

The Environment Agency's priorities for enforcing the TFS regulations

This note summarises the Environment Agency's priorities for enforcing the requirements of the Transfrontier Shipment of Waste (TFS) Regulations 2007 for waste imports and exports to and from England and Wales. Any action taken by us will be in line with our published Enforcement and Prosecution Policy. You should read this statement of priorities in conjunction with that policy. You should also be aware that other countries may take action in relation to their own regulations on the movement of waste.

Background

There are three separate regulations that apply; the first two of these are European Regulations that apply controls directly to movements of waste into and out of England and Wales. The third set of regulations provide powers to the Environment Agency to take action.

(1) The Waste Shipments Regulation (WSR)

In July 2006 a revised European Regulation on Waste Shipments (WSR) was published making a number of changes to the existing controls on international waste movements. These changes come into force on 12 July 2007 and in our view take effect for shipments moving on or after that date.

The rules set three different levels of control over movements of waste, depending on what the waste is and where it is being moved to, in summary the controls are:

- **Prohibited**
- **Notifiable** – proposed movements must be prenotified to the regulatory authorities in all concerned countries and prior written permission obtained before the waste is moved.
- **Green List** – proposed movements don't need to be prenotified and don't need prior permission before going ahead but do need to comply with specified information and contract requirements.

(2) The Green List Regulation

The most significant change is for businesses exporting green list waste to developing countries for recovery. On 7th July the European Commission published a new Green List Regulation that comes into effect on 12 July, setting out what levels of control apply to different waste movements. The Commission has acknowledged that there are a number of errors in the Regulation; further a number of countries were late in replying to the Commission or have not responded at all. We do not want this Regulation to

disrupt the legitimate export of clean recyclables to countries that wish to receive them. We are therefore making information available [\(insert link\)](#) that explains what the regulations require, but that also shows what the intent is of the recipient country, where this has been made clear to Defra.

We will keep this information up to date and will continue to support Defra in pressing for the Green List Regulation to be revised as soon as possible. We will not take enforcement action where the movement is in accordance with the wishes of that recipient country and is genuine green list waste. Other competent authorities may not take the same position.

(3) The UK TFS Regulations

The revised WSR is supported by new UK TFS Regulations 2007 replacing the previous 1994 regulations. The new TFS Regulations:

- Nominate the Environment Agency as the competent authority for waste imports and exports from England or Wales.
- Specify a large number of new offences that may be committed by businesses moving waste in breach of the controls.
- Make many more businesses that have an incidental or supporting role in imports and exports of waste, such as freight forwarders and hauliers, liable for offences if they're involved in moving waste in breach of the controls.
- Provide the UK regulators with a range of enforcement tools to tackle international movements of waste suspected to be in breach of the rules.

What the changes mean for different groups

Businesses importing and exporting waste

We expect waste importers and exporters to:

- Know what type of waste they are dealing with. Where it's claimed the waste is "green list" waste they should assure themselves that the waste is of the right quality to be so classified. If notifiable waste, they must ensure the waste is as described on the notification.
- Know where the waste is going and that the facility can deal with the waste in an environmentally sound manner.
- Ensure the waste reaches its intended destination and is recovered.

In return, waste importers and exporters can expect us to:

- Work with industry and others to improve information on what can and cannot be treated as "green list" waste.
- Produce clear guidance on the procedures and the steps that must be followed to ensure compliance.
- Take a proportionate and risk based approach to compliance.

- Deal with technical breaches in a proportionate manner and only move to more formal types of enforcement action in cases of repeated “administrative” failures.
- To take action (in accordance with our published Enforcement and Prosecution Policy) where we identify substantial non-compliance. In particular where waste has been moved without prior notification and consent. The only exception to this is in relation to the movement of genuine green list waste that is subject to notification controls for the first time as a consequence of the Commission’s Green List Regulation.

Businesses facilitating international waste movements – including hauliers, shipping lines and freight forwarders

We acknowledge that the new regulations extend responsibility to many businesses within this sector for the first time. We will give time for this sector to familiarise themselves with the regulatory requirements and we will initially concentrate our efforts on raising awareness of the controls.

We initially expect any business facilitating international movements of waste to and from England or Wales to:

- Familiarise themselves with the new requirements.
- Work with their representative trade organisations to develop practical guidance that supports legitimate business, reduces unnecessary administrative burden and helps prevent deliberate non-compliance.
- Refuse to deal with any movement of green list or notifiable waste that they suspect may be substantially non-compliant.
- Provide intelligence to us, in confidence, on deliberate non-compliance.

In return, business concerned with facilitating international movements of waste can expect us to:

- Support the development of best practice guidance.
- Only take formal enforcement action against businesses within this sector where there is evidence that they have deliberately facilitated the movement of notifiable or green list waste that they suspect may be substantially non-compliant.

Our enforcement priorities

We recognise the importance of the global market for recyclable materials. Our focus is on ensuring that quality recyclables end up in the right place.

Our enforcement effort will be targeted at:

- The export of waste masquerading as ‘green list waste’ or as ‘non-waste’.
- The export of waste to countries that do not want it.

- Anyone importing or exporting notifiable (particularly hazardous) waste without prior notification and consent.

When we do take action, this will be in line with our published Enforcement and Prosecution Policy. We will keep our approach under review and will maintain an up-to-date version of this document on our website.

Where to find out more

Environment Agency website:

<http://www.environment-agency.gov.uk/wasteshipments>

Environment Agency helpline: 08708 506 506

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