

**Ordinance on
Waste Recovery and Disposal Records
(*Nachweisverordnung - NachwV**)**

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*) The purpose of this Ordinance is to implement

- Articles 13 and 14 of Council Directive 75/442/EEC of 15 July 1975 on waste (OJ EC No. L 194 p. 47), as amended by Council Directive 91/156/EEC of 18 March 1991 (OJ EC No. L 78 p. 32);
- Articles 4 and 5 of Council Directive 91/689/EEC of 12 December 1991 on hazardous waste (OJ EC No. L 377 p. 20).

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Part One - General Provisions

Article 1

Scope of Application

(1) This Ordinance shall apply to the proof procedure, to the keeping of documents and record books and to procedures for retaining and storing records relative to the permissibility and execution of waste recovery and waste disposal (waste management), all as used by

1. producers or owners of waste (waste producers),
2. collectors or transporters of waste and
3. parties who recover or dispose of waste (parties responsible for waste management).

(2) This Ordinance shall not apply to private households.

(3) With the exception of Article 26, this Ordinance shall not apply until products subject to Article 24 of the Closed Substance Cycle and Waste Management Act have either been collected or returned, including waste that remains after use of the product. Collection or return of products and waste that remains from use of the product within the meaning of the first sentence is deemed complete no later than upon its receipt at a facility for further disposal, including a facility for sorting or treatment, unless the Ordinance prescribing collection or return stipulates that collection or return is completed at an earlier time. The obligation to furnish proof of proper management of waste once collection is complete shall remain unaffected.

(4) This Ordinance shall not apply to transboundary transports of waste.

(5) Delivery and handover obligations under *Länder* law shall remain unaffected.

Part Two - Furnishing Proof of Proper Management of Waste Requiring Special Supervision

Article 2

Parties Required to Furnish Proof

(1) The following parties shall be subject to obligations to furnish proof pursuant to the provisions of this Part: waste producers, waste owners, collectors and transporters of waste and parties responsible for waste management, where such parties are subject to obligations to furnish proof pursuant to Article 43 (1) and (2) or Article 46 (1) and (2) of the Closed Substance Cycle and Waste Management Act.

(2) Waste producers who produce a total of no more than 2,000 kg of waste requiring special supervision (small quantities) per year shall be exempt from obligations to furnish proof pursuant to paragraph (1). The collectors' and waste producers' obligations to furnish proof with respect to collected waste pursuant to Article 8 (3) and Articles 9, 18, 19 and 20, and to the provisions on furnishing proof pursuant to Article 24 (1) with respect to management of small quantities of waste in other cases shall remain unaffected.

Section One

Proof of the Permissibility of the Planned Waste Management Operation

- Basic Procedure

Article 3

Record of Proper Waste Management

(1) A waste producer shall furnish proof of the permissibility of a planned management operation for waste requiring special supervision; such proof shall be provided in the form of a record of proper waste management (*Entsorgungsnachweis*), making use of the forms provided for this purpose in Annex 1. A collective record of proper waste management may be kept on multiple waste categories produced by one waste producer that are disposed of at the same facility. In such cases, the forms provided in Annex 1 shall be used, with a separate form used for each type of waste.

(2) The record of proper waste management shall consist of a Cover Sheet for Records of Proper Waste Management (*Deckblatt Entsorgungsnachweise*), the waste producer's Declaration of Responsibility (*Verantwortliche Erklärung*), including a Declaration Analysis (*Deklarationsanalyse*), and the Declaration of Acceptance (*Annahmeerklärung*) presented by the party responsible for waste management (declarations of proof), as well as of the confirmation from the competent authority with regard to the facility chosen for waste management (waste management facility).

Article 4

Procedure for Obtaining Confirmation

(1) Before forwarding the declarations of proof to the authority responsible for the waste management facility, the waste producer shall complete a Cover Sheet for Records of Proper Waste Management (*Deckblatt Entsorgungsnachweise*), the Declaration of Responsibility (*Verantwortliche Erklärung*) section of the record of proper waste management, including the Declaration Analysis (*Deklarationsanalyse*), and forward it to the party responsible for waste management. A declaration analysis shall not be required if the process in which the waste occurs and, in the case of pre-treatment of the waste, the method used in pre-treating the waste is described and the information provided shows the nature and consistency of the waste in a manner that allows further processing of the declarations of proof. Information provided in accordance with Sentence 2 shall be entered in the Further Details (*Weitere Angaben*) section of the Declaration Analysis form.

(2) Before forwarding the declarations of proof to the authority responsible for the waste management facility, the party responsible for waste management shall complete the Declaration of Acceptance (*Annahmeerklärung*) section of the record of proper waste management and forward a copy to the waste producer. The party responsible for waste management shall forward the original copies of the declarations of proof, together with the Official Confirmation (*Behördliche Bestätigung*) section, to the authority responsible for the waste management facility.

(3) The notification obligation of the party responsible for waste management in cases of waste disposal, pursuant to Article 43 (2) of the Closed Substance Cycle and Waste Management Act, and its corresponding notification obligation in cases of waste recovery, pursuant to Article 46 (2) of the Closed Substance Cycle and Waste Management Act, shall be deemed to be fulfilled upon presentation of declarations of proof to the competent authority.

Article 5

Confirmation of the Record of Proper Waste Management

(1) The competent authority shall confirm receipt of the declarations of proof to the waste producer within ten working days; such confirmation shall include the date of receipt (confirmation of receipt). Upon receiving such declarations, the competent authority shall check without undue delay whether the declarations of proof conform to relevant requirements. If the declarations of proof are incomplete, the competent authority shall request the waste producer without undue delay to complete the declarations of proof within an appropriate period.

(2) The authority responsible for the waste management facility shall confirm the permissibility of the planned waste management operation, if

1. the waste is to be treated, used for substance recycling or energy recovery or deposited - and not solely stored and if
2. proper and safe recovery or the compatibility of the intended disposal with the public interest are assured.

Official decisions pertaining to the waste management facility, especially authorisations, licences, plan approvals or operating plans under mining law, where intended to assure conformance with the prerequisites referred to in the first sentence, shall be complied with. Any information in an environmental statement submitted to the competent authority pursuant to Article 5 of Council Regulation (EEC) No 1836, of 29 June 1993, allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme shall be taken into account in this connection.

(3) The confirmation shall be valid for no longer than five years.

(4) The confirmation may be issued subject to conditions or tied to obligations, and a shorter validity period (time limitation) than that laid down in paragraph (3) may be specified, where such measures are necessary to assure fulfilment of the prerequisites for confirmation referred to in paragraph (2). The waste producer and the party responsible for waste management shall comply with such obligations.

(5) The authority responsible for the waste management facility shall decide on the confirmation pursuant to paragraph (2) within thirty calendar days following receipt of the declarations of proof. If the authority responsible for the waste management facility fails to make a decision on the confirmation within the period specified in the first sentence, the confirmation shall be deemed to have been issued. If the competent authority requests the waste producer or the party responsible for waste management to complete the declarations of proof pursuant to paragraph (1) third sentence, expiry of the period pursuant to the second sentence shall be suspended only if the requested additional documents are indispensable for further processing of the declarations of proof. If the waste producer or party responsible for waste management complies with the request to complete the declarations of proof, within the relevant defined period, then paragraph (1) and the first through third sentences shall apply *mutatis mutandis*.

(6) The decision on the permissibility of the waste management operation shall not be based on the question of whether the waste management involves recovery or disposal of waste, or whether the waste producer's other obligations resulting from the Closed Substance Cycle and Waste Management Act and from other federal and *Länder* regulations have been complied with.

Article 6
Procedure Relative to the Record of Proper Waste Management
in Cases of Confirmation

(1) The authority responsible for the waste management facility shall send the original copy of the confirmed record of proper waste management to the waste producer; it shall also send a copy to the party responsible for waste management.

(2) The original copy of the record of proper waste management shall remain with the waste producer, who shall send a copy to the competent authority within ten working days following receipt of the original. The waste producer's notification obligation in cases of waste disposal, pursuant to Article 43 (2) of the Closed Substance Cycle and Waste Management Act, and his corresponding notification obligation in cases of waste recovery, pursuant to Article 46 (2) of the Closed Substance Cycle and Waste Management Act, shall be deemed to be fulfilled upon presentation of records of proper waste management to the competent authority.

(3) If the confirmation pursuant to Article 5 (5) second sentence is considered to have been issued, the waste producer, prior to sending the declarations of proof pursuant to the second sentence, shall make a note on the copy of the declarations of proof sent to him pursuant to Article 4 (2) first sentence that the period pursuant to Article 5 (5) first sentence has expired. He shall then send within ten working days of expiry of the 30-day period copies of the declarations of proof and of the confirmation of receipt pursuant to Article 5 (1) first sentence to the competent authority and to the party responsible for waste management. Paragraph (2) second sentence shall apply *mutatis mutandis*.

(4) The waste producer shall hand over to the transporter a copy of the record of proper waste management or, where the confirmation pursuant to Article 5 (5) second sentence is considered to have been issued, a copy of the declarations of proof and of the confirmation of receipt pursuant to Article 5 (1) first sentence. The transporter - and any subsequent transporter - shall carry the documents referred to in the first sentence, as well as a copy of the relevant transport licence, during all transports and present these documents, upon request, to the persons authorised to supervise and control his operations.

(5) In the case of rail transports, the obligation to carry documents pursuant to paragraph 4 second sentence shall not apply. In such cases, whenever a change of transporter occurs, the previous transporter shall ensure, by suitable means, that the documents referred to in paragraph (4) first sentence are handed over to the subsequent transporter.

Article 7

Procedure Relative to the Record of Proper Waste Management in Cases in Which Confirmation is Refused

If the confirmation is refused, the authority responsible for the waste management facility shall make its own copy of the relevant original documents. It shall send the original documents directly to the waste producer and shall send one copy of each relevant document to the authority responsible for the waste producer and to the party responsible for waste management.

Article 8

Collective Record of Proper Waste Management

(1) Notwithstanding Article 3 (1), the proof of the permissibility of the planned waste management operation may be provided by the collector in the form of a record of proper collective waste management, using the forms provided for this purpose in Annex 1, if all of the collected waste

1. has the same code of waste or in the case of the waste oil collection the same collection category or collection categories 2 and 4 pursuant to Attachment 1 of the Ordinance on Waste Oils of 27 October 1987 (AltöIV) (Federal Law Gazette I, p. 2335) as amended by Article 1 of the

Ordinance on Disposal of Waste Oils ... (date/source) where separate storage is not prescribed by the Ordinance on Waste Oils;

2. passes through the same waste management chain;
3. corresponds in its composition to the relevant requirements listed in the collective record of proper waste management for joint waste consignments;
4. the waste collected from each waste producer does not exceed 20 tonnes per code of waste and calendar year and, in the case of waste oils referred to in No. 1, the waste oils collected do not exceed 20 tonnes per code of waste and calendar year. In the case of collection of waste oils in accordance with the first sentence of No. 1, the record of proper waste management can be submitted for the dominant code of waste in the collection category.

The first sentence in No. 4 shall not apply to collection of the waste referred to in Annex 2.

(2) The collective record of proper waste management shall consist of a Cover Sheet for Records of Proper Waste Management (*Deckblatt Entsorgungsnachweise*), the collector's Declaration of Responsibility (*Verantwortliche Erklärung*), including a Declaration Analysis (*Deklarationsanalyse*), a Declaration of Acceptance (*Annahmeerklärung*) presented by the party responsible for waste management and the confirmation from the authority responsible for the waste management facility.

(3) The collector shall present a record of proper waste management with regard to the permissibility of the planned waste management operation even if the producers of the collected waste pursuant to Article 2 (2) are exempted from obligations to furnish proof. In such cases, paragraphs (1) and (2) shall apply *mutatis mutandis*.

Article 9

Procedure Relative to, and Confirmation of, the Collective Record of Proper Waste Management

(1) Before forwarding the declarations of proof to the authority responsible for the waste management facility, the collector shall fill out the Cover Sheet for Records of Proper Waste Management (*Deckblatt Entsorgungsnachweise*) and the Declaration of Responsibility (*Verantwortliche Erklärung*), including the Declaration Analysis (*Deklarationsanalyse*) or information required under Article 4 (1) of the collective record of proper waste management and forward it to the party responsible for waste management.

(2) Article 4 (2) and (3) and Articles 5 through 7 shall apply *mutatis mutandis* to the further procedure relative to, and to confirmation of, the collective record of proper waste management.

(3) If the collection area crosses the boundaries of the *Land* in which the authority responsible for the party responsible for collective waste management is based, the collector shall within ten working days following confirmation from the competent authority also send a copy of the collective record of proper waste management to the competent authorities of the other *Länder* involved, for their information.

Section Two Privileged Procedure

Article 10 Obligations of the Waste Producer

(1) The waste producer's obligations to obtain confirmation of the records of proper waste management pursuant to Article 3 shall not apply if

1. the waste management operation in question is carried out by a party responsible for waste management who has been granted exemption pursuant to Article 13, and if
2. prior to commencement of the waste management operation pursuant to Article 11, the waste producer shall provide a copy of the record of proper waste management to the competent authority. Records of proper waste management submitted pursuant to Articles 3 and 4 and notwithstanding the first sentence shall remain valid for a maximum period of five years.

(2) The waste producer shall provide the transporter with copies of the declarations of proof and of the decisions under a privileged procedure; the collector shall carry these documents during all transports. In addition, Article 6 (4) and (5) shall apply *mutatis mutandis*.

Article 11 Submission of Records of Proper Waste Management

(1) Ten working days prior to commencement of the planned waste management operation, the waste producer shall provide the competent authority with a copy of the record of proper waste management required under Articles 3 and 4 (1) and (2) first sentence. This period may be reduced at the discretion of the competent authority.

(2) In cases of waste disposal, the waste producer's obligation to provide a copy of his records of proper waste management pursuant to Article 43 (2) of the Closed Substance Cycle and Waste Management Act shall be deemed to be fulfilled upon completion of such provision. In cases of waste recovery, the waste producer's notification obligation pursuant to Article 46 (2) of the Closed Substance Cycle and Waste Management Act shall be deemed to be fulfilled upon completion of such notification.

Article 13

Exemption for the Party Responsible for Waste Management

(1) Upon application on the forms provided for this purpose in Annex 1, the competent authority shall exempt the party responsible for waste management from the requirement of accepting waste requiring special supervision only after obtaining confirmation of the record of proper waste management within the meaning of Article 5, if

1. the waste is to be treated, used for substance recycling or energy recovery or deposited in the waste management facility intended for that purpose - and not only stored;
2. proper and safe recovery or the compatibility of the disposal with the public interest are assured and
3. there are no indications or known facts to suggest that the party responsible for waste management is violating, or has violated, his obligations under the proof procedure or during the course of the waste management operations.

Official decisions pertaining to the waste management facility, especially authorisations, licences, plan approvals or operating plans under mining law, where intended to assure conformance with the prerequisites referred to in the first sentence, shall be complied with. Any information contained in an environmental statement submitted to the competent authority in accordance with Article 5 of Council Regulation (EEC) No 1836, of 29 June 1993, allowing voluntary participation by companies in the industrial sector in a Community eco-management and audit scheme shall be taken into account in this connection.

(2) The notification obligation of the party responsible for waste management in cases of waste disposal, pursuant to Article 43 (2) of the Closed Substance Cycle and Waste Management Act, and its corresponding notification obligation in cases of waste recovery, pursuant to Article 46 (2) of the Closed Substance Cycle and Waste Management Act, shall be deemed to be fulfilled upon presentation of an application pursuant to paragraph (1).

(3) An exemption may be issued with a time limitation, subject to conditions and the right to revocation and be tied to obligations and a right to impose subsequent obligations, where such measures are necessary to ensure fulfilment of the prerequisites for exemption referred to in paragraph (1). The party responsible for waste management shall comply with such obligations.

(4) The decision on exemption shall not be based on whether the waste management operations involve recovery or disposal of waste, or whether the waste producer's other obligations resulting from the Closed Substance Cycle and Waste Management Act and any other federal and *Länder* legislation have been complied with when the waste is being handed over to the party responsible for waste management.

(5) Owners of specialised waste management companies shall be granted exemption within the meaning of paragraphs (1) and (4) if the waste management facilities operated by them and the treatment of waste, its use for substance recycling or energy recovery or its deposition in such facilities are certified. The supervision certificate should list the waste management facility's certified operations, including the types of waste, listing the codes of waste by location and facility, and in the case of Article 2 (2) second sentence of the Ordinance on Waste Management Companies of 10 September 1996 (Federal Law Gazette I p. 1421), stating details of the sectors of origin together with the recycling and disposal processes used. The notification obligation of the party responsible for waste management pursuant to Article 43 (2) or Article 46 (2) of the Closed Substance Cycle and Waste Management Act shall be deemed to be fulfilled upon presentation of the relevant supervision certificate to the authority responsible for the waste management facility. Where necessary, the competent authority shall assign the necessary waste management number (*Entsorgernummer*).

(6) Exemption pursuant to paragraphs (1) and (5) shall apply to acceptance of waste for which the waste producer has submitted the necessary records of proper waste management for the intended disposal pursuant to Article 10 (1) No. 2 in conjunction with Article 11 or Article 12.

(7) The party responsible for waste management shall notify the waste producer without undue delay if the exemption granted on the basis of paragraphs (1) through (4) becomes invalid, if the prerequisites for exemption pursuant to paragraph (5) no longer apply or if the party responsible for waste management has received an official order pursuant to Article 14 (2).

Article 14 **Confirmation by Order**

(1) Notwithstanding Article 10, the competent authority may order that, in order to prove the permissibility of the planned waste management operation, the waste producer must obtain confirmation of the record of proper waste management from the authority responsible for the waste management facility, in accordance with the provisions of Section One, if

1. there is evidence that the record of proper waste management pursuant to Article 10 (1) No. 2, in conjunction with Article 11, was not submitted on time or other prerequisites for application of the privileged proof procedure have not been fulfilled, and if the completeness or correctness of the relevant information, or the fulfilment of prerequisites pursuant to Article 10, is not proven within a period defined by the competent authority;
2. the waste producer violates, or has violated, any other obligations under this Ordinance or any other obligations relative to waste management operations; or if
3. reasons related to the public interest necessitate an official order that such confirmation be obtained.

(2) Notwithstanding Article 13 (5), the competent authority may order that a party responsible for waste management whose waste management facility is certified may accept waste only after having obtained confirmation of the record of proper waste management pursuant to Article 5 if

1. there is evidence that with regard to that step of the waste management operation which is to be carried out in the waste management facility, proper and safe recovery or the compatibility of the disposal with the public interest are not assured for the waste running through the facility; or if any other prerequisites for application of the privileged proof procedure have not been fulfilled, insofar as the party responsible for waste management has not proven fulfilment of such prerequisites within a period defined by the competent authority;
2. the party responsible for waste management is violating, or has violated, any other obligations under this Ordinance, or any other obligations relative to waste management operations; or if
3. reasons related to the public interest necessitate prior confirmation of the record of proper waste management.

(3) The waste producer and the party responsible for waste management shall comply with the orders pursuant to paragraphs (1) and (2).

Section Three

Proof of Completed Waste Management Operations

Article 15

Consignment Note

(1) Proof of completed management operations for waste requiring special supervision shall be provided in the form of consignment notes, using the forms provided for this purpose in Annex 1.

(2) Where waste is handed over by a waste producer, a separate set of consignment notes shall be used for each type of waste involved, each set consisting of six copies. The number of copies to be filled out shall be reduced if the waste producer or waste transporter and the party responsible for waste management are wholly or partly identical. If there is a change of transporter, the transporter accepting handover of the waste shall issue to the previous transporter a handover certificate in order to prove handover of the waste, with Articles 18 and 19 being applied mutatis mutandis, or by any other appropriate means.

(3) The various copies of the consignment notes shall be distributed as follows:

1. copies 1 (white) and 5 (old gold) shall be added to the waste producer's record book;
2. copies 2 (pink) and 3 (blue) shall be submitted to the competent authority;
3. copy 4 (yellow) shall be added to the waste transporter's record book; if there is a change of transporter, it shall be added to the last waste transporter's record book;

4. copy 6 (green) shall be added to the record book of the party responsible for waste management.

Article 16

Completion of Consignment Notes

The waste producer, the collector, the transporter and the party responsible for waste management shall fill out the relevant sections of the various copies of the consignment notes no later than the time at which the waste in question is handed over or accepted. For this purpose consignment notes must be in the form of a carbonised set. The consignment note set starts with Copy 2 (pink). This is followed in numerical order by Copies 3 (blue) to 6 (green). The last copy to be attached is Copy 1 (white). Pursuant to the instructions in the first sentence, the waste producer, the collector and the transporter fill out the relevant sections of Copy 1 (white) by filling out the relevant sections of Copy 2 (pink) and ensuring that an impression is made on Copy 1 (white).

Article 17

Procedure Relative to Consignment Notes

(1) Upon accepting handover of the waste, the waste transporter shall hand over to the waste producer copy 1 (white) of the consignment notes, to be added to the waste producer's record book, after assuring him of proper delivery and making necessary additions to the documents. The waste transporter shall carry copies 2 through 6 with him during the transport and hand them over to the party responsible for waste management, together with the waste; in addition, the transporter shall present the documents to the persons authorised to supervise and control transport operations on demand.

(2) Within no more than ten working days after accepting handover of the waste from the waste transporter, the party responsible for waste management shall hand over or send copies 2 (pink) and 3 (blue) to the authority responsible for the waste management facility, as proof of the acceptance of the waste; it shall hand over or send copy 4 (yellow) to the waste transporter, and copy 5 (old gold) to the waste producer, to be added to their respective record books. The party responsible for waste management shall retain copy 6 (green) for his own record book.

(3) Within no more than ten working days after receipt, the authority responsible for the waste management facility shall send copy 2 (pink) to the authority responsible for the waste producer, unless the former authority is not identical with the latter.

(4) In the case of rail transports, the obligation to carry the copies referred to in paragraph (1) during transports shall not apply. In such cases, whenever a change of transporter occurs, the

previous transporter shall ensure that the copies referred to in paragraph (1) are handed over to the subsequent transporter.

Article 18

Handover Certificate in Cases of Collective Waste Management

(1) If a collective record of proper waste management pursuant to Article 8 is used, proof of completed waste management operations shall be furnished in the form of handover certificates, using the forms provided for this purpose in Annex 1, which are carbonised and to be used as acceptance notes, and of the consignment notes within the meaning of Article 15.

(2) The handover certificate consists of two copies. These shall be distributed as follows:

1. copy 1 (white) shall be added to the waste producer's record book;
2. copy 2 (yellow) shall be added to the collector's record book. In cases where, pursuant to Article 24 (1) and Article 25 (3) or by order of the competent authority pursuant to Article 26, handover of waste must be proven by means of a handover certificate, the first sentence applies subject to the condition that prior to handover of waste to the party responsible for waste management the details shall be entered in the Waste Manager (*Abfallentsorger*) section and, in the case of prior collective handovers, particularly where a change of transporter is involved, all subsequent handovers shall be entered in the Remarks (*Frei für Vermerke*) section and the handover of the waste verified by the signatures of both the party handing over the waste and the recipient. Should the party responsible for waste management be obliged by an agreement under civil law to confirm acceptance of the waste from the waste producer, an additional Copy 2 (yellow) may be attached to the Handover Certificate; the purpose of the additional copy shall be entered in the Remarks section.

Article 19

Procedure Relative to the Handover Certificate

(1) The waste producer and the collector shall fill out the handover certificates, using the spaces defined for them on their respective copies, no later than the time at which the collector accepts handover of the waste.

(2) Upon accepting handover of the waste, the collector shall hand over to the waste producer copy 1 (white) of the handover certificate, to be added to the waste producer's record book. The collector shall carry copy 2 (yellow) during the transport, present it to the persons authorised to supervise and control collection operations on demand and, after handing the waste over to the party responsible for waste management, file this copy, together with copy 4 (yellow) of the consignment note, in his record book. Article 17 (4) shall apply *mutatis mutandis*.

(3) The provisions of Article 15 (1) and (2) shall apply mutatis mutandis to the handover certificate.

Article 20

Procedure Relative to the Consignment Note in Cases of Collective Waste Management

(1) Prior to commencing collection, the collector shall fill out the consignment notes in keeping with the provisions of Article 16 and shall enter his details as both waste producer and waste transporter, stating in particular the number of the collective record of proper waste management (*Sammelentsorgungs-Nachweisnummer*). Before handing over the waste, he shall enter, in the multi-purpose space in the consignment note (remarks), the numbers of the handover certificates corresponding to the waste in the joint consignment. The further procedure shall be in accordance with the provisions on the consignment notes.

(2) If the collection involves crossing the borders of a *Land*, a consignment note shall be carried for each *Land* in which collection operations take place.

Article 21

Records in List Form

(1) Operators of waste management facilities may prepare and combine the information from records pursuant to Article 15 in the form of records in list form. The competent authority shall determine the periods for submission of records in list form. It may also define requirements as to the form of such records in list form and demand additional information regarding the time at which waste management was carried out and regarding the sub-quantities recovered or disposed of. Operators of waste management facilities shall comply with the requirements pursuant to the second and third sentences.

(2) Where records on execution of waste management operations are kept pursuant to paragraph (1), the party responsible for waste management shall not be required to send copy 3 (blue) of the consignment note pursuant to Article 17 (2) first sentence.

Section Four - Special Cases

Article 22

Waste Management by Third Parties, Associations and Self-Administered Private Corporations

If the waste producer's and waste owner's obligations pursuant to Article 16 (2), Article 17 (3) or Article 18 (2) of the Closed Substance Cycle and Waste Management Act are transferred to third parties, associations or self-administered corporations (*Selbstverwaltungskörperschaften*) in industry, the competent authority may permit, on application, such parties responsible for waste management

to furnish proof by applying Articles 8, 9, Articles 10 through 14 and, in this regard, Articles 18 through 21, mutatis mutandis. The first sentence shall apply mutatis mutandis, if the waste management operation is carried out by public-law parties responsible for waste management.

Article 23

Recovery Outside of Waste Management Facilities

Where recovery operations are carried out outside of waste management facilities, the following provisions shall be applicable, with the provisions of Sections One through Three being applied mutatis mutandis:

1. obligations of the party responsible for waste management shall be fulfilled by the party carrying out the recovery operation;
2. the tasks of the authority responsible for the waste management facility shall be performed by the competent authority pursuant to *Land* law.

In addition, the provisions of Sections One through Three shall remain unaffected.

Article 24

Small Quantities, Notification Obligations

(1) The waste producer shall keep records of the handover of small quantities within the meaning of Article 2 (2), using the forms for handover certificates pursuant to Article 18. Article 19 shall apply mutatis mutandis.

(2) The collector's or transporter's notification obligations pursuant to Article 43 (2) and Article 46 (2) of the Closed Substance Cycle and Waste Management Act shall be deemed to be fulfilled upon obtaining a transport licence pursuant to Article 49 (1), or Article 50 (2) No. 1 in conjunction with Article 49 (1), of the Closed Substance Cycle and Waste Management Act and the Ordinance on Transport Licences of 10 September 1996 (Federal Law Gazette I p. 1411).

(3) Where notification obligations pursuant to Article 43 (2) or Article 46 (2) of the Closed Substance Cycle and Waste Management Act have not already been fulfilled pursuant to the provisions of this Part, notification pursuant to Article 43 (2) or Article 46 (2) of the Closed Substance Cycle and Waste Management Act shall not be subject to any specific requirements as to form. Article 2 (2) shall remain unaffected.

Part Three

Furnishing Proof of Proper Management of Waste Requiring Supervision and of Waste Not Requiring Supervision

Article 25

Retention of Documents for Purposes of Proof

(1) Where an obligation to furnish proof pursuant to Article 42 (3) or Article 45 (3) of the Closed Substance Cycle and Waste Management Act exists with respect to the management of waste requiring supervision, the waste producer shall furnish proof of the permissibility of the planned waste management operation if the quantity of waste requiring supervision exceeds five tonnes per code of waste and calendar year; for this purpose, he shall use the forms provided for this purpose in Annex 1 (simplified proof). Such simplified proof shall consist of the waste producer's Cover Sheet for Records of Proper Waste Management (*Deckblatt Entsorgungsnachweise*) and Declaration of Responsibility (*Verantwortliche Erklärung*) and the Declaration of Acceptance (*Annahmeerklärung*) presented by party responsible for waste management. Prior to commencement of the planned waste management operation, the waste producer shall fill out the Declaration of Responsibility section and forward it to the party responsible for waste management. Prior to commencement of the planned waste management operation, the party responsible for waste management shall fill out the Declaration of Acceptance section of the simplified proof form and forward it to the waste producer. Article 6 (4) and (5) and Article 23 shall apply mutatis mutandis. Simplified proof shall remain valid for a maximum period of five years.

(2) Notwithstanding paragraph (1), proof of the permissibility of the planned waste management operation may be furnished by the collector in the form of a simplified collective record (*vereinfachter Sammelnachweis*), using the forms provided for this purpose in Annex 1. The simplified collective record shall consist of the collector's record of proper waste management cover sheet and declaration of responsibility and the declaration of acceptance presented by the party responsible for waste management. Prior to commencement of the planned waste management operation, the collector shall fill out the Declaration of Responsibility section and forward it to the party responsible for waste management. Prior to commencement of the planned waste management operation, the party responsible for waste management shall fill out the Declaration of Acceptance section of the simplified collective record and forward it to the collector. Paragraph 1 sixth sentence and Article 8 (1) first sentence, with the exception of No. 4, Article 6 (4) and (5) and Article 25 shall apply mutatis mutandis. The collector shall furnish proof pursuant to the first through fifth sentences if the producers of the collected waste are exempted from notification obligations pursuant to paragraph (1) first sentence.

(3) Where notification (?) obligations pursuant to paragraphs (1) and (2) exist, the handover of the waste shall be certified to the waste producer, collector or transporter at the time of handover by means of handover certificates (*Übernahmescheine*), using the forms provided for this purpose in Annex 1, by the person who accepts the waste for further management operations. Articles 18 and 19 shall apply mutatis mutandis. Notwithstanding the first and second sentences, a commercial document, particularly a delivery note or weighing note, may be used for the purposes of certification

if the document contains the information required in the handover certificate form provided in Annex 1. Compliance with the format of the handover certificate, especially in terms of signatures, is not required for documents within the meaning of sentence 3. Should, in deviation from the first sentence, certification using a document within the meaning of sentence 3 not occur at the time of handover, the party who retains the original copy of the document shall provide a copy thereof to the other party involved in the handover within ten working days following the handover of the waste. The competent authority may order those required to provide proof or certain of those required to provide proof to use the forms provided pursuant to sentence 1 if those required to provide proof fail to fulfil their obligations under sentence 1 or 5 or if use of the forms is required for other reasons to ensure correct provision of proof. Those required to provide proof shall comply with any such requirement.

(4) Paragraphs (1) through (3) shall not apply where public-law parties responsible for waste management recover or dispose of waste requiring supervision under Article 15 of the Closed Substance Cycle and Waste Management Act. This shall also apply if public-law parties responsible for waste management commission a third party to perform their duties or the waste is merely excluded from collection and transportation.

(5) The competent authority may on request or on its own initiative grant a revocable exemption from the obligations under the first and third sentences in terms of type, volume and content where proper recovery or disposal is proven pursuant to the requirements of Article 42 (3) and Article 45 (3) of the Closed Substance Cycle and Waste Management Act and no detriment to the common good is foreseen.

Article 26

Obligation to Furnish Proof Following an Official Order

Where an obligation to furnish proof of management operations carried out for waste requiring supervision and waste not requiring supervision is ordained in accordance with Article 42 (1) or (2) or Article 45 (1) or (2) of the Closed Substance Cycle and Waste Management Act, Articles 3 through 23 and 25, with the exception of paragraph (1) first sentence, last part of the sentence, shall apply *mutatis mutandis*. If the official order establishing the obligation to furnish proof pursuant to the first sentence is limited to a notification, Article 11 (1) and (2) Nos. 1 and 2 and Article 12 shall apply *mutatis mutandis*.

Part Four - General Provisions

Article 27

Record books

- (1) The parties required to keep records shall keep record books. The record books shall be presented to the competent authority on demand.
- (2) The record books shall consist of a collection of the records of proper waste management, collective records of proper waste management, declarations of proof, consignment notes and handover certificates or substitute certificates that are required pursuant to Part Two and Part Three, and of notifications and exemptions.
- (3) The waste producer, waste transporter and waste management numbers required for the purpose of keeping records shall be issued by the competent authorities.
- (4) The record numbers required for differentiation between the individual files and the exemption numbers shall be issued by the authority responsible for the party responsible for waste management; the necessary concept and balance sheet numbers used in cases of substitution of individual records pursuant to Articles 44 and 47 of the Closed Substance Cycle and Waste Management Act shall be issued by the authority responsible for the waste producer. Should the record of proper waste management on disposal of waste requiring supervision be submitted under the privileged procedure, the competent authority may permit the index numbers required in the first sentence to be issued by the waste management party exempt under Article 13 (1) or 5. The competent authority may permit the necessary index numbers pursuant to the first sentence to be issued by a third party. The first two digits of the numbers to be issued pursuant to the first sentence shall contain the following index letters:
 1. "EN" for the record of proper waste management (*Entsorgungsnachweis*),
 2. "SN" for the collective record of proper waste management (*Sammelentsorgungsnachweis*),
 3. "FR" for an exemption (*Freistellung*),
 4. "VN" for a simplified record (*vereinfachter Nachweis*),
 5. "VS" for a simplified collective record (*vereinfachter Sammelnachweis*),
 6. "KO" for concepts (*Konzepte*),
 7. "BI" for waste balance sheets (*Bilanzen*).The third digit shall consist of the relevant *Land* index code.
- (5) Those required to provide proof may only use the number issued under Paragraph (3) and (4) for the purpose stated in those paragraphs.

Article 28

Starting and Keeping of Record Books

- (1) A party required to start and keep a record book shall start and keep his record book by filing in chronological order the copies of the consignment notes intended for his record book, in each case

attached to the corresponding records of proper waste management, no later than ten working days after receipt.

(2) The waste producer shall start and keep a record book consisting of copies 1 and 5 (white and old gold) of the consignment notes. The waste producer shall always attach copy 5 to the corresponding copy 1, regardless of the chronological order. He shall use such records to document the waste, including its type and quantity, that he has handed over to a waste transporter for the purpose of waste management. If the waste producer and the waste transporter are identical, the waste producer shall start and keep a record book consisting of copies 4 and 5 (yellow and old gold); the second sentence shall apply *mutatis mutandis*. If the waste producer carries out the waste management operation himself, he shall start and keep a record book that contains only green copies (copy 6).

(3) The waste transporter shall start and keep a record book consisting of yellow copies (copy 4) of the consignment notes. He shall use such records to document the waste, including its type and quantity, that he has accepted from a waste producer and passed on to a party responsible for waste management. If the waste transporter carries out the waste management operation himself, he shall start and keep a record book that contains only green copies (copy 6).

(4) The party responsible for waste management shall start and keep a record book consisting of green copies (copy 6) of the consignment notes. He shall use such records to document the waste, including its type and quantity, he has accepted for the purpose of waste management.

(5) The party required to start and keep a record book shall be responsible for filling out the documents referred to in paragraph (2) and for starting and keeping a record book, as well as for handing over and sending the records to the competent authority. Such party may transfer the task of fulfilling his obligations arising from these provisions. Such transfer shall not affect his responsibility.

(6) Paragraphs (1) through (5) shall apply *mutatis mutandis* to the handover certificate or substitute certificate, the attachment of consignment notes to the declarations of proof under the privileged procedure and to notifications, notifications of changes and exemptions.

Article 29

Obligations to Keep Records in the Archives

Parties required to start or keep a record book shall keep the record books in the archives for three years, calculated from the date of the last entry or of the last document. Parties responsible for waste management shall keep the record books in the archives for at least ten years following the decommissioning of the relevant facility concerned. The notice of authorisation may specify a longer retention period for the records. The first and second sentences shall apply *mutatis mutandis* if any

records are replaced by waste management concepts and waste balance sheets, in accordance with Articles 44 and 47 of the Closed Substance Cycle and Waste Management Act.

Article 30

Furnishing Proof in Special Cases

(1) Anyone who accepts any waste for which he is required to keep a record book from another person who is not required to keep a record book for the waste in question, shall also list such person's name and address on the copies of the certificates required pursuant to this Ordinance that are intended for him and on the copies he is required to forward. Anyone who hands over waste to another person who in this regard is not required to keep a record book shall list such other person's name and address on the copies of the certificates required pursuant to this Ordinance.

(2) If, due to special circumstances other than those referred to in paragraph (1), unrestricted application of the provisions of Articles 27 through 29 is not possible in an individual case the party required to provide proof shall use the records in a manner to be determined by the competent authority. The party required to provide proof shall comply with any such requirement.

Article 31

Legibility and Genuineness of Documents

All the entries in the forms listed in the Annex shall be clearly legible and in the German language; they shall be printed, typewritten or written with a ball-point pen or other writing instrument that makes indelible marks. Where an original entry is rendered illegible, a note shall be added indicating whether such change occurred when the entry was made or at a later time.

Article 32

Electronic Data Processing, Data Communication

(1) Operators of waste management facilities may prepare the information contained in the records pursuant to this Ordinance in digital form. In the case of the first sentence, instead of a keeping record book, a party required to start and keep a record book shall save all of the information to be entered into the records in a proper manner, applying Articles 27 and 28 *mutatis mutandis*, and save the information for the period specified in Article 29 first and second sentences.

(2) The proper structure for digital data, and the proper form for the transfer of data, shall be agreed with the competent authority.

(3) If the data obtained in the proof procedures are prepared in digital form, the party responsible for waste management shall

1. save the data from the records of proper waste management before handing over to the waste producer the original copies of the records of proper waste management, with the certificates of proper waste management from the competent authority attached;
 2. save the data from the collective records of proper waste management before handing over to the waste transporter the original copies of the collective records of proper waste management, with the certificates of proper waste management from the competent authority attached;
 3. save the data from the simplified records of proper waste management upon acceptance of the waste for treatment or deposition;
 4. save the data from the records in list form upon acceptance of the waste for treatment or deposition; such data shall also include the individual entries regarding the quantities given in the records in list form.
- (4) For the purposes of testing digital record keeping using data processing and data transfer, the competent authority may also allow certain waste producers, waste managers and collectors and transporters of waste to prepare, transfer and store record book data pursuant to Paragraph (1) first sentence. In such cases, the records shall be determined using as appropriate the requirements contained in the forms provided in Annex 1 and those concerning the establishment and keeping of record books pursuant to this Ordinance. The competent authority may release a party required to provide proof who participates in testing as defined in the first sentence from specific requirements in sentence 2 in terms of type, volume and content where it can be expected that the use of the opportunities and benefits of digital data processing and transfer, particularly fast access to record data, will continue to guarantee proper monitoring of waste management. If more than one competent authority is involved, the decisions pursuant to sentences 1-3 shall be made by the competent authority responsible for the waste management facility in agreement with the other competent authorities.

Article 33

Administrative Offences

Anyone who intentionally or through negligence

1. contravenes Article 4 (1) first sentence or Paragraph (2) first sentence, also in conjunction with Article 9 (2), Article 23 first sentence (1) or Article 26 first sentence, Article 9 (1), also in conjunction with Article 26 first sentence, Article 25 (1) third or fourth sentence or (2) third or fourth sentence, also in conjunction with Article 26 first sentence, by not filling out a declaration at all or by not filling it out correctly, completely or on time;
2. contravenes Article 5 (4) second sentence, also in conjunction with Article 9 (2); Article 23 sentence 1 (1) or Article 26 (1), or Article 13 (3) second sentence, also in conjunction with Article 26 first sentence, by not complying with an enforceable restriction, or contravenes Article 14 (3) or Article 21 (1) fourth sentence, Article 25 (3) seventh sentence or Article 30 (3) second sentence by not complying with an enforceable order;

3. contravenes Article 6 (3) first sentence, also in conjunction with Article 9 (2) or Article 26 first sentence, by not making a note that the period has elapsed or by not making such a note correctly, completely or on time;
4. contravenes Article 6 (3) second sentence, also in conjunction with Article 9 (2) or Article 26 first sentence, Article 9 (3) first sentence, Article 11 (1) or Article 25 (3) fifth sentence by not submitting a copy or by not submitting it correctly, completely or on time;
5. contravenes Article 6 (4) second sentence, also in conjunction with Article 9 (2), Article 10 (2) second sentence, Article 25 (1) fifth sentence, (2) fifth sentence or Article 26 first sentence, Article 17 (1) second sentence or Article 19 (2) second sentence, also in conjunction with Article 24 (1) second sentence, Article 25 (3) second sentence or Article 26 first sentence, by not carrying a document at all, not carrying the complete document or by not presenting the document on time;
6. contravenes Article 9 (3) second sentence or Article 13 (7) by not submitting notification or by not submitting it correctly, completely or on time;
7. contravenes Article 16, also in conjunction with Article 23 sentence one (1) or Article 26 first sentence, Article 19 (1), also in conjunction with Article 24 (1) second sentence, Article 25 (3) second sentence or Article 26 first sentence, by not filling out a document at all or by not filling it out correctly, completely or on time;
8. contravenes Article 17 (1) first sentence or Article 2 first sentence, also in conjunction with Article 23 first sentence (1) or Article 19 (2) first sentence, also in conjunction with Article 24 (1) second sentence or Article 25 (3) second sentence by not handing over a copy or by not handing it over correctly, completely or on time or by not submitting a copy or by not submitting it correctly, completely or on time;
9. contravenes Article 20 (1) second sentence, also in conjunction with Article 26 first sentence, by not entering a number at all or by not entering it correctly, completely or on time;
10. contravenes Article 20 (2) by not submitting a consignment note;
11. contravenes Article 25 (3) first sentence by not certifying the handover of the waste or by not certifying it correctly, completely or on time;
12. contravenes Article 27 (5) by using a number;
13. contravenes Article 28 (1), also in conjunction with paragraph (6), by not starting or keeping a record book at all or by not starting or keeping it correctly, completely or on time;
14. contravenes Article 29 first or second sentence by not keeping a record book in the archives at all or for the required period;
15. contravenes Article 32 (1) second sentence by not saving data at all or by not saving it correctly, completely or on time, or by not saving a data entry for the required period; or
16. contravenes Article 32 (3) by not saving a data entry at all or by not saving it correctly, completely or on time

shall be deemed to have committed an administrative offence within the meaning of Article 61 (2) No. 10 of the Closed Substance Cycle and Waste Management Act.

Part Five - Final Provisions

Article 34

Interim Provisions

(1) Article 8 (1) sentence 1 No. 4 and sentence 3 shall also apply when waste is collected and disposed of in conjunction with a collective record of proper waste management that was confirmed by the competent authority before entry into force of the Ordinance to Amend the Ordinance on Waste Recovery and Disposal Records of ...(date/source).

(2) A simplified record of proper waste management pursuant to Article 25 (1) or a simplified collective record pursuant to Article 25 (2) that was submitted before entry into force of the ordinance stated in (1) above shall remain valid until 31 December 2006 at the latest.

(3) This Ordinance shall not apply to the handover of scrap vehicles pursuant to Article 3 (1) through (3) of the Ordinance on the Disposal of Scrap Vehicles (*Altauto-Verordnung*) of 4 July 1997 (Federal Law Gazette I p. 1666). The obligations to provide proof of correct handover of scrap vehicles within the meaning of the first sentence shall be deemed to be fulfilled by submitting the recycling certificate and issuing or submission of the certificates pursuant to Article 3 (2) and Article 4 (2) and (4) of the Ordinance on the Disposal of Scrap Vehicles until such time as that ordinance is either amended or superseded by an appropriate ordinance pursuant to Articles 7, 24, and 48 of the Closed Substance Cycle and Waste Management Act or appropriate legislation.

(4) In the cases covered by paragraph (3), the competent authority, applying Article 26 *mutatis mutandis*, may ordain that the waste producer must prove the permissibility of a planned management operation for waste for recovery requiring special supervision in accordance with the provisions of Section One of Part Two.

(5) Notwithstanding Article 3 (1) and Article 8 (1), records of proper waste management and collective records of proper waste management pursuant to this Ordinance may, until 31 December 1998, incorporate the forms pursuant to Annexes 3 and 4 of the Ordinance on Supervision of Waste and Residual Substances of 3 April 1990. Notwithstanding Article 15 (1), Article 18 (1) and Article 25 (1), the simplified record and the record of execution of waste management pursuant to this Ordinance may, until 31 December 1998, incorporate the forms pursuant to Annexes 5, 6 and 7 of the Ordinance on Supervision of Waste and Residual Substances of 3 April 1990.

Article 35

Entry into Force, Expiration

This Ordinance shall enter into force on 7 October 1996. At the same time, the Ordinance on Supervision of Waste and Residual Substances of 3 April 1990 (Federal Law Gazette I p. 648) shall expire.

The *Bundesrat* has given its consent.

Bonn, 10 September 1996

The Federal Chancellor

Dr. Helmut Kohl

The Federal Minister for the Environment, Nature Conservation and Nuclear Safety Angela Merkel.

Annex 1 to the Ordinance on Waste Recovery and Disposal Records

This Annex contains forms^{*)} that are to be used for the keeping of records, submission of notifications as well as for exemptions laid down in the Ordinance.

The required information must be entered in accordance with the instructions for filling out the individual spaces.

The forms shall be used as follows:

1. For the records of proper waste management (Article 3) and the collective records of proper waste management (Article 8):
 - Cover sheet for records of proper waste management (EN; *Entsorgungsnachweise*),
 - Declaration of Responsibility (VE; *Verantwortliche Erklärung*),
 - Declaration Analysis (DA; *Deklarationsanalyse*),
 - Declaration of Acceptance (AE; *Annahmeerklärung*),
 - Official Confirmation (BB; *Behördenbestätigung*);

2. For notifications (Article 11):
 - Cover sheet for notification / application (AA; *Anzeige/Antrag*),
 - Declaration of Responsibility (VE; *Verantwortliche Erklärung*) (without the Declaration Analysis (DA; *Deklarationsanalyse*));

3. For exemptions (Article 13):
 - Cover sheet for notification / application (AA; *Anzeige/Antrag*),
 - Declaration of Acceptance (AE; *Annahmeerklärung*),
 - Official Confirmation (BB; *Behördenbestätigung*);

4. For records of completed waste management operations (Articles 15, 18):
 - Consignment note (*Begleitschein*),
 - Handover certificate (*Übernahmeschein*);

5. For simplified records and simplified collective record (Article 25 (1), (2)):

^{*)} Remarks on the layout of this form:

1. The forms have been reduced in size; at their current size, they are not machine-readable, and entries cannot be made with a typewriter or computer printer. For proper use, the forms must be enlarged to the DIN A4 format (enlargement ratio of 84:100). The dimensions of the handover certificate (*Übernahmeschein*) must be 210 mm x 210 mm.
2. All space boundaries and shaded areas of the forms, except for the consignment notes (*Begleitscheine*) and handover certificates should be printed in the colour HKS 6 N, if possible. The shaded areas must not exceed 60% of the full-tone value. All fonts and numbers, and the alignment mark for computer systems, should be printed in black.

- Cover sheet for records of proper waste management (EN; *Entsorgungsnachweise*),
- Declaration of Responsibility (VE; *Verantwortliche Erklärung*) (without the Declaration Analysis (DA; *Deklarationsanalyse*)),
- Declaration of Acceptance (AE; *Annahmeerklärung*).

**Annex 2 to the Ordinance on
Waste Recovery and Disposal Records**

List of wastes pursuant to Article 8 (1) third sentence:

| | |
|----------|--------------------------------------|
| 13 04 01 | Bilge oils from inland navigation |
| 13 04 02 | Bilge oils from jetty sewers |
| 13 04 03 | Bilge oils from other navigation |
| 16 06 01 | Lead batteries |
| 16 07 08 | Waste containing oil (from shipping) |