

Project planning: Schedule 2 amendment of the *Metal and Diamond Mining Effluent Regulations* (MDMER)

Context

This Project Planning document provides an overview of **Schedule 2 amendments of the [Metal and Diamond Mining Effluent Regulations](#) (MDMER; the Regulations) in order to obtain an authorization for the use of water bodies frequented by fish for mine waste disposal** and outlines the key requirements for the authorization as well as some tips and suggestions to support the proponent in meeting the requirements of this process.

Do you need an MDMER Schedule 2 amendment?

An amendment to Schedule 2 of the MDMER is required when a project involves the disposal of mine waste into waters frequented by fish. Contact the ECCC's Mining and Processing Division (mdmer-remmmd@ec.gc.ca) for additional information.

Overview of the Schedule 2 Process¹

Subsection 36(3) of the *Fisheries Act* prohibits the deposit of deleterious substances into waters frequented by fish, unless authorized by regulation. The MDMER include provisions to allow for the disposal of mine waste in waters frequented by fish, under certain conditions. For the proponent to be able to deposit mine waste into waters frequented by fish, the water bodies must first be listed as [Tailings Impoundment Areas](#) (TIAs) in Schedule 2 of the MDMER.

The Governor in Council decides on proposed amendments to Schedule 2 of the MDMER, based on the recommendation of the Minister of the Environment, to designate waters frequented by fish as TIAs.

To inform a Schedule 2 listing decision, proponents are required to conduct an assessment of alternatives for mine waste disposal, in accordance with ECCC's [Guidelines on the assessment of alternatives for mine waste disposal](#) and to develop a fish habitat compensation plan (FHCP) to offset the loss of fish habitat resulting from the disposal of mine waste. The FHCP is assessed by the Department of Fisheries and Oceans (DFO), who provides expert advice to ECCC on the adequacy of the plan based on DFO's offsetting policies and the requirements under section 27.1 of the MDMER.

ECCC consults impacted Indigenous communities and the public on proposed Schedule 2 amendments.

¹ The Schedule 2 process consists of two steps: 1) The amendment to Schedule 2 of the MDMER to list waters frequented by fish as TIAs, which is subject to a Governor in Council decision; and 2) following the listing, the Minister of the Environment, on the recommendation from the Department of Fisheries and Oceans, approves the fish habitat compensation plan, once all regulatory conditions are met. This last step authorizes the disposal of mine waste into the listed TIAs.

For additional information, consult ECCC's [Guide to the regulatory process for listing water bodies frequented by fish in Schedule 2 of the Metal and Diamond Mining Effluent Regulations](#) (the Guide), which contains additional details including requirements, consultations, role of the proponent, and timelines.

ECCC is responsible for the implementation and enforcement of section 36 (3) of the *Fisheries Act* and the MDMER.

Tips and Best Practices

Tip: Proactive provision of information and ensure sufficient information

The Schedule 2 Amendment process may be delayed because complete information is not provided, or additional time is required for the proponent to obtain information. The information provided will be reviewed by ECCC and DFO, as applicable.

Best Practices:

- Providing the Assessment of Alternatives (AA) and FHCP early during the Environmental Assessment, if applicable, and in accordance with ECCC's Guidelines and DFO's policies, can reduce the time required for the Schedule 2 Amendment process.
- Develop the AA and FHCP in consultation with impacted Indigenous communities or as early as possible to avoid delays, which would streamline the Schedule 2 Amendment process.
- Refer to the [Guide](#) in support of the Schedule 2 Amendment
- Connect with federal authorities early to discuss your project and determine if any other considerations are needed to support the Schedule 2 process.

Contact Information

For further details or assistance, reach out to the ECCC's [Mining and Processing Division](#) for information on the *Metal and Diamond Mining Effluent Regulations*

Helpful Links

- [Metal and Diamond Mining Effluent Regulations: amendments to schedule 2](#)
- [Online Reporting for Metal and Diamond Mines](#)
- [Environmental Code of Practice for Metal Mines](#)