

Hazardous Waste Regulations – interim guidance on premises notification

January 2005



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Published by the Department for Environment, Food and Rural Affairs.
Printed in the UK, January 2005, on material containing 80% post-consumer waste and 20% Elemental Chlorine Free pulp.

Product code PB 10534

- **You need to read this guidance if you will be producing hazardous waste at premises in England and the waste will be removed/disposed of after 16 July 2005.**
- **New regulations for hazardous waste are to be introduced which will require most premises at which hazardous waste is produced to be notified to the Environment Agency before the waste is removed from the premises or treated/disposed of.**

1. Background

- 1.1 New regulations for hazardous waste are planned to come into force on 16 July 2005. These will replace the *Special Waste Regulations 1996* and will transpose the list of hazardous waste implemented by the European Commission in 2002. The regulations will also streamline the procedures for the tracking and management of this type of waste. One of the changes to be made is the introduction of a requirement to notify the Environment Agency of premises producing hazardous waste.
- 1.2 Complete guidance on the new regulations is planned for publication near the time that the regulations are laid before Parliament (probably early March 2005). However, it should be possible to notify premises from early April 2005 and this guidance explains the notification obligations to those who produce and consign hazardous waste. The guidance is also relevant to carriers of hazardous waste, since the regulations will prohibit the removal of hazardous waste from premises that are not notified or exempt from 16 July 2005.

Status of this Guidance

- 1.3 *This guidance is issued in draft to explain the proposed requirements for premises notification. It is intended that more comprehensive guidance will be incorporated into the main guidance to be issued when the regulations are laid before Parliament, (probably early in March).*

2. What is hazardous waste?

- 2.1 “Hazardous waste” is waste with one or more properties that are hazardous to health or to the environment. These hazardous properties are listed in the European Commission’s Hazardous Waste Directive and on this basis the Commission has drawn up a list of hazardous waste and incorporated this into a revised European Waste Catalogue. It is also open to Member States to determine that other wastes displaying hazardous properties are to be treated as “hazardous waste”.
- 2.2 At present, these controls are implemented through the Special Waste Regulations 1996. Most of those producing special waste will be caught by the new regulations. The exception will be those who produce some types of waste prescription-only medicines. All waste prescription only medicines are currently special waste, but only cytotoxic and cytostatic medicines will be hazardous waste. There are some wastes that are not defined as special, but will be “hazardous”. These include discarded single-use cameras, untreated end of life vehicles, dental amalgam, and some discarded electronic and electrical equipment including TVs and computer monitors and some waste wood.
- 2.3 The European list of hazardous waste is to be transposed in England by List of Wastes Regulations. A draft of these regulations can be viewed on the Defra web site at <http://www.defra.gov.uk/>. The Hazardous Waste Regulations will define hazardous waste on the basis of:
- (a) Any waste listed as hazardous in the *List of Wastes Regulations*;
 - (b) Any other waste stream that the Secretary of State determines as hazardous;
 - (c) Any specific consignment of waste that the Secretary of State determines is exceptionally to be classified as hazardous.

The draft hazardous waste regulations can be viewed at <http://www.defra.gov.uk/>. However, please note that the version of the regulations shown here is that issued for consultation and does not reflect post consultation changes.

List of Wastes Regulations

- 2.4 The List of Wastes Regulations include both hazardous and non – hazardous waste streams. Hazardous wastes are listed with an asterisk. Some wastes, such as entry 13 02 06* (synthetic engine gear and lubricating oil) are hazardous irrespective of the concentration of dangerous substances (absolute entries). However, others (termed mirror entries) will be hazardous only if they contain dangerous substances at levels above the appropriate thresholds. (For example entry 20 01 27* – paint, inks, adhesives and resins containing dangerous substances.) Advice on how to interpret the definition and classification of hazardous waste, how to assess the concentration of dangerous substances and how to determine whether wastes are hazardous can be found in the Environment Agency’s Technical Guidance WM2- *Hazardous waste – Interpretation of the definition and classification of hazardous waste*.

Exclusions from the Hazardous Waste Regulations

Domestic Waste

- 2.5 Hazardous domestic waste is excluded from the requirements of the Hazardous Waste Directive, but is not defined by the Directive. However, Defra believes that the intention is to exclude only hazardous waste from accommodation used purely for living purposes (and without commercial gain) and which is disposed of via the normal mixed domestic refuse collection. Defra does not consider that the exclusion applies to separately collected fractions of domestic waste. The Hazardous Waste Regulations will not apply to the movement of hazardous waste from domestic premises to a central collection point, with the exception of asbestos waste (see paragraph 3.8), but separately collected domestic waste will be subject to the regulations from the time that it reaches any central collection point.

Radioactive Waste

- 2.6 The regulations will also only apply to a limited amount of radioactive waste. Most radioactive waste is subject to the provisions of the *Radioactive Substances Act 1993* and is outside the scope of these regulations. However, where radioactive waste is exempt from the requirements of sections 13 and 14 of the 1993 Act and has one or more hazardous properties arising other than

from its radioactive nature, this waste will be subject to the requirements of the Hazardous Waste Regulations. More detail on exemptions from the Radioactive Substances Act can be found at <http://www.defra.gov.uk/environment/radioactivity/discharge/rsact/exemption.htm>. Items exempt from the Radioactive Substances Act, although not necessarily hazardous waste, include some clocks and watches, illuminants, indicators and smoke detectors.

Agricultural and Mines and Quarries Waste

- 2.7 The regulations will also not apply to agricultural and mines and quarries waste until such time as the one-year transitional period proposed for the forthcoming Waste Management Regulations 2005 has expired.

3. Premises notification

Introduction

- 3.1 Under Part 5 of the new hazardous waste regulations, where hazardous waste is to be produced or removed from any premises (other than exempt premises – see paragraph 3.6 below), the premises must be notified to the Environment Agency.
- 3.2 From 16 July 2005, the movement of hazardous waste from premises that are not either notified or exempt will be prohibited. Producers who fail to notify and who are not genuinely exempt, will be committing an offence. Producers will need to be prepared to prove to waste management contractors that their premises have been notified to the Environment Agency or are genuinely exempt from the notification requirements. Otherwise, waste management companies may refuse to collect hazardous waste, since to do so would constitute an offence. In cases where hazardous waste is disposed of or recovered at the premises at which it was produced, these premises are also subject to the notification requirements.
- 3.3 To ensure that the movement and disposal of hazardous waste can continue smoothly from 16 July, it is intended that the provisions in the Hazardous Waste Regulations that relate to premises notification will take effect from early April 2005. There is no *obligation* for premises to be notified from early April, but these provisions will give producers the opportunity to ensure that their premises are notified well in advance of the implementation of the regulations on 16 July.

- 3.4 The duty to notify premises rests with the producer of the waste. This would normally be regarded as the owner or occupier of the site. However, where waste is produced by a visiting mobile service, the duty may fall on the person operating that service, subject to certain conditions being met (see paragraph 3.11). Any producer may ask another person (such as their waste management company) to notify on their behalf. In some cases, the producer may not be the person who causes the waste to be removed (for example, a company carrying out work on a particular site and which needs to remove fluorescent tubes that they themselves did not produce). In these cases, the consignor should notify the premises unless they are already notified (or exempt).
- 3.5 Where organisations have multiple premises, each premises will need to be notified to the Environment Agency, unless exempt, although a central office may do this on behalf of the individual premises if they wish. If single premises are occupied by a number of different organisations producing hazardous waste, the part of the premises occupied by each organisation should be individually notified.

Exemptions

- 3.6 Certain types of premises will be exempt from the requirement to notify the Environment Agency *if* less than 200kg of hazardous waste is produced at that premises in any twelve-month period. There will be no limit on the number of consignments that can be made from the premises under this exemption as long as the total amount produced in that year is less than 200kg. The exemption will only apply where the hazardous waste is removed from the premises either by a registered carrier or a carrier exempt from the requirement to be so registered. The premises that can benefit from this exemption are:
- (a) Office premises;
 - (b) Shop premises;
 - (c) Premises used for agriculture. (Such premises will not need to be notified to the Environment Agency until the end of the transitional period referred to in paragraph 2. 7 and agricultural premises producing less than 200kg of hazardous waste per year will remain exempt from this requirement);

(d) Premises listed in section 75(5) of the Environmental Protection Act 1990 i.e.

(i) Caravans;

(ii) Residential homes and nursing homes (including care homes);

(iii) Universities, schools and other educational establishments;

(iv) Hospitals.

(e) Premises listed in Schedule 1 of the Controlled Waste Regulations 1992 (and which include premises used by charities, campsites, prisons and other penal institutions and halls/other premises used for public meetings).

(f) Dental surgeries;

(g) Doctors' surgeries;

(h) Health clinics;

(i) Veterinary surgeries;

(j) Ships.

3.7 It should be noted that other premises (industrial etc) that produce hazardous waste would need to be notified to the Environment Agency, *irrespective of the amount of hazardous waste they produce.*

3.8 Hazardous domestic waste is exempt from the requirements of the Hazardous Waste Regulations unless separately collected. The notification of accommodation used purely for domestic purposes is not therefore required. Where asbestos is produced at domestic premises and a contractor has been engaged for that purpose, the contractor will be treated as the producer and should use the premises notification for their mobile service (see paragraph 3.11 below). The regulations will apply to all other hazardous domestic waste from the time that the waste is delivered to a central collection point and these central points will, therefore, need to be notified to the Environment Agency.

- 3.9 Where the person producing hazardous waste at the type of premises listed in (a) –(j) above will produce more than 200kg of hazardous waste in the twelve months following 16 July 2005, they must notify the premises to the Environment Agency on or before 16 July 2005.
- 3.10 In any case where a premises listed in (a) to (j) above is initially considered to produce less than 200kg of hazardous waste, but it later appears that this limit will be exceeded, the Agency must be notified immediately and before the limit is exceeded.

200kg equates to approximately:

10 small TVs;
14 lead acid batteries;
500 fluorescent tubes;
5 small domestic fridges.

Mobile Premises

- 3.11 Where someone operates a mobile service that will visit a number of premises during the course of a year and produces a relatively small amount of hazardous waste at each, they will not be required to notify each premise that they visit. Examples of this type of work would include a double-glazing fitter who moves from premises to premises or a roadside breakdown service. In these cases, the premises that are notified should be the premises from which the mobile service is operated or, if the mobile service is operated from more than one set of premises, the producer's principal place of business. If the premise from which the mobile service operates needs to be notified in its own right (because hazardous waste is produced there), a single notification may be made in respect of both that and the mobile service. Where the operator of a mobile service produces more than 200kg of hazardous waste at a single site during the course of a year, that site will need to be notified. This means that for the purposes of large construction/demolition projects, the site *is* likely to require notification.
- 3.12 Work carried out at premises such as railway tracks and roadsides should generally fall within the provisions for mobile services. However, if more than 200kg of waste is produced at a particular point on the track or road, that location would need to be separately notified.

- 3.13 If you are unsure whether your premises need to be notified or whether they fall within the mobile service provisions, please contact the National Customer Contact Centre of the Environment Agency on 08708 506506.

Procedure for notification

- 3.14 The Environment Agency will issue separate guidance before April on the procedures for making notifications and paying the associated fees. To obtain this guidance, please contact *the National Customer Contact Centre of the Environment Agency on 08708 506506*.
- 3.15 Once the Agency has processed the notification, it will issue the notifier with a premises code. This code will need to be used on consignment notes and consignee quarterly returns for all movements of waste from 16 July 2005.
- 3.16 Notifications will be valid for a year. Those who continue to produce hazardous waste after the end of that year will need to renew their notification. Guidance on the renewals process will be issued in wider guidance that will be produced before the Hazardous Waste Regulations come into force.