

**Federal Ministry for the Environment,
Nature Conservation and Nuclear Safety**

**Ordinance on the Management of Municipal Wastes
of Commercial Origin and Certain Construction and Demolition Wastes
(Commercial Wastes Ordinance – CWO)***

Dated 19 June 2002

Having regard to

- Section 7 paragraph 1 numbers 2 and 3, Section 7 paragraph 3 sentence 1 numbers 1 and 2 and Section 12 paragraph 1 of the Closed Substance Cycle and Waste Management Act of 27 September 1994 (Federal Law Gazette I page 2705), having heard the views of the parties concerned, and
 - Section 7 paragraph 1 number 4 in conjunction with Section 59 of the Closed Substance Cycle and Waste Management Act, having heard the views of the parties concerned and while preserving the rights of the German Federal Parliament (*Deutscher Bundestag*)
- the German Federal Government decrees:

Section 1 Scope

- (1) This ordinance applies to the recovery and the disposal
1. of municipal wastes of commercial origin,
 2. of the wastes listed in Section 8 (construction and demolition wastes) and
 3. of other wastes listed in the Annex.
- (2) This ordinance applies to
1. producers and holders of municipal wastes of commercial origin, of construction and demolition wastes and of other wastes, which are listed in the Annex, and to

* The obligations arising from Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and rules relating to the services of the information society (OJ EC L 204 p. 37), most recently amended by Directive 98/48/EC of the European Parliament and of the Council of 22 July 1999 (OJ EC L 217 p. 18) have been met.

2. operators of pre-treatment facilities in which mixed municipal wastes of commercial origin, construction and demolition wastes as listed in Section 8 paragraph 4 sentence 1 number 1 or other wastes listed in the Annex undergo pre-treatment.

(3) This ordinance only applies to wastes which are subject to an ordinance drafted under Sections 23 and 24 of the Closed Substance Cycle and Waste Management Act insofar as the holders of such wastes do not return the wastes in accordance with the provisions under the respective ordinance drafted on the grounds of Sections 23 and 24 of the Closed Substance Cycle and Waste Management Act.

(4) This ordinance does not apply to wastes which have been made available to public-law parties responsible for waste management according to the obligation to make wastes available pursuant to Section 13 paragraph 1 of the Closed Substance Cycle and Waste Management Act.

Section 2 Definitions

For the purposes of this ordinance

1. municipal wastes of commercial origin shall mean
municipal wastes from areas other than private households, which are listed in Chapter 20 of the Annex to the Ordinance on the European List of Wastes of 10 December 2001 (Federal Law Gazette I page 3379), in particular
 - a) commercial and industrial wastes which are similar to household wastes on the grounds of their nature or composition, and
 - b) wastes from private and public institutions with the exception of wastes listed in number 2;
2. wastes from private households shall mean
wastes which are produced in private households in the course of private living, in particular in dwellings and pieces of land or parts of buildings, which form part of it, as well as in other comparable places of production such as homes or assisted living facilities;

3. a pre-treatment facility shall mean a facility, including the installation of a waste management facility that is separate in terms of the processing techniques, in which mixed municipal wastes of commercial origin, mixed construction and demolition wastes as listed in Section 8 paragraph 4 sentence 1 number 1 or of other wastes listed in the Annex undergo pre-treatment prior to further substance or energy recovery, in particular by sorting, crushing, compacting or pelletizing.

Section 3 Separation of fractions of municipal wastes of commercial origin

(1) In order to ensure proper, safe and highest possible quality recovery of municipal wastes of commercial origin, producers and holders of these wastes must hold, store, collect, transport and consign to recovery the following waste fractions separately:

1. paper and cardboard (waste code 20 01 01 according to the Ordinance on the European List of Wastes),
2. glass (waste code 20 01 02),
3. plastics (waste code 20 01 39),
4. metals (waste code 20 01 40), and
5. biodegradable kitchen and canteen waste (waste code 20 01 08), biodegradable garden and park waste (waste code 20 02 01) and waste from markets (waste code 20 03 02).

The producers and holders can further separate the mentioned waste fractions.

(2) In derogation of the requirements laid down in paragraph 1 sentence 1 combined collection of the waste fractions mentioned under the numbers 1 to 4 is possible insofar as

1. they are consigned to a pre-treatment facility in accordance with Section 4 and
2. it will be guaranteed that they are re-sorted in the pre-treatment facility into largely the same quantity and substance purity and consigned to a substance or energy recovery operation.

Combined collection is also possible of the waste fractions listed in paragraph 1 sentence 1 numbers 1 to 4 and the wastes listed in Section 4 paragraph 1. In the individual case the producers and holders must demonstrate compliance with the requirements laid down in sentence 1 to the competent authority upon request.

(3) The requirements laid down in paragraph 1 sentence 1 and paragraph 2 sentence 1 do not apply, as far as it is not technically possible or economically reasonable to separate or subsequently re-sort into the same substance purity the waste fractions under consideration of the particular circumstances of the individual case, in particular because of their small quantity or high impurity. In the individual case the producers and holders must demonstrate to the competent authority upon request the circumstances why the recovery operation is not technically possible or economically reasonable.

(4) The competent authority is authorized to allow in the individual case further exceptions from paragraph 1 insofar as despite their combined collection the waste fractions listed therein are consigned to a recovery that is of the same high quality as the separation according to paragraph 1 or the subsequent re-sorting according to paragraph 2. In this respect the energy yield and the climate impact of the treatment procedure may also be taken into account. Furthermore, the competent authority is authorized to allow further exceptions from paragraph 1 if collectively collected wastes are consigned to facilities in which new operations, substances, fuels or products are developed or tested exclusively or predominately (pilot facilities) for a period of not more than three years. The testing of pre-treatment may be extended upon request for up to one year.

(5) As far as the requirements laid down in paragraph 1 sentence 1 and paragraph 2 sentence 1 do not apply, the producers and holders must consign the waste fractions that are not separated

1. to a pre-treatment facility according to Section 4 or
2. to an energy recovery according to Section 6.

(6) The requirements laid down in paragraph 5 do not apply, as far as it is not technically possible or economically reasonable to pre-treat or energetically recover the wastes under consideration of the particular circumstances of the individual case. Paragraph 3 sentence 2 shall apply *mutatis mutandis*. Insofar as it is not possible to recover the wastes, the waste producers and holders must hold them separate from other wastes and make them available to the competent public-law parties responsible for waste management according to Section 7.

(7) As far as it is not economically reasonable for producers and holders to recover their municipal wastes of commercial origin due to the small quantity, they may combine them with the wastes from private households produced by themselves and make them available to the public-law parties responsible for waste management.

(8) As far as the municipal wastes of commercial origin are deemed to be wastes that within the meaning of the Ordinance on the European List of Wastes require particular supervision, these must be held, stored, collected, transported and consigned to proper recovery or disposal separately.

Section 4 Separation of mixed municipal wastes of commercial origin prior to pre-treatment

(1) The producers and holders of mixed municipal wastes of commercial origin must not include any other than the following wastes to a mixture of municipal wastes of commercial origin destined for pre-treatment:

1. the following municipal wastes of commercial origin
 - a) paper and cardboard,
 - b) glass,
 - c) clothes,
 - d) textiles,
 - e) wood other than wood containing dangerous substances,
 - f) plastics,
 - g) metals,
 - h) rubber,
 - i) cork,
 - j) ceramics or
2. other wastes listed in the Annex.

The producers and holders of mixed municipal wastes of commercial origin must see to it, in particular by organisational measures to minimize false hits, that wastes other than those listed in sentence 1 are not fed into the waste mixture.

(2) The producers and holders of mixed municipal wastes of commercial origin pursuant to paragraph 1 sentence 1 may only consign these wastes to a pre-treatment facility that complies with the requirements laid down in Section 5.

Section 5 Requirements for pre-treatment facilities

(1) The operator of a pre-treatment facility must provide for appropriate measures to ensure that the mixtures according to Section 4 paragraph 1 and according to Section 8 paragraph 4 are not combined with other wastes in his facility. The operator may combine the mixtures according to Section 4 paragraph 1 and according to Section 8 paragraph 4 in his facility. The operator must operate his facility in compliance with all legal provisions, in particular with the relevant safety at work provisions in such a way as to achieve an average recovery quota of at least 85 mass percent over the calendar year for mixtures according to Section 4 paragraph 1 and according to Section 8 paragraph 4. The recovery quota must be calculated

1. by dividing
 - a) the mass of wastes coming from the pre-treatment facility and being consigned to recovery, minus the mass of wastes coming from the pre-treatment facility and being consigned
 - aa) to recovery on landfills and
 - bb) to the same facility for repeated pre-treatment,
 by
 - b) the mass of wastes coming from the pre-treatment facility being and consigned to recovery, plus the mass of wastes coming from the pre-treatment facility and being consigned to disposal,
2. multiplied by 100.

Section 3 paragraph 2 remains unaffected.

(2) The operator of a pre-treatment facilities must sort out wastes that are deemed to be wastes within the meaning of the Ordinance on the European List of Wastes require particular supervision and consign them to a proper recovery or disposal.

(3) Section 6 shall apply *mutatis mutandis* to the operators of pre-treatment facilities that consign wastes from their facilities to energy recovery.

(4) The operator of a pre-treatment facility must determine the recovery quota on a monthly basis. As soon as the monthly recovery quota amounts to more than ten percentage points below the recovery quota according to paragraph 1 sentence 3 in two months of the current

calendar year, the operator must notify this the competent authority without delay and inform it about the reasons for falling below this quota. The operator must demonstrate the necessary measures to keep the annual recovery quota, the necessary steps for implementation and the required time.

(5) In derogation of paragraph 1 sentence 3 the facilities which have been erected prior to 1 January 2002 must achieve an average recovery quota of at least 65 mass percent over the calendar year until 31 December 2003 and an average recovery quota of at least 75 mass percent over the calendar year until 31 December 2004.

Section 6 Separation of mixed municipal wastes of commercial origin that is recovered

The producers and holders of municipal wastes of commercial origin may only consign these wastes as a mixture to an energy recovery operation without first pre-treating them if this mixture does not include any of the following wastes:

1. glass,
2. metals,
3. mineral wastes and
4. biodegradable kitchen and canteen waste, biodegradable garden and park waste, and waste from markets.

The producers and holders must see to it, in particular by organisational measures to minimize false hits, that the wastes listed in sentence 1 are not contained in the wastes mixture.

Section 7 Separation of municipal wastes of commercial origin that is not recovered

Producers and holders of municipal wastes of commercial origin that is not recovered must make them available to the competent public-law party responsible for wastes management in accordance with Section 13 paragraph 1 sentence 2 of the Closed Substance Cycle and Waste Management Act. Section 3 paragraph 7 remains unaffected. Sentence 1 does not apply if, in accordance with Section 15 paragraph 3 of the Closed Substance Cycle and Waste Management Act, the public-law party responsible for waste management has excluded municipal wastes of commercial origin that is not recovered from management. Producers and

holders are obligated to use waste containers provided by the public-law party responsible for waste management or by a third party authorized by this party to an appropriate extent in accordance with the specific provisions of the public-law party responsible for waste management, however, at least one container.

Section 8 Separation and requirements regarding the pre-treatment of construction and demolition wastes

(1) In order to ensure proper, safe and highest possible quality recovery of construction and demolition wastes producers and holders of these wastes must hold, store, collect, transport and consign to recovery the following waste fractions separately, if these wastes are produced separately:

1. glass (waste code 17 02 02 according to the Ordinance on the European List of Wastes),
2. plastic (waste code 17 02 03),
3. metals, including alloys (waste code 17 04 01 to 17 04 07 and 17 04 11) and
4. concrete other than concrete that contains dangerous substances (waste code 17 01 01), bricks other than bricks that contain dangerous substances (waste code 17 01 02), tiles, bricks and ceramics other than tiles, bricks und ceramics that contain dangerous substances (waste code 17 01 03), and mixtures of concrete, bricks, tiles und ceramics other than those containing dangerous substances (waste code 17 01 07).

Section 3 paragraph 1 sentence 2 shall apply mutatis mutandis.

(2) In derogation of the requirements laid down in paragraph 1 sentence 1 combined collection of the waste fractions mentioned under the numbers 1 to 4 is possible insofar as

1. they are consigned to a pre-treatment facility in accordance with paragraph 4 and
2. it will be guaranteed that they are re-sorted in the pre-treatment facility into largely the same quantity and substance purity and consigned to a substance or energy recovery operation.

Combined collection is also possible of the waste fractions listed in paragraph 1 sentence 1 numbers 1 to 4 and the wastes listed in paragraph 4. Section 3 paragraph 2 sentence 3 and paragraph 3 shall apply mutatis mutandis.

(3) As far as the requirements according to paragraph 1 sentence 1 and paragraph 2 sentence 1 do not apply, the producers and holders must consign the waste fractions that are not separated

1. to a pre-treatment facility according to paragraph 4 or
2. to an energy recovery according to Section 6.

Section 3 paragraphs 6 to 8 shall apply *mutatis mutandis*.

(4) Producers and holders of construction and demolition wastes that are listed under number 7 of the Annex and that are consigned to a pre-treatment may only mix these wastes if this mixture contains no other wastes but the following:

1. the construction and demolition wastes listed under number 7 of the Annex or
2. other wastes mentioned under Section 4 paragraph 1 sentence 1 number 1 and under the numbers 1 to 6 of the Annex.

Section 4 paragraph 1 sentence 2 and paragraph 2 shall apply *mutatis mutandis*.

(5) In derogation of the requirements laid down in paragraph 1 sentence 1 combined collection of the wastes listed in paragraph 1 sentence 1 numbers 1 to 4 and construction and demolition wastes which are produced mixed (waste code 17 09 04) is possible insofar as it is not technically possible or economically reasonable to separate or subsequently re-sort into the same substance purity the waste fractions under consideration of the particular circumstances of the individual case, in particular because of their small quantity.

(6) In order to ensure proper, safe and highest possible quality recovery of construction and demolition wastes which are produced mixed (waste code 17 09 04) the producer and holders must consign these wastes for preparation to a suitable facility. The requirement laid down in sentence 1 does not apply, as far as it is not necessary to process the wastes for the respective recovery or as far as it is not technically possible or economically reasonable to prepare the wastes under consideration of the particular circumstances of the individual case, in particular because of their small quantity or high impurity. In the individual case the producers and holders must demonstrate to the competent authority upon request the circumstances why the recovery operation is not technically possible or economically reasonable.

Section 9 Control of pre-treatment facilities

(1) The operator of a pre-treatment facility must, in order to ensure compliance with the requirements pursuant to Section 5, conduct an internal control pursuant to paragraphs 2 to 4 and ensure an external control pursuant to paragraph 6 sentences 1 and 2.

(2) The operators of a pre-treatment facility must immediately conduct an input control for each inbound waste delivery. This includes:

1. name and address of the collector or carrier,
2. recording the mass of the inbound waste delivery,
3. the waste code pursuant to the Ordinance on the European List of Wastes and
4. the information,
 - a) whether the inbound waste delivery is
 - aa) a mixture pursuant to Section 4 paragraph 1 or Section 8 paragraph 4 or
 - bb) other waste and
 - b) whether the waste delivered is a mixture pursuant to Section 3 paragraph 2 sentence 1 or Section 8 paragraph 2 sentence 1.

In order to verify the information provided by the collector or carrier pursuant to sentence 2 numbers 3 and 4, a visual control must be carried out immediately upon each inbound waste delivery.

(3) The operators of a pre-treatment facility must immediately conduct an output control for each outbound waste delivery. This includes:

1. recording the mass of the outbound waste delivery,
2. the waste code pursuant to the Ordinance on the European List of Wastes and
3. the information whether the outbound waste delivery is made up of
 - a) a mixture pursuant to Section 4 paragraph 1 or Section 8 paragraph 4 or of
 - b) other waste.

(4) The operators of a pre-treatment facility must obtain written confirmation of the further management of the outbound wastes deliveries within 30 calendar days by those operators of waste management facilities, in which the delivered wastes are treated, recovered for substance or energy or disposed of and not exclusively stored. The confirmation pursuant to sentence 1 must include:

1. the name and address of the operator of the waste management facility,
2. the disposal or recovery operation according to Annex II A or II B of the Closed Substance Cycle and Waste Management Act and
3. the type of the waste management facility insofar as further disposal or recovery is carried out in a facility requiring licensing, on the basis of the licensing notice.

(5) Records according to the Ordinance on Waste Recovery and Disposal Records (*Nachweisverordnung*), balance sheets according to the Ordinance on Waste Management Concepts and Waste Balance Sheets (*Abfallwirtschaftskonzept- und -bilanzverordnung*) and records according to the Ordinance on Specialised Waste Management Companies (*Entsorgungsfachbetriebeverordnung*) may be used insofar as these contain the necessary information in order to document that the requirements laid down in paragraphs 2 to 4 have been met.

(6) The operators of a pre-treatment facility must undergo external controls by a body appointed by the competent authority every six months within two months after the end of the six-month-period. The external control includes the check of compliance with the requirements laid down in Section 5 and paragraphs 2 to 4, in particular by checking the facility log-book. The operator of a pre-treatment facility must ensure that he is notified of the results of the external control without delay. He must notify the competent authority of the results of the external control without delay. The requirements laid down in the sentences 1 to 4 do not apply to the specialised waste management companies that are certified to pre-treat mixed municipal wastes of commercial origin or mixed construction and demolition wastes listed in Section 8 paragraph 4 sentence 1. The specialised waste management companies must notify the competent authority without delay about the result of the control according to Section 13 of the Ordinance on Specialised Waste Management Companies, which relates to the control of compliance with the requirements of this ordinance.

Section 10 Facility log-book

(1) During the time in which the facility is operated the operator of a pre-treatment facility must keep a facility log-book in accordance with sentence 2 to demonstrate compliance with

the requirements laid down in Section 5 and Section 9 paragraphs 2 to 4 and divide it into calendar years. The following information must be entered without delay in the log-book:

1. the monthly recovery quotas and the recovery quotas in the calendar year pursuant to Section 5 paragraph 1 sentence 3,
2. the information pursuant to Section 9 paragraph 2, the information pursuant to Section 9 paragraph 3 and the confirmations pursuant to Section 9 paragraph 4, and
3. the results of the external control pursuant to Section 9 paragraph 6.

(2) The facility log-book must be inspected at regular intervals by the person responsible for the management and supervision of the facility, or a person appointed by this person. The log-book can be held in electronic format or as individual sheets for different areas of activity or different parts of the facility, provided that the sheets are collated daily. The log-book must be fake-proof and unauthorised persons must be prevented from having access to it. The facility log-book must be available for inspection at any time and must be kept in a format suitable for optical character recognition.

(3) The operators of a pre-treatment facility must keep the data of one calendar year contained in the facility log-book for a period of five years and submit it to the competent authority on request. The retention period starts from the calendar year following the calendar year in which the data was entered.

(4) If the facility is required to keep facility log-books in accordance with Section 5 of the Ordinance on Specialised Waste Management Companies or other provisions, the data required may be collated in one facility log-book.

Section 11 Offences

An offence within the meaning of Section 61 paragraph 1 number 5 of the Closed Substance Cycle and Waste Management Act is committed by any person who wilfully or negligently

1. contravenes Section 3 paragraph 1 sentence 1 or paragraph 8 or Section 8 paragraph 1 sentence 1 by not separately holding, storing, collecting, transporting or consigning the waste fractions or wastes listed there to a recovery or disposal,

2. contravenes Section 3 paragraph 2 sentence 3 or paragraph 3 sentence 2 by not meeting the requirements laid down therein or by not demonstrating correctly, completely or timely the circumstances listed therein,
3. contravenes Section 4 paragraph 1 sentence 1 by consigning wastes to a mixture of wastes,
4. contravenes Section 4 paragraph 1 sentence 2, also in conjunction with Section 8 paragraph 4 sentence 2, by not seeing to it that other wastes are not consigned to a mixture of wastes,
5. contravenes Section 4 paragraph 2, also in conjunction with Section 8 paragraph 4 sentence 2, by consigning wastes to a pre-treatment facility,
6. contravenes Section 5 paragraph 2 by not sorting out wastes or not consigning them to recovery or disposal,
7. contravenes Section 5 paragraph 4 sentence 2 by not informing or notifying the competent authority at all, correctly, comprehensively or in due time,
8. contravenes Section 6 sentence 1 by consigning wastes to energy recovery,
9. contravenes Section 7 sentence 4 by not using a waste container,
10. contravenes Section 8 paragraph 4 sentence 1 by mixing the wastes mentioned therein,
11. contravenes Section 9 paragraph 1 by not carrying out an internal control at all, correctly, comprehensively or in due time, or by not ensuring an external control,
12. contravenes Section 10 paragraph 1 sentence 1 by not keeping a facility log-book at all, correctly or comprehensively or
13. contravenes Section 10 paragraph 3 by not keeping the parts of the facility log-book at all or for a minimum period of five years or by submitting it not at all or not in due time.

Section 12 Entry into force

This ordinance shall enter into force on the first day of the seventh calendar month following its promulgation.

The *Bundesrat* has consented.

Annex**Other wastes which is permitted to be contained
in mixed municipal wastes of commercial origin in accordance with Section 4**

- 1) The following wastes from agriculture, horticulture, aquaculture, forestry, hunting and fishing:
 - waste plastics (except packaging)
- 2) The following wastes from wood processing and the production of panels and furniture:
 - waste bark and cork
 - sawdust, shavings, cuttings, wood, particle board and veneer other than those containing dangerous substances
- 3) The following wastes from textile industry:
 - wastes from unprocessed textile fibres
 - wastes from processed textile fibres
- 4) The following wastes from the manufacture, formulation, supply and use of plastics:
 - waste plastic
- 5) The following wastes from shaping and physical and mechanical surface treatment of plastics:
 - plastics shavings and turnings
- 6) The following packaging wastes other than wastes containing residues or contaminated by dangerous substances:
 - paper and cardboard packaging
 - plastic packaging
 - wooden packaging
 - metallic packaging
 - composite packaging
 - mixed packaging
 - glass packaging
 - textile packaging
- 7) The following construction and demolition wastes:
 - wood other than wood containing or contaminated by dangerous substances
 - glass other than glass containing or contaminated by dangerous substances
 - plastic other than plastic containing or contaminated by dangerous substances
 - copper, bronze, brass, aluminium, lead, zinc, iron, steel and tin, each including alloys, and mixed metals, each with the exception of metal wastes contaminated by dangerous substances
 - cable other than cable containing oil, coal tar or other dangerous substances
 - concrete other than concrete containing dangerous substances
 - bricks other than bricks containing dangerous substances
 - tiles, bricks and ceramics other than tiles, bricks and ceramics containing dangerous substances
 - mixtures of concrete, bricks, tiles and ceramics other than those containing dangerous substances