

9 October 2009

Waste Framework Directive

EEF submission to “Stage One: consultation on the transposition of the revised Waste Framework Directive (2008/98/EC)”

About EEF

With over 6,000 business members from the manufacturing community (employing approximately 1 million employees) and more than 20,000 associate companies, EEF is dedicated to fostering enterprise and evolution across manufacturing to keep industry competitive, dynamic and future focused.

As the only membership organisation dedicated entirely to manufacturing, we are an established UK leader in the delivery of business services, government representation and industry intelligence

Our network of offices in England and Wales keeps us close to our members, allowing us to focus on local issues and thereby to function as a unique community. Our London office provides a focal point for development of our broad portfolio of business services designed to deliver maximum value. From London, EEF provides first-class representation with government and regulatory bodies and supports our local offices in their programmes to influence regional policy. Our structure places us at the heart of the UK business community.

EEF's broad service portfolio is delivered by an unparalleled team of experts including 30 economists and policy specialists, 90 HR and legal advisers, 150 health, safety and environment advisors, 20 occupational health specialists and around 200 trainers, based in our regional offices and in centres of excellence nationwide.

Introduction

- EEF welcomes the opportunity to comment on the government's first consultation on options to implement the waste framework directive.
- It is vital that the approach taken to deliver the directive's objectives is one that is enabling rather than prescriptive. This should be through simplification and modernisation of existing legislation and use of positive incentives to encourage more sustainable waste management.
- We have provided some general comments below as well as more detailed responses to the questions in the Annex.

The Waste Hierarchy

1. EEF believes that the waste hierarchy as given in the new Waste Framework Directive (WFD), and as already given effect by means of the UK's Waste Strategies, is an excellent guide to the priorities of waste handling for business. However, it should not be regarded as an absolute rule. Instead all variables in the hierarchy should continue to be considered, taking into account environmental, technical and economic considerations.
2. Efficiency savings are key to continued business success; waste prevention rightly sits on top of the waste hierarchy. However, some waste is unavoidable and there are technical or other limitations (e.g. product quality or health and safety) to what more can be achieved in terms of waste prevention. The successful recovery of value from the waste

then relies on the availability of cost effective alternatives and the existence of strong markets for the recovered material, which are not always there. Small and Medium Enterprises (SMEs), in particular, often struggle to find recycling services for low volumes of waste.

3. The Directive sets out that decisions to deviate from the hierarchy will have to be based on "life-cycle thinking". However, It remains unclear what exactly "life-cycle thinking" entails and how businesses would be required to apply this to their decision making and we look to government to provide further guidance on this. What is clear though is that introduction of mandatory life-cycle assessments, coupled with cost benefit analysis to identify alternative treatment options for each waste stream would be overly complex, burdensome and difficult to implement in practice. EEF believes that work to assess the environmental impact of resources throughout their life-cycle should continue to be undertaken at national level. This would provide a framework for decisions at all levels, including investment in the necessary infrastructure. Business could then be encouraged, as part of their duty of care, to ensure that reasonable steps are taken to consider the waste hierarchy, taking into account environmental, economic and technical considerations as well as availability of end markets.

Extended Producer Responsibility

4. The consideration of environmental improvements during the design of a product is supported by EEF as are efforts to encourage this. The consultation document rightly states that there are already a number of producer responsibility initiatives in place, which have led to significant improvements in recycling and recovery rates for these products. However, it is less clear what impact they have had on product design. Furthermore, recent introductions of measures to implement the energy using products (EUP) directive and chemicals regulations (REACH) mean that the policy landscape has become increasingly crowded, increasing the regulatory burden on UK manufacturers.
5. EEF believes that before introducing further obligations a thorough evaluation of implementation of existing measures should be undertaken so that lessons can be learned and designed into new proposals. This assessment should look at the effectiveness of measures in achieving resource efficient product design and also consider potential overlaps with other policies and regulations.
6. EEF disagrees with the statement in the consultation document that "*producer responsibility is an extension of the polluter pays principle*". Whilst manufacturers accept responsibility for the environmental impact of their product's life cycle, in the government's mind, producer responsibility appears to immediately translate into finance obligations, including for collection of waste. Producers have often limited control over whether a consumer will ultimately recycle or dispose of the product. We therefore urge government to avoid introducing further financial burdens on manufactures for waste recovery without adequate considerations of the roles and responsibilities of each actor within the supply and waste chains.
7. As an alternative to further legislative measures we would like to see continued use of product road maps to identify opportunities for voluntary improvements throughout the supply chain. This must be coupled with long-term and consistent consumer awareness and education programmes about the benefits of reuse and recycling to stimulate the market for resource efficient products.

Reuse and Recycling

8. EEF supports the objective of increasing reuse and recycling in order to "seek to avoid waste generation and to use waste as a resource". Reusing materials and products in their existing form (i.e. before they become waste) appears to be more environmentally friendly as no additional energy for processing is needed. However, the environmental benefits from reuse must be balanced against opportunities for energy efficiency improvements.
9. The new definition of "preparing for reuse" does not distinguish between a) products and components that are refurbished or remanufactured following take back by the original producer b) and those that have been refurbished or remanufactured by a company other than the original manufacturer, most likely following retrieval from a licensed waste site. EEF believes in the former case, the product has never become a waste but forms part of an ongoing relationship between the producer and their customers. In order to encourage greater product reuse and remanufacturing government must ensure that waste regulation does not impose unnecessary costs on activities to promote reuse and remanufacture. In many instances the need to apply for a waste carrier's license or environmental permit will make this activity uneconomic and opportunities for environmental improvements may be missed.
10. EEF fully supports efforts to increase the collection of recyclables from businesses. Landfill tax and regulations requiring businesses to pre-treat their waste before sending it to landfill are encouraging businesses to look for alternatives higher up the waste hierarchy. However, too often efforts to use more sustainable waste management routes are hampered by a lack of cost-effective services or technological solutions for the waste. The lack of services is particularly pertinent for small companies, who may not produce enough waste to be considered an economically viable customer for commercial waste contractors and EEF would like to see local authorities to get more involved in the delivery of recycling services to SMEs. We strongly support the Department for Environment, Food and Rural Affairs (DEFRA) position that decisions on whether waste would be collected separately or mixed, should be based on technical, environmental and economic considerations.

Waste Prevention Programmes

11. EEF supports greater focus on waste prevention. Industry has a significant role to play in waste prevention and using waste as a resource wherever possible. In addition, UK manufacturers will be providing the solutions to many of the challenges that are faced in reducing waste. EEF therefore supports a national approach to the development of waste prevention programmes to identify priorities for action to decouple economic growth from environmental degradation. A new, more coherent and business focused approach to the provisions of information and advice on waste minimisation and eco-design through a single body for resource efficiency under the auspice of Waste and Resource Action Programme (WRAP) will be a crucial part of the delivery.
12. A concern for manufacturing is that ill-devised government waste prevention policies could lead to reduced production levels harming the competitiveness of industry. We would therefore welcome a programme of work that evaluates the potential effectiveness of waste prevention initiatives before considering their introduction in the UK.

13. Waste minimisation initiatives must be considered against the backdrop of the wider sustainable consumption and production (SCP) agenda, i.e. across the whole life-cycle of products and materials- from design and production through to consumption and end-of-life management. Understanding the life-cycle ensures that improvements at one point in the life-cycle do not create problems in others. Waste prevention plans should therefore be developed as part of a wider resource efficiency strategy, and in full consultation with key stakeholders. EEF would be keen to be involved in this.

Annex: Specific comments in response to consultation questions.

WASTE HIERARCHY

Question 1 (a) How should producers of waste – other than householders – be required to apply the waste hierarchy as a priority order when taking their decisions on the treatment options for their waste – either before the in-house treatment of their waste or before its transfer to another person for treatment. Please explain how you consider the requirement would operate and how it would be enforced;

1. Manufacturers accept their responsibility for the waste they produce and strive to minimise waste and use waste as a resource where possible. Much of this change has been driven by costs. Businesses pay for raw materials, they pay to process the material into products, and then pay for the disposal. However, current waste management policy works largely by a series of 'sticks' (taxes, fees, paperwork etc) which are not adequately supported by positive incentives encouraging companies to look for opportunities higher up the waste hierarchy.
2. To illustrate this further, the rising rate of landfill tax and regulations requiring businesses to pre-treat their waste before sending it to landfill are encouraging businesses to look for alternatives further up the waste hierarchy. Too often efforts to use more sustainable waste management routes are hampered by a lack of cost-effective services or technological solutions for the waste. The lack of infrastructure is particularly pertinent for small companies, who may not produce enough waste to be considered an economically viable customer for commercial waste contractors (see also our response to questions 6-8). Furthermore, a lack of understanding of the environmental costs imposed by inefficient resource management means that simple opportunities may be overlooked.
3. EEF believes that if a regulatory approach was necessary to transpose the Directive, companies could be encouraged, as part of their duty of care, to undertake reasonable steps to consider the best options in line with the waste hierarchy. However, there must be an explicit mention that decisions should take account of environmental, technical and economic considerations. It is important that any approach taken to demonstrate compliance to the waste hierarchy is simple, quick and does not impose unnecessary administrative burden on business. The approach must further be supported by targeted business support to identify resource efficiency opportunities.

(b) What other measures, if any, should be adopted in the spatial planning system to apply the waste hierarchy as a priority order;

4. EEF believes that decisions on which waste management technology is required should be based on local circumstances, including waste flows and resource demands.

(c) How should establishments or undertakings applying for permits for the treatment of waste under Article 23 of the revised WFD be required to demonstrate that they have applied the waste hierarchy as a priority order in reaching their decision about the type of treatment operation for which a permit application is being made;

5. EEF has no comment to make on this question.

(d) How should competent authorities be required to apply the waste hierarchy as a priority order in making their decisions on permit applications for the treatment of waste; and

6. EEF has no comment to make on this question.

(e) How should the waste hierarchy be applied to waste treatment operations already authorised and in operation on the due date for transposition of 12 December 2010?

7. EEF has no comment to make on this question.

Question 2: Are there specific waste streams where you believe that departing from the waste hierarchy would be justified by life-cycle thinking on the overall impacts of the generation and management of such wastes, in order to deliver the best overall environmental outcome?

8. There is no widely accepted definition of "life-cycle thinking". EEF believes a waste management decisions should take account of:
- the environmental impact of the material across its life-cycle
 - availability of technology to avoid waste being produced in the first place
 - availability of alternative waste management options
 - availability of existing or potential markets for the recovered material
9. The consultation document states for some materials, such as wood, life-cycle analysis (LCA) research has indicated that energy recovery, i.e. burning, is preferable to recycling. It is widely recognised that LCA's methodologies with regards to the use and interpretation of LCAs still vary greatly and different approaches can lead to different results even when comparing the same product. For small companies undertaking life-cycle assessments can be costly and complex. EEF believes that assessments of environmental impacts of different materials should continue at national, or indeed international, level to provide a framework for action at all levels, including investment in the necessary infrastructure.
10. As mentioned under question 1 for business any approach taken to demonstrate the costs and benefits of deviating from the waste hierarchy must be simple, quick and not lead to unnecessary administrative cost burdens.

Question 3: Are there any further steps stakeholders and members of the public would like Defra/WAG to take to ensure that the development of waste legislation and policy, to apply the waste hierarchy as a priority order, is a fully transparent process?

11. EEF supports ongoing engagement with business in the development of waste legislation and policy. We already are a member of the National Waste Stakeholder Board. However, the breadth of membership and tight agenda does not allow detailed discussions. Sector or material specific working groups on specific waste streams may be needed to determine specific options.

EXTENDED PRODUCER RESPONSIBILITY

Question 4: Are there any specific waste streams which you consider should be the subject of a producer responsibility regime under Article 8? If so, please explain what the economic and environmental costs and benefits of such regimes would be.

12. EEF has no suggestions to make with regards to specific waste streams which should be subject to producer responsibility requirements. We support that these decisions should be made on a case by case basis taking into account costs and benefits (economic and environmental) for the potential product or waste stream.
13. EEF supports further action on targeting resource efficiency at the design stage. However, before considering introducing new producer responsibility obligations on manufacturers, government should undertake a full assessment of the effectiveness of current initiatives in meeting environmental and resource efficiency objectives without imposing unnecessary costs on manufacturers. This needs to consider potential overlaps with other environmental legislation as well the roles and responsibility of each actor within the supply chain, including the consumer.

REUSE AND RECYCLING

Question 5: Are there any further measures you consider it would be appropriate for Defra/WAG to take under the terms of Article 11(1) to promote the re-use of products or preparing for re-use activities? Please give reasons to support your answer.

14. For some products reuse will be the most sustainable option, as no further energy is used to process the material. However, environmental benefits from reuse must be balanced with opportunities for improved energy efficiency of products.
15. EEF supports further action to encourage repair, refurbishment and remanufacture of components and products to extend their life. This does not only benefit the environment but provides opportunities for manufacturers to maintain a strong relationship with their customers. However, if these activities were to come under the definition of waste and "preparing for reuse", and waste permits were required, it could become economically unfeasible.

Question 6: Do you agree with the proposed approach to implementing the requirements of Article 11(1) on separate collections? Please provide reasons for your answer including, if possible, the costs and benefits of your preferred approach.

16. EEF supports measures to increase the collection of recyclable waste of similar type to household waste from businesses.
17. We support DEFRA's proposed approach to encourage separate collection where this "technically, environmentally and economically practicable" while allowing other collection to continue. Separation at source is important to ensure maximum quality of the material. However, availability of space for waste separation is often a key barrier for SMEs and since technology for separation at a Material Recycling Facility (MRF) is continuously improving, mixed collection should remain as an option with decisions to be based on the type of material and local circumstances.

Question 7: Do you consider that:-

(a) There are any measures that are technically, environmentally and economically practicable and appropriate to take in England and Wales, on the separate collection of household, commercial or industrial waste to meet the necessary quality standards for the relevant recycling sectors? Please give reasons for your answer; and (b) If yes, which measures do you think should be introduced to achieve this?

18. EEF advocates greater connection between the management of household, industrial and commercial waste. At present, local authorities are reluctant to offer recycling services to businesses because of a fear of missing landfill diversion targets for municipal waste. A first step would have been changing the definition of municipal waste to include commercial and industrial C&I waste, however this has been delayed. EEF believes that local authorities should be able to offer a service to deal with all waste in their locality.

Question 8: Do you consider that:-

(a) It will be technically, environmentally and economically practicable to set up by 2015, in England and Wales, separate collection for paper, metal, plastic and glass which is classified as household, commercial or (b) If yes, which measures do you think should be introduced to achieve this?

19. See our response to question 7.

HAZARDOUS WASTE

Question 17: Do you consider that the following changes will have an impact on the way in which hazardous waste is managed?

20. EEF is not aware of any negative impacts this would have on manufacturer's ability to manage their hazardous waste.

WASTE MANAGEMENT PLANS

Question 20: What revisions do you consider Defra/WAG should make to the existing arrangements for waste management plans (see paragraph 2.134 above) to transpose the requirements of Articles 28(1), (2) and (3)(a)-(e) of the revised WFD? Please give reasons for your answer.

21. EEF has no comment to make on this question.

Question 21: Which, if any, of the discretionary issues set out in Articles 28(4)(a)-(d) of the revised WFD do you consider Defra/WAG should address in the arrangements for waste management plans adopted in response to Question 20? Please give reasons for your answer.

22. EEF has no comment to make on this question.

WASTE PREVENTION PROGRAMMES

Question 22: What are your views on the merits of either (i) freestanding national waste prevention programmes in England and Wales or (ii) a more dispersed approach which would involve introducing a requirement for local authorities to draw up their own waste prevention programmes? Please give reasons for your answer.

23. A national approach to waste minimisation is appropriate due to the flow of waste between regions. A new, more joined-up and business focused approach to the provisions of information and advice on waste minimisation and eco-design through a single body for resource efficiency, i.e. WRAP, should be able to deliver this.

Question 23: What are your views on the integration of waste prevention programmes into the waste management plans required by Article 28 of the revised WFD, their

Integration into other environmental policy programmes or their functioning as separate programmes?

24. Waste minimisation initiatives must be considered against the backdrop of the wider sustainable consumption and production (SCP) agenda, i.e. across the whole life-cycle of products and materials- from design and production through to consumption and end-of-life management. Understanding the life-cycle ensures that improvements at one point in the life-cycle do not create problems in others. Waste prevention plans should therefore be developed as part of a wider resource efficiency strategy, and in full consultation with key stakeholders, such as EEF.

Question 24: Member States must evaluate the usefulness of – but not necessarily adopt - the 16 examples of waste prevention measures in Annex IV to the revised WFD. Do you have views on the usefulness of any of these examples as waste prevention measures? If so, please specify the measures and give reasons for your answer.

25. EEF supports a greater focus on waste prevention. A concern for manufacturing is that ill-devised government waste prevention policies could effect competitiveness of industry. We would therefore welcome a national evaluation of the effectiveness of waste prevention initiatives before introducing them in the UK.

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