

Resilog

INTERIM CEPA REGULATIONS AFFECTING WASTE MANIFESTING

Background

The primary goal of a waste manifest is to serve as an environmental control document to ensure that the movements of hazardous wastes and hazardous recyclable materials can be tracked from their point of origin to the site of disposal or recycling. In addition, it can serve as a shipping document for the purpose of safety in transport.

The manifest has been used in Canada as a means of tracking shipments of hazardous waste since 1985, when it was first introduced under the federal *Transportation of Dangerous Goods (TDG) Regulations*. In addition to being used in federal regulations for interprovincial and international movements, the use of a waste manifest to track intraprovincial movements is required by most Canadian provinces and territories.

In March 2000, Environment Canada was given new authority to regulate interprovincial movements of hazardous wastes and hazardous recyclable materials with the coming into force of the *Canadian Environmental Protection Act, 1999 (CEPA 1999)*. With this new authority, the government clearly announced its intention to have Environment Canada take over the waste manifests regime.

Clear Language TDG Regulations Enter Into Force

The clear language *TDG Regulations*, effective on August 15, 2002, remove the detailed requirements for the waste manifest. It should be noted that a waste manifest can still be used as a shipping document for compliance with those regulations.

Changes included in the new *TDG*

Regulations will impact movements of hazardous wastes in Canada including those under the *Export and Import of Hazardous Wastes Regulations (EIHWR)*. To ensure continued tracking of interprovincial movements, interim *Interprovincial Movement of Hazardous Waste Regulations (IMHWR)* were developed and published in *Canada Gazette*, Part II on August 15, 2002.



The two most important changes in the *TDG Regulations* that affect the *EIHW* involve the removal of the waste manifest and certain modifications in the classification system for Class 9.

Consequently, an amendment to the *EIHW* which directly integrates the waste manifest requirements was published in *Canada Gazette*, Part II on August 15, 2002. Details of the interim Regulations can be found at URL: <http://www.ec.gc.ca/CEPARRegistry/regulations/>

For further information or a copy of the new *TDG Regulations*, visit Transport Canada's Website at: <http://www.tc.gc.ca/tdg/menu.htm>.

Changes to Waste Classification

As of August 15, it will be necessary to use the classification as set out in the new *TDG Regulations* both for compliance with those regulations as well as on notices and manifests under the *EIHW*.

Environment Canada is working to update the *Users Guide to Hazardous Waste Classification* to address changes resulting from the clear language *TDG Regulations (TDGR)*. The following are some of the important points to note in the upcoming *TDG Regulations*:

- **PIN:** "NA" Product Identification Numbers (PIN) have been completely removed in the new *TDG Regulations*. The classification must be changed to an appropriate "UN" PIN for that waste or recyclable material.
- **Gases:** Corrosive gases, currently class 2.4, now will be included in class 2.3 (toxic and corrosive gases).
- **Class 9:** Class 9 is no longer broken into Divisions (9.1, 9.2, and 9.3 have been replaced by a general Class 9).
- **Marine Pollutants:** There is now a new list of Marine Pollutants under Class 9. See part 2.43 (b)(ii) of the new *TDG Regulations* for information on

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Changes to the Regulations

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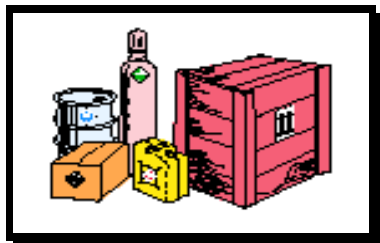
this list.

- **Environmental Hazardous Substances:**

The current list of environmentally hazardous substances has been consolidated and amended since a number of these substances will now be subject to the Toxicity Characteristic Leaching Procedure (TCLP) leachate testing instead of measurement of concentration by mass (>100 ppm). Please refer to Part 2.43 and Appendix 5 of Part 2 of the new *TDG Regulations* for the updated list that replaces the current listing of Class 9.2 materials.

- **Leachate Test:** A new leachate test is prescribed (EPA Method 1311—the TCLP) to replace the current Canadian General Standards Board (CGSB) Test #164-GP-1MP. An expanded list of parameters to test is given in Appendix 4 of Part 2 of the new *TDG Regulations*.

Instead of NA9500, the PIN for these leachable toxic waste materials would be UN3077 (solids) or UN3082 (liquids).



It is important to note that for the *EIHW*, the import and export of wastes destined for disposal and wastes destined for recycling are controlled for all TDG hazard classes. This includes environmentally hazardous (H 12) and leachable toxic wastes (H 11),

despite wording within Part 2.43 of the new *TDG Regulations*.

Import and Export Permits

There may be cases where these new classification criteria will result in a need for notification and a receipt of permit before continuing to import or export for newly controlled materials. Under the *EIHW*, it is the responsibility of the importer or exporter to ensure the proper classification of their hazardous waste.

A general letter is available upon request after August 15, 2002, for companies which have import or export permits, including permits for hazardous waste with Class "9.1 or 9.2", which can be attached to amend existing permits to allow the use of Class "9" instead.

Rather than requiring re-notification for all existing permits where the hazardous waste has not changed but where there has been a change in the applicable PIN under the new *TDG Regulations*, requests for amendments will be accepted. Once verified and provided that the hazardous waste has not changed, amendments will be issued.

Interprovincial Movement of Hazardous Waste Regulations

The same definition and classification criteria discussed under the *EIHW* will apply to movements within Canada as set out in the interim *Interprovincial Movement of Hazardous Waste Regulations* (*IMHWR*).

The interim *IMHWR* only apply to movements between provinces and territories, consistent with the definition of "movement within

Canada" in *CEPA 1999*.

Intraprovincial / intraterritorial movements will continue to be subject to the applicable provincial or territorial regulations. It is important to emphasize that these interim regulations maintain the status quo until more comprehensive regulations are developed. There will be further opportunities to comment on other aspects of interprovincial or international movements of hazardous wastes and hazardous recyclable material as the more comprehensive regulations are being developed.

November Consultations

Following two rounds of stakeholder consultations in 2001 and 2002, Environment Canada has initiated work to draft the hazardous waste regulations. Based on the input received, there remain a few key issues to be resolved. Stakeholders requested:

- more specific details of how the criteria for environmentally sound management as well as the reduction plan requirements for exports for final disposal will be integrated into the regulations and assessed at time of notification;
- a better understanding of how Environment Canada will use the criteria for distinguishing between products and recyclable materials; and
- to know the criteria and review mechanism that Environment Canada would use to decide whether to issue Permits of Equivalent Level of Environmental Safety and conditional exclusion.

To address these issues, prior to finalizing the proposed regulations for publication in *Canada Gazette*,

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November Consultations**(cont'd from p. 2)**

Part I, another round of stakeholder consultations is being planned for November 2002, with sessions in Halifax, Calgary, Montreal and Toronto.

This will provide Environment Canada with an opportunity to seek further input on its work on the liability regime for hazardous waste in Canada, on the Basel Convention ban on exports to developing countries and, on public access to notice and manifest information. At that time, there will also be demonstrations of our new electronic notice and manifest tools.

Invitations and discussion documents will be sent out later this Fall.

For any questions regarding the consultations, please contact:

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Questions, Comments

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FEEDBACK

Are you looking for more information on subject matter relating to the transboundary movement of hazardous wastes, regulations, or meeting documents?

Visit the TMB Website at:

<http://www.ec.gc.ca/tmb>

or contact TMB with your comments and/or questions at:

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