

# **Waste Discharge Regulation Implementation Guide**



**Ministry of Environment  
Environmental Protection Division**

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# 1. Executive Summary

On July 8, 2004, the B.C. Government brought the *Environmental Management Act* (EMA) into force. This legislation combines the *Waste Management Act* and the *Environment Management Act* to create a single statute governing environmental protection and management in British Columbia.

This new act encourages the development of innovative and modern regulatory policies. The Waste Discharge Regulation (WDR), which establishes a tiered approach to waste discharge authorization, is one example of the use of these new legislative provisions.

The old *Waste Management Act* strictly prohibited the introduction of waste into the environment. As a result, any persons or companies wanting to discharge waste required a permit, regulation or plan or other such authorization from the ministry.

The new EMA fundamentally alters this regime. The act eliminates the overall strict prohibition on the introduction of waste. Instead, the EMA prescribes through the WDR that only certain industries, trades, businesses, operations or activities are prohibited from discharging waste. Accordingly, Schedules 1 and 2 of the WDR prescribe industries, trades, businesses, operations or activities that must obtain ministry authorization to discharge waste into the environment. While industries, trades, businesses, operations or activities not prescribed in the WDR no longer require ministry authorization to discharge waste, they are still governed by section 6(4) of EMA, which prohibits causing pollution.

Prescribed industries, trades, businesses, operations and activities are divided into two schedules in the WDR:

## **Schedule 1**

Industries, trades, businesses, operations and activities listed on Schedule 1 of the regulation will generally continue to be authorized through the use of site specific authorizations or regulations due to the complexity of their discharges, potential for significant environmental impacts or limited number of similar operations in the province. Schedule 1 also includes some industries, trades, businesses, operations and activities that are authorized by existing regulations.

## **Schedule 2**

Industries, trades, businesses, operations and activities listed on Schedule 2 of the regulation are eligible to be governed by minister's codes of practice. Codes of practice are enforceable, standard industry- or activity-wide regulations governing the discharge of waste from a prescribed industry or activity. If a code of practice governs the industry, trade, business, operation or activity, no site-specific permit or alternate type of authorization to authorize the introduction of waste into the environment is required. In the absence of an approved code of practice, other forms of authorizations are required to authorize discharges to the environment.

Appendix B of this document contains Explanatory Notes, developed by ministry staff to provide detailed definitions of industries, trades, businesses, operations and activities listed in Schedules 1 and 2 of the WDR, and to give examples of the scope of each definition.

If an industry, trade, business, activity or operation is not specifically included in either Schedule 1 or 2, there is no need for the operation to obtain an authorization for discharge to the environment. Section 3 of the WDR specifies additional activities exempt from sections 6(2) and 6(3) of the EMA.

The WDR includes a third schedule that sets out the fees related to the discharge of contaminants from prescribed industries, trades, businesses, operations and activities.

Note that other provincial regulations, including but not limited to the Spill Reporting Regulation, Municipal Sewage Regulation and the Hazardous Waste Regulation, remain in effect and must be complied with in all regards. Also note that there is legislation that pertains to the management, control and stewardship of products and wastes that govern the handling and management of these substances. The onus is on the discharger to comply with the requirements of all environmental legislation.

During the development and drafting of the WDR, the ministry engaged in extensive consultation with industry groups and associations, MLAs, local governments, the federal government, non-governmental organizations, and other ministries. This guide may be amended from time to time. Please contact the regional Ministry of Environment office with any questions (see Appendix C - Regional Contact List).

### **1.1 Purpose and Status of this Guide**

The purpose of this document is to:

- provide guidance to ministry staff and others in the application of the Waste Discharge Regulation (WDR);
- assist persons discharging waste within B.C. to determine their obligations under the WDR;
- help to ensure appropriate consistency among decision-makers when preparing and making decisions under the WDR; and
- promote clarity, transparency and accountability in the exercise of statutory functions.

Compliance with the WDR does not exempt those persons introducing waste into the environment from complying with other applicable federal or provincial laws or local government bylaws.

Apart from providing general guidance on the application of the WDR, ministry officials with delegated authority are expected to consider and apply this document as a general rule. However, this document does not have the force of law. It is only a guide to inform the exercise of statutory discretion.

As a result, if the application of this guide is considered neither appropriate nor relevant to particular facts or circumstances, do not apply its provisions. Further, the *Environmental Management Act* (EMA), the WDR and the principles of administrative fairness shall take precedence over this implementation guide.

For ease of reference, quotations from EMA or the WDR are shown in italics. In some cases, the language of the act or regulation has been modified to make it more understandable. For the exact wording of EMA or the WDR please refer to the actual legislation. The WDR is reproduced in its entirety in Appendix A.

## **1.2 The Director and Delegated Officials**

The EMA assigns various powers, duties and functions regarding environmental management to a “*director*”.<sup>1</sup> The Minister has designated the Director of the Environmental Management Branch and the Director of Regional Operations as the “*director*” and has appointed the Director of Water, Air and Climate Change and the Assistant Deputy Minister, Environmental Protection Division, as deputy directors. A deputy director has all the powers of a director.

Under the EMA, the director can delegate any of his or her powers, duties or functions<sup>2</sup> to any person, subject to the terms and conditions the director considers necessary or advisable. The director will set out these terms and conditions in letters of delegation. The delegate cannot sub-delegate to a person in an acting capacity unless the sub-delegate receives his or her own delegation letter from the director. The EMA also provides that any reference to a director includes a reference to a person to whom the director has delegated his or her powers.

The director has delegated most powers, duties and functions to specified regional staff of the ministry. This includes the ability to make certain decisions and take certain actions under the WDR.

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<sup>1</sup> According to section 1 of the EMA, a director is “a person employed by the government and designated in writing by the minister as a director of waste management or as an acting, deputy or assistant director of waste management”.

<sup>2</sup> An exception to this generalization is the director’s power to make protocols respecting contaminated sites and by policy substitution powers under the Waste Discharge Regulation and the Hazardous Waste Regulation.

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## 2. Relationship to the *Environmental Management Act*

### 2.1 Relevant Sections of EMA (section 6)

In the context of section 6 of EMA, the Waste Discharge Regulation serves two purposes:

- It prescribes those industries, trades, businesses, operations and activities that must obtain some form of authorization before introducing waste into the environment sections 6(2) and 6(3); and
- It prescribes those industries, trades, business, operations and activities that may be exempt from sections 6(2) and 6(3) through compliance with a code of practice if an applicable code has been issued for that waste.

Those industries, trades, businesses, operations and activities that the WDR does not prescribe in Schedules 1 or 2 do not require an authorization to introduce waste into the environment. However, such persons or parties must not cause pollution section 6(4).

The WDR prescribes industries, trades and businesses, operations and activities. Operations and activities could occur across industry, trade, and business sectors. For example, Schedule 2 of the WDR lists petroleum storage as an activity. This activity occurs in different industries, trades and businesses (gas stations, bulk fuel stations, pulp mills, etc.).

The relevant EMA sections are:

1. For the purposes of this section, “*the conduct of a prescribed industry, trade or business*” includes the operation by any person of facilities or vehicles for the collection, storage, treatment, handling, transportation, discharge, destruction or other disposal of waste in relation to the prescribed industry, trade or business.
2. Subject to subsection (5), a person must not introduce<sup>3</sup> or cause or allow waste<sup>4</sup> to be introduced into the environment<sup>5</sup> in the course of conducting a prescribed industry, trade or business.
3. Subject to subsection (5), a person must not introduce or cause or allow to be introduced into the environment, waste produced by a prescribed activity or operation.
4. Subject to subsection (5), a person must not introduce waste into the environment in such a manner or quantity as to cause pollution.<sup>6</sup>

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<sup>3</sup> Section 1 of the EMA defines “introduce into the environment” as follows: “in relation to waste, includes discharge, emit, dump, abandon, spill, release and allow to escape into the environment”.

<sup>4</sup> Section 1 of the EMA defines “waste” as:

(a) air contaminants,(b) litter,(c) effluent,(d) refuse,(e) biomedical waste,(f) hazardous waste,

(g) any other substance prescribed by the Lieutenant Governor in Council, or the minister under section 22 [minister's regulations – codes of practice], or, if either of them prescribes circumstances in which a substance is a waste, a substance that is present in those circumstances  
Section 1 of the EMA also defines each of (a) to (f).

<sup>5</sup> Section 1 of the EMA defines “environment” as “air, land, water and all other external conditions or influences under which humans, animals and plants live or are developed”. Section 1 also defines “air,” “land” and “water”.

## **2.2 Prescribed Industries, Trades, Businesses, Operations and Activities**

Section 2 of the WDR prescribes – or specifies - those industries, trades, businesses, operations and activities that require an authorization to discharge waste to the environment under section 6(2) and (3) of the EMA. These are set out in Schedules 1 and 2 of the WDR. The Explanatory Notes to the WDR schedules, found in Appendix B, will assist in explaining the definitions found in Schedules 1 and 2.

For enforcement purposes it is important to know if the entity being charged is an industry, trade or business under section 6(2) of EMA, or an activity or operation under section 6(3) of EMA. Consequently, the Explanatory Notes of the WDR guide also states if section 6(2) or 6(3) is applicable.

When determining whether the WDR applies to a particular business, trade, industry, operation or activity, it is essential to consult both Schedules 1 and 2 of the regulation.

If WDR Schedule 1 or 2 does not list an industry, trade, business, operation or activity, then no ministry authorization to discharge waste to the environment is required. However, the general prohibition against causing pollution under section 6(4) of the EMA continues to apply.

If an industry, trade, business, operation or activity is found to be causing pollution, the director may issue a Pollution Abatement Order (EMA section 83). If an operation is performing a manner likely to release a substance that will cause pollution, the director may issue a Pollution Prevention Order (EMA section 81), provided the person does not hold a valid authorization for the release of that discharge.

Should the director need information to determine if reasonable grounds exist to make a pollution abatement or prevention order, the director may issue a Requirement to Provide Information Order (EMA section 77). The various types of orders are described in more detail in section 5 of this guide.

**Q: What if a person is unsure if they are a prescribed industry, trade, business, operation or activity?**

**A: First refer to the Waste Discharge Regulation, and then consult the Explanatory Notes found in Appendix B. If you are still unsure, you may call your local Ministry of Environment office.**

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<sup>6</sup> Section 1 of the EMA defines “pollution” as “the presence in the environment of substances or contaminants that substantially alter or impair the usefulness of the environment”.



## **2.3 Interrelation with Other Forms of Authorization by the WDR**

Provided their terms are met, there are a number of other regulations under the EMA regulate waste discharge, including:

[Agricultural Waste Control Regulation \(B.C. Reg. 131/92\)](#)

[Antisapstain Chemical Waste Control Regulation \(B.C. Reg. 300/90\)](#)

[Asphalt Plant Regulation \(B.C. Reg. 217/97\)](#)

[Contaminated Sites Regulation \(B.C. Reg. 375/96\)](#)

[Finfish Aquaculture Waste Control Regulation \(B.C. Reg. 256/2002\)](#)

[Gasoline Vapour Control Regulation \(B.C. Reg. 226/95\)](#)

[Land-based Fin Fish Waste Control Regulation \(B.C. Reg. 68/94\)](#)

[Mushroom Composting Pollution Prevention Regulation \(B.C. Reg. 413/98\)](#)

[Oil and Gas Waste Regulation \(B.C. Reg. 208/96\)](#)

[Ootsa Lake Beehive Burner Regulation \(B.C. Reg. 142/2001\)](#)

[Open Burning Smoke Control Regulation \(B.C. Reg. 145/93\)](#)

[Organic Matter Recycling Regulation \(B.C. Reg. 18/2002\)](#)

[Ozone Depleting Substances and Other Halocarbons Regulation \(B.C. Reg. 387/99\)](#)

[Petroleum Storage and Distribution Facilities Storm Water Regulation \(B.C. Reg. 168/94\)](#)

[Placer Mining Waste Control Regulation \(B.C. Reg. 107/89\)](#)

[Pulp Mill and Pulp and Paper Mill Liquid Effluent Control Regulation \(B.C. Reg. 470/90\)](#)

[Solid Fuel Burning Domestic Appliance Regulation \(B.C. Reg. 302/94\)](#)

[Hazardous Waste Regulation \(B.C. Reg. 319/2004\)](#)

[Storage of Recyclable Material Regulation \(B.C. Reg. 133/92\)](#)

[Municipal Sewage Regulation \(B.C. Reg. 321/2004\)](#)

[Wood Residue Burner and Incinerator Regulation \(B.C. Reg. 519/95\)](#)

In a number of cases, regulations continue to exist in relation to matters set out in Schedules 1 or 2. The Explanatory Notes (Appendix B) highlights some applicable Ministry of Environment legislation.

In the future, if the ministry issues a code which applies to an industry, trade, business, operation or activity currently governed by a regulation, the regulation may be repealed.

[\(http://www.qp.gov.bc.ca/statreg/\)](http://www.qp.gov.bc.ca/statreg/)

Some regulations deal with matters other than the regulation of waste discharge, and instead place direct obligations on persons. These regulations include:

[Cleaner Gasoline Regulation \(B.C. Reg. 498/95\)](#)

[Motor Vehicle Emissions Control Warranty Regulation \(B.C. Reg. 116/96\)](#)

[Recycling Regulation \(B.C. Reg. 449/2004\)](#)

[Public Notification Regulation \(B.C. Reg. 202/94\)](#)

[Spill Cost Recovery Regulation \(B.C. Reg. 250/98\)](#)

[Spill Reporting Regulation \(B.C. Reg. 263/90\)](#)

[Sulphur Content of Fuel Regulation \(B.C. Reg. 67/89\)](#)

[Permit Fees Regulation \(B.C. Reg. 464/2004\)](#)

## **2.4 Exemptions from EMA and the WDR**

### **Exemption by compliance with a code of practice**

Industries, trades, businesses, operations and activities prescribed in Schedule 2 of the WDR are exempt from sections 6(2) and 6(3) of the EMA if they introduce waste to the environment in accordance with a “*code of practice*”<sup>7</sup> the minister has approved.

Codes of practice are fully enforceable, standard industry- or activity-wide regulations governing the discharge of waste from a prescribed industry, trade, business, operation or activity. Codes may:

- set standards for discharge quality;
- include conditions of operation and discharge; and
- monitor discharges or ambient sites around operations.

If there is no code of practice approved for the industry, trade, business, activity or operation, EMA requires some other form of authorization (such as a permit or approval) for the discharge of waste into the environment.

Authorizations for discharges listed on Schedule 1 must be obtained through “*traditional*” means such as a permit, approval, order or compliance with another regulation. Codes of practice cannot be developed for those industries, trades, businesses, operations and activities set out in Schedule 1.

Please see the ministry’s authorization processing package for Schedule 1 items that require a site-specific authorization, located on the web at <http://www.env.gov.bc.ca/epdiv/authorization/index.html>.

Businesses and activities listed on Schedule 1 of the WDR are not eligible for exemption by compliance with a code of practice; they must seek some other

### **Exemption under Section 6(5) of EMA**

Section 6(5) of EMA lists discharges exempt from the Act and the WDR. These exemptions are identical to the list in section 3(5) of the former *Waste Management Act*.

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<sup>7</sup> A **Code of Practice** is a minister’s regulation and is fully enforceable.

### **Exemption under Section 3 of the WDR**

Section 3 of the WDR outlines additional operations exempt from the Act and the WDR. These are similar to the list of operations that were listed in the former Conditional Exemption Regulation, with some notable changes:

- The discharge of wood residue of foundation material at construction sites is exempt if it is applied **under the direction of a professional engineer**.
- The use of industrial wood residue for **sports arenas** has been changed to **sports areas**. This allows wood residue to be used on ball diamonds, soccer pitches, or on high-use linear areas such as riding or hiking trails. The exemption is not intended to allow the placement of wood waste over large areas used occasionally for sports activities.
- The use of wood residue as a soil conditioner or ground cover in non-agricultural areas is exempt if **less than 100 m<sup>3</sup>/year is applied on a single property and it is applied in accordance with good agronomic practices**. In this context, good agronomic practice implies spreading the wood residue evenly over the site as a soil amendment, and ensuring the wood waste has some beneficial use to the soil.
- Both ash and air emissions from commercially available auxiliary fuel-fired refuse incinerators are exempt.
- The emissions from commercial pet crematoria have been added to the list of exemptions under WDR section 3.
- The exemption for the discharge of coarse coal refuse, waste rock and overburden has been moved from the Conditional Exemption Regulation (which has been rescinded) to the definition of the Mining and Coal Mining Industry in Schedule 1 of the WDR (see Appendix D - Exemption Table).

### **2.5 Prohibition Against Causing Pollution**

It is not the intention of the WDR to authorize waste discharges that cause pollution under EMA section 6(4). It is the operation's responsibility not to cause pollution.

When pollution occurs while the operation acts in accordance with a code of practice or other form of authorization, the ministry can issue pollution abatement orders if necessary.

### **2.6 Activities Prohibited by GVRD Bylaw Respecting Air Contaminants**

Section 31 of the EMA allows the Greater Vancouver Regional District (GVRD) to "*provide the service of air pollution control and air quality management and, for that purpose, the board of the regional district may, by bylaw, prohibit, regulate and otherwise control and prevent the discharge of air contaminants.*" For air discharges in the GVRD, contact the regional district directly.

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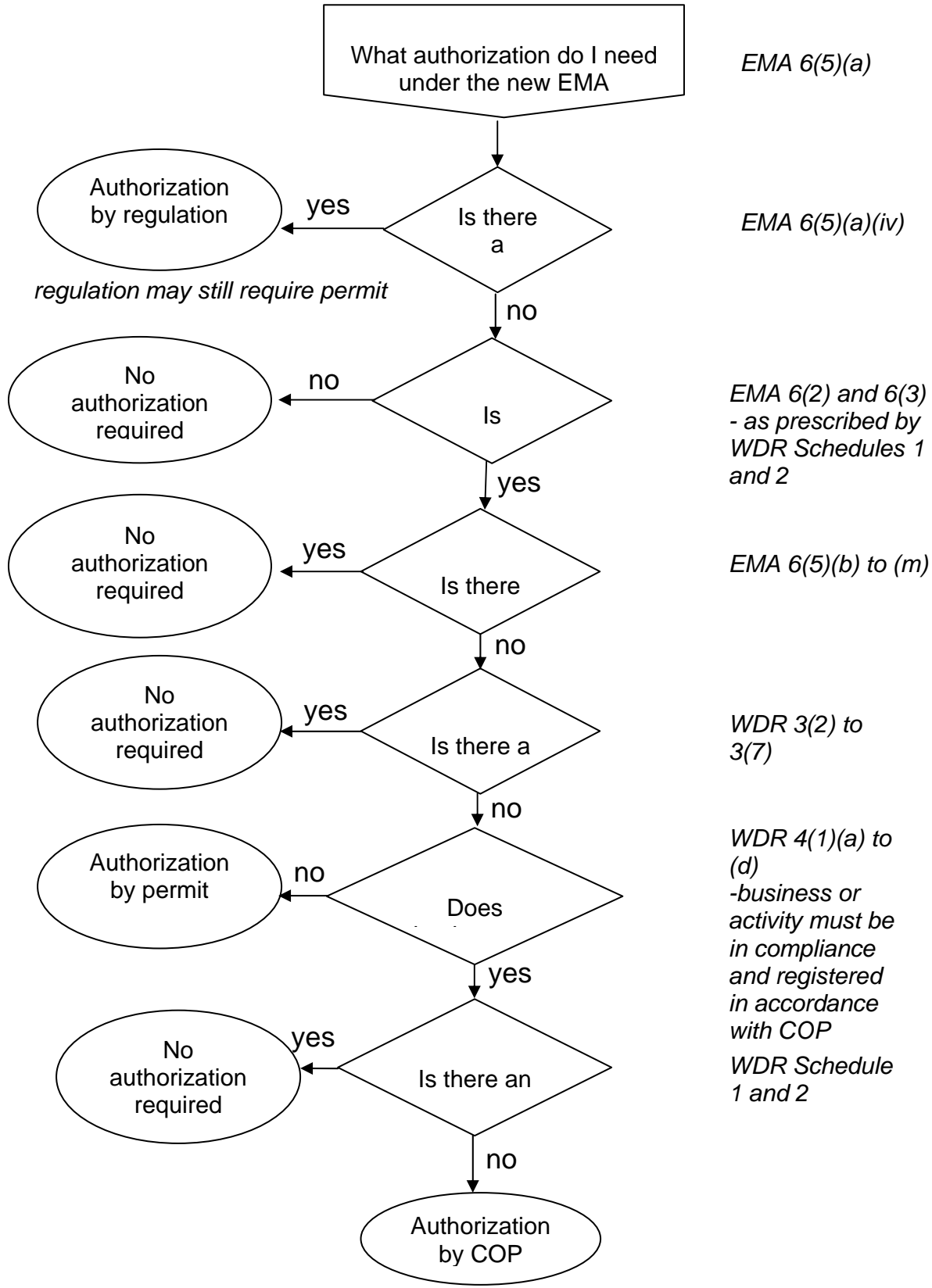
### 3. Process to Determine if Waste Disposal Requires Authorization

Note: No discharge means no authorization despite the industry, trade, business, activity or operation being captured by a definition in Schedule 1 or 2.

This six-step evaluation process is recommended to determine if an authorization is required under EMA and the WDR:

1. Do any exemptions apply in section 6(5)(b) – (m) of EMA?
  - a. Yes – not prescribed – no authorization needed
  - b. No – continue to step 2
  
2. Do any exemptions apply in section (3) of WDR?
  - a. Yes – despite being listed in Schedule 1 or 2, this activity or operation is exempt; no authorization is needed
  - b. No – continue to step 3
  
3. What is the **primary** industry, trade or business? Is the industry, trade or business listed in Schedule 1 or 2 of the WDR?
  - a. Yes – discharger is prescribed but may be exempted by a WDR definition
  - b. No – continue to step 4
  
4. What activities or operations occur at the site? Are any of these activities or operations listed in Schedule 1 or 2 of the WDR?
  - a. Yes – discharger is prescribed but the activity may be exempted by a WDR definition
  - b. No – no authorization is needed
  
5. Is there an exemption within the WDR definition?
  - a. Yes – no authorization is needed
  - b. No – discharger is prescribed and an authorization is needed
  
6. If prescribed, what form of authorization to discharge is needed?
  - a. No discharge = no authorization
  - b. Schedule 1 = permit, approval, order, regulation or plan
  - c. Schedule 2 = code. If no code exists, then Schedule 2 defaults to the options available for Schedule 1

The following flowchart outlines the six steps:



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## 4. Issues Arising from the Waste Discharge Regulation

### 4.1 What Compliance With a Code of Practice Authorizes

If a person requesting an authorization for waste discharge complies with all the requirements of an applicable code and the provisions of section 4 of the WDR (discussed below), the introduction of waste into the environment is exempt for the purposes of sections 6(2) and 6(3) of the EMA.

However, it is important to consider carefully whether the code authorizes all wastes discharged by any particular person. WDR section 3 exempts the person only from section 6(2) or 6(3) of EMA in relation to the introduction of that **waste governed by a code of practice**.<sup>8</sup> In contrast, EMA sections 6(2) and 6(3) contains a much broader prohibition against the introduction of any waste in the course of conducting a prescribed industry, trade, business, operation or activity.

As a result, if aspects of waste discharge from an industry, trade, business, operation or activity are not “governed by a code of practice”, the introduction of that waste from those aspects of the industry, trade, business, operation or activity would not be authorized, even if the industry, trade, business, operation or activity complies with the code. The industry, trade, business, operation or activity may need a combination of codes and other authorizations.

**Q: Can a person continue to operate under a permit after a code of practice has been established?**  
**A: Yes, subject to limits of EMA section 14.**

For example, if the ministry established a sawmill code, a sawmill operator might be exempt if he or she complied with the code. However, if the code did not deal with emissions from the burning of wood waste, the sawmill operator would need to obtain separate authorization for emissions from the burning of wood waste.

**Q: Can one seek a permit or approval after a relevant code has been established?**  
**A: No. EMA section 14(3).**

Similarly, it is possible that a person may be engaged in one or more industry, trade, business, operation or activity. He or she may need to comply with more than one code of practice, or obtain other forms of authorization, in order to cover all aspects of their activities.

Once a code has been developed for a particular industry, trade, business, activity or operation, EMA section 14(3) prohibits the director from issuing a new permit or amending an existing permit (unless the amendment is considered “minor”) in relation to the waste governed by the code of practice.

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<sup>8</sup> This is because:

Section 4(1)(b) refers to “introduction of waste [which] is governed by a code of practice”;

Section 4(1)(c) refers to “introduction of waste [which] is carried out in accordance with the code of practice”; and,

The concluding words in section 4(1) provide that, if the various requirements of section 4(1) are met, “the person is exempt from section 6 (2) and (3) of the Act for the purpose of the introduction of **that** waste into the environment”.

## **4.2 Existing Authorization No Longer Required**

Industries, trades, businesses, activities or operations that have an existing permit but are no longer prescribed by the WDR as requiring an authorization, may request cancellation of their permit, or they may retain their permit and pay fees if they desire. Since these permits still authorize an introduction of waste to the environment, the Permit Fees Regulation would continue to apply.

When a new code is developed for an industry, trade, business, activity or operation, an existing permittee can either:

- ask the ministry to cancel their permit and comply with the new code, or
- keep their permit until a major amendment is needed; after which time they must comply with the new code.

Existing permits are still valid. Neither the director nor the Minister can cancel or suspend permits except in very specific circumstances (EMA section 18).

Section 14(3) of EMA states that a director may not issue a new permit authorizing the introduction of waste into the environment where the introduction of waste is governed by a code of practice or regulation. Likewise section 14(4) of EMA states a director may not issue an amendment to an existing permit authorizing the introduction of waste into the environment where the introduction of waste is governed by a code of practice, unless:

- the amendment is necessary for the protection of the environment, or
- the amendment is of a minor nature.

Amendments of a minor nature involve issues such as changes of name or address, decreases in the authorized quantity of the discharge, increases of less than 10% of the authorized quantity of the discharge, changes in monitoring requirements, etc. (see section 14(4)(6) for details).

An increase of greater than 10% of the authorized quantity of the discharge constitutes a major amendment and triggers the application of the code of practice at the operation. If the operation needs time to install new works or to modify their procedures to comply with the code, the ministry may issue approval for a maximum of 15 continuous months.

### 4.3 Registration Requirements for Codes of Practice

#### Information to be included in a registration

A person may be required to register under a code of practice in accordance with WDR section 4(2), which states:

*In order to affect a registration referred to in subsection (1) (d), the person must provide to a director, in a form approved by the director, the following information, (when applicable):*

- (a) if the person is an individual, the person's full name and residential address*
- (b) if the person is a corporation or entity that is registered with the Registrar of Companies under an Act that provides for an address at or to which records may, under that Act, be served on the corporation or entity
  - (i) the registered name of the corporation or entity; and*
  - (ii) that address**
- (c) if the person is a corporation not referred to in paragraph (b),
  - (i) the name of the corporation; and*
  - (ii) the address of the corporation's head office in British Columbia, or if the corporation does not have an a head office in British Columbia, the address of the corporation's head office**
- (d) if the person is a partnership, the name of the partnership, the full name of each partner, and the head office in British Columbia of the partnership;*
- (e) if the person is a corporation or entity operating under a name other than its registered name, the name under which the corporation or entity conducts or carries out the prescribed industry, trade, business, operation or activity;*
- (f) the name and address and contact numbers of an individual who is located at or near the site where the introduction of waste into the environment will occur and who is the local contact for the purposes of the discharge;*
- (g) the address and legal description of location of the facility that produces the waste, and the address, legal description and latitude and longitude of the site where the introduction of waste into the environment will occur;*
- (h) the industry, trade, business, activity or operation in relation to which the waste is or will be introduced into the environment as set out in Column 1 of the table in Schedule 2;*
- (i) the title of the code of practice that governs the person's discharge of waste;*
- (j) if the person previously held an authorization under the Act to discharge waste or has previously registered under this regulation in relation to a code of practice, the ministry file number for that authorization or registration;*
- (k) other information relevant to the exemption specified in the applicable code of practice as required for the purposes of a registration under this regulation;*
- (l) other information relevant to the exemption specified by a director in a particular case.*



The requirement to register applies where a code of practice specifies it. Registration must be provided in the form the director specifies (see Appendix E for a sample registration form). Eventually applicants will be able to register on a web-based system. Until then, registration forms for each code of practice will be available on the code of practice's web page. Ministry staff can access the workflow developed for the registration process on the ministry's electronic document management system (EDOC).

### **Who Must Register**

Any person introducing waste that a code of practice governs must register, if the code requires it.

As outlined in Section 4.2 of this guide, existing permit holders who seek a major permit amendment will need to register, if an applicable code requires it. In accordance with EMA section 14(3), a director cannot issue a major permit amendment when a code of practice governs the introduction of that waste<sup>9</sup>.

If a proposed amendment is minor, according to EMA section 14(4)(b), the director may amend the permit. The key difference between a major and minor amendment is that a 10% or greater increase in the amount of waste discharged constitutes a major amendment.

### **Required Information**

Section 4(2) sets out the information that requestors must provide the director to affect a registration. The following comments apply to each of the requirements under section 4(2):

*(a) if the person is an individual, the person's full name and residential address;*

- In the EMA, "person" includes both a natural person and a company.<sup>10</sup> The WDR states that "*the person*" must provide the information to the director. However, if "the person" has authorized anyone to provide information, this requirement is met. For a company, this could include an agent, officer or employee of the corporation.

*(b) if the person is a corporation or entity that is registered with the Registrar of Companies under an Act that provides for an address at or to which records may, under that Act, be served on the corporation or entity*

*(i) the registered name of the corporation or entity; and*

*(ii) that address;*

- If the person seeking authorization is a company<sup>11</sup> registered under the *British Columbia Company Act*, then the WDR requires the person to provide their registered name.

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<sup>9</sup> Once a code of practice has been developed and approved, the ministry will no longer issue permits to new operations, or major permit amendments for existing operations, for that industry, trade, business, operation or activity.

<sup>10</sup> Section 29 of the *Interpretation Act* defines the term "person" to include "a corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to law".

<sup>11</sup> A company is a separate legal entity from the shareholders who own it. Companies are established under law, by incorporation. Their liability is generally limited to the assets of the corporation, and not the assets of the individual shareholders. For this reason, the law requires companies to include in their names an indication of their incorporated status (e.g., "Limited", "Ltd.", "Incorporated", "Inc.", "Company", "Co.", etc.).

- For the purposes of this section, "*registered*" means any company incorporated under the *British Columbia Company Act*, or any extra-provincial company registered under that act to do business in British Columbia.

*(c) if the person is a corporation not referred to in paragraph (b),*

*(i) the name of the corporation, and*

*(ii) the address of the corporation's head office in British Columbia, or if the corporation does not have a head office in British Columbia, the address of the corporation's head office;*

- A company may have a head office address that differs from its registered office address. Either address is sufficient for the registration.

*(d) if the person is a partnership, the name of the partnership, the full name of each partner, and the head office in British Columbia of the partnership;*

*(e) if the person is a corporation or entity operating under a name other than its registered name, the name under which the corporation or entity conducts or carries out the prescribed industry, trade, business, operation or activity;*

- Companies may do business as, or operate, under another name. For example, a company might be incorporated under the name of 1648678 Holdings Ltd., but do business as "Acme Disposal". In such cases, the company must provide both its registered name and its operating name on the registration form.

*(f) the name and address and contact numbers of an individual who is located at or near the site where the introduction of waste into the environment will occur and who is the local contact for the purposes of the discharge;*

- The regulation refers simply to "*contact numbers*". In general, registering parties should be asked to provide sufficient information to ensure that the local contact can be reached on short notice. This must at minimum include the person's main business number, and registrants should also be encouraged to provide e-mail addresses, as well as mobile telephone, fax, and pager numbers.

*(g) the address and legal description of the location of the facility that produces the waste, and the address, legal description and latitude and longitude of the site where the introduction of waste into the environment will occur;*

- Registering parties must provide the latitude and longitude of the site to the nearest second.

*(h) the industry, trade, business, activity or operation in relation to which the waste is or will be introduced into the environment, as set out in Column 1 of the table in Schedule 2;*

- Registrants must specify each of the prescribed relevant industries, trades, businesses, operations and activities to which the registration relates. For example,

if a company engages in two types of prescribed activities, the registration must specify each of those activities.

- Although the ministry does not approve registrations under the WDR, registration ensures the ministry is aware of ongoing activities and can make informed decisions regarding inspections and related matters.

*(i) the title of the code of practice that governs the person's discharge of waste;*

- A person seeking exemption through one or more codes of practice must specify in the registration the codes of practice they believe govern the discharge of each waste.

*(j) if the person previously held an authorization under the Act to discharge waste or has previously registered under this regulation in relation to a code of practice, the ministry's file number for that authorization or registration;*

- This provision includes all prior authorizations, including permits, approvals, and waste management plans. File numbers generally appear on a receipt for fees, or other communication.
- The EMA does not require the ministry to provide any formal acknowledgment of registration. However, the ministry will give each registration a number for administrative purposes and advise the registrant of the number. This action does not relieve the applicant of ensuring that all requirements of the registration are met. In addition to completing the registration form correctly, the proponent must also comply with all the technical requirements of the code. The ministry does not endorse or approve the validity of registrations through the issuance of registration numbers. Registration is not an appealable decision (e.g. registrations that meet the requirements are registered; those that do not meet the requirements are not registered).

*(k) other information relevant to the exemption specified in the applicable code of practice as required for the purposes of a registration under this regulation;*

- To assess whether the code of practice requires additional information for the purpose of registration, refer to the code of practice for which the authorization is sought, as discussed in relation to subsection (i), above.

*(l) other information relevant to the exemption specified by a director in a particular case.*

#### **4.4 Commonly Asked Questions About Information Required for Registration**

##### **What circumstances require additional information?**

Under section 1 of WDR, the director can request any information “*relevant to the exemption*”. This is a broad standard, and the director or their delegate should consider asking for information in any case when considered necessary, in regards to the overall purpose of the WDR and the relevant code of practice. This may include, but should not be

limited to, circumstances in which it may be necessary to order a substitution in respect to a particular person.

The director may require additional information in situations where:

- the person intends to operate at a level of production that is significantly in excess of any other operators for which code of practice was developed; or
- the receiving environment where waste discharge will be carried out has some particular sensitivity.

Although the director has broad authority to request information whenever necessary under this section, ministry officials are encouraged to use this power judiciously. This helps prevent the registration process from taking on the attributes of a permit application in routine cases.

Similarly, this section should not be used to obtain information for the purposes of deciding whether a pollution abatement or pollution prevention order may be necessary. Such requests should be made under EMA section 77 as appropriate.

### **When should additional information be sought?**

Any request for information under this section must be made within 45 days from when a registration was delivered to the ministry. This is because the registration otherwise becomes effective on the 45<sup>th</sup> day (see 4.6 of this guide) after delivery to the director (see section 4(4) of the WDR.)

If the director makes an information request, then the effective date of the registration is delayed. This occurs because the registration is not deemed to have been submitted in a manner that “*complies with subsection 2*” until the additional information is provided. Since requests for additional information under section 4(2)(i) of WDR have the potential to delay a person's registration, the director should request additional information as soon as the director is aware that it is required.

### **Who will make the decision to request further information?**

The director makes the decision to request information as part of a registration.

### **Can a registration be refused?**

No, but additional information can be requested by the director.

## **4.5 Fee Requirements**

### **Calculating Fees**

An annual fee is required only in cases where a code of practice requires registration.

WDR section 4(3) stipulates that the first annual fee must accompany the registration (there is no separate application fee), calculated in accordance with section 9(1). It also requires the submission of a written record of the fee calculation. The fee calculation must be completed in the form approved by the director.

Please note registrations are effective only when correct fees have been paid.

Ministry staff may respond to questions about completing the form, but registrants are responsible for making all calculations. Ministry clients should be encouraged to access the ministry web site, and use the tools set out there for calculating fees. When further information respecting fee calculations is required, individuals should contact the ministry office in Victoria (250-387-3205).

If more than one code of practice or other authorization governs a person, only one base fee per year, per medium (air, refuse, effluent, storage), per site will be charged.

WDR section 4(3) and 4(5) make it clear that unless the applicable fees are paid in accordance with section 9, the registration is ineffective. It is the applicant's responsibility to ensure that correct fees are paid within the time the WDR requires. An insufficient fee amount or a late fee will render the registration non-effective.

### **Effect of Non-Compliance on Registration Information and Fee Requirements**

If a person submits a registration that does not comply with all the information requirements of section 4(2) and the fee requirements of section 4(3) of WDR, then the person's registration is not effective. Specifically:

- In the case of the first fee payment, WDR section 4(4)(b) states that the person is only registered 45 days after they have delivered a registration that complies with subsection (3), and a properly-calculated first annual fee.<sup>12</sup>
- In the case of subsequent annual fees, WDR section 4(6)(a) states that registration ceases to be effective on the day after the anniversary date of registration, if the annual fee has not been paid.

A client whose registration ceases to be effective because of a failure to pay fees within the regulation's time limits can apply to be reinstated by re-registering and completing all the necessary administrative steps; that is, they must comply with WDR section 4 requirements and pay fees. If the client does so, the manager has the discretion to write the client and advise them that they are registered without having to wait 45 days.

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<sup>12</sup> Unless the director sends a letter under section 4(4)(a), as discussed in the next section below.

## **4.6 Effective Date of Registration**

### **45-Day Rule**

WDR section 4(4)(b) provides that a complete registration, including appropriate fees and any additional information, becomes effective 45 days after delivery to the director. While registrations by regular mail are not encouraged, in practice the 45 days commence on the date the director receives the complete registration by regular mail.

The EMA does not require any formal acknowledgment of registration, but the ministry will give each registration a number for administrative purposes; the registrant will be advised of the number assigned to the registration. Although the ministry assigns a registration number and advises the registrant accordingly, this does not relieve the applicant from meeting all requirements of the registration.

The ministry does not endorse or approve the validity of registrations through the issuance of registration numbers.

### **Re-registration due to non-payment of fees**

If re-registration takes place, the same registration number is used but a new date is issued, which becomes the anniversary date. The client will be required to pay fees starting at the new anniversary date (the client cannot be charged back to the original anniversary date as they did not have an effective registration during this time period.) While the registration is not effective, the client is not authorized, and therefore subject to the penalties in EMA for discharging in violation of section 6(2) or 6(3). Ministry staff can access the workflow associated with re-registration, which is part of the Centralized Permit Processing Initiative on the ministry's EDOC system.

The registrant is always responsible for meeting registration requirements, including fee payment. The ministry need not review the intended registration to make this assessment, or to notify the person of any such shortcomings. However, if a ministry official is aware of an attempted registration that does not meet the requirements of section 4(2) of WDR, the official should inform the person attempting registration.

The ministry will establish systems to notify registrants that the annual date of registration is approaching and they should pay their annual fees. This will not affect the registrant's responsibility for ensuring that fees are paid on time.

## **4.7 Special Circumstances**

### **Early Registration by Letter from Director**

The director has authority to affect a registration prior to 45 days by providing a letter in this regard. A sample letter is available for ministry staff on the ministry's EDOC system. The director should use this authority when:

- the applicant demonstrates a valid reason why the standard 45-day rule would cause some form of significant prejudice or hardship; or,
- another substantial reason for doing so exists.

Grounds for early registration could include:

- the condition of a land sale;
- urgent need to clean up a site or situation;
- financing purposes;
- time sensitivity involving weather; or
- timing for creek access.

The director should not use this authority simply because applicants desire confirmation that their registration meets the requirements of WDR section 4(2).

### **Effect of Operating Before Registration is Effective**

If a person commences activities that result in the discharge waste in respect of a prescribed industry, trade, business, activity or operation prior to the effective date of the registration, then the discharge is not authorized under the WDR and EMA. In such circumstances, ministry officials should review the matter and consider taking appropriate compliance action, in accordance with the ministry's general compliance strategy (see section 6 of this guide.)

### **False or Misleading Information**

Registration does not take effect if a person knowingly provides false or misleading information in a registration (WDR section 5). Moreover, this constitutes an offense for which enforcement action can be taken.

If false or misleading information is provided in a registration but it cannot be determined whether the person knew the information was false or misleading when provided, the offense provisions of section 5(1) would not apply. However, the person may still lack an effective registration under section 4(2) if the information provided proves false in some substantive respect.

If a ministry official believes that a registration lacks validity because of false or erroneous information, the official should advise the person accordingly and invite them to correct the registration as soon as possible.

### **Changes to Information and Transfer of Registrations**

Section 4(5)(b) makes it clear that a person must provide a director with written notice of any change in information in their registration within 30 days of the change. Moreover, section 4(6)(b) states that if they do not do so, their registration ceases to be effective.

The WDR makes no provisions for the transfer of a registration due to a transfer of ownership of an operation. Therefore a successor company operating the same works will need to register themselves in order to be exempt under compliance with a code of practice.

The ministry is not responsible for advising parties when a change in circumstances might cause them to lose their registration and exemptions under the EMA and regulations. However, if ministry officials become aware of such a change, they should draw to the registrant's attention the requirements of section 4(5)(b).

When submitting changes in information, the advising parties should complete the appropriate form, available on the ministry's website once the relevant code is developed. Ministry staff can access the workflow for processing a Change of Information form on the ministry's EDOC system.

When a registration ceases to be effective because a person did not notify the ministry of a change as required, and the person has paid their fees, then the person may submit an update and re-register. If the client submits such an update, the director has the discretion to write to the client and advise them they are registered without having to wait 45 days. In any event, if re-registration takes place, the ministry will keep the same registration number but create a new anniversary date based on the submission of the updated information. While the registration is not effective, the client is not authorized and will be subject to the penalties in EMA for discharging in violation of section 6(2) or 6(3).

If a person fails to submit information and fails to submit their fee within the regulation's time limits, the person can re-register by doing all the necessary administrative steps (i.e., by complying with WDR section 4 requirements and paying appropriate fees). If the client does so, the director has the discretion to re-register the client without having to wait 45 days.

If re-registration takes place, the ministry will keep the same registration number and create a new anniversary date. The client will be required to pay fees effective the revised anniversary date (the client cannot be charged back to the original anniversary date as they did not have an effective registration during this time period).

While the registration is not effective, the client is not authorized to discharge and will be subject to the penalties in EMA for discharging in violation of section 6(2) or 6(3).

## **4.8 Substitutions**

### **Who Can Issue Substitutions?**

The director has the power to issue substitutions. In this case, the director's powers have not been delegated to the regional offices. The Director of Regional Operations and the Director of Environmental Management have retained sole power to issue substitutions.

WDR section 7 states:

*(1) The minister or a director, on his or her own initiative, may, by order, substitute a different requirement for a requirement contained in a code of practice if, in the individual case, the minister or the director considers that:*

- the substitution is necessary to protect the public or the environment; or*
- the intent of the code of practice is met by the substituted requirement.*

*(2) If the minister or a director makes a substitution under subsection (1), the minister or the director may order that notification of the substitution be given to the public in the manner the minister or director specifies.*

*(3) A director, on application under section 8, may, by order, substitute a different requirement for a requirement contained in a code of practice if the director decides, in the individual case, the intent of the code of practice will be met by the substituted requirement.*



A substitution can be made at the director's initiative, or upon consideration of a registrant's application. Each situation is discussed further below.

The power to issue substitutions does not include the power to eliminate requirements from a code of practice, or to add additional requirements. Instead, the power is limited to replacing one code standard or requirement with another.

Substitutions can only be granted "*in an individual case*." This means that a substitution can only be issued in relation to a particular person or business. If the director considers a substitution appropriate in the case of more than one person, each case must still be considered separately, and separate orders for substitutions made.

Substitutions should not be considered where it would be more appropriate to develop an area code, area-based plan, or to amend the code itself.

### **Substitutions Made on the Director's Initiative**

One purpose for developing codes of practice is to provide a degree of standardization and ease of administration across a sector. As a result, substitution of code of practice requirements is not expected to occur in a large number of cases. However, WDR section 7(1) provides that this may be done where the minister or director considers that:

- the substitution is necessary to protect the public or the environment; or
- the intent of the code of practice is met by the substituted requirements.

In assessing whether the substitution may be necessary to protect the public or the environment, it is appropriate to consider the nature of the risk presented.

#### **Process for Substitutions Made on the Director's Initiative**

In cases where a director considers substituting a code of practice requirement, the person subject to the potential substitution must be notified in writing of the:

- facility or operation for which the substitution is considered potentially necessary;
- provisions of the relevant code of practice for which a substitution is recommended;
- specific substituted requirements that are recommended in the circumstances; and
- reasons why the substitution is considered necessary.

It is generally expected that the director would engage in consultations before making such a substitution order (in this case an order means a direction given in writing). In many cases, this will resolve the matter and the person who is the subject of the substituted requirements may not have any objections.

However, if it is necessary to pursue a substitution order when the person is opposed to it, then the reasons for the proposed substitution should be provided to the person in writing. The person should be given an opportunity to respond in writing (30 days subject to extension or reduction for reasonable cause) before the director makes a final decision.

The ministry may notify the public of director-initiated substitutions through notices in local newspapers after the substitution decision has been made. An example of this notice is provided in Appendix F.

Since substitutions by director's initiative are most likely to be made only when considered necessary to protect the environment or public health, it is unlikely that such substitutions would have the potential to negatively affect third-party interests. If, however, the director has reason to believe that a substitution by director's initiative has the potential to materially affect a third party, that third party should be consulted and given an opportunity to make his or her views known.<sup>13</sup>

Substitutions are not subject to time limits from the original date of the registration.

## **Substitutions Upon Application by a Registrant**

### **Process for substitutions made on the registrant's initiative**

Where a person wishes to make an application for a substituted requirement, the person must follow the specific procedural requirements set out in WDR section 8. A pre-application meeting is strongly recommended to ensure that applicants are aware of their responsibilities, and to provide the applicant with an estimate of the application fee.

*Section 8 (1) of WDR - A person who is exempt from section 6 (2) or (3) of the Act under section 4 (1) of this regulation may apply for a substitution described in section 7 (3) by filing with a director a copy of a completed application in the form specified by the director.*

Appendix G contains a draft application form for a substitution.

When the registrant submits an application, it will be managed through the ministry's internal administrative process. Ministry staff can access the workflow for substitution applications on the ministry's EDOC system.

*Section 8(2) of WDR - A person who makes an application under subsection (1) must do all of the following:*

- (a) within 15 days after the date the application is filed with the director, post a readable copy of the application in a conspicuous place at all main entrances to the site where the introduction of waste into the environment will occur;*
- (b) keep the copy posted for a period of not less than 30 days;*
- (c) publish notice of the application in the form approved by the director in one or more newspapers specified by the director;*
- (d) advise the director by notice in writing of the date the copy of the application was posted under paragraph (a) and the date notice was published under paragraph (c).*

A sample substitution notice for a newspaper publication is provided in Appendix H.

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<sup>13</sup> In such a case, the person who was the subject of the proposed substitution must be provided a copy of any submissions or information provided by the third party, and given an opportunity to respond to such information before any decision is made.

## Selecting the Newspapers

When deciding in which newspapers to require the applicant to publish notice, the director or his or her delegate should consider which newspapers are likely to provide for reasonable notice to those in the area who have a potential interest in the application for substitution. In some cases, this may require publication in more than one newspaper.

## Calculating Days of Sign-Posting if Posting is Interrupted

If an applicant posts a sign as required, but it is removed prior to being posted for 30 continuous days (for example, through theft or vandalism) then advise the applicant to post the sign for an additional period of time until the director is satisfied that it has been posted for 30 cumulative days.

## Additional Notification Requirements

Section 8(3) of WDR - *If directed to do so by a director, a person who makes an application under subsection (1) must*

*(a) serve a signed copy of the application to any person who, in the director's opinion, may be adversely affected by an environmental impact of the proposed substituted requirement, and*

*(b) display a copy of the application in one or more branch post offices of Canada Post Corporation.*

Additional notice under section 8(3)(a) should be considered in cases where:

- the ministry has reason to believe that there may be others whose interests could be adversely affected in a manner different from or more significant than members of the general public; and
- the notification process under subsection 2 is not likely sufficient to ensure actual notice to those persons.<sup>14</sup>

These persons might be identified through the standard application form that asks applicants to identify potentially affected persons, or the ministry may become aware of them through other means. Where notice must be provided to a person under section 8(3)(a), a copy of the application may be used.

Additional notice under section 8(3)(b) should be considered in cases where:

- there are likely to be persons who may be adversely affected by the substitution;
- those persons are not readily identifiable; and
- the notification processes under subsection 2 are not likely sufficient to ensure actual notice to those persons.

## Adversely Affected Persons

### Who is an Adversely Affected Person?

When deciding whether a person may be an “*adversely affected person*” for the purposes of section 8(5), the director should consider whether that person has interests that could be

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<sup>14</sup> This might, for example, apply to situations in which the owner of adjacent lands is known to reside in another area during certain times of year.

impacted from the perspective of the protection of the environment and the public, which includes First Nations concerns.

A person who objects to a substitution only because they are a competitor of the person to whom the substitution may be granted will not be considered a person who “*may be adversely affected*” for the purposes of this section. Should a competitor appeal a substitution, the Environmental Appeal Board may consider this when reviewing the specifics of the case.

### **Notification to Adversely Affected Persons**

Section 8(4) of WDR - *A person who may be adversely affected by an environmental impact of a proposed substitution under this section may notify a director and the applicant in writing, stating how the person is affected, within 30 days after the occurrence of the later of the following events:*

(a) *the application is posted or published under subsection (2);*

(b) *the application is served or displayed under subsection (3).*

If an adversely affected person has concerns, they must communicate them in writing to the director.

When determining the expiration of the 30-day period, consider the comments outlined above respecting the calculation of how many days the notice has been posted where posting has been interrupted.

### **Consultation with Adversely Affected Persons**

Section 8(5) of WDR - *If directed to do so by a director, the applicant must consult in the manner directed with a person who, in the director's opinion, may be adversely affected by an environmental impact of the proposed substitution to explain and clarify the intent of the application.*

Where a substitution may adversely affect a person, the director should ask the applicant to meet or speak with that person. If, however, the applicant objects to this type of consultation, the director should ask the applicant to explain why the consultation would not be helpful or appropriate. The director should consider any such comments when making a decision whether to require consultation under this section.

Where consultation is directed, the director may require that it occur in writing, in person, or by telephone. When deciding which mechanism to use, the director should ask both the applicant and the potentially affected person for their preferred means of communication.

The director may also wish to provide a number of options, and to leave the matter to the parties to resolve. If a large number of persons may be adversely affected, and if this group includes members of the general public in an area, the director or delegate may direct that the consultation occur by way of a public meeting. However, there is nothing in the WDR that allows the director to order public meetings merely on the basis of public or media attention to a matter.

### **Consultation with Local Government and Other Government Agencies**

The director may request that the applicant undertake consultations with local governments or other government agencies. However, section 8(5) does not provide the director with the authority to require persons to enter into consultations with local governments or other government agencies. The director can undertake such consultations, subject to certain conditions, at his or her discretion. This is discussed further in respect of section 8(7) below.

### **Consultation with the States of Washington, Idaho and Montana**

Consultation may also be required under the [B.C.-Washington/Idaho/Montana Environmental Cooperation Agreement](#).

### **Consultation with First Nations**

In addition to the consultation requirements the WDR sets out, other consultation may be required with First Nations. To determine whether consultation with First Nations is required, reference should be made to the [Provincial Policy for Consultation with First Nations](#).

### **Memorandum of Understanding with the Oil and Gas Commission**

The Oil and Gas Commission (OGC) has been given the authority under the *Oil and Gas Commission Act* to exercise statutory decision-making functions under various acts which relate to oil and gas matters (see <http://www.ogc.gov.bc.ca/>).

With respect to the *Environmental Management Act*, the powers of the OGC apply to:

- Section 9 (hazardous waste storage and disposal)
- Section 14 (permits)
- Section 15 (approvals)
- Section 16 (amendments to permits and approvals etc.)
- Section 17 (transfers of permits and approvals etc.) and
- Section 20 (abandonment)

The director has delegated the appropriate powers to the Oil and Gas Commissioner under section 3 of EMA. The OGC does not have the authority to create or administer codes of practice at this time.

The *Oil and Gas Commission Act* makes it clear that both the Ministry of Environment (MoE) and OGC have authority for enforcement in respect to matters that are otherwise administered by the OGC (e.g. EMA permits issued by the OGC).

Nothing in the *Oil and Gas Commission Act* gives the OGC authority over remedial matters such as pollution abatement orders. However, the OGC does have potentially related powers such as the ability to amend permits. Consequently, consultation and co-ordination between the OGC and Environmental Protection Division (EPD) staff is necessary and appropriate in cases where EPD staff have concerns about an operation causing pollution that the OGC has authorized.

In November 2003, the OGC and the MoE developed a Provincial Sub-Agreement Memorandum of Understanding. In addition, several sub-agreements involving such matters as MoE tenures, compliance and enforcement, research and review, First Nations, and coalbed gas development are either in place or under development.

### **Memorandums of Understanding and Protocol Agreements with the Ministry of Energy and Mines**

Numerous agreements exist between the Ministry of Environment (MoE) and the Ministry of Energy and Mines, covering such diverse topics as exploration activity referrals, security requirements, inspection of placer mines, and the regulation of mine tailings impoundments. A number of these agreements from 1988 and 1991 can be found at MoE's Mining, Smelting and Energy sector home page:

[http://www.env.gov.bc.ca/epd/epdpa/industrial\\_waste/mining\\_smelting/masiw.html](http://www.env.gov.bc.ca/epd/epdpa/industrial_waste/mining_smelting/masiw.html). A current MOU is under development to capture changes to EMA regarding exploration sites and permits.

### **Ministry Role in Consultation**

The EMA and WDR do not preclude the ministry from participating in consultation directed to occur under section 8(5). If the director decides to participate in consultation, the director should make the director's role in the process clear, and ensure that the parties understand that the director ultimately remains responsible for making a decision respecting the substitution application. The parties should also be advised that the director, when making a decision, might consider any information or positions exchanged during the consultation.

### **Evidence of Proof From Persons Who May Be Adversely Affected**

Applicants who have been required to undertake consultations with persons who may be adversely affected should be encouraged to provide to the ministry a written summary of such consultations, and to provide a copy of the summary to the person who was consulted.

### **Demonstration that the Substituted Requirement Meets the Intent of the Code**

*Section 8(6) of WDR - An applicant must demonstrate to the satisfaction of a director that the substituted requirement requested meets the intent of the code of practice.*

The applicant must demonstrate to the director that the proposed substitution meets the code of practice's intent. The director is not required to undertake additional studies or research to assess the proposed substitution. Instead, if additional information is required, the director should consider requesting it under section 8(7), discussed below.

If an applicant fails to demonstrate to the satisfaction of the director that the substitution would meet the code of practice's intent, then the substitution cannot be issued. As outlined previously in the guide, the director may issue an approval for a maximum of 15 months (not a permit) in situations where the applicant needs time to meet the requirements of the code. Alternatively, the applicant could apply for temporary relief from a code of practice requirement using a variance order under EMA section 19, but only the minister could grant such relief.

The director is encouraged to consider the intent of the code is met if the proposed substitution provides for a degree of environmental protection as would occur under the standard requirements of the code.

### **Director Request For Additional Information**

Section 8(7) of WDR - *A director, on receipt of an application under this section, may*

*(a) request additional information from the applicant if the director considers the information necessary to evaluate the application, and*

*(b) after the 30 day period referred to in subsection (4) is ended and having considered any information provided under that subsection before the date the director makes a decision on the application, the director may*

*(i) refuse to grant the substitution, or*

*(ii) grant any or all the requested substitutions to any or all the requirements of the code of practice, either for a definite or indefinite period of time, and subject to the conditions the director considers appropriate.*

A request for additional information under subsection (a) can include anything that the director considers necessary to evaluate the application. This includes but is not limited to:

- technical reports;
- professional opinions;
- monitoring data; and,
- referrals to other agencies and their responses.

Additionally, a director may deem it necessary to consider the views of other government agencies or local governments. In these cases, the director may require the applicant to provide notice to those other agencies, and to provide the director with their comments.

In any situation, the director can choose to obtain additional information on his or her own initiative, rather than requiring the applicant to obtain it under subsection (a). However, the director must then provide the applicant with the information obtained to allow the applicant a reasonable opportunity to respond before a decision is made. In most cases, providing the applicant with a draft technical report will be sufficient.

Section 8(4) specifies that a decision cannot be rendered before 30 days. A director can consider information that comes to his or her attention at any time before the decision is made – which will be longer than 30 days.

Under subsection (b), the director has considerable discretion regarding whether to grant the request for substitution. The director may issue none, some, or all of the requested substitutions.

In any case where the substitution is required, it is essential that the substitutions specify whether it is for a definite or indefinite period of time. The director should also include any terms and conditions he or she considers appropriate. These may include specific requirements such as additional monitoring necessary to ensure that operation under the

substituted requirements will provide the same degree of environmental protection as that which the standard terms of the code of practice would provide.

### **Notice of Decision to Grant or Refuse an Application for Substitution**

Section 8(8) of WDR - *On granting or refusing an application, a director must:*

- (a) serve a signed copy of his or her decision on the applicant, and*
- (b) give notice of it to all persons who gave notice under subsection (4).*

Section 8(8) does not specify what information must be set out in a decision, or how detailed it must be. This matter will have to be considered in the context of each individual case. Generally, decisions regarding applications for substitution should set out:

- code of practice provisions for which an application was made, and the requirements that the applicant sought to have substituted for them;
- information and submissions the applicant provided;
- other persons who were notified;
- any information or submissions third parties provided, and the steps taken to ensure the applicant had an opportunity to review and respond to them;
- the director's decision respecting the substitution application;
- any additional requirements that the director imposes;
- reasons why the director made his or her decision; and
- any order respecting the determination of quantity of contaminant for the purposes of fee calculations under section 9(4).

The director need not provide copies of the decision to anyone other than the applicant. However, the WDR provides that those other persons who gave notice under subsection (4) must be given notice of the result of the decision.

The director may determine the form of the notice, which could be by e-mail message, newspaper ad, or copy on the decision letter. The notice should include whether the substitution has been granted. If it has been granted, the notice should indicate whether it is for a definite or indefinite term, and on what terms and conditions that it was issued. Ministry staff can access an example of a decision letter on the ministry's EDOC system.

### **Time Frame for Issuing a Decision**

The waste discharge regulation does not specify the time frame for issuing a decision on an application for substitution. However, decisions should generally be rendered within a reasonable time frame once all necessary information has been obtained.

### **Calculating Fees for Substitution Applications**

Section 8(9) of WDR - *The fee for an application for a substitution is \$150 per hour of time a ministry employee is engaged in considering or processing the application and the director may:*

- (a) require the fee or a portion of the fee from the applicant before beginning to process the application, and*



*(b) invoice the applicant for the fee.*

When a person submits an application for substitution, the director should provide the person with a written estimate of the number of hours that consideration of the application will take, and an estimate of the total fees to be charged. Ministry staff will find an example of the estimate letter on the ministry's EDOC system.

The director may require a portion of the fee before processing the application. In general, this fee will be equal to 50% of the total fee estimated. No action will be taken on a substitution request until the requested fees have been received.

The ministry will charge for the actual amount of time spent reviewing an application. If, during the consideration of an application, the ministry determines that the review will take more than the number of hours originally estimated because of matters that the ministry could not reasonably foresee, ministry officials should advise the person accordingly as soon as possible.

Ministry officials should also ask the person whether they wish to proceed with the application based on the revised time estimate. When less than the estimated time is spent on the review, the person will only be charged for the amount of time spent. If this amount is less than the deposit, a refund or credit will be processed.

If the applicant abandons the application part way through the review process, the applicant will only be charged for the time spent. If due, a refund or credit will be processed; alternatively, the applicant will be invoiced for any balance. An invoice for the balance of fees payable under section 8(9) should be issued as soon as a decision is reached, but before the decision has been communicated to the applicant.

There is no ability under section 8(9) to retain professional consulting services and to charge the applicant for such services. Section 8(9) relates only to ministry staff time. When the director or his or her delegate considers additional information necessary, such as professional evaluations, the applicant should be requested to obtain and provide those to the ministry.

*Section 8(10) of WDR - A director may cancel or amend a decision made under this section whenever new information demonstrates to the satisfaction of the director that:*

*(a) the applicant provided false or misleading material information in the application, or*

*(b) the cancellation or amendment is necessary to protect the environment or the public.*

The provision of false or misleading material information in the application may constitute an offence for which enforcement action could be taken. The director should advise the person accordingly and invite them to correct the information as soon as possible.

**Unpaid Fees**

*Section 8(11) of WDR - A decision granting an application under this section ceases to have effect if the fee under subsection (9) remains unpaid 30 days after the date of the invoice.*

Should the applicant not pay their final invoice within 30 days of the date of the invoice, the director should notify the applicant and encourage them to submit their fee. Ministry staff can find an example of the unpaid fees letter on the ministry's EDOC system. It is envisioned that a similar collection process to unpaid permit fees will be instituted.

### **Tracking of Substitutions**

A central tracking mechanism will ensure that ministry record-keeping systems track any substitutions amended or issued to a particular registrant. The director will also ensure that regional managers across the province are provided with information about substitutions being ordered or authorized under specific codes of practice.

### **Appeals to Substitution Decisions**

Although a decision to substitute requirements is not specifically listed in section 99 of the EMA, it is described in a general way in section 99 (a) (b) and (c). The ministry will consider a substitution decision an appealable decision and treat it in accordance with Part 8 [Appeals] of the EMA.

## **4.7 Annual Fees**

Section 9 of WDR –

*(1) The annual fee for a registration under section 4 (2) is the sum of the following amounts:*

*(a) the sum of the amounts of the base fee set out in Table 1 of Schedule 3 for each type of discharge that*

*(i) is authorized under the applicable code of practice, and*

*(ii) is discharged in the course of the industry, trade, business, activity or operation to which the registration relates;*

*(b) the sum of the fees for each contaminant that is subject to a fee and discharged under the code of practice.*

*(2) For the purposes of subsection (1) (b), the fee for each contaminant is calculated by multiplying the maximum quantity of the contaminant specified in, or calculated in accordance with, the code of practice by the unit fee for that contaminant set out opposite the contaminant in column 1 of Table 2, 3 or 4 of Schedule 3 in column 2.*

*(3) As a limitation on subsection (1) (a), if a person*

*(a) has paid a base fee for a year in relation to a medium of discharge,*

*(b) at the same time or later obtains a discharge authorization or registers under a code of practice in relation to the same medium for a period that overlaps with all or part of the year referred to in paragraph (a), the person need not pay the part of the second base fee in relation to that medium for the overlapping part of that year.*

*(4) For the purposes of subsection (2), the minister may specify in a code of practice:*

*(a) the contaminants regulated under the code of practice that are subject to fees, and*

*(b) how the maximum quantity of each contaminate is to be calculated.*

Sections 4(3) and 4(7) of WDR make it clear that, unless the applicable fees are paid in accordance with section 9, the registration is ineffective. It is the applicant's responsibility to ensure that fees are paid within the time the WDR requires. Annual invoices will be sent out prior to the anniversary date of the registration.

Each code of practice will specify the method used to calculate fees. The rate for each contaminant discharged is found in Schedule 3 of the WDR and is consistent with the Permit Fees Regulation.

### **Annual Fees in Relation to a Substitution**

*Section 9(5) of WDR - If a substitution is ordered under section 7 (1) or (3) in relation to a requirement of a code of practice that affects the calculation of fees under this section, the order under section 6 must specify how the maximum quantity of each contaminant must be calculated.*

Where substitution to a code of practice has been ordered, the calculation of annual fees must specify how the maximum quantity of each contaminant is to be determined.

Generally, specifications under section 8(7)(b)(ii) should attempt to ensure that the person operating under a substituted requirement does not obtain any significant benefit or suffer any significant disadvantage regarding fees relative to others operating under the standard code provisions.

### **When Do Annual Fees Relating to Substitutions Take Effect?**

*Section 9(6) of WDR - If the annual fee in respect of a registration is changed by an order under section 6, the change is effective on the next anniversary of the date referred to in section 4 (4).*

The change in the annual fee for substitutions to a code of practice takes effect on the anniversary date following the registration.

### **Rebate of Fees**

*Section 10 of WDR - A director may refund a fee paid under 4(3)(b) or 5(a) only on a prorated basis and in the following circumstances:*

*(a) the registration under section 4 in respect of which the fee was paid is withdrawn by the person who paid the fee;*

*(b) the person has already paid an amount that under section 9 (3), the person was not required to pay.*

Only two circumstances exist where a registrant will be entitled to a refund of fees:

- where a registration has been paid in full and the person withdraws their registration; or
- the person has overpaid an annual fee.

## **Fee Payments**

Registrants are advised to make cheques payable to the Minister of Finance.

If a person seeking registration is entitled to a credit from cancellation of a permit, that credit can be applied to the registration fee.

If a registration ceases to be effective due to failure of the applicant to pay the necessary fees or advise of changes in information, as required by section 4(5) of the WDR (see 4.5 above), any amounts paid are non-refundable and will not be credited to a new registration.

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## 5 Orders

In the *Environmental Management Act* (EMA), an “order” is a command or direction given in writing by a person with the appropriate authority in the Act. The only place where an “order” is actually defined in the Act is with respect to the remediation of contaminated sites.

The main types of orders that officials issue under EMA are listed below, along with a brief explanation of each:

### **Variance Orders (EMA section 19)**

If the minister considers that a person should have temporary relief from a requirement of an order, a permit, an approval, a license, a waste management plan or a code of practice, the minister can issue a **variance order**.

### **Remediation Orders (EMA section 48)**

A **remediation order** is an order to remediate a contaminated site. A remediation order can require a person to:

- undertake remediation; and/or
- and/or contribute cash towards the costs of another person who has incurred costs in remediating the site; and/or
- give security.

### **Information Orders (EMA section 77)**

For the purpose of determining whether there are reasonable grounds for making a pollution prevention order or a pollution abatement order a director may order a person who is conducting an industry, trade, business, operation or activity to provide information to the director, whether or not he or she is prescribed. This order power allows the director to obtain information relating to the operations or activities of the industry, trade or business or to obtain information related to substances stored, treated or introduced into the environment from the operation. This order power does not provide the authority for the director to require the person to undertake studies to determine or assess the potential or actual environmental impact of the operation.

### **Pollution Prevention Orders (EMA section 81)**

- If a director is satisfied on reasonable grounds that an individual industry, trade, business, operation or activity is likely to cause pollution, the director may order a person at that person’s expense to:
- provide information
- undertake investigations, tests or surveys;

- acquire, construct or carry out any works; or
- adjust, repair or alter any works to prevent the pollution (section 81 of EMA).

A **pollution prevention order** may not be issued in relation to any part of an operation that is in compliance with the regulations or a permit, approval, order, waste management plan, operational certificate, or an authorization made under the regulations. A **pollution abatement order** can be issued to these operations if the director has reasonable grounds to believe that pollution is occurring. A **pollution prevention order** can also be issued to an individual industry, trade, business, operation or activity that is not prescribed in EMA or the WDR. **Pollution prevention orders** cannot be issued by the director against municipalities.

### **Pollution Abatement Orders (EMA section 83)**

If a director is satisfied on reasonable grounds that an individual industry, trade, business, activity or operation is causing pollution, the director may order a person, at their own expense to:

- provide information;
- undertake investigations, tests or surveys;
- acquire, construct or carry out any works or measures; or
- adjust, repair or alter any works to abate or stop the pollution (section 83 of EMA).

As described above, pollution abatement orders can be issued against an operation even if the operation is in compliance with the regulations or a permit, approval, order, waste management plan or operational certificate, or an authorization under the regulations. Pollution abatement orders can also be issued to an individual, industry, trade, business, operation or activity that is not prescribed in EMA or the WDR. **The director cannot issue pollution abatement orders against municipalities.**

### **Minister's Orders In Relation to Managing the Environment (EMA section 78, 79, 82, 84, 85, 87)**

Section 78 of EMA gives the minister the power to order a person to provide an environmental impact assessment of a proposed operation, where there is potential for environmental harm, and the impact cannot be assessed from available information. Section 79 gives the minister the power to order a person who has possession, charge or control of a polluting substance to:

- undertake a risk assessment,
- prepare and test a contingency plan, and
- construct works to lessen the risk of escape of the substance.

By ministry policy and practice, the director handles these issues with the cooperation of business and industry without having to resort to the order powers of the minister. Sections 82 and 84 of EMA give the minister the authority to issue **pollution prevention orders** and **pollution abatement orders** to municipalities if necessary. Section 85 of EMA gives the minister the authority to issue environmental protection orders where an existing or

proposed work or undertaking has or potentially has a detrimental environmental impact. An **environmental protection order** can be for a maximum of 15 days and may be extended by Cabinet and the Lieutenant Governor in General. Lastly, if the minister has declared an environmental emergency as described in Section 87 of EMA, the minister or public official authorized by the minister can order any person to provide labour, services, equipment or facilities to deal with the emergency.

### **Seizures and Prevention Orders (EMA section 112)**

During an inspection of works, land or vehicles, an officer has the power to seize goods and make orders as necessary to stop or prevent another contravention of EMA. This provision should not generally be considered as authorizing seizures as part of an investigation.

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## 6 Enforcement

Ensuring compliance with its regulatory requirements is one of the ministry's principal objectives. This is achieved through the use of a variety of compliance tools, giving consideration to using the most appropriate tool necessary to obtain compliance, and when required, to promote general deterrence. Prosecution is an essential compliance tool to be applied vigorously when necessary, but reserved for those situations where alternative compliance efforts are unable to achieve desired outcomes or it has been otherwise determined that a prosecution response is appropriate.

### ***Compliance and Enforcement Policy and Procedure***

By guiding the selection of appropriate tools to respond to non-compliance, the Non-Compliance Decision Matrix provides consistency and structure to the task of assessing and responding to regulatory non-compliance. The establishment of an investigation review process ensures that divisions will communicate with each other when defining and protecting environmental values, and when investigating. These measures further the ministry's aim of providing greater consistency, increased clarity and predictability regarding the consequences of non-compliance, as well as assurance that resources are directed to the highest priorities. The balanced and principled use of compliance and enforcement tools demonstrates the ministry's commitment to building public confidence through accountable and transparent policies.

### ***Violations of EMA and the WDR***

The biggest difference between the *Waste Management Act* and the *Environmental Management Act* (EMA) is the change from a general prohibition against discharging waste from an industry, trade or business, to a prohibition against discharging wastes from a **prescribed** industry, trade, business, operation or activity under EMA. Consequently, there is no blanket offence for discharging waste without authority under EMA.

Non-compliance with a code of practice is an offence under EMA and under the WDR. Where the non-compliance with a code involves the discharge of waste to the environment, the offender loses his or her exemption from the prohibition to discharge waste as they no longer comply with the code. This creates a contravention of EMA section 6(2) or 6(3) and an offence under section 120(3)(a). As described previously in the guide, it is important to distinguish between violations under section 6(2) or 6(3) when laying charges. Non-compliance with the administrative aspects of a code is a contravention of section 5 and 6 of the WDR. The following table summarizes the major types of non-compliances, the offences and penalties outlined in EMA and the WDR.



<b>Person</b>	<b>Non-compliance</b>	<b>Violation</b>	<b>Offence/Penalty</b>
Not Prescribed	Pollution	EMA section 6(4)	EMA section 120(3)(a)
Not Prescribed	Non-compliance (N/C) with an order	EMA sections 77, 81, 83 or 85	EMA section 120(10)
Prescribed	N/C with a permit or approval	EMA sections 14,15	EMA section 120(6)
Prescribed	N/C with an order	EMA sections 77, 81, 83, or 85	EMA section 120(10)
Prescribed	N/C with a plan	EMA section 24(2) or 24(3)	EMA section 120(11)
Prescribed	N/C with a regulation		EMA sections 120(3) and 120(13)
Prescribed	No authorization	EMA section 6(2) or 6(3)	EMA section 120(3)
Prescribed (Code)	Quality or quantity of discharge	EMA section 6(2) or 6(3)	EMA section 120(3)
Prescribed (Code)	False Information	WDR section 5(1)	WDR section 5(2)
Prescribed (Code)	Non-discharge related i.e. plans or data	WDR section 6(1)	WDR section 6(2)
Prescribed (Code)	Violation of a code with a substitution	WDR section 7	EMA section 120(18)

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# Appendix A - Waste Discharge Regulation

## *Environmental Management Act*

### WASTE DISCHARGE REGULATION

[includes amendments up to B.C. Reg. 464/2004, October 22, 2004]

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#### **Schedules 1, 2 and 3**

##### **Interpretation**

**1** In this regulation:

"**Act**" means the *Environmental Management Act*;

"**vehicle**" has the same meaning as in the *Motor Vehicle Act*;

"**written**" or "**in writing**" includes written messages transmitted electronically.

##### **Prescribed industries, trades, businesses, operations and activities**

**2** (1) The industries, trades and businesses, and classes of industries, trades and businesses, listed in the Table in Schedule 1 and in column 1 of the Table in Schedule 2 are prescribed for the purposes of section 6 (2) of the Act.

(2) The activities and operations, and classes of activities and operations, listed in the Table in Schedule 1 and in column 1 of the Table in Schedule 2 are prescribed for the purposes of section 6 (3) of the Act.

### **Operations exempt from the Act**

**3** (1) In this section, "**domestic sewage**" and "**sewage disposal system**" have the same meanings as in section 1 of the Sewage Disposal Regulation, B.C. Reg. 411/85.

(2) The following activities and operations are exempt from the Act and regulations:

(a) the discharge of domestic sewage to a sewage disposal system that serves only one single or one double unit dwelling;

(b) the discharge of domestic sewage to a sewage disposal system

(i) that is not described in paragraph (a), and

(ii) if

(A) the estimated total sewage flow to that system, calculated in accordance with subsection (3), is less than 22.7 m<sup>3</sup> a day, and

(B) no sewage is discharged from that system into a surface watercourse or surface water body.

(3) For the purposes of subsection (2) (b) (ii) (A),

(a) the estimated sewage flow must be calculated using Appendix 1 of Schedule 2 of the Sewage Disposal Regulation,

(b) if a sewage disposal system serves more than one parcel of land, the estimated total sewage flow is calculated by summing the estimated sewage flow of all discharges of sewage directed to the sewage disposal system, and

(c) if there is more than one sewage disposal system located within a strata plan or, if no strata plan applies, located on a parcel of land, the estimated total sewage flow is calculated by summing the estimated sewage flow of all discharges of sewage directed to all sewage disposal systems located within the strata plan or on the parcel of land.

(4) The use of industrial wood residue for foundation material at construction sites is exempt from section 6 (2) and 6 (3) of the Act if the material is applied under the direction of a professional engineer.

(5) The use of industrial wood residue

(a) as plant mulch or in residential gardens,

(b) as foundation material for animal bedding, and

(c) in sports areas

is exempt from section 6 (2) and 6 (3) of the Act.

(6) The use of industrial wood residue as a soil conditioner or ground cover in non-agricultural operations is exempt from section 6 (2) and 6 (3) of the Act if

- (a) less than 100 m<sup>3</sup>/year is spread on a single property, and
- (b) it is applied in accordance with good agronomic practices.

(7) The emissions and ash from a commercially available auxiliary fuel fired refuse incinerator that serves a remote industrial, recreational, exploration or construction camp designed to accommodate fewer than 100 persons are exempt from the application of section 6 (2) and 6 (3) of the Act.

(8) Emissions from the combustion, in a commercial pet crematorium, of the corpses of pets are exempt from the application of section 6 (2) and 6 (3) of the Act.

[am. B.C. Reg. 464/2004, s. 5 (a).]

**Exemption from section 6 (2) and (3) of the Act  
by compliance with code of practice**

**4 (1) If**

- (a) a person introduces waste into the environment
  - (i) in the course of conducting an industry, trade or business, or an industry, trade or business in a class, listed in column 1 of the Table in Schedule 2, or
  - (ii) that is produced in the course of carrying on an activity or operation listed in column 1 of the Table in Schedule 2,
- (b) the introduction of the waste is governed by a code of practice, the title of which is set out opposite the industry, trade, business, activity or operation, or class of industry, trade, business, activity or operation, in column 2 of the Table in Schedule 2,
- (c) the introduction of the waste is carried out in accordance with the code of practice, and
- (d) the person's registration under subsection (2), if required under the code of practice, is effective,

the person is exempt from section 6 (2) and (3) of the Act in relation to the introduction of that waste into the environment.

(2) In order to effect a registration referred to in subsection (1) (d), the person must provide to a director the following information, as applicable, in a form approved by the director:

- (a) if the person is an individual, the person's full name and residential address;
- (b) if the person is a corporation or entity that is registered with the Registrar of Companies under an Act that provides for an address at or to which records may, under that Act, be served on the corporation or entity
  - (i) the registered name of the corporation or entity, and
  - (ii) that address;

- (c) if the person is a corporation not referred to in paragraph (b),
    - (i) the name of the corporation, and
    - (ii) the address of the corporation's head office in British Columbia, or if the corporation does not have an a head office in British Columbia, the address of the corporation's head office;
  - (d) if the person is a partnership, the name of the partnership, the full name of each partner, and the head office in British Columbia of the partnership;
  - (e) if the person is a corporation or entity operating under a name other than its registered name, the name under which the corporation or entity conducts or carries out the prescribed industry, trade, business, operation or activity;
  - (f) the name and address and contact numbers of an individual who is located at or near the site where the introduction of waste into the environment will occur and who is the local contact for the purposes of the discharge;
  - (g) the address and legal description of the location of the facility that produces the waste, and the address, legal description and latitude and longitude of the site where the introduction of waste into the environment will occur;
  - (h) the industry, trade, business, activity or operation, or class of industry, trade, business, activity or operation, in relation to which the waste is or will be introduced into the environment, as set out in Column 1 of the table in Schedule 2;
  - (i) the title of the code of practice that governs the discharge of waste;
  - (j) if the person previously held an authorization under the Act to discharge waste or has previously registered under this regulation in relation to a code of practice, the ministry's file number for that authorization or registration;
  - (k) other information that is relevant to the exemption and specified by the minister as required for the purposes of a registration under the applicable code of practice;
  - (l) other information that is relevant to the exemption and specified by a director in a particular case.
- (3) A registration under subsection (2) must
- (a) be provided to a director by registered mail, transmitted electronically or delivered personally to a director, and
  - (b) be accompanied by
    - (i) the first annual fee calculated in accordance with section 9 (1), and
    - (ii) a written record of the fee calculation in a form approved by the director.

(4) For a person who is required under a code of practice to register for an exemption under this section, the exemption takes effect on the effective date of the registration which, in relation to a particular registration, is the earlier of the following dates:

(a) the date a director sends a notice in writing signed by the director stating that the person's registration is effective;

(b) the date that is 45 days after the date the person delivers the registration and fee under subsection (3) to a director.

(5) A person whose registration is effective under subsection (4) must

(a) pay the annual fee calculated under section 9 (1) on each anniversary of the effective date of the registration, and

(b) provide a director with written notice within 30 days after

(i) a change in information provided in the person's registration, or

(ii) ceasing to conduct the industry, trade or business or to carry on the activity or operation, at the facility referred to in subsection (2) (g).

(6) Despite subsection (4), a registration ceases to be effective

(a) on the day following an anniversary referred to in subsection (5) (a) if the annual fee was not paid in accordance with that subsection, or

(b) 30 days after a change referred to in subsection (5) (b) if notice was not provided in accordance with that subsection.

(7) The minister, in a code of practice, may specify in relation to an industry, trade, business, activity or operation, or a class of industry, trade, business, activity or operation, whether registration is required for an exemption under this section.

(8) For greater certainty, if

(a) the discharge of waste from an activity or operation of an industry, trade or business described in subsection (1) (a) is not governed by the code of practice set out opposite the title of the industry, trade or business in the Table in Schedule 2, and

(b) the activity or operation is listed in the Table in Schedule 1 or in column 1 of the Table in Schedule 2,

registration under this section in relation to the code of practice described in paragraph (a) does not exempt the person conducting the industry, trade or business from section 6 (1) or (2) of the Act in relation to the discharge described in that paragraph.

[am. B.C. Reg. 464/2004, s. 5 (b).]

### **False statement in registration**

**5** (1) A person who knowingly provides false or misleading information in a registration under section 4 (2) commits an offence.

(2) A person who commits an offence under subsection (1) is liable on conviction to a fine not exceeding \$200 000.

### **Other code of practice requirements**

**6** (1) A person who is exempt from section 6 (2) or (3) of the Act because of compliance with section 4 (1) [*exemption by compliance with code of practice*] of this regulation must also comply with the requirements of the code of practice not described in section 4 (1) (c) of this regulation.

(2) A person who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$200 000.

### **Substituted requirements**

**7** (1) The minister or a director, on his or her own initiative, may, by order, substitute a different requirement for a requirement contained in a code of practice if, in the individual case, the minister or the director considers that

(a) the substitution is necessary to protect the public or the environment, or

(b) the intent of the code of practice is met by the substituted requirement.

(2) If the minister or a director makes a substitution under subsection (1), he or she may order that notification of the substitution be given to the public in the manner the minister or director specifies.

(3) A director, on application under section 8, may, by order, substitute a different requirement for a requirement contained in a code of practice if he or she considers that, in the individual case, the intent of the code of practice will be met by the substituted requirement.

### **Application for substituted requirement**

**8** (1) A person who is exempt from section 6 (2) or (3) of the Act under section 4 (1) of this regulation may apply for a substitution described in section 7 (3) by filing with a director a copy of a completed application in the form specified by the director.

(2) A person who makes an application under subsection (1) must do all of the following:

(a) within 15 days after the date the application is filed with the director, post a readable copy of the application in a conspicuous place at all main entrances to the site where the introduction of waste into the environment will occur;

(b) keep the copy posted for a period of not less than 30 days;

- (c) publish notice of the application in the form approved by the director in one or more newspapers specified by the director;
  - (d) advise the director in writing of the date the copy of the application was posted under paragraph (a) and the date notice was published under paragraph (c).
- (3) If directed to do so by a director, a person who makes an application under subsection (1) must
  - (a) serve a signed copy of the application on any person who, in the director's opinion, may be adversely affected by an environmental impact of the proposed substituted requirement, and
  - (b) display a copy of the application in one or more branch post offices of Canada Post Corporation specified by the director.
- (4) A person who may be adversely affected by an environmental impact of a proposed substitution under this section may notify a director and the applicant in writing, stating how the person is affected, within 30 days after the occurrence of the later of the following events:
  - (a) the application is posted or published under subsection (2);
  - (b) the application is served or displayed under subsection (3).
- (5) If directed to do so by a director, the applicant must consult in the manner directed with a person who, in the director's opinion, may be adversely affected by an environmental impact of the proposed substitution to explain and clarify the intent of the application.
- (6) An applicant must demonstrate to the satisfaction of a director that the substituted requirement requested meets the intent of the code of practice.
- (7) A director, on receipt of an application under this section, may
  - (a) request additional information from the applicant if the director considers the information necessary for the evaluation of the application, and
  - (b) after the 30 day period referred to in subsection (4) is ended and having considered any information provided under that subsection,
    - (i) refuse to grant the substitution, or
    - (ii) grant any or all the requested substitutions to any or all the requirements of the code of practice, for a definite or indefinite period of time, and subject to the conditions the director considers appropriate.
- (8) On granting or refusing an application, a director must
  - (a) serve a signed copy of his or her decision on the applicant, and
  - (b) give notice of it to all persons who gave notice under subsection (4).



(9) The fee for an application for a substitution is \$150 per hour of time a ministry employee is engaged in considering or processing the application and the director may

(a) require the fee or a portion of the fee from the applicant before beginning to process the application, and

(b) invoice the applicant for the fee.

(10) A director may cancel or amend a decision made under this section whenever new information demonstrates to the satisfaction of the director that

(a) the applicant provided false or misleading material information in the application, or

(b) the cancellation or amendment is necessary to protect the environment or the public.

(11) A decision granting an application under this section ceases to have effect if the fee under subsection (9) remains unpaid 30 days after the date of the invoice.

### **Annual fees**

**9** (1) The annual fee for a registration under section 4 (2) is the sum of the following amounts:

(a) the sum of the amounts of the base fee set out in Table 1 in Schedule 3 for each type of discharge that

(i) is authorized under the applicable code of practice, and

(ii) is discharged in the course of conducting the industry, trade, or business, or carrying out the activity or operation, to which the registration relates;

(b) the sum of the fees for each contaminant that is discharged under the code of practice and, under that code, is subject to a fee.

(2) For the purposes of subsection (1) (b), the fee for each contaminant is the maximum discharge multiplied by the maximum concentration multiplied by the applicable fee from Schedule 3, where

(a) maximum discharge is the maximum quantity of discharge

(i) specified in the registration, if the minister has specified under section 4 (3) (k) that the maximum discharge is information required for the purposes of a registration under section 4, or

(ii) specified in or calculated under the code of practice, as applicable, if subparagraph (i) does not apply,

calculated on an annual basis,

(b) maximum concentration is the maximum concentration of the contaminant authorized under the code of practice, and

(c) applicable fee from Schedule 3 is the unit fee for the contaminant set out in column 2 opposite the contaminant in Column 1 of Table 2, 3 or 4 of Schedule 3.

(3) As a limitation on subsection (1) (a), if a person

(a) has paid a base fee for a year in relation to a type of discharge, and

(b) at the same time or later obtains a discharge authorization or registers under a code of practice in relation to the same type of discharge for a period that overlaps with all or part of the year referred to in paragraph (a),

the person need not pay the part of the second base fee in relation to that type of discharge that applies to the overlapping part of that year.

(4) For the purposes of subsection (2), the minister may specify

(a) the contaminants regulated under the code of practice that are subject to fees, and

(b) how the maximum quantity of each contaminant is to be calculated.

(4.1) Despite subsection (1) (b), if neither the maximum discharge nor a calculation for maximum discharge is included in a code of practice and the minister has not exercised the authority under section 4 (2) (k) in relation to registrations under the applicable code, the first and subsequent annual fee for the purposes of section 4 (3) (b) and (5) (a) is the fee described in subsection (1) (a).

(5) If a substitution is ordered under section 7 (1) or (3) in relation to a requirement of a code of practice that affects the calculation of fees under this section, the order must specify how the maximum quantity of each contaminant must be calculated.

(6) If the annual fee in respect of a registration is changed by an order under section 7 (1) or (3), the change is effective on the next anniversary of the effective date of the registration.

[am. B.C. Reg. 464/2004, s. 5 (c)-(f).]

### **Rebates of fees**

**10** A director may refund a fee paid under section 4 (3) (b) or (5) (a) only on a prorated basis and in the following circumstances:

(a) the registration under section 4 in respect of which the fee was paid is withdrawn by the person who paid the fee;

(b) the person has already paid an amount that under section 9 (3) the person was not required to pay.

### **Minister may amend Schedule 2**

**11** If the minister prescribes a code of practice in relation to an industry, trade, business, activity or operation listed in Column 1 of the Table in Schedule 2, the minister may amend

the Table by adding the title of the code of practice to Column 2 opposite the industry, trade, business, activity or operation in Column 1.

[en. B.C. Reg. 464/2004, s. 5 (g).]

### Schedule 1

#### **Industries, trades, businesses, operations and activities defined**

**1** In this Schedule:

**"abrasives industry"** means establishments engaged in manufacturing grinding wheels or other abrasive products;

**"aluminum and aluminum alloy products industry"** means establishments, except home-based businesses, educational facilities and establishments of hobbyists or artisans, engaged in manufacturing

(a) aluminum or aluminum alloys, or

(b) aluminum products including, but not limited to, pipe tubing, aluminum powder or diecast aluminum;

**"asbestos mining industry"** means establishments engaged in mining or milling asbestos;

**"asphalt roofing manufacturing industry"** means establishments involved in manufacturing asphalt saturated or tar saturated roofing or siding materials;

**"biotechnology industry"** means establishments that use living organisms or biological techniques for research and development or in a production process, if there is a potential for the entry of living organisms that can sustain or modify themselves to the detriment of an ecosystem into the natural environment or the food chain, and includes, but is not limited to, establishments engaged in the development or manufacture of antibiotics, insulin, interferon or recombinant DNA;

**"burning of vegetative debris"** means burning, without a stack or chimney to vent air contaminants, vegetative matter on the parcel of land from which it originated;

**"burning of waste"** means the burning or partial burning of waste material generated from an industry, trade or business;

**"cement and lime manufacturing industry"** means establishments engaged in manufacturing lime or Portland cement;

**"chemical and chemical products industry"** means establishments, except home-based businesses and establishments of hobbyists or artisans, engaged in manufacturing industrial organic or inorganic chemicals, fertilizers or pesticides, and includes, but is not limited to, establishments manufacturing food supplements, vitamins or pharmaceuticals, except pharmaceuticals referred to in the definition of "biotechnology industry";

**"clay industry"** means establishments, except home-based businesses, educational facilities and establishments of hobbyists or artisans, engaged in manufacturing structural, ceramic, porcelain or china clay products;

**"commercial waste management or waste disposal industry"** means establishments engaged commercially in the handling, storing, treating, destruction or disposal of waste soil, solids or liquids;

**"contaminated site contaminant management"** means an activity, at or away from a contaminated site, for the treatment, removal, recycling or destruction of contaminated substances from the site, if the activity involves a discharge of waste to the environment;

**"dairy products industry"** means establishments, except home-based businesses, educational facilities and establishments of hobbyists or artisans, engaged in processing fluid milk or manufacturing other dairy products;

**"electrical or electronic products industry"** means establishments engaged in manufacturing electrical or electronic products, including batteries;

**"electrical power industry"** means establishments that

- (a) are engaged in the production of electricity by the combustion of fuel, and
- (b) have a rated production of more than 5 megawatts under peak load;

**"flour, prepared cereal food or feed industry"** means establishments engaged in manufacturing cereal grain flour, prepared flour mixes, prepared cereal foods or feed;

**"glass and glass products industry"** means establishments, except home-based businesses, educational facilities and establishments of hobbyists or artisans, engaged in manufacturing glass, glass containers or other glass products, including establishments engaged in processing recycled glass;

**"hazardous waste management"** means the generation, transportation, treatment, recycling, storage, blending, disposal or destruction of hazardous waste;

**"incineration of municipal waste industry"** means establishments engaged in the incineration of waste, except hazardous waste,

- (a) originating from residential, commercial, institutional, demolition, land clearing or construction sources, or
- (b) specified in a waste management plan;

**"incineration of wood residue"** means the incineration of wood residue in a beehive burner, a modified or unmodified silo burner or a wood residue incinerator;

**"industrial fastener industry"** means establishments engaged in manufacturing industrial metal fasteners;

**"metal processing and metal products manufacturing industry"** means establishments engaged in manufacturing metal products that are also engaged in

- (a) spray coating or dip coating metal and metal products, or
- (b) galvanizing or electroplating;

**"metal smelting, iron and steel foundry and metal refining industry"** means establishments, except home-based businesses and establishments of hobbyists or artisans, engaged in

- (a) smelting or refining metals or metal alloys including aluminum, or
- (b) secondary smelting,

and includes, but is not limited to,

- (c) establishments engaged producing metal products by thermal melting and casting or moulding metals, including reclaimed metal;

**"mining and coal mining industry"** means establishments engaged in mining metals, non-metals, coal, gemstones or industrial mineral ores or in beneficiating mineral ores but does not include

- (a) establishments located in areas or places defined as "exploration sites" in section 65 of the Act,
- (b) establishments engaged in discharging coarse coal refuse, waste rock or overburden if the discharge is managed in accordance with a permit issued under section 10 of the *Mines Act*, or
- (c) gravel, sand, crushed rock or dimensional stone quarries;

**"municipal sewage management"** means the management of domestic sewage, domestic waste water or liquid waste originating primarily from residences, but that may include contributions from

- (a) holding tanks in recreational vehicles, boats and houseboats,
- (b) commercial, institutional and industrial sources, and
- (c) inflow and infiltration,

but does not include an operation exempted from the Act under section 3 of this regulation;

**"municipal solid waste management"** means activities and operations for the management, treatment or discharge of refuse that

- (a) originates from residential, commercial, institutional, demolition, land clearing or construction sources, or
- (b) is included in a waste management plan;

**"non-metallic mineral products industry"** means establishments engaged in manufacturing non-metallic mineral products using a rotary kiln or dryer;

**"oil and natural gas industry — large"** means establishments engaged in exploring for, producing, transporting, storing or processing crude oil or natural gas that, in any 15 day period,

(a) discharge or remove 30 tonnes or more of total sulphur, not including any mass of sulphur discharged from the facility subsurface in acid gas, or

(b) discharge or remove 4 tonnes or more of volatile organic carbon compounds;

**"ozone depleting substances and other halocarbons management"** means establishments, activities or operations that use ozone depleting substances or other halocarbons or that sell, collect, recycle or manage ozone depleting substances or other halocarbons;

**"paperboard industry"** means establishments engaged in manufacturing paperboard, including recycled paperboard and building paper;

**"paper industry"** means establishments engaged in manufacturing any type of paper, except paperboard and building paper, but including recycled paper;

**"particle and wafer board industry"** means establishments engaged in manufacturing boards or panels made from very small pieces of wood bonded together, and includes, but is not limited to, establishments that manufacture medium density fibre board or oriented strand board;

**"pipeline transport industry with approved operating plan"** means establishments that

(a) are engaged in operating or maintaining a pipeline in British Columbia for the transport of natural gas, and

(b) operate under a specific environmental operating plan approved by a director;

**"plastic and synthetic resin manufacturing industry"** means establishments engaged in manufacturing plastics, synthetic resins or moulding compounds;

**"pulp industry"** means establishments engaged in manufacturing wood pulp;

**"refined petroleum and coal products industry"** means establishments engaged in

(a) manufacturing petroleum or coal products, including asphalt paving materials, emulsified asphalt, liquid asphalt, coal or coke briquettes, coal coke, petroleum coke, synthetic gasoline from coal, fuels, lubricating oils or greases, or

(b) re-processing of waste oil;

**"rendering industry"** means establishments engaged in processing by-products from the processing of red meat, poultry or fish but does not include establishments engaged in processing fish oil;

**"sugar processing and refining industry"** means establishments engaged in processing raw cane sugar, sugar beets, or starches to produce sucrose, glucose or fructose;

**"veneer and plywood industry"** means establishments engaged in manufacturing veneer, plywood or laminated wood products;

**"wire and wire rope fabricating industry"** means establishments engaged in manufacturing plain, coated or uncoated steel wire, flat, twisted or braided steel wire or steel rope.

**Table**

<b>Industries, Trades, and Businesses, Operations and Activities</b>			
1	Abrasives Industry	25	Municipal Sewage Management
2	Aluminum and Aluminum Alloy Products Industry	26	Municipal Solid Waste Management
3	Asbestos Mining Industry	27	Non-Metallic Mineral Products Industry
4	Asphalt Roof Manufacturing Industry	28	Oil and Natural Gas Industry – Large
5	Biotechnology Industry	29	Ozone Depleting Substances and other Halocarbons Management
6	Burning of Vegetative Debris	30	Paperboard Industry
7	Burning of Waste	31	Paper Industry
8	Cement and Lime Manufacturing Industry	32	Particle and Wafer Board Industry
9	Chemical and Chemical Products Industry	33	Pipeline Transport Industry with Approved Operating Plan
10	Clay Industry	34	Plastic and Synthetic Resin Manufacturing Industry
11	Commercial Waste Management or Waste Disposal Industry	35	Pulp Industry
12	Contaminated Site Contaminant Management	36	Refined Petroleum and Coal Products Industry
13	Dairy Products Industry	37	Rendering Industry
14	Electrical or Electronic Products Industry	38	Sugar Processing and Refining Industry
15	Electrical Power Industry	39	Veneer and Plywood Industry
16	Flour, Prepared Cereal Food and Feed Industry	40	Wire and Wire Rope Fabricating Industry
17	Glass and Glass Products Industry		
18	Hazardous Waste Management		
19	Incineration of Municipal Waste Industry		
20	Incineration of Wood Residue		

<b>Industries, Trades, and Businesses, Operations and Activities</b>		
21	Industrial Fastener Industry	
22	Metal Processing and Metal Products Manufacturing Industry	
23	Metal Smelting, Iron and Steel Foundry and Metal Refining Industry	
24	Mining and Coal Mining Industry	

**Schedule 2**

[am. B.C. Reg. 464/2004, s. 6.]

**Industries, trades, businesses, operations and activities defined**

**1** In this Schedule:

**"agricultural operations"** means operations or activities carried out on farms for purposes of agriculture, including, but not limited to,

- (a) producing or keeping livestock, poultry, farmed game, fur bearing animals, crops, grain, vegetables, milk, eggs, honey, mushrooms, horticultural products, trees, tree fruits or berries, and
- (b) operating machinery and equipment for agricultural waste management or for applying fertilizers and soil conditioners;

**"antisapstain chemicals management"** means activities and operations that apply chemicals to lumber to protect the lumber from staining;

**"aquaculture – land-based industry"** means establishments engaged in land-based aquaculture, including but not limited to,

- (a) those engaged, for the purposes of land-based aquaculture, in
  - (i) culturing or collecting freshwater or saltwater species of finfish or shellfish, or
  - (ii) harvesting other freshwater or saltwater products, and
- (b) those engaged in operating finfish or shellfish hatcheries, rearing ponds or other similar facilities where finfish or shellfish are fed, nurtured, held, maintained or reared in fresh water or salt water to reach a size for release or for market sale;

**"aquaculture – marine-based industry"** means establishments engaged in saltwater aquaculture, including but not limited to

- (a) those engaged, for the purposes of saltwater aquaculture, in
  - (i) culturing or collecting all species of saltwater finfish,



- (ii) trapping or otherwise catching saltwater shellfish, or
  - (iii) harvesting other sea products,
- (b) those engaged in operating saltwater fish farms (finfish aquaculture), and
- (c) those engaged in other activities that create waste and are incidental to saltwater fish farms, such as net washing;

**"asphalt plant industry"** means establishments that operate hot-mix asphalt plants, hot-in-place asphalt recycling plants or operations using cutback asphalt;

**"beverage industry"** means establishments, except home-based businesses and establishments of hobbyists and artisans, engaged in producing or filling containers with beverages, including, but not limited to, alcoholic beverages, soft drinks or water;

**"coalbed gas exploration and production industry"** means establishments, at all stages of an operation from exploration through to abandonment, engaged in discharging to the environment produced water or related solids from a coalbed gas operation;

**"composting operations"** means composting of organic wastes or other feedstocks;

**"concrete and concrete products industry"** means establishments, except home-based businesses, educational facilities and establishments of hobbyists or artisans, engaged in manufacturing ready-mix concrete or concrete products;

**"deep well disposal"** means the disposal of waste fluids underground to porous rock formations, through wells or other means;

**"fish products industry"** means establishments, except home-based businesses, educational facilities and establishments of hobbyists or artisans, engaged in the processing, including but not limited to eviscerating, skinning, filleting, breaching, pre-cooking or blanching of fish, molluscs, crustaceans, or other marine animals, and includes establishments engaged in processing fish oil or fish roe;

**"fruit and vegetable industry"** means establishments, including fruit or vegetable growers and cooperatives, but not including home-based businesses or establishments of hobbyists, engaged in processing fruits or vegetables by canning, drying, freezing or any other preservation process, and includes producers of juices, pickles, ketchup and similar products;

**"industrial non-hazardous waste landfills"** means activities or operations, incidental to industrial operations, for the disposal to land of wastes that are not hazardous waste;

**"naturally occurring radioactive materials management"** means activities and operations associated with controlling or discharging naturally occurring radioactive materials that exceed the limits specified in Tables 5.1, 5.2 or 5.3 of the Canadian Guidelines for the Management of Naturally Occurring Radioactive Materials (NORMs),

- (a) prepared by the Canadian NORM Working Group of the Federal Provincial Territorial Radiation Protection Committee,

(b) published by authority of the Ministry of Health (Canada), and

(c) as amended from time to time,

but does not include managing radon in buildings;

**"oil and natural gas industry – small"** means establishments engaged in exploring for producing, transporting, storing or processing crude oil or natural gas that, in any 15 day period,

(a) discharge or remove less than 30 tonnes of total sulphur, not including any mass of sulphur discharged from the facility subsurface in acid gas, and

(b) discharge or remove less than 4 tonnes of volatile organic carbon compounds;

**"petroleum storage"** means the storage or transfer, except by pipeline, of bulk petroleum products;

**"pipeline transport industry"** means establishments that are engaged in operating or maintaining pipelines for the transport of natural gas, crude oil or related products or commodities, but does not include those with an operating plan;

**"placer mining industry"** means establishments that mine placer minerals as defined in section 1 of the *Mineral Tenure Act*;

**"plastics and composite products industry"** means establishments engaged in using synthetic resins to fabricate shapes or forms of plastic;

**"poultry processing industry"** means establishments that process more than 130 tonnes live weight of poultry per year, but does not include establishments included in the definition "rendering industry";

**"primary wood manufacturing industry"** means establishments engaged in manufacturing lumber or lumber products, including, but not limited to, shingles, shakes and finger jointing products, but does not include secondary wood manufacturing industries;

**"product storage – bulk solids"** means activities and operations for the storage or handling of cement, lime, gypsum or gypsum products, elemental sulphur, coal, grain, flour, metal concentrates, industrial minerals, fertilizers or explosives;

**"secondary wood manufacturing industry"** means establishments, except educational facilities and establishments of hobbyists and artisans, engaged in manufacturing wood or millwork products, including, but not limited to, prefabricated buildings, furniture, chopsticks and pellets;

**"slaughter industry"** means establishments engaged in processing more than 1 500 tonnes of red meats per year, but does not include establishments included in the definition of "rendering industry";

**"soil enhancement using wastes"** means activities and operations applying organic or inorganic wastes to land as a soil conditioner or ground cover;

**"vehicle dismantling and recycling industry"** means establishments engaged in wrecking or dismantling vehicles or in recycling or disposing of parts and other waste material from vehicles;

**"vehicle, industrial machinery and parts and accessories manufacturing industry"** means establishments engaged in manufacturing automobiles, buses, truck chassis, truck tractors or other vehicles, industrial machinery, vehicle engines or other transportation equipment, supplies or parts;

**"wood preservation industry"** means establishments engaged in treating wood products against decay

Table

	<b>Column 1 Industries, Trades, Businesses, Operations and Activities</b>	<b>Column 2 Code of Practice</b>
1	Agricultural Operations	
2	Antisepstain Chemicals Management	
3	Aquaculture — Land-based Industry	
4	Aquaculture — Marine-based Industry	
5	Asphalt Plant Industry	
6	Beverage Industry	
7	Coalbed Gas Exploration and Production Industry	
8	Composting Operations	
9	Concrete and Concrete Products Industry	
10	Deep Well Disposal	
11	Fish Products Industry	
12	Fruit and Vegetable Industry	
13	Industrial Non-hazardous Waste Landfills	
14	Naturally Occurring Radioactive Materials Management	
15	Oil and Natural Gas Industry — Small	
16	Petroleum Storage	
17	Pipeline Transport Industry	
18	Placer Mining Industry	
19	Plastics and Composite Products Industry	
20	Poultry Processing Industry	
21	Primary Wood Manufacturing Industry	

	<b>Column 1 Industries, Trades, Businesses, Operations and Activities</b>	<b>Column 2 Code of Practice</b>
22	Product Storage — Bulk Solids	
23	Secondary Wood Manufacturing Industries	
24	Slaughter Industry	
25	Soil Enhancement Using Wastes	
26	Vehicle Dismantling and Recycling Industry	
27	Vehicle, Industrial Machinery and Parts and Accessories Manufacturing Industry	
28	Wood Preservation Industry	

**Schedule 3**

[am. B.C. Reg. 464/2004, s. 7.]

**Table 1  
Base Fees**

<b>Column 1 Type of Discharge</b>	<b>Column 2 Base Fee</b>
Air	\$100.00
Effluent	\$100.00
Refuse	\$100.00
Storage	\$100.00

**Table 2  
Contaminant Fees for Air Emissions**

<b>Column 1 Contaminant</b>	<b>Column 2 Fee Per Tonne Discharged</b>		
	<b>If Payment Date Before March 31, 2005</b>	<b>If Payment Date April 1, 2005 — March 31, 2006</b>	<b>If Payment Date After April 1, 2006</b>
Ammonia	\$14.69	\$15.74	\$16.78
Asbestos*	\$14.69	\$15.74	\$16.78
Carbon Monoxide	\$0.39	\$0.42	\$0.45
Chlorine and Chlorine Oxides expressed as chlorine dioxide equivalent	\$9.88	\$10.58	\$11.29
Fluorides	\$589.68	\$631.64	\$673.60

<b>Column 1 Contaminant</b>	<b>Column 2 Fee Per Tonne Discharged</b>		
Hydrocarbons	\$14.69	\$15.74	\$16.78
Hydrogen Chloride	\$9.88	\$10.58	\$11.29
Metals	\$589.68	\$631.64	\$673.60
Nitrogen Oxides expressed as nitrogen dioxide equivalent	\$9.88	\$10.58	\$11.29
Phenols	\$14.69	\$15.74	\$16.78
Sulphur and Sulphur Oxides expressed as sulphur dioxide equivalent	\$11.44	\$12.25	\$13.07
Total Particulate	\$14.69	\$15.74	\$16.78
TRS	\$491.40	\$526.37	\$561.33
VOCs	\$14.69	\$15.74	\$16.78
Other contaminants not otherwise specified in this table	\$14.69	\$15.74	\$16.78

\*Units of Asbestos are equivalent to cubic metres of air emissions per minute at a concentration of 2 fibres per cubic centimetre.

**Table 3  
Contaminant Fees For Effluent**

<b>Column 1 Contaminant</b>	<b>Column 2 Fee</b>		
	<b>if payment date before March 31, 2005</b>	<b>if payment date April 1, 2005 — March 31, 2006</b>	<b>if payment date after April 1, 2006</b>
Ammonia	\$90.09	\$96.50	\$102.91
AOX	\$239.20	\$256.22	\$273.24
Arsenic	\$239.20	\$256.22	\$273.24
BOD	\$18.07	\$19.36	\$20.64
Chlorine	\$239.20	\$256.22	\$273.24
Cyanide	\$239.20	\$256.22	\$273.24
Fluoride	\$90.09	\$96.50	\$102.91
Metals	\$239.20	\$256.22	\$273.24
Nitrogen and Nitrates	\$36.01	\$38.57	\$41.13
Oil and Grease	\$60.06	\$64.33	\$68.61
Other Petroleum Products	\$60.06	\$64.33	\$68.61
Other Solids	\$11.96	\$12.81	\$13.66
Phenols	\$239.20	\$256.22	\$273.24
Phosphorus and Phosphates	\$90.09	\$96.50	\$102.91
Sulphates	\$3.51	\$3.76	\$4.01
Sulphides	\$239.20	\$256.22	\$273.24
Surfactants	\$60.06	\$64.33	\$68.61
Suspended Solids	\$11.96	\$12.81	\$13.66
Other contaminants not otherwise specified in this table.	\$11.96	\$12.81	\$13.66

**Table 4  
Contaminant Fees for Refuse**

<b>Column 1 Contaminant</b>	<b>Column 2 Fee</b>		
	<b>if payment date before March 31, 2005</b>	<b>if payment date April 1, 2005 — March 31, 2006</b>	<b>if payment date after April 1, 2006</b>
Refuse per tonne	\$0.65	\$0.70	\$0.74

[Provisions of the *Environmental Management Act*, S.B.C. 2003, c. 53, relevant to the enactment of this regulation: sections 21, 138 and 139]

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## **Appendix B – Explanatory Notes**

Explanatory Notes are currently in development.



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## Appendix C - Regional Contact List

### **VANCOUVER ISLAND REGION**

Ministry of Environment  
2080-A Labieux Road  
Nanaimo B.C. V9T 6J9  
Fax: (250)751-3103  
General Inquiries (250) 751-3100

### **LOWER MAINLAND REGION**

Ministry of Environment  
10470-152nd Street  
Surrey B.C. V3R 0Y3  
Fax: (604) 582-5380  
General Inquiries (604) 582-5200

### **THOMPSON REGION**

Ministry of Environment  
1259 Dalhousie Drive  
Kamloops B.C. V2C 5Z5  
Fax: (250) 371-6234  
General Inquiries (250) 371-6200

### **CARIBOO REGION**

Ministry of Environment  
400 – 640 Borland Street  
Williams Lake, B.C. V2G 4T1  
Fax: (250) 398-4214  
General Inquiries (250) 398-4530

### **OKANAGAN REGION**

102 Industrial Place  
Penticton B.C. V2A 7C8  
Fax: (250) 490-2231  
General Inquiries (250) 490-8200

### **KOOTENAY REGION**

Ministry of Environment  
401 – 333 Victoria Street  
Nelson B.C. V1L 4K3  
Fax: (250) 354-6332  
General Inquiries (250) 354-6333

205 Industrial Road G  
Cranbrook B.C. V1C 7G5  
Fax: (250) 489-8506  
General Inquiries (250) 489-8540

### **SKEENA REGION**

3726 Alfred Street  
Bag 5000  
Smithers B.C. V0J 2N0  
Fax: (250) 847-7591  
General Inquiries (250) 847-7260

### **OMINECA REGION**

1011 – 4<sup>TH</sup> Avenue  
Prince George B.C. V2L 3H9  
Fax: (250) 565-6629  
General Inquiries (250) 565-6135

### **PEACE REGION**

400 – 10003 110 Avenue  
Fort St. John B.C. V1J 6M7  
Fax: (250) 787-3490  
General Inquiries (250) 787-3411

## Appendix D – Exemption Table for Industries, Trades, Business, Operations and Activities in the Waste Discharge Regulation (B.C. Reg. 320/2004)

<b>Industries, Trades, and Businesses, Operations and Activities with Exemptions</b>						
		Home Based Business	Educational Institution	Hobbyist	Artisan	Size Threshold
	<b>Schedule 1</b>					
1	Abrasives Industry					
2	Aluminium and Aluminium Alloy Products Industry	X	X	X	X	
3	Asbestos Mining					
4	Asphalt Roof Manufacturing					
5	Biotechnology Industry					
6	Burning of Vegetative Debris					
7	Burning of Waste					
8	Cement and Lime Manufacturing					
9	Chemical and Chemical Products Industry	X		X	X	
10	Clay Industry	X	X	X	X	
11	Commercial Waste Management or Waste Disposal Industry					
12	Contaminated Site Contaminant Management					
13	Dairy Products Industry	X	X	X	X	
14	Electrical or Electronic Products Industry					
15	Electrical Power Industry					X
16	Flour, Prepared Cereal Food and Feed Industry					
17	Glass and Glass Products Industry	X	X	X	X	
18	Hazardous Waste Management					
19	Incineration of Municipal Waste					
20	Incineration of Wood Residue					
21	Industrial Fastener Industry					
22	Metal Processing and Metal Products Manufacturing Industry					
23	Metal Smelting, Iron and Steel Foundry and Metal Refining	X		X	X	
24	Mining and Coal Mining Industry					
25	Municipal Sewage Management					
26	Municipal Solid Waste Management					
27	Non-Metallic Mineral Products Industry					
28	Oil and Natural Gas Industry-Large					
29	Ozone Depleting Substances and other Halocarbons Management					
30	Paperboard Industry					

<b>Industries, Trades, and Businesses, Operations and Activities with Exemptions</b>						
		Home Based Business	Educational Institution	Hobbyist	Artisan	Size Threshold
31	Paper Industry					
32	Particle and Wafer Board Industry					
33	Pipeline Transport Industry with Approved Operating Plan					
34	Plastic and Synthetic Resin Manufacturing Industry					
35	Pulp Industry					
36	Refined Petroleum and Coal Products Industry					
37	Rendering Industry					
38	Sugar Processing and Refining Industry					
39	Veneer and Plywood Industry					
40	Wire and Wire Rope Fabricating Industry					
	<b>Schedule 2</b>					
1	Agricultural Operations					
2	Antisapstain Chemicals Management					
3	Aquaculture — Land-based Industry					
4	Aquaculture — Marine-based Industry					
5	Asphalt Plant Industry					
6	Beverage Industry	X		X	X	
7	Coalbed Gas Exploration and Production Industry					
8	Composting Operations					
9	Concrete and Concrete Products Industry	X	X	X	X	
10	Deep Well Disposal					
11	Fish Products Industry	X	X	X	X	
12	Fruit and Vegetable Industry	X		X		
13	Industrial Non-hazardous Waste Landfills					
14	Naturally Occurring Radioactive Materials Management					
15	Oil and Natural Gas Industry — Small					
16	Petroleum Storage					
17	Pipeline Transport Industry					
18	Placer Mining Industry					
19	Plastics and Composite Products Industry					
20	Poultry Processing Industry					X
21	Primary Wood Manufacturing Industry					
22	Product Storage — Bulk Solids					
23	Secondary Wood Manufacturing Industries		X	X	X	
24	Slaughter Industry					X
25	Soil Enhancement Using Wastes					
26	Vehicle Dismantling and Recycling Industry					
27	Vehicle, Industrial Machinery and Parts and Accessories Manufacturing Industry					
28	Wood Preservation Industry					

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## Appendix E – Sample Registration Form

### ***DRAFT Registration Form for the Discharge of Produced Water from Coal Bed Gas Operations***

Implementation and Review Unit  
PO Box 9377, Stn Prov Govt  
Victoria, British Columbia V8W 9M1  
Telephone: (250) 387-3205  
Facsimile: (250) 356-0299  
Email: PermitAdministration.VictoriaEPD@gov.bc.ca

Registration File # \_\_\_\_\_  
(Office use only)

Pursuant to the Waste Discharge Regulation (B.C Reg. 320/2004) and the Code of Practice for the Discharge of Produced Water from Coal Bed Gas Operations, use this form for registering the disposal of produced water directly to the ground or perennial stream or seasonal stream. This form does not apply to the disposal of produced water to the ground by deep well disposal.

This registration form is to be filed with the Ministry of Environment, Implementation and Review Unit, at the above address. The director may require additional information as per section 4(2) (1) of the Waste Discharge Regulation in the region where the discharge occurs, before the registration is effective and authorization to discharge is allowed.

#### **1. Report Type – Indicate one choice (a, b or c)**

**To update a registration, a person must re-submit a registration form with all the information within 30 days of the changes in registration information. (See (b) below).  
To cancel a registration, a person must notify a director in writing within 30 days of ceasing the discharge. (See (c) below).**

(a)	Initial registration		
	Do you hold any permits or approvals under the <i>Environmental Management Act</i> issued for this site? (List all)	No	Yes
		Authorization #:	
	In the past, have you ever registered under this code of practice for this site?	No	Yes
		Registration #:	
	Do you currently hold any other registrations for effluent discharges at this facility under the <i>Environmental Management Act</i> ? (i.e. sewage)	No	Yes
		(Base Fee = \$0.00 in 4(d) below)	
		Registration #:	
(b)	Updated registration	Date of last report (yy/mm/dd):	
		Registration #:	RE-
(c)	Withdraw registration	Registration #:	RE-
	Without registration, there is <b>no authorization</b> to discharge contaminants associated with this code of practice for this site.		

**2. Type of ownership - Indicate one choice (a, b, c, d, or e).**

Attach B.C. Online printout if registered with the Registrar of Companies in British Columbia.	
<input type="checkbox"/> owner <input type="checkbox"/> operator	
(a)	Registration is assigned to an individual
	Individual name:
(b)	Registration is assigned to a corporation / entity registered with the Registrar of Companies
	Name of corporation as registered with Registrar of Companies:
(c)	Registration is assigned to a corporation not registered with the Registrar of Companies
	Name of corporation <u>not</u> registered with Registrar of Companies:
(d)	Registration is assigned to a partnership
	Partnership name:
(e)	Registration is assigned to a corporation or entity operating under a name other than its registered name
	Operating Name:

Single discharge point
------------------------

Latitude/ Longitude of sites where discharge enters the stream(s) or ground (degree, minute, second):

Multiple discharge points:

Site 1 – Site 2 –  
 Lat: Deg/Min/Sec Long: Deg/Min/Sec Lat: Deg/Min/Sec Long: Deg/Min/Sec  
 site 3 – Site 4 -  
 Lat: Deg/Min/Sec Long: Deg/Min/Sec Lat: Deg/Min/Sec Long: Deg/Min/Sec

Local address (person responsible for site – i.e. operator), facility address (physical location where majority of equipment is located), mailing address (where correspondence will be sent) and billing address (where future invoices will be sent) may be different

(f)	Name of local contact:		(g)	Facility address which produces the waste:	
	Title of local contact:			City, Province, Postal Code of the facility that produces the waste:	
	Address of Local Contact:			Legal description of the facility that produces the waste:	
	City, Province, Postal Code of Local Contact	Legal description where discharge occurs (e.g. land district, township, range, etc)			
	Phone – Local Contact ( )	Fax – Local Contact ( )		Phone of Facility ( )	Fax of facility ( )
	Email – Local Contact:	Cell - Local Contact		In addition, is this address also the:	
<input type="checkbox"/> Billing Address <input type="checkbox"/> Mailing Address		<input type="checkbox"/> Billing Address <input type="checkbox"/> Mailing Address			

**3. Additional contact information – Indicate billing and mailing address if different from part 2 above**

Billing Office if different		Mailing address if different	
(a)	Full company name	(b)	Full company name
	Address		Address
	City, Province, Postal Code		City, Province, Postal Code
	Name of Contact		Name of Contact

Phone ( )	Fax ( )	Phone ( )	Fax ( )
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**4. Fee Schedule -For the registration to be effective, please enclose a cheque or money order made payable to the Minister of Finance for the first annual fee. Without separate notice of cancellation, annual fees will be charged.**

(a)	Number of wells where produced water enters a perennial stream
(b)	Number of wells where produced water enters a seasonal stream
(c)	Number of wells where produced water discharges directly to ground (excludes deep well injection of produced water)
(d)	<p>Total annual fee Base Fee = \$100.00*</p> <p>If disposal occurs July 1, 2005 – March 31, 2006: (Total wells) x \$216.25 / well = (a)</p> <p>If disposal occurs after March 31, 2006: (Total wells) x \$230.60 / well = (b)</p> <p>(*Base Fee = \$0.00 if there are other effluent registrations at this facility) Fee: Base Fee + (a) or (b) =</p>

**5. Facility Schedule**

(a)	Start date of first discharge (YYYY/MM/DD)
(b)	<p>Anticipated finish date of discharge (YYYY/MM/DD)</p> <p>Note: Registration will not be automatically cancelled without further written notification. To request cancellation, re-submit a form marking 1(c) as report type. Annual fees will continue to be assessed until a cancellation of registration is requested.</p>

**6. Form completed by:**

Print name:

Title:

Dated:

(yyyymm/dd)

Note: The authorization to discharge does not become effective until 45 days after the director receives both a completed registration form and full payment of fees. Where additional information has been requested by a director, the registration date may be altered. Authorization to discharge is contingent on full compliance with the Waste Discharge Regulation and the Code of Practice for the Discharge of Produced Waste from Coal Bed Gas Operations.

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## Appendix F - Sample Substitution Decision Notice



***DRAFT*** NOTICE OF A SUBSTITUTION DECISION  
NOTICE OF A <MINISTER'S / DIRECTOR'S> DECISION FOR A  
SUBSTITUTION  
TO <insert name of code of practice> UNDER THE PROVISIONS  
OF  
THE *ENVIRONMENTAL MANAGEMENT ACT* FOR A

REGISTRATION

HELD IN THE NAME OF <insert name of registered person>

Take note that a decision to substitute a requirement in the <insert name of code of practice> has been issued to registered site number <insert R – file number> in the name of <insert name of registered person>. The substitution is effective <insert effective date>. The following substitution has been granted:

Section <insert section number> of <insert name of code of practice> now reads:  
<insert substituted requirement>

A copy of the Substitution Order may be viewed at the Ministry of Environment in <insert location of nearest office> during normal business hours.

<insert Director's name>

Director, *Environmental Management Act*



## Appendix G - Sample Substitution Form

### ***DRAFT*** Application to Substitute a Requirement in a Code of Practice Under the Environmental Management Act

#### ENVIRONMENTAL PROTECTION NOTICE

Waste Discharge Registration No.: **insert registration number**

**company/individual name** of **mailing address**, is applying to the Director, *Environmental Management Act* to substitute a requirement in the **insert name of code** pertaining to a discharge of **indicate whether waste is air contaminants, effluent, solid waste** from a **type of facility** located at **street address or commonly identified location**.

This application asks the Director to make the following substitution(s):

Section of Code	Current Requirement in Code	Requested Substitution

The intent of the Code of Practice will be met by:

provide justification for the requested substitution

Any person who may be adversely affected by the proposed substitution and wishes to provide relevant information may, within 30 days after the last date of posting, publishing, service or display, send written comments to the applicant, with a copy to the Director, Environmental Protection at **regional office mailing address** [Use following names for regions: Vancouver Island, Lower Mainland, Thompson, Okanagan, Kootenay, Cariboo, Skeena, Omineca, Peace, Oil and Gas Commission].

The identity of any respondents and the contents of anything submitted in relation to this application will become part of the public record.

Date: \_\_\_\_\_, 20\_\_\_\_.

(Signature)

Contact person **insert name** \_\_\_\_\_ Telephone No. **insert tel no.** \_\_\_\_\_

**Additional Information for an Application to Substitute a Requirement in a Code of Practice**

Until such time as the Director has made a decision on this application, authorization to discharge is contingent on full compliance with all existing conditions of the applicable Code of Practice and compliance with the Waste Discharge Regulation.

<b>1. Applicant Information</b>	
a.	Name (registered company name, partnership or individual)
b.	Registered Address, City and Postal Code
c.	Phone number

<b>2. Contact Person</b>	
a.	Name
b.	Title / Position
c.	Mailing Address: Street, City, Postal Code
d.	Email address
e.	Telephone number(s)
f.	Fax No.

<b>3. Background Information</b>	
a.	Current registration number for discharge (e.g. RE - #) [link to (26) on Notice]
b.	Type of waste
c.	Type of facility or operation (e.g. sawmill)
d.	Location of facility
e.	Name of Applicable Code of Practice
f.	If registration refers to more than one discharge location, specify location(s) of the discharge where the substitution is

	required (latitude & longitude)	
g.	Region where the discharge occurs	Use following names for regions: Vancouver Island, Lower Mainland, Thompson, Okanagan, Kootenay, Cariboo, Skeena, Omineca, Peace, Oil and Gas Commission

<b>4. Substitution Request – Proposed changes</b>		
Section of code	Current wording	Proposed wording

<b>5. Rationale for Substitution</b>	
a.	In summary, the reasons for the application for the substitution are (list all):
b.	The intent of the code of practice will be met with the proposed change(s) because:
c.	The public and the environment will be protected with the proposed substitution to the code of practice because:
d.	Additional information supporting the substitution is attached separately. This may include, but is not limited to, supporting documentation on the site location, pollution control works, methods, contaminant properties, ambient environmental conditions, economics, etc.

**Complete Sections 6 and 7 after Publication and Notification as outlined the instruction letter from the Director**

<b>6. Publication and Notification</b>		
a.	Date application was posted at all main entrances to the site(s)	Date: YYYY/MM/DD

b.	Date and Name of newspaper(s) where notice of application was published:	Date: YYYY/MM/DD Newspaper(s):
c.	If the Director required you to serve a copy of the application on individual(s) potentially impacted by the substitution application, please list the names, mailing addresses and the dates that they were served. Attach separate page if necessary.	Date: YYYY/MM/DD Names:
d.	If the Director required you to post a copy of the application at a branch post office of Canada Post Corporation, please indicate the date and location this posting occurred.	Date: YYYY/MM/DD Locations:
e.	If additional consultation for the proposed substitution occurred, list dates and events. Summarize concerns and resolutions if applicable. Attach separate page if necessary.	

**7. Form completed by:**

Signature: \_\_\_\_\_ Print name: \_\_\_\_\_

(All information contained in this form is true and accurate.)

Title: \_\_\_\_\_ Dated : \_\_\_\_\_  
(yyyy/mm/dd )

Mail this application form to:  
 Director, *Environmental Management Act*  
 Ministry of Environment  
 PO Box 9377, Stn Prov Govt  
 Victoria B.C. V8W 9M1

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# Appendix H - Sample Substitution Newspaper Notice

## **DRAFT ENVIRONMENTAL PROTECTION NOTICE**

Application to Substitute a Requirement in a Code of Practice

Under the *Environmental Management Act*

Waste Discharge Registration No. \_\_\_\_\_

Company/individual name and mailing address is applying to the Director, *Environmental Management Act* to substitute a requirement in the insert name of coder pertaining to a discharge of indicate whether waste is air contaminants, effluent, solid waste from a type of facility located at street address or commonly identified location.

This application asks the Director to make the following substitution(s):

Section of Code	Current Requirement in Code	Requested Substitution

The intent of the Code of Practice will be met by:

provide justification for the requested substitution

Any person who may be adversely affected by the proposed substitution and who wishes to provide relevant information may send written comments to the applicant, with a copy to the Director, Environmental Protection at regional office mailing address [Use following names for regions: Vancouver Island, Lower Mainland, Thompson, Okanagan, Kootenay, Cariboo, Skeena, Omineca, Peace, Oil and Gas Commission] within 30 days after the last date of posting, publishing, service or display. The identity of respondents and the contents of any submissions in relation to this application will become part of the public record.

Contact person \_\_\_\_\_

Telephone No. \_\_\_\_\_

Date: \_\_\_\_\_ 20\_\_\_\_