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Regulations Amending Certain Department of the Environment Regulations: SOR/2026-174

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CANADIAN ENVIRONMENTAL PROTECTION ACT, 1999

ENVIRONMENTAL VIOLATIONS ADMINISTRATIVE MONETARY PENALTIES
ACT

P.C. 2026-733 August 6, 2026

Whereas, under subsection 332(1) ^a of the *Canadian Environmental Protection Act, 1999* ^b, a copy of the proposed *Regulations Amending Certain Department of the Environment Regulations* was published in the *Canada Gazette*, Part I, on September 30, 2023 and a reasonable opportunity was afforded to interested persons to make representations to the Minister of the Environment with respect to the proposed Regulations or to file a notice of objection requesting that a board of review be established and stating the reasons for the objection;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of the Environment, makes the annexed *Regulations Amending Certain Department of the Environment Regulations*

under sections 191 and 286.1 ^c of the *Canadian Environmental Protection Act, 1999* ^b and subsection 5(1) of the *Environmental Violations Administrative Monetary Penalties Act* ^d.

Regulations Amending Certain Department of the Environment Regulations

Canadian Environmental Protection Act, 1999

Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations

1 (1) The definition *OECD Decision C(2001)107/FINAL* in section 1 of the *Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations* ¹ is repealed.

(2) Section 1 of the Regulations is amended by adding the following in alphabetical order:

OECD Decision

means the decision of the Organisation for Economic Co-operation and Development entitled Decision of the Council on the Control of Transboundary Movements of Wastes Destined for Recovery Operations, OECD/LEGAL/0266.

2 The portion of subsection 2(1) of the Regulations before paragraph (a) is replaced by the following:

Definition of *hazardous waste*

2 (1) For the purposes of Division 8 of Part 7 and Part 10 of the Act and these Regulations, *hazardous waste* means anything that is to be disposed of using one of the operations set out in column 2 of Part 1 of Schedule 1,

or that can no longer be used for its original purpose, cannot be used for another purpose and cannot be altered to be used for its original purpose or another purpose, and that

3 (1) The portion of subsection 3(1) of the Regulations before paragraph (a) is replaced by the following:

Waste considered hazardous for export

3 (1) Anything — even if it is not *hazardous waste* within the meaning of subsection 2(1) — that is to be disposed of using one of the operations set out in column 2 of Part 1 of Schedule 1, or that can no longer be used for its original purpose, cannot be used for another purpose and cannot be altered to be used for its original purpose or another purpose, is considered to be hazardous waste for the purposes of Division 8 of Part 7 and Part 10 of the Act and Divisions 1 to 4, 7 and 8 of Part 1 of these Regulations if it is to be exported to a country of destination or conveyed in transit through Canada or a foreign country and

(2) Paragraph 3(1)(c) of the Regulations is replaced by the following:

(c) if the country of destination is a party to the Convention, it is one of

(i) the hazardous wastes referred to in subparagraph 1(a) of Article 1 of the Convention, with the exception of wastes referred to in paragraphs 3 and 4 of Article 1 of the Convention, as amended from time to time, to the extent that the amendments are binding on Canada, or

(ii) the other wastes referred to in paragraph 2 of Article 1 of the Convention, with the exception of wastes referred to in paragraphs 3 and 4 of Article 1 of the Convention, as amended from time to time, to the extent that the amendments are binding on Canada.

4 Paragraph 5(1)(c) of the Regulations is replaced by the following:

(c) if the country of destination is a party to the Convention, it is one of

(i) the hazardous wastes referred to in subparagraph 1(a) of Article 1 of the Convention, with the exception of wastes referred to in paragraphs 3 and 4 of Article 1 of the Convention, as amended from time to time, to the extent that the amendments are binding on Canada, or

(ii) the other wastes referred to in paragraph 2 of Article 1 of the Convention, with the exception of wastes referred to in paragraphs 3 and 4 of Article 1 of the Convention, as amended from time to time, to the extent that the amendments are binding on Canada.

5 (1) Clause 14(1)(u)(iii)(A) of the Regulations is replaced by the following:

(A) make all necessary arrangements to dispose of the hazardous waste by means of a final disposal operation or an interim disposal operation followed by a final disposal operation, or to recycle the hazardous recyclable material by means of a final recycling operation or an interim recycling operation followed by a final recycling operation, at one or more other authorized facilities in Canada and provide the Minister with the name and address of, and the name of a contact person for, each of those authorized facilities, the reference number of the movement document and, for each type of hazardous waste or hazardous recyclable material, the line number of the applicable line entry in the movement document, the quantity in kilograms or litres and the applicable disposal or recycling code set out in column 1 of either Part 1 or 2 of Schedule 1, or

(2) Clause 14(1)(v)(iii)(A) of the Regulations is replaced by the following:

(A) make all necessary arrangements to dispose of the hazardous waste by means of a final disposal operation or an interim disposal operation followed by a final disposal operation, or to recycle the hazardous recyclable material by means of a final recycling operation or an interim recycling operation followed by a final recycling operation at one or more authorized facilities in Canada and provide the Minister with the name and address of, and the name of a contact person for, each of those authorized facilities, the reference number of the movement document and, for each type of hazardous waste or hazardous recyclable material, the line number of the applicable line entry in the movement document, the quantity in kilograms or litres and the applicable disposal or recycling code set out in column 1 of either Part 1 or 2 of Schedule 1, or

6 The Regulations are amended by adding the following after the heading of Division 2 of Part 1:

Export Prohibited to Certain Countries

Hazardous waste

18.01 (1) It is prohibited for any person to export to a country of destination not listed in Annex VII of the Convention, as amended from time to time, to the extent that the amendments are binding on Canada

(a) *hazardous waste*, within the meaning of subsection 2(1);

(b) anything — even if it is not *hazardous waste* within the meaning of subsection 2(1) — that is to be disposed of using one of the operations set out in column 2 of Part 1 of Schedule 1, or that can no longer be used for its original purpose, cannot be used for another purpose and cannot be altered to be used for its original purpose or another purpose, and that is defined as, or considered to be, hazardous waste

under the legislation of the country of destination that is a party to the Convention; or

(c) anything — even if it is not *hazardous waste* within the meaning of subsection 2(1) — that is to be disposed of using one of the operations set out in column 2 of Part 1 of Schedule 1, or that can no longer be used for its original purpose, cannot be used for another purpose and cannot be altered to be used for its original purpose or another purpose, and that is one of the hazardous wastes referred to in subparagraph 1(a) of Article 1, of the Convention, with the exception of wastes referred to in paragraphs 3 and 4 of Article 1 of the Convention, as amended from time to time, to the extent that the amendments are binding on Canada.

Hazardous recyclable material

(2) It is prohibited for any person to export to a country of destination not listed in Annex VII of the Convention, as amended from time to time, to the extent that the amendments are binding on Canada

(a) *hazardous recyclable material*, within the meaning of subsection 4(1);
or

(b) anything — even if it is not *hazardous recyclable material* within the meaning of subsection 4(1) — that is to be recycled using one of the operations set out in column 2 of Part 2 of Schedule 1 and that is one of the hazardous wastes referred to in subparagraph 1(a) of Article 1, of the Convention, with the exception of wastes referred to in paragraphs 3 and 4 of Article 1 of the Convention, as amended from time to time, to the extent that the amendments are binding on Canada.

7 The Regulations are amended by adding the following after the heading of Division 2 of Part 1:

Export Permit Required Before Movement

Requirement

18.1 Any person who proposes to export a shipment that contains hazardous waste or hazardous recyclable material must hold an export permit before the shipment is moved for that purpose.

8 (1) Clause 26(1)(v)(iii)(A) of the Regulations is replaced by the following:

(A) make all necessary arrangements to dispose of the hazardous waste by means of a final disposal operation or an interim disposal operation followed by a final disposal operation, or to recycle the hazardous recyclable material by means of a final recycling operation or an interim recycling operation followed by a final recycling operation, at one or more other authorized facilities in the country of destination and provide the Minister with the name and address of, and the name of a contact person for, each of those authorized facilities, the reference number of the movement document and, for each type of hazardous waste or hazardous recyclable material, the line number of the applicable line entry in the movement document, the quantity in kilograms or litres and the applicable disposal or recycling code set out in column 1 of either Part 1 or 2 of Schedule 1, or

(2) Clause 26(1)(w)(iii)(A) of the Regulations is replaced by the following:

(A) make all necessary arrangements to dispose of the hazardous waste by means of a final disposal operation or an interim disposal operation followed by a final disposal operation, or to recycle the hazardous recyclable material by means of a final recycling operation or an interim recycling operation followed by a final recycling operation, at one or

more authorized facilities in the country that is represented by the competent authority and provide the Minister with the name and address of, and the name of a contact person for, each of those authorized facilities, the reference number of the movement document and, for each type of hazardous waste or hazardous recyclable material, the line number of the applicable line entry in the movement document, the quantity in kilograms or litres and the applicable disposal or recycling code set out in column 1 of either Part 1 or 2 of Schedule 1, or

9 The Regulations are amended by adding the following before section 31:

Permit required before movement

30.1 Any person who proposes to export from and import to Canada following transit through a foreign country a shipment that contains hazardous waste or hazardous recyclable material must hold a permit for export from and import to Canada following transit through a foreign country before the shipment is moved for that purpose.

10 Clauses 78(1)(a)(iii)(G) and (H) of the Regulations are replaced by the following:

(G) the applicable codes set out in Annex I or II to the Convention, as amended from time to time,

(H) the applicable code, if any, set out in List A of Annex VIII to the Convention, as amended from time to time,

11 Clauses 1(j)(iii)(G) to (J) of Schedule 3 to the Regulations are replaced by the following:

(G) the applicable codes set out in Annex I or II to the Convention, as amended from time to time, or Y0 when no code is applicable,

(H) the applicable code, if any, set out in List A of Annex VIII to the Convention, as amended from time to time,

(I) in the case of hazardous recyclable material that is to be imported from a country of origin, or conveyed in transit through a country, that is subject to the OECD Decision, the applicable code, if any, set out in Part II of Appendix 4 to the OECD Decision, as amended from time to time,

(J) in the case of hazardous waste or hazardous recyclable material that is set out in column 2 of Schedule 6 or 12 or column 3 of Schedule 8 or that contains a substance that is set out in column 3 of Schedule 7, the applicable codes, if any, set out in column 1 of the applicable Schedule,

12 Clauses 2(j)(iii)(G) to (J) of Schedule 3 to the Regulations are replaced by the following:

(G) the applicable codes set out in Annex I or II to the Convention, as amended from time to time, or Y0 when no code is applicable,

(H) the applicable code, if any, set out in List A of Annex VIII to the Convention, as amended from time to time,

(I) in the case of hazardous recyclable material that is to be exported to a country of destination, or conveyed in transit through a country, that is subject to the OECD Decision, the applicable code, if any, set out in Part II of Appendix 4 to the OECD Decision, as amended from time to time,

(J) in the case of hazardous waste or hazardous recyclable material that is set out in column 2 of Schedule 6 or 12 or column 3 of Schedule 8 or that contains a substance that is set out in column 3 of Schedule 7, the applicable codes, if any, set out in column 1 of the applicable Schedule,

13 Clauses 3(i)(iii)(G) to (J) of Schedule 3 to the Regulations are replaced by the following:

- (G)** the applicable codes set out in Annex I or II to the Convention, as amended from time to time, or Y0 when no code is applicable,
- (H)** the applicable code, if any, set out in List A of Annex VIII to the Convention, as amended from time to time,
- (I)** in the case of hazardous recyclable material that is to be conveyed in transit through a country that is subject to the OECD Decision, the applicable code, if any, set out in Part II of Appendix 4 to the OECD Decision, as amended from time to time,
- (J)** in the case of hazardous waste or hazardous recyclable material that is set out in column 2 of Schedule 6 or 12 or column 3 of Schedule 8 or that contains a substance that is set out in column 3 of Schedule 7, the applicable codes, if any, set out in column 1 of the applicable Schedule,

14 Clauses 4(i)(iii)(G) to (J) of Schedule 3 to the Regulations are replaced by the following:

- (G)** the applicable codes set out in Annex I or II to the Convention, as amended from time to time, or Y0 when no code is applicable,
- (H)** the applicable code, if any, set out in List A of Annex VIII to the Convention, as amended from time to time,
- (I)** in the case of hazardous recyclable material that is to be exported to a country of destination, or conveyed in transit through a country, that is subject to the OECD Decision, the applicable code, if any, set out in Part II of Appendix 4 to the OECD Decision, as amended from time to time,

(J) in the case of hazardous waste or hazardous recyclable material that is set out in column 2 of Schedule 6 or 12 or column 3 of Schedule 8 or that contains a substance that is set out in column 3 of Schedule 7, the applicable codes, if any, set out in column 1 of the applicable Schedule,

15 Clauses 5(j)(iii)(F) to (I) of Schedule 3 to the Regulations are replaced by the following:

(F) the applicable codes set out in Annex I or II to the Convention, as amended from time to time, or Y0 when no code is applicable,

(G) the applicable code, if any, set out in List A of Annex VIII to the Convention, as amended from time to time,

(H) in the case of hazardous recyclable material that is to be returned from, or conveyed in transit through, a country that is subject to the OECD Decision, the applicable code, if any, set out in Part II of Appendix 4 to the OECD Decision, as amended from time to time,

(I) in the case of hazardous waste or hazardous recyclable material that is set out in column 2 of Schedule 6 or 12 or column 3 of Schedule 8 or that contains a substance that is set out in column 3 of Schedule 7, the applicable codes, if any, set out in column 1 of the applicable Schedule,

16 Clauses 6(j)(iii)(F) to (I) of Schedule 3 to the Regulations are replaced by the following:

(F) the applicable codes set out in Annex I or II to the Convention, as amended from time to time, or Y0 when no code is applicable,

(G) the applicable code, if any, set out in List A of Annex VIII to the Convention, as amended from time to time,

(H) in the case of hazardous recyclable material that is to be returned to, or conveyed in transit through, a country that is subject to the OECD

Decision, the applicable code, if any, set out in Part II of Appendix 4 to the OECD Decision, as amended from time to time,

(I) in the case of hazardous waste or hazardous recyclable material that is set out in column 2 of Schedule 6 or 12 or column 3 of Schedule 8 or that contains a substance that is set out in column 3 of Schedule 7, the applicable codes, if any, set out in column 1 of the applicable Schedule,

17 Clause 1(g)(iv)(C) of Schedule 4 to the Regulations is replaced by the following:

(C) in the case of hazardous waste or hazardous recyclable material that is set out in column 2 of Schedule 6 or 12 or column 3 of Schedule 8 or that contains a substance that is set out in column 3 of Schedule 7, the applicable codes, if any, set out in column 1 of the applicable Schedule,

18 The Regulations are amended by replacing “OECD Decision C(2001)107/FINAL” with “the OECD Decision” in the following provisions:

- (a) the definition *competent authority* in section 1;**
- (b) the portion of paragraph 4(2)(f) before subparagraph (i) and the portion of paragraph 4(2)(g) before subparagraph (i);**
- (c) subparagraph 10(a)(i);**
- (d) paragraph 14(1)(c);**
- (e) subparagraph 19(a)(ii);**
- (f) subparagraph 22(a)(i);**
- (g) paragraph 26(1)(c);**
- (h) subparagraph 34(a)(i); and**
- (i) subparagraph 44(a)(i).**

19 The English version of the Regulations is amended by replacing “OECD Decision C(2001)107/FINAL” with “the OECD Decision” in the following provisions:

- (a) subparagraph 10(a)(ii);**
- (b) subparagraph 22(a)(ii);**
- (c) subparagraph 34(a)(ii); and**
- (d) subparagraph 44(a)(ii).**

20 The French version of the Regulations is amended by replacing “modifications” with “amendements”, with any necessary modifications, in the following provisions:

- (a) subparagraph 10(a)(ii);**
- (b) subparagraph 22(a)(ii);**
- (c) subparagraph 34(a)(ii); and**
- (d) subparagraph 44(a)(ii).**

Regulations Designating Regulatory Provisions for Purposes of Enforcement (Canadian Environmental Protection Act, 1999)

21 The schedule to the *Regulations Designating Regulatory Provisions for Purposes of Enforcement (Canadian Environmental Protection Act, 1999)* ² is amended by adding the following after item 39:

Item	Column 1 Regulations	Column 2 Provisions
40	<i>Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations</i>	(a) subsections 18.01(1) and (2)

Environmental Violations Administrative Monetary Penalties Act

Environmental Violations Administrative Monetary Penalties Regulations

22 Item 1 of Division 12 of Part 5 of Schedule 1 to the *Environmental Violations Administrative Monetary Penalties Regulations* ³ is replaced by the following:

Item	Column 1 Provision	Column 2 Violation Type
1	18.01(1)	B
2	18.01(2)	B
3	18.1	B
4	30.1	B
5	78(2)	A

Coming into Force

23 (1) Subject to subsection (2), these Regulations come into force on the day on which they are registered.

(2) Section 6 of these Regulations comes into force on the 90th day after the day on which the Amendment to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, adopted at Geneva on September 22, 1995, is ratified by Canada, but if these Regulations are registered after that day, that section comes into force on the day on which they are registered.

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Regulations.)

Issues

The export of hazardous waste (HW) and hazardous recyclable material (HRM) to developing countries poses environmental and human health risks when this waste or material is not managed in an environmentally sound manner in these countries. To mitigate these risks, an amendment to the Basel Convention (the Ban Amendment) was adopted to prohibit the transboundary movement of HW and most HRM from countries belonging to the Organisation for Economic Co-operation and Development (OECD), the European Union, and Liechtenstein to other countries. To place Canada in a position to ratify the Ban Amendment, amendments to adopt this prohibition need to be made to the *Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations* (the Regulations).

Further, through the ongoing administration of the Regulations, the Department of the Environment (the Department) has identified the need to clarify some provisions of the regulatory text, such as at which point a permit for transboundary movements must be obtained, and what constitutes waste.

Background

The Regulations entered into force on October 31, 2021. These Regulations consolidated and replaced three previous regulations: the *Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations*, the *PCB Waste Export Regulations, 1996* and the *Interprovincial Movement of Hazardous Waste Regulations*.

The Regulations contribute to the protection of the Canadian and global environment from harmful substances by controlling the transboundary movement of HW and HRM. HW and HRM can exhibit a range of hazardous properties, such as being flammable, oxidizing or corrosive, or may contain hazardous substances such as lead, cadmium, or chromium. The Regulations also contribute to Canada's ability to meet its obligations under three international instruments respecting the management and international movement of HW and HRM:

1. United Nations Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Convention);
2. Decision of the Council Concerning the Transboundary Movements of Wastes Destined for Recovery Operations of the Organisation for Economic Co-operation and Development (OECD Decision), OECD/LEGAL/0266; and
3. Agreement between the Government of Canada and the Government of the United States Concerning the Transboundary Movement of Hazardous Waste (Canada-United States [U.S.] Agreement)

Canada has been a Party to the Convention since 1992. The prior informed consent (PIC) procedure, by which, prior to an export, the consent is obtained from importing countries and any transit countries and confirmation is received from importing countries that the waste covered by the Convention will be managed in an environmentally sound manner, is a central component of the Convention. Canada implements the Convention via a permitting regime under Part 7, Division 8 of the *Canadian Environmental Protection Act, 1999* (CEPA) and the Regulations. Through this regime, Canada obtains consent from the importing and transit countries for exports from Canada as well as from the provincial or territorial jurisdiction for imports into Canada. Over the years, Canada has actively participated in negotiations that serve to review and evaluate the

implementation of the Convention, including whether amendments to the Convention are required to further strengthen measures to minimize harm to human health and the environment caused by transboundary movements of HW and HRM.

In 1995, the Conference of the Parties adopted the Ban Amendment, which entered into force in 2019. Canada has not yet ratified the Ban Amendment and is therefore not currently bound by it. The Ban Amendment was designed to protect the environment and human health in developing countries, where HW and HRM may not be managed in an environmentally sound manner, by prohibiting OECD countries, the European Union and Liechtenstein from exporting HW and HRM to developing countries. The PIC procedure would continue to apply to any shipments of waste not subject to the Ban amendment.

More recently, the 191 Parties to the Convention adopted by consensus amendments to the annexes to make all electrical and electronic waste (e-waste), hazardous and non-hazardous, subject to the requirements of the Convention, including the PIC procedure. This e-waste amendment entered into force internationally on January 1, 2025. Parties to the Convention were required to either implement the amendments by December 31, 2024, or to issue a notification of non-acceptance. Under the current Regulations, transboundary movements of hazardous e-waste are controlled, with some exceptions to allow trade between Canada and OECD countries, while movements of e-waste that are considered non-hazardous under the Convention are not controlled. As a result of concerns raised during consultations, the Department has issued a notification of non-acceptance and is proceeding without regulatory amendments to control all e-waste at this time.

Objective

The *Regulations Amending Certain Department of the Environment Regulations* (the Amendments) aim to align the Regulations with the Ban amendment to the Convention related to HW and HRM, thereby allowing Canada to contribute to global action to increase environmentally sound waste management and facilitate implementation of the Convention. The Amendments also address issues identified through the implementation of the Regulations.

Description

The Amendments will enable the domestic measures required for Canada to ratify the Ban Amendment and will clarify regulatory requirements.

Prohibiting exports to certain countries

To implement the Ban Amendment, the Amendments will prohibit the export of HW and most HRM to non-OECD countries. This prohibition captures exports of HW and HRM that exhibit a hazardous characteristic or that are specifically listed in the definitions of HW and HRM in the Regulations; are considered hazardous under the Convention; or are defined as HW or considered hazardous by the importing country. These Amendments are intended to allow Canada to comply with its obligations under the Ban Amendment. Any export of HW or HRM not subject to the prohibition will still require a permit.

Addressing shipments without a permit

The Amendments clarify that any person intending to export a shipment that contains HW or HRM must hold a permit authorizing the movement prior to any movement of the shipment. This provision applies to any

person exporting HW or HRM and will hold them accountable for any shipments that are in contravention of CEPA and the Regulations.

Rerouting a shipment to allow an interim operation

The Amendments will allow an interim operation to occur prior to the disposal of the HW by means of a final disposal operation or prior to the recycling of the HRM by means of a final recycling operation. For such interim operations, the permit holder must provide the Minister with information confirming that the authorized facility is approved to undertake the interim operation, consistent with existing requirements in the Regulations for the rerouting of a shipment for a final operation.

Waste

The Amendments will modify the definition of HW to include additional text that will enable the assessment of whether something is waste using certain specifications, as opposed to relying entirely on whether something is to be disposed of using one of the specified operations listed in Schedule 1. The Amendments will not change what is considered HW but will clarify the assessment criteria for making the determination.

Consequential amendments

The Amendments make consequential amendments to the *Regulations Designating Regulatory Provisions for Purposes of Enforcement (Canadian Environmental Protection Act, 1999)* and to the *Environmental Violations Administrative Monetary Penalties Regulations* to designate provisions for enforcement purposes.

Regulatory development

Consultation

Consultations prior to the publication of the proposed Amendments in the *Canada Gazette*, Part I

The Department initiated consultations in March 2023 by releasing a discussion document for public comment. The consultation period was highlighted on Government of Canada websites and social media, and direct email invitations were sent out to about 1 700 known interested parties, including industry, non-governmental organizations, Indigenous groups, other levels of government, and foreign and international bodies. The discussion document outlined the scope of the proposed Amendments to the Regulations and solicited feedback on them, as well as on the validity of the time estimates to conduct administrative tasks as well as the estimated costs for complying with the proposed Amendments. Thirty sets of comments were received from industry stakeholders, associations, and environmental non-governmental organizations. The Department sought clarification of some comments.

Stakeholders were generally supportive of strengthening Canada's ability to meet its obligations under the Convention and agreed with the need to improve the clarity of the Regulations with respect to the proposed Amendments. Some industry stakeholders raised concerns regarding added controls for e-waste and the estimated time requirements to complete various tasks associated with the implementation of the proposed Amendments. A summary of comments received prior to publishing the proposed Amendments in the *Canada Gazette*, Part I, can be found in the [Regulatory Impact Analysis Statement](#) published with the proposed Amendments.

Consultations following publication of the proposed Amendments in the *Canada Gazette*, Part I

The publication of the proposed Amendments to the Regulations in *Canada Gazette*, Part I, on September 30, 2023, initiated a 60-day comment period where interested parties were invited to submit their written comments. Stakeholders were encouraged to use the online commenting feature that is now available on the *Canada Gazette* website. Comments submitted through this feature were subsequently posted online. The proposed Amendments were also posted on the Department's Consultations on managing and reducing waste website. The Department also distributed an email to an updated list of approximately 1 800 known interested parties to inform them of the formal consultation process. During and after the comment period, the Department met with several stakeholders to clarify the intent of the proposed Amendments as well as to seek additional details relating to their written comments.

The Department received a total of 21 separate submissions from stakeholders regarding the proposed Amendments. Fifteen submissions were received from industry associations, business councils and regulated entities; two submissions were from environmental non-governmental organizations, including one joint submission; one comment was from a provincial government; and three comments were from stakeholders that did not identify their affiliation.

There was support for prohibiting exports to certain countries under the Convention's Ban Amendment, addressing illegal exports, and controlling e-waste. However, industry expressed opposition to controlling transboundary movements of all e-waste to all countries and concerns relating to the proposed definition of HW and the estimated time required to undertake activities associated with the implementation of the Amendments. The Department considered these comments in developing the final Amendments.

Definition of hazardous waste

Comment: Several industry stakeholders indicated that the proposed modifications to the definition of HW broadened the scope of what is defined as HW. In particular, stakeholders noted that the proposed modifications could capture recyclable materials and materials destined for repair, repurposing or remanufacturing. They also indicated that the proposed changes could create difficulties for facilities in demonstrating that materials would be used in their entirety for another purpose.

Response: The purpose of the proposed modifications to the definitions of HW is to enable the assessment of whether something is a HW using certain specifications without expanding the scope of what is considered a waste. Further, the intent was not to capture materials destined for repair, repurposing, remanufacturing or reuse. The definition of HW has been clarified so as not to expand the scope of the Regulations.

Definition of hazardous recyclable material

Comment: The Department received several comments related to the definition of HRM which were not directly related to the proposed Amendments. Several industry stakeholders suggested that the definition of HRM should be modified to improve clarity when something is a recyclable material and when something has undergone recycling and can be considered a product or feedstock for another manufacturing process.

Two industry associations commented that the listing in Schedule 9 for scrap metal excluded from the definition of HRM is too narrow, especially in comparison to what is used by the United States, and that this places Canada at a competitive disadvantage. A broad exclusion covering “non-dispersible” metallic scrap was recommended to align with trading partners in the U.S. and Europe to ensure consistency with the way the scrap metals recycling industry operates within North America and across

Europe. It was also suggested that the Department develop a new exclusion for Schedule 9 for low-risk metallic materials, including those containing critical minerals/metals such as copper, nickel, precious metals and their alloys.

Response: The Department is aware of the challenges related to the definition of HRM and clearly distinguishing between recyclable and recycled materials. The Amendments are focused on complying with the obligations of the Convention. A comprehensive review of the definition of HRM was not the purpose of these Amendments, and the changes identified during consultations were outside the scope of this regulatory proposal. As part of future work, the Department intends to review the definition of HRM as well as its exclusions.

Electrical and electronic equipment waste (e-waste)

Comment: The Department received numerous comments on the proposed Amendments to control international movements of all e-waste, including questioning the environmental benefits and the need to control e-waste destined for metal recycling within the OECD member countries. These comments stressed the importance of the efficient flow of recyclable materials between Canada and the United States, and that Canada should seek to maintain uncontrolled movements of e-waste within the OECD. Several industry stakeholders strongly opposed regulatory controls, in particular on the import of all e-waste, stating that the proposed Amendments would create significant barriers, reduce Canadian market competitiveness, generate negative impacts to the development of a circular economy, and increase the administrative burden on Canadian importers (e-waste recyclers).

Response: The Department acknowledges industry concerns regarding the impact of controlling international movements of all e-waste. As a result, the Department is proceeding without regulatory amendments to control all e-waste and will continue to work with stakeholders to explore potential future regulatory amendments that would strengthen controls on e-waste movements while maintaining flexibilities that support the Canadian Critical Minerals Strategy and supply security. E-waste currently considered to be a HW or HRM will continue to require a permit.

Electric vehicle batteries

Comment: Several industry stakeholders were concerned that electric vehicle (EV) batteries are defined as HRM, as they perceived this as contrary to circular economy goals. They also indicated that movements of used and end-of-life EV batteries across Canada and the United States are important, as these batteries have multiple second-life purposes and contain valuable critical materials that can be recycled.

To support technological advancements in the battery recycling industry, industry associations requested that the Department exclude transboundary movement controls of non-conforming and end-of-life EV batteries destined for testing or research and development. Some industry stakeholders stated that importing EV battery samples is necessary to conduct research and develop recycling solutions for valuable materials, such as lithium, cobalt and nickel, supporting efforts to advance EV battery recycling technologies in Canada.

Response: The Department is aware of stakeholder concerns regarding the designation of EV batteries as hazardous (HW or HRM) and regarding potential disruptions to the battery supply chain. The Department notes that EV batteries have always been controlled under the Regulations, and there are no proposed changes in the Amendments that impact these

controls. In the future, the Department intends to explore options to reduce barriers in the EV battery supply chain, with the aim of facilitating the movement of end-of-life EV batteries, to support a circular economy and the Canadian Critical Minerals Strategy, while still ensuring environmental protection.

As part of future planned work on the review of the definition of HRM, the Department will engage with EV battery stakeholders and will consider options to facilitate the movements of EV batteries to support the advancement of recycling in this industry, while ensuring they are transported and managed in an environmentally sound manner.

Cost estimates

Comment: Several industry associations emphasized that the Department's time and cost estimates for new permit requirements were significantly underestimated. In particular, they indicated that hourly estimates were low, some tasks took more time, and additional tasks were not considered, such as preparing information prior to making submissions to the Minister and undertaking corporate feasibility and risk assessments.

Response: As the final regulatory Amendments will not result in new permitting obligations, there are no new costs to industry.

Notwithstanding, feedback and information provided by industry to better reflect actual time and cost estimates for new permit requirements will be considered and incorporated where appropriate in future regulatory amendments.

Prohibiting exports to certain countries

Comment: Many industry stakeholders and non-governmental environmental organizations were supportive of the proposed Amendments to prohibit the export of HW and most HRM to developing

countries. One non-governmental environmental organization indicated that the prohibition on exports to non-OECD countries should be extended to include Annex II waste under the Convention, which lists waste requiring special consideration, and includes, for example, waste collected from households. They also argued that all transboundary movements of waste under the Convention, including Annex II waste, be controlled to OECD countries.

Response: The export of Annex II waste to other Basel parties, including developing countries, is already controlled under the Regulations and requires a permit. These amendments will bring Canada into compliance with the obligations of the Ban Amendment under the Convention, which does not apply to Annex II wastes.

Addressing shipments without a permit

Comment: A few industry stakeholders supported proposed Amendments to clarify that any person intending to export a shipment that contains HW or HRM must hold a permit authorizing the movement prior to any movement of the shipment. Furthermore, one environmental non-governmental organization indicated that the Department should clarify that the requirements for addressing shipments without a permit also apply to waste listed in Annex II to the Convention.

Response: This new section is applicable to all shipments of HW and HRM that require a permit under the Regulations. This includes shipments of Annex II waste, which are considered hazardous when exported to a Basel Party. This amendment has been maintained as proposed.

Length of time for permitting process

Comment: Several industry stakeholders raised concerns regarding the permitting process and the length of time to obtain export or import permits for the movements of HRM. They indicated that this process was too long and could negatively impact the ability of some Canadian recycling businesses to operate. One stakeholder suggested that the permitting system be modernized.

Response: The Department recognizes that there is a lead time required for obtaining a permit and has a standard service processing time of 60 days to issue a permit. While there may be extenuating circumstances that result in a delay, the Department typically can respond to a notification (an application for a permit) within a few weeks and the permits are valid for up to 12 months or 36 months for preconsented facilities.

As part of future planned work, the Department plans to review the Regulations, including the permitting process, to identify potential challenges and future improvements.

Enforcement

Comment: An industry association and an anonymous commenter indicated that enforcement of the Regulations should be strengthened, including through improved documentation of actions.

Response: The Amendments are being made under CEPA; therefore, enforcement officers would, when verifying compliance with the Amendments, apply the compliance and enforcement policy for CEPA. The policy sets out the range of possible enforcement responses to alleged violations. The *Environmental Violations Administrative Monetary Penalties Act* provides for the issuance of administrative monetary penalties (AMPs) for designated provisions of regulations made under the authority of Parts 7

and 9 of CEPA. The *Policy framework to implement the Environmental Violations Administrative Monetary Penalties Act* provides an overview of the AMPs regime and the approach to determining penalty amounts.

Indigenous engagement, consultation and modern treaty obligations

The Amendments are not expected to have direct impacts on Indigenous peoples, and no modern treaty rights are expected to be affected. An analysis of recent trade data indicated that no permits under the Regulations were issued to Indigenous peoples or to a corporation owned or partially owned by Indigenous peoples, and that no new category of circumstances requiring permits is expected as a result of the Amendments.

The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) is an international human rights instrument that sets out minimum standards for the survival, dignity and well-being of Indigenous peoples. The Government of Canada is committed to taking effective measures, including legislative and policy measures, in consultation and cooperation with Indigenous peoples, to achieve the objectives of the UN Declaration. Approximately 30 Indigenous organizations were invited to participate in the regulatory process related to the Amendments. The Amendments are not expected to have any direct or particularized impact on Indigenous peoples or the rights in the UN Declaration.

Instrument choice

To meet the objectives defined above, it was determined that the only viable option was to amend the Regulations. Non-regulatory options, such as voluntary agreements, were not considered, as these would not align Canada with the Ban Amendment, or clarify the Regulations.

Maintaining the status quo was not considered to be a viable option, as this would not reduce the risks related to the export of HW and HRM to non-OECD countries. The status quo would prevent Canada from ratifying the Ban Amendment under the Convention; additionally, the administrative issues identified above would persist. For these reasons, maintaining the status quo was not considered.

Amending the current Regulations will decrease the adverse effects on human health and the environment that can arise from the export of HW and HRM to non-OECD countries, allow Canada to align with the Ban Amendment under the Convention, and clarify certain provisions under the Regulations.

Regulatory analysis

In response to comments received following the publication of the proposed Amendments in the *Canada Gazette*, Part I, the Department issued a notification of non-acceptance for the Basel e-waste amendments and will not be implementing these amendments at this time. Accordingly, the Department has revised its cost estimates to reflect this change.

The Amendments introducing a prohibition on exports of HW and most HRM to non-OECD countries are not expected to have a measurable impact on the number of shipments, as only a small share (about 4%) of these shipments have been sent to such countries in recent years.

It is reasonable to assume that this trend would continue in the absence of the Amendments. The remaining Amendments are expected to have negligible to no costs to permit holders, as they do not change the scope of what is captured, or the requirements for permit holders. A nominal

upfront cost is expected to be incurred by the Government to update the system that is used to apply for permits and record the movement of shipments.

Over the past five and a half years, an average of 10 shipments per year were returned to Canada after being refused by either the country of transit or the country of import. The Amendments could reduce the quantity of exports of HW and HRM without a permit, potentially leading to fewer shipment refusals. This could result in avoided costs to the Government by reducing the time and effort required to resolve issues with Canadian exporters and foreign competent authorities, while also supporting smoother international relations.

Additionally, exports of HW and HRM to developing countries can pose environmental and human health risks when this waste is not managed in an environmentally sound manner. The Amendments prohibiting the export of HW and most HRM to developing countries are expected to mitigate some of these risks.

Small business lens

The Amendments are not expected to result in new costs for businesses, including small businesses.

One-for-one rule

The one-for-one rule does not apply, as there is no incremental increase or decrease in administrative burden on businesses, and no regulatory titles are repealed or introduced.

Regulatory cooperation and alignment

With the Amendments, Canada will be aligning itself with the European Union, which has implemented the Ban amendments, as well as many developing countries that support a ban on imports of certain HW and HRM to their country.

International obligations

Prohibitions on specific exports to non-OECD countries will allow Canada to ratify the Convention's Ban Amendment. At present, 104 Parties to the Convention have ratified the Ban Amendment. This includes all members of the European Union, as well as 61 non-OECD Parties.

Effects on the environment

In accordance with the *Cabinet Directive on Strategic Environmental and Economic Assessment*, a strategic environmental and economic assessment for the Amendments was conducted in 2023 and concluded that the Amendments are in line with the objectives of the Federal Sustainable Development Strategy (FSDS). According to the 2022–2026 FSDS, these objectives include ensuring clean and safe water for all Canadians, reducing waste, and strengthening partnerships to promote global action on sustainable development.

Gender-based analysis plus

No gender-based analysis plus (GBA+) impacts have been identified for the Amendments.

Right to a healthy environment

The Government of Canada has a duty, in the administration of CEPA, to protect the right to a healthy environment as provided for under CEPA, subject to reasonable limits. An Implementation Framework for the Right to

a Healthy Environment (the Framework) sets out considerations to protect this right and uphold the principles described in the Framework.

Work to inform the Amendments was completed before the Framework was published on July 19, 2025. Recognizing that CEPA decisions are informed by analyses and consultations that are often the result of years of work, the Framework establishes a transition period to allow the Department and Health Canada to support continued protection of the environment and human health. The objective of the transition period is to continue to advance timely CEPA decisions and actions, while consideration of the right to a healthy environment and relevant principles is being fully integrated into the administration of CEPA. The Amendments are proceeding under the transition period referenced in the Framework.

The Amendments contribute to the protection from harmful substances, pollutants, and waste by contributing to global action to increase environmentally sound waste management. Although the Framework was not available to be applied from the beginning of the work undertaken to inform the Amendments, many of the elements included in the Framework were considered. For example, the best available science and evidence were relied upon in making the Amendments and the Department conducted stakeholder and Indigenous consultations, beginning in 2023 (see the “Consultation” section).

Implementation, compliance and enforcement, and service standards

Implementation

The Amendments place Canada in a position to ratify the Ban Amendment. The Amendments will come into force on the day on which they are registered, with the exception of section 6 of the Amendments, which

allows Canada to implement the Ban Amendment.

Section 6 of the Amendments comes into force 90 days after Canada ratified the Ban Amendment to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, adopted at Geneva on September 22, 1995. This delay helps ensure exporters will be aware of the prohibition on exporting HW and most HRM to non-OECD countries before it comes into force.

Compliance and enforcement

Compliance promotion materials and activities will be focused on highlighting changes for existing permit holders and other key stakeholders, including transportation companies and associations. Compliance promotion tools could include a combination of the following: frequently asked questions, information sheets, website notifications, the leveraging of communication opportunities with trade associations, and direct mail outs to Canadian companies.

The Amendments are made under CEPA; therefore, enforcement officers will, when verifying compliance with the Amendments, apply the compliance and enforcement policy for CEPA. The policy sets out the range of possible enforcement responses to alleged violations. Following an inspection or investigation, when an enforcement officer discovers an alleged violation, the officer would choose the appropriate enforcement action based on the policy.

Service standards

The Amendments will not have an impact on current service standards and performance indicators for issuing permits under the Regulations.

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Footnotes

a S.C. 2023, c. 12, s. 55

b S.C. 1999, c. 33

c S.C. 2009, c. 14, s. 80

d S.C. 2009, c. 14, s. 126

- 1 SOR/2021-25
 - 2 SOR/2012-134
 - 3 SOR/2017-109
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