MARBEK
Resource Consultants Ltd.

CONSULTATION WORKSHOPS ON PROPOSED *PCBWEIR*

- SUMMARY OF DISCUSSION -

Submitted to:

Environment Canada

Submitted by:

Marbek Resource Consultants Ltd.

Table of Contents

APPENDICES

1. INTRODUCTION

1.1 BACKGROUND AND OBJECTIVES

Canada is in the process of updating its regulations to promote more efficient controls on transboundary movements and management of hazardous wastes and hazardous recyclable materials. This course is guided by the new *Canadian Environmental Protection Act, 1999* ("*CEPA, 1999*"), which strengthens the provisions concerning control and management of hazardous waste by incorporating new authorities into the legislation.

A review of the *Export and Import of Hazardous Wastes Regulations* ("*EIHWR*") has been initiated, with plans for new regulations to improve regulatory efficiency and enforcement, to implement changes to applicable international applicable international obligations and to implement the new *CEPA, 1999* authorities by 2003. It is anticipated that the controls on the export and import of PCB wastes may eventually be integrated into these amended regulations as part of the *EIHWR* amendments. In the meantime, development of the amended *EIHWR* is in its early stages and will involve significant stakeholder consultation over the next two years.

Given the increasing interest in importing PCB wastes, rather than wait until *EIHWR* is amended, it was decided to amend the current *PCB Waste Export Regulations* ("*PCBWER*") in 2001 to include the same types of controls on imports. In addition, some controls on wastes containing 2 to 50 ppm of PCBs were proposed. These regulations will become the *PCB Waste Import and Export Regulations* ("*PCBWEIR*"). This was the subject of a series of consultation workshops held in late January and early February 2001.

The consultation process on the *PCBWEIR* was designed to elicit the views of various interested individuals from industry, environmental organizations, community concerns, First Nations people and government representatives. The meetings were held in Montreal on 30 January, in Toronto on 2 February, and in Edmonton on 5 February 2001. A discussion paper was prepared and distributed to the attendees in advance of the meetings.[1] The document described the context for the proposed changes to the *PCBWER* and outlined the relevant legislation and history of events leading to the development of the proposed amendments. Proposed specific changes to the regulations were identified and the rationale for these changes were provided.

1.2 WORKSHOP ORGANIZATION

The agenda for each session is included at Appendix "A" of this report. A list of the participants who attended each workshop is provided in Appendix "B". All meetings began with a round of introductions with each participant giving their affiliation and stating their interest for attending the meeting. Following these introductions, Environment Canada, represented at all meetings by Suzanne Leppinen, Head of the Export and Import Section of the Transboundary Movement Division, presented the context for the proposed regulations including a brief background for the initiative and an update on the relevant regulatory reform process. Next the workshop Facilitator provided an overview of the proposed changes by describing the existing regulations, outlining the specific changes being suggested, and detailing the rationale for these suggestions. The

[1] Marbek Resource Consultants Ltd., "Consultations on PCB Waste Export and Import Regulations – Discussion Paper", January 12, 2001, for Environment Canada.

participants were then asked to select the provisions of most interest to them for focused and prioritized discussion. While each workshop was structured somewhat differently because of the items selected for discussion, the participants covered many of the same topics.

At the conclusion of the discussions, participants were also asked to submit in writing any additional comments they would like to see included in the workshop report to Marbek Resource Consultants by Monday, 12 February 2001. After February 12, comments were to be sent directly to Environment Canada.

1.3 OVERVIEW OF THE REPORT

Following this introduction, Section 2 presents the discussion results from the three workshops. Because all three groups of workshop participants covered approximately the same range of topics, the summary is a synthesis of the views gathered at the three meetings. This section is structured according to subject, which is identified by the title of the proposed *PCBWEIR* change. A number of issues were explored under the various headings, so for easier reference each topic is further divided into subject sub-topics.

2. WORKSHOP DISCUSSION RESULTS

2.1 ENVIRONMENTALLY SOUND MANAGEMENT (ESM)

The participants discussed the possibility that the prohibition on import for landfilling be specifically included in the new *PCBWEIR* and the requirement that any imports of PCB wastes be destined for destruction for imports be incorporated by way of reference to the Basel Convention and CCME guidelines. Participants were primarily interested in obtaining more information concerning Environment Canada's initiative to further develop the ESM concept. Matters of significance include harmonization with U.S. and international criteria, the 5-year work plan involving CCME and provinces, implications of new *CEPA '99* powers, specific standards for the *Export and Import of Hazardous Wastes Regulations*, implications for elimination and landfilling.

A strong plea for harmonization of definitions and hazardous waste guidelines was made. Support was expressed for defining and harmonizing ESM internationally. Environment Canada explained that the 5-year program involves working with the provinces to get agreement on the definition of ESM and to implement an ESM regime in Canada. Consultations are planned by Environment Canada on the appropriate ESM regime and implementation scheme. A new group has been established in Environment Canada to coordinate this activity. An ESM regime is needed to keep up with improving standards in other jurisdictions, for example the U.S. It was noted that there are a number of factors influencing Canada's position on ESM including the Basel and OECD definitions that are currently in effect, as well as *CEPA, 1999*.

A question respecting the implications of the POPs Convention relative to the PCB regulations was raised. Environment Canada indicated that this was being considered in the *Export and Import of Hazardous Wastes Regulations* work.

Environment Canada was asked how it could enforce guidelines for facilities when facilities are under the jurisdiction of the provinces. It was noted in reply that the CCME has developed guidelines on the acceptable operation of waste disposal facilities (see Discussion Paper for list)[2] and the CCME is a mechanism for obtaining input by all the provinces and the federal government. Also the federal government would have the authority to refuse transboundary movements if it considers that the proposed disposal is not environmentally sound under the new CEPA once ESM criteria are added to the regulations.

The assessment of technology and capacity in country of origin/export was discussed under country of origin but also fits here as the criteria for acceptance are rooted in ESM. Environment Canada stated that Canada can only regulate Canadian companies in Canada and that there is a Basel effort underway to improve capability of developing countries.

2.2 ALTERNATIVE ARRANGEMENTS

Sometimes an imported waste cannot be managed as proposed in the notice. It was proposed that specific obligations would be included in the new *PCBWEIR* to require the importer to notify the relevant authorities and to assist the foreign exporter in making alternate arrangements for the temporary storage and disposal elsewhere in Canada, or, where such arrangements are not possible, for the return of the waste to the country of export. Participants' concerns focus primarily on issues of industry competitiveness and increased administrative burden of this storage requirement.

2.2.1 Industry Competitiveness

There was concern that the requirement for alternative arrangements to include naming a temporary storage facility at the time of notification would complicate commercial transactions particularly if several provinces were involved. This provision would require importers to deal with competitors whose own constraints might preclude the provision of necessary guarantees.

There was also concern that the alternative arrangement requirement resulted in unnecessary administrative overhead. One alternative would be to require repatriation of wastes within 90 days if no other solution is found. Another alternative would be for Environment Canada to designate the alternative arrangements thereby removing the onus on importers to deal with competitors. It was noted that this latter alternative might create other problems. It was also suggested that waste importers maintain a back-up site but this would be a costly option.

Participants acknowledged that the requirement is currently included in the PCBWER but noted that there were few exports to worry about.

Concern was expressed that shipments would go to facilities in provinces with lower standards. It was reiterated that the proposed regulations require a permit from

[2] Marbek Resource Consultants Ltd., "Consultations on PCB Waste Export and Import Regulations – Discussion Paper", January 12, 2001, for Environment Canada, p. 5.

Environment Canada to import for disposal in any facilities and that Environment Canada could refuse a permit if the facilities were not judged to be environmentally sound. The proposals being developed for an ESM regime in Canada will further address the environmental soundness of facilities.

2.2.2 Administration

It was noted that it is important to verify with the facility that is named in permit applications as alternative arrangements that it is agreeable to receiving the wastes. In the past the facility named has not always been contacted by the importer and is not necessarily prepared to accept the waste.

Others noted that responsible importers generally include in their contractual agreements clauses requiring the exporter and/or generator to take the wastes back in the event of an unexpected occurrence.

Alternative site requirement suggestions include making the designation a part of the agreement submitted with the notice, provincial consent (already required), and that the alternate site be notified of inclusion in the agreement.

Some felt that there is a need to clarify what is meant by “alternative”. Would this apply in situations that involved capacity problems or the arrival of materials wrongly specified?

2.3 COUNTRY OF EXPORT/IMPORT AND ADMINISTRATIVE REQUIREMENTS

The proposals to include a specific requirement that any import be in accordance with Canada’s obligations under the Canada-USA Agreement or the Basel Convention was discussed. Where an imports notice is provided for countries other than the United States (which has a long-standing ban on the export of PCB wastes), it was proposed that Canada require the country of export to provide written confirmation that it does not have the technical ability and the necessary facilities, capacity or suitable disposal sites in order to dispose of the waste in question in an environmentally sound and efficient manner.

2.3.1 Basel Convention

The Basel Convention generally allows for export if technical capacity or capability does not exist in the exporting country. In this case "capacity" includes the ability to manage the total quantity requiring management. The question was raised whether the Convention differentiates between wastes and types of PCBs.

A question was asked whether Canada is the only country that actively applies this Basel control. Environment Canada was to verify this situation.

Industry representatives also raised concerns respecting technology evaluation, auditing country capacity, and obtaining the required letter from the exporting country especially for multiple shipments. A number of suggestions were proposed that included:

- A one time "letter", government to government, might replace a letter with every notice
- Environment Canada could ensure the accuracy of declarations of the status of the export country hence reduce the need for a letter with every notice
- Letters could be required every two to three years rather than with each notification
- Create a "Notice" to address certification letters to reduce repetitiveness.

There is also a concern that it is often difficult for developing countries to certify that they do not have the technical capacity or facilities because they have little knowledge of their hazardous waste situation. Some participants believe that this requirement is unnecessary because it has been amply demonstrated that Canadian technology is superior. It was suggested that Environment Canada undertake to obtain blanket statements from key countries (especially since the Basel Convention requirement is one that applies between countries).

Overall, the industry participants noted that Canadian technology is superior and can provide environmental benefits. Moreover, the maintenance of Canadian capacity to handle future Canadian demand is dependant on maintaining a sufficient market to sustain an operation. Otherwise, Canadian facilities will close and there may be no domestic options available to deal with future wastes.

2.3.2 Industry Competitiveness

Administrative overhead could make it difficult for Canadian waste management companies to compete with European and other counterparts. In particular, there is a “chicken and egg” situation concerning the need for authorization by Canada. Customers require proof of authorization in proposals but do not provide sufficient information for actual applications until after the contract is awarded. This issue is generally applicable to all hazardous wastes. The following suggestions were offered:

- Environment Canada could provide some sort of approval-in-principle
- Environment Canada could maintain a list of pre-authorized importers
- Environment Canada could issue authorization with conditions
- Environment Canada could sponsor discussion with other countries to harmonize proposal requirements.

2.3.3 Canada as a “Import of Choice” for PCBs

Some participants warned that care should be taken that Canada not become the PCB disposal country of choice for all those without ESM facilities. However, the participants believed that Canada should do its part in addressing the issue of global PCB disposal.

Other participants expressed a number of concerns about the proposed requirements for import of PCB Wastes, as well as wastes containing 2 to 50 ppm PCBs. They suggested that wastes should not be imported from other countries because wastes in our own backyard should be dealt with first. Others questioned whether wastes being proposed

for import to Canada for environmental or economic reasons. They propose that perhaps it would be more cost effective for Canada to help other countries deal with their wastes by helping them destroy the wastes in an environmentally sound manner locally in those countries. Various participants thought that it was important to keep Canadian facilities available for problems that arise in Canada.

Some participants responded to the preceding argument by stating that dealing with PCB wastes from countries that do not have the ability to handle their own wastes in an environmentally sound manner can help avoid those wastes from being released into the environment and being deposited and bioaccumulating in the arctic. It was put forward that the volumes from helping other countries is never going to be that large and will get smaller and it was important to note that only a handful of facilities like Swan Hills exist in the world.

Interest in allowing imports from developed countries such as Japan was expressed despite the Basel Convention prohibition on exports when countries have the capacity to deal with their own wastes.

2.4 NOTICE AND CONSENT

2.4.1 Procedural Burden

A key concern of those engaged in moving PCBs was that the notice requirements result in a great deal of paperwork, for example, three wastes per notice means two notices are required to accommodate six PCB Waste Class Codes. It was suggested that one source of relief might be electronic notification. Environment Canada encouraged recommendations to address this issue.

It was suggested that to reduce procedural burden the country of transit consent could be valid for a designated period of time (for example, one year) instead of with every shipment.

.4.2 Public Consultation

A number of the participants were interested in learning about the process followed by Environment Canada to decide whether or not to give consent. In particular, there was significant interest in the mechanisms for informing and consulting communities that might be affected by imports. The process for obtaining consent to import currently in place includes the following:

- The importer notifies Environment Canada by completing and submitting a pre-notification form, included is a copy of the contract with the foreign exporter, proof of insurance ($5 million), name of the licensed carrier, where and when the border crossing will take place;
- Environment Canada checks with the provinces to ensure that facilities are approved to receive the notified waste(s)/recyclable(s) under their provincial permits.

- The Province reviews the documentation and provides written confirmation to Environment Canada;
- Once Environment Canada receives confirmation from the province(s) and countries of transit, it sends a letter to the importer authorizing the import and a permit is issued. The importer provides copies of manifests, notice and confirmation of consent for storage during transit and deposit at the customs office. The importer must return one copy of the manifest within three days after delivery and provide written confirmation 30 days after disposal;
- Subsequently, the name of the importer, type of waste and country of import is published in *Resilog*.[3]

The point was raised that there is no provision in the proposed regulations for public notice and community right to know, which is recognized as a larger issue than specific to PCB Wastes. This is a practical issue for unorganized communities that rely on volunteer fire departments, etc. It was noted that access to information was also being addressed under *Export and Import of Hazardous Wastes Regulations* consultations.

There was a significant amount of discussion concerning community notification, consultation and consent with respect to importing. In particular, First Nations representatives stated that their communities should be informed and consulted before the fact not after. Others recommended that consent should be active and not passive. It was suggested that mechanisms such as public notices in newspapers might be appropriate.

There was debate about the appropriate time and mechanism for public consultation when a facility was being permitted to handle imported wastes. Some participants felt that the appropriate time for public consultation was prior to the permitting of a facility. If the facility was operating under the conditions approved in the permit, then further consultation should not be required. Others noted that the public should be informed and consulted whenever there was a change to operations such as increased volumes, change in types of wastes being treated, etc. How a change was defined was debated. Some felt that receiving imported wastes constituted a change, others felt that the public should be notified and consulted only when waste nature or volumes or treatment technologies changed.

Some participants noted that confidentiality might be an issue in some instances and that this would have to be addressed when considering mechanisms for public consultation. It was suggested that proper consultation guidelines should be developed for hazardous wastes.

[3] Environment Canada, Transboundary Movement Division Newsletter, http://www.ec.gc.ca/resilog/resinews.htm

2.5 DISPOSAL OPERATIONS

2.5.1 Types of Disposal

There was discussion about the justification for specifying the six types of permitted disposal operations in the proposed regulations. It was noted that wastes are only permitted to go to authorized facilities. If the facilities are authorized to receive these wastes, they have permits to operate using appropriate technologies. Landfilling is not an approved operation. It was also noted that the reason for including "other types" in the list was to allow for special cases related to development of new technologies.

Participants inquired about whether mobile PCB destruction facilities were covered under the six types of permitted disposal operations. Environment Canada clarified saying that these facilities are licensed under provincial authorities. Provided the provincial jurisdiction in which these facilities propose to operate has approved them for operation, mobile facilities are accepted provided they use one of the six types of disposal operations.

It was stated that there would likely be strong public and NGO opposition to importing PCB wastes for incineration because of the debate over acceptability of incineration technology. Some participants observed that incineration is identified as the Best Available Technology Economically Achievable for PCB wastes and that CCME has developed guidelines for incineration.

Participants noted that only disposal operations with a proven track record should be allowed to operate. Several suggestions for establishing a proven track record were made:

- Periodic audits
- Proof that operator deals promptly with identified issues such as spills
- Operator takes corrective actions promptly on audit results
- Proper insurance and permits are in place

2.5.2 Storage Facilities

Participants remarked that fugitive emissions from storage facilities may be greater than emissions from the operation of destruction technologies. Hence storage facilities should be strictly regulated. Environment Canada responded that it is not proposed to allow imports of PCB Wastes for storage purposes. It is proposed only to allow imports of PCB Wastes for disposal / destruction purposes. (See related discussion under section 5 above "Country of Export/Import and Administrative Requirements" for requests by other participants to allow imports by operators of storage facilities.) It was also noted that PCB storage facilities are subject to strict federal and provincial requirements.

If a provincial government has given the approval to a facility to enable them to receive and store PCB's prior to disposal then it should be allowed to receive imported PCB waste. It was suggested that Environment Canada accept notices of intent from such a

permitted storage facility provided that with the notice they submitted copies of contracts with at least two end-disposal sites agreeing to receive PCB waste from the storage facility. If Environment Canada issues a permit, then the two disposal sites should be listed with the receiving facility.

2.6 AUTHORIZED FACILITIES

A few attendees thought that the requirement for imports to be received only by properly authorized destruction facilities is an impediment to importers who receive wastes in temporary storage facilities until sufficient volumes justify shipping them to appropriate destruction facilities. A question was raised whether transfer facilities were eligible to receive imports of PCB Wastes. It was suggested that transfer facilities could have a storage time limit on the site (note OECD Decision) like those now on some provincial permits, for example Ontario Certificates of Approval.

The PCB Regulation says "import for destruction" and the status of transfer station unclear. Environment Canada was to check with legal council respecting this interpretation. It was also suggested that removal of this proposed provision would render the import requirements different from the export requirements, which could raise an international trade issue. The export provisions might have to be changed if this were allowed for import.

It was clarified that wastes prohibited from landfilling would also not be permitted to be landfarmed.

2.7 LOW-LEVEL PCB WASTES

A number of items were proposed for consideration that would control the import and export of wastes containing PCBs in concentrations between 2 and 50 ppm. However none of these would change the definition of hazardous PCB waste. Specific controls discussed included:

1. Ensuring that this waste is not exported where its import is prohibited by the country of import;
2. Ensuring that this waste is not imported where Canadian legislation prohibits its import;
3. Requiring exporters and importers to ensure that the receiving facility is authorized, as required by the importing jurisdiction, to receive and manage these wastes;
4. Requiring exporters and importers to be able to demonstrate through the results of analytical testing that the material is below 50 ppm PCB or the regulated limits for dioxin and furans; and
5. Putting onus on the exporter or importer to ensure that the shipment will be transported and managed in an environmentally sound management.

This item most captured the attention of the workshop participants. Overall reception to the concept was favourable, however there were some concerns. These concerns and suggestions to address the issues were explored under a variety of themes including application, justification, harmonization, process requirements, increased costs, definitions, and education. What follows is a summary of workshop discussions presented by sub-theme.

2.7.1 Application

Participants sought clarification concerning the application of the proposed control on the import and export of wastes containing PCBs below 50 ppm. Environment Canada confirmed that the proposed requirements were not relevant to inter-provincial wastes movement and would apply to international transboundary movements only. Equipment intended for use (service) containing less than 50 ppm PCB would not be prohibited from export, provided that the country receiving such equipment did not prohibit it.

Some participants felt that wastes containing 2 to 50 ppm PCBs should not be permitted into Canada for landfilling.

NGO representatives supported the 'soft regulation' proposed on the basis that these new controls be added. It was noted that a move in the direction to eventually regulate levels of substances that bioaccumulate in the environment was welcomed.

There was concern about the application of new low-level PCBs regulations with respect to the landfilling of demolition debris, which includes building materials that have been coated with paints that include PCBs in their original formulation. This issue was of particular significance for the Department of National Defence responsibilities in the North.

2.7.2 Justification

A question that was asked more than once was, "Why impose special requirements for these wastes if they are not hazardous?" Environment Canada's reasons for considering these controls include the following:

- Certain countries, such as the United States, prohibit the import of PCB contaminated materials to levels lower than 50 ppm. For example, the U.S. limit is 2 ppm.
- Global discussions as part of the POPs negotiations indicate a shift towards more stringent controls of wastes contaminated with lower levels of PCBs.
- A desire for the regulating authority to ask for proof that wastes contain less than 50 ppm PCBs
- Ensuring that such wastes go only to authorized facilities.
- Wastes containing low levels of PCB's may be contaminated with dioxins and furans.

2.7.3 Harmonization

Participants identified a lack of consistency between the proposed threshold of 2 ppm for wastes containing low-level PCBs and the current 0.5 ppm criterion for treatment/clean-up of PCB wastes. It was suggested that the various levels be harmonized. Preference was given for the 2 ppm level.

Concern was also expressed about the impact of these proposed requirements on provincial jurisdictions and whether this would result in a difference between controls on domestic movements of waste and imports.

It was noted that several different guidelines about acceptable levels of PCBs in wastes are in effect. This creates confusion on the part of the public, industry, and others. A plea for harmonization of the different guidelines was made. It was acknowledged that there is often good scientific reason for the various guidelines depending on the application, for example, exposure in the workplace and site remediation to name a few. Perhaps further education would be appropriate.

There was also concern that current processes that harmonize federal - provincial notification requirements for contaminated soils be preserved.

2.7.4 Process requirements

Paperwork

Many were curious to know what additional administrative controls would be imposed for wastes containing these low-levels of PCBs. For example, would there be a need for a second notice in the case of hazardous waste containing between 2 ppm and 50 ppm? It was suggested that, beyond notification, a more passive approach could be used (i.e. compliance would be assumed rather than having to be proven). Similarly, in the absence of evidence to the contrary, no proof should be necessary of waste having a less than 2 ppm PCBs concentration.

It was suggested that Environment Canada could add a place on the manifest or notice to report PCBs present at 2 to 50 ppm level. A new category could be added to the waste class code denoting this additional status.

It was specifically suggested that a check box be placed on the notice form that reads 2-50 ppm PCB's. This will allow a company to say that the waste is going to contain Low Level PCB's but they will not be asked to give a specific level that could be over or under the concentration of a shipment coming across the border. Even if Environment Canada and the company know that the level may be an estimate, public perception maybe different if they see that the pre-notification form states that the waste will contain 4 ppm but the material came in at 10 ppm due to the inherent variability of the waste. This would permit Environment Canada's to allow a range.

With respect to transporting wastes containing PCBs between 2 ppm and 50 ppm, some participants were interested in knowing what additional administrative requirements would be necessary. They suggested that a notation on the bill of lading should be sufficient.

The point was made that there is significant used oil traffic crossing the Canada/U.S. border and that additional 2 to 50 requirements will create a "monumental" demand on time to complete paperwork and other associated tasks.

This question was received following the workshops: If generator has no previous history of PCB's in their material and their pre-notification form states that they have 0 PCB's in

a waste but a load is analyzed prior to shipment and contains 3 ppm PCB's waste will the generator be allowed to amend the notice?

Packaging

Environment Canada clarified that the special packaging required for PCB wastes was not proposed for wastes containing 2 to 50 ppm PCBs.

Analysis

Participants also wondered if there would be new testing protocols for confirming concentrations. Some attendees felt that we measure for less than 50 ppm now, so a requirement to report levels from 2 to 50 would mean more red tape and risk impeding recycling. Environment Canada suggested that imposing new testing protocols would be unlikely.

There was a lengthy debate about whether wastes containing 2 to 50 ppm PCBs should require analyses for dioxins and furans as well. It was pointed out that analyses of dioxins and furans are very costly and could impede recycling efforts as well as imports in general. Environment Canada noted that it is already the responsibility of the importer and exporter to determine whether their waste is subject to the EIHWR by virtue of the dioxin and furan levels contained in that waste. The method of determining whether or not wastes contain PCBs, dioxins or furans is up to the importer.

Attendees were asked for alternate suggestions to the proposed requirements on how information about wastes containing 2 to 50 ppm PCB could be obtained. It was noted that the proposed Chlorobiphenyl Regulations would be stipulating the type of analytical testing and laboratory validation required. It was suggested that the issue might be better addressed in the Chlorobiphenyl Regulations or the Prescribed Non-Hazardous Regulations. Environment Canada agreed to consider their suggestions.

Some participants expressed interest in the tracking of post-treatment concentrations of dioxins and furans. It was suggested that it might be more relevant to request information about the origin of the wastes to judge whether or not dioxins or furans were present. For example, it could be expected if wastes were from a transformer or capacitor fire cleanup that dioxins and furans would be present, but not necessarily if the wastes were from a transformer that contained less than 50 ppm PCBs.

Environment Canada was to check if new federal Toxic Characteristic Leaching Procedure would include PCBs, in response to the question posed during the discussion on levels of testing and associated costs.

Recycling

The application of PCB analysis to auto-hulks was given as an example of an inappropriate requirement. The difficulty in conducting a leachate test on a (crushed) car hulk and the increased volumes of wastes that would have to be reported and tracked

could impede recycling. The potential for PCBs to be present however was noted. Environment Canada requested ideas for how to address these testing challenges.

The question was raised that if capacity to recycle exists in Canada, would that preclude export for example to the U.S.? Environment Canada responded that this is a Basel Convention based concern, and will be part of the discussion on Reduction Plans to be required for exports for final disposal. The risk of this provision creating barriers to recycling and the potential for formation of monopolies was suggested. Environment Canada explained that the proximity principle would be in play, and that consideration of proximity is required for Waste Reduction Plans under *CEPA 1999.*

Receiving Facilities

Another concern was raised that the requirement for special status for wastes containing 2 to 50 ppm PCBs would mean more stringent requirements for receiving facilities.

2.7.5 Cost increase

The significance of reporting 2 to 50 ppm PCBs and the potential for cost recovery in the future was raised as a question. The concern was that additional effort on the part of a government agency would be reflected in the costs to be recovered and that it might bring low-level PCB wastes under a cost recovery regime.

It was also noted that testing for PCB level is a normal procedure for import. However, testing for dioxins and furans is not routinely carried out. With the cost of analysis at approximately $1000 per test, this requirement would make the cost of importing PCB waste(s) prohibitive. There was general uncertainty as to the analytical capability and capacity to test for dioxins and furans. Environment Canada requested information from industry to support their arguments for relief from dioxin and furan analysis.

2.7.6 Definition

Some debate arose around continuing to define PCB Waste as those wastes containing PCBs at levels greater than 50 ppm especially given the detection limit is lower than 2 ppm. The question was asked that if not a PCB Waste, then why include 2 to 50 in PCB regulations? Concern was expressed that even if wastes containing 2 to 50 ppm PCBs were not formally designated as PCB Wastes that this was the ‘thin edge of the wedge’ towards regulating them as hazardous wastes. Environment Canada responded that it does not want to redefine PCB Wastes but rather ensure that the concentration of PCB in a waste is known.

It was suggested alternate wording for “wastes containing 2 to 50 ppm PCB or low level PCB wastes” could be made found. One suggestion was to call these wastes ‘residue’ levels.

2.7.8 Enforcement

Participants wondered about the remedy in cases where wastes were found to contain PCBs at levels that exceed 50 ppm. Environment Canada thought that there would be no change to existing mechanisms that would make these wastes subject to the PCB waste import or export regulations.

2.7.9 Education

PCBs at 2 to 50 ppm levels may be worrisome to some but may be considered non-hazardous by others. Concern was raised about the likely confusion in the public with respect to the status of and risk associated with wastes containing 2 to 50 ppm PCB wastes versus PCB Wastes over 50 ppm. It was recognized that education might be needed.

3. CONCLUSIONS

As detailed is Section 2 above, a range of issues respecting the proposed *PCBWEIR* were discussed in the three workshop sessions. Overall there was general support for the proposals, but there were some concerns. To better understand and therefore address the concerns of the participants representing the various points of view, this section summarizes the key issues raised according to stakeholder group.

3.1 INDUSTRY

Proposed changes of greatest concern to industry participants were:

- **Consideration of controlling imports and exports of wastes containing PCBs in concentrations between 2 and 50 ppm:**
  - Industry participants were worried about the "stigma" associated with labelling a waste between 2 and 50 ppm PCBs and the resulting implications that might have for their operations.
  - Many viewed this possible regulation as the "thin edge of the wedge" to regulating these wastes as hazardous.
  - Some participants were apprehensive that the increased volumes of wastes that would need to be reported could impede recycling, e.g. auto bodies.

- **Requirement that the country of export provide written confirmation that it does not have the technical capacity and the necessary facilities, capability or suitable disposal sites in order to dispose of the waste in an environmentally sound and efficient manner**:
  - Overarching concern about the increased administrative requirements (paper burden and waste analysis) that have the potential to negatively affect company competitiveness.

- **Requirement to ensure that the PCB waste and any residue from its production can be treated at an authorized facility:**

- This requirement that imports be received only by properly authorized destruction facilities could also be a competitiveness impediment for importers who receive wastes in temporary storage facilities until sufficient volumes justify shipping them to appropriate destruction facilities.

- **Obligation to make alternative arrangements should disposal of an imported material not be able to occur as notified:**
  - Competitiveness concerns arose because of worries that this requirement would complicate commercial transactions, make companies deal with their competitors, impose unnecessary administrative overhead, and cause shipments to go to facilities in provinces with lower standards.

3.2 NON-GOVERNMENTAL AND COMMUNITY ORGANIZATIONS

Proposed changes of greatest concern to non-governmental and community participants were:

- **Notice**
  - Many individuals representing environmental, community and First Nations interests were very concerned about the public's right to know and having an effective mechanism with guidelines for consultations respecting hazardous wastes.

- **Criteria on the country of export**
  - Participants were concerned that Canada would become dumping ground for the world's PCB wastes.

3.3 ALL STAKEHOLDERS

Overall, there was a plea for harmonization from many different stakeholders:

- Participants identified a lack of consistency between the proposed threshold of 2 ppm for low-level PCB containing wastes and the current 0.5 ppm criterion for treatment/clean-up of PCB wastes;
- They recognized several different guidelines about acceptable levels of PCBs in wastes; and
- Were concerned that the current processes that harmonize federal - provincial notification requirements for contaminated soils be preserved.

3.4 SUGGESTIONS FROM THE WORKSHOP GROUPS

A number of participants thought that low-level PCB containing wastes were not actually wastes as defined in the regulations and therefore consideration should be given to including their control somewhere other than in the *PCBWEIR*.

The need for information, openness and transparency in the process of developing regulations calls for additional and more effective public consultation. It was suggested that public consultation guidelines be developed and implemented.

Industry representatives suggested that when seeking export authorization, technology or capacity evaluations that it might be more appropriate if this were undertaken as a country-to-country initiative.

It was proposed that Environment Canada consider requesting the source of wastes to address dioxin and furan concerns for wastes containing between 2 and 50 ppm PCB.

APPENDIX A
Workshop Agendas

MARBEK
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PCB Waste Export and Import Regulations Workshop

Agenda

08:00	Gathering of participants
08:30	Welcome and introduction
08:45	Overview of the meeting structure and process
09:00	Background for initiative and update on regulatory process
09:15	Proposed changes and questions of clarification
10:00	Priority setting exercise
10:15	Discussion
12:00	Lunch (provided)
13:00	Discussion continues
16:00	Review of results
16:45	Wrap-up and next steps

APPENDIX B
List of Participants

Montreal List of Participants

Name	Company
Gilbert Beaulieu	Hydro-Québec
Claude Carpentier	Bennett Environnement Inc.
Karen Filion	Stablex Canada
Michel Gauvin	Onyx Industries Inc.
Guy Grondin	Stablex Canada
Robert Hills	Sanexen Services Environnmentaux Inc.
Richard Phaneuf	Sanexen Services Environnmentaux Inc.
Denis Pouliot	Recyclage Larouche
Benoit Nadeau	Service des matières dangereuses Ministère de l'Environnement – Gouvernement du Québec
Renée-Claude Chrétien	Service des matières dangereuses Ministère de l'Environnement Gouvernement du Québec
Suzanne Leppinen	Section de l'export et l'import Mouvements transfrontières Environnement Canada
Rachel Turgeon	Inspections Environnement Canada
Carole Burham	Carole Burnham Consulting 26 Plateau Crescent Toronto, ON M3C 1M8
Greg McGuire	Marbek Resource Consultants 500-1355 Bank Street Ottawa, ON K1H 8K7

Toronto List of Participants

Name	Company
Andy Adler	Stelco Inc.
France Brulé	Safety-Kleen
Carl Chenier	Environment Canada Ontario Region
Christina Paradiso	Environment Canada Ontario Region
Mary-Anne Ciampini	Canadian Vehicle Manufacturers' Association
Faye Deleon	Canadian Environmental Law Association
Jim Downey	Department of National Defense
Martin Hassenbach	CONTECH - PCB Containment Technology
Elizabeth Hayakawa	Public Works and Government Services
Robert Hills	Sanexen Services Environnmentaux Inc.
David Laskin	Trans-Cycle Industries Inc.
Brennain Lloyd	Northwatch
Duncan McKay	Nova Scotia Environment
Marc Mittleman	Green Port Environmental Managers
David Neilson	Buckham Transport Ltd.
Tim Noonan	PCB Disposal Inc.
Richard Phaneuf	Sanexen Services Environnmentaux Inc.
Stephen Radcliffe	Ministry of Environment, Ontario
Damian Rodriguez	Material Resource Recovery SRBP Inc.
Hussein Sabbour	General Motors of Canada Ltd.
Chris Small	Safety-Kleen
Christina Smith	Philip Services Inc.
Eric A. H. Smith	PCB Disposal Inc.
James Sprenger	G.E. Canada
Barry Thompson	Canadian Association of Recycling Industries
Frank Wagner	Safety-Kleen Canada Inc.
Peter Wallace	Green Port Environmental Managers
James Yacoumidis	Canadian Institute for Environmental Law & Policy
Michael Zarin	Trans-Cycle Industries Inc.
Suzanne Leppinen	Environment Canada Transboundary Movement
Elizabeth Atkinson	Marbek Resource Consultants 500-1355 Bank Street Ottawa, ON K1H 8K7
Carole Burnham	Carole Burnham Consulting 26 Plateau Crescent Toronto, ON M3C 1M8
Robert J. Redhead	Robert J. Redhead Ltd. 616 Holly Hill Crescent Burlington, ON L7L 3Z7

Edmonton List of Participants

Name	Company
Chief Bellerose	Driftpile First Nations
Waldemar (Wally) Braul	West Coast Environmental Law
Chief Al Cardines	Driftpile First Nations
Chief Richard Davis	Swan River First Nation
Gerry Gerke	Profco Corporation
Andy Grikis	BC Hydro
Susan Halla	Alberta Energy & Utilities Board (EUB)
Robert C. Huang	Alberta Environment
Glen Kennedy	Sensor Environmental Services Ltd.
John E. Lewis	The Railway Association of Canada
Janet L. McCabe	BC Hydro
Zoltan Nevelos	Sensor Environmental Services Ltd.
David Noseworthy	Environment Canada
Gary Pollock	Town of Swan Hills, Alberta
Amber Ramsey	Sensor Environmental Services Ltd.
Dallas Stevens	Town of Swan Hills, Alberta
Tim Sturko	CEDA/WasteCo Environmental Services
Lorraine Vetsch	Edmonton Friends of the North
Harry Viznei	CN Rail
Mike Ward	Driftpile First Nations
Don White	Safety-Kleen Ltd.
Dion Willier	Lesser Slave Lake Indian Regional Council (LSLIRC)
Jeff Wszolek	EnviroCare Environmental Services Ltd.
Fred Yaeger	Manitoba Hydro
Suzanne Leppinen	Environment Canada Transboundary Movement
Elizabeth Atkinson	Marbek Resource Consultants 500-1355 Bank Street Ottawa, ON K1H 8K7
Carole Burnham	Carole Burnham Consulting 26 Plateau Crescent Toronto, ON M3C 1M8