



Environment and
Climate Change Canada

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Canada



PROPOSED CROSS-BORDER MOVEMENT
OF HAZARDOUS WASTE AND HAZARDOUS
RECYCLABLE MATERIALS REGULATIONS

**DISCUSSION DOCUMENT ON PROPOSED
REGULATORY CHANGES AND ADMINISTRATIVE
AND COMPLIANCE COSTS FOR BUSINESSES**

AUGUST 2017

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1.0 Introduction

Environment and Climate Change Canada (ECCC) is developing the *Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations* (the proposed Regulations) to update and consolidate three 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.

Stakeholders consultations are being undertaken to get feedback prior to the publication of the proposed Regulations in *Canada Gazette*, Part I. This document provides details on the regulatory changes being considered for the proposed Regulations. It also provides estimates of administrative and compliance costs associated with the proposed changes. These estimates also include costs that would be incurred by companies involved in the transboundary movement of any newly captured waste or recyclable material.

ECCC is seeking comments from those involved in transboundary movements of hazardous waste and hazardous recyclable material on the proposed changes outlined in Section 3 and estimates of the associated administrative and compliance costs in Section 4. In particular, ECCC would like information on the additional types of waste and recyclable material that would be newly captured by the proposed changes as outlined in Sections 3.3, 3.4, 3.5 and 3.7 as well as the implications of the proposed changes to the process for tracking movements outlined in Section 3.2.5.

2.0 Background

Context

Under the *Canadian Environmental Protection Act* (CEPA), the federal government controls international and interprovincial movements of hazardous waste and hazardous recyclable material through three regulations: *the Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations* (EIHWHRMR), the *Polychlorinated Biphenyls (PCB) Waste Export Regulations, 1996* (PCBWER) and the *Interprovincial Movement of Hazardous Waste Regulations* (IMHWR).

In 2016, there were over 35,000 international movements of hazardous waste and hazardous recyclable material to and from Canada. These movements included 410,194 tonnes of hazardous waste and hazardous recyclable material exported from Canada, 383,741 tonnes imported into Canada, and 48,423 tonnes that transited through Canada. More than 98% of these movements were between Canada and the United States.

A key aspect of the controls for international movements is that a shipment of hazardous waste or hazardous recyclable material cannot take place before the importing country has consented to it. A notification provides information on the exporter, the carriers, the importer and the importing facility, and describes the hazardous waste or hazardous recyclable material and the disposal or recycling operation that will take place. This information allows the importing jurisdiction to make an informed decision on whether or not to consent to the import. Before ECCC issues a permit for export, import or transit, the consent of the importing jurisdiction is obtained. For imports into Canada, ECCC provides the province or territory of destination with the notification information to obtain their consent.

In Canada, the requirements for tracking interprovincial movements of hazardous waste and hazardous recyclable material are specified in the *Interprovincial Movement of Hazardous Waste Regulations*. Tracking is accomplished through the use of a movement document (manifest) that includes information on the various parties involved in the movements, as well as the waste or material transported.

Recent developments

In October 2016, amendments to the EIHWHMR came into force. These amendments expanded what is considered to be hazardous waste or hazardous recyclable material for the purpose of export. As a result, waste or recyclable material considered hazardous in the importing country or household waste being exported to another Basel Convention party is captured. For more information, please consult ECCC website at <http://ec.gc.ca/lcpe-cepa/eng/regulations/DetailReg.cfm?intReg=84>.

In October 2015, ECCC launched the first phase of an electronic system for international movements that allows submission of notifications (i.e. permit applications) and the issuance of permits on-line. The system allows regulatees to submit, review and manage their information and notifications more efficiently. ECCC is working to expand this system to include notifications for transits as well as the tracking aspects of international movements (i.e. movement document and confirmation of disposal or recycling). The expansion of this system is being done in conjunction with the development of the proposed Regulations.

3.0 Description of Regulatory Proposal

ECCC would like feedback from stakeholders on the changes proposed to the current regulatory requirements for transboundary movement of hazardous waste and hazardous recyclable materials. These changes are described under the following themes:

- Structure of proposed Regulations
- Notification, permit and movement tracking for international movements
- Definitions and exclusions
- Exports of waste and recyclable material containing PCBs
- International movements of electrical and electronic equipment destined for disposal or recycling
- Movements between provinces and territories

3.1 Structure of Proposed Regulations

ECCC is proposing to merge all three regulations that currently deal with movements of hazardous waste and hazardous recyclable material into one. This means that the current regulations (EIHWHRM, PCBWER and IMHWR) would be repealed and replaced by the proposed Regulations. The proposed Regulations would reflect the current regulatory requirements, along with the changes outlined in the following sections.

For simplicity and clarity, the Regulations would be organized so that all requirements related to international movements of hazardous waste and hazardous recyclable material would be grouped together, as would requirements for interprovincial movements. All regulatory provisions for international and interprovincial movements would share common definitions for hazardous waste and hazardous recyclable material, and require similar information on the movement document, as applicable.

3.2 Notification, Permit and Movement Tracking for International Movements

3.2.1 Permit Applicant and Permit Holder

The current EIHWHRM limit who can be the exporter or importer, but do not clearly state who can apply for a permit. The proposed Regulations would clarify who can apply for a permit for international movements and allow the following individuals, corporations or government entities to apply for a permit to export or import:

- An individual domiciled in Canada or a corporation that has its head office in Canada or operates a branch office in Canada and
 - is the owner or operator of either the receiving facility, or the facility from which waste or material is exported; or
 - buys and sells hazardous recyclable for the purpose of importing it into Canada or exporting it to an OECD country; or
- a municipality, or a provincial or federal entity in Canada.

Including this last group is a change from the current regulations and would address situations where a government is responsible for the management of hazardous waste or hazardous recyclable material, but not the owner or operator of either the exporting or receiving facility.

ECCC is also considering introducing the concept of “permit holder”. The permit would be issued by the Minister to the individual, corporation or government entity who applies for a permit by submitting a notification. That person would be referred to as the “permit holder” throughout the proposed Regulations. This would clearly identify the permit holder as the person responsible for meeting the applicable requirements of the proposed Regulations.

3.2.2 Electronic System

The use of a web-based system, currently under further development, for the notification and movement tracking of exports, imports and transits of hazardous waste and hazardous recyclable material would be required once the electronic system is in place. In the event that the on-line system was not available, ECCC would identify paper forms that could be used. The system will facilitate and improve compliance and reduce the administrative burden on regulatees by allowing electronic notification and movement tracking. Regulatory changes are required to support the implementation of this new web-based system for movement tracking.

In order to provide flexibility in how information is displayed on screen and how it is provided to the Minister, the proposed Regulations would not require the use of any specific forms. Therefore, Schedule 9 of the EIHWHMR, that contains an image of the actual movement document form, would be replaced with a new schedule that lists the information that would be required in a movement document.

For movements to countries that are parties to the Basel Convention, the Basel notification and movement document forms are required by the foreign Basel country in addition to the Canadian notification and movement document. Therefore, for any exports to or imports from another Basel country, the Canadian and Basel notification and movement documents would still be needed to meet requirements at both ends.

3.2.3 Notification

A notification is an application for a permit to export, import or convey hazardous waste or hazardous recyclable material in transit. The information currently required on notifications is under review to ensure that it is necessary to ECCC and authorities in Canadian jurisdictions providing consent. The following changes are being considered:

- The name of the insurance company and policy number for the exporter, the importer and carriers would no longer be required on the notification. The applicant, who will become the permit holder, would still need to provide a certified statement indicating that the required insurance policies are in place and would be required to keep proof of insurance coverage at their place of business in Canada for 5 years.

- With respect to the contract or series of contracts required under paragraph 9(f) and 16(e), copies would no longer need to be provided with the notification. The applicant, who will become the permit holder, would be required to provide a certified statement that valid contracts, meeting all regulatory requirements, are in place and would be required to keep contracts at their place of business for 5 years.
- The current reference to the International Waste Identification Code (IWIC) set out in OECD Decision C(94)152/Final would be removed and the required codes¹ would be included in the proposed Regulations schedules. These codes are used in Canada to describe the hazardous waste or hazardous recyclable material in the notification, as well as in the movement document. Moving these codes to schedules would allow ECCC to update them when necessary.
- A reference code would be added to the list of substances in the current Schedule 5 of the EIWHRMR. Any waste or material that contains one of the substances on Schedule 5, above the specified concentration, would still be considered hazardous. New reference codes would allow for a substance found in the hazardous waste or hazardous recyclable material to be identified consistently in both English and French, and would facilitate reporting.
- The following codes would still be required:
 - applicable codes from Basel Annexes I, II and VIII;
 - applicable OECD codes from Appendix 4 of Decision C(2001)107/Final;
 - United Nations (UN) number and shipping name from the *Transportation of Dangerous Goods Regulations* and *UN Recommendations on the Transportation of Dangerous Goods*²;
 - applicable code(s) from the relevant schedule(s) of the current EIWHRMR (e.g. HAZ code from Schedule 3 or the L code from Schedule 6);
 - persistent organic pollutant (POP) code from Schedule 10 of the EIWHRMR; and
 - disposal code (D Code) or recycling code (R Code) for the operation to be performed at the receiving facility and each authorized facility, other than the receiving facility, that is undertaking a final disposal or recycling operation.

¹ For further information on the codes used to classify hazardous waste or hazardous recyclable material please refer to the Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations - Guide to Hazardous Waste and Hazardous Recyclable Material Classification at <http://www.ec.gc.ca/gdd-mw/default.asp?lang=En&n=A8D9E099-1>

² United Nations (UN) *Recommendations on the Transport of Dangerous Goods* (see <http://www.unece.org/?id=3598> for the most up-to-date version).

In order to prevent movements between a Basel Party and a non-Basel Party, ECCC is considering requiring that any final disposal or recycling operation be carried out in the same importing country where the interim operation (i.e. D13, D14, D17; or R12, R13, or R16) takes place.

In the current EIHWHRM, a new notice is only required if there is a change in the information on the notice, other than the quantity of waste or material, the number of shipments, authorized carriers, ports of exit or entry, or customs offices. In the proposed Regulations, ECCC is considering requiring a new notice for any changes in the information on the original notice. This would facilitate ECCC review of notices and would better align with recent changes³ in the United States.

3.2.4 Permits for International Movements

The proposed Regulations would outline conditions under which ECCC would refuse to issue a permit, or would suspend or revoke an existing permit. With respect to suspension or revocation of a permit, there are currently no provisions to address situations when conditions associated with the movement of a hazardous waste or hazardous recyclable material change (e.g. a permit is no longer required or a competent authority has withdrawn consent). Such provisions are needed to improve the management of existing permits. Criteria for refusing to issue a permit or for suspending or revoking a permit would be included in the proposed Regulations, and could include the following:

- the competent authority of the importing country or the province or territory does not consent or has withdrawn consent;
- the movement is not in compliance with the Act or the Regulations, or the conditions imposed by the jurisdiction of import, or by a country of transit;
- the information provided is misleading or false;
- the receiving facility has been affected by a natural disaster or other significant incident.

In the event of a revocation or suspension, there would be an opportunity for a permit holder to make written representation to explain why the permit should not be revoked or why a suspended permit should be reinstated. A permit holder could also request that their permit be revoked if, for example, they no longer need it.

The proposed Regulations would also extend the maximum possible duration of a permit. ECCC is considering up to 3 years for pre-consented facilities within OECD countries for movement of hazardous recyclable materials to help reduce administrative burden associated with submission and review of notifications. Currently, a permit

³ On December 31, 2016, the United States changed its rule pertaining to the export and import of hazardous waste. See the following link for more details: <https://www.epa.gov/hwgenerators/final-rule-hazardous-waste-export-import-revisions>.

for these and other types of shipments is only valid for a maximum of 12 months. The maximum duration of permits for movements to non-OECD countries and for movements of all hazardous waste would continue to be twelve months.

3.2.5 Tracking International Movements and Confirmation of Disposal or Recycling

International movements of hazardous waste and hazardous recyclable material are to be tracked from the facility from which it is exported through to the facilities that complete the final disposal or recycling operation. This is necessary to ensure that the movement and the disposal or recycling is completed in accordance with the permit.

Currently, individual shipments of hazardous waste or hazardous recyclable materials are tracked using a paper copy of the movement document (i.e. a form) that is passed from one person to the next, with each person filling-in their relevant information on the form. This form was developed for multiple purposes. In addition to being used for international shipments, it can also be used for interprovincial and intraprovincial shipments where it is applicable. Tracking of international shipments from beginning to end would be maintained, but changes are being considered to focus on the exchange of essential information between parties involved in a movement to facilitate this tracking. These changes would support the implementation of an electronic tracking system.

ECCC is considering what documentation is required to accompany the shipment to ensure environmental protection while reducing administrative burden. Specifically ECCC is assessing whether the shipment could be accompanied by a copy of the movement document with the required information but not a copy of the permit, and whether a paper copy needs to accompany a shipment, or if an electronic copy would be sufficient.

With respect to international movements, ECCC is considering introducing the following definition for the word “shipment” to ensure consistency in the manner in which information required to track movements is associated with individual shipments. Such consistency is required for the implementation of a reliable electronic movement tracking system

- “**shipment** means a collection of goods that is shipped by one person from one facility in the country of origin, is transported as a unit, and is delivered to a receiving facility in the country of destination.”

As mentioned in section 3.2.2, the movement document form, currently in Schedule 9 of the EIHWHRMR, would be removed and replaced with a list of the information required to ensure complete tracking of a shipment. This list of information would be similar to the information on the current movement document form, with the following changes:

- Some information requirements for parties involved in the movement, such as their fax numbers, would no longer be required.
- Provincial codes for each hazardous waste or hazardous recyclable material would no longer be included in the federal requirements, as they are not used

by ECCC. However, the relevant provincial codes may still be required by provinces or territories to meet their own requirements.

- Carriers would be required to indicate if the shipment is being transferred to another carrier or to a receiving facility.
- The quantity of each type of hazardous waste or hazardous recyclable material received would need to be reported.

For imports and exports, the permit holder would be responsible for ensuring that the required information for tracking movements is collected, for its distribution to the various parties involved with the shipment and for its submission to ECCC, the provinces/territories (if they want the information) and the Canada Border Service Agency. The permit holder would also be responsible for ensuring that all parties outside Canada provide the information relevant to their part of the movement. In an effort to streamline the movement tracking process, ECCC is also reviewing how many times during a shipment, information needs to be provided to the Minister. Currently, documents need to be provided in four instances: 1) when the shipment leaves the facility of origin; 2) when the shipment reaches the Canadian border, 3) when the shipment reaches the destination facility and, finally, 4) when the shipment is disposed or recycled.

Confirmation that all disposal and recycling operations have taken place is an important step in completing the tracking of a shipment and ensuring that the hazardous waste or hazardous recyclable material has been managed in accordance with the permit. To improve the effectiveness of this important final step, ECCC is considering clarifying the responsibility of a receiving (importing) facility to pass on information on the origin of the hazardous waste or hazardous recyclable material being transferred to a subsequent authorized facility that would dispose or recycle the waste or material. This would allow the confirmation of disposal or recycling from these facilities to be linked back to a specific hazardous waste or hazardous recyclable material in a specific shipment. The permit holder would be responsible to provide ECCC with confirmation that all disposal or recycling operations have been completed for each type of hazardous waste or hazardous recyclable material in a shipment.

3.2.6 Returns and Re-routing

Changes are being considered to clarify and align requirements with current practices in cases where a shipment is refused and must be returned to the exporting country. Specifically, the regulatory text would clearly state that a full notification would be needed that accurately describes the hazardous waste or hazardous recyclable material being returned to avoid situations where the hazardous waste or hazardous recyclable material being returned does not match the original movement document. As well, a new movement document would be required for the return shipment.

For refused shipments going to an alternate facility in the importing country, the information provided to the Minister would also need to include the disposal or recycling operation at the alternate facility to ensure the hazardous waste or hazardous recyclable material is managed properly. Currently, only the name, address and contact

information of the alternate facility is required. Also, the provisions would clarify that the alternate facility needs to perform a final disposal or recycling operation. This final operation would then need to be completed within one year after the hazardous waste or hazardous recyclable material is received by alternate facility, as it currently is the case for such operations.

3.3 Definitions and Exclusions

Some clarifications would be made to the definitions of hazardous waste and hazardous recyclable materials to better align them with other jurisdictions and our international obligations.

3.3.1 Toxicity Characteristic Leaching Procedure

The Toxicity Characteristic Leaching Procedure⁴ (TCLP) is a standard test method used in Canada and the United States to determine the potential for release of a substance to the environment from a waste or recyclable material. It is partially referenced in the definitions of “hazardous waste” and “hazardous recyclable material” under the EIHWHRM in paragraphs 1(1)(e) and 2(1)(e) but excludes section 7.1.3 of the TCLP. Section 7.1.3 of the methodology describes how materials need to be prepared for leachate extraction (i.e. size reduction). In the proposed Regulations, the TCLP would be referenced in its entirety so that waste or material undergoing testing would be shredded to meet the procedure’s specific particle size requirements. This may result in some additional waste or material being captured and defined as hazardous, although this additional waste or material is not expected to be significant since the full methodology is already referenced by the United States and other Canadian jurisdictions. ECCC is interested in feedback from stakeholders on any additional types of wastes or materials that would be considered hazardous as a result of the full application of the TCLP.

3.3.2 Small Quantity Exclusion for Mercury

Paragraphs 1(2)(a) and 2(2)(a) of the EIHWHRM exclude small quantities of waste and recyclable material from the definitions of “hazardous waste” and “hazardous recyclable material”. For mercury waste, the small quantity exclusion is 50 ml or less. Given the high toxicity of mercury at even low quantities, ECCC proposes to remove this exclusion for waste or material containing mercury. Any waste or material containing any amount of mercury that meets the definitions of “hazardous waste” or “hazardous recyclable material” would be subject to the proposed Regulations for both international and interprovincial movements. Examples of mercury waste that is exported or imported include fluorescent lamps, dental amalgam, and switches.

⁴ Method 1311, Toxicity Characteristic Leaching Procedure, July 1992, in Test Methods for Evaluating Solid Waste, Volume 1C: Laboratory Manual, Physical/Chemical Methods, Third Edition, SW-846, November 1986, published by the United States Environmental Protection Agency

ECCC is interested in feedback from stakeholders on any additional types of wastes or materials that would be considered hazardous as a result of this change to the small quantity exclusion.

3.3.3 Adjustment to Recycling Operations R14

Over the years, ECCC has received numerous questions regarding recycling operation R14⁵ and more specifically on the part that reads “use or re-use of a recyclable material”. This recycling operation is not included in the Basel Convention or the OECD Decision. ECCC is proposing to delete this part of operation R14 to remove uncertainty about its application. This change may result in some recyclable material no longer being captured and defined as hazardous. For example, a used material that is to be used directly in another process that is not listed as a recycling operation in Schedule 2 would no longer be captured.

3.3.4 Clarifications

The changes to the definitions of hazardous waste and hazardous recyclable material described below are being considered for the purpose of clarifying and simplifying the Regulations. It is not expected that these would change what would be considered “hazardous waste” or “hazardous recyclable material”.

Environment and Climate Change Canada is considering:

- removing the list of hazardous waste and hazardous recyclable materials from specific and non-specific sources from the definitions of hazardous waste and hazardous recyclable material. These lists are in Schedule 4 of the EIWHRMR (generally referred to as the “F and K lists”) and referenced in paragraphs 1(1)(c) and 2(1)(c). These wastes and materials are already captured if they meet the criteria of Classes 2 to 6, 8 or 9 of the *Transportation of Dangerous Goods Regulations* (TDGR). Codes from these lists would still be required to be provided in the notification, if they are relevant to the description of specific types of hazardous waste or hazardous recyclable material;
- adding definitions for interim disposal or recycling operations and final disposal or recycling operations in the proposed Regulations. This would simplify the language and clarify the time allowed for completing the disposal or recycling operation, that is six months for an interim operation and one year for a final operation;
- adding CAS Registry Numbers in the Schedules, where possible and on an indicative basis only, to improve searches for substances in schedules and facilitate their identification in a waste or material;

⁵ From Schedule 2 of the EIWHRMR recycling operation R14 reads as follows: “Recovery or regeneration of a substance or use or re-use of a recyclable material, other than by any of operations R1 to R10”.

- adding a new requirement, that for the exclusion of recyclables exported or imported within the OECD, documentation that demonstrates that the conditions for the exclusions were met would need to accompany the shipment; and
- adding a new exclusion from the definitions of hazardous waste and hazardous recyclable material for waste or recyclable material generated from the normal operations of a ship to clarify that this type of waste or material is not captured. This type of waste or recyclable material is controlled under other legislation, and is excluded from the controls of the Basel Convention.

3.4 Exports of Waste and Recyclable Material Containing PCBs

ECCC proposes to remove the partial prohibition on exports of waste containing PCBs in a concentration equal to or greater than 50 ppm currently set out in the *PCB Waste Export Regulations, 1996*. The PCBWER currently only allow exports to the United States. This would mean that, with a permit, waste or materials containing PCBs in a concentration equal to or greater than 50 ppm could be exported. This would provide access to the nearest authorised facilities that can manage the PCBs in an environmentally sound manner. Note that the United States still prohibits the import of waste containing PCBs in concentrations of 2 mg/kg or more, unless specific conditions are met.

Similar to the current requirements for exported PCB waste to be destined only for destruction as set out in the *PCB Waste Export Regulations, 1996*, ECCC proposes to require that any PCBs in a concentration greater than 50 ppm contained in a hazardous waste or hazardous recyclable material be destroyed. This is consistent with the provisions of the Stockholm Convention and the requirements of the PCB Regulations under the *Canadian Environmental Protection Act, 1999* (CEPA). As with all other hazardous waste and hazardous recyclable material, the requirements currently under the EIHWHMR including notification, prior informed consent and obtaining a permit and tracking movements would apply to international movements of wastes and materials containing PCBs.

In addition to the Basel Convention, PCBs also fall under the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade* and the *Stockholm Convention on Persistent Organic Pollutants*. To meet Canada's obligations under these conventions, the export of PCBs is also captured under the *Export of Substances on the Export Control List Regulations*. Please refer to Environment and Climate Change Canada's web site⁶ for further details.

⁶ See <http://www.ec.gc.ca/lcpe-cepa/eng/regulations/detailReg.cfm?intReg=208>

3.5 International Movements of Electrical and Electronic Equipment Destined for disposal or recycling

Without environmentally sound management, the disposal or recycling of electrical and electronic equipment (EEE), may pose risks to human health and the environment. Some EEE contain substances which are toxic under CEPA, or other hazardous substances. Globally, there is evidence that EEE shipments can contribute to environmental, waste management and human health problems in some receiving countries where the waste or recyclable material is not processed in an environmentally sound manner. As part of the proposed Regulations, ECCC is considering capturing designated EEE destined for disposal or recycling in the definitions of hazardous waste or hazardous recyclable material.

Since the release of the last discussion paper on the proposed approach for the Regulations, there have been new developments on the international front. Work under the Basel Convention led to the adoption of interim *Technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention*⁷. Considering on-going international discussions to determine the appropriate approach to deal with used equipment destined for reuse, repair or refurbishment, ECCC is not considering capturing this equipment at this time.

In order to capture designated EEE in the proposed Regulations, such equipment would be added to the definitions of “hazardous waste” and “hazardous recyclable material” by listing specific equipment in a schedule, such as Schedule 3 of the EIHWHMR. This would mean that any listed equipment being sent for one of the disposal or recycling operations would be considered hazardous waste or hazardous recyclable material. These operations would be the same as those currently listed in Schedules 1 and 2 of the EIHWHMR, other than R14 as described in section 3.3.4 of this document. ECCC would maintain the exclusion from the definition of “hazardous recyclable material” for situations which are recognized internationally to represent a low risk to the environment and human health. Specifically, designated EEE that is exported to an OECD country or imported into Canada from an OECD country for base and precious metal recovery would be excluded. This exclusion would apply only if the other OECD country does not control it and if proper documentation showing that the shipment meets the exclusion conditions accompanies the shipment.

Complementary to the listing of designated EEE, ECCC is considering listing rechargeable and non-rechargeable batteries as a separate item in the same schedule. This would clarify that all batteries being sent internationally for disposal or recycling are captured as hazardous waste or hazardous recyclable material.

⁷ See the following link for more information:

<http://www.basel.int/Implementation/Ewaste/TechnicalGuidelines/DevelopmentofTGs/tabid/2377/>

Three approaches are being considered for listing designated EEE:

Option one: List the following equipment:

- a) computer equipment and wireless mobile devices as well as their parts, including
 - circuit boards and central processing units,
 - hard drives, CD, DVD and other data storage drives,
 - accessories, attachments and peripheral equipment,
 - printers, scanners, photocopiers and facsimile machines, and
 - power supplies, battery chargers, cords, cables and wires used for computer equipment;
- b) telecommunications apparatus as well as their parts, including
 - telephones, cordless telephones and mobile telephones, answering machines and facsimile machines,
 - pagers,
 - portable radio receivers and transmitters,
 - power supplies, battery chargers, cords, cables and wires used in telecommunications apparatus;
- c) televisions, and video display equipment for use in relation to computer equipment and telecommunications equipment, as well as their parts, including
 - cathode ray tube (CRT) display equipment,
 - liquid crystal display (LCD) equipment,
 - plasma display equipment,
 - light-emitting diodes (LED) equipment,
 - projection equipment, and
 - power supplies, battery chargers, cords and cables used for televisions and video display equipment;

A number of stakeholder comments were received in 2010 with respect to this list. For example, some thought the list needed to be refined; others suggested that the list was too specific and needed to be more general. It is recognized that there are many products that may contain electrical and electronic components, not necessarily

associated with computers or telecommunication equipment. The list could be amended in the future as needed. This would be done through the regulatory amendment process and would, at that point, be subject to further consultations.

Option two: Use broader equipment categories

Equipment categories (a) and (c) of option one above could be broadened to include products or component parts of any kind that are electronic data storage and treatment devices or video display devices.

Option three: Broadest definition of EEE

ECCC is also considering the merit of including a very broad designation such as the definition of EEE contained in the Basel Technical Guidelines: “equipment or component that is dependent on electrical currents or electromagnetic field in order to work properly”⁸.

3.6 Movements Between Provinces and Territories

With respect to movements of hazardous waste and hazardous recyclable materials between provinces and territories, the proposed Regulations would repeal and replace the *Interprovincial Movement of Hazardous Waste Regulations* (IMHWR). Requirements for tracking interprovincial movements would be maintained but some changes would be proposed to streamline the requirements.

The definitions for “hazardous waste” and “hazardous recyclable material”, including exclusions, would be made consistent between interprovincial and international movements. For example, any designated EEE (refer to Section 2.5 of this document) would be considered a hazardous waste if destined for disposal in Canada, but would be excluded if destined for recycling in Canada. Sections 1.1 and 2.1 of the EIHWRMR, that relate to waste or recyclable material considered hazardous in foreign destination countries, would not apply to interprovincial movements as these sections only apply to exports.

ECCC is considering specifying the information required on the movement document for tracking interprovincial movements in the proposed Regulations, rather than specifying a form as part of the regulatory provisions. This would provide flexibility in adapting the format of the document that would accompany the shipment to future needs and multiple purposes, such as international, interprovincial and intraprovincial movements. ECCC is reviewing the information currently required on the movement document to

⁸ *Technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non waste under the Basel Convention*, see the following link for more information:

<http://www.basel.int/Implementation/Ewaste/TechnicalGuidelines/DevelopmentofTGs/tabid/2377/>

determine whether all of it is necessary. It is anticipated that much of the information would remain the same, such as: contact information and addresses for the consignor and all carriers and consignees, and information on the hazardous waste or hazardous recyclable material applicable to interprovincial movements.

With respect to the distribution of the movement document, ECCC is considering only requiring its submission when authorities of the province of destination or origin ask for it. However, all parties involved in the movement would be required to keep a copy for 5 years, instead of the current 2 years.

The electronic system under development for the notification and tracking of international movements would not be used for interprovincial movements. A paper-based process would continue for these movements.

4.0 Costs of Regulatory Proposal for Businesses

This section describes ECCC's assumptions about administrative and compliance costs for regulatees associated with the proposed Regulations. ECCC would like feedback from stakeholders on whether the assumptions are reasonable.

The Treasury Board Secretariat (TBS) defines administrative cost as "planning, collecting, processing and reporting information, and completing forms and retaining data required by the federal government to comply with a regulation". This includes filling out applications and forms, as well as finding and compiling data for audits and becoming familiar with information requirements.

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".

As with the current EIHWHMR, the requirements of the proposed Regulations that would continue to be associated with compliance costs include:

- maintaining space to keep documents (i.e. filling cabinets and floor space or electronic storage);
- preparing contracts for international movements;
- liability insurance for exporters, importers and carriers; and
- temporary storage and alternative arrangements to dispose of the waste or return it to Canada in the case of international shipments which cannot be received or disposed at destination.

ECCC expects that the proposed amendments would decrease the overall administrative costs for industry, including small businesses, due to efficiencies that would mainly be achieved by allowing the implementation and use of an electronic movement tracking system and with further developments to the notification portion of the electronic system (see section 3.2). Overall compliance costs are not expected to change;

Administrative and compliance costs could increase for some companies that manage hazardous waste or hazardous recyclable material that are not captured under the current regulations, but that would be captured by the proposed Regulations, as identified in Section 3. On the other hand, costs could decrease for those companies that manage hazardous waste or hazardous recyclable material that would no longer be considered hazardous by the proposed Regulations (e.g. because of the change in the wording for recycling operation R14). Since most companies deal with a large variety of waste and recyclable material types, it is not expected that these changes would result in a significant overall increase or decrease in costs for any individual company. ECCC would like feedback from stakeholders if this is not the case.

The following sections outline ECCC's estimates for the time required to complete various tasks associated with requirements of the Regulations. The time estimates are used to calculate administrative costs of a task, or the costs to comply with regulatory requirements.

ECCC would like feedback from stakeholders on the validity of the time estimates to conduct tasks, as well as costs for complying with the proposed Regulations. ECCC is interested in gaining a better understanding of the companies that export or import waste or recyclable materials that would be newly captured or no longer captured under the proposed Regulations, specifically the types of waste or materials and the costs implications.

4.1 Reviewing the Regulations

ECCC estimates that about **4 hours** would be required for an employee, at a lower management level, per business to read the new Regulations and supporting documents to understand their administrative requirements.

4.2 Written Contracts

The requirements for contracts between parties involved in an export or import would be clarified but would basically be the same in the proposed Regulations as in the current regulations. Contracts are required for each permit, and on average there is one contract for each notification using the same parameters (waste types, quantities, etc.).

ECCC estimates that on average **4 hours** per notification are required to prepare a final contract, with an average time of **1 hour** for contract renewal. This includes the time to develop the contract and to obtain signatures from all parties. These activities are conducted by management level staff. In addition, some companies would have the contracts reviewed by a lawyer, with an estimated average of **4 hours** of a lawyer's time per year for each company, as the content of all contracts is very similar given the requirements of the Regulations. None of these activities would be affected by the new Regulations unless a company manages hazardous waste or recyclable material that is not captured under the current EIHWHRMR.

4.3 Notification for International Movements

It is estimated that the average time required to complete a notification (i.e. permit application) is **55 minutes** by an administrative level employee. Note that the time required to complete the form for the first time may be higher, but the average takes into account the fact that subsequent forms are completed more rapidly. This estimate represents the time required to complete an average notification which would list ten waste streams, ten carriers and ten border crossings⁹ and assumes the application would be completed with the help of word processing software starting from a blank

⁹ Average size of a notification based on data from Environment Canada's Canadian Notice and Manifest Tracking System database.

form. This estimate includes the time required to get a notification number, gather the information, complete the form and distribute copies to the appropriate parties, as well as the time required to file the document. This average time also takes into consideration any reviews or corrections required once the application is reviewed by ECCC.

Although the above estimate for the time required to complete a notification is for a paper form, it is expected that the time required to complete an on-line notification for the first time is similar as all the required information would have to be entered. Time savings for subsequent notifications are significant as many fields can be prepopulated from information already entered in the system. ECCC would be interested in some feedback from regulatees using the electronic system to better evaluate the gains in efficiency from their perspective.

4.4 Completing the Movement Document

On average, the total time required by the exporter, importer and any carriers to complete a movement document is estimated to be **65 minutes** (including the time required to get the form, gather information, complete the form and distribute copies to the appropriate parties as well as the time required to file the document). This estimate compares with the amount of time required to complete a similar form in the United States.¹⁰

Although the above estimate for the time required to complete a movement document is for a paper form, it is expected that the time required to complete an on-line movement document for the first time would be slightly less, given permit information may be used to populate the electronic movement document. Once the electronic tracking system is fully implemented, the time savings for the completion of a movement document including confirmation of disposal is estimated to be greater than the time savings achieved for notifications.

¹⁰ See <https://www.epa.gov/sites/production/files/2015-06/documents/man-inst.pdf>

4.5 Confirmation of Disposal

The exporter or importer must provide ECCC with a confirmation of disposal or recycling within 30 days after the disposal of the hazardous waste or the recycling of the hazardous recyclable material. These reporting activities are linked to individual shipments under a permit. ECCC estimates that **five additional minutes** per shipment are required on average to gather the information required, provide it to ECCC and file it, and that these tasks are performed by clerical staff.

4.6 Record Retention

With respect to compliance costs, it is assumed that each exporter, importer and carrier undertaking regulated activities would need to purchase a filing cabinet or electronic storage to keep copies of the required documents and office space would be used to keep the cabinet. The cost estimate is **\$100/ year**.

4.7 Liability insurance

ECCC estimates that it would cost a company **between \$10K and \$150K per year** to purchase insurance coverage. The premium for environmental liability insurance is highly variable and generally depends on the limit of liability, the environmental risk, the term of the policy, and the deductible/self-insured retention. Some of the factors in assessing the risk are the nature of hazardous waste or recyclable material, the volume of material being shipped, the mode of transport, the number of shipments and frequency, as well as the environmental and other management policies and procedures of the insured (i.e. shippers/carriers, importer/exporter).

ECCC assumes that these insurance costs are already tailored to the size of the company and the level of activity conducted by the company.

4.8 Returns and re-routings to alternative facility

In cases where a competent authority refuses a shipment or where the receiving facility cannot accept a shipment, or cannot treat the hazardous waste or hazardous recyclable material as planned, the exporter or importer is required to temporarily store the shipment and make alternative arrangements to dispose of the hazardous waste or recycle the hazardous recyclable material at another authorized facility in the import or transit country, or to return the shipment to the country of origin.

In each case, the exporter or importer needs to inform the Minister of the situation and obtain a permit for the return of the shipment, or obtain a confirmation from the Minister that the alternative facility is authorized to dispose or recycle the hazardous waste or hazardous recyclable material. ECCC assumes that the time required for these tasks

and the level of staff performing these tasks would be similar to those for any notification or movement documents, as well as any insurance or document retention requirements; therefore the administrative and compliance costs would be the same.

Additional transportation costs would be incurred to return or reroute a shipment. These costs would vary depending on the distance and mode of transportation but in most cases shipments are returned from the United States to Canada or vice-versa using a truck.

From information obtained from industry, when a shipment is refused by a receiving facility, there are usually no storage fees charged as alternative arrangements are expected to be made as quickly as possible.

5.0 Requesting Feedback

ECCC is seeking your views and comments on the proposed regulatory changes to insure that concerns can be addressed. Please provide the following information with your feedback:

- size (number of employees) of your company;
- type of activity in which the company is involved (e.g. generator, exporter, importer, carrier, recycling, disposal);
- whether your company uses the electronic notification system or not; and
- number of shipments of hazardous waste or hazardous recyclable materials sent or received per year.

Stakeholders are invited to provide written comments on this discussion document during a 45 day comment period, which will end on October 6, 2017. ECCC will review all written comments, and publish a summary on its website. All input will be considered in drafting the proposed Regulations once drafted. The proposed Regulations will be published in the *Canada Gazette*, Part I for an official public comment period.

Please send your comments on this discussion document to either of the following addresses.

Regular mail:	E-mail:
Consultation - Proposed Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations Waste Reduction and Management Division Environment Canada 351 St-Joseph Blvd, 14th Floor Gatineau QC K1A 0H	ec.mt-tm.ec@canada.ca Please put "Consultation - Proposed Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations" in the subject line of your message.