

Empty, Unclean, Packaging Waste

February 2014

Dear Customer,

The Environment Agency is concerned that empty¹, unclean, packaging waste contaminated with dangerous substances is often being moved outside of legal controls. This increases the risk of it being managed inappropriately at unauthorised sites. From 1st April 2014 we have asked our staff to focus on this area of non-compliance as a priority.

In advance of this we are providing this letter to summarise how the Hazardous Waste Regulations apply to packaging waste; full hazardous waste guidance can be found on [our website](#). Please note that these requirements have applied from July 2005.

For ease of reference, responsibilities have been split as follows:

- Companies that produce waste packaging (Producers),
- Suppliers or waste contractors (carriers) that collect this waste
- Waste contractors and suppliers that receive this waste (Consignees)

However, we recommend that you read all sections of this letter and if necessary, work towards compliance in a timely manner. If you need assistance, please contact your [local Environment Agency office](#) who would be happy to work with you.

Producers

As a producer you are legally required to assess whether or not your packaging waste is hazardous. Advice on this assessment is provided in Appendix A.

If the packaging waste is hazardous:

- It must be classified as 15 01 10* using the List of Wastes
- The premises from which it is collected may need to be registered as a hazardous waste producer
- It must be removed from your premises with a hazardous waste consignment note,
 - By a registered waste carrier, and
 - Taken directly to a suitably authorised destination
- You must keep copies of both the consignment note(s) and return(s) sent to you by the consignee (the recipient of the waste)

You also have a responsibility to consider the [waste hierarchy](#), for example, facilitating the reuse or recovery of the waste where possible.

We strongly recommend that you only use carriers and consignees whose advice is consistent with this letter.

Suppliers and waste contractors (carriers) - collection

Suppliers and waste carriers collecting empty, unclean, waste packaging from waste producers should ensure that each item of packaging waste has been correctly assessed by the producer before they remove it.

¹ if it is not empty the waste should be classified on the basis of its contents (e.g. oil, paint, ink etc.)

If the producer has not assessed each item (see Appendix A) you should either

- Not remove the waste, or
- Remove any empty unclean packaging waste containing residues of a product with a chemical risk phrase as hazardous waste. The waste must be moved with a consignment note.

The waste must be taken directly from the producer to a suitably authorised facility.

Waste contractors and suppliers (consignees) – receipt

You should only accept empty, unclean, waste packaging at your site as non-hazardous where it is clear that each package has been properly assessed and that the residues are not sufficient to render it hazardous (see Appendix A).

If you receive hazardous waste without a consignment note you must reject it. There are regulatory procedures for rejection that you, the carrier and the producer must then follow.

As a consignee you must submit quarterly returns to both the Environment Agency and the producer/holder. We are currently considering a regulatory position that would reduce the fee and reporting requirements for the first movement of the packaging waste (the collection from the original producer). This would only apply where the waste was correctly consigned. If the waste was not consigned fees would have to be paid in full.

You must have a suitable authorisation to enable you to receive hazardous waste produced somewhere else and transported to your site.

A supplier may be able to store the waste at their site under the Non-Waste Framework Directive Exemption for Temporary Storage at a Collection Point. However to benefit from this they must meet all the relevant conditions (See Appendix B).

Suitable authorised sites do **not** include any site operating under a T1, T4 or T9 exemption.

I hope this letter assists you in understanding how the Hazardous Waste Regulations apply to packaging waste. For site specific issues, please contact your [local Environment Agency office](#), who will be happy to help you. For any national issues, please do not hesitate to contact me.

Yours sincerely,

Matthew Womersley

Hazardous Waste, Waste Technical Services - Team Leader

matt.womersley@environment-agency.gov.uk

Appendix A – The Assessment and Classification of Waste Packaging

This Appendix does not apply where the packaging is

- Not waste (and does not contain waste)
- Not empty
- Clean (i.e. all residues have been removed), or
- The residues possess no chemical risk phrases

This appendix applies to empty, unclean, packaging waste contaminated with residues of a product with chemical risk phrases.

In most instances the packaging of such products will be clearly labelled with a category of danger symbol (orange and black square) or hazard pictogram (red and white diamond). In situations where the packaging is not labelled, or is incorrectly labelled (i.e. it is labelled for one product, but has been used to store another), the waste producer needs to identify if the residues it contains are dangerous.

All empty waste packaging from products which are either

- Assigned chemical risk phrases, or
- Labelled with danger/hazard pictograms

should be regarded as a hazardous waste unless and until an appropriate assessment of each container clearly demonstrates otherwise. Carriers and consignees are advised to check that each package has been assessed properly before removing or receiving such waste.

A.1. The Assessment of Empty, Unclean, Packaging Waste (until April 1st 2014)

This information was previously contained in the 2nd Edition of WM2.

The assessment of empty unclean waste packaging can be divided into three broad groups:

- Presence/absence;
- Weight based calculation; and
- Substance specific calculation.

Where the waste packaging contains any quantity of product that leaves a **flammable, explosive or infectious** residue it is hazardous. It is a simple presence/absence determination.

For most other hazardous properties you can use a weight based calculation to assess each container and determine:

- The weight of the container with residues (X),
- The weight of dangerous substance(s) present (Y)
- The % concentration of each dangerous substance $[(Y/X) \times 100]$
- The risk phrases applicable to each substance(s)
- The hazardous properties associated with each risk phrase(s), and their threshold concentrations (see [Technical Guidance WM2](#)).

The percentage concentration of each substance(s) in the waste is then compared to the relevant threshold concentrations (noting that some property assessments are additive).

For the hazardous properties Ecotoxic and Oxidising, the assessment will also consider any specific concentration thresholds assigned to each substance by chemicals legislation. This can be as low as 0.000025%.

customer service line
03708 506 506

incident hotline
0800 80 70 60

floodline
0845 988 1188

www.environment-agency.gov.uk

Note that for 205L metal drums and 1000L plastic IBC's the threshold concentration for several hazardous properties would be exceeded by the presence of 20-100g of a dangerous substance. So there is an expectation that for most hazardous properties that these containers will nearly always be hazardous waste unless cleaned to remove residues.

A.2. The Assessment of Empty, Unclean, Packaging Waste (Proposed from 2014)

The [3rd edition of Technical Guidance WM2](#) implements a revised assessment that aims to make the assessment simpler and more practical, and is based on the presence or absence of residues of each hazardous product.

This was intended to be implemented on January 1st 2014; however this has now been postponed until April 1st 2014.

Appendix B: Temporary Storage at a Collection Point

This exemption does not need to be registered. You must however comply with all the terms and conditions.

Full details of the requirements are available on our website

http://www.environment-agency.gov.uk/static/documents/Business/NWFD_3.pdf

This exemption allows the temporary storage of waste in a **secure container** at a **collection point**.

You can't:

- collect waste as your main business activity
- receive payment for collecting the waste,
- store mixed wastes,
- store asbestos, or
- store any substances with a flash point of less than 21°C.
- store more than five cubic metres of hazardous waste (other than WEEE) at any one time

You can only store waste temporarily. As a general rule, wastes should not be stored for longer than three months.