

The Effluencer

Amendments to Temporary Bypass Authorizations



Summary of Amendments

Environment and Climate Change Canada (ECCC) has amended the [Wastewater Systems Effluent Regulations](#) (the Regulations) to provide greater clarity and resolve implementation issues.

This factsheet outlines the amended requirements for temporary bypass authorizations (sections 43 to 47 of the Regulations), including a new risk-based approach to review applications.

For guidance on how to prepare an application for a temporary bypass authorization, please visit our webpage at Canada.ca/wastewater.

Description of Temporary Bypass Authorizations

Temporary bypass authorizations (TBAs) allow the owner or operator to bypass one or more treatment processes of their wastewater system for a defined period of time, which could result in exceeding effluent limits. TBAs may be issued for:

- ▶ construction work;
- ▶ maintenance of the system;
- ▶ anticipated events out of control of the owner or operator (for example a planned power outage).

The amended Regulations allow TBAs to be issued for deposits from any final discharge point or sewer overflow point of a wastewater system.

The amended Regulations also introduce a new process to apply for an authorization that considers the level of risk to the receiving environment.

Higher risk TBAs are required to complete an enhanced application process whereas lower risk TBAs follow a streamlined application process.

How Do I Determine the Level of Risk of a Bypass for an Application?

Planned releases fall into one of three categories depending on the level of risk:

- ▶ Category 1 (Low risk release, streamlined application process)
- ▶ Category 2 (Medium risk release, standard application process)
- ▶ Category 3 (High risk release, enhanced application process)



The level of risk of a planned bypass depends on:

- ▶ bypassed effluent quality;
- ▶ volume of effluent deposited;
- ▶ whether releases are caused by precipitation events occurring during a period of reduced capacity;
- ▶ duration of the bypass or time needed to complete the work; and
- ▶ whether the release will occur in a special receiving environment.

Special Receiving Environment Criteria

Special receiving environment criteria could trigger an enhanced review (Category 3). These special receiving environments include:

Shellfish Harvesting Area - A shellfish harvesting area is within 1,500 m of the bypass location.

[Map of Shellfish Harvesting Area Classification in Canada](#)

Critical Habitat - An identified critical habitat for a federal protected aquatic species is within 500 meters of the bypass location.

[Critical Habitat in Canada: Critical Habitat of Species at Risk Map](#)

Determination of the Category of the Derivation

There are 3 options to determine which category the bypass falls into based on the bypassed effluent quality.

Option 1: Wastewater Effluent Receives Physical or Biological Treatment

During the bypass, wastewater undergoes any treatment process, other than preliminary treatment, for the purpose of removing suspended solids and/or organic matter (CBOD). Examples of treatment technologies that would qualify include aerated lagoons and clarifiers.

Characteristics of the Bypass		Bypass Category
1	a) Estimated volume less than or equal to 25,000 m ³ and the approximate duration of the bypass is less than or equal to 240 hours (10 days); and	Category 1
	b) Bypass is at a final discharge point or overflow point(s) that enter a receiving environment that regularly receives wastewater under normal conditions.	
2	a) Estimated volume more than 500,000 m ³ or approximate duration of the bypass is more than 2,160 hours (90 days); and	Category 3
	b) Bypass meets one of the Receiving Environment Criteria (see table below).	
3	All other bypasses	Category 2

Option 2: Wastewater Effluent Receives No Treatment

During the bypass, wastewater receives no physical or biological treatment or undergoes preliminary treatment only. Examples of preliminary treatment that would qualify under this option include screening and grit removal.

Characteristics of the Bypass		Bypass Category
1	a) Estimated volume less than or equal to 2,500 m ³ or the approximate duration of the bypass is less than or equal to 48 hours (two days).	Category 1
	b) Bypass is at the final discharge point or overflow point(s) that enter a receiving environment that regularly receives wastewater under normal conditions; and	
	c) The bypass does not meet the requirements to qualify as a Category 3 bypass.	
2	a) Estimated volume more than 50,000 m ³ or approximate duration of the bypass is more than 720 hours (30 days); or	Category 3
	b) Estimated volume more than 25,000 m ³ or approximate duration of the bypass is more than 360 hours (15 days); and bypass meets one of the Receiving Environment Criteria (see table below).	
3	All other bypasses	Category 2

Option 3: Wastewater Effluent Release Is Due to Precipitation Events Occurring During a Period of Reduced Capacity of the Wastewater System

The construction or maintenance work will reduce the capacity of the wastewater system. Untreated wastewater mixed with surface runoff and stormwater will be deposited only if a precipitation event occurs during the period of reduced capacity. The release that may result from the reduced capacity would fall under this option. A precipitation event excludes the melting of snow or ice.

Characteristics of the Bypass		Bypass Category
1	a) Estimated volume less than or equal to 5,000 m ³ or a period of work less than or equal to 96 hours (four days).	Category 1
	b) Bypass is at the final discharge point or overflow point(s) that enter a receiving environment that regularly receives wastewater under normal conditions; and	
	c) The bypass does not meet the requirements to qualify as a Category 3 bypass.	
2	a) Estimated volume more than 100,000 m ³ or a period of work more than 1,440 hours (60 days); and	Category 3
	b) Bypass meets one of the Receiving Environment Criteria (see table below).	
3	All other bypasses	Category 2

How Do I Prepare an Application for a TBA?

To be eligible to receive a TBA, the applicant must meet specific requirements based on the level of risk (Category). Requirements vary depending on whether the bypass falls into the streamlined process (Category 1), standard process (Category 2) or enhanced process (Category 3).

1) Give Notice

Before submitting a TBA application, regardless of the category, an applicant must:

- ▶ Notify ECCC's Shellfish Water Classification Program of the bypass if wastewater will be deposited within a 20 km radius of marine waters or a shellfish harvesting area.
- ▶ Notify the public, and any community or Indigenous group that could be affected by the bypass, or may use the receiving environment before, during or after the bypass.

ECCC will review each application to ensure adequate Indigenous notification has been given. If notification is inadequate, the application is considered incomplete and may not be issued.

2) Meet Requirements for a TBA Application

Each application has specific requirements that must be met, depending on the level of risk (Category) of the planned release ([section 44](#)):

Category 1 - Streamlined application process/low risk release

Applicant must submit application at least 21 days before the bypass.

The following information must be provided in the application:

- ▶ Information about the planned bypass:
 - The start and end dates;
 - A description of the treatment, if any, that will be applied to the effluent before discharge;
 - Whether precipitation will cause the bypass (option 3);
 - The approximate duration of deposit(s) and of the work (in hours);
 - The estimated volume (in m³) of the deposit and how the volume was estimated; and
 - A description of the work and why it is necessary to bypass at least one treatment process.
- ▶ List of measures that the applicant will use (including scheduling the work) to minimize negative effects of the bypass on fish, fish habitat and the use of fish by humans.
- ▶ Information on the receiving environment:
 - The point(s), in latitude and longitude, from where effluent will be deposited
 - A description of the water or place
 - Whether the water or place the overflow point releases into regularly receives wastewater under normal conditions
- ▶ An explanation of how the bypass follows a previously declared plan to reduce bypasses over time (if one was declared in the past).
- ▶ A description and results of the notifications and engagements (if any) with those that the bypass may impact including:
 - members of the public.
 - communities, or
 - Indigenous groups.

Category 2 - Standard application process/medium risk release

The applicant must submit the application at least 45 days before the bypass.

Applicants must include all information required for Category 1. In addition, the following information is required in the application:

- ▶ A detailed description of measures the owner or operator will use to avoid or lessen the negative effects of the bypass on fish, fish habitat and the use of fish by humans.

Category 3 - Enhanced process/high risk release

The applicant must submit the application at least 90 days before the bypass. This will allow ECCC to do a more thorough assessment to understand potential impacts of the bypass.

Applicants must include all information required in Categories 1 and 2. In addition, the following information is required in the application:

- ▶ The methodology and results of a study that assess:
 - where effluent mixes with receiving waters; and
 - where there is a difference from the existing water conditions.
 - a plume delineation study for example.
- ▶ Detailed information on what other methods were considered to avoid or minimize the bypass, including the feasibility and an estimate of costs.
- ▶ A plan for monitoring the effluent or the receiving environment before, during and after the bypass. This plan should aim to assess how effective the implemented mitigation measures are.

ECCC may request additional information from an applicant to assist with reviewing the potential negative effects of the bypass. ECCC must specify in writing the information required and the timeline for providing it.

What Is Expected of Me Once the TBA Has Been Issued?

1) Meet the Conditions of the Authorization

A TBA holder is authorized to deposit effluent during the period of work as long as they meet the conditions specified in their authorization. This includes implementing the mitigation and monitoring measures of the application.

2) Submit a Follow-Up Report

The TBA holder is required to send a follow-up report to ECCC within 90 days after the bypass has ended that contains:

- ▶ Actual duration and volume of the release.
- ▶ Description of the actual treatment applied to the effluent.
- ▶ Description of how mitigation and monitoring measures were implemented.
- ▶ Results of monitoring conducted during the bypass (Category 3).
- ▶ For Category 2 bypasses with no treatment, Category 2 bypasses that are due to precipitation events during a period of reduced capacity and all Category 3 bypasses, a confirmation of the existence of a plan that describes measures needed to reduce the need for future TBAs. It must include a schedule to implement the plan and be available to the public.

3) Meet Specific Compliance Obligations

During the bypass, the TBA holder must continue to monitor and report under the Regulations. The requirements will vary depending on whether the planned release occurs at the final discharge point(s) or overflow point(s). Please refer to the Regulations for specific compliance obligations.

How Do I Submit My Application?

Temporary bypass applications are submitted in the [Effluent Regulatory Reporting Information System \(ERRIS\)](#). An applicant must submit the application **no later than 21, 45, or 90 days** before the start of the bypass, depending on the category into which the bypass falls (section 43).

A owner or operator must also notify ECCC if they become aware that the information provided in the authorization is incorrect and provide corrections without delay.

Can My Application Be Refused?

ECCC could refuse your TBA application if:

1. The bypass would result in adverse effects on fish, fish habitat or use of fish by humans that cannot be mitigated (subsection 45(3)).
2. The owner or operator does not submit the TBA application in ERRIS under the required amount of time (21, 45 or 90 days before the start of the bypass) (subsection 43(3)).
3. The information provided in the application is false or misleading (subsection 45(4)).
4. The application does not contain the required information (section 44).

Can My Authorization Be Revoked?

ECCC may revoke a TBA after it has been issued if:

- ▶ The information contained in the TBA application is false or misleading.
- ▶ The TBA holder fails to comply with the conditions set out in the authorization:
 - Fails to implement the mitigation and monitoring measures.
 - Fails to comply with the compliance obligations outlined in the Regulations.
- ▶ New information indicates that the authorized deposit has had, or is likely to have, an effect on fish, fish habitat or the use by humans of fish that is more adverse than the effects that were anticipated when the authorization was issued.

ECCC must provide the reasons for the proposed revocation in writing. The TBA holder must be given the opportunity to discuss the proposed revocation.

TBA holders that have their authorization revoked must ensure their system meets effluent quality standards. If not, the release is considered an unauthorized deposit and subject to subsection 36(3) of the *Fisheries Act*. For more information on unauthorized deposits, see the [factsheet](#).

For Additional Information

Visit the Wastewater website at Canada.ca/wastewater

If the information you need is unavailable on our website, please contact Environment and Climate Change Canada at eu-ww@ec.gc.ca.

Disclaimer

This information does not in any way supersede or modify the *Wastewater Systems Effluent Regulations* or the *Fisheries Act*, or offer any legal interpretation of those Regulations or Act. Where there are any inconsistencies between this information and the Regulations or Act, the Regulations or Act take precedence, respectively. A copy of the Regulations is available at the following website: <https://laws-lois.justice.gc.ca/eng/Regulations/SOR-2012-139/FullText.html>

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