

regulatory position statement

Management of Hazardous Waste - Update

Purpose of this note

The management and disposal of hazardous waste continues to undergo a step change. In the longer term, we expect treatment technology to further reduce the impacts of hazardous waste on the environment. We recognise the need to provide regulatory certainty to help the sector plan future investment. In October 2006 we issued a statement on how we expected the hazardous waste sector to develop over time. This statement provides an update on the various aspects of hazardous waste management.

Summary

- WM2 and assessment of Ecotoxicity : We have revised our guidance to reflect the latest European rules on classifying waste.
- Total organic carbon (TOC) limit: From 1st July 2008 we expect hazardous waste to meet the 6% TOC limit set out in the Council Decision (2003/33/EC) if it is to be landfilled.
- Closure of hazardous waste 'mixing pits': Following a recent appeal hearing we have reviewed our position on mixing pit closure to ensure we maintain a 'level playing field' and provide regulatory certainty. We will still require mixing pits to close by 30th June 2008 unless directed to apply a later date by the Inspector in the appeal in which case we will expect all mixing pits to close by the later date. We hope to know the outcome of the appeal in the next few weeks.
- Classification and coding guidance: We expect to publish revised guidance in the next few weeks. This will provide greater clarity on how to correctly classify waste outputs from treatment plants.
- Problematic waste streams (PWS): We are reviewing and updating our procedures and guidance on PWS to ensure that we can manage a potential increase in requests for PWS status resulting from the end of the ToC derogation, changes in how to classify waste and the closure of mixing pits.

Environment Agency approach

Our primary concern is protecting the environment from hazardous waste and to ensure that as the rules change the sector can meet its responsibilities and plan for the future. We are setting out our position on the following issues to provide greater certainty for waste producers and waste managers.

WM2 and Ecotoxicity

We have amended our technical guidance (WM2) to accommodate the recent changes to the Approved Supply List (ASL) impacting on the determination and assessment of ecotoxicity. The revised WM2 was published on 16th May 2008. Further information on WM2 and our position on Incinerator Bottom Ash (IBA) can be found on our website.

Total Organic Carbon (TOC):

The Landfill Directive (Section 2 of the Annex to the Council Decision 2003/33 establishing the Waste Acceptance Criteria (WAC)) allows a derogation from the limit on TOC content of a waste, provided that the waste can be shown to be within the limit for Dissolved Organic Carbon (DOC). We have allowed derogations for organic content where the operator has shown that is not possible or practicable to separate out the component of the waste stream causing elevated organic content, or to treat the waste to reduce its organic content below the limit.

In line with the overall aim of the Landfill Directive to reduce our reliance on landfill, from 1st July 2008 we expect hazardous waste to meet the 6% TOC limit set out in the Council Decision (2003/33/EC) if it is to be landfilled. This date was discussed with the sector and confirmed in our October 2006 position statement. We have included conditions in landfill permits requiring waste to meet the 6% TOC limit from 1st July 2008 and we expect operators to comply.

The 1st July deadline will not apply to waste streams that meet the criteria set out in our enforcement position on problematic wastes. Further details on problematic waste streams can be found below or on our website under the 'Dealing with hazardous waste' section at <http://www.environment-agency.gov.uk/waste>.

Mixing Pits:

Mixing pits have been used for some time by the UK's waste management industry for the mixing of hazardous wastes prior to final disposal to landfill. Mixing pits are typically concrete pits in the ground into which wastes are tipped and then mixed by an excavator.

In May 2006 we announced that the use of mixing pits must stop by 30 June 2008. This was because, in our view, mixing pits fail to meet current international standards of best practice (Best Available Techniques or "BAT") and do not comply with other waste legislation. At that time, there were 9 mixing pits in use in England and none in Wales. Most operators accepted our view and are introducing alternative treatment techniques to meet the BAT requirement.

Castle Waste Services Ltd (CWS) appealed against the requirement to close their pit and the timescale for closure. Before the appeal was heard CWS accepted the point of principle that their mixing pit must close and withdrew their appeal on that point. The Planning Inspectorate have now heard the appeal on the timescale for closure and we await the Inspector's decision. If we do not receive the Inspector's decision by

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the 30th June or should the appeal be decided in our favour we still expect mixing pit operations to stop on or before 30th June 2008. If the Planning Inspector directs us to allow CWS' mixing pits to continue operating for a longer period of time, we will adopt an enforcement position in respect of all mixing pits.

In this circumstance, we would not normally take enforcement action against the continued use of mixing pits until that later date, subject to there being no pollution of the Environment or harm to human health. We believe this is the best way of ensuring a level regulatory playing field. We are announcing this now to provide clarity pending the Inspector's decision.

Classification and Coding Guidance:

Work on guidance for classifying and coding the outputs from treatment plants has been in progress for several months and has been through several consultation stages with key stakeholders, including waste producers, treatment operators and landfill operators.

We expect to publish the guidance in early June but we will share a pre-publication copy with stakeholders involved in its development prior to this date to help smooth the change in working practice. Further guidance aimed at identifying appropriate treatment processes for specific waste streams will be developed by a Government-led group. This work is expected to start in summer 2008.

Problematic waste streams (PWS): For some time we have acknowledged the combined impact of the recent changes on producers of certain 'problematic' wastes. To allow time for them to adapt to the changes we adopted a position in 2007 that we would not normally take enforcement action where specific hazardous waste streams (i.e. PWS) continued to be landfilled at specific landfills provided that the producer and landfill site operator had received written confirmation from us confirming that we regarded the waste as genuine PWS.

The further changes set out above have the potential to increase the number of requests to regard waste as PWS. We are reviewing and updating our procedures and guidance to ensure that we can manage a potential increase in such requests following the end of the ToC derogation and the cessation of mixing pits.

Further advice

Further advice on dealing with hazardous waste can be found on the Environment Agency website at: <http://www.environment-agency.gov.uk/waste/>.

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