



# Memorandum D 19-7-3

Ottawa, October 31, 2021

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

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### In Brief

1. Memorandum D19-7-3 has been updated to reflect the new [Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations](#) (XBR) that came into force on October 31, 2021, replacing the *Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations*.
2. This memorandum outlines requirements for the importation, exportation and transit of hazardous waste and hazardous recyclable material. Importers, exporters, customs brokers, custom service providers, or authorized carriers are responsible for providing the Canada Border Services Agency (CBSA) with copies of the movement documents and permits. These documents are to be provided to the CBSA when the export, import or transit of the hazardous waste or hazardous recyclable material shipments are required to be reported under the [Customs Act](#).
3. The XBR reflect Canada's commitments under the three following international agreements:
  - (a) [Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal](#);
  - (b) [Agreement between the Government of Canada and the Government of the United States of America Concerning the Transboundary Movement of Hazardous Waste](#); and
  - (c) [Organization for Economic Co-operation and Development - Decision of the Council Concerning the Transboundary Movements of Wastes Destined for Recovery Operations](#).

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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 [Cross-border Movement 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](#)

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

[Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations](#) – Subsections 26(1)(a), 26(1)(o), 26(1)(p), 14(1)(a), 14(1)(n), 14(1)(o), 48(a), 48(g) and 48(h)

## Guidelines and General Information

### Definitions

1. The following definitions apply in the [Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations \(XBR\)](#) and this memorandum:

“**hazardous waste**” means anything that is intended to be disposed of using one of the operations set out in column 2 of Part 1 of Schedule 1 and that:

- (a) is set out in column 2 of Schedule 6 of the XBR;
- (b) is included in at least one of classes 2 to 6, 8 or 9 of the [Transportation of Dangerous Goods Regulations](#);
- (c) contains a substance set out in column 3 of Schedule 7 that is in a concentration equal to or greater than the concentration set out in column 4 of that Schedule;
- (d) produces a leachate that contains an environmentally hazardous constituent set out in column 3 of Schedule 2 that is in a concentration equal to or greater than the concentration set out in column 4 of that Schedule;
- (e) is set out in column 2 of Schedule 8, is pure or is the only active ingredient, and is unused.

“**waste considered hazardous for export**” means anything that is to be disposed of using one of the operations set out in Schedule 1, even if it is not hazardous waste within the meaning of subsection 2(1), is considered to be hazardous waste for the purposes of Division 8 of Part 7 and Part 10 of the Act and these Regulations if it is to be exported to a country of import or conveyed in transit through a country and

- (a) it is defined as, or considered to be, hazardous under the legislation of the country of import or a country of transit;
- (b) its importation is prohibited under the legislation of the country of import; or
- (c) it is one of the hazardous wastes referred to in Article 1, subparagraph 1(a) of the Convention or one of the other wastes referred to in Article 1, paragraph 2 of the Convention — as amended from time to time, to the extent that the amendments are binding on Canada — and the country of import is a party to the Convention.

“**hazardous recyclable material**” means anything that is intended to be recycled using one of the operations set out in column 2 of Part 2 of Schedule 1 and that:

- (a) is set out in column 2 of Schedule 5;
- (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 3 of Schedule 7 in a concentration equal to or greater than the applicable concentration set out in column 4 of that Schedule;
- (d) produces a leachate that contains an environmentally hazardous constituent set out in column 3 of Schedule 2 that is in a concentration equal to or greater than the concentration set out in column 4 of that Schedule; or
- (e) is set out in column 3 of Schedule 8, is pure or is the only active ingredient, and is unused.

“**recyclable material considered hazardous for export**” means anything that is to be recycled using one of the operations set out in Schedule 2, even if it is not *hazardous recyclable material* within the meaning of subsection 4(1), is considered to be hazardous recyclable material for the purposes of Division 8 of Part 7 and Part 10 of the Act and these Regulations if it is to be exported to a country of import or conveyed in transit through a country and:

- (a) it is defined as, or considered to be, hazardous under the legislation of the country of import or a country of transit;
  - (b) its importation is prohibited under the legislation of the country of import; or
  - (c) it is one of the hazardous wastes referred to in Article 1, subparagraph 1(a) of the Convention or one of the other wastes referred to in Article 1, paragraph 2 of the Convention — as amended from time to time, to the extent that the amendments are binding on Canada — and the country of import is a party to the Convention.
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 [XBR](#) is to protect the environment and health of Canadians from the risks posed by the import, export and transit of hazardous waste and hazardous material. The XBR supports Canada’s international waste and material obligations. Additionally, the XBR assists in ensuring that the transboundary movement of hazardous waste or hazardous recyclable material entering into, leaving or passing through Canada can be properly tracked and controlled by ECCC (the competent authority) with the assistance of the CBSA and other governmental agencies accordingly to their respective mandates.
- 4. Hazardous waste and hazardous recyclable material are substances or material that can pose potential risks to Canada’s health and the environment. Some examples include 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 health and environment. Essentially:
  - (a) hazardous wastes are hazardous substances or material intended for disposal;
  - (b) hazardous recyclable materials are hazardous substances or materials destined for recycling.

**NOTE: Please refer to the Definitions section of this Memorandum for a definition of “waste considered hazardous for export” and “recyclable material considered hazardous for export.”**

- 6. Non hazardous waste or recyclable material (e.g. plastics) can be considered hazardous under the XBR if exported to or transiting through a country that defines it hazardous under their national legislation (controls or prohibits its importation). For example, some Southeast Asian countries have recently returned Canadian shipments containing contaminated plastics as these materials are controlled under their national legislation. The XBR applies to these materials when they are exported to these countries (e.g., a valid Canadian export permit is required).

**NOTE: If you are uncertain whether the country of import controls or prohibits the import of waste or recyclable material, please consult with ECCC (see contact information in paragraph 51 of this Memorandum) to find out whether a permit is required.**

## Classes of Hazardous Wastes and Hazardous Recyclable Materials

- 7. The official definitions as well as the Schedules listed can be found within the text of the XBR .
- 8. 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 as per TDGR) dangerous goods are not wastes by definition under the XBR. 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](#).

9. 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.
10. Part 4 of the [Transportation of Dangerous Goods Regulations](#) requires 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 the Canadian Transport Emergency Centre ([CANUTEC](#)), part of Transport Canada.
11. 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

12. The XBR requires 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.
13. All shipments of hazardous waste and hazardous recyclable material (with the exception of those transported by rail – see paragraph 21) crossing the Canadian border must be accompanied by two documents:
  - (a) permit (e.g. export, import, or transit); and
  - (b) movement document.

## Permit

14. 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 and/or transit, if applicable.
15. 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 notification number from the same waste exporter or importer.

16. The permit is normally valid for up to one year upon being issued and is site-to-site specific.

## Movement Document

- 17. On September 24, 2019, ECCC implemented the new movement tracking module in the Canadian Notice and Movement Tracking System (CNMTS). As of October 31, 2021, the usage of the CNMTS is mandatory.
- 18. A movement document (original or a copy) must accompany all hazardous waste and hazardous recyclable materials imported into, exported from, and transiting 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 intended consignee/receiver.
- 19. At the time when the shipment reaches the border, part A and relevant sections of part B of the movement document must be completed.

## Permit of Equivalent Level of Environmental Safety (PELES)

- 20. 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 XBR 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 activities 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

21. 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 Integrated Import Declaration (IID), Service Options 911 and 927, or (only when IID cannot be transmitted) a paper release on Minimum Documentation (RMD) can be utilized to release these shipments; please refer to paragraph 41 (a) and 42 of the [Memorandum D17-1-4 Release of Commercial Goods](#);

**NOTE: Shipments of hazardous waste and hazardous recyclable materials transported by rail are not eligible for Pre-Arrival Review System (PARS) EDI or paper release service options. RMD EDI is also not permitted.**

- (b) in the case of hazardous waste and/or hazardous recyclable material leaving Canada (export or in-transit), if applicable, it is the responsibility of the exporter or custom service provider to provide the required documents to the CBSA prior to the exportation of the goods and within prescribed timeframes.

## Reporting to Canada Border Services Agency Offices

- 22. For shipments of hazardous waste and hazardous recyclable material that are imported, exported or which transit through Canada as well as Canada-to-Canada transits (i.e. passing through the United States), the

importer, exporter, customs broker, custom service provider, or an authorized carrier must provide to the CBSA, within prescribed timeframes, copies of the movement document and permit, plus attachments as applicable.

23. Further information concerning the release of commercial goods can be found in the [Memorandum D17-1-4, Release of Commercial Goods](#).
24. Please refer to the [Reporting of Exported Goods Regulations](#) for specific time frames for reporting at the CBSA export reporting offices.
25. 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 provided to the CBSA:
  - (a) a copy 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 Canadian exporter or foreign exporter in part A and the signature of the authorized carrier in part B; and
  - (b) a copy of the permit for imports, exports or shipments in transit.
26. Authorized carriers must retain permits and movement documents (original or copy) throughout the movement of the shipment.
27. Exporters of hazardous waste and/or hazardous recyclable material have an option to provide the required documentation to the CBSA by email, only when the place of exit identified on the Permit and Movement Document is listed on the CBSA Directory of offices that offer [E-Longroom-Export services](#).
28. For more information on **Submitting export documents using the Electronic Longroom**, please refer to the CBSA website [Export commercial goods](#).
29. Any shipment suspected to be hazardous waste and/or hazardous recyclable material that is not accompanied by the proper documentation (the proper documentation has not been submitted to the CBSA) will be detained.
30. If required documents related to the hazardous waste or hazardous recyclable material entering or exiting Canada have not been provided 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](#).

### **Implementation of the CBSA Single Window Initiative (SWI)**

31. On March 29, 2015, the CBSA implemented the SWI 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.
32. The IID must include the following information:
  - (a) Movement Document Number;
  - (b) Permit number (Notice number);
  - (c) Intended use code; and
  - (d) Generator and receiver information.
33. Permits and movement documents may now be submitted via the Document Imaging Functionality (Service Option 927).
34. Border services officer will verify the content of both documents to ensure that data elements match.
35. Shipments will be released only when all IID information is correct and complete, and the border service officer, upon visual examination of the shipment, is satisfied that it complies with the import requirements.
36. ECCC will receive the IID information upon release of each shipment.



37. For more information on the SWI, please refer to the CBSA Web site – [Single Window Initiative](#). The Chapter 23 of the SWI IID [Electronic Commerce Client Requirements Document \(ECCRD\)](#) provides technical and system requirements information. Appendix B3.1 of the [ECCRD's](#) Chapter 23 includes a list of required data elements.

## Exclusions from the requirements under the XBR

38. The import requirements set out in the XBR 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.
39. The following waste and substances **are not considered** hazardous waste or hazardous recyclable material when:
- (a) exported, imported or conveyed in transit in a quantity of less than 5 kg or 5 L per shipment or, in the case of mercury, in a quantity of less than 50 mL per shipment, other than anything that is included in Class 6.2 of the *Transportation of Dangerous Goods Regulations*, such as - infectious substances;
  - (b) that remains in a container that is to be transported after the contents of that container have been removed to the maximum extent feasible and before the container is either refilled or cleaned of its residual contents;
  - (c) collected from households in the course of regular municipal waste collection services;
  - (d) that is personal or household waste of the individual who transports it; or
  - (e) that is generated from the normal operations of a ship and whose discharge is authorized under the *Canada Shipping Act, 2001*.

**NOTE 1:** If the shipment of waste described above contains products or substances regulated by other government departments, it must comply with the governing legislation and regulations. For example: the importation of less than 5 kg of contaminated soil is excluded from the XBR but is regulated by the CFIA.

**NOTE 2:** The exclusions listed in paragraph 39 above, do not apply in a case of export to a country that is a party to the Basel Convention. Please ensure that, when exporting waste collected from households to verify whether the country of import restricts or prohibits its importation. If in doubt, contact ECCC (see paragraph 51).

**NOTE 3:** Other exclusions may apply. If in doubt, please contact ECCC (see paragraph 51).

## Return of Hazardous Wastes or Hazardous Recyclable Materials

40. 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 51 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.
41. Procedures to follow for importers/exporters in such instances can be found in Part 5 of the XBR.

42. 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.
43. Border services officers will review the content of both documents and will follow existing procedures for processing imports or exports of hazardous waste shipments.

## Emergencies

**Incidents involving leaks or spills of hazardous waste or hazardous recyclable material should be reported immediately to the**  
**Canadian Transport Emergency Centre (CANUTEC)**  
**at 1-888-CAN-UTEC (226-8832), 613-996-6666 or**  
**\*666 on a cellular phone**

44. The CBSA can obtain additional information on dealing with emergencies involving hazardous waste or hazardous recyclable material 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.
45. Emergencies involving hazardous waste or hazardous recyclable material should also be reported to the nearest ECCC [regional or district office](#).

## Compliance and Enforcement

46. The XBR are made under the [Canadian Environment Protection Act, 1999](#). Therefore, ECCC enforcement officers will, when verifying compliance with the Regulations, apply the [Canadian Environmental Protection Act: compliance and enforcement policy](#). 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.

## Penalties

47. The courts may impose penalties in accordance with the fine scheme specified in [Canadian Environment Protection Act, 1999](#), in sections 272, 273 and 276.

### **ECCC Administrative Monetary Penalties (AMPs) under the [Environmental Violations Administrative Monetary Penalties Act](#)**

48. The [Environmental Violations Administrative Monetary Penalties Regulations](#) identify provisions for which administrative monetary penalties (AMPs) may be issued for non-compliance with the *Canadian Environmental Protection Act* and the Regulations under this Act, including the *Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations*.

### **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 XBR made under that Act or how the Act and Regulations pertain to hazardous waste or hazardous recyclable material, carriers, importers and exporters, contact Waste Reduction and Management Division, ECCC, at:

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: [DM-MD@ec.gc.ca](mailto:DM-MD@ec.gc.ca)

52. For more information regarding the CBSA's programs and services, please contact the Border Information Service (BIS) line. Within Canada, you can call BIS toll-free at **1-800-461-9999**. From outside Canada, please 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 at **1-866-335-3237**.

## REFERENCES

<p><b>ISSUING OFFICE –</b></p> <p>Other Government Department Programs Unit Program and Policy Management Division Commercial Program Directorate Commercial and Trade Branch</p>	<p><b>HEADQUARTERS FILE –</b></p> <p>68462</p>
<p><b>LEGISLATIVE REFERENCES –</b></p> <p><a href="#">Cross-border Movement of Hazardous Waste and Hazardous Recyclable Material Regulations</a> <a href="#">Canada Border Services Agency Act</a>, <a href="#">Customs Act</a> <a href="#">Canadian Environment Protection Act, 1999</a> <a href="#">Reporting of Exported Goods Regulations</a> <a href="#">Transportation Dangerous Goods Act, 1992</a></p>	<p><b>OTHER REFERENCES –</b></p> <p>D17-1-4, D19-2-1, D19-6-1, D19-13-5, D20-1-1, D22-1-1</p>
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Services provided by the Canada Border Services Agency are available in both official languages.

