

REGULATORY ISSUES

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Environment Canada Hazardous Waste Regulations Proposed

The March 20, 2004 edition of Canada Gazette Part I included Environment Canada's proposed "Export and Import of Hazardous Waste and Hazardous Recyclable Material Regulations" under the Canadian Environmental Protection Act, 1999.

The new regulations will revoke and replace existing regulations adopted in 1992. Some new elements will be introduced including separate definitions for hazardous waste and hazardous recyclable material. Specific time periods for completing disposal or recycling operations once wastes or materials are accepted at authorized facilities will also be introduced.

Of concern to the pressure treated wood industry is the hazardous waste designation in Schedule 3:

"Treated wood — wood or a wood product that has on its surface, or contains, a pest control product registered under the *Pest Control Products Act*."

While this regulation refers specifically to import and export of hazardous wastes, the main concern is the definition. If passed, the definition will automatically be adopted by the Canadian Environmental Protection Act and used in all other regulations related to CEPA. Furthermore, the definition would likely be adopted by the provinces and territories in any of their regulations related to hazardous waste.

The sixty-day public comment period was completed on May 20th. A total of 51 submissions were received by Environment Canada – 21 were in response to the treated wood issue.

The Canadian Institute of Treated Wood has been coordinating efforts by several organizations including the Canadian Wood Council, Forest Products Association of Canada, the preservative suppliers, treating plant members, the Canadian Electricity Association, the Railway Association of Canada and Bell Canada. The Strategic Options Process Industrial Users Steering Committee has also held discussions on the issue.

In addition, CITW has filed a Notice of Objection to the Minister of Environment. This rarely used legal challenge requires the Minister to form a review committee to investigate the proposed regulations.

Industry assistance has been received from CITW members, the Treated Wood Council and the Western Wood Preservers Institute. A delegation made representation to U.S. trade officials and the Canadian Consulate in Washington D.C.

To assist in the efforts, CITW has contracted the services of Ottawa lobbyist, Michael Teeter, Hillwatch Inc. and is obtaining legal counsel from Herb Estreicher, Keller & Heckman, Washington D.C. and Dan Kirby, Osler, Hoskin and Harcourt, Toronto.

CITW representatives have been in contact with senior officials at Environment Canada to initiate discussions aimed at resolving this crucial issue. The department has emphasized the need for Canada to adhere to our international commitments under the OECD and the Basel Convention. Industry has provided comments indicating that there is no requirement under these international criteria that would apply to treated wood. For example, the Basel Convention grants an exclusion for treated wood waste.

PMRA Pesticide Registration Issues

The registrations for the new preservatives ACQ and CA were granted by the Pest Management Regulatory Agency in the spring of 2002 with the withdrawal of CCA for residential applications effective December 31, 2003.

Unfortunately, the registrations granted by PMRA did not include industrial/commercial applications for the new preservatives. When the revised CCA labels were released in October 2003 it became apparent that the Canadian industry would be without a preservative for 20% of its market.

CITW requested a meeting with PMRA in early January 2004 in an attempt to provide clarification and to revise the new preservative labels to ensure continuity of our markets. After a series of correspondence and little advancement, the CITW took the rare approach of political action to drive the issue.

CITW staff and several members met with Members of Parliament from across Canada just prior to the federal election in June. This prompted a number of calls between PMRA, CITW, the registrants and the office of the Minister of Health.

The three registrants wrote letters of commitment to the PMRA indicating timelines for data submission after the agency indicated that they would put a high priority to the expansion of the labels for ACQ and CA upon acceptance of these criteria.

CITW is continuing its discussions with the office of the new Minister of Health to obtain their assistance in assuring fairness and expediency in the review of the labels for ACQ and CA.