



SCOTTISH EXECUTIVE

REVIEW OF THE SPECIAL WASTE REGULATIONS 1996



ENVIRONMENTAL PROTECTION UNIT
SCOTTISH EXECUTIVE RURAL AFFAIRS DEPARTMENT
27 APRIL 2001

REVIEW OF THE SPECIAL WASTE REGULATIONS 1996

i. This consultation paper sets out broad changes proposed to be made to the Special Waste Regulations 1996. It seeks views and comment from industry and others involved, or with an interest, in the generation, transport, storage, treatment or disposal of special (ie, hazardous) waste. Similar consultations are being undertaken by DETR for England and by the devolved administrations in Wales and Northern Ireland.

ii. The majority of the proposals are based on the recommendations of an independent study of the special waste regime. We anticipate consulting further on the detail of the proposal and on the draft legislation after we have considered the response to this paper.

iii. Comments on the proposals and requests for further copies of the consultation paper should be sent to:

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iv. The closing date for comments is **20 July 2001**. Would respondents submitting comments by e-mail please ensure that the full name and postal address of their organisation is included in the body of the e-mail and that the file formats of any attachments are compatible with MS Office 97.

v. To help inform debate on the matters covered by this paper, the Executive may publish responses submitted on the consultation or deposit them in its libraries for inspection by the public. The Executive will assume that responses can be made publicly available unless the respondent indicates that his or her response is confidential. Confidential responses will

nevertheless be included in any summary or statistical analysis which does not identify individual respondents.

vi. This consultation paper is also available on the Scottish Executive website at www.scotland.gov.uk/publications.

vii. A glossary of some of the expressions used in this consultation paper is attached at the end of the document.

1. INTRODUCTION

1.1 The Special Waste Regulations 1996 are the centrepiece of hazardous waste controls in Great Britain. They are administered in Scotland by the Scottish Environment Protection Agency and in England and Wales by the Environment Agency (“the regulators”). Since the Regulations came into force on 1 April 1996, the regulators have been able to monitor movements of a wide range of hazardous wastes. This has encouraged better management of these potentially hazardous substances and allowed the regulators to improve the quantity and quality of the data on hazardous waste available to them.

1.2 However, much has changed in the field of hazardous waste management since 1996. The Hazardous Waste List (94/904/EC), which defines the scope of the Hazardous Waste Directive (91/689/EEC), has been refined, increased in length, and incorporated within the European Waste Catalogue. These changes need to be implemented in national law by 1 January 2002. Furthermore, a number of new European Directives have made, or will shortly make, a significant impact on the sector. Notable among these are the Hazardous Waste Incineration Directive (94/67/EC), the Landfill Directive (99/31/EC), the Integrated Pollution and Control Directive (96/61/EC) and producer responsibility measures such as the End-of-life Vehicles Directive (2000/53) and the proposed Waste Electrical and Electronic Equipment Directive.

1.3 Also, since the 1996 Regulations define "special waste" in a way that it is not wholly consistent with the definition of "hazardous waste" in the Hazardous Waste Directive, the inconsistencies between the two definitions are increasingly causing practical and legal difficulties. For example, the Waste Incineration Directives, the Landfill Directive and the Integrated Pollution and Control Directive contain provisions relating to facilities that deal with hazardous, rather than special, wastes. The differences between the two concepts are not widely understood and some producers and managers of hazardous waste have suggested that using the term “special waste”, rather than “hazardous waste” (the description used throughout the rest of Europe), is therefore inappropriate and confusing.

1.4 Largely because of such developments and concerns, the Department of Environment, Transport and the Regions recently commissioned a review of the Special Waste Regulations from the consultants Envirospine. This study involved extensive consultation with a

wide range of people with an interest in hazardous waste, including waste producers, waste managers, regulators and non-governmental organisations (NGOs). An encouraging consensus emerged on the steps that could be taken to improve the Regulations.

1.5 Envirospire recommended a number of changes. These include:

replacing the term "special waste" with "hazardous waste", defined in accordance with the European Hazardous Waste Directive and List;

removing the requirement for movements of special waste to be pre-notified to the regulators;

registration of hazardous waste producers;

requiring waste producers to submit quarterly returns of waste consignments to the regulators;

introducing scaled charges according to the amount of hazardous waste produced and whether it is recycled or sent for final disposal.

1.6 As indicated, the UK needs to implement the recently agreed changes to the European Waste Catalogue (now incorporating the Hazardous Waste List) by 1 January 2002. We will, therefore, need to amend the Special Waste Regulations to take account of those changes before that date.

1.7 In addition, we propose to take this opportunity to:

resolve inconsistencies between the Hazardous Waste Directive/List and the Special Waste Regulations, while maintaining the possibility of exceptionally adopting a more stringent approach domestically, in the interests of environmental protection;

encourage reductions in the amount of hazardous waste produced to limit disposal problems due to implementation of the Landfill Directive, consistent with the National Waste Strategy;

provide a better audit trail for hazardous waste, and improve its management by both waste producers and the waste management industry;

reduce the administrative burden on the waste industry and regulators; and

shift the burden of responsibility onto the producer, rather than the recycler or disposer of the waste.

2. DEFINITION AND CLASSIFICATION OF HAZARDOUS WASTE

2.1 The Envirospire Aspinwall report identified a number of future options meriting more detailed evaluation. Following a consideration of these options, the Executive is minded to redefine “special waste” as discussed below.

Changes to the definition of ‘special waste’

2.2 Envirospire Aspinwall found that the majority of people who use the current special waste classification system find it too complicated.

2.3 The Special Waste Regulations 1996 define “special waste” in a way that does not exactly match the definition of “hazardous waste” in the EC’s Hazardous Waste Directive. The main difference is that wastes not on the EC’s Hazardous Waste List are only considered special if they display a restricted amount of the hazardous properties listed at Annex III of the Hazardous Waste Directive (in other words those at H3A (first indent), H4, H5, H6, H7 or H8). For example, a waste not listed on the current Hazardous Waste List would presently be ‘special waste’ if it displayed the property H4 (irritant), but not if it was considered H14 (ecotoxic).

2.4 The Regulations also apply qualifying thresholds to all the wastes listed on the current Hazardous Waste List (reproduced in Part I of Schedule 2 of the Regulations). This means that a waste on the current Hazardous Waste List is only hazardous if it also breaches one of the thresholds set out in Part II of Schedule 2. For example, a waste is only considered to be special due to it displaying the hazardous property H7 (carcinogenicity), if it contains more than 0.1% of a known carcinogen.

2.5 The recent changes made to the European Waste Catalogue (now incorporating the Hazardous Waste List) make this particular provision redundant. Non-hazardous mirror-entries have been introduced for those wastes that can be either hazardous or non-hazardous (depending on whether they display one or more hazardous properties). The revised European Waste Catalogue was published in the Official Journal of the European Community on 16 January 2001. It will come into force 1 January 2002.

2.6 Given the recommendations of the Envirospire report, and the changes that will be made to the European Waste Catalogue, we are minded to base the definition of special waste solely on the Hazardous Waste Directive and the revised European Waste Catalogue. We also propose replacing the term “special waste” with “hazardous waste”.

2.7 Under the proposed new system, hazardous waste would be:

any waste listed as hazardous in the revised European Waste Catalogue;

any unlisted waste displaying one or more of the hazardous properties (H1 to H14) listed in Annex III of the Hazardous Waste Directive; and

all prescription-only medicines.

2.8 The European Commission is currently considering whether to add selected medicines, as hazardous entries, to the European Waste Catalogue. In the absence of any European-wide classification system, we propose to continue to regard all prescription-only medicines as hazardous waste.

2.9 If a waste holder considered a waste listed as hazardous (without a mirror-entry) in the revised European Waste Catalogue, to be *non-hazardous*, they would have to submit scientific evidence supporting their claim to the regulators. If the regulators accepted this evidence, the UK would notify the European Commission of the need to amend the European Waste Catalogue. To ensure a consistent enforcement position, the regulators would generally continue to consider the notified waste to be hazardous until the Commission and other Member States approved the amendment.

2.10 If the regulators considered a waste not listed as hazardous in the European Waste Catalogue to be hazardous, then it would generally be considered hazardous waste domestically with immediate effect (in line with Article 1(4) of the Hazardous Waste Directive). The UK would then notify the Commission of the need for an amendment to the European Waste Catalogue.

2.11 The advantages of this approach would be:

the revised European Waste Catalogue would be fully implemented;

it would remove the problems of inconsistencies between the definitions of “hazardous waste” and “special waste”;

it would simplify the implementation of future EC Directives where controls will be applied to “hazardous waste” as defined by the Hazardous Waste Directive. Examples will be the Landfill Directive the Waste Incineration Directive and the Integrated Pollution and Control Directive;

it would simplify the definition and lead to a reduced need for testing of wastes.

2.12 We are, therefore, minded to replace the current definition of “special waste” with a definition of “hazardous waste” based solely on the Hazardous Waste Directive and the revised European Waste Catalogue. **Do you agree with this approach? If not, why not?**

Use of the current version of the Approved Supply List from the CHIP legislation, to identify hazardous properties

2.13 The Envirospire report recommended that we use the current version of the Approved Supply List from The Chemicals (Hazard Information and Packaging for Supply) Regulations to classify special waste. We do not consider this to be a viable option. For legal reasons, the Special Waste Regulations must specifically mention the appropriate version of the Approved Supply List. This list is updated frequently, sometimes several times each year. It would be impractical and unnecessarily costly to update the Special Waste Regulations to reflect each change. **The Executive is not, therefore, minded to accept this recommendation.**

3. PROCEDURES FOR HANDLING HAZARDOUS WASTE

3.1 Envirospire recommended a number of changes to the consignment note system as described below:

setting up a Producer Registration System so that special waste producers would be required to register annually with the regulators before they could move waste;

scrapping the requirement for pre-notification, allowing special waste to be moved without giving regulators 72 hours notice;

requiring special waste producers to provide regulators with quarterly returns on the types and quantities of waste handled in the previous three-months;

requiring waste management facilities ("consignees") to provide regulators with quarterly reports on the consignments actually received;

removing the need to send copies of individual consignment notes to the regulators;

introducing a copy of the consignment note to notify waste producers that a consignment has been received at the waste management facility;

amending the consignment note to allow the transfer of waste to another waste carrier, for movements between islands or between Northern Ireland and Great Britain, in a similar way that the consignment notes for transfrontier shipments allow for multiple carriers;

increasing the responsibility placed on the waste producers or holders by requiring them to notify consignments of waste - under the current system, the "consignor" can notify the wastes;

amending the carrier's round consignment notes so that the carrier would be required to summarise the total type and quantities of waste collected on a round;

setting and scaling consignment note or registration fees, to encourage the reduction, re-use and recycling of hazardous waste.

3.2 Envirospire's recommendations have been considered and the following changes to the special waste regime are proposed.

New requirement for the regulators to inspect waste producers and waste management facilities

3.3 Although the regulators do inspect special waste producers and waste management facilities from time to time and are required to do so by Schedule 4 of the *Waste Management Licensing Regulations 1994* (as amended), such inspections are not (with the exception of exempt activities) required at specified intervals. Consultation carried out by Envirospire suggested that the regulators should be focusing on those producers and facilities who do not comply with the Regulations. Hence, we are proposing to incorporate a requirement in the revised Regulations that inspections are made at periodic intervals. The Regulations will also include provision to take enforcement action against producers who fail to register under the Producer Regulation System described in paragraphs 3.4 to 3.8 below.

Producer Registration System

3.4 The Envirospire report suggested adopting a system requiring special waste producers to register annually with the regulators before they can move waste. Waste producers would have to identify as far as possible the types and likely amounts of waste they will consign during the forthcoming year, the number of consignments and the intended treatment or disposal sites for particular waste streams.

3.5 At present, the regulators are notified on the basis of individual consignments or successions. Under section 62 of the Environmental Protection Act 1990 (as amended by paragraph 80 of Schedule 22 to the Environment Act 1995), the Special Waste Regulations allow the regulators to recover the costs it incurs in enforcing the Regulations. At present, the fees charged are set out in regulation 14(1) of the Special Waste Regulations and are based on individual consignments or successions. However, Section 41 of the Environment Act 1995, allows the regulators to set fees by means of a charging scheme. Under a Producer Registration system, producers would pay an *annual* fee, possibly based on the number of

consignments they make in any one year. This fee might be scaled in some way, possibly to reflect the disposal route used (see paragraphs 3.22 to 3.27). Clearly, the consignments actually made during the year may differ from those notified at registration. Amended information can, therefore, be provided via the quarterly reports described in paragraph 3.9 below. A mechanism will be devised to allow for the adjustment of fees where actual consignments differ from those predicted at registration. One possibility would be to adjust the fee payable for the following year.

3.6 Each consignment would still need to be accompanied by a consignment note to meet the requirements of Article 5(3) of the EC's Hazardous Waste Directive. However, the regulators would no longer be sent copies. Each note would continue to have a unique consignment code and the regulators would allocate these at the time of Producer Registration. If the number of codes allocated at this stage proves to be more or less than producers actually need, adjustments can be made later.

3.7 In the longer term, this system would reduce the administrative burden for the regulators as they would no longer need to track each individual consignment note. This would free regulatory resources for producer inspections and advice to industry. Such a system might, however, be impractical for small-scale or one-off producers.

3.8 We can see significant advantages in this approach, but are concerned about the difficulties it might create for small-scale or one-off producers. One possible solution in this respect would be to allow a small producer's waste management contractor to register and provide details of likely consignments on the small producer's behalf where he considers that it would not be economically feasible to register himself. It should be noted, however, that such a scenario would not exempt small producers from taking legal responsibility for their consignments. One-off producers would be able to contact the regulators separately for the consignment of their waste and will pay a fee at that stage. **Do you support the introduction of a Producer Registration System? If not, why not?**

Removal of Requirement for Pre-notification

3.9 Under the Special Waste Regulations 1996, many consignments of special waste must be pre-notified to the regulator. This means that the regulator must be notified at least 72 hours

before the waste can be moved, giving them some scope to prevent inappropriate disposal. However, it can cause difficulties where consignments need to be moved quickly.

3.10 The Producer Registration System would give the regulator some advance indication of consignments for the year ahead, allowing more time to sort out any potential problems. The regulators could also save a significant amount of time by not processing individual pre-notifications and so could focus on cradle to grave audits of consignments. This should allow more time for inspections of waste producers and waste management facilities and for taking enforcement action against producers that fail to register. **There appear to be significant advantages in dropping the requirement for 72 hours notice of individual consignments and thus the Executive is minded to remove the requirement for pre-notification.**

Provision of Quarterly Producer Returns

3.11 Envirospire also suggested that special waste producers should have to provide quarterly reports to the regulators on the consignments produced in the previous three months. Currently the regulator records details of consignments on the basis of individual consignment notes copied by the consignor. However, Envirospire suggested that, the regulators would instead use quarterly reports to update the information provided at Registration. Although, the reports would be an extra requirement for waste producers, the overall burden on them should not increase bearing in mind that they would no longer have to pre-notify. In addition, most producers are thought to keep this information and so should be able to produce the reports quite easily. The reports would also reduce the burden on the regulators by removing the requirement to log individual consignment notes and by aggregating data into more easily managed units. This would free regulatory resources for producer visits and other enforcement action. The reports would also give information to the regulators for producer visits. **Do you support the introduction of such quarterly reports? If not, why not?**

Provision of Quarterly Returns from Consignees

3.12 Envirospire recommended introducing such reports as part of their suggested Producer Registration System. Again, there are no such reports under the Special Waste Regulations 1996. Regulators currently record details of waste received by consignees on the basis of the individual consignment notes sent by consignees. Under this proposal, regulators

would no longer receive copies of individual consignment notes from consignees. Instead, Waste Management Facilities ("consignees") would make quarterly returns to the regulators on the consignments actually received. The regulators would use these to confirm that waste had finally been consigned as the producers had suggested. These reports may be a small extra requirement for consignees, but would reduce the burden on regulators, leaving them with more time to focus on cradle to grave audits and enforcement action. **Do you support the introduction of such quarterly returns? If not, why not?**

Notification of Waste Producers of the Deposit/Receipt of the Waste

3.13 Under the current consignment note system, the person who produced the waste receives no record to confirm that the intended consignee has accepted it. Envirospire recommended that waste management companies send a copy of the completed consignment note (the "producer's receipt") to waste producers confirming that they have accepted it. This would mean that producers get evidence that their waste has been handled as they had intended.

3.14 The producer's receipt would also help to transpose Article 4(2) of the Hazardous Waste Directive. This requires producers to keep records of the quantity, nature and origin of the waste. Where relevant, they must also record the destination, frequency of collection, method of transport and of treatment. At present the *consignor* keeps a copy of the consignment note provided to the carrier. Under the proposed system, the consignor would still keep a copy. However, the consignor may not be the waste producer and even where they are the same, the producer gets no record that the consignee has received the waste.

3.15 This proposal should not place any additional burden on waste management facilities as the producer's receipt will replace the consignment note currently sent to the regulators. **The Executive is, therefore, minded to introduce these "producer receipts".**

Amendment of consignment notes to allow for multiple carriers

3.16 At present, where there is more than one carrier involved in moving special waste, each carrier needs a separate consignment note. This can happen, for example, for movements between islands, between islands and the mainland and between Northern Ireland and Great Britain.

3.17 Enviro's Aspinwall Report recommends that we amend the consignment note to allow the transfer of waste to another carrier in a similar way to the consignment notes used for international movements of waste under Council Regulation (EEC) No.259/93. The Executive is proposing to adopt this recommendation for all cases where more than one carrier moves special waste. It would provide a single consignment note for such movements and, in particular, would reduce the burden on waste producers in the islands and allow better tracking of waste. It would also reduce the burden on regulators and, in particular, remove the difficulty of matching consignment notes that exists under the current arrangements. This would free regulatory resources that could be used for producer inspections and other enforcement action. **The Executive is, therefore, minded to amend the consignment note to allow for multiple carriers.**

Requirement for producer/holder to consign the waste

3.18 At present, the consignor "consigns" the waste by completing Part D of the consignment note. The consignor may be the producer or holder of the waste, or may be a waste management company who "consigns" waste on their behalf.

3.19 Enviro's Aspinwall proposed increasing the responsibility placed on the producer/holder by requiring them to complete Parts A, B and D of the consignment note. This would raise awareness of the amount of waste consigned and might improve waste descriptions. Placing the responsibility on to the producer or holder is also consistent with Duty of Care requirements.

3.20 However, such a requirement would increase the burden on small businesses that rely on waste management companies to prepare waste descriptions and to consign the waste. **Do you support the suggestion that the producers/holder should complete Parts A, B and D of the consignment note? The Executive would appreciate views on this proposal before considering it further.**

Amendments to Carrier's Round Consignment Notes

3.21 Enviro's Aspinwall recommended that the carrier's round consignment notes be amended so that carriers have to summarise the total type and quantities of waste they collect on a round. This might help with acceptance of the waste at the consignee's site and would

reduce the burden on regulators in terms of quantifying waste collected on carriers' rounds. This would free regulatory resources which could be used for producer inspections and providing advice to industry. However, it could place an additional burden on waste carriers. **Do you support the suggestion that carriers should summarise the type and quantities of the waste comprising a round? The Executive would appreciate views on this proposal before considering it further.**

Introduction of Scaled Charges

3.22 At present, consignment charges are the same irrespective of the type of waste. The exception is lead-acid batteries, where the fee is slightly lower to encourage the recycling. . However, *National Waste Strategy: Scotland* stresses the importance of minimising hazardous waste produced and encouraging recycling and re-use where possible. Enviros Aspinwall suggested that scaling the amount producers pay in consignment fees according to the amount of hazardous waste they produce or the way they dispose of it might achieve this. A number of possible options were suggested and are described below:

3.23 Fees could be scaled according to the treatment or disposal option used. Under the current system, consignments of lead acid batteries are subject to a lower fee as they are normally recycled. This could be extended to encourage more recycling/recovery. The fee structure could be based on either:

a lower fee for *any* hazardous waste sent to a recycling or recovery operation rather than to disposal; or

a lower fee for specific waste streams that are regularly recycled or recovered.

3.24 We consider option (a) to be the most beneficial as it would encourage producers of *any* waste to consider whether the waste could be recycled or recovered before consigning it. Option (b) might be open to abuse as producers of waste eligible for the lower fee might still consign it to disposal. However, there are difficulties with either approach. For example, treatment may not be an option for all waste streams.

3.25 Alternatively, we could base the fee on the quantity of waste. The greater the annual quantity of waste generated, the greater the fee. Such an approach would be possible with a Producer Registration System. However, such a fee structure might encourage producers to concentrate waste, which could potentially increase its hazardousness. It might also lead to an increase in fly tipping.

3.26 A third option would be to base fees on the hazardousness of waste. The more hazardous the waste stream, the higher the fee. However, this would be impractical, as it would be almost impossible to define the hazardousness of a particular waste stream. It might also deter waste minimisation which can increase the hazardousness of waste whilst reducing the total volume.

3.27 A final option would be to scale fees according to how close waste is to the waste disposal or treatment facility. The cost of consigning waste would be based on the distance the waste is moved, with fees increasing the greater the distance travelled. We do not think this is very practical because it would place remote communities at a disadvantage. It might also deter recovery and re-use as disposal to landfill might be the closer to site of production and so cheaper. **Do you support the concept of scale fees? If not, why not? Consultees' views on each of the scenarios discussed would also be appreciated.**

4. OTHER PROPOSED CHANGES TO THE SPECIAL WASTE REGULATIONS

Separation of waste

4.1 Article 2(4) of the Hazardous Waste Directive states that "Where waste is already mixed with other waste, substances or materials, separation must be effected, where technically and economically feasible, and where necessary in order to comply with Article 4 of Directive 75/442/EEC". Article 4 of Directive 75/442/EEC (the Waste Framework Directive) requires Member States to take the necessary measures to ensure that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment, and in particular without:

causing risk to water, air, soil and plants and animals

causing a nuisance through noise or odours

adversely affecting the countryside or places of special interest

4.2 The current Special Waste Regulations do not require separation where waste that already mixed with other waste. **The Executive proposes including a requirement in the new Regulations to require the separation of such waste where technically and economically feasible.**

Exemption of domestic waste

4.3 Household waste is exempt from the Special Waste Regulations. This exemption was intended to transpose Article 1(5) of the Hazardous Waste Directive, which states that "*Domestic waste shall be exempted from the provisions of this Directive*".

4.4 However, the definition of 'household waste' in the Special Waste Regulations includes waste from premises used by charities, camp sites, prisons and halls used for public meetings. This goes beyond the intended scope of the exclusion foreseen in the Directive. **The Executive therefore proposes limiting the scope of the exemption for household waste to domestic waste only.** This means that hazardous waste produced at the type of facilities listed above would become subject to the Special Waste Regulations. However, it is thought that most of the waste produced in such places is non-hazardous.

Asbestos waste from private households

4.5 With the exception of asbestos and laboratory and hospital waste the Special Waste Regulations do not apply to household waste. However, there have been instances where a private householder has attempted to dispose of asbestos from his property in a responsible manner by either taking it to his civic amenity site or asking his local authority to make a special uplift, only for it to be refused because it had not been consigned. We are therefore concerned that private individuals, when confronted by the cost and bureaucracy of the special waste system, may be tempted to fly-tip the waste instead. We therefore propose to make the disposal of asbestos from private households as easy for the householder as the disposal of ordinary bulky domestic waste.

4.6 We propose that when a householder requests his local authority to dispose of waste asbestos from his house the authority may issue a consignment note on SEPA's behalf (under a consignment number obtained from SEPA) prior to arranging uplift of the waste. We also propose that consignment notes issued in these circumstances should be exempt from a fee.

4.7 This provision would only apply where asbestos waste arises in the course of a private householder carrying out repairs, maintenance or alterations to his own property at his own hand (whether or not assisted by family or friends), ie, it will apply only to wastes associated with "DIY" activity and not where the work has been carried out by tradesmen. We anticipate that this exemption will only be very occasionally used and believe that any inconvenience to local authorities will be more than compensated for by the reduced risk of asbestos waste being fly-tipped by householders. **Do you support the exemption of private householders from the requirement to consign asbestos waste? If not, why not?**

Site registers

4.8 The Regulations require consignors to keep a register of consignment notes at each site from which a consignment of special waste has been removed or to which it has been delivered. It is not always practical for registers to be held for inspection at the actual site (for example, where a remote site is not staffed other than for collections or deliveries). **We therefore propose that site registers may be held at alternative premises, in exceptional circumstances, subject to SEPA's prior written consent.**

5. WASTE FROM SHIPS

5.1 Regulation 9 of the Special Waste Regulations 1996 sets out the current arrangements for special waste removed from ships to a reception area in a harbour area, or by pipeline to any such facilities provided outside a harbour area. Not all the proposals outlined above could appropriately be applied to such waste. The Executive is considering making special arrangements for it, possibly by requiring the waste facility to register as "Producer" and take on the responsibilities of both producer and consignee. **Do you support the suggestion that a waste facility should register as a “producer” as regards waste from ships? The Executive would appreciate views on this proposal before considering it further.**

6. SEPA CHARGING SCHEME

6.1 Regulation 14 of The Special Waste Regulations 1996 prescribes the amount of the fees payable to the regulators in respect of the issue of a consignment code and the circumstances in which a fee is exempt. Under section 41(1) of the Environment Act 1995, the regulators have the power to make a charging scheme providing for the recovery of costs incurred in discharging their duty as regards the control of special waste. However, they cannot do so for as long as the fees are prescribed in Regulations. **We therefore propose to replace the provisions of Regulation 14(1) (which prescribes the amounts of fees payable) with a reference to a charging scheme made by SEPA under section 41 of the 1995 Act.** It is envisaged that SEPA will introduce its charging scheme with effect from 1 April 2002.

6.2 Regulation 14 also prescribes the circumstances in which a fee is not required. It appears to the Executive that if SEPA is to recover the costs it incurs in discharging its regulatory responsibilities it must also have the ability to determine what aspects of its activity should or should not be charged for. The Executive acknowledges that consultees may fear that current exemptions will no longer apply. However, before coming into effect a charging scheme must be submitted to Scottish Ministers for approval. Notice of it must also be published and those affected by it given the opportunity to make representations to Ministers. Ministers may then approve the scheme, with or without modifications, or refuse to approve it. We believe that introducing (or removing) exemptions in this way is a much more flexible means of doing so than having to introduce amendments to legislation. **The Executive is therefore minded not to re-enact the exemptions to the fee contained in Regulation 14(2) but would appreciate views on the proposal before considering it further.**

7. PROPOSALS CONSULTED ON EARLIER BUT NOT YET IMPLEMENTED

7.1 In April 1998 the then Scottish and Welsh Offices and DETR consulted on a number of technical amendments to the Special Waste Regulations to improve their effectiveness. These have yet to be implemented. We propose to do so as part of this package. To recap, those measures are:-

allowing SEPA to disregard the radioactive properties of a waste in determining whether or not it is a “special” waste;

removing the Special Waste Regulations’ restriction on the mixing of two or more radioactive wastes;

the requirement to obtain a new consignment note for loads rejected by the consignee and delivered to a second consignee without being returned to the consignor and to dispense with pre-notification in such circumstances;

the requirement on a consignee rejecting all or part of a load to identify on any carrier’s schedule he receives the parts of that load which he has rejected;

extending the existing pre-notification exemption for motor vehicle batteries to all lead-acid batteries;

extending the time for completion of a carrier’s round from 24 hours to 72 hours; and

minor amendments to the formats of the consignment note and carrier’s schedule.

8. SUMMARY OF PROPOSALS

8.1 In summary, the Executive is considering making the following changes to the current procedures for hazardous waste:

changing the definition of "special waste" to a definition of "hazardous waste" based solely on the Hazardous Waste Directive and the Hazardous Waste List;

introducing a Producer Registration System;

removing the requirement for pre-notification;

requiring producers to produce quarterly returns of waste produced;

requiring consignees to provide quarterly returns of waste consigned;

requiring consignees to notify producers of the receipt of the waste by sending them a copy of the consignment note certifying receipt;

amending the consignment note to allow for multiple carriers;

making a requirement that waste can only be consigned by the producer or holder;

amending the Carrier's round consignment note to require the carrier to summarise the total type and quantities of waste collected on an individual round;

introducing scaled fees and charges based on the disposal/treatment option used;

introducing a requirement for hazardous wastes to be separated from other wastes, wherever feasible;

restricting the exemption for household waste to domestic waste only;

requiring ports to act as the waste producer and consignee;

requiring the regulators to periodically inspect waste producers and waste reception facilities;

allowing local authorities to issue a consignment note free of charge to a private householder disposing of asbestos waste arising from his own DIY activities;

provision for off-site registers, and

provision for SEPA to make its own charging scheme.

8.2 We would welcome views on these options.

GLOSSARY

Carrier	the person who collects waste from the premises at which it is being held and transports it to a different place.
Carrier's round	a journey made by carrier during which he collects more than one consignment of special waste and transports all consignments collected to a single consignee.
Consignor	the person who causes the waste to be removed from the premises at which it is held.
Consignee	the person to whom the waste is to be transported.
Consignment note	a note in a form set out in the Special Waste Regulations and which must accompany all movements of special waste. The note gives details of the person consigning the waste, the carrier and the person receiving the waste. It also gives a description of the waste, including the chemical and biological components of the waste.
Consignment code	a unique number allocated to the individual consignment or to the consignments in a single carrier's round.
Part A of the consignment note	details of where the waste is being moved to and from.
Part B of the consignment note	a description of the waste, including the chemical and biological components that make the waste special.
Part D of the consignment note	certification by the consignor that the description of the waste and carrier's details are correct and that the carrier is registered or exempt and was advised of the appropriate precautionary measures.
Hazardous Waste List	A list established under the Hazardous Waste Directive of wastes which have at least one of the hazardous properties listed in Annex III of that Directive.
European Waste Catalogue	A catalogue of wastes established under the Waste Framework Directive (75/442/EEC). Commission Decision 2001/118/EC (as amended by 2001/119/EC) will effectively replace the original European Waste Catalogue (94/3/EC), and the Hazardous Waste List (94/904/EC), with effect from 1 January 2002.
Hazardous properties (H1-H14) =	properties which may harm human health or harm the environment. A waste must display one of these hazardous properties (above the thresholds set out in Article 2 of the revised European Waste Catalogue, where appropriate) to be eligible for addition as a hazardous entry to the European Waste Catalogue.
H1	explosive
H2	oxidising
H3A	highly flammable
H3B	flammable
H4	irritant
H5	harmful
H6	toxic
H7	carcinogenic
H8	corrosive
H9	infectious
H10	teratogenic
H11	mutagenic
H12	substances and preparations which release toxic or very toxic gases in contact with water, air or an acid
H13	substances and preparations capable by any means, after disposal, of yielding another substance e.g. a leachate which possesses any of the characteristics listed above.
H14	ecotoxic.