



**Friends of
the Earth**

Consultation on the transposition of the revised Waste Framework Directive

**Response from Friends of the
Earth**

October 2009

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http://www.foe.co.uk/campaigns/biodiversity/issues/wasting_less_18267.html

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Introduction

Friends of the Earth welcomes this opportunity to comment on the Government's proposals to transpose the revised Waste Framework Directive.

We believe that waste policy should be aiming to improve the UK's resource efficiency, and minimise our climate impacts, by maximising prevention, reuse, recycling and composting, and by gradually phasing out residual waste.

With the UK needing to realise every option available in the battle to minimise the impact of climate change, the further contribution of recycling and sustainable waste management to winning that battle should not be underestimated. Furthermore, it is economic madness for the UK to be importing expensive materials such as aluminium and then dumping them in landfill or incineration, when they could be recycled.

If the UK limits itself to only reaching the recycling targets set out in the WFD, and not improving upon them (like some Member States are already able to do), then we will continue to see the scandal of significant wasted resources being buried or burned that could be sensibly recycled. Friends of the Earth believes that rather than avoid seeking to maintain the status quo, the government should take this opportunity to realise the huge potential for the UK to create jobs, become more resource efficient and reduce our climate impacts through the practical and realistic improvements in waste policy we have outlined in this response.

Note that Friends of the Earth are also supportive of the consultation response from the Campaign for Real Recycling.

Response to questions

Article 4: The Waste Hierarchy (paragraphs 2.5-2.33 above)

Question 1: What steps do you consider Defra/WAG should take to apply the waste hierarchy set out in Article 4(1) of the revised WFD as a priority order in waste management legislation? For example:-

(a) How should producers of waste – other than householders – be required to apply the waste hierarchy as a priority order when taking their decisions on the treatment options for their waste – either before the in-house treatment of their waste or before its transfer to another person for treatment. Please explain how you consider the requirement would operate and how it would be enforced;

The existing duty of care should be extended for waste producers and licensed waste carriers to be required to take all reasonable steps to apply the waste hierarchy when choosing waste management options, and requiring them to justify how the waste hierarchy has been met – e.g. what efforts they have made to recycle as much as possible. This should include a duty to source-separate all recyclable wastes and ensure that they are transferred to appropriate reprocessing facilities rather than disposed of as general waste (in accordance with Article 11(1)). A precedent for such a requirement already exists in the compulsory household recycling schemes being introduced by an increasing number of local authorities.

This duty of care to ensure that waste is dealt with as high up the waste hierarchy as possible can be partially implemented via the current system of waste transfer notes. The licensed waste carrier or broker would be required to state on the waste transfer note how the waste will be treated (eg recycled), to ensure that the waste producers have the information they require in order to know how their waste is being treated.

Furthermore, as part of the licensing regime, licensed waste carriers and management operators waste could be required to offer waste management options above disposal or disposal with energy recovery to obtain a license.

In order to demonstrate how they intend to apply the waste hierarchy as a priority order, companies and other producers of waste should be legally required to produce and implement a waste

management plan, similar to the site waste management plan currently required in construction projects. We also recommend that the current pre-treatment regulations should be strengthened, for example to ensure the separate collection of commercial and industrial waste. This could involve a requirement for all landfills or incinerators to be preceded by an effective separation process to minimise disposal of recyclables.

(b) What other measures, if any, should be adopted in the spatial planning system to apply the waste hierarchy as a priority order;

Regional Strategies (RS) and waste development frameworks (WDF) should adopt policies to support the waste hierarchy, including recycling targets and a policy that local authorities and the RDA will encourage innovative policies, practices and technologies to deliver sustainable waste management – which has the waste hierarchy at its core.

Any plans for residual waste facilities should demonstrate (e.g. using modelling) that the facilities will not negatively affect reuse and recycling rates, even if waste volumes are reducing.

The RS and WDF should require that the policies are adopted to promote the reuse, recycling and composting of waste streams in order to drive waste management up the hierarchy, for example:

- Priority should be given to initiatives and facilities which will encourage and promote waste reduction and the reuse of materials and products
- Priority should be given to recycling, composting and anaerobic digestion facilities

Residual waste

In planning for residual waste management, waste planning authorities should ensure that:

- Firstly, any remaining recyclable waste should be removed (e.g. metals, plastics, some paper).
- Secondly the small amount of waste remaining after this should be composted or anaerobically digested and, unless sufficiently clean to be used as compost, should be disposed of to landfill (as the disposal route with lowest environmental impacts for this waste).
- These processes should occur in small, localised treatment plants.

The waste management priority order enshrined in the waste hierarchy should be incorporated in paragraph 7 of the Planning Policy Statement 10 – Planning for sustainable waste management. This would help to ensure that facilities offering the most environmentally sustainable waste management options are built.

(c) How should establishments or undertakings applying for permits for the treatment of waste under Article 23 of the revised WFD be required to demonstrate that they have applied the waste hierarchy as a priority order in reaching their decision about the type of treatment operation for which a permit application is being made;

Establishments or undertakings should be required to justify how the waste they intend to treat will be dealt with as high up the waste hierarchy as possible, and demonstrate that it is not possible to deal with that waste higher up the waste hierarchy. For example if the plant will treat residual waste, applicants will be required to detail what the composition is likely to be of the waste they intend to treat, and to provide strong justifications for why all the potentially recyclable materials (including plastics, cardboard and paper) cannot or should not be separated for recycling prior to the treatment of the truly residual waste.

(d) How should competent authorities be required to apply the waste hierarchy as a priority order in making their decisions on permit applications for the treatment of waste; and

Competent authorities should be required to satisfy themselves – and demonstrate - that the waste hierarchy has been applied. They should consider whether the facility the permit relates to will be dealing with waste according to the waste hierarchy, and if it will not then they should require strong justifications for departing from the waste hierarchy.

The authority should also consider the composition of waste intended to be treated, and whether the applicant has sufficiently demonstrated that this is the most sustainable treatment option possible, and whether it is possible to deal with any of those materials higher up the waste hierarchy. For example, if the permit is sought for a facility that will treat mixed residual waste, the authority should consider whether all the potentially recyclable materials (including plastics, cardboard and paper) will be separated from the waste stream for recycling prior to the treatment of residual waste.

We recommend that the Environment Agency adopts a more formal advisory role in order that it can give applicants advice on the viability of their treatment choice.

We do not believe that permits should be granted in perpetuity – a review should be put in place via secondary legislation, e.g. all permits must be revised and reviewed within a maximum of 5 years of being granted or of the new legislation coming into force, and must then incorporate a review period of not more than every 5 years.

(e) How should the waste hierarchy be applied to waste treatment operations already authorised and in operation on the due date for transposition of 12 December 2010?

All permits should be reviewed with consideration given to the new requirements under the Waste Framework Directive.

Question 2: Are there specific waste streams where you believe that departing from the waste hierarchy would be justified by life-cycle thinking on the overall impacts of the generation and management of such wastes, in order to deliver the best overall environmental outcome?

- **Plastic:** The evidence shows that it is not generally beneficial to incinerate un-recycled plastic and it is better to landfill it. [2].
- **Bio-stabilised residue** from mechanical biological treatment (separation and composting) processes. The environmental advantages of landfilling MBT residues over using them as a fuel is supported by the detailed studies produced by Eunomia consultants [1].
 - The reason for this is that incinerating the residue releases fossil-fuel derived CO₂, from plastics and other materials, into the atmosphere. Research has also shown that it is better for the climate to landfill unrecyclable plastics rather than incinerate them, even with efficient energy recovery [2].
- **Anaerobic digestion** should be considered a form of recycling, and not ranked on the same level of the waste hierarchy as other 'energy from waste' technologies.

Question 3: Are there any further steps stakeholders and members of the public would like Defra/WAG to take to ensure that the development of waste legislation and policy, to apply the waste hierarchy as a priority order, is a fully transparent process?

DEFRA needs to be able to demonstrate, in a way that is readily examined by the public (i.e. not a complex model that can't be used by third parties like LAWRRD), how its targets are derived.

As part of this, DEFRA and WAG need to make clear how they have fulfilled the waste hierarchy in policy development, i.e. how it is decided what level of recycling is possible. At the current time, WAG can demonstrate that it commissioned research on achievable levels of recycling, whilst DEFRA's 50% target for 2020 comes with no such justification.

Article 8: Extended Producer Responsibility (paragraphs 2.34-2.42 above)

Question 4: Are there any specific waste streams which you consider should be the subject of a producer responsibility regime under Article 8? If so, please explain what the economic and environmental costs and benefits of such regimes would be.

Friends of the Earth believes that it would be beneficial to strengthen the existing WEEE and packaging regulations.

The existing packaging targets do not meet the waste hierarchy. The government should set progressively higher recycling targets as part of the packaging regulations, as this will force plastic packaging to be designed to be recyclable and will ensure more is recycled.

We are concerned that the current form of implementation of the Waste Electrical and Electronic Equipment (WEEE) Directive effectively prohibits any 'over-collection' of WEEE by compliance schemes (i.e. more than the minimum target of 4kg per household per year being collected), contravening the Directive's objective to promote re-use, recycling and other forms of recovery in order to reduce the quantity of waste discarded.

We support the introduction of a statutory requirement for 5-year minimum warranties for electrical and electronic equipment as a complementary measure to the EU Eco-Design for Energy Using Product Directive, to encourage waste prevention. A similar warranty requirement could be introduced for furniture.

We believe that there is considerable scope to extend producer responsibility. This approach has a number of important benefits, including:

- Providing a funding stream for the end of life of the product, a funding stream that comes from those who make money out of producing or selling the product in question.
- Such an approach can include specific requirements on the recyclability of products, their recycled content, or restrict the use of certain hazardous chemicals, for example.
- If properly designed, producer responsibility can provide a motivation to encourage producers to design their products to be more environmentally friendly (e.g. more durable, reusable, recyclable or compostable).

We would suggest that particularly good sectors to be addressed by the producer responsibility approach, from a waste management point of view, include:

- Complex, hard to recycle products – e.g. toys, furniture, construction materials (e.g. windows)
- Hazardous products – paint and other DIY materials, garden pesticides, pharmaceuticals, other household hazardous wastes.
- Products which are difficult to recycle because of the difficulty of separating the variety of materials used in similar products – e.g. textiles.

The current implementation of producer responsibility legislation has not resulted in significant action back higher up the supply chain and has not provided sufficient incentive for product design to take into account the end-of-life stage through designing for reuse or recycling. We believe that only individual producer responsibility (IPR) - as opposed to the collective responsibility approach taken – will facilitate the adoption of life-cycle thinking in manufacturing. We therefore urge the government to re-consider IPR as the principle guiding the implementation of existing producer responsibility schemes.

Article 11(1): Re-use And Preparing For Re-use Activities

Question 5: Are there any further measures you consider it would be appropriate for Defra/WAG to take under the terms of Article 11(1) to promote the re-use of products or preparing for re-use activities? Please give reasons to support your answer.

Friends of the Earth strongly believes that the UK can vastly increase reuse, and that this would be of great environmental and social benefit.

We support the submission from the Furniture Reuse Network, which includes, for example, ensuring that councils have effective bulky reuse collection services, and that the government should establish a market development strategy for reuse.

We would also suggest that there should be more focus on reuse in kerbside collection of recyclables, for example some councils already collect textiles for reuse.

Experience in Flanders (see below) shows the importance of a dense network of civic amenity sites in promoting reuse and also recycling. This is an area where many areas of the UK are very weak, with some London boroughs not even having one site. Such sites should be designed to maximise the number of waste streams collected for re-use (eg paint, wood, furniture, carpet), with provision of separate collection bins for all recyclable materials to encourage good separation.

In addition, it is important to promote reuse in business wastes. This includes promoting reuse of building materials such as bricks, rather than just recycling as aggregate.

Re-use in Flanders

The example of Flanders shows what can be achieved in terms of encouraging re-use. Since 1995 OVAM, the Flemish Public Waste Agency, has provided financial support to help set up a network of reuse shops in the Flemish region. There are now 100 re-use shops for the population of 6 million people. Discarded goods are donated free, and sorted, inspected, cleaned and repaired if necessary, before being resold at very cheap prices. Some shops have developed into department stores – with sections for furniture, EEE, toys, clothes, etc. The shops sell around 7.19 kg/inhabitant per year, and there is a target to collect 10 kg/inhabitant for re-use shops. We support the introduction of a similar target for the amount of waste collected for re-use.

Flanders also promotes reuse through its 337 civic amenity sites, which collect 50% of household waste. A wide range of waste streams are separately collected in those parks: construction and demolition waste, cooking oils, batteries and accumulators, polystyrene, WEEE, paper and cardboard, PE foils, metals, textiles, fluorescent tubes, light bulbs, wood, green waste, car tyres, bicycle tyres and non-recyclable combustible wastes. Asbestos, gypsum, bitumen and hazardous waste are collected separately for special treatment.

For more information see 'Sorting Residual Waste' briefing, http://www.foe.co.uk/resource/briefings/residual_waste.pdf and the write up from Friends of the Earth's recent conference 'Taking out the Rubbish' http://www.foe.co.uk/resource/reports_on_events/taking_out_the_rubbish.pdf

Article 11(1): Separate Collections Of Waste

Question 6: Do you agree with the proposed approach to implementing the requirements of Article 11(1) on separate collections? Please provide reasons for your answer including, if possible, the costs and benefits of your preferred approach.

We support the Campaign for Real Recycling in their response to this question, which is (in summary), that we are happy with the approach of WAG, we do not agree with DEFRA's proposed approach.

We support creating a presumption for source-separated collection, and where source-separated collection is not possible then it must be demonstrated that it is not "*technically, environmentally and economically practicable*". For example, any local authorities not currently offering separated kerbside collections would be required to demonstrate that, in their case, it is not 'technically, environmentally and economically practicable' to provide a separated kerbside collection and that the materials derived from their collections are 'appropriate to meet the necessary quality standards for the relevant recycling sectors'.

Recycling must be effective – the quality of recyclables affects demand, price and reliability and the lowest value markets will be the least stable. Also, bad stories about recyclables (eg going to landfill) damage public confidence in recycling.

Materials separated at the kerbside will be less contaminated than those sorted at a central material recycling facility (MRF) and will therefore require less treatment. Cleaner materials are more valuable to reprocessors and a higher proportion of these can be recycled.

Waste has important economic implications, particularly in a recession. It incurs a cost if it is mixed together, but has value if the different components are collected separately at the kerbside. Source-separated collection of recyclables (and food waste) to realise this value will maximise the amount of

recyclate that is processed in the UK, will create a large number of low skilled jobs, and is cost effective.

Source-separated systems have been found to not only significantly out-perform commingled collections on both material quality and diversion rate [3] but also cost less [4] - in some cases half as much as co-mingled/MRF-based services - and have a lower carbon impact. Commenting on their recent research, WRAP have recently stated that 'sorting recycling at the kerbside provides the best quality material and, when total costs are taken into account, is cheaper for council tax payers'[5]. WRAP's research also shows that, contrary to the popular belief that co-mingling is more successful in collecting recyclable materials, the most important factor determining the amount of recyclables captured from household is the size of the containers provided.

We suggest that Defra, in conjunction with local authorities, commercial and Third Sector collection contractors, should develop a number of tests used to ascertain whether co-mingled collections are indeed the 'most effective means of increasing recycling rates in the local circumstances' or whether separate collections can be implemented as soon as possible, and certainly before 2015.

For more information on recycling collection systems please see the briefing at www.foe.co.uk/resource/briefings/recycling_collections.pdf

Question 7: Do you consider that:-

There are any measures that are technically, environmentally and economically practicable and appropriate to take in England and Wales, on the separate collection of household, commercial or industrial waste to meet the necessary quality standards for the relevant recycling sectors? Please give reasons for your answer; and

We support the Campaign for Real Recycling in their response to this question, which is (in summary), that only source-separated collection methods will achieve the necessary quality standards for all domestic materials.

(b) If yes, which measures do you think should be introduced to achieve this?

We support the Campaign for Real Recycling in their response to this question, which is (in summary), that DEFRA should set a clear policy position in favour of kerbside sorted collections and should look to set mandatory quality standards for most domestic materials at a future date. This might start by prohibiting glass cullet from being used as roadfill, as is the case in the rest of the EU except Ireland.

Question 8: Do you consider that:-

(a) It will be technically, environmentally and economically practicable to set up by 2015, in England and Wales, separate collection for paper, metal, plastic and glass which is classified as household, commercial or industrial waste: Please give reasons for your answer; and

Yes, it is clear this is that technically, environmentally and economically practicable, as is demonstrated by best practice in other EU countries and certain parts of the UK, and by many producers of commercial and industrial waste.

We support the Campaign for Real Recycling in their response to this question.

(b) If yes, which measures do you think should be introduced to achieve this?

We are still sending huge amounts of material for disposal that could be better recycled or composted. Friends of the Earth want to see recycling targets set for commercial and industrial (C&I) waste in order to help ensure that the materials diverted are moving up the hierarchy as far as possible rather than just being diverted from landfill to waste incineration (and speedy collection of up to date data).

To ensure that MSW and C&I waste is diverted from landfill to recycling and not incineration, we would like a ban on the landfill and incineration of recyclable materials to be introduced.

Friends of the Earth research shows that the UK is throwing away over £650 million every year by dumping and incinerating waste which, if recycled, could save 19 million tonnes of greenhouse gases annually - equivalent to taking around six million cars off the roads [6].

Article 11(2)(a): Household Waste Recycling Target

Question 9: Do you agree with the proposed approach to implementing the recycling target for household and similar waste required by Article 11(2)(a)? Please provide reasons for your answer including, if possible, the benefits or otherwise of your preferred approach.

DEFRA has committed itself to evidence-based decision making, and is now legally committed to the waste hierarchy. We are therefore disappointed that DEFRA's target for household waste recycling has not been decided according to a consideration of relevant evidence on what is consistent with the waste hierarchy and is instead an arbitrary figure.

It is important to note that the 50% target in the WFD is not intended as a maximum but a minimum – the increasing threat of climate change and the increased demand for the world's resources demonstrates why exceeding this target is very desirable.

In 2007/08, 19 councils were already recycling at least 50% and a further 32 councils were recycling over 45%. This indicates that for the UK, the 50% target in the WFD is not ambitious enough.

We should match the achievements of Flanders, and the ambition of Scotland and Wales, by setting a 70% MSW recycling target for England by 2015, and 80% target by 2020.

Friends of the Earth's recent Gone to Waste report shows the economic and environmental value of the resources that we currently waste through landfill and incineration [6].

The 2014 review of the Waste Framework Directive will include a Commission assessment of the efficacy of WFD recycling targets. It is very likely that it will result in the establishment of higher recycling targets.

Therefore we would welcome comprehensive research to establish which proportions of waste generated from households and other sources can be potentially prevented, reused, recycled or from which energy can be recovered in accordance with the waste hierarchy. This information should be used to set realistic and fact-based recycling targets.

Furthermore, this research will provide greater clarity and certainty required by local authorities and waste infrastructure providers in planning and investing in a national waste management infrastructure that provides the requisite capacity for wastes to be treated in accordance with the waste hierarchy.

Question 10 (England only): Given the LAWRRD model scenarios above, do you agree with the Government's preferred —no further measures approach? Please give reasons for your answer.

No – see answers to questions 3 and 9. The LAWRRD model is not driven by the waste hierarchy, as far as we are aware.

Question 11 (England only): If you think the Government should look to introduce additional measures to ensure that the recycling target of 50% for household and similar wastes is reached by 2020, do you have views about what these additional measures should be? If so, please specify and give reasons for your answer.

Here are some policy ideas in order to maximise recycling, in accordance with the waste hierarchy:

- The work done by WRAP should be supported and expanded, developing markets for recycling and helping build an effective UK reprocessing industry.
- The landfilling or incineration of recyclables and compostables should be banned, whether they come from companies or households. This has worked in Flanders, diverting waste from landfill to recycling.

- The Government should encourage all local councils to collect food waste separately, and incentivise a major expansion of anaerobic digestion, producing 100% renewable energy from this waste.
- The tax system should be used to ensure that recycling is cheaper than incineration and landfill – in addition to the current landfill tax, there should be an incineration tax (as used in Flanders).
- The Government should prevent councils from signing long contracts (e.g. >10 years), as these tie future council tax payers into costs, long after existing councillors have retired or gone elsewhere.
- The Government should encourage mechanical biological treatment (MBT). MBT plants should be designed to maximise removal of recyclable materials remaining in the waste stream, including metals, mixed plastics, paper, glass, card and textiles, by combining a number of screening and sorting techniques, along with a composting process to minimise the biological activity of the remainder, so that it can be landfilled if there are no markets for low grade compost.

Question 12 (England only): Do you have views about targeting any additional measures on specific materials? If so, please specify which materials you consider are high priority and give reasons for your answer.

To be of benefit to the environment, glass should be separated by colour as it is collected. This means it can be re-melted into new containers. Mixed or crushed glass, such as that separated in MRFs, is of no use for re-melting and is usually sold much cheaper for use as aggregate. There is a big environmental benefit to recycling glass - each tonne of glass re-melted in the UK saves 314kg CO₂. Unfortunately there is no environmental benefit from using glass to make aggregate as it creates 2kg of CO₂ per tonne of glass collected.

Question 13 (Wales only): Do you think that Wales' approach will meet the requirements of Article 11(2)(a) of the revised WFD? Please give reasons for your answer.

The WAG approach should exceed the recycling target, though Friends of the Earth Cymru, in their WAG consultation response, have argued that this target could be higher; in addition we are firmly of the view that the recycling target should not include the recycling of incineration ash.

In addition, WAG should also keep their strategies in review as improvements to recycling techniques – and recyclability – in the future lead to higher achievable rates.

Article 11(2)(b) : Recovery Target For Non-Hazardous Construction And Demolition Waste (paragraphs 2.92-2.102 above)

Question 14: Do you agree with our assessment of the extent to which we are already meeting this construction and demolition waste recovery target in England and Wales?

We believe that we should be aiming to exceed the construction and demolition waste recovery target in England and Wales.

Question 15: Do you believe that any additional policy or legislative measures are necessary for us to guarantee that we are meeting this target in England and Wales?

We believe that the government should adopt a more ambitious target based on research into the quantities of recyclable material available from different waste sources, including household, commercial and industrial waste.

Article 16: Principles Of Self-Sufficiency And Proximity (paragraphs 2.103-2.115 above)

Question 16: Do you agree that the UK is currently self-sufficient in installations for the recovery of mixed municipal waste from private households etc? If not, please (i)

explain your reasons and (ii) the steps you consider need to be taken by the UK to achieve self-sufficiency in relation to such installations.

Friends of the Earth agree that the UK is currently self-sufficient for dealing with mixed municipal waste – in fact we are concerned that we are at risk of having too much capacity for municipal residual waste.

We are already receiving reports of English regions where recently constructed incinerators are preventing improvements in reuse and recycling, for example:

- We are hearing (from an authoritative source under Chatham House rules, amongst others) that councils in Hampshire are being discouraged from setting separate collection of food waste, in order to ensure that the recently-built incinerators have sufficient waste, and that the waste is of an appropriate calorific value.
- We have also heard that the new incinerator at Allington in Kent is low on waste, which has prevented the expansion of furniture reuse in the county.

DEFRA were already forecasting – at the start of 2009 - 715,000 t.p.a. overcapacity for landfill diversion facilities nationally by 2020[7]. Many councils have noticed considerable reductions in waste arisings since this analysis was done. If England does develop significantly more municipal waste treatment capacity than it needs to meet landfill diversion targets for 2020, this will lead to restrictions on increasing recycling and reducing waste in the future.

This problem is likely to be exacerbated by lower than predicted future waste growth, as many long-term PFI contracts are based around unrealistic assumptions in waste growth.

The Audit Commission's "Well Disposed" study states in paragraph 159:

"If WDAs overestimate the amount of waste they will need to process, both the overall cost and the cost per tonne of waste processed are likely to be higher than they would have been had estimates proved accurate...WDAs should base their estimates of future waste flows on good evidence, and be cautious about purchasing surplus capacity without firm agreements for its use."

Articles 17-20: Hazardous Waste (paragraphs 2.116-2.121 above)

- Friends of the Earth is not responding to these questions at this point.

Question 17: Do you consider that the following changes will have an impact on the way in which hazardous waste is managed? Please give reasons for your answer and, if yes, set out the implications that you consider the changes will have:-

(a) The addition of a new property: —H13 (*) 'Sensitizing': substances and preparations which, if they are inhaled or ingested or if they penetrate the skin, may induce non-hereditary congenital malformations or increase their incidence;

(b) Existing property H13 has been re-numbered to H15. This means that this property —H15: Waste capable by any means, after disposal, of yielding another substance, e.g. a leachate, which possesses any of the characteristics above now also applies to —H14 'Ecotoxic'. In other words, H14 (ecotoxicity) now has to be considered as a criterion for H15; and

(c) Article 18(2) which allows mixing only where the permitted mixing operation conforms to best available techniques.

Article 21: Waste Oils (paragraphs 2.122-2.124 above)

Question 18: Do you agree with the proposed approach to rely on the measures adopted to transpose and implement the waste hierarchy (and related measures) and not to prescribe under Article 21(3) that waste oils must be regenerated if technically feasible? If not, please provide reasons for your answer and, if possible, explain the economic and environmental costs and benefits of your preferred approach.

- Friends of the Earth is not responding to this question at this point.

Article 22: Bio-waste (paragraphs 2.125-2.132 above)

Question 19: Do you agree that sufficient measures are already being taken in England and Wales to encourage bio-waste treatment etc as envisaged in Article 22? If not, please (i) explain your reasons and (ii) the measures you consider need to be taken in England and Wales to encourage bio-waste treatment etc as envisaged in Article 22?

Friends of the Earth does not agree that sufficient measures are being taken. For example, most local authorities are not separately collecting food waste from households, even though studies have shown that it is cost effective [8]. Even fewer local authorities offer separate collections of food waste to schools and businesses.

We would suggest the following measures:

- The landfilling or incineration of recyclables and compostables should be banned, whether they come from companies or households. This has worked in Flanders, diverting waste from landfill to recycling.
- There should be a requirement for waste producers to source separate bio-waste for recycling, composting or anaerobic digestion.
- There should be a presumption for the “separate collection of bio-waste with a view to the composting and digestion of bio-waste”. If this material is not separately collected, then it must be demonstrated why it was not possible for this to happen.
- The expansion of the landfill tax regime to cover incineration would ensure that material is not just diverted from landfill to incineration (with or without energy recovery).
- The third sector should be supported to develop solutions for food waste collections from households and businesses in areas where larger waste management contractors are still finding this an unattractive business proposal.

Article 28: Waste Management Plans (paragraphs 2.133-2.138 above)

Question 20: What revisions do you consider Defra/WAG should make to the existing arrangements for waste management plans (see paragraph 2.134 above) to transpose the requirements of Articles 28(1), (2) and (3)(a)-(e) of the revised WFD? Please give reasons for your answer.

A way to transpose the requirements of Articles 28(1), (2) and (3)(a)-(e) of the revised WFD is for the waste management priority order enshrined in the waste hierarchy to be incorporated in paragraph 7 of PPS10, which lists the principles to be considered by regional planning bodies in identifying the pattern of waste management facilities.

Of particular concern should be how to fulfil the requirements of Article 28(2) which states that the waste management plan must set out an analysis of the current waste management situation in the relevant geographical area, as well as measures to be taken to improve environmentally sound preparing for re-use, recycling, recovery and disposal of waste and an evaluation of how the plan will support the implementation of the objectives and provisions of the revised WFD.

To this aim, we strongly advocate the commissioning of a national waste composition analysis study for the household, commercial and industrial waste sectors which together account for over 30% of the waste produced in England. This data is urgently required to build a picture of the portions of waste available for preparing for re-use, recycling and recovery of waste and to guide the planning and investment in facilities which provide for these management options higher up the waste hierarchy. This strategic approach will ensure that the pattern of waste management facilities does not constrain movement up the waste hierarchy as set out in paragraph 12 of the PPS10 [9].

This should be accompanied by a national mapping exercise of existing and planned waste management installations by treatment type and capacity to facilitate a strategic national approach to infrastructure development.

These studies, broken down to regional and local level, would address the discretionary requirement set out in Article 28 (3) (a - c).

Question 21: Which, if any, of the discretionary issues set out in Articles 28(4)(a)-(d) of the revised WFD do you consider Defra/WAG should address in the arrangements for waste management plans adopted in response to Question 20? Please give reasons for your answer.

We would support the addition of these elements, as this will help facilitate public participation in the waste strategy, and help ensure a more holistic approach.

Article 29: Waste Prevention Programmes (paragraphs 2.139-2.145 above)

Question 22: What are your views on the merits of either (i) freestanding national waste prevention programmes in England and Wales or (ii) a more dispersed approach which would involve introducing a requirement for local authorities to draw up their own waste prevention programmes? Please give reasons for your answer.

A national waste prevention plant (WPP) will demonstrate leadership, set out national policy on waste prevention and ensure coherence of local (or regional) action. The local (or regional) WPPs would then translate the national approach into specific on-the-ground action.

We would strongly advocate that this work is coordinated by a specialist unit with Defra or a specialist body such as WRAP who has the relevant expertise in bringing together stakeholders across the public, business and Third sectors, as waste prevention requires action earlier on in the lifecycle and therefore falls into the areas of resource and product policy and producer responsibility.

Question 23: What are your views on the integration of waste prevention programmes into the waste management plans required by Article 28 of the revised WFD, their integration into other environmental policy programmes or their functioning as separate programmes?

Waste prevention moves away from the realm of waste management into that of resource management, product and producer responsibility policy. This requires a different set of expertise than end-of-life management, such as an understanding of lifecycle analysis and resource flows, and would best be placed with a body already coordinating action in these policy areas.

Question 24: Member States must evaluate the usefulness of – but not necessarily adopt - the 16 examples of waste prevention measures in Annex IV to the revised WFD. Do you have views on the usefulness of any of these examples as waste prevention measures? If so, please specify the measures and give reasons for your answer.

The 16 examples demonstrate why waste prevention is not so much related to waste management, but rather moves into the realm of resource management, product policy and producer responsibility. All 16 types of measures are important. We would also suggest that the UK should act as a champion of improved product policy legislation at EU level in order to assist with the achievement of waste prevention.

Friends of the Earth is also calling on the Government to set a national waste prevention target - to reduce municipal waste by at least 1.5 per cent per year.

Developing the appropriate infrastructure is an important factor. Whatever the Government is proposing to encourage waste prevention, it is critical that an over-supply of waste capacity is not created, which would create a demand for residual waste and dis-incentivise future waste prevention actions.

For example, household waste appears to be in short supply in Yorkshire and the Midlands, and operators are seeking waste from further and further afield to justify existing and proposed incinerators. In Sheffield, Veolia have asked the Council to vary the planning condition so as to allow Veolia to burn household waste from Barnsley, Doncaster and Rotherham (BDR). At the same time the BDR Waste Partnership have been seeking Waste PFI funding that would help pay towards their

own incinerator plans. The same household waste from the BDR Partnership area also falls within the 100 mile radius requested by WRG in relation to their proposed Hull incinerator, and also to WRG's expanded Eastcroft incinerator in Nottingham. The BDR waste could also find its way to one of the Derby / Derbyshire facilities, and the Doncaster Energy from Waste (DEW) Project is after the exact same BDR waste, funded outside of the PFI.

Another example of this problem is the situation in Hampshire. A condition of the planning consent for three incinerators at Marchwood, Chineham, near Basingstoke and Portsmouth was that they could only take local waste. However, Veolia have requested to change the original planning conditions in order to import waste from other counties to its incinerator in Marchwood, as well as commercial waste [10].

Initial Impact Assessment (paragraph 2.146 above)

Question 25: Do you consider that the costs and benefits of the transposition and implementation of the provisions of the revised WFD that are the subject to the Stage One consultation exercise have been accurately assessed in the initial Impact Assessment at Annex 3 (page 71) to the consultation paper? If not, please provide whatever evidence you can to enable a more accurate assessment to be made in the Impact Assessment that will form part of the Stage Two consultation exercise.

The impact assessment is rather cursory, and seems to suggest that the main government approach will be 'no policy change'.

In reality, effective implementation of the WFD could have considerable benefits, including:

- The Resource Efficiency benefits of implementing the waste hierarchy. Unfortunately UK (and EU) impact assessment doesn't yet consider resource efficiency, despite growing pressure on the world's resources. Friends of the Earth Europe have proposed a methodology for performing such an assessment [11].
- A real application of the waste hierarchy will have climate benefits.
- Effective waste prevention plans will save money by reducing the waste that needs to be dealt with.
- Increased reuse will have social and employment benefits.

Endnotes

- 1 Eunomia Research and Consulting, *A changing climate for energy from waste?* (2006) http://www.foe.co.uk/resource/reports/changing_climate.pdf
- 2 Ola Eriksson and Goran Finnveden *Plastic waste as a fuel - CO2-neutral or not?*, Energy & Environmental Science, 2009, 2, 907–914
- 3 Campaign for Real Recycling, press release "Commingling myth debunked" 13/08/2007, www.realrecycling.org.uk/news/news6.php
- 4 WRAP research comparing costs of collection systems, 2008 www.wrap.org.uk/wrap_corporate/news/wrap_reveals_results.html
- 5 WRAP press release, 09 June 2009, 'Kerbside or Co-mingled collections: Quality should come first' <http://press.wrap.org.uk/article/28122/>, see also WRAP's leaflet 'Choosing the right recycling collection system' www.wrap.org.uk/downloads/Choosing_the_right_recycling_collection_system.e484c98f.7179.pdf
- 6 "Gone to waste: the valuable resources that European countries bury and burn", October 2009": http://www.foe.co.uk/resource/reports/gone_to_waste.pdf

- 7 Waste Strategy Board meeting minutes, January 2009
<http://www.defra.gov.uk/environment/waste/strategy/documents/wsb-090122.pdf>
- 8 Eunomia, 2007, "*Dealing with food waste in the UK*", Dr Dominic Hogg et al,
<http://www.wrap.org.uk/document.rm?id=3603>
- 9 Planning Policy Statement 10 – Planning for sustainable waste management, ODPM, July 2005
- 10 http://www.dailyecho.co.uk/news/4676739.Villagers_anger_at_incinerator_plans/
- 11 "*How to measure Europe's resource use. An analysis for Friends of the Earth Europe*", SERI (for Friends of the Earth Europe), July 2009:
http://www.foeeurope.org/publications/2009/seri_foee_measuring_eu_resource_use_final.pdf