

March 19, 2001

Suzanne Leppinen
Head, Export and Import Section
Environment Canada
Transboundary Movement Division
Place Vincent de Massey
351 St. Joseph Blvd.
Hull, Quebec K1A 0H3

Dear Ms. Leppinen:

Re: PCB Export and Import of Hazardous Wastes Regulations (EIHWR)

Thank you for providing us with the opportunity to respond to the proposed changes to the PCB Export Hazardous Wastes Regulations. We intend to provide further comments when these proposed changes are published in the *Canada Gazette*.

• **Purpose and Timing of proposing changes to PCB Export Regulations**

It is our understanding that the proposed changes to this regulation was initiated due to an increasing interest to import PCB wastes into Canada from other countries such as the US. In our view, the Government of Canada should not propose changes to these regulations primarily because of the increasing interest to import PCBs by private corporations.

We recognize that Canada has a number of international commitments with regard to hazardous waste and their movement. However, at this time, when the *Import and Export of Hazardous Regulations* are currently under review, it is premature to propose changes to the *PCB Export Regulation*. The current initiative may pre-empt the discussion that will occur during this review process as there are major implications to the movement of PCB waste across the border and its final fate. It is our recommendation that this matter be discussed as part of upcoming initiatives to make changes to the *Import and Export of Hazardous Waste Regulation* as well as changes to the *Chlorophenyls Regulations*.

The quick process put into place to make changes to the *PCB Export Regulation* provides an impression of promoting the import activities of private facilities. Our proposal to conduct this discussion and its proposed changes to the regulation until the *Import and Export of Hazardous Waste* discussion is to ensure that such concepts as Best Management Practices including appropriate destruction technologies, pollution prevention planning, and the precautionary principle are integrated into the discussion. In

honouring our international commitments, the movement of PCB waste as well as other hazardous waste should only be considered under very strict conditions and exceptional circumstances.

- **Increased risks due to transboundary movement of PCB Waste**

In general, the transboundary movement of hazardous waste such as PCBs is not supportable due to the increased level of risk involved in its movement between jurisdictions. It is generally preferred that the PCB waste be treated and destroyed locally. In situations where appropriate facilities are not available they should be exported or imported only under well defined conditions. These criteria should be clearly stated in proposed changes to the *PCB Waste Export Regulation* .

Several environmental organizations in Canada as well as other countries working on the development of a global treaty on persistent organic pollutants have outlined over the years that the transboundary movement of hazardous waste such as PCB should only be possible for the purposes of complete destruction when no local facility has the appropriate facilities. Further, the destruction technology must be appropriate, and consistent with the principles of pollution prevention and the precautionary principle. These principles will not be served by speedy approvals to importing of wastes which are destined for facilities using inappropriate or less appropriate destruction technologies. More appropriate new and developing technologies are now entering or about to enter the marketplace.

- **Lack of Definitions and key concepts**

Currently, the discussion paper does not define key concepts that are integral to the proposed changes to the PCB Export Regulations. For example, a definition for Best Management Practices has not been included nor proposed. The concept of Best Management Practices will have significant implications on how or when imports of PCB wastes are possible. In our view, a definition for Best Management Practices may determine how PCB waste are stored or handled during its transport. Without a proposed definition, it is unclear how effective the proposed changes to the PCB Export regulations will be on handling imports of PCB waste. There are several criteria that should be included in the definition and discussion on Best Management Practices including: role of pollution prevention, method of handling and transporting of PCB waste, appropriate technology that results in complete destruction of PCB waste and no release of toxic substances to the environment, public access to information on the movement of such waste.

The discussion around the criteria for Best Management Practices should include a discussion on the role of alternative or safe technologies in the import and export of PCB waste as well as other hazardous waste material. Without due consideration for safe alternatives in these discussions, the government is sending out signals that it supports the continued use of some of the most toxic chemicals.

- **Levels above 50 ppm of PCB in hazardous waste/material**

In general, importing of PCB waste is not supportable. However, given some of Canada's international commitments that may require accepting imports, these imports should be accepted only for the purposes of complete destruction and only under strict conditions, as noted above. For example, movement of PCB waste with levels above 50 ppm must require pre-treatment and only when the levels have been reduced should its movement be considered. Movement should only be considered when there are no local appropriate facilities available. This discussion will depend significantly on the definition proposed for Best Management Practices.

- **Testing for Dioxins and Furans Contamination in PCB wastes**

It is imperative that monitoring for contamination of other toxic substances such as dioxins and furans in PCB waste be mandatory. During the workshop several participants expressed the view that testing for dioxins and furans in PCB waste shipments is not necessary as it is costly and time consuming. Given that extensive consultations are on-going to address dioxins and furans through various levels of government and agencies, progress can be made to ensure that specific source streams such as imports of PCB waste do not contain such toxic substances. Mandatory testing for dioxins and furans is supported along with having the testing conducted by authorized laboratories that follow the criteria established for Best Management Practices.

- **Lack of Public Access to Information/Notices**

The discussion paper did not include a discussion on public access to information, in particular with respect to the movement of hazardous waste through or to their communities. During the workshop, several industry representatives indicated their support for less bureaucratic processes that would result in the reduction of forms required for completion, for example, the forms required for Notices, Consent, Contracts and authorized facilities.

Although limited access is afforded to the public/ community on the movement of PCB waste, the information offered in these forms provides some documentation on responsibility to meet criteria of exporting and importing PCB waste. Not only should these forms be maintained, but efforts should be made to improve access to information by the public and notice to the public along transportation routes. Additional information regarding the activity of importing and exporting activities should be included such as in notices which include a listing of alternative sites for the PCB waste shipment and final destination site for the shipment. These forms should also include copies of contingency plans in the event that an environmental spill occurs so that the affected community is able to address the accident in a timely, safe and effective manner.

We hope that the above comments are carefully considered, especially within the context of the consultation to discuss amendments to the *Export and Import of Hazardous Waste*

Regulations noted above. We will continue to monitor the progress of these consultations in the coming months.

Thank you for considering our concerns. We look forward to discussing this matter with you in greater detail.

Sincerely yours,

John Jackson
Ontario Toxic Waste Research Coalition

Brennain Lloyd
Northwatch

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Canadian Institute for Environmental Law and Policy

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c.c. CEN Toxics Caucus