

1980 No. 1709

PUBLIC HEALTH, ENGLAND AND WALES
PUBLIC HEALTH, SCOTLAND

The Control of Pollution (Special Waste) Regulations 1980

Made - - - - - 30th October 1980
Laid before Parliament 17th November 1980
Coming into Operation 16th March 1981

The Secretary of State for the Environment as respects England, the Secretary of State for Wales as respects Wales, and the Secretary of State for Scotland as respects Scotland, in exercise of the powers conferred on them by sections 17(1)(a), (d) and (e), (2)(b) and (d), (3)(a), (b) and (c), 30(5)(a) and (b) and 104(1) of the Control of Pollution Act 1974(a) and of all other powers enabling them in that behalf, hereby make the following regulations:—

PART I: INTRODUCTORY

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Control of Pollution (Special Waste) Regulations 1980 and shall come into operation on 16th March 1981.

(2) In these regulations—

“the Act” means the Control of Pollution Act 1974;

“carrier”, “consignment note”, “disposer” and “producer” have the meanings respectively assigned to them in regulations 4(5), 4(1), 6 and 4(1);

“controlled waste” and “disposal authority” have the meanings assigned to them by section 30.

(3) Any reference in these regulations to a numbered regulation or schedule shall be construed as a reference to the regulation or schedule bearing that number in these regulations and any reference to a numbered section shall be construed as a reference to the section bearing that number in the Act.

Meaning of special waste

2.—(1) The term “special waste” shall apply to any controlled waste which—

(a) consists of or contains any of the substances listed in Part I of Schedule 1 and by reason of the presence of such substance,

(i) is dangerous to life within the meaning of Part II of Schedule 1, or

(ii) has a flash point of 21 degrees Celsius or less as determined by the methods and with the apparatus laid down by the British Standards Institution in BS 3900: Part A, 8: 1976 (EN53), or

(b) is a medicinal product, as defined in section 130 of the Medicines Act 1968(b), which is available only in accordance with a prescription given by an appropriate practitioner as defined in section 58(1) of that Act.

(a) 1974 c. 40.

(b) 1968 c. 67.

Certain radioactive waste to be special waste

3.—(1) Section 17 shall have effect, without modification, so as to empower the Secretary of State to make provision for waste which would be controlled waste but for the fact that it is radioactive waste within the meaning of section 30(5) and, subject to section 9(1) of the Radioactive Substances Act 1960(a), regulation 2(1) shall apply to any such waste as if it were controlled waste.

(2) In Schedule 1 to the Radioactive Substances Act 1960, after paragraph 8B there shall be inserted the following paragraph 8C:

“The Control of Pollution (Special Waste) Regulations 1980.”, and after paragraph 9 the same paragraph, numbered 9A.

PART II: CONSIGNMENT NOTES

Duties of producers

4.—(1) Any person who produces special waste (in these regulations referred to as “the producer”) shall, before any such waste is removed from the premises at which it is produced, prepare six copies of the form set out in Schedule 2 (in these regulations referred to as “the consignment note”), shall complete parts A and B and shall furnish one copy to the disposal authority for the area in which it is to be disposed of.

(2) A producer may prepare fewer than six copies of the consignment note if he has reasonable grounds to suppose that a lesser number will be needed.

(3) Copies of consignment notes for the purposes of regulation 4(1) must be furnished not more than one month and not less than three clear days before the removal of the waste and in reckoning this period of days any Saturday, Sunday, Good Friday, Christmas Day, bank holiday or other public holiday shall be disregarded.

(4) A copy shall be treated as furnished in accordance with regulation 4(3) if it is so posted as to arrive in the ordinary course of post in compliance with the time limit there specified.

(5) Any person who transfers special waste from the premises at which it is produced to another person for disposal (in these regulations referred to as “the carrier”) shall, before any such waste is removed from those premises, complete Part C of the consignment note and the producer shall then complete Part D.

(6) The producer shall retain one copy of the consignment note on which Parts A, B, C and D have been completed and, if the waste is to be disposed of in the area of an authority other than that in whose area the waste was produced, shall forthwith furnish another such copy to the authority for his own area.

(7) The producer shall furnish all the remaining copies to the carrier.

Duties of carriers

5.—(1) The carrier shall transmit the copies furnished to him under regulation 4 to the disposer and shall retain one copy of the consignment note on which Parts A, B, C, D and E have been completed.

(2) A disposal authority shall not be obliged to comply with this regulation in respect of waste collected by them within their own area and disposed of within that area.

Duties of disposers

6.—(1) Any person who disposes of special waste (in these regulations referred to as “the disposer”) shall on receiving a consignment of such waste—

- (a) complete Part E of the consignment note on three of the remaining copies;
- (b) retain one copy;
- (c) forthwith furnish one copy to the disposal authority in whose area the waste was produced, and
- (d) forthwith furnish one copy to the carrier.

(2) A copy shall be treated as furnished to the disposal authority in accordance with regulation 6(1)(c) if it is posted to them by first class mail within one day of the receipt of the consignment and in calculating this period any Saturday, Sunday, Good Friday, Christmas Day, bank holiday or other public holiday shall be disregarded.

(3) A disposal authority shall not be obliged to comply with this regulation in respect of waste collected by them within their own area and disposed of within that area.

Importers and exporters

7.—(1) These regulations shall apply to a person who imports special waste into Great Britain as they apply to a producer and as if the waste were produced at the place where it first enters Great Britain.

(2) Regulation 6 shall apply to a person who exports special waste from Great Britain as it applies to a disposer.

Pipelines and on-site disposal

8. Nothing in regulations 4, 5, 6 and 7 shall require records to be kept of any waste disposed of by pipeline or within the curtilage of a factory or other premises at which it has been produced.

PART III: EXCEPTION FOR REGULAR CONSIGNMENTS

Directions by disposal authorities

9.—(1) A disposal authority may direct, in writing, that any named producer or disposer may in respect of any special waste to be produced in their area furnish copies of his consignment notes to them, and to any other disposal authority to whom he is obliged to furnish such copies, at intervals not exceeding twelve months and not in accordance with regulations 4 and 6.

(2) In deciding whether to give such a direction a disposal authority shall have regard to the frequency at which consignments of special waste having a similar composition are transferred for disposal to the same site.

(3) A disposal authority may revoke a direction by notice in writing.

Disposals in another authority's area

10.—(1) Where a disposal authority propose to make a direction under regulation 9 in respect of waste which is to be disposed of in the area of another disposal authority it shall be their duty, before they do so—

- (a) to refer the proposal to that authority, and
- (b) to consider any representations about the proposal which they receive from that authority within 21 days or such longer period as may be agreed in writing.

(2) If the disposal authority to which a proposal has been referred request, within the period specified above, that a direction should not be given, either authority may refer the matter to the Secretary of State and no direction shall be given except in accordance with his decision.

Appeals

11.—(1) A producer or disposer may apply in writing for a disposal authority to make a direction under regulation 9 and if they refuse to do so may appeal to the Secretary of State and where on such an appeal the Secretary of State determines that the decision is to be altered it shall be the duty of the disposal authority to give effect to the determination.

(2) If within the period of two months beginning with the date on which a disposal authority receive an application under regulation 11(1) or within such longer period as the authority and the applicant may at any time agree in writing, the authority have neither made a direction nor given notice to the applicant that they refuse to do so, the authority shall be deemed to have refused to make a direction.

(3) Notice of appeal under regulation 11(1) shall be given in writing within six months of the date of the refusal (or deemed refusal) or such longer period as the Secretary of State may at any time allow.

Forecasts

12.—(1) Where a direction under regulation 9 has been made the producer or disposer named therein shall at three monthly intervals prepare a forecast of the special waste the removal or disposal of which he expects to notify in accordance with the direction at the end of the following three months; he shall forthwith furnish copies of the forecast to the disposal authority who made the direction and, in the case of a producer whose waste is to be disposed of in the area of another disposal authority, to that authority.

(2) Where special waste materially different from that recorded in the forecast is to be removed or disposed of, the producer or disposer, as the case may be, shall furnish notice of amendment of the forecast to any disposal authority to whom the forecast was sent.

PART IV: REGISTERS AND SITE RECORDS

Registers

13.—(1) A producer shall keep at each site a register containing copies of all consignment notes relating to special waste produced at that site.

(2) A carrier shall keep a register containing copies of all consignment notes relating to special waste which he has transferred for disposal.

(3) A disposer shall keep at each site a register containing copies of all consignment notes relating to special waste disposed of at that site, provided that a disposal authority shall not be obliged to keep such a register in respect of a site within their own area.

(4) Producers and carriers shall keep each consignment note in the register for not less than two years from the date at which the waste to which it relates was removed from the premises where it was produced.

(5) A disposer shall keep the register until his disposal licence is surrendered or revoked and shall then furnish the register to the disposal authority in whose area the site is situated.

Site records

14.—(1) Any person who makes a deposit of special waste on land shall record the location of each such deposit, shall keep such records until his disposal licence is surrendered or revoked and shall then send the records, for retention, to the disposal authority in whose area the site is situated.

(2) Such records shall comprise either—

(a) a site plan marked with a grid, or

(b) a site plan with translucent overlays on which deposits are shown in relation to the contours of the site.

(3) Deposits shall be described in such records by reference to the register of consignment notes kept under regulation 13, save that where either—

(a) waste is disposed of by pipeline or within the curtilage of a factory or other premises at which it is produced, or

(b) a disposal authority dispose of waste on a site within their own area,

the deposits shall be described by reference to a record of the composition of the waste and the date of its disposal.

(4) In the case of liquid wastes discharged without containers into underground strata or disused workings the record shall comprise only a written record of the quantity and composition of special waste so discharged.

PART V: DIRECTIONS AS TO THE DISPOSAL OF SPECIAL WASTE

15.—(1) The Secretary of State may give a direction in respect of any place in respect of which a disposal licence under section 5 or a resolution in pursuance of section 11 is in force.

(2) Such a direction may require the holder of the disposal licence or the authority which passed the resolution to accept and dispose of at the place, on such terms as are specified in the direction (including terms as to the making of payments to the recipient of the direction), such special waste as is so specified.

(3) Where the Secretary of State proposes to give a direction under this regulation he shall (except in case of emergency) give not less than 28 days' notice to the person who is to receive it and shall have regard to any representations he receives from that person within that period.

PART VI: ENFORCEMENT

Offences

16.—(1) A producer, disposer or carrier who fails to comply with any provision of these regulations other than regulation 15 shall be liable on summary conviction to a fine not exceeding £1,000 or on conviction on indictment to imprisonment for a term not exceeding two years and a fine.

(2) Any person who fails to comply with a direction under regulation 15 shall be liable on summary conviction to a fine not exceeding £400.

(3) In any proceedings for an offence under these regulations it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.

(4) In any proceedings for an offence under regulation 4, 5 or 6 it shall be a defence for the person charged to prove that he was not reasonably able to comply with the regulation in question by reason of an emergency and that he took all reasonable steps to ensure that the necessary copies of consignment notes were completed and furnished as soon as practicable after the event.

(5) Where the commission by any person of an offence under these regulations is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.

Responsible authorities

17. The disposal authority for the area in which special waste is produced or into which it is imported from abroad shall so supervise the keeping of records under Part II of these regulations as to ensure that the requirements of that part are complied with.

PART I
LISTED SUBSTANCES

Acids and alkalis
Antimony and antimony compounds
Arsenic compounds
Asbestos (all chemical forms)
Barium compounds
Beryllium and beryllium compounds
Biocides and phytopharmaceutical substances
Boron compounds
Cadmium and cadmium compounds
Copper compounds
Heterocyclic organic compounds containing oxygen, nitrogen or sulphur
Hexavalent chromium compounds
Hydrocarbons and their oxygen, nitrogen and sulphur compounds
Inorganic cyanides
Inorganic halogen-containing compounds
Inorganic sulphur-containing compounds
Laboratory chemicals
Lead compounds
Mercury compounds
Nickel and nickel compounds
Organic halogen compounds, excluding inert polymeric materials
Peroxides, chlorates, perchlorates and azides
Pharmaceutical and veterinary compounds
Phosphorus and its compounds
Selenium and selenium compounds
Silver compounds
Tarry materials from refining and tar residues from distilling
Tellurium and tellurium compounds
Thallium and thallium compounds
Vanadium compounds
Zinc compounds

PART II
MEANING OF "DANGEROUS TO LIFE"

1. Waste is to be regarded as dangerous to life for the purposes of these regulations if—

- (a) a single dose of not more than five cubic centimetres would be likely to cause death or serious damage to tissue if ingested by a child of 20 kilograms' body weight or
- (b) exposure to it for fifteen minutes or less would be likely to cause serious damage to human tissue by inhalation, skin contact or eye contact.

Assessing effect of ingestion

2.—(1) The likely effect of ingestion is to be assessed by the use of reliable toxicity data in the following order of preference:—

Class 1: information about the effect of oral ingestion by children;

Class 2: data derived by extrapolation from information about the effects of oral ingestion by adults;

Class 3: other information about human toxicity;

Class 4: information about animal toxicity;

Class 5: information about the toxicity of analogous chemicals.

(2) Where conclusive information falling within one of the classes set out in sub-paragraph (1) is available no regard shall be paid to information falling within a class bearing a higher number, and the reference to using data in an order of preference is to be understood accordingly.

3. Where the waste is in such a form that—

(a) the ingestion of less than five cubic centimetres is not possible, or

(b) there is no risk that a toxic constituent could be assimilated if the waste were to be ingested,

then it is not to be regarded as dangerous to life by reason of sub-paragraph 1(a) of this schedule.

Mixed waste: samples

4. Waste is to be regarded as dangerous to life if a sample of five cubic centimetres taken from any part of a consignment falls within either of the descriptions in paragraph 1 of this schedule.

Department of the Environment/Welsh Office/ Scottish Development Department		Serial No.
CONSIGNMENT NOTE FOR THE CARRIAGE & DISPOSAL OF HAZARDOUS WASTES		
Producer's Certificate A	(1) The material described in B is to be collected from..... and (2) taken to..... Signed..... Name On behalf of..... Position..... Address and telephone..... Date Estimated date of collection.....	
	Description of the Waste B	(1) General description and physical nature of waste (2) Relevant chemical and biological components and maximum concentrations (3) Quantity of waste and size, type and number of containers (4) Process(es) from which waste originated

<p>Carrier's Collection Certificate</p> <p>C</p>	<p>I certify that I collected the consignment of waste and that the information given in A(1) & (2) and B(1) & (3) is correct, subject to any amendment listed in this space:</p> <p>I collected this consignment on.....at.....:.....hours</p> <p>Signed.....Name.....Vehicle Registration No....</p> <p>On behalf of.....</p> <p>Address and telephone.....Date.....</p> <p>.....</p>
<p>Producer's Collection Certificate</p> <p>D</p>	<p>I certify that the information given in B & C is correct and that the carrier was advised of appropriate precautionary measures.</p> <p>Signed.....Name.....Telephone.....Date.....</p>
<p>Disposer's Certificate</p> <p>E</p>	<p>I certify that Waste Disposal Licence No.....issued by..... Council, authorises the treatment/disposal at this facility of the waste described in B (and as amended where necessary at C). Name and address of facility.....</p> <p>.....</p> <p>This waste was delivered in vehicle (Reg. No.)..... at.....:.....hours on (date).....and the carrier gave his name as.....on behalf of..... Proper instructions were given that the waste should be taken to.....</p> <p>Signed.....Name.....Position.....</p> <p>Date.....on behalf of.....</p>
<p>For use by Producer/ Carrier/ Disposer</p>	

1st September 1980.

Signed by authority of
the Secretary of State for Wales
3rd September 1980.

Michael R. D. Heseltine,
Secretary of State for the Environment.

Wyn Roberts,
Parliamentary Under Secretary of State,
Welsh Office.

30th October 1980.

George Younger,
Secretary of State for Scotland.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations apply to England, Scotland and Wales and give effect to certain provisions of Community Legislation, contained in Council Directive No. 78/319/EEC (O.J. No. L84, 31.3.78, pp. 43 to 47) concerned with toxic and dangerous waste. This is achieved by the use of the Secretary of State's existing power, under section 17 of the Control of Pollution Act 1974 ("the 1974 Act"), to designate waste which is dangerous or difficult to dispose of as "special waste".

Regulation 2, together with Schedule 1, provides that waste falling within certain descriptions is to be regarded as special waste. The descriptions extend to flammable substances, medicines available only on prescription, substances likely to cause death or serious damage on ingestion and substances likely to cause damage by inhalation, skin contact or eye contact. Rules are laid down by which substances are to be tested for these effects.

Regulation 3 deals with radioactive waste: such waste will be special waste if it has dangerous properties other than radioactivity which would bring it within the meaning of Regulation 2. Under these regulations, however, no account is taken of its radioactivity, precautions against which are dealt with under the Radioactive Substances Act 1960.

Part II prescribes a system of consignment notes which is to be used by those who produce, transfer for disposal or dispose of special waste. Every consignment of waste will be accompanied by a number of copies of the consignment note when it leaves the place of its production. The notes will travel with it on the road and copies will be supplied to the person who disposes of the waste. Obligations are laid on producers, carriers and disposers to ensure that they record the waste they deal with and that the dispatch and arrival of waste is notified to the local authority responsible for supervising the disposal of waste. There is an exception for disposals by pipeline or on the site of production.

Part III provides that local authorities may waive the requirement that they should be separately notified of the dispatch and disposal of every consignment. A person who produces special waste or disposes of it may apply for a dispensation from this requirement and, if the disposal authority grant it, may send the requisite copies at twelve-monthly intervals. Directions dispensing with this requirement may be given by the authority in whose area the waste is produced, but where it is to be disposed of outside their area they must consult the authority for that area; disagreements will be resolved by reference to the Secretary of State. Producers or disposers may appeal to the Secretary of State if the disposal authority refuse to make such a direction. The producer or disposer must prepare a three-monthly forecast of the waste in respect of which he intends to take advantage of the direction.

Part IV provides for registers which will contain copies of consignment notes and will be kept by those who produce, carry or dispose of special waste. In addition those who dispose of special waste must record the location of deposits on their land in the manner prescribed.

In Part V the Secretary of State is given a power to direct that specified special waste shall be disposed of at any site where a disposal licence is in force under the 1974 Act or which is used for the disposal of waste by a disposal authority. Except in case of emergency the Secretary of State must give notice if he proposes to make such a direction, and must have regard to representations made to him.

Under Part VI producers, disposers or carriers who fail to comply with the regulations are made liable to prosecution. Defences are provided for those who exercise due diligence or are unable to comply by reason of an emergency. Where an offence is attributable to the act or default of a third party the third party may be prosecuted. The enforcement of Part II of the regulations is to be the responsibility of the disposal authority for the area in which the special waste is produced.