

S.I. No. 163/1998 — Waste Management (Hazardous Waste) Regulations, 1998

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WASTE MANAGEMENT (HAZARDOUS WASTE) REGULATIONS, 1998

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S.I. No. 163 of 1998.

WASTE MANAGEMENT (HAZARDOUS WASTE) REGULATIONS, 1998

In exercise of the powers conferred on the Minister for the Environment and Local Government by sections 7 , 15 , 18 , 28 , 29 , 32 and 36 of the Waste Management Act, 1996 (No. 10 of 1996) , which said powers are delegated to me by the Environment and Local Government (Delegation of Ministerial Functions) (No. 2) Order, 1997 (S.I. No. 428 of 1997), I, Dan Wallace, Minister of State at the Department of the Environment and Local Government, hereby make the following Regulations :—

PART I PRELIMINARY AND GENERAL

Citation.

1. These Regulations may be cited as the Waste Management (Hazardous Waste) Regulations, 1998.

Commencement.

2. These Regulations shall come into operation on the 20th day of May, 1998.

Purpose of Regulations.

3. The purposes for which these Regulations are made include the purpose of giving effect to provisions of —

(a) Council Directive 75/439/EEC of 16 June, 1975 on the disposal of waste oils, as amended by Council Directive 87/101/EEC of 22 December, 1986 ⁽¹⁾,

⁽¹⁾ O.J. No. L 194/23, 25 July 1975 and O.J. No. L 42/43, 12 February 1987

(b) Council Directive 87/217/EEC of 19 March, 1987 on the prevention and reduction of environmental pollution by asbestos ⁽¹⁾,

⁽¹⁾ O.J. No. L 85/40, 28 March, 1987

(c) Council Directive 91/157/EEC of 18 March, 1991 on batteries and accumulators containing dangerous substances ⁽²⁾,

⁽²⁾ O.J. No. L 78/38, 26 March, 1991

(d) Council Directive 91/689/EEC of 12 December, 1991 on hazardous waste ⁽³⁾,

⁽³⁾ O.J. No. L 377/20, 31 December 1991

(e) Council Directive 96/59/EC of 16 September, 1996 on the disposal of polychlorinated biphenyls and polychlorinated terphenyls ⁽⁴⁾.

(4) O.J. No. 243/31, 24 September, 1996

Interpretation generally.

4. In these Regulations, save where the context otherwise requires, —

(a) "the Act" means the Waste Management Act, 1996 , and

(b) any reference to an article, Part or Schedule which is not otherwise identified is a reference to an article, Part or Schedule of these Regulations and any reference to a sub-article or paragraph which is not otherwise identified is a reference to a sub-article or paragraph of the provision in which the reference occurs.

PART II ASBESTOS

Interpretation for Part II.

5. In this Part —

"asbestos" means the following fibrous silicates —

- crocidolite (blue asbestos),
- actinolite,
- anthophyllite,
- chrysotile (white asbestos),
- amosite (brown asbestos),
- tremolite;

"raw asbestos," means the product resulting from the primary crushing of asbestos ore.

Use of best available technology not entailing excessive costs.

6. (1) A person who carries on an activity to which this article applies shall use the best available technology not entailing excessive costs for the purpose of preventing or limiting asbestos waste arisings from that activity, including where appropriate the recovery or treatment of such wastes.

(2) This article applies to an activity which involves the handling of a quantity of more than 100 kilograms of raw asbestos per annum and which comprises —

(a) the production of raw asbestos ore excluding any process directly associated with the mining of the ore, or

(b) the manufacturing and industrial finishing of any of the following products using raw asbestos: asbestos cement or asbestos-cement products, asbestos friction products, asbestos filters, asbestos textiles, asbestos paper and card, asbestos jointing, packaging and reinforcement materials, asbestos floor coverings or asbestos fillers.

Prohibition on emissions.

7. A person who transports waste containing asbestos fibres or asbestos dust shall ensure that no such fibre or dust is emitted or released to an environmental medium.

PART III BATTERIES

Interpretation for Part III.

8. In this Part, save where the context otherwise requires —

"battery" means an apparatus or device designed to act as a source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary (non-rechargeable) battery cells or secondary (rechargeable) battery cells (also called accumulators);

"excluded appliance" means an appliance falling within the categories of appliance set out in Part I of the First Schedule;

"heavy metal" means mercury, cadmium or lead;

"supply" in relation to batteries includes, in the course of business —

(a) to supply in association with the supply of, or incorporated in, any appliance, device, vehicle or any other product,

(b) to provide in exchange for any consideration other than money, or

(c) to give as a prize or otherwise make a gift.

Prohibition on marketing of certain batteries.

9. (1) A person shall not supply or advertise batteries to which this article applies.

(2) Subject to sub-article (3), this article applies to —

(i) alkaline manganese batteries for prolonged use in extreme conditions (e.g. temperatures below 0 degrees Centigrade or above 50 degrees Centigrade, exposed to shocks) containing more than 0.05% of mercury by weight, and

(ii) all other alkaline manganese batteries containing more than 0.025% of mercury by weight.

(3) This article does not apply to alkaline manganese button cells and batteries composed of button cells.

Prohibition on marketing of certain appliances.

10. (1) A person shall not supply or advertise an appliance which contains or is designed to contain a battery to which this article applies, other than an excluded appliance, unless the battery can be readily removed, when spent, by the user of the appliance.

(2) This article applies to batteries which contain —

(a) (i) in the case of alkaline manganese batteries, more than 0.025% of mercury by weight,

(ii) in the case of batteries other than alkaline manganese batteries, more than 25mg of mercury per cell,

(b) more than 0.025% of cadmium by weight, or

(c) more than 0.4% of lead by weight.

Marking of batteries and appliances.

11. (1) A person shall not supply or advertise batteries to which article 10 applies unless the batteries are marked in accordance with article 12.

(2) A person shall not supply or advertise an excluded appliance which contains or is designed to contain a battery to which article 10 applies unless the appliance is marked —

(i) in accordance with article 12, and

(ii) to indicate the method of removing the battery.

Requirements as to markings.

12. The batteries and appliances to which article 11 refers shall be marked visibly, legibly and indelibly in accordance with Part II of the First Schedule so as to indicate —

(a) the heavy metal content of the batteries,

(b) that the batteries should be collected separately from other waste for the purpose of recovery or disposal, and

(c) where appropriate, that the batteries are suitable for recovery.

PART IV POLYCHLORINATED BIPHENYLS (PCBs)

Interpretation for Part IV.

13. (1) In this Part —

"contaminated equipment" means any equipment (including any transformer, power capacitor or receptacle containing residual stocks) which —

(a) contains PCBs, or

(b) having contained PCBs, has not been subject to decontamination;

"decontamination" means any operation which enables equipment, objects, materials or fluids contaminated by PCBs to be recovered or disposed of without causing environmental pollution, including the replacement of PCBs by fluids which do not contain PCBs, and "decontaminated" shall be construed accordingly;

"disposal" means any of the activities specified at item 6, 7 or 13 of the Third Schedule to the Act, incineration on land or, in the case of contaminated equipment or used PCBs which cannot be decontaminated, safe deep underground storage in dry rock formations;

"equipment containing more than 5 dm³ of PCBs" includes, in the case of power capacitors, such equipment where the separate elements of a combined set contain amounts of PCBs which in aggregate exceeds 5 dm³;

"PCBs" means —

- polychlorinated biphenyls
- polychlorinated terphenyls
- monomethyl-tetrachlorodiphenyl methane
- monomethyl-dichloro-diphenyl methane
- monomethyl-dibromo-diphenyl methane, or
- any mixture of substances containing any one or more of the aforementioned

substances in an aggregate amount which by weight exceeds 0.005% by weight of the mixture;

"used PCBs" means PCBs which are waste within the meaning of Section 4(1)(a) of the Act.

(2) Any equipment of a type which is likely to contain PCBs shall, for the purposes of these Regulations, be considered as containing PCBs unless it is reasonable to assume the contrary.

Requirements on holders of PCBs.

14. (1) A holder of PCBs, used PCBs or contaminated equipment shall, as the case may be —

(a) ensure that used PCBs are disposed of as soon as possible;

(b) subject to sub-article (3), ensure that PCBs and contaminated equipment and the PCBs contained in such equipment are decontaminated or disposed of as soon as possible;

(c) subject to sub-article (4), affix to equipment containing more than 5 dm³ of PCBs and to the doors of premises where such equipment is located an indelible label, so printed as to be easily visible and legible, stating, as the case may be, that the equipment is, or the premises contain equipment that is, contaminated by PCBs;

(d) keep such PCBs or equipment separate from flammable materials and otherwise take such precautions as are necessary to avoid any risk of fire; and

(e) where reasonably practicable, implement and operate a source separation programme in respect of equipment which contains less than 5 dm³ of PCBs and is a component of another piece of equipment, that is to say, to remove and arrange for the separate collection of such components with a view to their recovery or, where that is not economically feasible, their disposal, in a facility authorised for that purpose.

(2) Transformers containing more than 0.05% by weight of PCBs shall be decontaminated in accordance with the following conditions:—

(a) the objective of decontamination shall be to reduce the level of PCBs to less than 0.05% by weight and, if possible, to 0.005% or less by weight;

(b) the replacement fluid not containing PCBs must entail markedly lesser risks;

(c) the replacement of the fluid must not compromise the subsequent disposal of the PCBs, and

(d) the labelling of the transformer after its decontamination must be replaced by labelling in the form set out in the Second Schedule to these Regulations.

(3) (a) In the case of contaminated equipment containing more than 5 dm³ of PCBs, decontamination or disposal in accordance with sub-article (1)(b) shall, subject to paragraph (b), be effected not later than the 31st day of December, 2010.

(b) As a derogation from the requirements of sub-article (1)(b) in the case of a transformer or other equipment the fluid content of which contains between 0.05% and 0.005% by weight of PCBs, such equipment may be decontaminated in accordance with sub-article (2) or disposed of at the end of its useful life.

(4) For the purposes of paragraph (c) of sub-article (1), equipment in respect of which it is reasonable to assume that the fluid content of the equipment contains between 0.05% and 0.005% by weight of PCBs may be labelled as "PCBs contaminated 0.05%".

Provision of information to the Agency.

15. (1) Subject to sub-article (2), a holder of PCBs, used PCBs or contaminated equipment containing more than 5 dm³ of PCBs shall, not later than the 1st day of September 1998 and not later than the 1st day of September in each year thereafter, give notice in writing to the Agency in relation to such PCBs, used PCBs or equipment of, as appropriate —

(a) the name and address of the holder,

(b) the location and quantity of the PCBs or used PCBs,

(c) the location and description of the equipment,

(d) the quantity of PCBs contained in such equipment,

(e) the measures taken or proposed to be taken (including a timescale) for the decontamination or disposal, as the case may be, of the said PCBs, used PCBs and equipment, and

(f) the date of giving such notice.

(2) A notice under sub-article (1) need not specify information for the purposes of paragraphs (d) and (e) of that sub-article as regards any equipment in respect of which it is reasonable to assume that the fluid content of the equipment contains between 0.05% and 0.005% by weight of PCBs.

(3) The Agency shall monitor the accuracy of information notified to it under sub-article (1).

Prohibition on certain uses of PCBs.

16. The following are hereby prohibited —

(a) the importation, production or supply to another person of PCBs or contaminated equipment;

(b) with effect from 1 September, 1998, the holding or use of PCBs or contaminated equipment, other than PCBs or equipment which have been notified to the Agency under article 15;

(c) the separation of PCBs from other substances for the purpose of reusing the PCBs;

(d) the addition of PCBs to transformers or other equipment, and

(e) the maintenance of transformers containing PCBs, other than the maintenance of transformers which are in good working order and do not leak and where such maintenance is for the purpose of ensuring that the PCBs contained in the transformers comply with technical standards or specifications regarding dielectric quality.

PART V WASTE OILS

Interpretation for Part V.

17. In this Part, "waste oils" means any mineral-based lubrication or industrial oils which have become waste, including used combustion engine oils, gearbox oils, mineral lubricating oils, oils for turbines and hydraulic oils.

Prohibition on disposal to waters or drains.

18. A person shall not dispose of waste oils to waters or drainage systems.

Prohibition on mixing with other wastes.

19. A holder of waste oils shall take such steps as are necessary to ensure that waste oils are not mixed with PCBs (within the meaning of Part IV) or other wastes.

Information to be compiled by producer.

20. (1) A person who produces more than 500 litres of waste oils in a calendar year shall compile and maintain the information specified in sub-article (2).

(2) The following information is specified for the purposes of sub-article (1) —

(a) the quantity, quality, origin and location of waste oils produced,

(b) the quantities of waste oils transferred to other persons, the dates of such transfers and the name of persons to whom such waste was transferred.

(3) A person to whom sub-article (1) applies shall retain, for a period of two years after the end of the period in question, such records as are necessary to verify the accuracy of information compiled and maintained in accordance with sub-article (1).

PART VI HAZARDOUS WASTE GENERALLY

Information to be compiled and provided by producer.

21. A producer of hazardous waste shall —

(a) keep a record of —

(i) the quantity, nature and origin of the waste produced,

(ii) where relevant, any treatment of such waste carried out by or on behalf of the

producer, and

(iii) the quantity, nature, destination, frequency of collection and mode of transport of hazardous waste which is transferred to another person,

(b) upon service of notice in writing by the Agency or a local authority, make any information recorded under paragraph (a) available to the Agency or local authority concerned, in such form and manner and at such frequency as may be specified in the notice, and

(c) preserve the records referred to in paragraph (a) for a minimum of three years.

Packaging and labelling of hazardous waste.

22. (1) Subject to sub-article (2), a producer of hazardous waste shall ensure that, during the temporary storage of such waste at its place of production, —

(a) all containers or other packaging used for such storage are labelled in accordance with Community and other standards which are in force in relation to such labelling, and

(b) hazardous waste of one category is not mixed together with hazardous waste of any other category or with any non-hazardous waste.

(2) (a) Sub-article (1)(b) shall not apply in relation to the mixture of wastes where such mixture has been approved in writing by the local authority in whose functional area the waste is produced.

(b) A local authority shall not grant an approval under paragraph (a) unless it is satisfied that the mixture of the wastes in question is warranted and will not contravene section 32(1) of the Act.

False or misleading information.

23. A person shall not compile information which is false or misleading to a material extent or furnish any such information in any notice or other document used for the purposes of these Regulations.

Defrayal of local authority or Agency costs.

24. (1) A local authority or the Agency may, by notice in writing, require a person to whom these Regulations apply to defray or contribute towards any costs incurred by the local authority or the Agency, as the case may be, in the performance of its functions in

relation to these Regulations, including the cost of any inspection or investigations carried out or caused to be carried out by the local authority or Agency, and the taking and analysis of any sample of waste.

(2) A person on whom a notice is served under sub-article (1) shall comply with the requirements of the notice within such period, being a period of not less than three weeks, as may be specified in the notice, and in default of such payment, the amount concerned may be recovered by the local authority concerned or the Agency, as the case may be, as a simple contract debt in any court of competent jurisdiction.

FIRST SCHEDULE

MATTERS IN RELATION TO BATTERIES

PART I

Article 8

Categories of appliances which are "excluded appliances"

(a) Those appliances whose batteries are soldered, welded or otherwise permanently attached to terminals to ensure continuity of power supply in demanding industrial usage, and to preserve the memory and data functions of information technology and business equipment, where use of batteries is technically necessary.

(b) Reference cells in scientific and professional equipment, and batteries placed in medical devices designed to monitor and maintain vital functions and in heart pacemakers and all other active implantable medical devices covered by the Council Directive of 20th June, 1990 (No. 90/385/EEC) ⁽¹⁾, where uninterrupted functioning is essential and the batteries can be removed only by qualified personnel.

⁽¹⁾ O.J. No. L 189, 20 July 1990.

(c) Transportable appliances intended to be moved from one location to another while in use, or between periods of use, while carried by one or more persons, where replacement of the batteries by unqualified personnel could present safety hazards to the user or could affect the operation of the appliance, and professional equipment, including medical and emergency devices, intended for use in highly sensitive surroundings.

PART II

Article 12

Marking of Batteries

(a) The marking to indicate the heavy metal content of a battery shall consist of the chemical symbol for the heavy metal concerned, that is to say Hg, Cd or Pb in relation to mercury, cadmium or lead, respectively, printed beneath and covering an area of at least one quarter of the size of a symbol for separate collection as described in paragraph (b).

(b) The marking to indicate separate collection shall consist of either of the two symbols shown in Part III of this Schedule and, subject to paragraph (c), shall cover an area not less than 3% of the area of the largest side of the battery, or in the case of a cylindrical cell, an area not less than 3% of half of the surface area, but in any case need not cover an area exceeding 5cm x 5cm.

(c) Where the size of a battery is such that the symbol to indicate separate collection in accordance with paragraph (b) would be smaller than 0.5cm x 0.5cm, it shall not be necessary to mark the battery, but a symbol as described in paragraph (b), measuring not less than 1cm x 1cm, shall be printed on the packaging of the said battery.

PART III

Article 12 and Part II of Second Schedule

Symbols indicating separate collection of batteries



SECOND SCHEDULE

Article 14

Labelling of Decontaminated Equipment

Each, item of decontaminated equipment must be clearly marked with an indelible and

embossed or engraved sign which must include the following information:

DECONTAMINATED PCB EQUIPMENT

Fluid containing PCBs was replaced

* with(name of substitute)

* on(date)

* by(undertaking)

Concentration of PCBs in

* old fluid(% by weight)

* new fluid(% by weight)

Dated this 19th day of May, 1998

DAN WALLACE

Minister of State at the Department of the Environment and Local Government

EXPLANATORY NOTE

These Regulations implement provisions of a number of EU Directives relating to asbestos waste, batteries and accumulators, polychlorinated biphenyls (PCBs), waste oils and hazardous wastes generally.

The Regulations come into operation on 20 May, 1998 and replace and update a number of Regulations made under the European Communities Act, 1972 which are revoked with effect from that date by virtue of sections 1 and 6 of the Waste Management Act, 1996 .

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