

INTOSAI Working Group on Environmental Auditing

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***"PROTECTING THE PUBLIC FROM WASTE" :  
an audit of waste regulation in England***

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EUROSAI has established waste as the environmental theme for the next three years. By coincidence the National Audit Office already had a study planned on waste. In December 2002, we published "Protecting the Public from Waste" which sets out the findings from our audit of waste regulation in England & Wales. This paper sets out why we choose the study, what we found and draws some lessons which other SAIs will find useful when they come to do their own studies of waste or of similar environmental regimes based on licensing and inspection. Instead we examined the Agency's investigation of pollution incidents involving waste, the licensing of major waste sites, the poor quality of inspections, abuse of the system of exemptions, fly-tipping.

**Why did we choose to examine waste?** The safe disposal, treatment and recycling of waste is financially material and the subject is both topical and controversial. The Environment Agency (the Agency) regulates the recycling and disposal of some 176 million tonnes of waste a year in England and Wales (over 3 tonnes per head of population). The waste industry has an annual turnover exceeding £4 billion and employs some 90,000 people. The Agency spends £78 million a year on range of waste regulation activities: nearly half funded by the industry through licence fees, the remainder by central government. There are also doubts about the potential risk to human health from landfill and waste incineration: a European study of 23 hazardous waste sites, published in January 2002 suggested that chromosomal abnormalities increase by 41 per cent in populations living within 3km. In the UK this would represent a high proportion of our population. Since 1996, waste regulation in England and Wales has been centralised in a single organisation. Prior to this date, there were 83 different waste authorities. In practice each authority operated with its own policies, priorities and, sometimes, within extremely limited resources. For all these reasons, we decided that waste was a good topic for audit.

But there were problems with the scoping of a study on waste. Waste is a massive subject area to do justice to in a single report. Instead we focussed on the Agency's mainstream work on waste regulation rather than the less common but more dangerous types of waste. Planned work on the possible effects of waste on human health was pared back as too technical and inconclusive. Other important topics, such as waste minimisation and national and international movements of hazardous waste (both priorities identified by the Johannesburg summit in September 2002), we simply had to leave for another study.

Secondly, auditing a moving target is always much more difficult than reviewing an area which has remained fairly static for a period. As my European Union colleagues will be aware, waste is an area of constant change as the European Commission develop new and higher standards for waste treatment and disposal. In scoping our investigation we decided to concentrate our work on the Agency's key operational roles where we knew there was a problem or where there was such a high level of public concern that to ignore the issue would leave us open to criticism that we had missed the risk. An advantage of scoping the

study in this way is that operational matters are less likely to be subject to change than the policy superstructure.

**What did we find?** Our main conclusion was that the Agency could make better use of its limited resources by carrying out fewer but more comprehensive, in-depth, inspections of waste operators. In 2001-02, the Agency planned to visit licensed sites 15 times on average, and at least four visits to each site no matter how low risk. We found no evidence that this high frequency of inspections is needed to deliver effective regulation. We also found that most pollution incidents at licensed waste sites relate to only a small proportion of sites: in 2000-01, such reports were recorded at only 12 per cent of licensed waste sites and nine sites accounted for 35 per cent of the 400 reports of major or significant incidents that year.

Our second main conclusion was that Agency does not always escalate the enforcement action it can take where a licensed waste operator is guilty of multiple, but individually minor, breaches of its licence. Each year, only 30 waste operators are prosecuted for a breach of licensing conditions. We concluded that the Agency should say more clearly how it will respond to licence breaches; and take prompt enforcement action when a further compliance failure is detected.

Other conclusions are a mixture of environmental, financial and administrative issues.

- The Agency has limited funds earmarked specifically for regulating some 120,000 sites exempt from the requirement to be licensed (such as the spreading of waste on land and the remediation of contaminated land): only 2,200 of whom were inspected by the Agency in 2001-02. The Government recognised that controls over waste activities need to be improved. However, waste is not seen as a priority issue and it has taken since 1998 to complete the review of these controls promised to the House of Commons' Environment Select Committee.
- The Agency has improved standards of waste licensing since 1996 but needs to improve further on the time it takes to deal with licence applications. In 2001-02 only one fifth of new licences were issued within four months of application and one in seven took more than a year. Some of delays are outside the Agency's control, including poor quality applications, but the Agency also needed to simplify the application process.
- Taxpayers may end up paying for the long-term management of abandoned waste sites because operators' financial provisions become unavailable once operators become insolvent as environmental debts can be disowned by the receiver. The Department is working within other parts of Government to ensure that the 'polluter pays'. As a minimum, we believe that environmental liabilities should enjoy a similar rank with the tax authorities on the wind-up of a company.

- Evidence pointing towards an increase in fly tipping following the introduction of the Landfill Tax in 1996 is anecdotal and the Agency's records do not show a clear trend. However, the Agency estimates that there are around 50,000 fly tipping incidents a year, costing local authorities some £50 million to £150 million.

Our work has resulted in substantial financial savings and a reduced burden on the waste industry. Already the Agency has reduced the number of routine inspections from 120,000 a year to 100,000 - a saving of some £3 million in the Agency's staff costs. We would like to see the overall number of inspections falling further and the resources used to carry out improved inspections. We believe that this will improve the quality of environmental inspection and better protect the environment.

**How did we address environmental issues?** Technical and scientific issues are difficult to audit directly. Our report records the scientific debate in the most balanced way we can but does not seek to second guess the decisions reached. Our work involved review of recent scientific studies, ensuring that the Agency was active in evaluating risk, planning research and adjusting policy in the light of new information. During the study we were advised by an academic consultant specialising in the engineering and management of landfill sites and by a leading expert on public health. We also invited submissions from environmental groups, local residents associations and formed an expert panel drawn from the Agency, government, academia and the waste industry to discuss an early draft of our report.

It is difficult to evaluate the overall effectiveness of a regulatory regime. We originally planned to examine the number and impact of waste related incidents recorded by the Agency since it was established in 1996. This proved impossible due to the poor quality of the data. The Agency now has a sophisticated risk assessment system which records a risk score for every site visit carried out and uses this data to calculate a recommended inspection frequency for each of its 7,600 licensed sites every three months. Even if this information had been available to us, interpretation would have been difficult: an increase in risk scores could either be caused by reduced standards in the waste industry or be the result of improved inspections.

In the UK and elsewhere, environmental groups are highly sceptical of both scientists and government officials. We found evidence that a small number of older waste sites are causing significant harm to the environment but similar evidence from modern well operated waste sites is almost absent. How government's should apply the "Precautionary Principle" in this situation is not clear. Although the UK Department of Health concluded that the available scientific evidence does not justify a change in regulatory approach, it recognises that "no evidence of harm" is not the same as "safe". SAIs will need to consider very carefully how they can usefully add to this debate in the context of their own country.

We found international comparisons to be of value to determine whether the UK was broadly in line with practices in similar countries and in picking up good ideas which had not been considered here. Eventually, a total of seven countries, in Europe and two other continents, provided us with outline information. It quickly became clear to us that nowhere was waste regulation as centralised as in England and that few other countries compiled detailed statistics on waste regulation. The European Commission has published some comparisons between EU states but these also fall far short of the level of detail needed for a detailed benchmarking exercise. How should you do this? Firstly, use INTOSAI contacts as far as possible - they understand your audit needs and can help put things into context. Secondly, do the work towards the end of the study so that you have reduced your questions to those you absolutely require comparative data. Anything else is unfair to your INTOSAI colleagues and wastes your own time.

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To sum up, the waste report is an example of how the National Audit Office has approached environmental audit in the United Kingdom. "Value-for-money" subjects are selected for their auditability, financial significance and the potential for the audit process to add value rather than because of their importance to the environment. Inevitably much of what environmental bodies such as the Environment Agency does is science-based and, as auditors, we are poorly placed to challenge these judgements. Nevertheless there is scope for auditing around the science and to produce practical recommendations which will make a difference.