



The manufacturers' organisation

EEF Response to the Government Consultation on the Hazardous Waste Regulations

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October 2004

**Consultation
Response**

About Us

EEF, the manufacturers' organisation, has a membership of 6,000 manufacturing, engineering and technology-based businesses and represents the interests of manufacturing at all levels of government. Comprising 11 regional Associations, the Engineering Construction Industries Association (ECIA) and UK Steel, EEF is one of the UK's leading providers of business services in employment relations and employment law, health, safety and environment, manufacturing performance, and education and skills.

Executive Summary

EEF welcomes many of the proposal in the consultation document that will streamline the process of disposing of hazardous waste. We fully support the opinion of DEFRA that the existing system is largely administrative and burdensome both to the regulator and to industry.

However, there are still some proposals within the document that raise concerns for our members. The new proposals and low application of de-minimus rules will mean that the majority of EEF members will need to register with the Environment Agency annually as hazardous waste producers. We felt that it is essential that DEFRA in conjunction with the Environment Agency carry out an extensive education/communication programme to ensure that existing producers of hazardous waste understand the new requirements and businesses that will be regulated for the first time fully understand their responsibilities.

EEF has and is continuing to work hard to ensure that its members are fully briefed on the new requirements. As part of this, earlier this year we held a series of seminars for our members supported by speakers from DEFRA and the Environment Agency. Next year prior to the introduction of the Hazardous Waste Regulations and the Waste Acceptance Criteria we propose holding another series of seminars to reinforce the changes and additional requirements which our members will face.

Key Issues

- We are pleased to note that the government has decided to apply de minimus rules with regards registration for sites that produce under a certain level of hazardous waste. However, we are disappointed by the proposed threshold of 50kg, which we consider to be too low.
- EEF is concerned that the differences in implementation of the new requirements within the devolved administrations will cause confusion and could potentially lead to the unintentional non-compliance of producers.
- We are concerned with the limited lead in time of three months and feel this will not be sufficient. An extensive education/communications programme will be required for industry, especially for smaller companies who may become producers of hazardous waste for the first time.

Key Points

Mixing of Hazardous Waste

Prohibiting the mixing of different categories of hazardous waste is excessively restrictive. There may be very good reasons why two wastes would be beneficially mixed as part of either a recovery or a disposal process. For example, it would be sensible to mix acidic and alkaline wastes in order to neutralise their individually potentially hazardous effects. If mixing were prohibited, then some other treatment method would be required which would have to use additional resources/raw materials and which would have a negative environmental impact.

Notification of Premises

We are pleased to note that the government has decided to apply de minimus rules with regards registration for sites that produce under a certain level of hazardous waste. However, we are disappointed by the proposed threshold of 50kg, which we consider to be too low.

Concerns have been raised by a member company who is an operator of a mobile service. For them it is not possible to foresee the source or the actual amount of waste oil created each year, as much depends on the actual performance of each unit. Therefore, it is impossible to apply the exemption from registration of the premises as is possible under Regulation 26 of the proposed legislation. Similarly the actual annual amount involved at branch level is likely to be in excess of the 50 kg “qualifying limitations” and so Regulation 32 [Service] [Related] Premises would be not be appropriate. Thus the branch could not be treated as an operator of a mobile service.

In addition, the criteria for requiring notification of two or more consignments per annum will encourage the on-site storage of hazardous waste to avoid multiple consignments this may only serve to increase the level of environmental risk. It is our opinion that the sole criterion should be based on the amount of hazardous waste produced at a site.

Cross Border Issues

EEF is concerned that the differences in implementation of the new requirements within the devolved administrations will cause confusion and could potentially lead to the unintentional non-compliance of producers.

Rejected Loads

The number of sites currently permitted for the treatment and disposal of a wide range of hazardous waste is limited. Restricting the onward destination of any rejected load to an alternative consignee facility, and not allowing the return of the rejected load to the producer could cause a number of problems. Firstly, the reason for the load's original rejection may mean that the load is not acceptable at any other site; for example, rejection may be because inadequate composition information has been provided. This could cause a second site rejection. Transporting hazardous waste long distances between licensed facilities would lead to additional costs for the producer and/or consignor, and would increase the risk posed to the environment by the waste during transport. Returning the rejected load may well be the most practical option, and should not pose a difficulty in terms of tracking onwards

movement as the completed consignment note includes the address used for onwards transport, regardless of whether this address is that of a producer or a treatment facility.

The Environment Agency Functions

We understand that the Environment Agency (EA) is proposing to implement an OPRA system for hazardous waste producers it is therefore essential that lessons are learnt from the other OPRA systems which have been implemented for other pieces of legislation (e.g. waste and PPC sites). Evidence has shown that these risk based systems have so far been costly and bureaucratic for the industries involved. There appears to be little reduction in charges for those who are improving environmental performance. We urge caution in this area because the introduction of such a system could be regarded as excessive for small volume waste producers and would only serve to increase costs with potentially no increased environmental benefit.

EEF supports a strong regulator however we question how the EA will resource additional site inspections which they will be required to undertake if a separate requirement for this is incorporated into these are incorporated in the regulations. We appreciate that there will be some resource saving through a reduction in administration brought about by removing the pre-notification and quarterly consignee returns. However, there will still be a level of administration required to assess which sites require inspection. In addition a future requirement for an OPRA system will only increase the workload on the EA and increase their administration. Additional resource would appear to be required because of all of the new producers who will be required to register with the EA on an annual basis.

Charging

The charging regime for hazardous waste should be based on the costs incurred by the Environment Agency.

Many organisation's will be brought into the charging regime for the first time, it therefore extremely important that the system is completely transparent, enabling business to understand exactly what they are paying for.

Coming into Force Date

We are concerned with the limited lead in time of three months and feel this will not be sufficient. An extensive education/communications programme will be required for industry, especially for the smaller companies who may become producers of hazardous waste for the first time.

Additional Comments

It remains of major concern that the new requirements of the Hazardous Waste Regulations will result in an increase in the number of hazardous waste producers and an increase in the amount of waste that will be defined as hazardous, at a time when there still remains major uncertainty regarding the level of treatment and landfill capacity available. Whilst we appreciate that the Hazardous Waste Forum, of which we are part, and the Environment Agency are continuing to work on this issue, we feel that industry need some assurance that the infrastructure will be available next years when these new requirements are implemented.