



Best practice in refrigerant management

REFCOM ELITE GUIDANCE ON CONTROLLED WASTE AND THE CARRIAGE OF CONTROLLED WASTE

INTRODUCTION

On the 16th July 2005 the **Hazardous Waste Regulation (England and Wales) 2005** replaced the Special Waste Regulations and brought some Controlled Wastes into the same regime for handling and disposal. Refrigerants were one such substance to be reclassified. All waste that is listed in the European Waste Catalogue (EWC) must now be handled under the requirements of the new Hazardous Waste Regulations.

Recovered refrigerant is now handled using Consignment Notes, whilst all other waste concerned with the serving, maintenance, installation, commissioning activities remain as controlled Waste under different waste Regulations. In April 2009 this Regulation was updated and amended and of particular interest to contractors in the RAC sector were two main changes. The first was the premises threshold was raised from 200Kg to a maximum of 500kg per year. This effectively means that sites where simple servicing is carried out requiring refrigerant recovery will now become exempt with the proviso that all hazardous waste produced must be accounted for on the premises, not just what the contractor produces. The second change involved businesses registered as a mobile service. The mobile service facility now allows a contractor to produce a maximum of 500Kg in a 12 month period and the real benefit to the contractor acting in this mobile capacity is that they now only need to account for the hazardous waste that they produce. They can also move it from the site using their own premises code.

Very recently, **The Waste Framework Directive (WFD)**, the primary European legislation for the management of waste was revised and some of these revisions came into Force on the **29th March** with the remainder coming into force in September 2011. The title of this new revision is **Waste (England and Wales) Regulations 2011**. These changes will not affect Scotland and Northern Ireland where the current regulations still apply. At the same time **The Waste (Miscellaneous Provisions)(Wales) Regulations 2011** came into effect and are supplemental to the **Waste (England and Wales) Regulations 2011**. This was necessary so that Wales could make changes to its own legislation and so they mirror the English hazardous waste provisions.

In 2007 the new Environmental Permitting (England and Wales) Regulation (replacing waste licensing regulations) came into force and that was supplemented in April 2008 by the introduction of the Environmental Permitting (EP) Regulation 2008 but the introduction of these new waste Regulations **do not negate** the need for a Certificate of Registration under the control of Pollution (Amendment) Act 1989 for contractors as called for under the Refcom ELITE criteria. The Environment Agency (EA) maintains a register under Regulation 3 of the Controlled Waste Regulations 1991 (Registration of carriers and seizure of vehicles).

The Environment Agency's Sheffield Office is now the **only** office that is authorised to deal specifically with Controlled Waste Issues.

Due to much confusion between Hazardous and Controlled Waste and with regard to what should contractors be doing Refcom would inform its existing members and any potential applicant of the following;

1. People need to understand the difference between Hazardous and Controlled waste - each is covered by different regulations and they do not overlap.
2. Controlled waste needs to be considered in two main areas;
 - a) Storage.
 - b) Movement.
3. **Storage** is covered by a list of exemptions in either a simple mode which is free of EA costs or a complex mode that is governed by a set of EA fees. A set of standards have been written for each category that align with paragraphs of the relevant Regulation.
4. **Movement** is covered by either being a carrier or a broker and each category has a list of criteria to follow – it may be the case, that a contractor could be both, but if you are in any doubt choose the carrier option.

For carriers there is some confusion over what constitutes building or demolition waste, but generally it means masonry, bricks, timber etc. The important thing to remember is that if you replace a part with a spare and you take that old part away with you then you **NEED** a waste carriers' license. It is waste that belongs to someone else and should not be considered as you being the producer of the waste.

The EA website information is clear regarding the differentiation between carrier and broker but what isn't so clear is the differentiation between when a carrier's license is needed and when it isn't.

When considering the issue of a Waste Carrier License, the waste producer is the person who decides that something is waste;

EXAMPLE 1:

(Case 1) If you employ a landscape gardener and tell him to prune the trees in your garden, you are deemed to be the producer of the waste prunings.

(Case 2) If you employ a landscape gardener and give them a vague instruction to sort out your garden as they see fit, then in the course of that work they decides that your trees needs to be pruned, then they are the producer of the waste prunings, because they are deciding which parts of the trees are waste.

So in Case 1 the gardener would need a Waste Carrier License to move the prunings but in Case 2 he would not need a License.

Therefore in terms of refrigerant handling if the equipment owner/operator has told the contractor by means of a specific contractual agreement to either fix or service their equipment then the owner/operator are still the producer of the waste (Case 1). If the contractor is called in and given a vague instruction to just "fix" whatever is wrong or just "service" that piece of plant then whatever waste is produced in the course of that work belongs to the contractor and he will not need a License (Case 2)

EXAMPLE 2:

If a pipe is to be replaced then any off cuts from the new pipe can be removed from site without needing a waste carrier's license because it is produced by the contractor. However, the pipe that has been replaced still belongs to the owner and can only be removed from site by a licensed waste carrier.

The same principle applies to new filter/dryers, or any other spare part or parts, including the packaging involved.

MAIN POINTS TO REMEMBER

1. Controlled waste can be household, commercial or industrial.
2. It can be liquid or solid.
3. It does not have to be toxic or hazardous.
4. Only two types of authorization can carry away any waste produced – registered council waste disposal collectors or registered individual waste carriers.
5. Taking waste from someone else for disposal means you have to be legally covered to do so .i.e. licensed.
6. You must use also Transfer Notes and fully describe in writing, the waste taken. Transfer Notes state categorically who owns the waste and who has responsibility for the waste.
7. A copy of the Transfer Note must be left with the customer and as the issuer of the Transfer Note you must keep your copy on file for 2 years. A single waste transfer note may not cover multiple transfers of waste of a similar description between the same parties over a period of 12 months.
8. If you have any doubts as to who is the producer of the controlled waste or any doubts about what waste you may be carrying may require a license, then it is recommended that a waste Carriers license is obtained.
9. Membership of Refcom Elite requires that a valid waste carrier license is held and can trade without concern regarding compliance with waste legislation.
10. One License will cover all branches of a Company regardless of location in England and Wales.
11. The waste carrier license for both carrier and broker lasts for 3 years and at the time of this document being published costs £154 for a new license and £105 for a renewal.

OFFENCES

Proactive exercises by Government offices regularly take place throughout England and Wales and vehicles that appear to be transporting waste are stopped and searched. Drivers that do not have a copy of their own, or their employers Waste Carriers Registration are served a notice to produce it within twenty one days. Those that do not produce it are liable to prosecution, or to a fixed penalty set at £300.

Under S.1 of the Control of Pollution (Amendment) Act 1989 it is an offence to transport waste without being a Registered Waste Carrier. The maximum penalty upon summary conviction is £5,000.

Under S.34 of the Environmental Protection Act 1990, it is an offence to transfer waste to someone that is not an authorised person, which means they must be either a Registered.

Waste Carrier or a site licensed to accept waste. The maximum penalty upon summary conviction is £5,000 or an unlimited fine upon indictment.

Under S.34 of the Environmental Protection Act 1990, it is an offence to not exchange Waste Transfer Notes and Written Descriptions upon the transfer of waste. The maximum penalty upon summary conviction is £5,000, or an unlimited fine upon indictment.

USEFUL ADDRESSES

POSTAL.....Environment Agency; Quadrant 2, 99 Parkway Avenue, Parkway Business Park, Sheffield S9 4WF.

WEBSITE.....www.gov.uk/waste-carrier-or-broker-registration