

Hazardous Waste Directive 2005 (England & Wales)

Does your institution produce more than 200kg of Hazardous Waste? This equates to approximately 20 fridges and may include other items such as monitors, fluorescent tubes, chemicals, paint etc.

If you do, you need to be considering these regulations.

The Hazardous Waste (England and Wales) Regulations 2005 define many new responsibilities for the producers of hazardous waste. These are regulated and audited by the Environment Agency.

As a responsible Further and Higher Education (FHE) institution you will have already defined and registered your premises to the Environment Agency (EA). For each consignment of hazardous waste leaving your premises, you will need to complete a consignment note displaying the premises code assigned to you by the EA.

However, beyond these basic requirements lie a range of Producer responsibilities that can be difficult to deal with as a complex organization. Most regulatory issues go beyond the initial registration.

Here are some of the issues that the EA will scrutinize during inspection;

Responsible Persons

The regulations state that each Premises should have a named person whose details are known to the Environment Agency and who is based on the Premises. They are legally responsible for the handling, storage and consignment of all hazardous waste from that Premises.

Risk Management

All hazardous wastes must be handled, stored and consigned in a manner consistent with maximum risk reduction in terms of accidental release and harm to persons or the environment. To manage this, effective facilities, containers, procedures and records must be used and maintained.

Hazardous Waste Categorization

All hazardous wastes must be categorized with their unique European Waste Catalogue (EWC) Code derived from the Hazard Codes of the hazardous substances they contain and the calculations used to determine risk factors from the associated technical guidance document WM2. Hazardous wastes cannot be mixed, and must be properly segregated. Co-disposal is prohibited.

Hazardous Waste Labeling

As soon as any hazardous substance becomes waste it should be properly contained and labeled with its name, description and EWC code(s).

Hazardous Waste Inventory

An active inventory of the details of all hazardous wastes being stored on a Premises at any given time must be maintained. Exceeding certain statutory limits of volume of hazardous waste means that a Premises must have a Waste Management License.

Hazardous Waste Consignment

All consignment documentation must be properly raised by the Producer/Holder of the waste. The unique code assigned to the Consignment Note for each consignment must also be raised by the Producer/Holder – not the waste service provider taking the waste. Consignment note details must be held on the Premises for a minimum of three years. The Environment Agency is happy for your Provider/Contractor to do the consignment notes but once you sign you are legally responsible.

'Duty of Care'

The Duty of Care as defined in previous waste legislation applies equally to hazardous waste. Audits of waste service providers must be carried out annually and the results recorded and followed up. The Hazardous Waste Regulations mean a consignment note takes on the role of the transfer note.

Management Control

Managed control, procedural provision and general hazardous waste awareness must be maintained within the producer organisation at the appropriate levels for all relevant employees and students. All those involved should know what their responsibilities are in light of;

- Proper storage and disposal of hazardous wastes
- Accidental release of hazardous wastes from containment
- Types of hazardous waste produced in their area
- Identification and reporting new hazardous wastes when produced
- Reported changes in regulation

As complicated as some of these issues may appear, they become doubly so when applied to most FHE institutions who are characterized by devolved and usually unique organizational structures for which no specific management template gives all the answers.

For instance;

Responsible Persons

Assignment of a single Responsible Person per Premises with all the responsibilities assigned by the regulations is clearly going to be inadequate to the needs of the average FHE institution. A management structure with devolved responsibilities and suitably trained people is the only way to tackle this issue. Unfortunately both in terms of the required in-house role development and associated legal responsibility definition this can be a complicated and time consuming exercise.

Hazardous Waste

The handling, storage and consignment of hazardous waste can be further complicated by a number of issues.

- Storage – deciding on the most appropriate facilities, equipment and training is important and suitable answers can vary greatly from institution to institution, or even site to site.
- Inter-Premises Transfer – the transfer of waste between the different Premises of an institution requires that consignment notes be raised, and consequent to this that quarterly returns be made of all such movement to the Environment Agency. One Premise can be agreed if on the same piece of land.
- Consignment – Sometimes difficult choices must be made between labour intensive and delegated systems of localised management for hazardous waste and more centralized systems which may require investment in facilities and personnel.

Inventory Control

Hazardous waste needs to be tracked and inventoried throughout your organisation in order to meet regulatory requirements. Having an active inventory for localised storage arrangement systems is difficult to manage well, whilst doing so for centralized systems requires more training and facility investment.

Waste Classification Complexity

Most FHE institutions produce many categories of hazardous waste. Each must be defined in terms of an EWC Code. Codes can be either 'absolute entries' or 'mirror entries' (for mixed materials contaminated with differing levels of hazardous substance). For the latter wastes which have dangerous substances above threshold concentrations, these wastes need to be assessed in accordance with WM2.

Training and Competence

Defining the roles within a hazardous waste management system starts at the point it goes into a bin. Proper segregation, containment, labeling, handling, transfer, consolidation etc all require the right people to have the right training and competence. Provision of a management system to deal with hazardous waste to include these areas is a requirement of the regulation.

Environment Agency Audit

As the legally defined regulator, the EA is required to inspect Premises.

Environment Agency audits have to be carried out by them as part of their defined legal responsibilities. This will mean that for the first time in many cases Environment Agency Officers will regularly be visiting your Premises. Their warrants give them powers of access that mirror their counterparts in the Health and Safety Executive. They are not required to stay within the limited remit of hazardous waste auditing when on-site and may raise any issue of environmental regulatory compliance that they encounter.

The consequences of failing to deal with any of the issues raised here or in the legislation is defined within the regulations. Up to a £5000 fine for the individuals directly responsible for any breach and by association of role any other whose negligence made them responsible.

For the FHE institution the potential for fines and to be named and shamed in Environmental Agency bulletins.

Further Information

Scotland has kept the Special Waste Regulations but is using the European Waste Coding system.

http://www.sepa.org.uk/guidance/waste/amendment_faq.htm

Environment Agency web link:

http://www.environment-agency.gov.uk/business/444217/590750/590821/502174/496498/?lang=_e

NetRegs link:

<http://www.netregs.gov.uk/>

Online guidance on environmental legislation.

FAQ'S

If I have not registered how do I go about doing this?

Log onto the EA website and register electronically, or pay your waste contractor to do it for you, or contact your local EA office and register manually by filling out the associated forms.

Apart from the nominated Responsible Person, does the corporate body hold any liability?

Yes although there is no case law to support penalties at this time. What is currently defined is that liability will fall on the person nominated Responsible Person and the person(s) responsible for the breach.

What are the statutory limits for which I need to apply for a waste management license?

According to The Waste Management Licensing Regulations 1994 the statutory limits are as follows;

- *Waste cannot be stored on site for more than 12 months*
- *Waste cannot exceed 23,000 litres or in any other case exceed 80 cubic metres if held in a secure container or 50 cubic metres if held in a secure place.*

How do I get hold of the WM2 Guidance?

Use this web link:

http://www.environment-agency.gov.uk/business/444217/590750/590821/502174/496498/?lang=_e

Does the waste contractor have any responsibility once I have handed over my waste?

Responsibility will be as per the Environmental Protection Act 1990 Duty of Care. As a registered waste carrier they will have responsibility for ensuring the waste is handled in accordance with legislation through to and including its final disposal.

Where there are different departments within a building, do each of these need registration and produce consignment notes?

Registration is by site (Premises) the extent of which is defined when you notify the EA of your Premises boundary. Consignment notes are produced to cover individual consignments of hazardous wastes from the defined Premises.

Some institutions have registered sites and others have registered individual buildings, what is the legal requirement?

The decision on defining Premises is yours. Premises can be a single room, area, building or site depending on what you decide. However it is sensible to engage with your local EA representative before finalising the Premises definition you are applying for. Premises are considered separate where they are merely connected by a public road but not if they are only crossed by public roads.

Are there any examples of institutions that have correctly developed a hazardous waste inventory and unique coding for the consignment notes?

Not at this time although some institutions are working towards this.

What are the exemptions? For example, paint tins are not classed as hazardous waste if they are completely dry or contain less than 1% of the original content. Are there any other exemptions?

The percentage by mass definition of mixed hazardous waste varies by hazardous substance category. In all cases the potentially hazardous classification of mixed waste must be determined following the 'mirror entry' guidance provided in WM2.

In terms of mixed hazardous waste can you give some examples? Can I put oily rags, tins of grease and tins of oil in the same bin?

No. You cannot mix hazardous wastes or hazardous waste with non-hazardous. Mixing any hazardous and/or non-hazardous wastes of different EWC Codes is contrary to the requirements of the regulations. It is not however prohibited to create mixed waste by an unavoidable consequence of the process that creates it, i.e. using spill absorbents to clean up a chemical.

If a halls of residence is run by an external company is it their responsibility to ensure they are compliant OR is the FHE institution still responsible under Duty of Care?

The FHE institution still has a legal responsibility under the Duty of Care. However, if another persons/ contractors "activities" produce hazardous waste it is their responsibility to deal with it as per the regulations. They would however, be expected to use your site SIC code where relevant but their own HW registration code.



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