



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

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## FEAD Comments on Ökopol's second interim report and the LOW Workshop of 3rd of June on the review of the European List of Waste (LoW)

FEAD is pleased to submit to your attention some additional remarks, positions and suggestions, based on former FEAD reactions (ref. two other documents), on the information and exchanges provided during the LoW Workshop in June, and internal meetings between FEAD members.

FEAD wants to focus on the general structure of the LoW, as well as on the characterization of waste as hazardous.

### I. Structure of the LoW

#### Upgrading instead of basic change

FEAD welcomes an upgrading of the list, but is opposed to a fundamental change of the structure of the existing list. The following arguments have been considered in the development of such a position:

- a) As professional federation of waste management companies, our members did not encounter major problems in applying and using the LoW for years.
- b) Our members have made significant investments to integrate this list at several levels of their administration, accountancy, stock keeping, reporting, certification, ...
- c) Our members have often developed as a service help desks for their clients to define the right codes for their waste, this way contributing to a harmonized use of the list.
- d) Competent national/regional administrations have also integrated the list at several levels, as permits, controls, record keeping, statistics, ...
- e) Art. 7.1 of the new WFD refers to the structure of the list in such terms:  
***The list of waste shall include hazardous waste and shall take into account the origin and composition of the waste***
- f) Art. 7.7 of the new WFD requests explicitly attention for the SME's in adapting the list:  
***7. The Commission shall ensure that the list of wastes and any review of this list adhere as appropriate to principles of clarity, comprehensibility and accessibility for users, particularly SMEs.***

If the Commission opts for a fundamental change of the LOW, going from a 6 digits code to a 4 digits code, without taking the origin (activity) of the waste into account anymore, FEAD would strongly ask to develop a system that allows an electronic transfer (via a well defined cross reference list) of the old databases to the new one. Otherwise, even if sufficient transition time is foreseen, it will create huge problems of management of all the existing databases on company and administrations level.

#### National modifications

In the second interim report, the fact that some countries have adopted own codes is presented as a negative point against the objective of harmonization of a European list of waste. FEAD means that this negative perception is relative, considering the following:

APOH, Slovakia  
ARS, Romania  
AVFALL NORGE, Norway  
AVFALL SVERIGE, Sweden  
BDE, Germany

CAOH, Czech Republic  
ESA, UK  
EWMA, Estonia  
FEBEM-FEGE, Belgium  
FISE, Italy

FLEA, Luxembourg  
FNADE, France  
IWMA, Ireland  
JLY, Finland  
KSZGYSZ, Hungary

PASEPPE, Greece  
PIGO, Poland  
VA, Netherlands  
VÖEB, Austria

- a) As mentioned in the WFD, only the list of hazardous waste is binding for the member states. That means that the commission, from the beginning, has allowed changes at national level of the list of (non-hazardous) waste
- b) The study mentions only national adaptations for 5 countries, which is clearly a minority of countries
- c) The changes on the list at national level have no influence at all on waste management issues in that given country
- d) The (minor) discrepancies between national lists do not really cause problems in the field of international shipments of waste where the codes of the Basel Convention can be used by both involved countries (and by even more countries in case of transit).
- e) FEAD is of the opinion that problems arise more from a misuse of the list and the difficulties to determine in a harmonized way the right code, than from discrepancies between some national lists and the reference list (see also remarks at the end of the next issue).

### **Adding entries in the list**

On the issue of the entries in the list, FEAD would like to re-introduce its earlier requests:

- ❖ '98 ...' codes should be introduced as mirror entries for all '... 99' codes
- ❖ A code for 'aerosols' should be re-introduced. In the 2000 version of the Commission's Decision (2000/532/EC), aerosols were classified as '20 01 22' but did not appear in the current version as amended in 2001. It should appear with a '20 ...' code and should have the double entry hazardous/non-hazardous
- ❖ Chapter '20 ...' should be split into two separate chapters: '20 ...' for municipal waste and '21 ...' for similar commercial, industrial and institutional waste. This would avoid the misuse of '20 ...' codes for permitting and also be beneficial for statistical purposes. On this issue, FEAD considers that the UK proposal to add specific codes in each category is not convenient for the users, particularly SMEs. Concentration of all these codes in one single chapter is much more user-friendly. The Estonian proposal to put these codes into category 19 is, for FEAD, not the right place: not all these quantities and types of waste are destined for interim operations. Significant quantities are directly delivered to final treatment installations.

FEAD has also an additional point for consideration: the field covered by subcategory 19 03 is not clear and the foot note is quite confusing:

- ❖ If this subcategory covers only hazardous waste (as it can be understood from the foot note), we suggest the following rewording of the subcategory: 'stabilized or solidified hazardous waste'. Code 19 03 07 has to be deleted, considering solidification changes only the physical properties, and not the hazardous characteristics of a waste. The question remains if it is necessary to create a new subcategory "solidification of non hazardous waste"
- ❖ If this subcategory covers both hazardous and non hazardous waste, the title would be best changed as follows: stabilized (19 03 04) or solidified waste (19 03 05) with two foot notes defining separately the terms stabilized (process exclusively applied on hazardous waste) and solidified (process exclusively applied to non-hazardous waste).

The second report stresses the missing logic in the requests of some countries and stakeholders to add (mostly) or delete (sometimes) entries. The consequence of accepting all suggestions to add codes would result in an even more complex list than the existing one, complicating its use even more.

FEAD reckons it is the role of the Commission to analyze these requests, which can often result from

- ❖ A lack of knowledge of the list and its usage
- ❖ A lack of clarity of the wording in the present list

The report mentions also the complexity of the present list as well as the occurring misuse.

FEAD is of the opinion that the Commission first has first to do best efforts to upgrade the implementation and use of the existing list before considering drastic changes. As far as we know, the commission did not

check if modifications performed at national level were of European interest and to make them available (binding) for all the member states

It is also part of the role of the Commission to be proactive in updating the list, suggesting changes required after the modification/publication of existing/new legislation (as for example for the WEEE directive requires more entries than initially foreseen, for statistical and reporting needs).

As several countries have produced guidance documents, it could be very helpful if the Commission itself would produce a European guidance document.

## **II. Hazardous characterization of waste**

As the directive on preparations and substances (76/464/EEC) will be repealed shortly after the GHS directive comes into force, it is necessary to adapt the list to this new piece of legislation. Considering the systematic reference to the chemical properties in GHS, FEAD believes devoutly that a suitable approach of the waste activities needs also an integration of the ecotoxicology of waste in the classification of wastes. FEAD is therefore strongly in favour of the use of the criterion H14 in combination with the GHS criteria.

Even if the industry in general is quite skeptic towards ecotoxicology, given the complexity, time consumption and high costs of such an approach, FEAD would like to argue in favour of this approach, in function of the actual situation on this field:

- ❖ Several useable and economically acceptable methods determining the ecological toxicity are already available and performing.
- ❖ A ring test procedure is carried out at European level (CEN) and the final report is nearly finished
- ❖ There is (or will be in short term) sufficient analytical capacity to assess ecotoxicology. The recent implementation of the REACH Regulation will certainly play a positive role in the development of existing laboratories and the emergence of new ones.

In this context, FEAD is in favour of applying the Scenario 2 as proposed in Ökopol's second interim report, with some modifications as described in the scheme in the annex of this document.

This decision tree will contribute to a trusty and easy classification of hazardous waste. In the last decision node waste can still be classified hazardous even though not one of the hazardous criteria H1 to H15 is separately applicable. To consider waste as hazardous, only formal argumentation, taking into account aspects like additivity and variability in waste composition (in general, applying the precautionary principle) is required.

On the next page, please find the decision tree as proposed by the FEAD members.

**We hope these remarks and suggestions will be helpful in your final process, and remain at your disposal for a meeting with your team in order to provide you with additional explanations.**

