

APPENDIX 1

Pulp and Paper Effluent Regulations (the “PPER”)

Regulations Prescribing Certain Deleterious Substances Related to the Effluent From Pulp and Paper Mills and Off-Site Treatment Facilities and Authorizing the Deposit of Limited Quantities of Those Deleterious Substances in Certain Circumstances

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Prescribed Deleterious Substances

5. For the purpose of the definition “deleterious substance” in subsection 34 (1) of the [Fisheries] Act, the following classes of substances from a mill or off-site treatment facility are prescribed as deleterious substances:

- (a) acutely lethal effluent;
- (b) BOD matter; and
- (c) suspended solids.

Authority to Deposit Deleterious Substances

6. (1) For the purposes of paragraph 36(4)(b) of the [Fisheries] Act, an operator of a mill may deposit in any water or place

- (a) BOD matter and suspended solids, if
 - (i) the BOD of the BOD matter or the quantity of the suspended solids, as the case may be, does not exceed the maximum quantity authorized under section 14, or
 - (ii) the deposit is made in accordance with an authorization or a transitional authorization; and
- (b) acutely lethal effluent, if the deposit is made in accordance with a transitional authorization.

7. (1) The authority of an operator to deposit a deleterious substance under subsection 6(1) or (2) is conditional on the operator

- (a) installing, maintaining and calibrating monitoring equipment and keeping records of the monitoring equipment in accordance with section 8;
- (b) monitoring the effluent in accordance with Schedule II and reporting monthly on the results of the monitoring in accordance with section 9; ...

SCHEDULE I (Section 2 and paragraph 9(1)(a))

1. The test to determine the acute lethality of effluent shall be in accordance with section 5 or 6 of the *Reference Method for Determining the Acute Lethality of Effluent to Rainbow Trout*, Department of Environment Report, EPS 1/RM/13, July 1990, as amended from time to time.

2. (1) The *Daphnia magna* test shall be in accordance with section 5 or 6 of the *Reference Method for Determining the Acute Lethality of Effluent to Daphnia magna*, Department of the Environment Report, EPS 1/RM/14, July 1990, as amended from time to time.

(2) Effluent fails the *Daphnia magna* test when, at 100 per cent concentration, it kills more than 50 per cent of the *Daphnia magna* subjected to it during a 48-hour period.

SCHEDULE II (Section 7 and paragraphs 8(1)(c), 9(1)(b) and 36(3)(e))

6. (1) Where a sample of effluent fails the acute lethality test under paragraph 5(1)(a), once a week a sample shall be tested in accordance with section 6 of the acute lethality test method set out in section 1 of Schedule I.

(2) Where a sample of effluent fails the *Daphnia magna* test under paragraph 5(1)(b), the following procedure apply:

(a) a sample of effluent shall be collected without delay and a test conducted on it in accordance with section 6 of the reference method referred to in section 1 of Schedule I; and

(b) a sample of effluent shall be collected on three days each week and a test conducted on each sample in accordance with section 6 of the reference method referred to in subsection 2(1) of Schedule I.

(3) Samples of effluent shall continue to be collected and tested at the frequency required by this section until they pass three consecutive tests, after which the monitoring may resume at the frequency set out in section 5.

APPENDIX 2

Fisheries Act

- S. 34. (1) **Definitions.**—For the purposes of sections 35 to 43, “deleterious substance” means
- (a) any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or to the use by man of fish that frequent that water, or
 - (b) any water that contains a substance in such quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state that it would, if added to any other water, degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or to the use by man of fish that frequent that water, and without limiting the generality of the foregoing includes
 - (c) any substance or class of substances prescribed pursuant to paragraph (2)(a),
 - (d) any water that contains any substance or class of substances in a quantity or concentration that is equal to or in excess of a quantity or concentration prescribed in respect of that substance or class of substances pursuant to paragraph 2(b), and
 - (e) any water that has been subjected to a treatment, process or change prescribed pursuant to paragraph (2)(c);
- (2) **Regulations for purpose of definition “deleterious substance”.**—The Governor in Council may make regulations prescribing
- (a) substances and classes of substances;
 - (b) quantities or concentrations of substances and classes of substances in water, and
 - (c) treatments, processes and changes of water
- for the purpose of paragraphs (c) to (e) of the definition of “deleterious substance” in subsection (1).
- S. 36. (3) **Deposit of deleterious substance prohibited.**—Subject to subsection (4), no person shall deposit or permit the deposit of a deleterious substance of any type in water frequented by fish or in any place under any conditions where the deleterious substance or any other deleterious substance that results from the deposit of the deleterious substance may enter any such water.
- (4) **Deposits authorized by regulation.**—No person contravenes subsection (3) by depositing or permitting the deposit in any water or place of
- (a) waste or pollutant of a type, in a quantity and under conditions authorized by regulations applicable to that water or place made by the Governor in Council under any Act other than this Act; or
 - (b) a deleterious substance of a class, in a quantity or concentration and under conditions authorized by or pursuant to regulations applicable to the water or place or to any work or undertaking or class thereof, made by the Governor in Council under subsection (5).
- (5) **Regulations for authorizing certain deposits.**—The Governor in Council may make regulations for the purpose of paragraph (4)(b) prescribing
- (a) the deleterious substances or classes thereof authorized to be deposited notwithstanding subsection (3);

(b) the waters or places or classes thereof where any deleterious substances or classes thereof referred to in paragraph (a) are authorized to be deposited;

...

(d) the quantities or concentrations of any deleterious substances or classes thereof referred to in paragraph (a) that are authorized to be deposited;

...

- S. 40. (2) **Idem.**—Every person who contravenes subsection 36(1) or (3) is guilty of
- (a) an offence punishable on summary conviction and liable, for a first offence, to a fine not exceeding three hundred thousand dollars and, for any subsequent offence, to a fine not exceeding three hundred thousand dollars or to imprisonment for a term not exceeding six months, or to both; or
 - (b) an indictable offence and liable, for a first offence, to a fine not exceeding one million dollars and, for any subsequent offence, to a fine not exceeding one million dollars or to imprisonment for a term not exceeding three years, or to both.
- S. 78 **Punishment not otherwise provided for.**—Except as otherwise provided in this Act, every person who contravenes this Act or the regulations is guilty of
- (a) an offence punishable on summary conviction and liable, for a first offence, to a fine not exceeding one hundred thousand dollars and, for any subsequent offence, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding one year, or to both; or
 - (b) an indictable offence and liable, for a first offence, to a fine not exceeding five hundred thousand dollars and, for any subsequent offence, to a fine not exceeding two years, or to both.
- S. 78.1 **Continuing offences.**— Where any contravention of this Act or the regulations is committed or continued on more than one day, it constitutes a separate offence for each day on which the contravention is committed or continued.