except in accordance with a regulation, permit, approval, or code of practice issued or approved under the Act. The Hazardous Waste Regulation (HWR) under the EMA addresses the proper handling and disposal of hazardous wastes.

This document provides a summary of the ministry's mandate and government goals, background information regarding hazardous waste and its regulation in B.C., proposed housekeeping and other minor revisions to the regulation, and a response form for providing comments or suggestions to the ministry.

Additional information and links to related legislation are posted on the ministry's website and can be accessed by clicking on the addresses below, or from the Ministry of Environment homepage, by following the Environmental Protection Division and Environmental Management Branch links. Please see: www.env.gov.bc.ca/epdiv/env_mgt_act/index.

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 4.1 of this notification.

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 concentration or physical, chemical or infectious characteristics (e.g., it may be corrosive, ignitable, infectious, reactive or toxic).

Hazardous wastes are primarily generated by industrial and manufacturing processes; however these wastes can also be generated from the commercial and institutional sectors, and from 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,

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under provisions of the EMA, 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. The regulation establishes detailed siting and operational requirements, as well as performance standards, for facilities dealing with hazardous wastes. Also, any person generating, storing, treating, recycling or disposing of hazardous waste must register the waste and apply to the ministry for a provincial generator and/or facility registration number.

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 have an environmental impact and 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 Guide](#) and other documents available as pdf files on the ministry's hazardous waste homepage.¹

3.3 Past amendments to the regulation

The ministry has undertaken a series of reviews and revisions to the Hazardous Waste Regulation (originally named the "Special Waste Regulation") since it 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*, to correct errors and omissions, and to clarify policy and legislative in-

tent. The most recent amendments to the regulation were approved by Cabinet in September 2006.²

4. Proposed Revisions to the Hazardous Waste Regulation

4.1 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 recent reviews have confirmed the need for the ministry to undertake revisions to the HWR. These are intended to address concerns regarding the regulation's complexity and effectiveness, 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:

- ◆ **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** – complex administrative requirements should be reduced, when appropriate, by specifying performance standards, using prescriptive requirements when necessary to protect human health and the environment, and providing additional detail in guidance documents;
- ◆ **Accountability** – regulated parties should be accountable for their actions and responsible for complying with regulatory requirements – shared

² See:

www.env.gov.bc.ca/epdiv/env_mgt_act/pdf/amend_haz_waste_full06.pdf

¹ See: <http://www.env.gov.bc.ca/epd/hazwaste/>

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stewardship with industry should be promoted to share the responsibility and the cost of ensuring safe management of hazardous waste in B.C.; and

- ♦ **Harmonization (consistency)** – the Hazardous Waste Regulation should be consistent with other B.C. legislation and, when appropriate, with similar legislation in other jurisdictions – to support inter-governmental cooperation and promote compliance.

4.2 Proposed “housekeeping and other minor revisions” to the regulation

This set of proposed changes to the regulation is intended to address omissions and inconsistencies, and to improve efficiency in administering and complying with the regulation.

A. Remove forms from the regulation and revise references to forms within the regulation

Removing forms from the regulation will make it easier to make changes to the forms and will result in fewer regulatory amendments being required in the future. If forms are removed, an amendment to the regulation will also be required to specify what information must be provided to the ministry. The director- approved forms will be made available to relevant parties in guidelines or templates, accessible through the ministry’s hazardous waste website (and other means as appropriate).

In addition, incorrect references to forms in sections 42.3 (b) and (c) will be updated with appropriate references.

B. Add a business license number to the information for registration

Generators, carriers and receivers will be required to submit their business license number where a license is required by the local municipality. This will help to ensure that they are in fact licensed to operate in that municipality and should also provide an incentive for businesses involved in managing hazardous waste to obtain a business license (where required). Businesses without a business license number could be exempted from this requirement if a valid reason is provided (e.g., the local govern-

ment where they operate does not require or issue business licenses).

Subject to the *Freedom of Information and Protection of Privacy Act*, business license information submitted on registration forms could also be shared with local governments, as appropriate, to enable cross-referencing of information between provincial and local government regulators. Knowing the correct nature of a business is expected to assist local government in ensuring that it is located in an appropriately zoned area – in relation to local sensitive environments and facilities such as schools and hospitals. The information could also be shared with local fire departments as required.

C. Consolidate requirements for plans

Requirements for various “plans” (currently set out in sections 4, 11, and 14) will be consolidated into one “facility plan” with several components (i.e., operational, contingency, closure). In addition, a single letter of approval will be issued for the consolidated “facility plan.”

D. Add a new manifest supplement form

Often, large quantities of one type of waste are transported from one site to another by one truck making several trips in a day. Under existing manifest requirements, it can be interpreted that a separate manifest form must be completed for each load. The regulation will be amended to allow the use of a single manifest document in such instances, as long as the manifest is accompanied by a new director approved supplementary manifest form. The information required on the form will be prescribed in the regulation. As with the forms discussed in Part A of this section, the form itself will not be a part of the regulation.

Changing the regulation to enable use of a single manifest form for multiple shipments made on the same day (where the consignor, consignee, carrier, vehicle, and waste type are the same) will reduce regulatory inefficiency and paperwork, while maintaining oversight and accountability.

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E. Amend definition of hazardous waste to exclude wastes that have the pH equal to 2.0

Currently, the regulation, by reference through the federal Transportation of Dangerous Goods Regulations to the OECD Guideline for Testing Chemicals, Revised Guideline 404, defines the pH limit on the acid side as “less than or equal to 2.” To be consistent with other Canadian jurisdictions, the limit should be “less than 2.0.” Changes will be made to the definition of hazardous waste to reflect this.

F. Application for change in requirements/specific exemptions under HWR

The regulation sets out terms under which an application for change in requirements must be made under Part 9 Specific Exemptions, section 51. Subsection (10) of the section contains provisions by which a director may cancel or amend a decision made in the past, except when a cancellation is requested by a proponent. The ministry intends to supplement these provisions by adding “at the request of the applicant that the change is no longer required.” This addition will allow a director to cancel a past decision granting an exemption or change from the provisions of the regulation, when requested to do so by the proponent.

G. Amend the threshold for reporting discrepancies in the quantities of hazardous waste shipped and received (section 5(4))

Consignors often do not know the exact weight of the hazardous waste at the time of shipment. Section 5(4) of the regulation requires receivers of hazardous waste to report to the director any discrepancies in weight of more than 5% between the quantities reported in Part A and Part C of the manifest. This requirement generates unnecessary work both for the receiver and the ministry staff, as most discrepancies can be explained by inaccurate estimates by the consignors.

To address this issue, the ministry’s intention is to change the threshold in the regulation for reporting of manifest quantity discrepancies from 5% to 10%, and eliminate the requirement to immediately notify a director to seek authorization to accept the waste or to seek alternate instructions. In place of this re-

quirement, the ministry intends to require that the discrepancy and its resolution be noted in the “Comment” box in Part C of the manifest and that a summary report of quantity discrepancies be submitted to the director once a year, with comments on actions being taken to reduce the occurrences.

H. Clarify provisions for return collection facilities

Sections 42.2 to 42.4 contain simplified provisions for facilities set up to collect and store household hazardous waste. Under Section 39.1, persons operating household hazardous waste return collection facilities are exempt from the comprehensive requirements for storage facilities described in Parts 2, 3 and Division 2 of Part 4 of the regulation, provided the storage is carried out exactly as depicted in Sections 42.2 to 42.4. Section 42.2(3) is intended to limit the amount of hazardous waste accumulated at these facilities to a maximum quantity of 25,000 kg by weight or 25,000 L by volume. If this quantity limit is exceeded, the exemption provided in s.39.1 is no longer available.

The ministry identified a need to clarify this section of the regulation due to differing interpretations.

I. Increase generator manifest responsibilities

According to instructions on the manifest form, receivers are currently required to return copy 6 of the manifest form to the generator after the manifest has been completed. Under the ministry’s proposed changes, the generator will also be responsible for obtaining copy 6 of the manifest. If the generator is unable to acquire the form within a set time period (e.g., ten working days), he or she will be required to notify the ministry.

4.3 Upcoming non-regulatory changes related to hazardous waste management

A. Greater education for industry

It is apparent that greater education is necessary for hazardous waste generators, carriers and receivers. Under a grant provided by the ministry, the British Columbia Environment Industry Association (BCEIA) is in the process of developing training material for this purpose. In particular, there is a

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need to ensure that generators are aware of their responsibilities and liabilities for proper management of hazardous waste. For instance, generators should be made aware that they are not only to confirm that a carrier has a hazardous waste transport license, but that the license is valid for the category of waste being shipped. Generators should also be encouraged to obtain confirmation that waste has been treated, stored or disposed of properly.

B. Posting plan approval letters on the web

Posting the ministry's facility approval letters on the ministry website will allow generators to make better choices when selecting waste managers. The ministry intends to post approval letters on the web by February 29, 2008.

C. Voluntary Industry-led audit program

A grant has been provided to British Columbia Environment Industry Association to carry out an industry-led voluntary audit program for generators and receivers.

4.4 Consultation with First Nations

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

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5. Providing Comment on Proposed Intentions for the Regulation

Comments regarding the proposed intentions of the ministry on these proposed housekeeping and other minor revisions to the regulation outlined in this notification are welcome, using the accompanying response form or by other written submission. This Intentions Paper and additional information have been posted on the ministry's web site: www.env.gov.bc.ca/epdiv/ema_codes_of_practice/index.

Response Form

Comments regarding the ministry's proposed "housekeeping and other minor" changes and Hazardous Waste Regulation review process are welcome.

Comments received will be treated with confidentiality by Ministry staff and contractors. However, comments you provide and information that identifies you as the source of those comments may be publicly available if a Freedom of Information request is made under the *Freedom of Information and Protection of Privacy Act*.

1. Proposed housekeeping and other minor changes to the regulation

Do you have any comments or suggestions regarding the proposed changes to the Hazardous Waste Regulation?

2. Additional comments

Do you have any additional comments or suggestions for the ministry?

Responses may be returned to Cindy Bertram of C. Rankin & Associates who has been contracted to manage consultation comments, at:

Email: cindybertram@shaw.ca

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

Fax: (250) 598-9948

Comments should be submitted by February 15, 2008.

Thank you for your time and consideration!