Export and Import of Hazardous Waste and Hazardous Recyclable Material

In Brief

1. A complete review of this memorandum was made. The main revisions include:
   (a) Clarification on the release process for the hazardous waste shipments transported by rail – paragraph 24.
   (b) Information about the Single Window Initiative implementation - paragraphs 34 – 39.

2. This memorandum outlines requirements for the importation, exportation and transits of hazardous waste and hazardous recyclable material. Authorized carriers of hazardous waste and hazardous recyclable material are responsible for providing the Canada Border Services Agency (CBSA) with photocopies of the movement document and permit. These documents are to be provided to the CBSA when the export, import or transit of the hazardous waste or hazardous recyclable material shipments is required to be reported under the Customs Act.

3. The Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations reflect Canada’s commitment to meet its requirements under three international agreements:
   (a) Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal.
   (c) Organization for Economic Co-operation and Development - Decision of the Council Concerning the Transboundary Movements of Wastes Destined for Recovery Operations.

The Canada Border Services Agency (CBSA) assists Environment and Climate Change Canada (ECCC) with the administration of the Canadian Environmental Protection Act, 1999 and the Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations. This memorandum outlines the requirements for the importation, exportation and transits of hazardous waste and hazardous recyclable material.

Legislation

Canada Border Services Agency Act – Subsections 5(1) and 5(2)

Customs Act – Sections 12, 95, 99, 101, and 107

Reporting of Exported Goods Regulations – Subsection 5(1)

Canadian Environmental Protection Act, 1999 – Sections 185. (1) and 190

Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations – Subsections 9 (j) (k) (l), 16 (i) (j) (k) and 22 (d) (e) (k)
Guidelines and General Information

Definitions

1. The following definitions apply in the Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations (EIHWHRMR) and this memorandum:

“hazardous waste” means anything that is intended to be disposed of using one of the operations set out in Schedule 1 and that

(a) is set out in column 2 of Schedule 3;

(b) is included in at least one of classes 2 to 6, 8 or 9 of the Transportation of Dangerous Goods Regulations;

(c) is set out in column 2 of Schedule 4 and is included in at least one of classes 2 to 6, 8 or 9 of the Transportation of Dangerous Goods Regulations;

(d) is set out in column 1 of Schedule 5 in a concentration equal to or greater than the applicable concentration set out in column 2 of that Schedule;

(e) produces a leachate containing a constituent set out in column 2 of Schedule 6 in a concentration equal to or greater than the applicable concentration set out in column 3 of that Schedule, determined in accordance with 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, which, for the purposes of this definition, shall be read without reference to section 7.1.3;

(f) is set out in column 2 of Schedule 7, is pure or is the only active ingredient, and is unused; or

(g) according to information that Canada has received from the United States or in accordance with the convention, is considered or defined as hazardous under the legislation of the country receiving it and is prohibited by that country from being imported or conveyed in transit.

“hazardous recyclable material” means anything that is intended to be recycled using one of the operations set out in Schedule 2 and that

(a) is set out in column 2 of Schedule 3;

(b) is included in at least one of classes 2 to 6, 8 or 9 of the Transportation of Dangerous Goods Regulations;

(c) is set out in column 2 of Schedule 4 and is included in at least one of classes 2 to 6, 8 or 9 of the Transportation of Dangerous Goods Regulations;

(d) is set out in column 1 of Schedule 5 in a concentration equal to or greater than the applicable concentration set out in column 2 of that Schedule;

(e) produces a leachate containing a constituent set out in column 2 of Schedule 6 in a concentration equal to or greater than the applicable concentration set out in column 3 of that Schedule, determined in accordance with 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, which, for the purposes of this definition, shall be read without reference to section 7.1.3;

(f) is set out in column 2 of Schedule 7, is pure or is the only active ingredient, and is unused; or

(g) according to information that Canada has received from the United States or in accordance with the convention, is considered or defined as hazardous under the legislation of the country receiving it and is prohibited by that country from being imported or conveyed in transit.
2. For the purpose of this memorandum, safety marking of hazardous waste and hazardous recyclable materials can be expected to be found on certain “means of containment or means of transport,” where the following definitions apply:

“means of containment” means a container or packaging, or any part of a means of transport that is or may be used to contain goods.

“means of transport” means a road or railway vehicle, aircraft, ship, pipeline or any other contrivance that is or may be used to transport persons or goods.

**General**

3. The main purpose of the *Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations* (EIHWHRMR) is to protect Canada’s environment and the health of Canadians from the risks posed by the transboundary movement of hazardous wastes and hazardous recyclable materials through exports from, transit through and imports into Canada and to implement Canada’s international obligations. EIHWHRMR assist in ensuring that shipments of hazardous wastes or hazardous recyclable materials entering into, leaving or passing through Canada can be tracked and controlled by ECCC with the assistance of the CBSA and various other governmental agencies.

4. Hazardous waste and hazardous recyclable material are substances that can be a potential risk to human and environmental health. Examples are residues from industrial operations, manufacturing processing plants and hospitals or obsolete materials such as waste lubricants and pesticides.

5. Hazardous wastes and hazardous recyclable materials are any solid, liquid, gas, sludge or paste substance that also exhibits certain hazardous characteristics such as being toxic, corrosive or flammable. Due to the dangerous properties of these materials, special recycling and disposal operations must be undertaken at authorized facilities to ensure their environmentally sound management and the continued protection of human health. Simply put:

   (a) hazardous wastes are hazardous substances intended for disposal;

   (b) hazardous recyclable materials are hazardous materials destined for recycling.

**Classes of Hazardous Wastes and Hazardous Recyclable Materials**

6. The *Transportation of Dangerous Goods Act, 1992*, and its associated Regulations control nine classes of dangerous goods, only seven of which apply to wastes and recyclable materials:

   Class 2: Gases

   Class 3: Flammable Liquids

   Class 4: Flammable Solids; Substances Liable to Spontaneous Combustion; Substances that, on contact with Water, Emit Flammable Gases (Water-Reactive Substances)

   Class 5: Oxidizing Substances and Organic Peroxides

   Class 6: Toxic and Infectious Substances

   Class 8: Corrosives

   Class 9: Miscellaneous Products, Substances or Organisms

   Class 1 (Explosives) and Class 7 (Radioactive) dangerous goods are never wastes by definition under the EIHWHRMR. Information on customs control of explosives and radioactive goods can be found in Memorandum D19-6-1, *Administration of the Explosives Act* and Memorandum D19-2-1, *Administration of the Nuclear Safety and Control Act*.
Safety Marks

7. The term safety mark includes a design, symbol, device, sign, label, placard, letter, word, number or abbreviation, or any combination of these things that is to be displayed:

   (a) on dangerous goods, on means of containment or transport used in handling, offering for transport or transporting dangerous goods, or at facilities used in those activities; and
   
   (b) to show the nature of the danger or to indicate compliance with the safety standards prescribed for the means of containment or transport or the facilities.

8. The official definition as well as the Schedules listed can be found within the text of the EIHWHRMR.

9. Part 4 of the Transportation of Dangerous Goods Regulations, and sections 9(i), 16(h) and 22(c) of the EIHWHRMR require that, where applicable, all imports/exports and in transit shipments of hazardous wastes and hazardous recyclable materials must bear the safety marks in the form of placards and labels. The Transportation of Dangerous Goods Regulations require that placards be located on the means of containment at a place, where they are visible and legible. Hence, they are commonly applied to each side and each end of any means of containment used to transport hazardous wastes or hazardous recyclable materials. For more information regarding requirements under the Transportation of Dangerous Goods Regulations, please refer to the Memorandum D19-13-5, Transportation of Dangerous Goods. Any questions with respect to the application of safety marks should be directed to CANUTEC.

10. Class 9 hazardous recyclable materials that are leachate toxic or environmentally hazardous (subject to subsections 2.43(b)(iv) and 2.43(b)(v) respectively of the Transportation of Dangerous Goods Regulations) are not required to be placarded according to Transport Canada.

Documentation Requirements

11. The EIHWHRMR require that all persons wishing to move hazardous wastes or hazardous recyclable materials across the Canadian border must notify ECCC in advance of the intended shipment by a process called notification. The notification serves as the application for an export, import or transit permit. For details concerning the notification process, refer to the ECCC, Managing and Reducing Waste Web page.

12. All shipments of hazardous waste and hazardous recyclable material (with the exception of those transported by rail – see paragraphs 23 and 24) crossing the Canadian border must be accompanied by two documents:

   (a) permit (e.g. export, import, transit or Canada-to-Canada transit) and
   
   (b) movement document.

Permit

13. A permit is issued by ECCC upon completion of the notification review and receipt of the approval in writing from the competent authorities for the jurisdiction of destination.

14. The permit specifies:

   (a) the types and volumes of hazardous wastes or hazardous recyclable materials approved;
   
   (b) the valid dates within which waste/recyclable can be shipped (shipments must take place within the valid dates indicated);
   
   (c) which authorized carriers may transport the hazardous wastes and hazardous recyclable materials;
   
   (d) the border crossings where the shipments of hazardous waste and hazardous recyclable materials can go through; and
   
   (e) a single or more than one notification number from the same waste generator.

15. The permit is normally valid for up to one year upon being issued and is site-to-site specific.
Amendments to the Permit

16. If there is a change to any of the following information contained in the permit, with certain specific exceptions, a person must notify the director, Waste Reduction and Management Division, in writing, at the address provided in paragraph 33 of this memorandum:

(a) the addition of authorized carrier(s);
(b) addition or deletion of ports of exit or entry or CBSA offices;
(c) company name change (of the exporter, importer, foreign exporter, foreign receiver, or authorized carrier);
(d) increase in the quantity of hazardous waste or hazardous recyclable material; or
(e) increase in the number of shipments.

17. ECCC, upon review and approval, issues an amendment letter to the permit outlining these changes. There are five different types of amendment letters:

(a) Amendment letter: Authorized carrier addition;
(b) Amendment letter: Authorized port of entry or exit addition;
(c) Amendment letter: Company name change;
(d) Amendment letter: Quantity increase to permit; and
(e) Amendment letter: Number of shipments increase.

18. The amendment letter is an addendum to the permit and maintains the authority of the permit holder to continue movements of hazardous waste or hazardous recyclable material under the existing permit. Since this amendment letter is an addendum to the permit, it must accompany the shipment with the permit and movement document at all times.

Movement Document

19. A movement document either in its original form, fax or photocopy must accompany all hazardous waste and hazardous recyclable materials imports into, exports from, and transits through Canada, including transits through the United States at the time of exit and re-entering into Canada. The movement document provides detailed information on:

(a) the types and quantities of hazardous wastes/hazardous recyclable materials being shipped;
(b) a record of the specific companies or individuals involved in the shipment; and
(c) information on the treatment, storage, and/or disposal of the hazardous wastes or hazardous recyclable material when they reach the consignee/receiver.

20. At the time when the movement document reaches the border, its parts A and B should be completed.

21. When applicable, an “attachment form for successive carriers” may accompany the movement document. An example of a movement document can be found in Schedule 9 of the EIHWHRMR, and an “attachment form for successive carriers” can be found on ECCC Web page under Tools for Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations Regulatees.

Permit of Equivalent Level of Environmental Safety (PELES)

22. Section 190 of Canadian Environment Protection Act, 1999 (CEPA, 1999) authorizes the issuance of a permit of equivalent level of environmental safety (PELES), which may be used to obtain a variance from the EIHWHRMR under specific conditions. Variances must be consistent under Canada’s international obligations, and must provide an equivalent level of environmental safety. They are issued on a case-by-case basis in accordance with objective criteria set by ECCC. PELES may be issued by ECCC on various subjects involving hazardous waste and hazardous recyclable material that may change specific conditions of the permit or the movement document. Any questions relating to PELES should be directed to ECCC regional offices.
Rail Transportation

23. In the case of hazardous waste and/or hazardous recyclable material transported by rail, sections 12 and 19 and 26 and 31 of the EIHWHRMR allow the movement document to be replaced by a rail consist, provided that a rail consist contains the same information as movement document. ECCC has judged that the use of the rail consist provides an equivalent level of environmental safety in accordance with the criteria established by the department.

24. Although permit and movement document do not have to accompany the shipments of hazardous waste transported by rail, it is important to remember that:

(a) for shipments entering Canada, it is the responsibility of the importer or customs broker to submit a copy of the permit and copy of the movement document to the CBSA using the Release on Minimum Documentation (RMD) option before these shipments can be released; please refer to paragraph 41(a) and 42 of the Memorandum D17-1-4, Release of Commercial Goods;

(b) shipments of hazardous waste and hazardous recyclable materials transported by rail are not eligible for Pre-Arrival Review System (PARS) paper release option;

(c) in the case of hazardous waste and/or hazardous recyclable material leaving Canada (export or in transit), it is the responsibility of the exporter or the customs broker to submit the required documents to the appropriate CBSA office.

Reporting to Canada Border Services Agency Offices

25. For shipments of hazardous waste and hazardous recyclable materials that are imported, exported or which transit through Canada as well as Canada-to-Canada transits passing through the United States, the authorized carrier must provide the CBSA office, at the time the goods are reported, photocopies of the movement document and permit, plus attachments as applicable.

26. Further information concerning the release of commercial goods can be found in the Memorandum D17-1-4, Release of Commercial Goods.

27. Please refer to the Reporting of Exported Goods Regulations for specific time frames for reporting at the CBSA export reporting offices.

28. Shipments of hazardous waste and hazardous recyclable material imported, exported or in transit through Canada will not be allowed to proceed until the following documents have been presented to the CBSA:

(a) a photocopy or fax of the movement document, indicating the receiving authorized site information, the quantity of hazardous waste or hazardous recyclable material shipped as well as the signature of the exporter/foreign exporter in part A and the signature of the authorized carrier in part B; and

(b) a photocopy of the permit for imports, exports and shipments in transit.

29. Authorized carriers must retain permits and movement documents in their original form, fax or photocopy throughout the movement of the shipment; therefore only photocopies are to be given to the CBSA.

30. In case of the hazardous waste or hazardous recyclable material being transported by rail, the permit is not required to accompany the shipment; however, copies of the permit and movement document must be presented by the importer, customs broker or the carrier at the CBSA office before these shipments can be released (see paragraph 24).

31. Any shipment suspected to be hazardous waste and hazardous recyclable material that is not accompanied by the proper documentation (the proper documentation has not been presented to the border services officer where the shipment is being reported) will be detained.

32. If required documents relating to the hazardous waste or hazardous recyclable material entering or exiting Canada have not been submitted to the CBSA, or information on required documents is not correct or missing, a penalty may be issued by the CBSA for not providing the required other government department (OGD) documents or for not providing the required OGD information before the goods are released. For more
information, consult the CBSA Administrative Monetary Penalty System (AMPS) Web page, or Memorandum D22-1-1, Administrative Monetary Penalty System.

33. Border services officers, upon review, must date-stamp collected documents (movement document and permit with all applicable amendments) and forward them on a weekly basis to the ECCC at the following address:

Environment and Climate Change Canada  
Waste Reduction and Management Division  
Place Vincent Massey  
351 St. Joseph Boulevard, 9th floor  
Gatineau QC K1A 0H3  
Telephone: 1-844-524-5295  
E-mail: ec.mt-tm.ec@canada.ca

Implementation of the CBSA Single Window Initiative (SWI)

34. On March 29, 2015, the CBSA SWI launched a new Integrated Import Declaration (IID) release service option that allows importers and customs brokers (must be registered with the CBSA) to submit and obtain electronic release for goods also regulated by other departments and agencies.

35. As of June 29, 2015, release requests for hazardous waste and hazardous recyclable material may be provided to the CBSA electronically by submitting an IID (service option 911). The IID must include the following information:

(a) Movement Document Number;
(b) Permit number (Notice number);
(c) Intended use code;
(d) Generator and receiver information.

36. Permit and movement document must accompany the shipments of hazardous waste and hazardous recyclable material and be presented to the border services officers, who will verify the content of paper permits and movement documents with the IID.

(a) Presentation of the permit and movement document, at the time of release, must be accompanied by a Release Information Sheet.
(b) An example of a Release Information Sheet is contained in Memorandum D17-1-4, Release of Commercial Goods.

Note: Since shipments of hazardous waste transported by rail are not accompanied by permit or movement document (see paragraph 23 and 24 of this memorandum), it is a responsibility of importer or customs broker to ensure that permit and movement document are presented to the CBSA before these shipments can be released.

37. Shipments will be released only when all IID information is correct and complete, and border service officer, upon visual examination of the shipment, is satisfied that it complies with the import requirements. Only when all IID information is correct and complete, border services officers will no longer:

(a) Collect the Movement Document and Permit with all applicable amendments;
(b) Date-stamp the Movement Document and Permit with all applicable amendments, or
(c) Forward these documents to ECCC.

38. ECCC will receive the IID information upon release of each shipment.

39. For more information on the SWI, visit the Single Window Initiative Web page. The SWI IID Electronic Commerce Client Requirements Document (ECCRD) provides technical and system requirements information. Appendix B of the ECCRD includes a list of required data elements for ECCC.
Exemptions (for Imports Only)

40. The import requirements set out in the EIHWHRMR do not apply to the Department of National Defence (DND) under certain circumstances. DND is required to notify ECCC of an intended import of hazardous waste or hazardous recyclable material and receive a permit. They are, however, exempt from the need to complete and carry a movement document as well as from providing the CBSA with copies of the permit and movement document at the time of report as set out in section 12 of the Customs Act. This exemption applies when:

(a) DND generates the hazardous waste or hazardous recyclable material in the course of an operation conducted by it outside of Canada;

(b) the hazardous waste or hazardous recyclable material is transported from the site of operation to a defence establishment; and

(c) the hazardous waste or hazardous recyclable material is transported under the sole direction or control of the Minister of National Defence.

Return of Hazardous Wastes or Hazardous Recyclable Materials

41. For shipments of hazardous waste or hazardous recyclable material that are not accepted by the disposal/recycling facility in the country of import, the Canadian exporter is to notify the director, Waste Reduction and Management Division, at the address provided in paragraph 33 of this memorandum and must make necessary arrangements for its return to Canada. The return of shipments not accepted by the disposal/recycling facility is considered a separate export or import and is subject to specific notification and permitting requirements.

42. Procedures to follow for importers/exporters in such instances can be found in Part 5 of the EIHWHRMR.

43. Shipments that cannot be disposed of or recycled as intended at the receiving authorized recycling/disposal facility that was named in the original permit need to be returned to the original shipping site in the country of departure. These return shipments require an export or import permit for the purposes of a return and are tracked by ECCC through a new separate movement document to ensure they are returned to the original Canadian exporter or the foreign exporter as the case may be. Therefore, authorized carriers will provide the CBSA, either when entering or exiting Canada, photocopies of:

(a) the movement document; and

(b) the export or import permit for the purpose of a return.

44. Border services officers will review and match the two documents, as previously, then date stamp and forward the copies to ECCC at the address provided in paragraph 33.

Emergencies

45. Incidents involving leaks or spills of hazardous wastes or hazardous recyclable materials should be reported immediately to the

Canadian Transport Emergency Centre (CANUTEC)
at 1-888-CAN-UTE (226-8832), 613-996-6666 or
*666 on a cellular phone

46. The CBSA can obtain additional information on dealing with emergencies involving hazardous waste or hazardous recyclable materials by contacting the Canadian Transport Emergency Centre (CANUTEC) at 613-992-4624. CANUTEC is a national advisory service provided by Transport Canada to assist in handling dangerous goods emergencies.

47. Emergencies involving hazardous wastes or hazardous recyclable materials should also be reported to the nearest ECCC regional or district office.
Penalties

48. The courts may impose penalties in accordance with the fine scheme specified in Canadian Environment Protection Act, 1999, in sections 272, 273 and 276.

CBSA Administrative Monetary Penalty System (AMPS)

49. The Administrative Monetary Penalty System (AMPS) authorizes the CBSA to impose monetary penalties for non-compliance with the Customs Act, the Customs Tariff and the regulations under these Acts, as well as contraventions of the terms and conditions of licensing agreements and undertakings.

50. More information concerning AMPS can be found on the CBSA Web site, or by consulting the Memorandum D22-1-1, Administrative Monetary Penalty System.

Additional Information

51. Questions on the admissibility of any shipment of hazardous waste or hazardous recyclable material and for additional information regarding the requirements of the Canadian Environmental Protection Act, 1999, the EIHWHRMR made under that Act or how the Act and Regulations pertain to hazardous waste or hazardous recyclable materials, carriers, importers and exporters, contact Waste Reduction and Management Division, ECCC, at the address provided in paragraph 33.

52. The CBSA Border Information Service (BIS) line responds to public inquiries related to import requirements of other government departments, including ECCC. For more information within Canada, call the Border Information Service at 1-800-461-9999. From outside Canada call 204-983-3500 or 506-636-5064; long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time, except holidays). TTY is also available within Canada: 1-866-335-3237.

References

| Issuing Office | Other Government Department Programs Unit |
|               | Policy and Program Management Division   |
|               | Commercial Program Directorate           |
|               | Programs Branch                          |

| Headquarters File |                        |


| Other References | D17-1-4, D19-2-1, D19-6-1, D19-13-5, D22-1-1 |

| Superseded Memorandum D | D19-7-3 dated August 15, 2012 |