

SCIENTIFIC AFFAIRS

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DETR CONSULTATION: REVIEW OF SPECIAL WASTE REGULATIONS

The following submission has been prepared under the aegis of the Environment, Health and Safety Committee of the Royal Society of Chemistry.

The Society's Royal Charter obliges it to serve the public interest by acting in an independent advisory capacity and we are happy for this submission to be put into the public domain.

We became aware of this Consultation from the DETR website. The Society appreciates this opportunity to comment on the DETR Consultation "Review of Special Waste Regulations".

We welcome this attempt to obtain views from all interested parties "*on any issue relating to the current or future control of special and hazardous waste in the UK*". However the consultation requires more supporting information and a longer time scale for a properly considered response. For example it should include basic data such as estimates of Special Waste arisings over say the last two years.

In addition we feel that the Environment Agency's interpretation of the current Special Waste Regulations (SWR) may be fundamentally flawed in certain respects. This may stem from incorrectly linking certain scientific and legal issues to do with Special Wastes, and it may have implications for many samples.

For example is the presence of a chemical/substance in a waste at a concentration which could make it special, sufficient to make it special? Our understanding is that the Environment Agency does take this view. However we would not agree with it.

At the very least, new Regulations should be worded in such a way as to clearly distinguish between the different interpretations referred to above.

General Comments

An obvious point but one that probably bears repeating is that the most effective way of dealing with special, hazardous or any other waste is to ensure that it isn't produced in the first place. The consultation document states that *"reducing Special Waste arisings and the hazardousness of waste is the key waste management priority"*. The emphasis for the future must be on ensuring that minimizing the production of such waste is one of the criteria applied to the planning and development of new processes.

The Best Practicable Environmental Option [BPEO] for a Special Waste can only be properly assessed from a sound knowledge of all the relevant features of the waste. Oils and similar combustibles may be recycled or used for fuel. However in other cases the BPEO may not be compatible with the proximity principle bearing in mind the distribution of appropriate sites. Therefore the process can only be described a "best-guesstimate". On the other hand, it may have some value in deciding to bring pressure to bear on a particular planning authority for the building of a waste processing facility near to a major source of a particular Special Waste category. Construction waste is a large proportion of the total special waste inventory and will have to be addressed in detail to reduce the burden on special waste landfills. There is no mention of this in the strategy.

Existing processes should be subject to regular review to see how far waste arisings can be minimized. Chemists, along with engineers, have a crucial part to play in such management activities. It would appear that large companies at least in the UK, are well aware of the economic benefits arising from more efficient use of resources. Thus, the focus must be on providing advice for small and medium sized enterprises (SMEs). The most effective means to achieve this are via government, industry groups or larger companies with which the SMEs do business. Regulation is a last resort but must be in place. However voluntary compliance with the objectives of the document is likely to be the best way forward. That said it probably requires some education of the professionals involved and professional bodies should play a part by promoting good professional practice.

Specific Comments

There appear to be differences in the definitions of hazardous properties in 'CHIP' and in the Special Waste Regulations. This would seem to be a potential source of unnecessary confusion. Although the differences appear small they are potentially significant.

For example in relation to 'irritants' CHIP states that an irritant chemical ***may*** cause inflammation. However the Special Waste Regulations state that an irritant chemical ***can*** cause inflammation. The difference is not trivial, supposition is allowed for 'may' but demonstration is required for 'can'. Similarly the 'Special Waste' definition of 'harmful' (may involve limited health risks) is much less stringent than CHIP (may cause death or acute or chronic damage to health).

The Special Waste Regulations should make it clear whether there is a linkage between the CHIP Category of Danger definitions (Schedule 1, Part I) and concentrations, and the 'Special Waste' display of hazardous property. Our understanding is the Environment Agency do not use this approach, so that wastes not displaying hazardous properties in the threshold values list (e.g. carcinogen category 3) are not 'Special Waste'. Our view is that they can be.

Any linkage depends on the CHIP definition being identical to, or more stringent than, the 'Special Waste' definition. The CHIP concentration is then brought into the Special Waste definition. This avoids waste being classified as 'Special' simply because of threshold values.

Government guidance 14/96, page 7 states that specific concentrations in the Approved Supply List have no role in determining whether a waste is special, but using such values is not contradicted by either CHIP or the Special Wastes Regulations. Thus it would appear the advice is wrong. It would seem essential to link the definitions in CHIP and the Special Wastes Regulations.

Overall, new regulations should be worded so as to avoid such unnecessary difficulties in their application.

Yours sincerely

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There are about 46,000 members, of whom 10,000 are based abroad. Professional membership of the Society is an internationally recognised qualification. The Society also administers the examinations for the Mastership in Chemical Analysis (MChemA) which is a statutory requirement for practice as a Public Analyst.

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