

## **Information on the Irish Environmental Protection Agency's decision to classify used railway sleepers as a waste**

**18<sup>th</sup> October 2006**

1. Under the Waste Shipment Regulation (259/93)<sup>1</sup> the Irish Environmental Protection Agency (EPA) is the competent authority for the import of waste into, and the passage of waste in transit through, Ireland. In 2005, the EPA decided that used railway sleepers would not be classified as a waste provided that certain criteria were met<sup>2</sup>.

Between August 2005 and September 2006 approximately 22,000,000 kgs of used railway sleepers were notified for importation into Ireland under 17 separate notifications – of which 16 notifications came from the Netherlands. The Netherlands regard used railway sleepers as a waste (EWC 17 02 04\*) and therefore Regulation 259/93 applies for the export of waste from the Netherlands.

2. Several site inspections were undertaken by the EPA and the Pesticide Control Service (PCS) of the Department of Agriculture and Food between July and September 2006 at the premises of consignees of used railway sleepers. PCS are the competent authority for enforcing the European Communities (Dangerous Substances and Preparations)(Marketing and Use) Regulations, 2003 (S.I. No. 220 of 2003). Evidence of potential illegal use was noted in a number of site visits and at least one seizure order was placed on railway sleepers during these site visits by the PCS.

Railway sleepers have also been noted for sale to the general public in several garden centres across the country and in use by landscape contractors. The use of creosote-treated railway sleepers in residential gardens is an illegal use under S.I. No. 220 of 2003.

3. Several concerns have come to light from these inspections and from the EPA's cooperation with PCS concerning the importation of railway sleepers. These include;
  - a) The potential health and liability ramifications of frequent skin contact with creosote treated railway sleepers particularly due to potential exposure to known carcinogens.
  - b) Difficulty in controlling the marketing and use of used railway sleepers in the context of the aforementioned Dangerous Substances regulations once they have arrived in the country and become dispersed to a large number of suppliers' and users' premises.

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<sup>1</sup> Council Regulation (EEC) No. 259/93 on the supervision and control of shipments within, into and out of the European Community.

<sup>2</sup> the railway sleepers must be “treated” in the country of origin, in that all extraneous material is removed, e.g. rails, bolts, nails etc., and made ready for direct reuse; and

- the railway sleepers must be graded into categories suitable for sale and marketing.

- c) To date approximately 22,000,000 kg have been notified for importation into Ireland. Compared to previously known levels of sleeper imports, there are concerns that this level of import is excessive, given the health and enforcement concerns outlined above.

Given these concerns, and taking into account the fact that the TFS competent authority in the Netherlands classifies the material as waste, the EPA has decided to reclassify railway sleepers as waste for the purposes of their import into Ireland, *inter alia*, to ensure an adequate level of control and management of this material being placed on the market in Ireland.

- 4. This decision will have immediate effect. All notifications for the import of used railway sleepers will be processed by the EPA according to Regulation 259/93. Accordingly, railway sleepers will need to be imported into appropriately authorised waste facilities. Appropriate financial guarantees, insurances etc. will also need to be in place. Transporters of sleepers will need to be appropriately permitted to collect and transport waste.

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