



Fédération Européenne des Activités de la Dépollution et de l'Environnement  
European Federation of Waste Management and Environmental Services  
Europäische Föderation der Entsorgungswirtschaft

## FEAD RESPONSE TO WASTE SHIPMENT REGULATION EVALUATION

8 April 2020

FEAD is the European Federation of Waste Management. FEAD has actively followed the evaluation of the current Waste Shipment Regulation.

Exports are crucial for a well-functioning EU waste market. FEAD underlines that WSR is and must remain a regulation used for shipment procedures and must not become a policy instrument for new objectives. While it must be consistent with the objectives of the Circular Economy, its adaptation must not be detrimental to safety nor traceability and must ensure that formalities are appropriate with regard to the characteristics of the shipped waste. That is why it is necessary to **distinguish the provisions on hazardous waste from those of non-hazardous waste**.

We have identified the following concerns in the operational use of the current text of the Waste Shipment Regulation, mainly due to inconsistencies or problems of interpretation with other related pieces of legislation or with differences of enforcement within the EU MS:

### There is a need for a harmonised interpretation and for more coordination between MS

1. The Commission should accelerate the development of a shared dematerialised system, based on a **simplified and electronic notification procedure (based on Electronic Data Interchange - EDI)**. In general, there should be a greater use of electronic documentation, provided it is a pan European system (or at least systems which are compatible), which allows the WSR application and subsequent shipment notifications to be entered into one system that is then automatically shared with the other relevant competent authorities. FEAD suggests that, if operators use such an EDI system, MS should have a 10-day period to ask for additional documents. This would avoid excessive delays for the notification procedure which can take in some cases 10 months. Further guidelines would be needed in order to reduce such delays.
2. An **EDI solution including also the information procedure (Annex VII) should be examined**. An interface between existing national electronic systems should also be developed. The use of digital means will increase the speed, the efficiency and the transparency of the information and notification procedures. While waiting for a unified electronic system to be implemented within the EU, the European Commission could request that all documents required for the notification procedure are exchanged electronically (via email). This would improve traceability regarding the date and destination of the sent documents. Finally, there is a need to harmonise information requirements and the use of communication tools among national authorities.

### How to alleviate the administrative burden

1. In order to reduce the administrative burden to understand documents and consequently make translations, essential documents should be written in a **shared language**. This would avoid some

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competent authorities having to ask for extended **certified or translated documents** on non-essential parts of official documents that do not help to give consent (art.37).

## 2. **Pre-consent facilities** for recovery operations:

Usually, the authorities are not very inclined to use the pre-consent procedure especially because the validation time is reduced to 7 days. Possible options for a wider use of the pre-consent are:

- An EU harmonisation of the **pre-consent procedure** through a single procedure for the validation of the pre-consented facilities (art. 14)
- An adapted validity period **for pre-consented facilities based in the European Union** could be:
  - 3 years (art. 14) **for non-hazardous waste**
  - No change for **hazardous waste**.

**3. The excessive delays (between 2 and 10 months on average) for the notification procedure** should be reduced (art. 9).

## 4. **Simplification of the renewal procedure/extension for the validity of notifications**

In order to avoid administrative burden, a simplified procedure to renew the notification, in case of identical shipments should be put in place. In case of shipments of non-hazardous waste for recovery, and in case of identical shipments/high degree of similarity, the duration should be extended.

5. To reduce the administrative burden and facilitate harmonisation, **the WSR should limit the use of mandatory waste codes**. A guidance setting up a correspondence table for waste codes is necessary.

**6. The type and number of documents required** by the notification procedure should be set up (art. 4; art. 8; Annexes IA, Annex IB, Annex II).

7. Some **adaptability** should be permitted to allow the scope of the notification file to be enlarged.

**8. A clear distinction between administrative mistakes and illegal shipments** is needed to ensure that an incorrectly filled Annex VII should not automatically be equated to an “illegal” shipment (Annex VII). As long as there is no EDI/dematerialised procedure, to help alleviate administrative mistakes and improve control on illegal shipments, guidelines are needed.

**9. The procedure for repatriating shipments between member states should be adapted**, while the normal procedure applied today (new notification to be introduced by the notifier) should become the exception (art. 24).

## 10. **Tacit consent**

For intra EU shipments, the tacit consent by the competent authority of transit must be assumed if no objection is lodged within the said 30-day time limit and remain valid until a decision is taken by the competent authority of destination (art. 9.1; 9.4; 9.5)

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11. **The date of validity of the tacit consent for transit for a planned shipment** should begin from the first day when the written consent is given by the competent authorities of destination (art. 9.4 and 9.5).

12. Instead of the current rules on financial guarantees (for each shipment), the possibility for an annual rolling **financial guarantee** (art.6) should be set up, on the basis of an amount that would be less than the total amount for each given operator. The advantage would be for both sides: a higher guarantee regarding a single shipment, but the total amount to be blocked would be reduced

13. Unless EDI is developed, as requested by FEAD, the procedure for **reporting reception** of notified waste and certificate of recycling/disposal should be made easier. We suggest reporting this information just once every quarter.

14. In some countries the authorities require an **interim recovery facility** to list all subsequent green listed waste receivers. However, only one receiver is allowed per waste fraction, which greatly hinders free trade.

15. **Green-listed waste:** On the one hand, we would like to see regular (annual) adjustments and additions to the green list. The current list was published many years ago and is out of kilter with new waste streams confronted by waste management. On the other hand, different waste classification among Member States, especially regarding green-listed wastes, results in companies not having legal clarity on shipments.

16. There is an existing **specific procedure for laboratory analysis**, with a current amount of **25kg** (art.3 + art.18) associated to shipments of waste. This adapted procedure would be useful to facilitate **pilot trials and testing**, with adapted quantities to such an activity, justified by the need to increase the maximum weight of the samples in this very case. Two situations should be considered:

- For **hazardous waste**, the amount could go until a maximum of, for instance, 1 ton
- For **non-hazardous waste**, the derogatory procedure should be set up for maximum quantities, to be further discussed with operational companies depending upon the waste flow

As a final remark, achieving a well-functioning EU waste market, based on appropriate rules for waste shipments, requires the modernisation of the WSR. Additionally, if end-of-waste criteria are not harmonised at EU level, major discrepancies remain inevitable. For easier waste flows, such as paper/cardboard, this issue should be made a priority.

Thank you in advance for the consideration you will give to our concerns and we remain at your disposal for a further exchange or to answer any questions you may have.

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