

Tracking Federal Regulatory Initiatives

Regulatory Affairs

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<p>Canadian Wheat Board Regulations, amendment (SOR/97-113, OIC 1997-179)</p> <p>The amendment establishes a higher initial payment fro the base grade of designated barley (an increase of \$20 from \$180 to \$200 per metric tonne) for the 1996-97 crop year.</p> <p>If producers deliver 2.4 million tonnes of designated barley during the 1996-97 crop year, the initial payment adjustment would be worth \$40-million in additional grain receipts.</p> <p>Contact: Craig Fulton, Commerce Office, Grains and Oilseeds Division, International and Industry Services Branch, Agriculture and Agri-Food Canada, Sir John Carling Building, 930 Carling Avenue, Ottawa, Ontario, K1A 0C5. Tel: 613-759-7698; Fax: 613-759-7499.</p>	<p><i>Canadian Wheat Board Act</i>, subparagraph 32(1)(b)(i), subsection 47(2) and section 61</p> <p>Not included in Regulatory Plan</p> <p>To be published in Canada Gazette February 19, 1997</p>

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Statutory Authority & Regulatory Plan Listing

PCB Waste Export Regulations, amendment (SOR/97-108, OIC 1997-154); PCB Waste Export Regulations, 1996 (SOR/97-109, OIC 1997-155)

The amended regulations replace the *PCB Waste Export Interim Order* approved on November 20, 1995 that prohibited any PCB wastes to be exported to the USA. The second (new) regulations replace the first amended regulations, to provide Canadian PCB owners with the opportunity to export their PCB wastes for treatment and destruction to the USA while ensuring that these wastes are managed in an environmentally sound manner.

The Interim Order was passed when the Canadian government became aware that the United States Environmental Protection Agency (U.S. EPA) had granted a request for "enforcement discretion" to a U.S. company, S.D. Myers, allowing Myers to import PCBs from Canada to the USA for the purpose of disposal.

The government had two years to replace the interim order with formal regulations that incorporate equivalent provisions and requirements as the Interim Order.

In 1996, the U.S. government published a new Import Rule which prescribed new conditions that would govern importation of PCB wastes to the U.S. Based on this, the Canadian government has decided to allow Canadian PCB waste owners to export PCB wastes to the USA for treatment and destruction when these wastes are in concentration equal or greater than 50 parts per million. To implement this, Environment Canada replaces the *Regulations Amending the PCB Waste Export Regulations (Interim Order)* with the *PCB Waste Export Regulations, 1996*.

The *PCB Waste Export Regulations, 1996* allows exports of PCB wastes for treatment and destruction, but not for landfilling. Landfilling does not destroy PCBs, consequently, the potential for future environmental contamination continues. In addition, landfilling requires maintenance and monitoring in perpetuity.

If Canadian PCBs wastes are allowed to be landfilled in the U.S., they could escape into the environment and, because of their capacity to volatilize and to be transported over long distances, they could affect health of Canadians and Canadian's environment as well as that of other countries. Furthermore, as a party to the Basel Convention, Canada is required to ensure that any exports of hazardous wastes, including PCB wastes, be disposed of in an environmentally sound manner. Since guidelines adopted by Parties of the Basel Convention do not consider landfilling of PCB wastes to be environmentally sound, Canada has an obligation to ensure that Canadian PCB wastes are not exported for landfilling in the USA.

Exports from Canada to the USA are allowed only if Environment Canada has the guarantee that: these wastes will be treated and destroyed in an efficient and environmentally sound manner; and, the U.S. EPA has been informed and has accepted that these PCB wastes enter that country. The Regulations will allow exports of Canadian PCB wastes only for treatment and destruction.

The new regulations increase the access by Canadian holders of PCB wastes to a larger number of facilities capable of destroying these wastes.

The two regulations, which came into effect on registration February 4, 1997, were prepublished in the Canada Gazette Part I on October 5, 1996 (see *Regulatory Affairs*, Vol. 2, No. 39, pp. 2-3, October 14, 1997).

Contacts: George Cornwall, Director, Hazardous Waste Branch, Pollution Prevention Directorate, Department of the Environment, Ottawa, Ontario, K1A 0H3. Tel: 819-953-7293; Arthur Sheffield, Chief Regulatory & Economic Assessment Branch, Regulatory Affairs and Program Integration Directorate, Department of the Environment, Ottawa, Ontario, K1A 0H3. Tel: 819-953-1172; Fax: 819-997-2769.

Canadian Environmental Protection Act, Subsections 35(5) and 35(8); Sections 34 and 45

Not included in Regulatory Plan

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Statutory Authority & Regulatory Plan Listing

Regulations Respecting Sulphur Content of Diesel Fuel (Diesel Fuel Regulations) (SOR/97-110, OIC 1997-156)

The regulations limit the concentration of sulphur in diesel fuel for use in light-duty vehicles, light-duty trucks, and heavy-duty vehicles to 0.05 percent of the fuel by weight. The regulations come into effect Jan. 1, 1998.

The regulatory approach replaces a Memorandum of Understanding (MOU) between Environment Canada and most of the suppliers of diesel fuel. The MOU requires that only low-sulphur diesel (i.e., a maximum sulphur level of 0.05% mass) be sold at retail outlets (40% to 50% of the total on-road sales). The MOU does not, however, cover "in-yard" sales of diesel.

British Columbia has a regulation requiring 100% on-road low sulphur diesel be used in on-road vehicles. The effective date for the Lower Fraser Valley was September 1994 and for the rest of British Columbia was April 1995. The United States has required 100% on-road low-sulphur diesel since October 1, 1993.

Petroleum refiners may incur additional costs as a result of complying with the proposed Regulations. These additional costs may be borne in the form of additional capital and operating expenses resulting from desulphurization activities.

To produce low-sulphur diesel for 100% of the Canadian on-road market, refiners will require the installation of eight additional hydrotreaters across Canada.

The Regulations may necessitate that additional tankage be utilized to hold 100% low-sulphur diesel fuel. While major outlets may incur no incremental costs as a result of their high tankage capacities, smaller independent resellers (14 across Canada) are more likely to incur additional costs.

As a result of consultations, industry representatives requested that:

- the regulations integrate elements of the existing Memorandum of Understanding. In particular, they requested that the Regulations would, upon publication, apply to all retail outlets throughout Canada. Also they requested that in-yard suppliers be exempt from the Regulations until October 1, 1997 at which time the Regulations would apply to all on-road diesel fuel. These requests were not accepted because there is not the legislative authority to segregate retail outlets.
- the definitions referenced in the Regulations did not appropriately delineate between on- and off-road. As a result of several discussions, the industry representatives agreed with the Department that further delineation was not required.
- the Canadian test procedure be the determining test procedure for the purposes of determining compliance. This request was accepted.

The regulations were prepublished in the Canada Gazette Part I on September 28, 1996 (See *Regulatory Affairs*, Vol. 2, No. 38, October 5, 1996).

Contacts: Frank Vena, Director, Transportation Systems Branch, Air Pollution Prevention Directorate, Environmental Protection Service, Department of the Environment, Ottawa, Ontario, K1A 0H3. Tel: 819-951-1141. Arthur Sheffield, A/Director, Regulatory and Economic Assessment Branch, Regulatory Affairs and Program Integration Directorate, Environmental Protection Service, Department of the Environment, Ottawa, Ontario, K1A 0H3. Tel: 819-953-1172.

Canadian Environmental Protection Act, Section 47

Not included in Regulatory Plan

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National Parks Fishing Regulations, amendment (SOR/97-111, OIC 1997-157)

The *Regulations* are amended to prohibit possession and use of lead sinkers or jigs weighing less than 50 grams while fishing in national parks.

The action is consistent with Canada's 1995 Toxic Substance Management Policy, and with commitments called for under a number of international initiatives in which Canada is active.

Other governments have already enacted prohibitions on the use of lead. Great Britain banned the sale of all small lead fishing weights in 1987, due to the widespread lead poisoning of mute swans. In the U.S., Yellowstone National Park has banned the use of lead split-shot sinkers, lead-headed jigs, and soft lead-weighted ribbons. Red Rock Lakes National Wildlife Refuge in Montana has also banned the use of all lead fishing sinkers. In addition, the U.S. Environment Protection Agency is proposing a ban on the manufacture, processing, and sale of small lead sinkers.

High quality, affordable non-toxic alternatives to lead sinkers and jigs are commercially available in Canada. While these non-toxic alternatives are more expensive than lead, it is anticipated that only minimal expenditure increases will be incurred by anglers. The average angler's total seasonal expenditure is about \$500. The annual budgetary increase for the average angler as a result of switching to non-toxic sinker and jig products is expected to be less than 1 percent.

The regulations were prepublished in the Canada Gazette Part I on November 9, 1996 (See *Regulatory Affairs*, Vol. 2, No. 43, pp. 1-2, November 9, 1996).

Contact: Sharon Budd, Project Manager, Regulatory Development, Legislative and Policy Branch, National Parks, Canadian Heritage, 4th Floor, 25 Eddy Street, Hull, Quebec, K1A 0M5. Tel: 819-994-2698; Fax: 819-994-5140.

Accounting for Imported Goods and Payment of Duties Regulations, amendment (SOR/97-112, OIC 1997-158)

These amendments allow three automotive companies, **Chrysler Canada Ltd.**, **Ford Motor Company of Canada Limited** and **General Motors of Canada Limited** a longer time limit to account for their imports. Accounting time limits do not affect the payment date for duties and taxes.

These companies and all other importers must pay duties and taxes at the end of each month for all releases between the 18th of the previous month and the 17th of the month concerned.

Since the inception of the Auto Pact in 1965, the three automotive companies have operated under an expedited release system which included a longer time limit to account for their imported goods. The companies developed complex automated systems on the assumption that they would continue to have a longer period to account. Their suppliers connected to these automated systems to support "just-in-time" inventory control processes. Given the large volumes of importations by the three companies and the varying degrees to which their suppliers had integrated into their automated systems, the three companies continued to use a longer time period to account for goods.

After the introduction of the Goods and Services Tax (GST), the Department decided to introduce several legislative changes including the introduction of a \$100 penalty for each late accounting of a customs transaction in order to ensure timely accounting. From the time when they were first consulted, the three automotive companies expressed serious concerns about these changes.

National Parks Act, sub-section 7(1)

EC/96-12-L;
HER/95-3-O-L

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Customs Act, sections 32, 33, 164(1)(i) and 167.1(a)

RC/95-1-O-I

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These companies demonstrated that compliance with the legislative changes would require massive and costly changes to their automated systems. As a matter of regulatory policy, Revenue Canada gives positive consideration to parties proposing equivalent means of conforming with regulatory requirements, when it is in the interest of both the Department and the business to do so.

After study, it was decided that the regulatory objective of timely accounting might be achieved without forcing the companies to change their automated systems. Consequently, as part of the Department's New Business Relationship initiative, it was agreed that the three automotive companies would participate in a test to determine how proposed equivalent means of conforming with the regulatory requirement of timely accounting might be achieved. Part of this initiative, named the Automotive Application Test, involves the Department linking with the three automotive companies' internal control systems to form the Advance Shipping Notification System. In fairness to the companies, the amendments are being made retroactive to when the legislative changes intended to support the GST were first implemented.

The proposed amendments were pre-published in Part I of the Canada Gazette on August 5, 1995.

Written comments were received from four organizations, which expressed concern that these amendments would provide a longer accounting period to only the three companies. The four organizations suggested that the Regulations be amended to provide other members of the importing community with the extended accounting period. In their view, the proposed amendments provide a competitive advantage to the three automotive companies and should, at least, be extended to all automobile manufacturers.

The retroactive effect of amendments on forgiving late accounting penalties drew a mixed response. Revenue Canada is studying whether similar or modified approaches will benefit the Department and other importers, and may introduce additional regulatory changes to enable qualified importers to make use of a more flexible process based on the release date to determine when the payment of duties and taxes is due.

Contact: Greg Goatbe, Director, Program Development Division, Commercial Services Directorate, Customs Border Services Branch, Revenue Canada, 17th Floor, Sir Richard Scott Building, Ottawa, Ontario, K1A 0L5. Tel: 613-954-7501; Fax: 613-941-2031.

Ministerial Orders Approved

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Aircraft Marking and Registration Charges Regulations, repeal (SOR/97-114)

The *Canadian Aviation Regulations, Part I*, Subpart 104 (Charges), have replaced the *Aircraft Marking and Registration Charges Regulations*; therefore, the Regulations are repealed, effective February 7, 1997.

The proposal to repeal the Regulations was not pre-published in the Canada Gazette, Part I.

Contact: Chief, Regulatory Affairs (AARBH), Transport Canada Safety and Security, Civil Aviation, Place de Ville, Tower "C", Ottawa, Ontario, K1A 0N8; Tel: 613-993-7284; Fax: 613-990-1198; internet: www.tc.gc.ca.

Aeronautics Act, subsections 4.4(2); *Ministerial Regulations Authorization Order*, section 2

Not included in Regulatory Plan

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Ministerial Orders Approved

Statutory Authority & Regulatory Plan Listing

Radio Regulations, 1986; Television Broadcasting Regulations, 1987; and Specialty Services Regulations, 1990, amendment (SOR/97-100)

These amendments make the following changes with respect to the broadcast of an advertisement for an alcoholic beverage by a licensee of a radio programming undertaking, a television programming undertaking or a specialty programming undertaking:

- eliminate the restriction as to who may sponsor an advertisement for an alcoholic beverage;
- eliminate the requirement for pre-clearance by the Commission of the script for an advertisement for an alcoholic beverage; and
- incorporate a revised *Code for Broadcast Advertising of Alcoholic Beverages*.

The Order came into effect January 27, 1997.

Broadcasting Act, subsection 10(3)

Not included in Regulatory Plan

Published in the Canada Gazette on February 5, 1997

Order Amending the Canadian Chicken Marketing Levies Order (SOR/97-101)

This amendment sets the levy rate to be paid by producers engaged, in the province of New Brunswick, in the marketing of chicken in interprovincial or export trade, effective February 1, 1997.

The new levy rate is 1 cents.

The Order came into effect February 1, 1997.

Farm Products Agencies Act, paragraph 22(1)(f); *Canadian Chicken Marketing Agency Proclamation*, section 12

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