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## Discussion Document

### Amendments to the *Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations*

by

Waste Reduction and Management Division  
Environment and Climate Change Canada

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## Introduction

Environment and Climate Change Canada is amending the *Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations, 2005* (EIHWHRMR) to strengthen Canada's ability to meet its obligations under the *Basel Convention on Transboundary Movement of Hazardous Wastes and Their Disposal* (the Basel Convention). The proposed amendments will expand the definitions of hazardous waste and hazardous recyclable material, and will add new conditions for the return of waste or recyclable materials that are refused by an importing or transit country.

This document explains the proposed regulatory changes and the potential impacts on companies who export waste or recyclable materials. Stakeholders are invited to provide comments on the proposal by December 11, 2015 to [tanya.smyth-monteiro@canada.ca](mailto:tanya.smyth-monteiro@canada.ca). **Please type "Consultation – Proposed amendments to the *Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulation*" in the subject line of your message**

## Management of Hazardous Waste and Hazardous Recyclable Material in Canada

The control of hazardous waste and hazardous recyclable materials within Canada is a responsibility shared by the federal, provincial, territorial and municipal governments. The federal government is responsible for regulating international movements and movements between provinces and territories. Provincial and territorial governments are responsible for regulating and licensing waste generators, carriers, and disposal, recycling and treatment facilities. Municipal governments are responsible for establishing waste collection and disposal programs within their jurisdictions.

The EIHWHRMR were enacted to ensure that hazardous waste and hazardous recyclable materials that are exported and imported are managed in an environmentally sound manner to protect the environment and human health. These Regulations contribute to Canada's ability to meet its obligations under the following three international agreements by bringing these obligations into national legislation:

- the *United Nations Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989* (ratified by Canada in 1992);
- the Decision C(2001)/107/Final of the Council of the Organisation for Economic Co-operation (OECD) Concerning the Control of Transboundary Movements of Wastes Destined for Recovery Operations; and

Discussion Document  
Amendments to the *Export and Import of Hazardous Waste and  
Hazardous Recyclable Material Regulations*

- the *Canada-USA Agreement on the Transboundary Movement of Hazardous Wastes, 1986* as amended in 1992 to include provisions for non-hazardous waste.

The EIHWHRM set out the conditions for the export, import, and transit of hazardous wastes and hazardous recyclable materials shipped across the Canadian border. This helps to ensure that shipments of wastes and recyclable materials entering into, leaving, or passing through Canada can be tracked and controlled by Environment and Climate Change Canada, with the assistance of other government agencies. The EIHWHRM also ensure that exports of Canadian hazardous wastes and hazardous recyclable materials have been consented to by the import or transit country before any shipment takes place

### **Rationale for the Proposed Amendments**

Since the EIHWHRM came into force in 2005, there have been occasional (about an average of one each year) exports of waste or recyclable material from Canada that were not considered to be “hazardous waste or hazardous recyclable material” under the EIHWHRM, but were considered to be hazardous and were controlled or prohibited by an import or transit country. In these cases, the EIHWHRM did not require the Canadian exporter to notify Environment and Climate Change Canada, so no consent was sought from the importing country and no permit for export was issued by Environment and Climate Change Canada. However, the waste or materials were controlled or prohibited by the importing country, and were consequently considered to be illegal shipments under the Basel Convention because they were shipped from Canada without the prior consent of the importing country. Most of these cases involved waste or recyclable materials collected from households. In these cases the importing country either sent the illegal shipment back to Canada, or requested that the exporter or Government of Canada take back the waste shipment, as required under the Basel Convention.

The EIHWHRM will be amended to ensure that any waste or recyclable material that is controlled or prohibited by an import or transit country will also be considered to be “hazardous waste or hazardous recyclable material” under Canadian regulations. The EIHWHRM will also be amended to align requirements for returning waste or recyclable material refused by an importing or transit country with the requirements of the Basel Convention.

### **Cross Border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations**

The proposed amendments to the EIHWHRM will be introduced ahead of another larger regulatory initiative entitled the “*Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations*” which will

Discussion Document  
Amendments to the *Export and Import of Hazardous Waste and  
Hazardous Recyclable Material Regulations*

consolidate three existing regulations: the *Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations*, the *Interprovincial Movement of Hazardous Waste Regulations* and the *PCB Waste Export Regulations, 1996*. The regulatory changes being considered for this larger initiative were the subject of consultations in 2010. Regulatory changes that are not the subject of this discussion document, such as used electrical and electronic equipment, and changes needed to support implementation of a new electronic system to track shipments, will remain part of the larger initiative.

## **The Proposed Amendments**

The proposed amendments to the EIHWHRMR are in two key areas.

### 1) Definition of hazardous waste and hazardous recyclable material

The definitions of hazardous waste and hazardous recyclable materials will be expanded in the EIHWHRMR to capture as such any waste or recyclable material that an importing or transit country prohibits from import, defines as hazardous, or requires that their consent be obtained before the import or transit takes place, as per the Basel Convention or the Canada-USA Agreement. In effect, this means that any waste or recyclable material that is considered to be hazardous or is controlled or prohibited in another country will also be treated as “hazardous” under Canadian regulations for that particular shipment, and a Canadian exporter would be required to obtain a permit from Environment and Climate Change Canada for its export. For example, if household waste or recyclables were considered to be hazardous or controlled in another country, a Canadian company would need to notify Environment and Climate Change Canada, and obtain a permit for its export to that country.

Since the large majority (98%) of exports of hazardous waste and hazardous recyclable materials from Canada are to the United States, and since the export and import of household waste and recyclable material is not controlled in the U.S., and waste and recyclable material defined as hazardous in U.S. regulations are already covered by the Canadian regulations, Canadian exporters who ship these materials to the United States are not expected to be impacted by this proposed amendment. Exporters who ship waste or recyclable materials, especially waste or recyclable materials collected from households to countries other than the United States may need to obtain a permit for their export under the amended EIHWHRMR. Companies who import hazardous waste or hazardous recyclable materials will not be affected by the proposed changes.

These proposed amendments to the definitions of hazardous waste and hazardous recyclable material would replace the approach originally proposed for

Discussion Document  
Amendments to the *Export and Import of Hazardous Waste and  
Hazardous Recyclable Material Regulations*

controlling the transboundary movement of non-hazardous waste for final disposal during 2010 consultations.

2) Return provisions

The proposed amendments would change the requirements for returning waste or recyclable material refused by an importing or transit country to better align them with the requirements of the Basel Convention, and would also allow for flexibility in the time period to return a refused shipment. The proposed amendments would require an exporter to return a shipment that was refused by the competent authority of the country of destination or any country of transit. Under the current EIHWRMR, the return of the waste is only required when refused by the authorized facility named in the export permit.

Environment and Climate Change Canada and the authority of the country concerned would also be able to agree on a period of time other than 90 days to make arrangements to return the shipment or have the waste or recyclable material disposed or recycled in an environmentally sound manner in the country concerned. Currently the exporter is required, within 90 days after the day on which the Minister is notified of the refusal of a shipment, to make arrangements to return it or have the waste or recyclable material disposed or recycled in an environmentally sound manner in the country concerned.

**Costs of the Proposed Amendments**

This section describes preliminary estimates of the administrative and compliance costs for regulatees associated with the proposed amendments. Environment and Climate Change Canada would like feedback from stakeholders on whether these costs are realistic.

The Treasury Board of Canada defines administrative costs as the total costs of “planning, collecting, processing and reporting information, and completing forms and retaining data required by the federal government to comply with a regulation”. They are estimated by assessing the labour cost and time of the person who undertakes an administrative activity.

Compliance costs are defined as “up-front capital costs, as well as ongoing maintenance and training costs that businesses face when complying with a regulation”. These costs are estimated by adding the labour costs of the person who undertakes the compliance activity and the capital costs incurred to comply with the regulatory requirement.

Environment and Climate Change Canada has assumed that the proposed amendments will affect very few Canadian companies. An estimated six companies ship waste or recyclable materials that are not considered hazardous

Discussion Document  
Amendments to the *Export and Import of Hazardous Waste and  
Hazardous Recyclable Material Regulations*

under current EIHWRMR, but that would be considered hazardous, controlled or prohibited in another country. As with the current EIHWRMR, the administrative costs or compliance costs for these exporters would include:

- completing a notification, and submitting it to Environment and Climate Change Canada;
- completing and distributing a movement document for each shipment;
- providing confirmation of disposal or recycling;
- writing and putting a contract in place;
- insurance for environmental liability; and
- document retention.

Preliminary estimates were calculated for administrative and compliance costs as follows: completing, submitting and retaining notification, movement document and confirmation of disposal or recycling (\$130 annually per exporter); putting in place contracts (\$220 annually per exporter); and purchasing insurance (\$10,000 annually per exporter).

We want to hear from you. Please send any questions or comments by email to: [tanya.smyth-monteiro@canada.ca](mailto:tanya.smyth-monteiro@canada.ca). **Please type “Consultation – Proposed amendment to the *Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulation*” in the subject line of your message.**

Environment and Climate Change Canada welcomes the further distribution of this document.