

SPECIAL ISSUE OF RESILOG PCB WASTE EXPORT REGULATIONS

Background

In the 1980s concerns about the export of PCB wastes, led to the introduction of the *PCB Waste Export Regulations* under the *Canadian Environmental Protection Act (CEPA)* in 1990. These regulations prohibited the export of PCB waste to any country other than the United States. Exports to the United States required the consent of the U.S. Environmental Protection Agency, which had prohibited PCB imports other than for U.S. government-owned PCB wastes since the 1980s.

An Interim Order under the *CEPA* banning the export of Canadian PCBs to the United States was put in place November 20, 1995, following the U.S. decision to grant one U.S. company an "enforcement discretion" allowing it to import Canadian PCB wastes. The Interim Order provided time to review the final U.S. import rule, published later on March 18, 1996, and to ensure that Canadian PCB wastes would be managed in an environmentally sound manner.

Canada has international obligations under the Basel Convention on the Control of the Transboundary Movement of Hazardous Wastes and Their Disposal to ensure that any hazardous wastes exported are handled and disposed of in an environmentally sound manner.

New Regulations Proposed

Based on a review of further changes in U.S. policy governing the import of PCB wastes, on September 26, 1996, the Canadian government announced that it would soon open the Canada/U.S. border to the export of Canadian PCB waste under stringent controls. New regulations would be introduced to replace the Interim Order.

The *PCB Waste Export (PCBWE) Regulations, 1996*, were pre-published in *Canada Gazette, Part One*, on October 5. A period of 60 days after pre-publication is allowed for public review and comment on the new regulations. Following this 60-day period, the comments will be reviewed and the final regulations published in *Canada Gazette, Part Two*. This publication is expected in December 1996, at which time the regulations will be in force and the border re-opened to PCB waste exports.

Scope of the regulations

The *PCBWE Regulations, 1996* will apply to PCB liquids, PCB solids, PCB mixtures, PCB equipment, PCB-contaminated solid or electrical equipment, and packaging that held any of these materials. PCB liquids, solids and mixtures will be controlled down to a concentration of 50 parts per million.

Exports of PCB wastes to countries other than the United States will continue to be prohibited. Export will only be allowed for thermal or chemical destruction at authorized and environmentally sound U.S. facilities. Export for landfilling and purposes other than those listed in the regulations will not be allowed.

Key elements of the regulations

The regulations will establish a set of strict controls on the export of PCB waste that are an enhancement of similar controls already in place for hazardous waste under the *Export and Import of Hazardous Wastes Regulations (EIHW)*.

These controls include requirements for:

- prior notification for proposed exports (new form);
- consent from U.S. authorities (written or 45-day tacit consent) and any transit country;
- exports only to facilities authorized to thermally or chemically destroy PCB wastes;
- transport by authorized carriers; (same as EIHW)
- contracts between Canadian exporters and U.S. importers (same as EIHW with new clauses);
- liability insurance of \$5 million in case of release of PCB wastes into the environment during export (same as EIHW for disposal);
- tracking, including waste manifests and certification of disposal (same as EIHW); and,
- making alternative arrangement where the PCB waste cannot be received or disposed of as intended (modified procedure).

Notice Processing

Copies of the new PCB waste notice form can be obtained from the Transboundary Movement Division of Environment Canada (see address below). This Division is prepared to accept for review notices for PCB waste exports during the 60-day comment period. However, it should be stressed that authorization to export can only be issued after the proposed regulations are in force following their publication in *Canada Gazette, Part II*.

Questions, Comments

Copies of the *PCBWE Regulations, 1996* can be obtained from Canada Communication Group - Publishing
Ottawa, Ontario K1A 0S9, tel. (819) 956-4802, fax (819) 994-1498.

If you have any questions or comments on these regulations, please contact:

John Myslicki
Chief, Transboundary Movements Division
Hazardous Waste Branch
Environment Canada
Hull, Quebec K1A 0H3
Tel. (819) 953-1390
Fax (819) 997-3068