

Guidance Manual

Waste Facility Permit and Registration Regulations

1	Introduction	1
1.1	Objective of Guidance	1
1.2	Structure and Use of manual	1
1.3	Acknowledgements	1
2	Waste Activity Authorisations	3
2.1	Waste Authorisation Requirements.....	3
2.2	Is the Material a Waste?.....	3
2.3	Waste Activity Authorisations	4
2.4	Request to Agency for determination of authorisation - Article 11	4
2.5	Classes of Activities requiring a waste facility permit or certificate of registration.	5
3	The Regulations – Revocations, Transitional arrangements and Purpose	6
3.1	Revocations - Article 3	6
3.2	Transitional Arrangements - Article 3.....	6
3.3	Purpose of Regulations - Article 4.....	11
4	The Application Process	12
4.1	Pre-application consultation	12
4.2	Overview of application process	13
4.3	Notice Requirements - Article 7 and 8	13
4.4	Application Contents and Supporting Information – Article 10.....	14
4.5	False Information – Article 43	18
4.6	Procedure on receipt of an Application – Article 12	19
4.7	Further Information – Article 13.....	21
4.8	Availability and inspection of documents – Article 14	21
4.9	Submissions to a Local Authority regarding an application for a waste facility permit - Article 15.....	22
4.10	Period for determination of an application for a waste facility permit – Article 16.....	22
4.11	Investigations concerning discharges to groundwater - Article 17	23
4.12	Determination and notice of decision of grant or refusal in relation to a waste facility permit - Article 18	24
4.13	Permit Conditions	25
4.14	Notice and information to the Agency and the Minister for Agriculture and Food – Article 24.....	29
4.15	Notice and information to the local authority regarding a waste facility permit – Article 25.....	29
4.16	Amendments to a waste facility permit of a clerical or technical nature– Article 26 ...	29
4.17	Transfer of a waste facility permit -Article 27	30
4.18	Withdrawal or Abandonment of an Application for a Waste Facility Permit - Article 28	31
4.19	Surrender by the Permit Holder - Article 29	31
4.20	Review of a waste facility permit - Article 30-34.....	32
4.21	Revocation of a waste facility permit – Article 36.....	38
4.22	Certificates of Registration – Article 37	39
4.23	Review, amendment, revocation or transfer of a Certificate of Registration – Article 38	39
4.24	Surrender of a Certificate of Registration – Article 39.....	41
5	Monitoring, inspection, auditing and enforcement of waste facility permit and certificate of registration activities.....	43
5.1	Introduction.....	43

5.2	Article 40 of the Waste Management (Facility Permit and Registration) Regulations 2007	43
5.3	Key considerations for enforcement of waste facility permits and certificate of registration activities	44
5.4	Specialist Guidance on Waste Enforcement of the EEN	44
6	Registers and Waste Permit Website	46
6.1	Register Requirements Article 41	46
6.2	Objective of Waste Permit Website	46
7	Charging	47
7.1	Fees Payable - Article 42	47
7.2	Defrayal of Local Authority or Agency costs (Article 44)	47
7.3	Guidance on cost accounting	48
7.4	Guidance on risk-based charging scheme	49
8	Appeals and Competent Court of Jurisdiction.....	51
9	Fit and Proper Person.....	52
9.1	Overview of Fit and Proper Person	52
9.2	Determining 'relevant person' – Article 36 (2)	52
9.3	Relevant Convictions/Court Order	53
9.4	Technical Competence (Fit and Proper person)	53
9.5	Guidance on Financial liabilities and security	54

APPENDICES

1.	CONSOLIDATED WASTE MANAGEMENT (FACILITY AND REGISTRATION) REGULATIONS S.I 821 OF 2007 AND WASTE MANAGEMENT (FACILITY PERMIT AND REGISTRATION (AMENDMENT) REGULATIONS S.I 86 OF 200 Error! Bookmark not defined.	
2.	INTERPRETATIVE COMMUNICATION FROM EC ON WASTE AND BY-PRODUCTS	
3.	RECENT EU CASE LAWS.....	
4.	WASTE ACTIVITY AUTHORISATIONS (DECISION TREES)	
5.	THIRD SCHEDULE PART 1 - CLASSES OF ACTIVITIES SUBJECT TO A WASTE FACILITY PERMIT.....	
6.	THIRD SCHEDULE PART II - CLASSES OF ACTIVITIES SUBJECT TO A CERTIFICATE OF REGISTRATION	
7.	WASTE FACILITY PERMIT AND CERTIFICATE OF REGISTRATION APPLICATION FORM	
8.	WASTE FACILITY PERMIT APPLICATION PROCESS -FLOWCHART 1.....	
9.	WASTE FACILITY PERMIT HOLDER INITIATED REVIEW -FLOWCHART 2.....	
10.	WASTE FACILITY PERMIT LOCAL AUTHORITY INITIATED REVIEW - FLOWCHART 3	
11.	CERTIFICATE OF REGISTRATION APPLICATION PROCESS –PRIVATE SECTOR FLOWCHART 4	
12.	CERTIFICATE OF REGISTRATION APPLICATION PROCESS –LOCAL AUTHORITIES FLOWCHART 5.....	
13.	CERTIFICATE OF REGISTRATION REVIEW PROCESS – PRIVATE SECTOR FLOWCHART 6	
14.	CERTIFICATE OF REGISTRATION REVIEW PROCESS – LOCAL AUTHORITIES FLOWCHART 7	
15.	WASTE FACILITY PERMIT NEWSPAPER NOTICE EXAMPLE	
16.	WASTE FACILITY PERMIT SITE NOTICE.....	
17.	TRANSFER AND SURRENDER FORMS FOR WASTE FACILITY PERMIT AND CERTIFICATE OF REGISTRATION	

- 18. EPA ENVIRONMENTAL MANAGEMENT GUIDANCE DOCUMENT ON THE
EXTRACTION INDUSTRIES (NON-SCHEDULED MINERALS)
- 19. DRAFT DAFF DOCUMENT ON 'CONDITIONS FOR APPROVAL AND OPERATION
OF COMPOSTING AND BIOGAS PLANTS TREATING ANIMAL BY-PRODUCTS IN
IRELAND'
- 20. GUIDANCE NOTES ON FLOOD STUDIES
- 21. GUIDANCE ON BIODIVERSITY

1 Introduction

The Minister for the Environment, Heritage and Local Government has introduced new waste permitting regulations, namely the Waste Management (Facility Permit and Registration) Regulations, S.I No. 821 of 2007 as amended by the Waste Management (Facility Permit) (Amendment) Regulations, S.I No. 86 2008.

The Regulations come into effect on the 1st June 2008. The Regulations are available for download from <http://www.environ.ie/en/Legislation/Environment/Waste/WasteManagement/>

A consolidated set of Regulations is provided in **Appendix 1**. This consolidated version is for guidance only, the actual regulations should be consulted for confirmation.

The Regulations provide for the issuing of waste facility permits or certificates of registration for certain scheduled activities *in lieu* of a waste licence.

1.1 Objective of Guidance

This guidance manual is principally for the assistance of local authorities in carrying out their functions under the Regulations; however, the manual should also be of benefit to other stakeholders including private sector waste operators and the general public.

This manual is guidance only and does not constitute definitive legal opinion. The relevant legislation should always be consulted and, in case of doubt, legal opinion should be sought.

The application forms and flow charts referenced in this manual can be downloaded from www.epa.ie/wastepermit

1.2 Structure and Use of manual

These Guidelines are structured to follow the order of the Regulations and must be used in conjunction with the Regulations. Any reference to the Regulations means the Waste Management (Facility Permit and Registration) Regulations S.I No.821 of 2007 as amended by the Waste Management (Facility Permit and Registration) (Amendment) Regulations S.I No.86 of 2008 unless otherwise stated. Any reference to “the Act” refers to the Waste Management Acts 1996 to 2007.

1.3 Acknowledgements

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Members of the Steering Committee:

Jim Moriarty, Office of Environmental Enforcement, EPA (Chair)
Stephen McCarthy, Office of Environmental Enforcement, EPA
Jonathan Derham, Office of Climate Change, Licensing and Resource Use, EPA
Maria Douglas, Dublin City Council
Jean Sayers, Cork County Council
Barry Lavin, Department of Environment, Heritage and Local Government
Michael Young, Department of Environment, Heritage and Local Government

Project Consultants:

Kara Flannery, Enviro Consulting
Clodagh McGrath, Enviro Consulting
Andrew Crosby, Enviro Consulting
Elisabeth Nagel, Enviro Consulting

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2 Waste Activity Authorisations

This chapter addresses the definition of waste, waste activity authorisations and classes of activity requiring a WFP or CoR.

The Article covered in this Chapter is:

Article 11 Declarations on waste licences, waste facility permits or certificates of registration

2.1 Waste Authorisation Requirements

The first step in dealing with a potential authorisation under the Regulations is to determine what type of authorisation, if any, is required for the specific activity in question.

The requirement for waste disposal and recovery activities to hold an authorisation is provided for in **Part V, section 39 of the Waste Management Acts 1996-2007**. Sub-section 39(1) of the Act states that all disposal and recovery activities require a waste licence, except those classes of activities for which waste permit regulations have been provided under sub-section 39(4). Sub-section 39(5) continues to set out that the waste permit regulations shall provide details on the quantities of waste that may be disposed or recovered under waste permits, and that waste permits or waste certificates, as opposed to waste licences, must be obtained from the local authority or the Agency. It further states that the waste facility permit regulations should specify the conditions and controls that are required of permitted waste activities, and that the Agency should determine whether a facility requires a waste permit or not in the cases of uncertainty. In addition, sub-section 39(7) provides for exemptions to waste licensing, which include waste activities which are part of facilities which hold IPPC licenses. Exclusions for household waste disposed of in the household, litter in a litter bin, civic amenity waste and disposal of animal by-products are also provided for under Part 5 of the Acts, subsection 39(7).

It should be noted that exempted waste activities are still subject to other requirements of waste management law including the general requirement under S. 32(1) of the Acts, that 'a person shall not hold, transport, recover or dispose of waste in a manner that causes or is likely to cause environmental pollution'.

2.2 Is the Material a Waste?

The definition of waste is important in order to determine whether an authorisation is required, and if so what type of authorisation is required by an activity.

Waste, hazardous waste, disposal and recovery of waste are defined in **Section 4 of the Waste Management Acts 1996-2007**. The definitions provided in the Acts refer to the European Waste Catalogue and the European Hazardous Waste list. It states that any substance or object belonging to a category of waste specified in the First Schedule of the Acts, or included in the European Waste Catalogue, which the holder discards or intends or is required to discard, and anything which is discarded or otherwise dealt with as if it were waste shall be presumed to be waste until the contrary is proved.

As waste authorisation is only required for specified waste activities, the question as to what material is defined as waste becomes fundamental, in particular in determining whether the required authorisation is a waste licence, a waste facility permit or a certificate of registration.

While in many cases it is clear whether materials are waste or not, it can sometimes be very difficult to determine, as is reflected in the amount of case law in this particular area at EU level. In 2007, the EU published an *Interpretative communication on waste and by-products (Appendix 2)* to guide competent authorities in this regard. This document clarifies the concepts of a product, production residue and by-product. It also sets out guidelines to help

determine what is to be classified as waste and what is not. This EU Communication distils the findings of EU case law into a series of deciding factors and gives a number of examples. Annex I of the Communication list some illustrative examples of wastes and non wastes. Annex II of same provides a useful decision tree for waste versus by-product decision.

It is recommended that local authorities use this document to determine if a material is waste or not and also keep abreast of any further developments in case law in the area.

For further reference, **Appendix 3** contains the EU ECJ case law on waste as presented in ECJ judgement on Case C-194-05 delivered 18 December 2007 which sets out in paragraphs 31 to 44 a useful summary of EU case law.

2.3 Waste Activity Authorisations

The Agency has provided two decision trees to assist all parties concerned in deciding what type of authorisation, if any, a waste activity may require. One decision tree is for private sector waste operators applying to the local authority or the Agency, and the other is for the local authorities when considering application to the Agency.

These decision trees can be downloaded from the Agency website at:

<http://www.epa.ie/whatwedo/licensing/waste/> and are reproduced in **Appendix 4**.

2.4 Request to Agency for determination of authorisation - Article 11

Waste facility operators may not be sure whether they need a waste licence, a waste facility permit, a certificate of registration, or whether they are exempt from all of the above authorisations.

Under Article 11 of the Regulations they can request clarification on the matter from the Agency. A request for clarification should be made by the facility operator in advance of an application being submitted, as this may negate the necessity to go through a lengthy application process if the material or activity is deemed not to require a waste facility permit or waste certification at all.

Alternatively it may clarify that a waste licence, not a waste facility permit, is required, so then an application to the Agency for a licence, not to the local authority for a permit, will need to be made.

Furthermore, if an application is made to a local authority, but the local authority is then in doubt about the requirement of the activity to be permitted or not, the local authority can in turn make a written request to the Agency to clarify what type of authorisation, if any, is needed. In such an event, the local authority should not consider the application at all until it has got clarification by the Agency on the matter, which should be received within **15 working days**.

Appendix 3 of the waste facility permit application form contains a proforma for determination by the EPA as to whether an activity requires a waste licence, waste facility permit, certificate of registration or none of these. See <http://www.epa.ie/whatwedo/licensing/waste/> for further information and electronic proforma.

2.5 Classes of Activities requiring a waste facility permit or certificate of registration.

Appendix 5 provides examples of classes of activities that are subject to a waste facility permit from the local authority in accordance with the **Third Schedule Part I** of the Waste Management (Facility Permit and Registration) Regulations 2007 (as amended).

Appendix 6 sets out examples of the classes of activities that are subject to a **Certificate of Registration (COR)** from the local authority in accordance with **Third Schedule Part II** of the Waste Management (Facility Permit and Registration) Regulations 2007 (as amended). Examples of combined activities are also included in **Appendix 6**.

3 The Regulations – Revocations, Transitional arrangements and Purpose

This chapter describes the revocation, transitional arrangements and the purpose of the Regulations.

The Articles covered in this Chapter are:

Article 3. Revocations and transitional arrangements

Article 4. Purpose of Regulations

3.1 Revocations - Article 3

The new facility permit and registration regulations revoke the whole of the Waste Management (Permit) Regulations, 1998 (S.I. No. 165 of 1998 as amended) subject to the transitional arrangements in Article 3(2).

3.2 Transitional Arrangements - Article 3

Transitional arrangements are provided for in Article 3 of the Regulations. While the Waste Management (Permit) Regulations 1998 (S.I.No.165 of 1998) are revoked, they are subject to Article 3(2). This requires the local authorities and the Agency to have regard to the 1998 Regulations which will still apply and have effect to any waste facility permit or certificate application (new or review) which has been granted before 1st June 2008.

Where a certificate of registration was granted under the 1998 Regulations, but the activity now requires a waste facility permit under the 2008 Regulations, the certificate of registration will remain valid if an application for a waste facility permit is made within sixty working days after the 1st June 2008, and until a decision on the application has been made.

Similarly where a waste facility permit was granted under the 1998 Permit Regulations, but the activity now requires a waste licence from the Agency under the 2004 Licensing Regulations, the permit will remain valid so long as an application for a waste licence is made to the Agency within 180 working days after the 1st June 2008, and until a decision on the application has been made.

Any application for a review of a waste facility permit or certificate of registration made after the 1st June 2008 will be carried out under the new Regulations. **Table 1** below provides a number of scenarios relating to applications under the old and new system relating to transitional arrangements.

The following abbreviations are used in the table:

1998 Regs	Waste Management (Permit) Regulations, 1998 (S.I. No. 165 of 1998).
2007 Regs	The Waste Management (Facility Permit and Registration) Regulations 2007 (S.I. 821 of 2007) as amended by the Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008 (S.I. No. 86 of 2008).
WP	Waste Permit- granted under the 1998 Regs.
WFP	Waste Facility Permit – granted under the 2007 Regs.
CoR	Certificate of Registration.
LA	Local Authority.
EPA	Environmental Protection Agency.

Table 1: Transitional arrangements

WP granted (under the 1998 Regs) before 01/06/08	
The 1998 Regs continue to apply and have effect in relation to the WP until:	
1. Under the 1998 Regs, a WP can only be granted for up to three years and cannot be reviewed. To continue the activity, the WP holder will have to:	Art.3(2) of 2007 Regs.
- Apply for a new WP under the 1998 Regs if the application is to be made before 01/06/08. The application should be made in good time to allow the new WP to be determined in advance of the expiration of the WP.	Art.18(4) of the 1998 Regs.
<u>or</u>	Art.3(2) of the 2007 Regs.
- Apply for a review of the WP under the 2007 Regs if the application is to be made on or after 01/06/08. The application shall be made at least 60days before expiration for the WP to remain valid while the review is being processed [refer Art. 31(1) of 2007 Regs].	Art.3(5) & 31 of the 2007 Regs.
<u>or</u>	Regs silent.
2. If the WP activity is of a type that requires a CoR under the 2007 Regs, the WP holder can apply for a CoR under the 2007 Regs to replace the WP before it expires under the 1998 Regs. The application should be made in good time to allow the new CoR to be determined in advance of the expiration of the WP.	
<u>or</u>	
3. If the WP activity is of a type that requires a Licence under 2007 Regs, the WP holder shall apply for a Licence within 180 working days of 01/06/08 and the WP continues under the 1998 Regs until a decision is taken to grant or refuse the Licence at which point the WP will lapse.	Art.3(4) of the 2007 Regs.

WP applied for before 01/06/08 and due to be determined (under the 1998 Regs) on or after 01/06/08	
<p><u>WP activity that would require a WFP under the 2007 Regs</u></p> <p>The LA shall proceed to determination and, if the WP is granted, the 1998 Regs continue to apply and have effect in relation to the WP. However, under the 1998 Regs, a WP can only be granted for up to three years and cannot be reviewed. Therefore, to continue the activity, the WP holder will have to apply before the WP expires for a review under the 2007 Regs. The application shall be made at least 60days before expiration for the WP to remain valid while the review is being processed [refer Art. 31(1) of 2007 Regs].</p> <p><u>WP activity that would require a CoR under the 2007 Regs</u></p> <p>The LA should inform the applicant that in its opinion the activity is of a type that would require a CoR under the 2007 Regs and that:</p> <ul style="list-style-type: none"> - the applicant can withdraw the WP application and apply for a CoR under the 2007 Regs instead; or - failing that, the LA shall determine the WP under the 1998 Regs and, if granted, the applicant can apply for a CoR under the 2007 Regs to replace the WP before it expires under the 1998 Regs. 	<p>Art.18(4) of the 1998 Regs and Art.3(2), 3(5) & 31 of the 2007 Regs.</p> <p>Regs silent.</p>
<p><u>WP activity that would require a Licence under the 2007 Regs</u></p> <p>The LA should inform the applicant that in its opinion the activity is of a type that would require a Licence under the 2007 Regs and that:</p> <ul style="list-style-type: none"> - the applicant can withdraw the WP application and make an application to the EPA for a Licence; or - failing that, the LA shall determine the WP under the 1998 Regs and, if granted, shall inform the EPA immediately that a WP has been granted under the 1998 Regs for an activity that would in the LAs opinion require a Licence under the 2007 Regs, whereupon the EPA shall, if in agreement, inform the WP holder under Art. 11(5)(a) of the 2007 Regs that a Licence is required and the Licence application shall be made within 180 days for the WP to remain valid until the Licence is decided. LAs shall direct queries and correspondence in this regard to: Licensing Unit, Office of Climate, Licensing and Resource Use, Environmental Protection Agency, P.O. Box 3000, Johnstown Castle Estate, Co. Wexford. 	<p>Art.11(5) (a) of the 2007 Regs.</p>

CoR granted (under the 1998 Regs) before 01/06/08	
As there is no time limit on CoRs under the 1998 Regs, the 1998 Regs continue to apply and have effect in relation to the CoR indefinitely unless:	1998 Regs.
1. If the CoR activity is of a type that requires a WFP under the 2007 Regs, the CoR holder shall apply for a WFP within 60 working days of 01/06/08 and the CoR continues under the 1998 Regs until a decision is taken to grant or refuse the WFP at which point the CoR will lapse.	Art. 3(3) of 2007 Regs.
<u>or</u>	
2. If the CoR activity is of a type that requires a Licence under the 2007 Regs, the LA shall inform the EPA that a CoR exists for an activity that would in the LAs opinion require a Licence under the 2007 Regs, whereupon the EPA shall, if in agreement, inform the CoR holder under Art. 11(5)(b) of the 2007 Regs that a Licence is required and the Licence application shall be made within 180 days for the CoR to remain valid until the Licence is decided. LAs shall direct queries and correspondence in this regard to: Licensing Unit, Office of Climate, Licensing and Resource Use, Environmental Protection Agency, P.O. Box 3000, Johnstown Castle Estate, Co. Wexford.	Art. 11(5)(b) of 2007 Regs.
<u>or</u>	
3. The CoR holder can apply for a review of the CoR under the 2007 Regs.	Art. 3(6) of 2007 Regs.
CoR applied for before 01/06/08 and due to be determined (under 1998 Regs) on or after 01/06/08	
<u>CoR activity that would require a CoR under the 2007 Regs</u>	
The LA shall proceed to determination and, if granted, as there is no time limit on CoRs under the 1998 Regs, the 1998 Regs continue to apply and have effect in relation to the CoR indefinitely unless the CoR holder applies for a review of the CoR under the 2007 Regs.	1998 Regs & Art.3(3) & 3(6) of 2007 Regs.

<p><u>CoR activity that would require a WFP under the 2007 Regs</u></p> <p>The LA should inform the applicant that in the LAs opinion the activity is of a type that would require a WFP under the 2007 Regs and that:</p> <ul style="list-style-type: none"> - the applicant can withdraw the CoR application and make an application to the LA for a WFP; or - failing that, the LA shall determine the CoR under the 1998 Regs and, if granted, shall seek a determination from the EPA immediately that the CoR activity requires a WFP whereby under Article 11(5) (c) of the 2007 Regs the CoR holder shall apply to the LA for a WFP within 60 days for the CoR remain valid until the WFP is decided. LAs shall direct queries and correspondence in this regard to: Licensing Unit, Office of Climate, Licensing and Resource Use, Environmental Protection Agency, P.O. Box 3000, Johnstown Castle Estate, Co. Wexford. 	<p>Art.11(5)(c) of 2007 Regs</p>
<p><u>CoR activity that would require a Licence under the 2007 Regs</u></p> <p>The LA should inform the applicant that in the LAs opinion the activity is of a type that would require a Licence under the 2007 Regs and that:</p> <ul style="list-style-type: none"> - the applicant can withdraw the CoR application and make an application to the EPA for a Licence; or - failing that, the LA shall determine the CoR under the 1998 Regs and, if granted, shall inform the EPA immediately that a CoR has been granted under the 1998 Regs for an activity that would in the LAs opinion require a Licence under the 2007 Regs, whereupon the EPA shall, if in agreement, inform the WP holder under Art. 11(5)(b) of the 2007 Regs that a Licence is required and the Licence application shall be made within 180 days for the CoR to remain valid until the Licence is decided. LAs shall direct queries and correspondence in this regard to: Licensing Unit, Office of Climate, Licensing and Resource Use, Environmental Protection Agency, P.O. Box 3000, Johnstown Castle Estate, Co. Wexford. 	<p>Art.11(5)(b) of 2007 Regs</p>
<p>Fees</p>	
<p>Fees should be applied as set out in Art. 42 and the Fifth Schedule of the 2007 Regs.</p>	
<p>Enforcement</p>	
<p>WPs and CoRs granted under the 1998 Regs shall be enforced under the 1998 Regs. WFPs and CoRs granted under the 2007 Regs shall be enforced under the 2007 Regs.</p>	

3.3 Purpose of Regulations - Article 4

The primary purpose of the waste facility permitting and registration system is to facilitate appropriate controls on waste facilities and activities so as to ensure good and consistent waste management practice and the implementation of high standards of environmental protection.

4 The Application Process

This chapter describes the waste facility process before and during the making of an application for a waste facility permit or a certificate of registration, including the determination of an application and the granting of a permit with conditions.

The Articles covered in this Chapter are:

Article 7. Notice of Intention to Apply for a waste facility permit
Article 8 Requirements as to notices
Article 9 Making of an application to a local authority for a waste facility permit
Article 10 Contents of an application for a waste facility permit
Article 12 Procedure on receipt of an Application
Article 13 Further information
Article 14 Availability and inspection of documents
Article 15 Submissions to a regarding an application for a waste facility permit
Article 16 Period for determination of an application for a waste facility permit
Article 17 Investigations concerning discharges to water
Article 18 Determination and notice of decision of grant or refusal in relation to a waste facility permit
Article 19 Conditions which shall be attached to a waste facility permit
Article 20 Conditions which may be attached to a waste facility permit
Article 21 Conditions relating to the operation of a mobile plant
Article 24 Notice and information to the Agency and to the Minister for Agriculture and Food
Article 25 Notice and information to the local authority regarding a waste facility
Article 26 Amendments to a waste facility permit of a clerical or technical nature
Article 27 Transfer of a waste permit
Article 28 Withdrawal or abandonment of an application for a waste facility permit
Article 29 Surrender of a waste permit
Article 30 Notice from the local authority requiring a review of a waste facility permit
Article 31 Application made by permit holder for the review of a waste facility permit
Article 32 Procedures to be applied by the local authority in the determination of an application
Article 33 Decision on an application for the review of a waste facility on the basis of particulars received from the applicant
Article 34 Decision on an application for the review of a waste facility on the basis of particulars received from the applicant and other persons
Article 35 Determination and notice of grant or refusal of a reviewed waste facility permit
Article 36 Revocation of a waste facility permit
Article 37 Registration of certain activities
Article 38 Review, amendment, revocation or transfer of a certificate of registration
Article 39 Surrender of a certificate of registration
Article 43 False or misleading information or failure to provide information

4.1 Pre-application consultation

It is recommended that pre-application consultations or discussions with the relevant local authority (In the case of a private sector application) or with the Agency (In the case of a local authority application) are undertaken before a formal submission of any of the above types of applications.

The pre-application consultation also fulfils requirements under the Environmental Impact Assessment (EIA) Regulations, for sites that may require an EIA¹. After discussing EIA at the

¹ Disposal or recovery activity >25,000 tonnes require an EIS (S.I. No. 349/1989: European Communities (Environmental Impact Assessment) Regulations, 1989.)

Any change or extension of development which would result in an increase in size greater than 25%, or an amount equal to 50% of the appropriate threshold, whichever is the greater. (S.I. No. 93 of 1999. European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1999.)

pre-application consultation, it may be that you need to hold a separate meeting with the relevant planning authority.

It is recommended that the applicant familiarise themselves with the application form and regulations before beginning to complete the application. In addition applicants need to be aware of the relevant Waste Management Plan for the region or regions and Hazardous Waste Management Plan requirements. Waste management plans are available to download from all local authority websites. The National Hazardous Waste Management Plan 2008-2012 produced by the EPA is available at <http://www.epa.ie/downloads/pubs/waste/haz/>

4.2 Overview of application process

The application processes and the timelines associated with each stage of the following processes are presented in the following numbered flowcharts. These flowcharts are located in **Appendix 8 to 14** inclusive

Application Process	Flowchart Number	Appendix number
WFP application process	Flowchart 1	Appendix 8
WFP permit holder initiated review	Flowchart 2	Appendix 9
WFP local authority initiated review	Flowchart 3	Appendix 10
CoR application process – private sector	Flowchart 4	Appendix 11
CoR application process – local authority	Flowchart 5	Appendix 12
CoR review process – private sector	Flowchart 6	Appendix 13
CoR review process – local authority	Flowchart 7	Appendix 14

The new waste facility permit and certificate of registration application form is available electronically from each local authority website or available to download from www.epa.ie/wastepermit. Applicants should contact the relevant local authority for an electronic or paper copy of the form. The form is provided in **Appendix 7** for reference. The form has been developed for use for a new waste facility permit application or for an application for a certificate of registration or for review of both.

4.3 Notice Requirements - Article 7 and 8

Article 7(a) of the Regulations requires the applicant to put a notice of intention to apply for a waste facility permit in either a national newspaper or in newspapers circulating in the local authority areas where the facility or premises is located. The period between the day when the notice appears in the paper and the submission of the application is up to 10 working days. There are at least six newspapers that are circulated nationally and many that are circulated on a regional basis. It is advisable for an applicant to check with the newspaper's advertisement team where a newspaper is circulated and what date the notice will be published. The applicant should purchase a number of newspapers in which the notice appears.

Article 7(b) of the Regulations requires the applicant to erect a site notice on the facility or premises to make people aware of their intention to make an application.

Article 8(1) provides the details that are to be included in the newspaper notice and article 8(2) provides the details that are to be included in a site notice. Article 10(3) (a) requires a copy of the page of the newspaper, or newspapers, in which the notice has been published to

be included with the application. Article 10 (3) (b) requires a copy of the text of the notices erected or fixed in accordance with articles 7 and 8.

An example of a newspaper notice is included in **Appendix 15** and an example of a site notice is included in **Appendix 16**.

4.4 Application Contents and Supporting Information – Article 10

This section provides an overview of the application form contents and the supporting information required.

The waste facility and certificate of registration application form has been developed as a template to be used by the local authorities. Local authorities may wish to use the template and add local authority logos and amend some questions which may be specific to their area.

Section A: Type of Application

Section A of the form contains 2 questions. The first question deals with the type of application, that is, whether it is an application for a waste facility permit, a certificate of registration or a review of a waste facility permit or a certificate of registration.

The other question asks if the application was completed by a consultant or agent and asks for the said consultant/agent contact details. In some instances the local authority would contact the consultant or agent to clarify some minor issue and therefore contact details are useful.

Section B: About the Applicant

Section B of the form contains nine questions. The questions deal with the applicant(s) and require details including name of applicant, trade names, address of applicant, details of whether the applicant is a body corporate or partnership for example.

This section also requires details on relevant convictions (discussed in more detail in Chapter 9/Section 9.3), technical competence (discussed in more detail in Chapter 9/Section 9.4) and financial commitment discharge (discussed in more detail in Chapter 9/Section 9.5).

Supporting information that must be provided by the applicant includes:

- A copy of the appropriate certificate issued by the Companies Registration Office (www.cro.ie) should be included in the application
- A copy of the proof of the legal interest and permission held by the applicant(s) in the land on which the proposed facility is located (e.g. leaseholder, owner, tenant, prospective purchaser)
- Where relevant, a supplementary sheet detailing the court hearing, case, nature of the offence and any penalty or requirements imposed by the court should be provided. A separate sheet should be used for each offence if there has been more than one

Section C: About the Facility

Section C of the form contains seven questions. The questions deal with the location of facility, site location map and layout plans, planning permission, operating hours, traffic management, lifetime of the facility and agency declaration on type of authorisation. Further guidance on some of the questions is provided below;

C2 Site Location Map and Layout Plans

A site location map must be provided. The site location map should be drawn to scale appropriate to the size of the facility (1:2500) with the particulars requested in the application form.

A site layout plan should be drawn to scale appropriate to the size of the facility (<1:5000) and appropriately captioned. The site layout plan should contain the particulars requested in the application form.

C3 Planning Permission and Planning Authority

Provide the name of the Planning Authority in whose functional area the activity is or will be situated and complete the relevant tables in the application.

C4 Operating Hours

This should contain details of hours of operation for the waste facility.

Waste Facility Permit

Proposed hours of operation should describe the time when employees arrive on site to prepare for waste activities:

- Proposed hours of operation
- Proposed hours of waste acceptance/handling
- Proposed hours of construction and development works at the facility and timeframes
- Any other relevant hours of operation expected.

The difference between (a) and (b) should reflect the time allowed for set up and clean up works each day. Normally it is considered that hours of construction and development works at a waste facility are part of the hours of operation in (a), above. So when addressing item (c) this should be considered. Any assessment of the potential impacts from the facility should have reference to the proposed hours of operation.

Certificate of Registration

Part one of the Fourth schedule states that waste shall only be accepted by the registered holder at the site between 0800 and 1800 hours, Monday to Friday inclusive, and between 0800 and 1400 hours on Saturday s unless otherwise approved in writing by the relevant local authority or, as the case may be, the Agency.

C7 Agency declaration on type of authorisation

If the EPA declared what type of authorisation the proposed activity requires, include the details here

Section D: About the Activity

Section D of the form contains eighteen questions. The questions deal with the description and nature of the waste activity, requirement for EISs, waste volumes, types and processes, recording waste types and volumes, improvement or development of land, waste acceptances procedures, monitoring emissions and ambient emissions, housekeeping, facility security, other procedures, disposal or recovery of waste offsite, animal by-products.

Further guidance on some of the questions is provided below.

D.1 Description of the waste Activity

Include a brief technical description of each of the waste activities.

D.2 Is an Environmental Impact Statement (EIS) required for this activity? If yes, please enclose a copy of the EIS.

All disposal or recovery activities greater than 25,000 tonnes require an EIS (S.I. No. 349/1989: European Communities (Environmental Impact Assessment) Regulations, 1989.)

Any change or extension of a development which would result in an increase in size greater than 25%, or an amount equal to 50% of the appropriate threshold, whichever is the greater, require an EIS. (S.I. No. 93 of 1999. European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1999.

D.3 Class or classes of the waste Activity

The applicant should identify the relevant activities from the Third and Fourth Schedules of the Waste Management Acts 1996 – 2007 which relate to disposal and recovery activities and the relevant activity/s from the Third Schedule Part I or Part II of the Regulations to which the application relates. If the application relates to a number of classes of activities, the principal activity must be identified. Examples of combined activities are provided in **Appendix 6**.

D.4 Waste Volumes

Complete the table detailing all quantities of waste to be handled at the site.

D.5 Waste Types

Complete the table detailing all types of waste to be handled at the site. Definitions of the waste types are provided in the EWC Catalogue available from the EPA website www.epa.ie/downloads/pubs/waste/stats

D.6 Improvement or development of land

Tick the relevant box. If yes, the relevant details of any improvements or development to the land must be provided.

D.7 Waste Processes

Identify each unit process at the waste facility. Also identify each abatement, treatment or recovery system and describe its purpose and mode of operation. A unique reference name or number for each process stream and emission point should be given.

In summary, provide the following information:

- List of all unit operations to be carried out together with an appropriately scaled plan of the site ($\leq A3$) indicating the location of all activities and identifying all buildings and facilities
- Flow diagram of the whole process, along with a brief description detailing its management and maintenance plans
- Brief details on any aspects of the facility operation that can cause emissions to the environment during normal operation and also in the event of a malfunction or interruption of services
- Brief details of the activities carried on in laboratory facilities associated with the activity (if relevant).

D.8 Recording waste types and quantities

Detail the procedures to record the waste types and quantities.

D.9 Waste Acceptance Procedures

Procedures for checking waste loads as they arrive on site must be included. A clear description of the manner by which wastes are to be checked should be given. It should cover both load checking on arrival and also at the time of deposition or treatment. Particular attention should be given to the handling of hazardous wastes. Other wastes, such as sludges, which may have particular handling requirements, should also be addressed.

D.10 Emissions from the Facility

With regard to emissions from the facility detail the particulars requested in the application form.

D.11 Monitoring Emissions at Source

All emissions are to be identified and the environmental impact of the emissions are to be monitored. Include on the site layout plan the details of monitoring and sampling points and located on an appropriately scaled site layout plan ($\leq A3$). Use the naming convention specified in the application form.

D.12 Minimising environmental impact of emissions

Detail the likely environmental impacts of the emissions.

D.13 Ambient Monitoring

All ambient emissions are to be identified and the environmental impact of the ambient emissions are to be monitored. Include on the site layout plan the details of monitoring and sampling points and located on an appropriately scaled site layout plan ($\leq A3$). Use the naming convention specified in the application form.

D.14 Housekeeping

Provide the information required.

D.15 Facility Security

Provide the information required.

D.16 Other Procedures

Include procedures for the following:

- Accident and emergency
- Environmental reporting
- Environmental Management Systems

Please refer to **Appendix 18** which includes an EPA environmental management guidance document on the extraction industries (non-scheduled minerals). The Environment management Practice (chapter 2) and the Environmental Management Guidelines (chapter 3) are also relevant to the waste sector.

D.17 Arrangements for the off-site recovery or disposal of wastes

In the case of waste recovered or disposed off-site, an indication of transport off site and destination should be provided.

D.18 Animal By-Products

Provide the information required. Please refer to **Appendix 19** which includes a *Draft* Department of Agriculture, Fisheries and Food document on 'Conditions for approval and operation of composting and biogas plants treating animal by-products in Ireland.

Section E: Facility Setting

Section E of the form contains five questions. The questions deal with the proximity to European or designated sites, water catchment, land use, correspondence with the minister and biodiversity. Further guidance on some of the questions is provided below;

E.2 Water Catchment

Refer to **Appendix 20** which contains guidance on Flood studies.

"Water catchment" is referred to the Water Framework Directive in the context of "river basin" and means the area of land from which all surface run-off flows through a sequence of

streams, rivers and, possibly, lakes into the sea at a single river mouth, estuary or delta. Note that there is no direct reference to the term “water catchment” or “water catchment area” in the Water Pollution Acts or the Water Framework Directive.

River basin management plans:

The management of water resources based on catchments or river basin districts have been instigated at European Union level with the introduction of the Water Framework Directive in the year 2000. The European Communities (Water Policy) Regulations 2003 enacted on the 22nd December 2003 brings this legislation into Irish law and states that by June 2009 all local authorities will have to have a River Basin Management Plan adopted. A coordinated programme of measures to achieve at least “good status” for rivers, lakes, ground water, estuarine waters and coastal waters needs to be provided. The island of Ireland has been divided into eight river basin districts *each of which will have their own management plan*.

River Basin Management Plans require a general description of the characteristics of the river basin district including

- An analysis of its characteristics (mapping of location & boundaries of water bodies, mapping of ecoregions and identification of reference conditions)
- A review of human activity on the status of waters (estimation of point source pollution, diffuse pollution, abstractions & other human impacts)
- A map of monitoring networks (ecological, chemical, quantitative & protected areas)
- A list of environmental objectives & how they are to be achieved
- An economic analysis of water use
- A register of more detailed programmes & management plans & how they are to be achieved
- A summary of public information & consultation measures taken & their results
- A list of competent authorities
- Contact points & procedures for obtaining information (i.e. actual monitoring data)

E.5 Biodiversity

Refer to **Appendix 21** which contains guidance on when a biodiversity plan is required and what it should address.

Section F: Additional Information

Any additional information should be included here. For example- any additional specialist studies on technology assessment, or environmental studies such as air quality monitoring,

Section G: Statutory Declaration

For private operators, the application needs to be signed and declared and dated by a Solicitor/Commissioner of Oaths/Notary Public/Peace Commissioner/ Garda Síochána.

4.5 False Information – Article 43

The intentional submission of false or misleading information in connection with a waste facility permit application or certificate of registration application or compliance document constitutes an offence under Article 43(1) of the Regulations. Such falsified documents may consist of supplementary information provided with a facility permit application or falsified data

knowingly provided in a monitoring report, or in a document submitted in response to an enforcement notice.

4.6 Procedure on receipt of an Application – Article 12

Receipt of application [Art. 12(1)]

When a local authority receives an application for a waste facility permit, the application will be stamped **immediately** with the date of receipt and a permit reference number will be assigned (reference numbers can be automatically generated through the website at www.epa.ie/wastepermit). The applicant will be notified in writing that the application has been received

Compliance with other articles [Art. 12(2)]

Within **10 days** of receiving the application, the local authority will decide if the requirements of Article 7, sub-articles 8 (1), 8(2), and 8(3) and Article 10 have been complied with. The details of the application received will be included in the register (Article 41) within a **10 day period**.

Determination of waste facility permits by Agency [Art. 12(3)]

When the local authority refers a waste facility permit application to the Agency for determination (Art 11(2)), the time period detailed in 12.2 above will not start until the local authority has been notified of the determination

Newspaper Notices [Art. 12(4)]

Where, more than **10 days** has passed between the publication in a newspaper of a notice and the making of an application, or, the published notice (under Article 8) does not comply with Article 8, or is, because of its content or for any other reason misleading or inadequate for the information to the public, the local authority will require the applicant to publish another newspaper notice in such a manner for such period and under such terms as it may specify. The local authority will not consider the application further until the applicant has complied with the terms of such a notice.

Site Notices [Art. 12(5)]

Where, more than **10 days** has passed between the erection or fixing of a site notice (article 7 & 8) and the making of an application, or, the site notice does not comply with article 8, or is, because of its content or for any other reason misleading or inadequate for the information to the public, the local authority may require the applicant to erect or fix such further site notice in such a manner for such period and under such terms as it may specify. The local authority will not consider the application further until the applicant has complied with the terms of such a notice.

Serve a notice under sub-articles (4) and (5) [Art. 12(6)]

The local authority shall not serve a notice under sub-articles (4) and (5) any later than **5 working days** after the making of its decision.

Requirement of article 10 [Art. 12(7)]

Where a local authority considers that any of the requirements of article 10 have not been complied with, it shall, by notice in writing **within 5 working days** of making its decision:

- Inform the applicant of such failure of compliance and advise that the application is invalid and cannot be considered further by the local authority, or
- Require the applicant, **within 25 working days** from the date of the notice, to take steps or furnish such submissions, plans, documents or other information and particulars, as the local authority considers are necessary for compliance with the said requirements.

Serve a notice under sub-articles (7) [Art. 12(8)]

The local authority shall not serve a notice under sub-articles (7) any later than **5 working days** after the making of its decision.

Failure to comply with notice under sub-article (7) [Art. 12(9)]

Where a local authority serves a notice under sub-article (7) and the applicant fails to comply with the requirements, the local authority may within **5 working days** of making its decision, inform the applicant of its failure of compliance and that the application is invalid and cannot be considered by the authority.

Return documentation [Art. 12(10)]

A local authority shall then return all documentation to the applicant which was submitted to the local authority in relation to the application, if the local authority informs the applicant that an application is invalid.

Compliance with articles [Art. 12(11)]

Where a local authority considers that the requirements of article 7, sub-articles 8(1), 8(2), 8(3) and article 10 have been complied with, it shall, within **5 working days** of making its decision:

- Send an acknowledgement of receipt of a valid application to the applicant
- Notify the Agency that a valid application has been received. This could simply be by means of sending the EPA a copy of the acknowledgement to the applicant, by an email or by other means agreeable to the local authority and the Agency
- Notify the Minister for Agriculture and Food (MAF), where the application is made for a waste facility permit which is concerned with the composting of animal by-products within the meaning of Regulation EC No 1774/2002 and such notice shall be accompanied by a copy of the said application
- In the case of an application which is concerned with the development or improvement of land, where the
 - Applicant states in article 10(1) that the facility is located in, on or adjacent to, or impinges upon a European site
 - Local Authority considers that the facility has the potential to impinge upon a European site

The local authority shall notify the Minister for the Environment, Heritage and Local Government (MEHLG) that the application has been made and such notice shall be accompanied by a copy of the application

Submissions from MAF and MEHLG [Art. 12(12)]

Before it gives notice of a decision, the local authority shall have regard, will within a period of **25 working days** from the date of a relevant notification, to any written submissions received from MAF and MEHLG

Statements from MAF and MEHLG [Art. 12(13)]

Where MAF and MEHLG specifically state that particular matters raised in their submission to the local authority are required for compliance with relevant veterinary or conservation legislation or the implementation of strategic or statutory plans, the local authority must incorporate conditions in the waste facility permit to give effect to such matters.

4.7 Further Information – Article 13

Further information request [Art. 13(1)]

A local authority may require the applicant to:

- Furnish further information or particulars relating to an application, including information on any investigations required under article 17, as it considers necessary to enable it make a decision in respect of the application, or
- Produce such evidence that it requires in order to verify any information or particulars furnished by the applicant in, or in relation to, the application.

Serve a notice under sub-articles (1) [Art. 13(2)]

A notice under sub-article (1) above shall not be served by a local authority more than **25 working days** after the date of issue by the local authority of an acknowledgement of the receipt of a valid application.

Non-compliance with sub-article (1) [Art. 13(3)]

Notwithstanding article 44, where there is a failure or refusal to comply with a requirement of a local authority under sub-article (1) within **25 working days** of the date of notice, the local authority may proceed with its consideration of the application in the absence of the information, particulars or evidence specified in the requirement and make a decision in relation to the application and notify the applicant under article 18 of that decision.

4.8 Availability and inspection of documents – Article 14

Application available for inspection [Art. 14(1)]

Where a local authority receives an application it must as soon as possible make it available for public inspection. This allows for access to all documentation up to the point of determination. The application can be made available either electronically or in hard copy.

Documents available for inspection [Art. 14(2)]

Where a local authority considers that an application is valid, it must make available for public inspection:

- A copy of any correspondence or notifications under article 11
- Information and particulars received in relation to an application pursuant to any written notice under article 12
- Further information provided by the applicant pursuant to a notice in writing under article 13(1)
- Submissions received in relation to the application pursuant to article 15

Availability of documents [Art. 14(3)]

The documents and information specified at sub-article (2) must be made available for public inspection during office hours at the principal office of the local authority from as soon as may be after making a decision under article 12 that the application is valid.

Copies of the application [Art. 14(4)]

During the determination period, a copy of the application, or any extract there from, must be made available on request during office hours at the principal office of the local authority for inspection or purchase at such charge (if any) not exceeding the reasonable cost of making such copies, as the local authority may determine.

4.9 Submissions to a Local Authority regarding an application for a waste facility permit - Article 15

Submission by any person [Art. 15(1)]

Within a period of **25 working days** following the making available for inspection by a local authority of an application, any person may make a written submission to the local authority in relation to the application, and the local authority must have regard to the submission in making its decision on the application.

Submissions received by any person [Art. 15(2)]

The local authority shall, as soon as may be after receipt of a submission under sub-article 1:

- Notify the person in writing that the submission has been received by the local authority
- Notify the applicant in writing that the submission has been received by the local authority and has been made available for inspection in the principal office of the local authority from a specified date
- Make the submission available for public inspection in accordance with article 14.

Submission received by the applicant [Art. 15(3)]

An applicant may make a submission in writing to the local authority in relation to any submission received by the local authority under sub-article (1) within a period of **25 working days** of the date of its notification to the applicant.

4.10 Period for determination of an application for a waste facility permit – Article 16

Please refer to the Flowchart 1 for the waste facility permit application process in **Appendix 8**.

Grant or refuse a permit [Art. 16(1)]

A local authority shall not grant or refuse a waste facility permit until after the expiration of **25 working days** beginning on:

- The date of receipt by an authority of a valid application or
- In the case where the applicant has been required to provide further information or particulars under articles 12 or 13, the day of receipt by the authority of such information or particulars

By whichever date is the later.

Circumstance where local authority may grant before 25 day period [Art. 16(2)]

In exceptional circumstances, the local authority may grant a waste facility permit prior to the **25 working day** period if, in the reasonable opinion of the local authority such facilities are required urgently to prevent environmental pollution.

Timelines for granting or refusing an application [Art. 16(3)]

Subject to sub-article (4), a local authority must make a decision in relation to an application for a waste facility permit as quickly as possible and grant, with or without conditions, or refuse to grant a waste facility permit:

- Within a period of **40 working days** from
 - The date of receipt of a valid application in accordance with articles 12(1) and 12(2), or
 - The date of the receipt of further information or particulars from the applicant pursuant to a notice served under articles 12(7)(b) or 13(1), or
- Within a period of **25 working days** of the date of receipt of any submission received by the local authority under and in accordance with article 15, or
- Within a period of **25 working days** from the date on which investigations as may be required under article 17 are completed.

Whichever period is the longest.

Extend time period for determination [Art. 16(4)]

Where it appears to a local authority that it would not be possible or appropriate, because of the particular circumstances of an application for a waste facility permit or because of the number of applications which have been submitted to the local authority, to decide on an application within the period referred to in sub-article (3), the local authority shall by notice in writing served on each party to the application before the expiration of that period, inform such party of the reasons why it would not be possible or appropriate to determine the application within that period and shall specify the date before which the authority intends that the application shall be determined.

Adherence to extended time period for determination [Art. 16(5)]

Where a notice has been served under sub-article (4), the local authority concerned must take all reasonable steps to ensure that the application is decided upon before the date specified in the notice.

4.11 Investigations concerning discharges to groundwater - Article 17

Groundwater investigations [Art. 17(1)]

Where it appears to a local authority or the Agency that an activity, which is the subject of an application for a waste facility permit or a certificate of registration, could give rise to:

- The indirect discharge into groundwater of a substance for the time being specified in List 1 of the Annex to Council Directive 80/68/EEC or
- The direct and indirect discharge into groundwater of a substance for the time being specified in List II of the said Annex.

The local authority or Agency shall before it grants a waste facility or certificate of registration carry out or cause to be carried out (by the applicant or otherwise) such investigations as it considers necessary in order to comply with the relevant requirements of articles 3, 4, 5, and 7 of the aforesaid Directive.

Protection of groundwater against pollution and deterioration [Art. 17(2)]

Notwithstanding the entry into force of Directive 2006/118/EC², the local authority or, the Agency shall, in respect of any authorisation procedure completed before 22 December 2013 for an activity to which sub-article (1) applies, carry out or cause to be carried out (by the applicant or otherwise) such investigations as it considers necessary in order to comply with

² Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration, O.J. No. L 372/19, 27 December 2006.

the relevant requirements of articles 3, 4, 5 and 7 of Directive 80/68/EEC before it grants a waste facility permit or a certificate of registration.

Further Guidance

Depending upon local circumstances some of the following measures may be appropriate to help inform management of permissions and associated controls on Waste Facilities:

- Undertaking Quantitative Risk Assessment using LandSim (or similar) adopting conservative assumptions or using field based evidence for parameterization as appropriate
- Undertaking field based investigations to better inform knowledge/understanding of the connecting pathways between the potential source and key receptors
- Installing appropriate sampling facilities and conducting related monitoring between the Waste Facility and key receptors allowing trends and possible exceedence of key thresholds to be assessed
- Developing and agreeing potential action/mitigation plans should undesirable trends be revealed through environmental monitoring. Potentially, these could include; refined source controls; interruption of connective pathways (barriers, scour pumping etc); or, remedial treatment (*enroute* or at receptor).

4.12 Determination and notice of decision of grant or refusal in relation to a waste facility permit - Article 18

Article 18.1

A local authority may, on application being made to it, grant a waste facility permit in accordance with these Regulations, or refuse to grant such a permit, in relation to the carrying on by the applicant of an activity specified in Part 1 of the third schedule at a facility located in the functional area of the said local authority.

Article 18.2

Where considered necessary a local authority shall physically inspect a facility or, as the case may be, a proposed facility, before deciding whether to grant or refuse an application for a waste facility permit. This article is relevant where officials are not familiar with a particular site and a site visit would be beneficial in deciding whether to grant or refuse an application.

Article 18.3

A waste facility permit shall be granted for a period of 5 years, unless the applicant can demonstrate to the satisfaction the local authority that a shorter period is appropriate.

Article 18.4

A local authority shall not grant a waste facility permit unless it is satisfied that:

- The activity concerned, carried on in accordance with such conditions as are attached to the waste facility permit, will not cause environmental pollution,
- Any emissions from the activity concerned will not result in the contravention of any relevant standard, including any standard for an environmental medium, or any relevant emission limit value, prescribed under any enactment
- Best available techniques will be used to prevent or eliminate or, where that is not practicable, to limit, abate or reduce an emission from the activity concerned
- The facility is compliant with planning or is exempt from planning permission under Section 5 of the Planning and Development Act 2000, and

- The applicant is a fit and proper person.

Article 18.5

A local authority shall, as soon as may be after making a decision under article 16(3) of these Regulations in relation to an application, give notice in writing of the decision to the applicant, to any person who made a submission in relation to the application in accordance with article 15, and to the Agency- www.epa.ie/wastepermit, upload to website, hardcopies not required by EPA in accordance with the requirements of article 24(1), and, where appropriate, to the Minister for Agriculture and Food in accordance with article 24(2).

Article 18.6

A notification to an applicant, permit holder, the Agency or the Minister for Agriculture and Food under sub-article (5) of a decision to grant a waste facility permit shall be accompanied by a copy of the said waste facility permit.

Article 18.7

A notification under sub-article (5) of a decision to grant a waste facility permit shall state that a copy of the permit will be available for inspection or purchase during office hours at the principal office of the local authority and the said authority shall arrange accordingly.

Article 18.8

A notification under sub-article (5), of a decision of a refusal to grant a waste facility permit, to an applicant or waste facility permit holder shall include a reference to the right of appeal to a court of competent jurisdiction against such a decision and, on hearing the appeal, the court may confirm, annul or amend the decision.

Article 18.9

For the purposes of sub-article (5), in the case of a submission signed by more than one person, the local authority shall give notice only to the person who forwarded, or appears to the authority to have forwarded, that submission to the said authority.

4.13 Permit Conditions

If the local authority decides to grant a waste facility permit, it can include any conditions it sees fit, but has a duty to impose conditions that are a requirement of the Regulations and certain Community Acts. Conditions should be realistic, enforceable and necessary. Conditions must also be achievable for a permit holder. The local authority should be able to justify conditions should there be an appeal. For conditions to be enforceable they should state objective, standard or outcome in order for the permit holder to understand what is required.

A waste facility permit template has been developed for use by the local authorities, the objective of developing this template is to standardise permits. The template will be available from June 2008 and may be amended by local authorities in order to add conditions which may be required to give effect to requirements of the various waste management plans or the National Hazardous Waste Management Plan. The template will be made available for download from www.epa.ie/wastepermit. Conditions will vary from one permit to the next depending on the site specific conditions and activities covered by the permit.

There are three Articles in the Regulations that provide for conditions:

- **Article 19. Conditions which shall be attached to a waste facility permit.** These are conditions which are necessary in order to give effect to National and Community legislation, local and national Waste Management Plan, and to prevent environmental pollution.
- **Article 20. Conditions which may be attached to a waste facility permit.** These are conditions which the local authority may choose to attach to a permit in order to improve the environmental management, data recording and reporting systems at the facility.

- **Article 21. Conditions relating to the operation of mobile plant.** These are conditions which the local authority may attach to waste facility permits relating to the use of mobile plant at one or more facilities.

Conditions which will be attached to a waste facility permit - Article 19

Article 19 provides for conditions which are necessary in order to give effect to National and Community legislation, local and national Waste Management Plan, and to prevent environmental pollution. These include:

Article 19.1

(a) conditions as are necessary to give effect to the provisions of the Community Acts specified in the **Second Schedule of the Regulations** insofar as such provisions are relevant to the waste related activity concerned.

(b) such conditions as are necessary

- (i) to give effect to the objectives of the relevant **Waste Management Plan** or the **National Hazardous Waste Management Plan**, as the case may be, or
- (ii) for the purposes of **preventing environmental pollution**, controlling environmental emissions, ensuring the operations are carried out in accordance with best available techniques, and any other considerations under article 18(4) or
- (iii) to **prevent the disposal of waste** which has previously been collected in source-segregated form in order to facilitate recycling or to prevent the collection, transport, handling or mixing of waste in a manner which would make it unsuitable for recycling or recovery.

(c) conditions requiring the making of payments by the holder of the waste facility permit to the authority to **defray costs** reasonably incurred by the authority in inspecting, monitoring, auditing, enforcing or otherwise performing any functions in relation to the activity concerned, and which costs shall not exceed the actual expenditure reasonably incurred by the authority. This condition does not include the requirement to submit and application fee.

(d) conditions relating to the **waste acceptance requirements** to be applied at the facility, including details of—

- (i) the nature and types of wastes which may/ may not be accepted,
- (ii) the days and times at which acceptance of waste is/is not permitted at the facility,
- (iii) waste inspection procedures,
- (iv) waste acceptance and handling procedures,
- (v) waste sampling, analysis and characterisation procedures,
- (vi) requirements for pre-treatment of wastes,
- (vii) waste quarantine arrangements,
- (viii) waste rejection and notification procedures, and
- (ix) other appropriate procedures and arrangements relating to the acceptance of waste.
- (f) conditions relating to the existing or proposed measures, including emergency procedures, to prevent unauthorised emissions and minimize the impact on the environment of any such emissions,
- (g) conditions relating to the prevention of unauthorised fly-tipping at the facility,
- (h) conditions to provide financial security or a bond where it is considered necessary to ensure rehabilitation of the site when activities cease.

Article 19.2

For waste facility permits relating to an activity which involves the **holding of waste oils**, the authority shall ensure that the applicable Council Directives on the disposal of waste oils are given effect to, in particular article 13.2 of Council Directive 75/439/EEC, as amended by Council Directive 87/101/EEC of 22 December 1986.

Article 19.3

A local authority shall further attach **notification** conditions requiring the permit holder to:

- Notify the authority within five working days of—
 - the imposition of any requirement on that person by order under the Act, or
 - any conviction of that person for an offence prescribed under the Act
- **hold a copy of the waste facility permit** at all times at the facility to which the waste facility permit relates, and
- Compile and maintain specified **records** in a specified format for a period of not less than 7 years in relation to the activity to which the waste facility permit relates of—
 - the types and quantities of waste dealt with in the course of business (including European Waste Catalogue Code(s) and description(s) pursuant to Commission Decision 2001/118/EC of 16 January 2001 or subsequent amendments),
 - the treatment, recovery or disposal activities to which the waste is subject, including the compilation of commercial documentation for all collected waste deposited at the facility, and
- Not later than the 28th day of February in each year, to furnish to the local authority, in such form as may be specified, an **Annual Environmental Report** containing summary information in relation to the preceding calendar year or part thereof as the case may be, in respect of the activities specified in sub-article (c)
- A local authority shall attach to each waste facility permit such conditions as are necessary to ensure the **proper enforcement** of the waste facility permit.

Conditions which may be attached to a waste facility permit - Article 20.

These are conditions which the local authority may choose to attach to a permit in order to improve the environmental management, data recording and reporting systems at the facility. These include:

Article 20.1

(a) conditions requiring the waste facility permit holder to provide a system to **verify the completeness and accuracy of records** on the nature, types and quantities of waste accepted at the facility,

(b) to encourage the **sound environmental management** of waste and in particular to encourage waste prevention, re-use, recycling and recovery, including the establishment of performance targets for the levels of recycling and recovery of waste

Conditions regarding the collection, maintenance and reporting, in a specific format, of data or records necessary to monitor compliance with targets set in the following Directives:

c) **Directive on Packaging and Packaging Waste** (Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging Waste, as amended by Directive 2004/12/EC of the European Parliament and of the Council of 11 February 2004)

d) **the WEEE Directive**

e) **Directive on end of life vehicles** (Directive 2000/53/EC of the European Parliament and Council of 18 September 2000 on **end of life vehicles**, as amended by Commission Decision 2005/673/EC of 20 September 2005)

f) **Directive on batteries and accumulators and waste batteries and accumulators** (regarding the collection, maintenance and reporting, in a specific format, of data or records necessary to monitor compliance with targets set in Directive 2006/66/EC of the European Parliament and the Council of 26 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC)

- g) Conditions relating to **construction and demolition waste** management of in accordance with national waste management policy and legislation
- i) **Vehicle electronic tracking technology** to be fitted on each vehicle operating at the facility which facilitates the surveillance operations of the authority in monitoring compliance of the permit holder with the requirements of the waste facility permit
- j) The **National Database on Waste** to be supported by requiring the maintenance of waste records and the provision of these to the local authority in a format, as may be specified by the Agency
- (k) regarding the collection, maintenance and reporting, in a specific format, of data or records necessary to monitor compliance with targets set in Regulation on **persistent organic pollutants** ((EC) No 850/2004 of the European Parliament and the Council of 29 April 2004 on **persistent organic pollutants** and amending Directive 79/117/EEC (O.J. No. L229/5 of 29 June 2004) as amended by Council Regulation (EC) No. 1195/2006 (O.J. No. L55/1 of 23 January 2007) and Council Regulation (EC) No. 172/2007 O.J. No. L272/19, 27 December 2006 (O.J. No. L217/1, 8 August 2006),) and
- (l) regarding the collection, maintenance and reporting, in a specific format, of data or records necessary to monitor compliance with targets set for the management of **waste tyres** in national waste management policy and legislation.

Article 20.2

Conditions requiring the installation of **closed circuit recordings and data surveillance** management systems at the facility and the maintenance of all such records for such reasonable period as may be determined by the local authority.

Article 20.3

Conditions requiring the local authority to be informed when the **activity ceases** at the facility.

Article 20.4

A local authority may attach to any waste facility permit granted by it conditions concerning the establishment and maintenance of **environmental management systems** which shall set out an action plan to address a 5-year period and shall be updated on an annual basis and such environmental management systems may:

- Set out specific objectives
- Contain measurable targets
- Contain a requirement to comply with any written guidance issued by the local authority or the Agency, and
- Contain a requirement for prior agreement with the local authority.

Conditions for operation of mobile plant - Article 21

These are conditions which the local authority may attach to waste facility permits relating to the use of mobile plant at one or more facilities. They include the following:

Article 21.1

In addition to the previous provisions of articles 19 and 20, a local authority may attach to a waste facility permit conditions authorising the operation of **mobile plant at more than one facility**.

Article 21.2

A local authority shall not grant a reviewed waste facility permit providing for the cessation of use of mobile plant at a facility or facilities unless it is satisfied that the condition of the relevant facility or facilities is not causing or likely to cause environmental pollution. This may arise where mobile plant is being decommissioned, and the local authority has to ensure that no environmental pollution has arisen from its activities at the facility, such as fuel spillages.

Article 21.3

Where a local authority grants a waste facility permit for the carrying on of waste recovery activities at a facility which already holds a waste facility permit for the operation of mobile plant, any conditions of the permit first granted relating to the mobile plant will cease to have effect. Conditions in the new facility permit for recovery activities will override and encompass the conditions controlling the use of mobile plant.

4.14 Notice and information to the Agency and the Minister for Agriculture and Food – Article 24

Information to the Agency [Art. 24(1)]

A local authority is required to inform the Agency in writing and in accordance with article 18(5), of any waste facility permit or certificate of registration granted by the authority. The notification to the Agency shall be issued **within 10 working days** of the decision to grant or refuse a waste facility permit application being made by the local authority. The notification should be via: www.epa.ie/wastepermit

The local authority shall also provide information to the Agency, in such form and at such frequency as may be specified by the Agency, in relation to waste facility permits or certificate of registrations have been granted by the authority.

Information to the Minister for Agriculture and Food [Art. 24(2)]

Where a waste facility permit is issued which involves the biological treatment of animal by-products within the meaning of Regulation (EC) No. 1774/2002 laying down health rules concerning animal by-products not intended for human consumption, the local authority shall also notify the Minister for Agriculture and Food and include a copy of the said permit.

4.15 Notice and information to the local authority regarding a waste facility permit – Article 25

Changes in Permit related Information [Art. 25(1)]

If changes have occurred at a facility, with regard to any information provided by the permit holder during the application process (article 10 information) of the permit, the facility permit holder must give notice in writing to the local authority which granted the in advance of any such change coming into effect.

Guidance on the issue of significant changes to an activity is also provided under paragraph **4.22, Review of waste facility permits.**

Changes in Permit related Information [Art. 25(2)]

Where the above notification refers to a material or significant change in the nature, extent or focus of the waste-related activities or in the nature or extent of any emission concerned, the permit holder shall obtain the written agreement of the local authority before implementing such operational changes to the waste-related activity. If such a change is considered to be significant by the local authority concerned, it is likely that a facility permit review will be required, under article 30 of the regulations.

4.16 Amendments to a waste facility permit of a clerical or technical nature– Article 26

Amendments of Permits not requiring a Review [Art. 26(1-3)]

A local authority may amend a waste facility permit without initiating a review of the permit for the purposes of:

- Correcting any clerical or typographical error in it
- Clarifying an aspect of a condition in the waste facility permit which may reasonably be regarded as having been contemplated by the terms of the condition or the terms of the permit but which was not expressly provided for in the condition
- Updating the conditions attached to the waste facility permit to take account of scientific or technological progress
- Facilitating the application of new, or the amending of existing procedures and conditions as are deemed necessary by the local authority, to facilitate the waste facility permit which are necessary for the operation in accordance with new or revised requirements, arising, for instance, from the introduction of new, or amendments to existing Community acts, or
- Otherwise facilitating the operation of the waste facility permit.

In making of any amendment, without a review, to an existing waste facility permit the local authority shall ensure that the change in operations does not result in, or could cause environmental pollution. Before making any amendments to the waste facility permit, the local authority should where appropriate consult with the permit holder.

Notify Amendments to a Permit [Art. 26(4)]

As soon as possible after making an amendment to the waste facility permit the local authority must notify the Agency, as well as the Minister for Agriculture and Food, in the case where the waste facility permit is concerned with the treatment of animal by-products within the meaning of Regulation (EC) No. 1774/2002. The Agency should be notified via: www.epa.ie/wastepermit

Where the waste facility permit is concerned with the development or improvement of land which has the potential to impinge upon a European site the local authority shall also notify the Minister for the Environment, Heritage and Local Government.

4.17 Transfer of a waste facility permit -Article 27

Application for Transfer [Art. 27(1-3)]

A waste facility permit can be transferred to another person by submitting a completed **Waste Facility Permit Transfer Application Form** to the local authority, provided in **Appendix 17** for reference. The application form for the transfer of a waste facility permit (or certificate of registration) is available at www.epa.ie/wastepermit or from the relevant local authority. Details required in the application form should be provided by both the current permit holder and the proposed transferee and the form must be jointly signed by both parties applying for the transfer. The appropriate fee, as set out in the 5th schedule of the Regulations, shall accompany the application form upon submission.

Local Authority Decision Making [Art. 27(4-6)]

On receipt of the application for transfer of the waste facility permit, the local authority decides whether any further information is required from the joint applicants for transfer. Such information may be requested under Article 27(4). If the proposed transferee is considered by the Local Authority to be a fit and proper person, and if all submitted information is considered to be satisfactory, then a transfer of waste facility can be carried out.

From the date of transfer all liabilities and obligations under the waste facility permit are held by the new transferee.

4.18 Withdrawal or Abandonment of an Application for a Waste Facility Permit - Article 28

Withdrawal of application by applicant [Art. 28(1)]

An applicant can withdraw his or her application for a waste facility permit at any time under Article 28(1) before the local authority has made a decision.

Local Authority initiated Abandonment of application [Art 28(2-3)]

If, on the other hand, it appears to the local authority that the applicant is no longer progressing an application, for instance by not submitting requested information within the provided timeframe, the local authority can give notice to the applicant that they have to provide reasons why the application should not be abandoned. The notice must specify a timeframe **between 10 and 25 working days** within which the applicant must make his/ her submission.

After this timeframe has elapsed the local authority may declare that the application is regarded as abandoned. This may be the case even if the applicant has made a submission within the specified timeframe, but the local authority still considers that the application should be abandoned, for instance because the information provided thus far is not sufficient for the local authority to fully assess the application.

Procedure upon Abandonment [Art. 28(4-5)]

In either the case of withdrawal or abandonment of an application the local authority shall return all documentation to the applicant, and may, at its discretion, refund all or part of the fees payable under article 42.

Where an application is declared to be withdrawn the local authority is not required to consider any submissions received relating to the application.

4.19 Surrender by the Permit Holder - Article 29

Surrender by the Permit Holder [Art. 29(1-3)]

A permit holder may at any time surrender a permit under Article 29(1) by submitting a written application for surrender to the local authority. A **Surrender Form** is provided in **Appendix 17** for reference. The form is available at www.epa.ie/wastepermit or from the relevant local authority.

The surrender must have the agreement of the local authority, and may take place when:

- The waste related activity ceases
- The waste facility permit expires
- The waste facility permit is revoked under article 36

When an application to surrender a permit has been received the local authority must satisfy itself that no environmental pollution or degradation has occurred on the site or beyond its boundaries due to the activities on the site. Where the Local Authority considers that the activity may currently or in the future cause environmental pollution, (due to past incidents of ground contamination, active emissions, or discarded items which may in future cause leaching of hazardous substances into the ground, etc) it shall not agree to the surrender of the waste facility permit. The local authority may carry out investigations or require the facility operator to have investigations carried out, to verify the condition of the site, and the risk of environmental pollution.

Conditions and financial bonds [Art. 29 (4-5)]

If the surrender of the waste facility permit is agreed to, the local authority can issue a notice with surrender conditions which have to be complied with. Such conditions may include the requirement to remove all debris, tanks or other items from the site, etc.

The local authority may decide that any bond or financial security that was put in place under Article 19(1) be kept for a specified period of time, until it considers that environmental pollution risks at the site have been removed. Or, if no such risks are present the local authority may release the financial bond.

Obligations remain after surrender application has been submitted [Art. 29(6)]

Obligations remain after the surrender application has been submitted for the duration of the application process. If the surrender of the waste facility permit is agreed to, the waste facility permit is revoked or the activity has ceased, the obligations under the waste facility permit which fall on the permit holder remain in place.

If a permit has been revoked under article 36, the waste facility permit holder must make an application to the local authority under this provision to surrender the permit. If the permit holder does not apply to surrender the licence, the obligations under the waste facility permit which fall on the permit holder remain in place indefinitely.

4.20 Review of a waste facility permit - Article 30-34

Local authority initiated Review, [Art. 30(1-2)]

See Flowchart 3, Waste Facility Permit –Local Authority Initiated Review, Appendix 10

If the local authority has become aware that either the operations of the permitted facility have changed, or the emissions from the facility have changed to such a degree that the conditions of the permit no longer cover normal operations, the local authority may initiate a review of the permit under article 30(1-2).

Another reason for a local authority to review a waste facility permit is due to amendments to the waste management plan for the region concerned.

The review of a waste facility permit may be initiated by the local authority any time after the initial permit was granted. The local authority must notify the permit holder and the Agency in writing that it intends to review the waste facility permit. Clarifications regarding the reasons for the proposed review should be provided to the permit holder and to the Agency.

The permit under review remains in force until a reviewed waste facility permit has been issued, or alternatively until the local authority has decided to refuse the review application in accordance with article 35, or until the existing permit has been revoked under article 36.

Local Authority Notice of Intention to Review [Art. 30 (3)]

When the local authority sends a notice under article 30(3) to the permit holder informing them of its intent to review a waste facility permit it must advise the permit holder that the local authority is available for pre-application consultations. It is recommended that pre-application consultations take place between the Local Authority and the permit holder in order to discuss the particulars of the reasons for review, and to clarify the procedures which are likely to apply to the review process (see article 32).

The notice sent by the local authority must tell the permit holder that they have to make an application for review of their waste facility permit within **25 working days** of the issuing of the notice. The local authority may specify any submissions, plans, documents, or other information that needs to be provided with the application. The local authority can detail any information it considers necessary for the purposes of the proposed review. This is likely to

include the information listed under Article 10 of the Regulations, but the extent of the information required should be determined by the local authority on a case-by-case basis.

The local authority may not decide to amend or review conditions of the waste facility permit before the **25 working days** have lapsed.)

The notice shall further explain that if the permit holder does not make a review application and furnish the required information within the **25 working days**, the local authority will revoke the existing waste facility permit, and will notify the waste permit holder of the reasons for its decision.

If, furthermore, the local authority has to carry out additional investigations, audits, sampling or enforcement actions in the course of determining the review, the local authority may advise the permit holder in the notice that he/ she must contribute towards these costs reasonably incurred. The costs levied against the permit holder shall not exceed the actual costs incurred by the local authority. **Article 44(2).**

The appropriate fee that the permit holder must pay for the review of the waste facility permit is detailed in the fifth schedule and set out in article 42

Local authority revocation of waste facility permit, [Art. 30(4-5)]

A local authority may revoke a waste facility permit because the permit holder has failed to apply for a review permit within **25 working days** of the notice of intention to review being issued by the local authority. In such a case the former permit holder shall make an application to the local authority for the surrender of the waste facility permit (see article 29).

Within a period of **30 working days**, the former waste facility permit holder may appeal to a court of competent jurisdiction (see Chapter 8 on competent jurisdiction) against the revocation of the waste facility permit and, on hearing the appeal; the court may confirm or annul the revocation.

Permit Holder initiated Review, [Art. 31]

See Flowchart 2, Waste Facility Permit –Permit Holder Initiated Review, Appendix 9.

A permit holder may submit an application to a local authority to review a waste facility permit at any time under article 31(1). However, in any event, it is necessary that the permit holder makes an application for review no later than **60 working days** before the date of expiry of an existing waste facility permit. If the permit holder does not make a review application within this time frame of an existing permit expiring, the existing waste facility will cease to have effect after the expiry date. (See article 36).

Where a waste facility permit holder wants to have an existing permit reviewed by the local authority he/she must submit a review application to the local authority and provide any relevant submissions, plans, documents and other necessary information to the local authority to support the review application. In addition the payment of the appropriate fee as set out in the fifth schedule and in accordance with article 42 must be lodged with the application. .

Procedures to be applied by the local authority in determining a review application are detailed in article 32 -Where an application for the review of an existing waste facility permit has been received by a local authority under articles 30 and 31, the local authority must notify the Agency of the review.

Local Authority decides on course of action for Review, [Art. 32(1-2)]

Depending on the particulars of the review application, the local authority may decide on one of three courses of action:

- If adequate information has been provided by the applicant the local authority may proceed to review the waste facility permit based on the information received. In this case the Local Authority must make a decision within **25 working days** of the application being received, in accordance with article 33.

- Adequate information may have been provided by the applicant, but the local authority decides that significant changes are proposed in the nature, focus or extent of the waste-related activities, or in the nature or extent of any emission from the facility. In this event the local authority may determine that there is a need for a public consultation process, and may require the applicant to publish a notice in either a national or regional newspaper. This public notice must be issued within **10 working days** of the application being received by the local authority, in accordance with article 34(1) (a). It must state that the waste facility has submitted an application for a review of the existing waste facility permit to the local authority. The local authority may additionally invite members of the public to make submissions within **25 working days**, in accordance with the procedures set out in article 34(2). No decision on the review of the waste facility permit may be made by the local authority before the period for submissions is over.
- If the local authority decides that the changes in the nature, focus or extent of the waste-related activities or in the nature or extent of any emission concerned are so significant that a review of the existing waste facility permit will not sufficiently deal with the implications of the changed conditions, it may decide that an entirely new application for a waste facility permit is required. In this event a new permit in accordance with articles 7, 8, 9 and 10 is warranted.

The local authority must make a decision which of the three procedures to apply to the review of the waste facility permit within **25 working days** from the date of submission of an application, regardless of whether the application is initiated by the permit holder (article 31) or by a notice from the local authority (article 30).

Local Authority decides that new full waste permit application is required [Art. 32(3-4)]

Where a local authority decides under article 32(3) that the particulars of the review application are so significant that a full new waste facility permit application is required in accordance with articles 7, 8, 9 and 10, the Local Authority must notify the applicant in writing within **5 working days** of making its decision.

If an applicant for the review of a waste facility permit receives a notification that he/she now has to apply for a full new waste facility permit, under article 32(3), he or she may appeal to a court of competent jurisdiction against such a decision and, on hearing the appeal, the court may confirm or annul the decision. (See Chapter 8 for further information on competent jurisdiction)

Determination of Significant or Substantial Change

It is recommended that an applicant for a permit review avails of pre-application meetings with the local authority prior to submitting their review application. During these meetings the extent of the proposed changes to the waste activity can be discussed in detail. Such discussions will assist the local authority in determining whether the proposed changes to the activity are likely to give rise to new or increased emission or waste streams from the site. It is the scale of change proposed that will determine whether the change should be considered significant or not.

For general guidance the following are likely to be considered **significant changes**:

- An increase in an emission
- A new major emission point to air or water.
- Change in an emission limit value to reflect revised legislation (National or European legislation, i.e. Dangerous Substances in Water Regulations, Solvents Directive etc.);
- An increase in the amount or type of waste accepted for disposal/recovery;

- An extension of operating hours for a waste facility where the public are likely to have an interest in such an extension of hours.
- An increase in site area/boundary.

Insignificant changes may generally be considered as the following:

- Alterations/reconstructions which will not cause a substantial change/increase in emissions, or will not cause significant new emissions
- Emissions to sewer increase – subject to Sanitary Authority approval
- Decrease in site area/boundary
- Installation of abatement/change of abatement, subject to restrictions already described
- Installation of new plant, subject to restrictions as already described
- Renaming of emission/sampling points
- Updating of standards referenced in the waste permit.

The Agency may assist a local authority in the determination whether the proposed changes to the activities at a waste facility are likely to result in significant changes. In particular, where the proposed changes of a waste permitted activity may in fact result in the activity becoming an Agency licensable activity, the Agency should be requested to determine this under Article 11 of the Regulations.

Local Authority decision on simple review, [Art. 33]

Where the Local Authority has carried out an assessment of any submissions, observations, documents and information received in relation to the application for the review of a waste facility permit, and considers that the proposed review does not represent a significant change of the existing waste-related activities or in the nature and extent of any emission concerned, the local authority must make a decision on the review of the waste facility permit within **25 working days**.

Local Authority decision on a review application requiring public consultation, [Art. 34(1)]

Where the Local Authority considers that the changes proposed by the review application require public consultation, it must require the applicant to publish a notice in either a national or regional newspaper, within **10 working days**. The newspaper notice shall state that an application has been made to the local authority for a review of the existing waste facility permit, as detailed in article 34(1) (a) (i).

The local authority must, as soon as possible, in accordance with article 34(1) (b) make the following documents available for public inspection:

- (I) A copy of the application for the review of the waste facility permit, including the documents and information received
- (II) All submissions received from the public in relation to the application for review of the waste facility permit

The local authority must also ensure that a copy of the review application or any extract from it is made available for purchase at a reasonable charge at the main office of the local authority.

Dealing with submissions from the public, [Art. 34(2)]

Any person may, within a period of **25 working days** after the review application and particulars have been made available to the public, make a written submission in respect of it to the local authority. The local authority must have regard to the submission when making its decision on the application. Article 34(2) (b) sets out notification requirements arising from the receipt of submissions.

The review applicant may in turn make a submission in writing to the local authority in relation to any public submission received. The applicant's submission must be received by the local authority within a period of **25 working days** of its notification to the applicant.

Making a decision, [Art. 35(1)]

A local authority may, on determining a review application, grant or refuse to grant a permit for a waste-related activity under article 35(1). However, where an applicant for a review application has been advised that they have to reapply for a full new waste facility permit in accordance with articles 7, 8, 9, and 10, the procedures under these articles apply.

Timescale for making a decision, [Art. 35(2)]

A local authority shall make a decision in relation to an application for a review of a waste facility permit as quickly as possible and, in any event, grant, with or without conditions, or refuse to grant a review of a waste facility permit within a period of:

- **40 working days** from the date of the receipt of an application for the review of a waste facility permit, or
- **25 working days** from the date of receipt of any submission received from members of the public under and in accordance with sub-article 34(2),

Whichever period is the longest.

An extension of time for making a decision is provided for under article 35(3-4). Where a local authority requires more time to make a decision, due to the particular circumstances of a review application or because of the number of applications which have been submitted to the authority, the local authority shall inform the applicant and all other relevant parties in writing of the reasons why an extension of time is required. The local authority must in its notice for a time extension specify the date before which it intends to determine the application.

Where the local authority has served a notice requiring an extension of time under article 35(3), it must take all reasonable steps to ensure that the application is decided upon before the date specified in the notice.

Validity and Conditions of a reviewed waste facility permit [Art. 35 (5) and (6)]

A reviewed waste facility permit is valid for a period of **5 years**, as specified under article 35(5), unless the applicant can demonstrate to the satisfaction the local authority that a shorter period is appropriate.

A local authority may not grant a review waste facility permit unless it is satisfied that:

- The activity concerned, carried on in accordance with the conditions attached to the reviewed waste facility permit, will not cause environmental pollution
- Any emissions from the activity will not result in the contravention of any relevant standard, including any standard for an environmental medium, or any relevant emission limit value, prescribed under any enactment, and
- Best available techniques will be used to prevent or eliminate or, where that is not practicable, to limit, abate or reduce an emission from the activity concerned

- The applicant is a fit and proper person. A local authority may, if it considers it proper to do so in any particular case, regard a person as a fit and proper person for the purposes of this Part notwithstanding that that person or any other relevant person has been convicted of an offence under the WMA Acts 1996-2007, the EPA Acts 1992-2003, the local Government (Water pollution) Acts 1977-1990 or the Air Pollution Act 1987. (Article 35(6), as amended by SI 86, Article 2(u))

Review application 60 days before expiry of existing permit [Art. 35(7)]

Where a review application is made at least **60 working days** before the expiry date of an existing waste facility permit, the waste facility permit shall remain in force until -

- Reviewed waste facility permit is granted or refused under article 35(1), or
- The application has been informed that a full new waste facility permit application has to be submitted under articles 7, 8, 9 and 10 and is granted or refused under article 18, or
- The existing permit is revoked under article 36.

If not application received within 60 days before expiry of existing permit [Art. 35(8)]

Where a review application is not made at least **60 working days** before the expiry date of the existing permit, or where a full new waste facility permit application has to be under article 32(5) at least **60 working days** from the date of the local authority notification to that effect, the existing waste permit will cease to have effect after the expiry date of the existing waste facility permit. The person shall then not engage in waste-related activities at the facility until a new waste permit has been applied for and granted or, a reviewed waste facility permit is granted in accordance with article 35.

Notification by Local Authority of decision to grant review permit, [Art. 35 (9-11)]

The local authority must as soon as possible after making a decision to either grant or refuse a review waste facility permit, give notice in writing of its decision and the reasons for its decision. The notification must be issued to the permit holder, to the Agency via: www.epa.ie/wastepermit and where appropriate, to any person who made a submission in relation to the application.

Where the local authority has granted a review waste facility permit with amended conditions, it must provide a copy of the amended waste facility permit to the permit holder and the Agency www.epa.ie/wastepermit

Any person who made a submission in relation to the application for the review of a waste facility permit must be notified of a decision to grant a reviewed waste facility permit, and the local authority must inform them that a copy of the permit will be available for inspection or purchase during office hours at the main local authority office.

Appeal by Applicant following Local Authority Decision [Art. 35(12)]

An applicant for a review of a waste facility permit which has been refused or where conditions of the review waste facility permit have been amended may under article 35(12) appeal to a court of competent jurisdiction against such a decision and, on hearing the appeal, the court may confirm, annul or amend the decision. (See Chapter 8 on competent jurisdiction)

Animal By-products Facility Permit [Art. 35(13)]

Where a waste facility permit which involves the treatment of animal by-products within the meaning of Regulation (EC) No. 1774/2002 laying down health rules concerning animal by-products not intended for human consumption has been reviewed by a local authority, it shall

notify the Minister for Agriculture and Food and send a copy of the reviewed waste facility permit to that Minister following the review of the waste facility permit.

4.21 Revocation of a waste facility permit – Article 36

Local Authority reasons for revoking a waste facility permit [Art. 36 (1)]

If a local authority has concerns about the management and operation of a facility, whereby serious and frequent contraventions of permit conditions have been experienced, the local authority may revoke a waste facility permit.

A waste facility permit can be revoked under the following circumstances under **Article 36 (1)**:

(a) The permit holder, or other relevant person, is not, in its reasonable opinion, a fit and proper person to hold a waste facility permit or
(b) The activity being carried out is, or may be, in contravention of the conditions of the waste facility permit granted by the local authority or
(c) The activity is, or may be, in contravention of the Waste Management (Collection Permit) Regulations 2007; Waste Management (Movement of Hazardous Waste) Regulations, 1998 or Waste Management (Transfrontier Shipment of Waste) Regulations 2007 or
(d) The waste facility permit holder, or other relevant person, is likely, by a continuation of his or her activities, to cause environmental pollution or
(e) The waste facility permit holder, or other relevant person, is participating in, facilitating, or otherwise contributing towards the onward movement of waste to unauthorised facilities or unauthorised collectors

Every instance of an offence needs to be looked at on its own merits; this will depend on the seriousness of the offence or whether there are continuing and persistent minor breaches and/or no corrective actions by the operator have been carried out.

The offences are varied, but the most significant specific offences may include:

- Obstruction of authorised persons
- Causing environmental pollution
- The transfer of waste to an unauthorised waste collector or waste facility
- Failing to notify a local authority of waste spillages or unauthorised discharges
- Breaching the Waste Management (Transfrontier Shipment of Waste) Regulations 2007 (S.I. No. 419 of 2007)
- Breaching permit conditions - In the event or events of non-compliance with permit conditions, the local authority may consider reassessing the competence of the operator. Local authorities can reassess competence at any time and if not satisfied can revoke the permit.

Determining 'Relevant Person' [Art. 36 (2)]

A person who is in a position to direct or control the carrying on of the waste activity to which the facility permit relates may be regarded as a 'relevant' person. This may be the facility manager or owner i.e. the "legal person" holding or applying for the permit, or a person, persons in a partnership, or a corporate body being a director, manager, secretary or other similar officer of an operator. Article 36 (2)

Section 32 of the Act provides for specific requirements for "holders" of waste and this can apply to any persons.

Notice of Revocation [Art. 36 (3)]

A local authority must as soon as may be after making a decision to revoke a waste facility permit give notice in writing of the decision and the reasons for the decision to the waste facility permit holder and to the Agency www.epa.ie/wastepermit

Revoked facility must apply to surrender waste facility permit [Art. 36 (4)]

Where a waste facility permit has been revoked by a local authority in accordance with article 36(4), the former permit holder shall make an application to the Local Authority for the surrender of the waste facility permit in accordance with article 29.

Revoked facility may appeal [Art. 36 (5)]

The former holder of a waste facility permit which has been revoked may appeal to a court of competent jurisdiction (see Chapter 8 on Competent Jurisdiction) against the revocation of the waste facility permit and, on hearing the appeal; the court may confirm or annul the revocation. Article 36 (5)

4.22 Certificates of Registration – Article 37

Activities which require Registration with the local authority or the Agency are specified in **Part II of the Third Schedule** of the Regulations. The Agency will be the recipient of applications for Certificates of Registration where these activities where they are carried out by local authorities. In turn local authorities will be recipients of applications for Certificates of Registration where the activities are carried out by a private sector applicant. The Agency or local authority may on receiving an application grant a certificate of registration, or refuse to grant such a certificate.

The application for a certificate of registration shall be made as discussed in sections 4.1 to 4.18 of the manual.

See also:

- *Flowchart FC4-COR application process-private sector in **Appendix 11** and*
- *Flowchart FC5-COR application process Local Authority in **Appendix 12***

4.23 Review, amendment, revocation or transfer of a Certificate of Registration – Article 38

Authority reasons to request Review [Art. 38 (1)]

- (a) If the local authority, or the Agency, as the case may be, become aware that either the operations of the registered waste activity have materially changed, or the emissions from the facility have changed, the authority may initiate a review of the certificate. The change in activities at the facility may have been brought to the inspectors' attention through correspondence with the facility operator, other authorised persons or complaints from members of the public or through site investigations.
- (b) Another reason for a local authority or the Agency to review a certificate of registration is due to amendments to the waste management plan for the region concerned.

The review of a certificate of registration may be initiated by the local authority, or the Agency any time after the certificate of registration was granted.

See also:

- *Flowchart F6-COR review process-private sector in **Appendix 13** and*

- *Flowchart FC7-COR review process Local Authority in **Appendix 14***

Registration Holder reasons to request Review [Art. 38 (2)]

A registration holder may at any time submit an application to review their certificate of registration to a Local Authority or the Agency, as the case may be.

Local Authority/ Agency Notice of Intention to Review [Art. 38 (3)]

The local authority, / Agency must send a notice to the registration holder signalling its intent to review the certificate of registration.

The notice must require the registration holder to make an application within 30 days for a review of their certificate of registration. The local authority, /Agency may not decide to amend or review conditions of the certificate of registration before the 30 days have lapsed.

The notice shall further explain that if the registration holder does not make a review application within 30 days, the local authority, /Agency will make and issue a decision in relation to the application for a review.

If, furthermore, the local authority, /Agency had to carry out additional investigations, audits, sampling or enforcement actions in the course of determining the review, local authority, / Agency may advise the registration holder in the notice that he/ she must contribute towards these costs reasonably incurred. The costs levied against the registration holder shall not exceed the actual costs incurred by the local authority (see Article 44(2)).

Review Application particulars [Art. 38 (4-5)]

An application for review of a certificate of registration shall contain any submissions, plans, documents, or other information that needs to be provided with the application. The local authority can detail any information it considers necessary for the purposes of the proposed review.

The application for review must also include the appropriate fee for the review of the certificate of registration (detailed in the fifth schedule).

The local authority /Agency shall make and issue a decision on the review application.

Transfer of Certificate of Registration [Art. 38 (6)]

A certificate of registration can be transferred to another person by submitting a completed application form. The application form for the transfer of a certificate of registration (or waste facility permit) is available at www.epa.ie/wastepermit or from the relevant local authority, Agency. This is the same form that is used for the transfer of a waste permit and is included in **Appendix 17** for reference. Details required in the application form should be provided by both the current registration holder and the proposed transferee and the form must be jointly signed by both parties applying for the transfer. The appropriate fee, as set out in the **5th Schedule of the Regulations**, shall accompany the application form upon submission.

If, on consideration of an application for transfer and any relevant information provided in respect thereof, the local authority, /Agency is satisfied that the proposed transferee be regarded by it as being a fit and proper person, the transfer shall take effect

Revoking a Certificate of Registration [Art. 38 (7)]

If a local authority/Agency has serious concerns under article 38 (7) about the management and operation of a facility, whereby serious and frequent contraventions of the terms of the certificate of registration have been experienced, the local authority/Agency may revoke a waste facility permit for the following reasons:

- The registration holder, or other relevant person, is not, in the local authorities reasonable opinion, a fit and proper person to hold a waste facility permit, or

- The activity being carried out is, or may be, in serious and repeated contravention of the terms of the certificate of registration or
- The activity is, or may be, in contravention of the Waste Management (Collection Permit) Regulations 2007, the Waste Management (Movement of Hazardous Waste) Regulations 1998, or the Waste Management (Transfrontier Shipment of Waste) Regulations 2007, or
- The registration holder, or other relevant person, is likely, by a continuation of his or her activities, to cause serious and repeated environmental pollution, or
- The registration holder, or other relevant person, is participating in the onward movement of waste to unauthorised facilities or unauthorised collectors, or is facilitating, or otherwise contributing towards the unauthorised waste movement.

Determining ‘relevant person’ [Art 38 (8)]

A person who is in a position to direct or control the carrying on of the waste activity to which the facility permit relates may be regarded as a ‘relevant’ person. This may be the facility manager or owner i.e. the “legal person” holding or applying for the permit, or a person, persons in a partnership, or a corporate body) being a director, manager, secretary or other similar officer of an operator.

Section 32 of the Act provides for specific requirements for “holders” of waste and this can apply to any persons.

Notice of Revocation [Art. 38 (9)]

The local authority /Agency shall, as soon as may be after making a decision to revoke a certificate of registration give notice in writing of the decision and the reasons for the decision to the registration holder and to the Agency.

Revoked facility must apply to surrender waste facility permit [Art. 38 (10)]

Where an application for a certificate of registration has been refused or a certificate of registration has been revoked by the local authority /Agency the former registration holder shall make an application to the local authority Agency for the surrender of the waste facility permit in accordance with article 39.

Animal By-products Certificate of Registration [Art. 38 (11)]

Where a certificate of registration which involves the biological treatment of animal by-products has been granted, refused, revoked or surrendered the local authority/Agency must notify the Minister for Agriculture and Food of such a decision. A copy of the decision and of the certificate of registration does not need to be sent in this instance.

Revoked facility may appeal [Art. 38 (12)]

The former holder of a certificate of registration which has been refused or revoked may appeal to a court of competent jurisdiction (see Chapter 8 on Competent Jurisdiction) against the revocation of the waste facility permit and, on hearing the appeal, the court may confirm or annul the revocation.

4.24 Surrender of a Certificate of Registration – Article 39

Surrender by the Permit Holder [Art. 39 (1-2)]

An application for surrender of a certificate of registration that is carried out by a local authority shall be made to the Agency. An application for surrender of a certificate of registration that is carried out by a person other than a local authority shall be made in writing

to the local authority. A **Surrender Form** is provided in **Appendix 17** for reference. The form is available at www.epa.ie/wastepermit or from the relevant local authority.

The registration holder may at any time surrender a certificate of registration by submitting a written application for surrender to the local authority /Agency.

The surrender must have the agreement of the local authority /Agency, and may take place when:

- The waste related activity ceases
- The certificate of registration expires

When an application to surrender a certificate of registration has been received, local authority /Agency must satisfy itself that no environmental pollution or degradation has occurred on the site or beyond its boundaries due to the activities on the site. Where the local authority /Agency considers that the activity may currently or in the future cause environmental pollution, (due to past incidents of ground contamination, active emissions, or discarded items which may in future cause leaching of hazardous substances into the ground, etc) it shall not agree to the surrender of the waste facility permit.

Surrender Conditions [Art. 39 (3-5)]

If the surrender of the certificate of registration is agreed to, the Local Authority can issue a notice with surrender conditions which have to be complied with. Such conditions may, for instance, include the requirement to remove all debris, tanks or other items from the site.

Obligations remain after surrender application has been submitted [Art. 39 (6)]

If the surrender of the certificate of registration is agreed to, the certificate of registration is revoked or the activity has ceased, the obligations under the waste facility permit which fall on the permit holder remain in place.

5 Monitoring, inspection, auditing and enforcement of waste facility permit and certificate of registration activities

This chapter describes the monitoring, inspection, auditing and enforcement of waste facility permit and certificate of registration activities.
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The Articles covered in this Chapter are:

Article 40 Monitoring, inspection, auditing and enforcement

5.1 Introduction

Once a waste facility permit or certificate or registration is granted, it is imperative that compliance with the relevant legal requirements are checked and enforced. Checks can take place through monitoring, inspection and auditing and by taking relevant enforcement action where necessary.

Recommendation 2001/331/EC providing for minimum criteria for environmental inspections (RMCEI) was adopted by the European Parliament and the Council in 2001. The purpose of the RMCEI is to strengthen compliance with, and to contribute to a more consistent implementation and enforcement of Community environmental law in all Member States.

In order to provide useful and practical guidance to assist local authorities in the carrying out of their statutory environmental functions, the Environmental Enforcement Network (EEN) Guidance Manual was launched in 2005 and is available for download by members of the Enforcement Network on the Extranet at <https://www.enforcementnetwork.ie/GM/default.asp>. This manual provides comprehensive guidance on environmental enforcement and in particular it provides specialist guidance on waste enforcement. Sections of the manual are referred to where relevant in the discussion below.

5.2 Article 40 of the Waste Management (Facility Permit and Registration) Regulations 2007

Article 40(1) requires that local authorities, or as the case may be, the Agency is responsible for:

- The monitoring, inspection and auditing of facilities authorised under the Regulations and
- The enforcement of the obligations imposed by waste facility permits and certificates of registration, including the provisions of Section 32 of the Waste Management Act, 1996 to 2007.

Article 40(2) requires each local authority or, as the case may be, the Agency to take such steps as are necessary for the purpose of checking the compliance of waste activities subject to a waste facility permit or certificate of registration in meeting:

- The general environmental requirements set out in article 4 of Directive 2006/12/EC, and
- In the case of activities subject to a waste facility permit, the conditions attached to the permit, and
- In the case of activities subject to a certificate of registration, the rules set out in the fourth schedule.

Article 40(3) requires each local authority or as the case may be, the Agency to develop processes, including as appropriate audit programmes which shall be designed to verify the data provided by holders of waste facility permits and certificates of registration on waste acceptance, waste recovery and waste disposal. Any such audit programmes should include procedures for the assessment of annual environmental reports submitted by permit holders and registration holders and be adequate to ensure that the reported information is accurate.

Article 40(4) requires a local authority, or as the case may be, the Agency or an Authorised officer, to take all reasonable measures as are decided to be appropriate in each case to ensure that holders of waste facility permits and certificates of registration are complying with their obligations under the Regulations.

Reasonable measures, as are to be decided to be appropriate in each case, are to include:

- Measures prescribed under sections 14, 15, 16, and 18 of the Act, and
- In accordance with a risk-based enforcement plan prepared on the basis of the Recommendation 2001/331/EC of the European Parliament and of the Council of 4 April 2001 providing minimum criteria for inspections in Member States (RMCEI) and the Enforcement Handbook published by the Agency.

5.3 Key considerations for enforcement of waste facility permits and certificate of registration activities

Inspections of waste facility permit and certificate of registration activities should be incorporated into the scope of the annual RMCEI inspection plan. *Section 2.1 Managing environmental inspections under RMCEI* of the EEN Guidance Manual sets out the requirements of Recommendation 2001/331/EC. In summary, the key requirements of the Recommendation are that the Authority:

- Produce a plan for environmental inspections
- Undertake inspections of regulated installations in implementation of the plan; and
- Produce written reports of those site inspections.

It is very important that inspections are used to check the sources and destinations of waste. In particular cooperation between different local authorities is required to ensure that waste is being sent to an authorised facility. The Enforcement Network extranet, and the associated contacts within it, should be used to foster cooperation amongst local authorities when undertaking enforcement work.

It should be ensured that the records and data provided by the holders of waste facility permits or certificate of registration are thoroughly checked. Procedures should be developed to assess annual environmental reports and to ensure that the reported information is accurate.

Reports and data may be assessed at the facility of the permit holder during planned and non-routine audit and inspections or can be assessed when submitted to the competent authority.

5.4 Specialist Guidance on Waste Enforcement of the EEN

The Guidance Manual contains detailed discussions on the following areas:

- Concepts and definitions relating to waste

- Powers of authorised persons in relation to waste enforcement (including the provisions of section 14 of the Waste Management Act, 1996 to 2007)
- Inspection and other investigative techniques
- Local Authority waste enforcement tools. These enforcement tools include the use of statutory notices such as section 15, 18 and 55 notices and are usually used as intermediate mechanisms prior to the ultimate sanction of taking legal proceedings. The Local Authority can also seek injunctions under sections 57 and 58 against persons involved in unauthorised waste activities such as the breaching of a waste permit.

Specialist guidance on how to prepare a file for the Director of Public Prosecutions (DPP) has also been developed by the Office of Environmental Enforcement and this guidance is available for download under the Waste Topics section of the Environmental Enforcement Network website (<https://www.enforcementnetwork.ie/docs/>). For serious offences, it is recommended that enforcement authorities consider taking cases forward on indictment.

6 Registers and Waste Permit Website

This chapter describes the requirements for waste collection permit entries into the Article 19 Register and guidance on how to use the website

The Articles covered in this Chapter are:

Article 41 Entries in registers established under section 19 of the Act

6.1 Register Requirements Article 41

Section 19 of the Act requires the Agency and the local authorities to establish and maintain a register for the inclusion of waste permit information. Many local authorities now maintain a register of waste permit information for public access on their websites. A hard copy register is maintained at each local authority. Any copy of information in the register must be provided to a member of the public if it is requested. The copy must be certified as a “true copy” by an officer of the Local Authority or the Agency. Such a copy may be used in any legal proceedings.

A local authority must notify the Agency of an entry to the register.

Article 41 of the regulations; require the register to be maintained by the local authority. The details required for entry into the register include those specified in Article 41 and include the following:

Permit/CoR Number and technical/clerical amendments number
Local Authority
Indication that authorisation is granted, reviewed, revoked, transferred, surrendered or abandoned (number may be allocated but applicant may pull out of application)
Dates for any of the above, that is grant date, reviewed date etc.
Expiry date
Full name of the person responsible for managing the facility
Trade Name/s if applicable (public will not know name of person managing facility, but may be more familiar with operator name/s)
Address of principal place of business
Telephone number of the person responsible for managing the facility
Type of authorisation
Type, estimated quantity and nature of the waste collected, including EWC Code, split between household and non-household waste

6.2 Objective of Waste Permit Website

The objective of the website will be to record details of all permits granted, reviewed, revoked and abandoned under the new regulations. The website will be able to automatically generate permit reference numbers at the receipt of application stage. The site will also be able to be used as the form of notification by a local authority of an entry into a register.

The website is currently under development, full guidance for the use of the site for the public and local authorities will be provided on the website www.epa.ie/wastepermit

7 Charging

This chapter describes the system of charging for waste facility permits and certificates of registration

The Articles covered in this Chapter are:

Article 42 Fees Payable

Article 44 Defrayal of local authority or Agency cost

Introduction

Two separate but related sets of charging arrangements apply to waste facility permits and certificates of registration:

- Fees Payable (Article 42)
- Defrayal of local authority or Agency costs (Article 44)

7.1 Fees Payable - Article 42

Article 42 (1)

The applicant must pay a fee to the local authority or the Agency in respect of an application for the following:

- Waste facility permit
- Review of a waste facility permit
- Certificate of registration
- Review of a certificate of registration
- Transfer of a waste facility permit
- Transfer of a certificate of registration

Article 42 (2)

The fee payable is the amount listed in column (3) of the fifth schedule of the Regulations for the particular category of application. However, where a class of activity can be identified to more than one class (in either Parts I or II of the third schedule) the fee payable will be the highest of the fees specified in column (3) of the fifth schedule opposite the identified class of activity in column (2) of that schedule.

Article 42 (3)

Furthermore the local authority or the Agency has absolute discretion to refund or waive all or part of the fee payable in respect of a particular application. This is where the local authority or Agency believes that payment in full would not be just and reasonable having regard to the limited scale or nature of the activity concerned. Also, where the charging of a full fee may act as a financial disincentive to individuals or companies who are operating on a small scale and are engaged in environmentally beneficial operations such as waste recovery or recycling.

7.2 Defrayal of Local Authority or Agency costs (Article 44)

Article 44 (1)

After taking account of the information submitted by the applicant under article 10 and any further information provided by the applicant under article 13 and the need to carry out

investigations concerning discharges to groundwater in accordance with article 17, the local authority may decide to carry out or cause to be carried out inspections, investigations and analyses as are necessary to decide on an application.

Article 44 (2)

The local authority or Agency may require the applicant or holder of authorisation to defray or contribute towards any costs reasonably incurred by the local authority or Agency including:

- The cost of any investigations carried out or caused to be carried out by the local authority or Agency to enable them to decide on an application for, or a review of a waste facility permit or a certificate of registration
- Any costs incurred by the local authority or the Agency for the purpose of ensuring compliance by the holder of the authorisations with the conditions of the authorisations. This includes the cost of inspection, monitoring, auditing, enforcement or investigations deemed necessary and carried out or caused to be carried out by the local authority or Agency and the taking and analysis of any sample of waste.

Article 44 (3)

The amount of payment required in respect of an application or the review in ensuring compliance by the authorisation holder, together with the application fee set out in the fifth schedule, will not exceed the costs incurred by a local authority or Agency in deciding on the application, review or compliance.

Article 44 (4)

If a notice is served under Article 44(2) above to a person, they have to comply with the requirements of the notice within 15 working days. In default of such payment:

- The local authority concerned or the Agency may refuse to grant a waste facility permit or a certificate of registration, and
- The amount concerned may be recovered by the local authority concerned or the Agency as a simple contract debt in any court of competent jurisdiction (see chapter 8 for further details).

7.3 Guidance on cost accounting

1. In summary, the cost accounting methodology expects local authorities to count the number of hours devoted to waste facility permits and certificates of registration by:

- Members of the environment/waste section including administrators, and
- Other council officers including legal advisers

Local authorities need to ensure that it is clear how many hours relate to which staff pay bands.

A generic list of waste facility permit and certificate of registration includes the following:

- Review of monitoring data
- Dealing with complaints
- Monitoring upgrading
- Periodic reviews of permits
- Enforcements activities, appeal and prosecution work (not including the costs of prosecutions which are recoverable through the courts)

- Assessing applications
 - Producing varying and transferring permits
 - Visits in connection with (including travel time):
 - A new application
 - Existing application (including periodic review)
 - Complaint
 - Training
 - Identifying processes operating without an authorisation
 - Serving information notices
 - Checking and maintaining the public register
 - Liaising with other regulators
 - Administration and management directly related to waste permit and certificate of registration duties (including cost accounting, inspection planning and producing internal regulatory procedures)
 - Purchase of equipment or monitoring services
 - Clearing decisions with Councillors where required.
2. Calculate the hourly rate for each of the pay bands involved in the waste permitting and certificate of registration functions:

The hourly rate should include the calculation the local authority or Agency normally uses to add on pension, accommodation, IT etc costs. So if an officer's wages are, say, €35,000 a year, it might be that the cost of funding the officer's pension, his/her office space, stationary, human resources etc may add another perhaps €15,000 a year.

3. Add the standard figure the local authority normally uses to reflect the overhead costs of:
- Central policy making and elected councillors
 - Miscellaneous financial costs, such as the write-off of unused IT equipment, and
 - The interest charged on capital assets, such as mortgage costs

Each local authority or the Agency will usually have a figure to cover these extra 'on-costs'. If not, it may be reasonable to assume, as an approximation for the purposes of this exercise, that the total of these is unlikely to add more than 5% to officer wages before the addition of pension, office space etc.

7.4 Guidance on risk-based charging scheme

The risk based method applies a low, medium or high risk rating to activities operating at a facility. The resulting fees are proportionate to the risk rating. This risk-assessment method uses a 'point-scoring' approach which combines the indicative environmental impact assessment (EIA) of the activity itself and the Operator Performance Assessment (OPA) covering the operational aspects of the facility. This is outlined in the DEFRA risk-based inspection methodology which is available at the following website <http://www.defra.gov.uk/environment/ppc/localauth/fees-risk/pdf/laippc-risk.pdf>

The Office of Environmental Enforcement (OEE) of the EPA has developed a methodology for assigning an enforcement category to waste and IPPC licensed facilities. The methodology could be adapted for use in waste facility permit and certificate of registration applications. The methodology is based on international best practice and it comprises five key elements:

- An assessment of the complexity of activities
- The emissions from the site
- The location of the site
- It's current environmental performance, and
- The sensitivity of the receiving environment of the facility.

The assessment will be completed by licensees on an annual basis and will enable licensed facilities to assess their enforcement category with a view to improving environmental performance. Failure to do so will not allow the OEE to adequately categorise licensed facilities and may result in an increased enforcement effort and subsequent additional charging by the OEE.

The OEE has put together a guidance document which details each of the steps involved and outlines the information required to fill in each of the key attributes of the methodology. The methodology, its guidance document and a short summary instructions document can be downloaded from www.epa.ie/downloads/advice/licensee/methodology/

- Methodology for determining the enforcement category of a licence
- Guidance on Completion of Methodology for Determining Enforcement Category of Licences
- Summary instruction on Completion of Methodology for Determining Enforcement Category of Licences

8 Appeals and Competent Court of Jurisdiction

This chapter describes the appeals process and competent court in the context of appeals against a decision made by a local authority/ Agency

The Articles covered in this Chapter are:

Article 18(8) Appeal against refusal to grant a waste facility permit (WFP)
Article 30(5) Appeal against WFP being revoked due to non-submission of required review application
Article 32(4) Appeal against having to reapply for full new WFP
Article 35(12) Appeal against refusal or amended permit conditions following review
Article 36 (5) Appeal against revocation of WFP

Article 37(18) Appeal against refusal to grant a certificate of registration
Article 38(12) Appeal against refusal or revocation of a certificate of registration

Under the Regulations there are five articles which set out that the applicant or waste facility permit holder can appeal, and two articles which provide for appeals for certificate of registration applicants.

For waste facility permit applicants these are:

- Article 18(8) Appeal against refusal to grant a waste facility permit
- Article 30(5) Appeal against the waste facility permit being revoked due to non-submission of the required review application following a local authority initiated review process
- Article 32(4) Appeal against having to reapply for a full new waste facility permit. This may arise where the local authority has determined that an application for a review of a waste facility permit proposes such significant changes that an entirely new waste facility permit needs to be applied for.
- Article 35(12) Appeal against refusal or amended permit conditions following review
- Article 36 (5) Appeal against revocation

For waste certificate of registration applicants these are:

- Article 37(18) Appeal against refusal to grant a certificate of registration
- Article 38(12) Appeal against refusal or revocation of a certificate of registration

The Regulations refer to appeals being made to a Court of Competent Jurisdiction.

In most instances that Court of Competent Jurisdiction will be the District Court. In particular cases it will be a matter for the legal advisors of the parties to decide that a higher court of appeal should be approached, where the parties were not satisfied with the appeal proceedings at the lower court.

Decisions of the District Court can be appealed to the Circuit Court with some exceptions. Appeals proceed by way of a full rehearing and the decision of the Circuit Court is final (unless the severity of a sentence is the sole matter in issue).

9 Fit and Proper Person

This chapter outlines the articles that deal with a fit and proper person and how to determine an applicant is fit and proper.

The Articles covered in this Chapter are:

Article 5(2) (c), financial commitments or liabilities
Article 10(1)(s) financial commitment or liabilities
Art. 19(1) (h) conditions to provide financial security or a bond where necessary to ensure rehabilitation of the site when activities cease.
Articles 18(4) (e), 35(6) (d) and 37(12) (d) a fit and proper person.
Article 22 Offences for the purpose of articles 36 and 38
Articles 27(5) and 38(6) (d) a fit and proper person.
Articles 36(1) and 38(7) (a) a fit and proper person

9.1 Overview of Fit and Proper Person

In the context of Article 5 of the Regulations, the term “fit and proper person” applies to a person with no convictions of offences, has the appropriate technical competence and is likely to be in a position to meet any financial commitments or liabilities.

Local authorities will be required to determine “fit and proper” at various stages in an application process or where a permit has been granted, this determination will be required at the following stages:

- Application for a waste facility permit and certificate of registration (Article 10 (dd) and (ee) – the applicant must provide information on any offence where they were convicted within the past 10 years, they must detail the hearing, the nature of the offence, penalties and any terms of any requirements imposed by order of a court
- Local authorities must determine information provided under Article 10 (dd) and (ee) and decide to grant or refuse a waste facility permit or a certificate of registration
- Under Article 18(4)(e) the local authority shall not grant a waste facility permit unless it is satisfied that the applicant is a fit and proper person
- Article 36(1) (a) provides for a waste facility permit to be revoked if the local authority or Agency deem the permit holder to not be “fit and proper”. For more details on Revoking a waste facility permit refer to Chapter 4.23
- Under Article 36(2) the local authority shall consider the extent to which the person is, or is likely to be, in a position to direct or control the carrying on of the activity to which the relevant application or waste facility permit relates
- Article 38(7) (a) provides for a certificate of registration to be revoked if the local authority or Agency deem the permit holder to not be “fit and proper”. For more details on Revoking a Certificate of Registration refer to Chapter 4.25.

9.2 Determining ‘relevant person’ – Article 36 (2)

A person who is in a position to direct or control the carrying on of the waste activity to which the facility permit relates may be regarded as a ‘relevant’ person. This may be the facility manager or owner i.e. the “legal person” holding or applying for the permit, or a person, persons in a partnership, or a corporate body being a director, manager, secretary or other similar officer of an operator.

Section 32 of the Act does provide for specific requirements for “holders” of waste and this can apply to any persons.

9.3 Relevant Convictions/Court Order

Article 22 of the Regulations specifies the offences for the purpose of articles 10(1) (dd)
Within a 10 year period

A “relevant person” in relation to a conviction for a relevant offence would include:

- The operator (i.e. the “legal person” holding or applying for the permit – a person, sole trader, persons in a partnership, or a corporate body), and
- A director, manager, secretary or other similar officer of an operator (when it is a corporate body) or a partner or partners in the case of a partnership.

It is important in the determination of an application that the details of any convictions are taken into account and that a fair and reasonable decision is made on the basis of information provided at the application stage. In making this determination it will be necessary to take into account the following:

- Circumstances of the offence, for example, was the offence carried out by one of the partners holding the permit at the time of an offence, however they are no longer with the organisation
- Frequency and scope of offence, either under one regulation or a number of regulations, has the permit holder or applicant demonstrated a deliberate disregard for the environment or environmental standards and regulation where there are repeat convictions of false and misleading information provided
- Nature and severity of offence, what were the impacts or result of the offence
- Penalties imposed by order of a court
- Terms of any requirements imposed by order of a court
- Any corrective action taken by applicant or permit holder

9.4 Technical Competence (*Fit and Proper person*)

Applicants or permit holders should be technically competent to operate their waste facilities. Technical competence is not just specific to one individual but to the organisation’s employees that have a role in direction and control of a waste facility activity. Article 5 requires a person or persons to have either “the requisite technical knowledge or qualifications to carry on that activity”.

Technical knowledge or qualifications can include:

- Experience in managing or operating a waste facility or waste collection operation
- Membership of technical institutions, such as the Chartered Institution of Waste Management (CIWM)
- Relevant business management, science or engineering degrees, certificates or diplomas
- Attendance of relevant training events on waste management activities

If the operator or staff have successfully completed the Fás Waste Management Training Course this would be considered one of the appropriate means of demonstrating technical competence.

If the operator has an Environmental Management System or a Quality Management System, the system will require the allocation and description of roles and responsibilities within that organisation, such as organisational structure, description of roles and responsibilities for different staff members and training and awareness for staff specific to their responsibilities related to the permit and management system.

9.5 Guidance on Financial liabilities and security

Introduction

A number of Articles in the Regulations address financial liabilities and security:

- Article 10(1)(s) requires information on the ability of the applicant to meet financial commitments or liabilities entered into or incurred in carrying on the activity or in ceasing to carry on the activity to be submitted in the waste facility permit or certificate of registration application
- Art. 19(1) (h) requires that a local authority attach to each waste facility permit conditions to provide financial security or a bond where necessary to ensure rehabilitation of the site when activities cease
- Articles 18(4) (e), 35(6) (d) and 37(12) (d) require that a local authority (or the EPA where relevant) shall not grant a waste facility permit, reviewed waste facility permit or certificate of registration unless the applicant is a fit and proper person. Under Article 5(2) (c), one of the requirements for an applicant to be a “fit and proper person” is that the person must be likely to be in a position to meet any financial commitments or liabilities that will be entered into or incurred in carrying on the activity or in ceasing to carry on the activity
- Articles 27(5) and 38(6) (d) require that an application for transfer of a waste facility permit or certificate of registration is effected by a local authority (or the EPA where relevant) if the transferee is a fit and proper person
- Articles 36(1) and 38(7) (a) provide that a local authority (or the EPA where relevant) may revoke a waste facility permit or certificate of registration where the holder, or other relevant person, is not a fit and proper person.

There are various financial commitments and liabilities associated with waste facilities that need to be considered as part of the above:

- Financial commitments - associated with the proper running of the facility using best available techniques and in a manner that will not cause environmental pollution or breach environmental standards
- Known environmental liabilities – planned/anticipated environmental liabilities such as the costs of closure/rehabilitation
- Unknown environmental liabilities – environmental liabilities that occur due to unexpected events such as escape of pollutants to the environment due to a leak or spill.

Information necessary as part of the Application

The following information is necessary as part of an application for a waste facility permit or certificate of registration to satisfy Article 10(1) (s). **The level of detail should be proportionate to the environmental risk posed by the activity (determined by its nature and scale) and to the sensitivity of the environment in which the activity will be located.**

Financial commitments

The applicant should make a signed declaration regarding the financial ability of the applicant to properly operate the facility using best available techniques and in a manner that will not cause environmental pollution or breach environmental standards. Any non-confidential financial information, which can be submitted in support, should be included.

Known environmental liabilities

The applicant should provide a costed closure/rehabilitation plan. The closure/rehabilitation plan should address the following areas:

- (a) plant/equipment decontamination
- (b) plant/equipment recovery or disposal
- (c) materials removal, e.g. fuels
- (d) waste recovery or disposal by appropriately authorised persons to appropriately authorised sites
- (e) soil placement and seeding, e.g. infill sites
- (f) drainage, e.g. infill sites
- (g) timeframe; and
- (h) Verification monitoring and reporting to local authority.

Clean closure (i.e. full closure without residual environmental issues) should be achievable for most waste facility permit and certificate of registration activities. However, if there are any residual issues, e.g. contaminated land, the plan should identify these and detail how they will be addressed. Costs should be based on independent quotations and/or be presented in a way that enables assessment by the local authority, e.g. unit costs.

Unknown environmental liabilities

The applicant should provide a risk assessment identifying potential unknown liabilities and the cost of redressing the environmental impact of same were they to occur. The risk assessment should cover as a minimum:

- (a) leaks from aboveground and underground storage tanks
- (b) spillages from bunds
- (c) leaks from process and effluent pipes and drains
- (d) fire
- (e) tank overflows
- (f) mobile tanker spills on-site; and
- (g) Leaks from underground sumps.

It may be preferable for the applicant to reduce/eliminate the risk of unknown liabilities by mitigation measures thus reducing the financial security required.

Financial security

The applicant should provide details of any financial instruments proposed or in place to cover unknown liabilities (e.g. insurance) and, if necessary, closure/rehabilitation (e.g. bond).

Assessment of Application and conditions

On receipt of the application, the local authority must assess the above to determine whether the information provided is sufficient to allow the applicant to meet the relevant criteria of 'fit and proper'.

Financial commitments

If a local authority has concerns about the ability of the applicant to cover financial commitments (e.g. where significant investment in environmental infrastructure such as abatement equipment is required), the local authority should seek further information from the applicant, however, the associated information may need to be handled confidentially. The principal methods of assessing a person's financial ability are as follows:

Credit rating report – A credit rating report is a report regarding repayments on credit agreements (e.g. mortgages, loans, hire purchase agreements, credit cards) between financial institutions and borrowers. Credit rating reports are available from the Irish Credit Bureau Limited (<http://www.icb.ie/>) but can only be obtained by people in relation to themselves or by a financial institution when a person applies for credit. Therefore, the local authority would have to request the applicant to provide this information.

Applicant accounts – For some companies, accounts can be obtained by the local authority itself from the Companies Registration Office (<http://www.cro.ie/>). Otherwise, the local authority would have to request the applicant to provide this information.

Known environmental liabilities

In the case of known liabilities, the local authority should satisfy itself that the closure/rehabilitation plan is complete and adequately costed. In the case of a waste facility permit, if financial security is considered necessary to cover the costs, the local authority should insert a condition in the waste facility permit requiring that financial security is put in place to the satisfaction of the local authority before the activity commences and is maintained thereafter on an ongoing basis.

Unknown environmental liabilities

In the case of unknown liabilities, the local authority should satisfy itself that all risks have been identified and adequately costed and that the applicant is in a financial position to cover the costs. Any financial security (e.g. insurance) proposed or in place must cover environmental matters adequately and, in particular, cover clean-up costs. Where financial security to the satisfaction of the local authority is provided in an application for a waste facility permit, a condition should be inserted in the waste facility permit requiring same to be maintained on an ongoing basis. Where financial security is proposed but not provided in an application for a waste facility permit, it is recommended that a condition be inserted in the waste facility permit requiring that financial security is put in place to the satisfaction of the local authority before the activity commences and is maintained thereafter on an ongoing basis. Applicants for Certificates of Registration will have to have financial security in place and submitted as part of the application as there is no facility for the local authority to require it to be put in place by condition.

Guidance on Environmental Liability Risk Assessment, Residuals Management Plans and Financial Provision (EPA, 2006) provides useful guidance in relation to the above.

In the event of unsatisfactory change in circumstances after authorisation, a local authority may revoke a waste facility permit or certificate of registration where the holder, or other relevant person, is not a fit and proper person.

- 1. CONSOLIDATED WASTE MANAGEMENT (FACILITY AND REGISTRATION) REGULATIONS S.I 821 OF 2007 AND WASTE MANAGEMENT (FACILITY PERMIT AND REGISTRATION (AMENDMENT) REGULATIONS S.I 86 OF 2008**

CONSOLIDATED VERSION

WASTE MANAGEMENT (FACILITY PERMIT and REGISTRATION) REGULATIONS
2007

and

WASTE MANAGEMENT (FACILITY PERMIT and REGISTRATION) (AMENDMENT)
REGULATIONS 2008

Disclaimer:

This consolidation has been prepared on the basis of the text of the Waste Management (Facility Permit and Registration) Regulations 2007 and the Waste Management (Facility Permit and Registration) (Amendment) Regulations 2008. This consolidated version should be used as a preliminary source of information only and the original legislation should be consulted before taking any action which might have legal consequences.

INDEX

1. Citation.
2. Commencement.
3. Revocations and transitional arrangements.
4. Purpose of Regulations.
5. Interpretation generally.
6. Non-application of section 39(1) of the Act.
7. Notice of intention to apply for a waste facility permit.
8. Requirements as to notices.
9. Making of an application to a local authority for a waste facility permit.
10. Contents of an application for a waste facility permit.
11. Declarations on waste licences, waste facility permits or certificates of registration.
12. Procedure on receipt of an application for a waste facility permit.
13. Further information.
14. Availability and inspection of documents.
15. Submissions to a local authority regarding an application for a waste facility permit.
16. Period for determination of an application for a waste facility permit.
17. Investigations concerning discharges to groundwater.
18. Determination and notice of decision of grant or refusal in relation to a waste facility permit.
19. Conditions which shall be attached to a waste facility permit.
20. Conditions which may be attached to a waste facility permit.
21. Conditions relating to the operation of mobile plant.
22. Offences for the purpose of articles 36 and 38.
23. Amendment to the Waste Management Act 1996
24. Notice and information to the Agency and to the Minister for Agriculture and Food.
25. Notice and information to the local authority regarding a waste facility permit.
26. Amendments to a waste facility permit of a clerical or technical nature.
27. Transfer of a waste facility permit.
28. Withdrawal or abandonment of an application for a waste facility permit.
29. Surrender of a waste facility permit.
30. Notice from the local authority requiring a review of a waste facility permit.
31. Application made by permit holder for the review of a waste facility permit.

32. Procedures to be applied by the local authority in the determination of an application for the review of a waste facility permit.
33. Decision on an application for the review of a waste facility permit on the basis of particulars received from the applicant.
34. Decision on an application for the review of a waste facility permit on the basis of particulars received from the applicant and other persons.
35. Determination and notice of grant or refusal of a reviewed waste facility permit.
36. Revocation of a waste facility permit.
37. Registration of certain activities.
38. Review, amendment, revocation or transfer of a certificate of registration.
39. Surrender of a certificate of registration.
40. Monitoring, inspection, auditing and enforcement.
41. Entries in registers established under section 19 of the Act.
42. Fees payable.
43. False or misleading information or failure to provide information.
44. Defrayal of local authority or Agency costs.

FIRST SCHEDULE REGULATIONS REVOKED

SECOND SCHEDULE PROVISIONS OF COMMUNITY ACTS WHICH ARE
TO BE GIVEN EFFECT TO IN RELEVANT WASTE
FACILITY PERMITS GRANTED BY A LOCAL
AUTHORITY OR CERTIFICATES OF REGISTRATION
GRANTED BY A LOCAL AUTHORITY OR THE
AGENCY

THIRD SCHEDULE ACTIVITIES TO BE PERMITTED OR REGISTERED

FOURTH SCHEDULE GENERAL RULES IN RESPECT OF REGISTERED
ACTIVITIES

FIFTH SCHEDULE FEES PAYABLE

WASTE MANAGEMENT (FACILITY PERMIT and REGISTRATION) REGULATIONS, 2007

The Minister for the Environment, Heritage and Local Government, in exercise of the powers conferred on him by sections 7, 15, 18, 19, 32, 39 and 53E of the Waste Management Acts 1996 to 2007, hereby makes the following Regulations: -

Citation

1. These Regulations may be cited as the Waste Management (Facility Permit and Registration) Regulations 2007.

Commencement

2. These Regulations shall come into operation on 01 June 2008.

Revocations and transitional arrangements.

3. (1) Subject to sub-article (2), the Regulations specified in the first schedule to these Regulations (referred to hereafter as “the regulations revoked”) are hereby revoked.

(2) The provisions of the Regulations revoked shall, notwithstanding sub-article (1), continue to apply and have effect in relation to any application that is made for a waste permit or a certificate of registration, or any waste permit or certificate of registration which has been granted, before the coming into operation of these Regulations.

(3) A certificate of registration granted under the Regulations revoked in respect of an activity which does not fall within part II of the third schedule and requires a waste facility permit in accordance with part I of the third schedule, shall remain valid if an application for a waste facility permit is made within sixty working days of the coming into operation of these Regulations, until such time as a decision is taken to grant or to refuse a waste facility permit under article 18, at which point the certificate of registration will lapse.

(4) A waste permit granted under the Regulations revoked in respect of an activity which does not fall within part I of the third schedule and which requires a waste licence in accordance with the Waste Management (Licensing) Regulations 2004 (S.I. No. 395

of 2004), as may be amended from time to time, shall remain valid if an application for a waste licence is made to the Agency within 180 working days of the coming into operation of these Regulations, until such time as a decision is taken to grant or to refuse a waste licence under article 34 of the Waste Management (Licensing) Regulations 2004, as may be amended from time to time, at which point the waste facility permit will lapse.

- (5) Where an application for a review of an existing waste facility permit is made after the coming into operation of these Regulations, the application shall be reviewed in accordance with the procedures pursuant to articles 30 and 31. On completion of the review of the waste facility permit, the full provisions of these Regulations shall apply in relation to the activity.
- (6) Where an application for a review of a certificate of registration is made after the coming into operation of these Regulations, the application shall be reviewed in accordance with the procedures set out in article 38. On completion of the review of the certificate of registration, the provisions of these Regulations will apply in relation to the activity.

Purpose of Regulations.

4. The purpose for which these Regulations are made include giving effect to the provisions of -

- (a) Council Directive 75/439/EEC of 16 June 1975¹ on the disposal of waste oils, as amended by Council Directive 87/101/EEC of 22 December 1986²,
- (b) Council Directive 75/442/EEC of 15 July 1975³ on waste, as amended by Council Directive 91/156/EEC of 18 March, 1991⁴ and codified under Directive 2006/12/EC of the European Parliament and the Council of 5 April 2006⁵ on waste,
- (c) Directive 2006/11/EC of 15 February 2006⁶ of the European Parliament and of the Council on pollution caused by certain dangerous substances discharged into the aquatic environment of the community,
- (d) Directive 2006/118/EC of 12 December 2006⁷ of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration.
- (e) Council Directive 80/68/EEC of 17 December 1979⁸ on the protection of groundwater against pollution caused by certain dangerous substances,

¹ O.J. No. L 194/23, 25 July 1975

² O.J. No. L 42/43, 12 February 1987

³ O.J. No. L 194/39, 25 July 1975

⁴ O.J. No. L 78/32, 26 March 1991

⁵ O.J. No. L114/9 of 27 April 2006

⁶ O.J. No. L 64/52, 4 March 2006

⁷ O.J. No. L272/19, 27 December 2006

⁸ O.J. No. L 20/43, 26 January 1980

- (f) Council Directive 87/217/EEC of 19 March 1987⁹ on the prevention and reduction of environmental pollution by asbestos,
- (g) Council Directive 91/676/EEC of 12 December 1991¹⁰ concerning the protection of waters against pollution caused by nitrates from agricultural sources,
- (h) Council Directive 91/689/EEC of 12 December 1991¹¹ on hazardous waste,
- (i) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000¹² establishing a framework for Community action in the field of water policy,
- (j) Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000¹³ on end-of-life vehicles as amended by Council Decision 2005/673/EC of 20 September 2005,
- (k) Directive 2002/96/EC of the European Parliament and the Council of 27 January 2003¹⁴ on waste electrical and electronic equipment (WEEE), as amended by Directive 2003/108/EC of the European Parliament and of the Council of 8 December 2003¹⁵,
- (l) Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994¹⁶ on packaging and packaging waste, as amended by Directive 2004/12/EC of the European Parliament and of the Council of 11 February 2004¹⁷,
- (m) Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3 October 2002¹⁸ laying down health rules concerning animal by-products not intended for human consumption, as amended by Commission Regulation (EC) No. 808/2003 of 12 May 2003¹⁹,
- (n) Regulation (EC) No. 2037/2000 of the European Parliament and of the Council of 29 June 2000²⁰ on substances that deplete the ozone layer, as amended by Regulation (EC) No. 2038/2000 of the European Parliament and of the Council of 29 September 2000²¹, Regulation (EC) No. 2039/2000 of the European Parliament and of the Council of 29 September 2000²², Regulation (EC) No. 1804/2003 of the European Parliament and of the Council of 16 October 2003²³, Commission Regulation (EC) No. 2077/2004 of 4 December 2004²⁴ and Commission Regulation (EC) No. 29/2006

⁹ O.J. No. L 85/40, 28 March 1987

¹⁰ O.J. No. L 375/1, 31 December 1991

¹¹ O.J. No. L 377/20, 31 December 1991

¹² O.J. No. L 327/1, 22 December 2000

¹³ O.J. No. L 269/34 21 October 2000

¹⁴ O.J. No. L 37/24, 13 February 2003

¹⁵ O.J. No. L345/106, 31 December 2003

¹⁶ O.J. No. L365/10, 31 December 1994

¹⁷ O.J. No. L47/26, 18 February 2004

¹⁸ O.J. No. L273/1, 10 October 2002

¹⁹ O.J. No. L117/1, 13 May 2003

²⁰ O.J. No. L244/1, 29 September 2000

²¹ O.J. No. L244/25, 29 September 2000

²² O.J. No. L244/26, 29 September 2000

²³ O.J. No. L265/1, 16 October 2003

²⁴ O.J. No. L359/28, 4 December 2004

of 11 January 2006²⁵ and Commission Regulation (EC) No. 1784/2006 of 4 December 2006²⁶,

- (o) Regulation (EC) No. 842/2006 of the European Parliament and of the Council of 17 May 2006²⁷ on certain fluorinated greenhouse gases,
- (p) Council Directive 1999/31/EC of 26 April 1999²⁸ on the landfill of waste,
- (q) Council Directive 91/157/EEC of 18 March 1991²⁹ on batteries and accumulators containing certain dangerous substances as amended by Commission Directive 93/86/EEC of 4 October 1993³⁰ and by Commission Directive 98/101/EC of 22 December 1998³¹,
- (r) Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006³² on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC,
- (s) Regulation (EC) No 2150/2002 of the European Parliament and of the Council of 25 November 2002 on waste statistics³³,
- (t) Regulation (EC) No 850/2004 of the European Parliament and the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC³⁴, as amended by Council Regulation (EC) No. 1195/2006³⁵ and Council Regulation (EC) No. 172/2007³⁶,
- (u) spare,
- (v) Council Directive 79/409/EEC of 2 April 1979³⁷ on the conservation of wild birds,
- (w) Council Directive 92/43/EEC of 21 May 1992³⁸ on the conservation of natural habitats and of wild fauna and flora,
- (x) Directive 2006/118/EC of 12 December 2006 of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration³⁹, and

Interpretation generally.

²⁵ O.J. No. L6/27, 11 January 2006

²⁶ O.J. No. L337/3, 5 December 2006

²⁷ O.J. No. L161/1, 14 June 2006

²⁸ O.J. No. L182/1, 16 July 1999

²⁹ O.J. No. L078/38, 26 March 1991

³⁰ O.J. No. L264/51, 23 October 1993

³¹ O.J. No. L1/1, 5 January 1999

³² O.J. No. L 266/49, 26 September 2006

³³ O.J. No. L332/1, 9 December 2002

³⁴ O.J. No. L229/5, 29 June 2004

³⁵ O.J. No. L55/1, 23 January 2007

³⁶ O.J. No. L217/1, 8 August 2006

³⁷ O.J. No. L103/1, 25 April 1979

³⁸ O.J. No. L206/7, 22 July 1992

³⁹ O.J. No. L272/19, 27 December 2006

5. (1) In these Regulations -

- (a) any reference to a schedule or article, which is not otherwise identified, is a reference to a schedule or article of these Regulations,
- (b) any reference to a sub-article or paragraph, which is not otherwise identified, is a reference to a sub-article or paragraph of the provision in which the reference occurs.

(2) In these Regulations, save where the context otherwise requires -

"the Act" means the Waste Management Acts 1996 – 2007;

“activity” means in relation to the disposal and recovery of waste any of the activities specified in the third schedule of the Act or, as the case may be, the fourth schedule of the Act and “disposal activities” or “waste recovery activities” shall be construed accordingly;

“the Agency” means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Acts 1992 and 2003;

“agriculture” means the growing of all types of commercial food crops, including food crops for stock-rearing purposes,

“anaerobic digestion” means the biological decomposition of biowaste in the absence of oxygen and under controlled conditions by the action of micro-organisms in order to produce biogas and digestate;

“animal by-products” has the meaning assigned to it by article 2 of Regulation (EC) No. 1774/2002;

“appellant” means an applicant or a local authority who makes a request to the Agency in accordance with article 11 for a determination of whether an activity shall be regarded as a licensable activity under section 39(1) of the Act or as requiring a waste facility permit or certificate of registration under these Regulations, or as none of these;

"an application" means, as the case may be, an application for a –

- (a) waste facility permit,
- (b) review of a waste facility permit,
- (c) surrender of a waste facility permit,
- (d) transfer of a waste facility permit,
- (e) certificate of registration,
- (f) review of a certificate of registration,
- (g) surrender of a certificate of registration, or
- (h) transfer of a certificate of registration;

"applicant" means, as the case may be, an applicant for a –

- (a) waste facility permit,

- (b) review of a waste facility permit,
- (c) surrender of a waste facility permit,
- (d) transfer of a waste facility permit,
- (e) certificate of registration,
- (f) review of a certificate of registration,
- (g) surrender of a certificate of registration, or
- (h) transfer of a certificate of registration,

and may include the holder of the waste;

“authorised facility” means a facility which has been granted a waste authorisation in the form of a waste licence, a waste facility permit or a certificate of registration;

"biodegradable" means waste that is capable of undergoing anaerobic or aerobic decomposition, such as food and garden waste, and paper and cardboard;

“biological treatment” means composting, anaerobic digestion, mechanical-biological treatment or any other biological treatment process for stabilising and sanitising biodegradable waste, including pre-treatment processes;

“biowaste” means source segregated household or commercial waste of an organic or putrescible character, such as food or garden waste;

“ central collection point” means –

- (a) a Civic Amenity Facility, or
- (b) other facility for the receipt, storage (including temporary storage), segregation, sorting or repackaging of waste pending onward transport and subsequent submission to a recovery activity at an authorised facility,

subject to such a facility being appropriately licensed, permitted or registered under Regulations made pursuant to section 39 of the Act, or other such facilities as may be prescribed;

“certificate of registration” means a certificate issued under article 37 of these Regulations and, for the purposes of these Regulations, shall include a “registration certificate” which has been granted as a waste authorisation by the Agency or, as the case may be, a local authority in accordance with the provisions of article 39 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005) and which regulates the reception, storage (including temporary storage), segregation, sorting or repackaging of Waste Electrical and Electronic Equipment at a facility, subject to any amendment that may be made to the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005) from time to time;

“civic amenity facility” shall include a civic amenity site and a recycling centre and means a facility operated by or on behalf of a local authority or a private sector operator which is provided for the efficient reception and temporary storage of recyclable and non-recyclable waste materials, including segregated waste and which

is appropriately licensed, permitted or registered under Regulations made pursuant to Section 39 of the Act;

“commercial documentation” means a record of the particulars of each consignment of waste which is delivered to a facility, including details of the –

- (a) date of delivery,
- (b) sources, types and quantities of the wastes received,
- (c) name, address and waste authorisation number of the carrier, and
- (d) name, address and waste authorisation reference number of any facility to which the waste is consigned for onward transfer from the facility concerned.

“Community Act” has the meaning assigned to it by section 5 of the Act;

“composting” means the autothermic and thermophilic biological decomposition of separately collected biowaste, including organic sludges of biological origin, in the presence of oxygen and under controlled conditions in order to produce compost, and “compost” and “compostable” shall be construed accordingly;

“Directive 2006/12/EC” means Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste which codifies Council Directive 75/442/EEC of 15 July 1975 on waste, as amended by Council Directive 91/156/EEC of 18 March 1991;

“dredge spoil” means waste materials arising from dredging operations from the sea, an estuary or an inland waterway;

“electrical and electronic equipment” or “EEE” means equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields falling under the categories set out in Annex IA and designed for use with a voltage rating not exceeding 1,000 Volt for alternating current and 1,500 Volt for direct current;

“electronic means” means using electronic equipment for the processing (including digital compression) and storage of data which is transmitted, conveyed and received by wire, by radio or by other electromagnetic means;

“emission limit value” has the meaning assigned to it by section 5 of the Act;

"end-of-life vehicle" means a specified vehicle which is discarded or is to be discarded by its registered owner as waste and shall be read in accordance with the meaning of section 4(1)(a) of the Act and article 1(a) of Council Directive 75/442/EEC of 15 July 1975 on waste;

“environmental pollution” has the meaning assigned to it in section 5 of the Act;

“European site” means-

- (a) a site-

- (i) notified for the purposes of Regulation 4 of the European Communities (Natural Habitats) Regulations 1997⁴⁰, subject to any amendments made to it by virtue of Regulation 5 of those Regulations,
 - (ii) transmitted to the Commission in accordance with Regulation 5(4) of the said Regulations, or
 - (iii) added by virtue of Regulation 6 of the said Regulations to the list transmitted to the Commission in accordance with Regulation 5(4) of the said Regulations, but only until the adoption in respect of the site of a decision by the Commission under article 21 of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora for the purposes of the third paragraph of article 4(2) of that Directive.
- (b) a site adopted by the Commission as a site of Community importance for the purposes of article 4(2) of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora in accordance with the procedure laid down in article 21 of that Directive,
 - (c) a special area of conservation within the meaning of the European Communities (Natural Habitats) Regulations 1997,
 - (d) an area classified pursuant to paragraph (1) or (2) of article 4 of Council Directive 79/409/EEC on the conservation of wild birds;

“European Waste Catalogue” (or “EWC”) means the list of waste set out in Commission Decision 2001/118/EC of 16 January 2001⁴¹ (made pursuant to article 1(a) of Council Directive 75/442/EEC on waste) and includes such amendments as may be made to the list from time to time;

“facility” shall have the meaning assigned by section 5 of the Act;

“fit and proper person” applies to a person if -

- (a) neither that person nor any other relevant person has been convicted of an offence under the Act, the Environmental Protection Agency Acts 1992 and 2003, the Local Government (Water Pollution) Acts 1977 and 1990 or the Air Pollution Act 1987,
- (b) in the opinion of the Agency or, as the case may be, the local authority, that person or, as appropriate, any person or persons employed by him or her to direct or control the carrying on of the activity to which the waste facility permit or, as the case may be, the certificate of registration relates or, as appropriate, will relate has or have the requisite technical knowledge or qualifications to carry on that activity in accordance with the permit or, as

⁴⁰ S.I. No.94 of 1997

⁴¹ O.J. L47/9, 16 February 2001

appropriate, the certificate of registration, and the other requirements of the Act,

- (c) in the opinion of the Agency or, as the case may be, the local authority, that person is likely to be in a position to meet any financial commitments or liabilities that the Agency or, as the case may be, the local authority reasonably considers will be entered into or incurred by him or her in carrying on the activity to which the waste facility permit or, as the case may be, the certificate of registration relates or, as appropriate, will relate in accordance with the terms thereof or in consequence of ceasing to carry on that activity;

“fluorinated greenhouse gas” has the meaning as defined in Regulation (EC) No. 842/2006;

“fluorinated greenhouse gas container” means a product which is designed primarily for transporting or storing fluorinated greenhouse gases;

“halons” means those controlled substances contained in fire protection systems and fire extinguishers covered by the scope of Regulation (EC) No. 2037/2000 as detailed in Annex 1 of that Regulation;

“halon container” means a product which is designed primarily for transporting or storing halons;

“hazardous waste” has the meaning assigned to it by section 4 of the Act;

“household waste” has the meaning assigned to it by section 5 of the Act;

“household hazardous waste” means hazardous waste produced within the curtilage of a building or self-contained part of a building used for the purposes of living accommodation as well as commercial and other waste which, because of its nature or composition, is similar to household hazardous waste;

“immobilised vehicle” means a vehicle, other than an end-of-life vehicle which, in the reasonable opinion of the local authority, is not capable of being –

- (a) physically driven, or
- (b) driven in accordance with the prevailing Community legislation or relevant national legislation relating to safety standards, air emissions, noise controls, and the protection of soil and water;

“inert waste” means waste that –

- (a) does not undergo any significant physical, chemical or biological transformations,
- (b) will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter, or be adversely affected by other

matter, including waters, with which it comes into contact in a way that causes or is likely to cause environmental pollution, or

(c) in particular, will not endanger the quality of surface water or groundwater;

“IPPC Licence” means a licence for the purposes of section 83 of the Environmental Protection Agency Acts 1992 and 2003;

"licensable activity" means an activity in relation to the carrying on of which a waste licence is required under section 39(1) of the Act;

“local authority” has the meaning assigned to it by section 5 of the Act;

“manure” means any excrement and/or urine of farmed animals with or without litter or guano that may be either unprocessed or processed in accordance with chapter III of annex VIII of Regulation (EC) No. 1774/2006 or otherwise transformed in biogas or composting plants;

“mechanical-biological treatment” means the treatment of residual municipal waste through a combination of mechanical processing and biological stabilisation, in order to stabilise and reduce the volume of waste which requires disposal;

“mobile plant” means any plant used for or in relation to the holding, recovery or disposal of waste, which is designed to be transported between, and used at, different facilities, other than mobile plant used for the recovery of waste for the time being specified in section 51(2)(a) of the Act;

“municipal waste” has the meaning assigned to it by section 5 of the Act;

“nutrient management plan” shall have the meaning imputed to it pursuant to section 66 of the Act;

"organic waste" means any waste that is capable of undergoing anaerobic or aerobic decomposition through a biological treatment process, such as food and garden waste;

"party to an application" means the applicant and the local authority or, as the case may be, the Agency to which the application is being made, and "party" shall be construed accordingly;

“permit holder” means a holder of a waste facility permit issued in accordance with the provisions of these Regulations and, for the purpose of these Regulations, shall include a holder of a waste permit granted under the Waste Management (Permit) Regulations, 1998⁴²;

“premises” has the meaning assigned to it by section 5 of the Act;

"planning permission" means a permission granted under Part III of the Planning and Development Act of 2000;

⁴² S.I. No. 165 of 1998

“principal activity”, when used in the context of an application, in the case where two or more classes of activity as specified in the third schedule are being carried on at a facility, means the activity which is carried on to the greatest extent at the facility;

“principal office” means the central office of the local authority concerned, or such other office of the local authority which may be designated by the local authority for the purposes of dealing with matters covered by these Regulations;

"proposed transferee" means another person to whom a permit holder or a registration holder desires to transfer a waste facility permit or a certificate of registration respectively;

“refrigerant container” means a product which is designed primarily for transporting or storing refrigerant gases;

“refrigerant gases” means those gases contained in refrigeration, air-conditioning and heat pump equipment whether alone or in a mixture, including those gases as detailed in Annex I of Regulation (EC) No. 2037/2000 and Annex I of Regulation (EC) No. 842/2006 and where chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs) covered by Regulation (EC) No. 2037/2000 and hydrofluorocarbons (HFCs) under Regulation (EC) No. 842/2006 are different refrigerant gas types;

“registration certificate” means a waste authorisation granted by the Agency or, as the case may be, the relevant local authority under the provisions of article 39 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 and which regulates the reception of Waste Electrical and Electronic Equipment at a facility;

“registration holder” means a holder of a certificate of registration issued in accordance with the provisions of these Regulations;

“Regulation (EC) No. 2037/2000” means Regulation (EC) No. 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer, as amended by Regulation (EC) No. 2038/2000 of the European Parliament and of the Council of 29 September 2000, Regulation (EC) No. 2039/2000 of the European Parliament and of the Council of 16 October 2003, Regulation (EC) No. 1804/2003 of the European Parliament and of the Council of 29 September 2000, Commission Regulation (EC) No. 2077/2004 of 4 December 2004 and Commission Regulation (EC) No. 29/2006 of 11 January 2006 and Commission Regulation (EC) No. 1784/2006 of 4 December 2006⁴³;

“Regulation (EC) No. 842/2006” means Regulation (EC) No 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases;

“Regulation (EC) No. 1774/2002” means Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules

⁴³ O.J. No. L337/3, 5 December 2006

concerning animal by-products not intended for human consumption, as amended by Commission Regulation (EC) No. 808/2003 of 12 May 2003;

“residual waste” means the fraction of municipal waste remaining after the source separation of municipal waste fractions such as food and garden waste, packaging, paper, metals, and glass;

“temporary”, shall when used in relation to the storage of waste, be construed as a reference to the storage of waste for a period not exceeding 6 months;

“sludge” means—

- (a) residual sludge from sewage plants treating domestic or urban waste waters and from other sewage plants treating waste waters of a composition similar to domestic and urban waste waters,
- (b) residual sludge from septic tanks and other similar installations for the treatment of sludge, or
- (c) residual sludge from sewage plants other than those referred to in (a) and (b);

“transport” has the meaning assigned to it in section 4 of the Act;

“use of sludge” means the spreading of sludge on the soil or any other application of sludge on and in the soil;

“valid application” means an application for a waste facility permit or, as the case may be, a certificate of registration which in the opinion of the local authority or, as the case may be, the Agency complies with the provisions of articles 9 and 10 of these Regulations in respect of waste facility permits or with article 37 of these Regulations in respect of certificates of registration;

“Waste battery and accumulator” means any battery or accumulator which is waste within the meaning of article 1(a) of Directive 2006/12/EC;

"waste collection permit" means a waste collection permit for the purposes of section 34 of the Act;

“waste electrical and electronic equipment” or “WEEE” means electrical and electronic equipment which is waste within the meaning of article 1(a) of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006, including all components, subassemblies and consumables which are part of the product at the time of discarding;

“waste facility permit” means a permit for the purposes of section 39(4) of the Act and for the purposes of these Regulations shall include a waste permit granted under the Waste Management (Permit) Regulations, 1998⁴⁴;

⁴⁴ S.I. No. 165 of 1998

“waste licence” means a licence for the purposes of section 39(1) of the Act;

“Waste Management Acts 1996 to 2007” mean the Waste Management Act 1996⁴⁵ as amended by the Waste Management (Amendment) Act 2001⁴⁶, Part 3 of the Protection of the Environment Act 2003⁴⁷, the Waste Management (Electrical and Electronic Equipment) Regulations 2005⁴⁸ and the Waste Management (Environment Levy) (Plastic Bag) Order 2007⁴⁹;

"waste oils" means any mineral or synthetic lubrication or industrial oils which have become unfit for the use for which they were originally intended, such as used combustion engine oils and gearbox oils, lubricating oils, oils for turbines and hydraulic oils;

"waste permit" means a waste permit for the purposes of section 39(4) of the Act which has been issued under the Waste Management (Permit) Regulations 1998 and which, for the purposes of these Regulations, shall have the meaning “waste facility permit”;

“WEEE Directive” or “Waste Electrical and Electronic Equipment Directive” means Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment, as amended by Directive 2003/108/EC of the European Parliament and of the Council of 8 December 2003;

“working day” means a day on which the principal office of the local authority or, as the case may be, the Agency is open for business;

“written” or “in writing” means any expression consisting of words or figures which can be read, reproduced and subsequently communicated and which may include information which is transmitted and stored by electronic means.

Non-application of section 39(1) of the Act.

6. (1) Section 39(1) of the Act shall not apply in respect of the carrying on by a person of a waste recovery or disposal activity specified in Parts I or II of the third schedule of the Regulations if and for so long as the person carrying on the activity complies with the conditions specified in sub-article (2).
- (2) The conditions specified for the purposes of sub-article (1) are that –
 - (a) in the case of an activity of a class specified in Part I of the third schedule, where –
 - (i) the activity is being carried on in a manner which does not cause, and is not likely to cause, environmental pollution,

⁴⁵ S.I. No. 10 of 1996

⁴⁶ S.I. No. 36 of 2001

⁴⁷ S.I. No. 27 of 2003

⁴⁸ S.I. No. 290 of 2005

⁴⁹ S.I. No. 62 of 2007

- (ii) there is in force in relation to the carrying on of the activity a waste facility permit granted by the local authority in whose functional area the facility is located, and
 - (iii) the activity is being carried on in accordance with the conditions attached to the aforementioned waste facility permit; and
- (b) in the case of an activity relating to household waste of a class specified in Part II of the third schedule, where the -
 - (i) waste arises within the curtilage of the domestic dwelling, and
 - (ii) activity is carried out within the curtilage of the domestic dwelling, and
 - (iii) local authority in whose functional area the dwelling is situated or, as the case may be, the Agency considers, in its reasonable opinion, that the activity forms part of normal domestic activity, and
 - (iv) activity is carried out in accordance with all relevant legislative requirements; and
- (c) in the case of an activity, other than covered in sub-article (b), of a class specified in Part II of the third schedule, where -
 - (i) there is in force in relation to the carrying on of the activity a certificate of registration granted by the Agency or, as the case may be, the local authority in whose functional area the facility is located, and
 - (ii) the activity –
 - (A) is being carried on in accordance with the rules specified in the fourth schedule, and
 - (B) complies with the general requirements laid down in article 4 of Directive 2006/12/EC.
- (3) Notwithstanding sub-article (2), where a type or quantity of waste material has been deposited for the purposes of the improvement or development of land which has not been specifically authorised through -
 - (a) a waste licence granted under the Waste Management (Licencing) Regulations 2004⁵⁰, as may be amended from time to time, or
 - (b) a waste facility permit granted in relation to classes of activity 5 or 6 of Part I of the third schedule, or
 - (c) a certificate of registration granted in relation to classes of activity 5 or 6 Part II of the third schedule, or

⁵⁰ S.I. No. 395 of 2004

(d) the requirements of a planning permission granted in accordance with Part II of the Planning and Development Act 2000⁵¹,

the activity shall be regarded as an unauthorised landfill facility for the purposes of the Waste Management (Landfill Levy)(Amendment) Regulations, 2006⁵².

Notice of intention to apply for a waste facility permit.

7. Within the period of 10 working days before the making of an application for a waste facility permit and in accordance with article 8, an applicant shall -
- (a) publish notice of the intention to make the application in either a national newspaper, or in newspapers circulating in the area in which the facility or premises is located, and
 - (b) give notice of the intention to make the application by the erection or fixing of a site notice on the facility or premises concerned.

Requirements as to notices.

8. (1) A notice published in a newspaper pursuant to article 8 shall –
- (a) contain as a heading, and in uppercase, the words "APPLICATION TO [NAME OF LOCAL AUTHORITY] FOR A WASTE FACILITY PERMIT",
 - (b) give the name and address of the principal place of business of the applicant,
 - (c) state the location or postal address of the facility to which the application relates,
 - (d) give a brief description of the nature and purpose of the activity,
 - (e) state that an application for a waste facility permit will be made to the above mentioned local authority within 10 working days of the date of the newspaper notice,
 - (f) specify the class or classes of activity concerned, in accordance with –
 - (i) the third and fourth schedules of the Act and, in the case of two or more activities, identify the principal activity, and
 - (ii) Part I of the third schedule of these Regulations and, in the case of two or more activities, identify the principal activity,
 - (g) state that a copy of the application for a waste facility permit will be available for inspection or purchase at the principal office of the local authority from as soon as may be.

⁵¹ S.I. No. 30 of 2000

⁵² S.I. No. 402 of 2006

- (2) A site notice erected or fixed on any facility pursuant to article 8 shall –
- (a) be headed "APPLICATION TO [NAME OF LOCAL AUTHORITY] FOR A WASTE FACILITY PERMIT" and shall -
 - (i) indicate the site location or proposed location of the activity,
 - (ii) indicate the date on which the site notice was erected,
 - (iii) comply with the requirements specified in paragraphs (b), (c), (d), (e), (f) and (g) of sub-article (1), and
 - (iv) state that it is an offence for any person to remove the notice other than the applicant, his or her agent or the local authority or, as the case may be, the Agency,
 - (b) be painted or inscribed, or printed and affixed in indelible ink on a white background, on a durable material and secured against damage from bad weather and other causes, and the text shall be so painted, inscribed or printed, that the notice shall be easily visible and legible by persons using the public road, and shall not be obscured or concealed at any time,
 - (c) subject to sub-article (3), be securely erected or fixed in a conspicuous position -
 - (i) on or near the main entrance to the facility from a public road, or where there is more than one entrance from public roads, on or near all such entrances,
 - (ii) on any other part of the facility adjoining a public road, and
 - (3) Where the facility to which an application relates does not adjoin a public road, site notices shall be erected or fixed in a conspicuous position on the facility so as to be easily visible and legible by persons outside the facility, and shall not be obscured or concealed at any time.
 - (4) A site notice erected or fixed on any facility pursuant to article 8 shall be maintained in position where erected or fixed for at least 25 working days after the applicant has received an acknowledgement of receipt of a valid application from the local authority in accordance with article 12, and shall be renewed or replaced if it is removed or becomes defaced or illegible within the period during which it is required to be displayed.
 - (5) Notwithstanding sub-article (4), the removal of a site notice by any party other than the applicant or his or her agent or the local authority or, as the case may be, the Agency, is an offence under these Regulations.

Making of an application to a local authority for a waste facility permit.

9. An application for a waste facility permit shall be made in writing, or other form of notification including electronic means, as may be agreed by the local authority, to the principal office of the local authority in whose functional area the waste facility is located.

Contents of an application for a waste facility permit.

10. (1) An application for a waste facility permit or a certificate of registration, as the case may be, shall contain the following information –
- (a) the full name of the applicant(s),
 - (b) all trade names used or proposed to be used by the applicant(s),
 - (c) confirmation of the legal interest of the applicant(s) in the land on which the proposed facility is located,
 - (d) the address of the principal place of business of the applicant(s) and, where applicable, the telephone number, telefax number and e-mail address of the applicant(s), and, if different, any address to which correspondence relating to the application should be sent,
 - (e) if the applicant(s) is a partnership, the name and address of each partner,
 - (f) if the applicant(s) is a body corporate, the address of its registered or principal office and the name and address of any person who is a director, manager, company secretary or other similar officer of each body corporate,
 - (g) details of the town-land and postal address of the location of the facility to which the application relates,
 - (h) a copy of the appropriate certificate issued by the Companies Registration Office,
 - (i) the specified Company Registration or Trade Name if trading under a name,
 - (j) a description of the nature of the waste-related activity which is proposed to be carried on within the facility,
 - (k) five copies of the appropriate plans and maps relating to the facility, including
 - (i) site location map,
 - (ii) proposed layout plan of facility,
 - (iii) a clear delineation of the site boundaries, and
 - (iv) particulars of:
 - (A) Ordnance Survey Sheet Reference Number(s),

(B) Elevation Levels (metres) and Ordnance Datum used,

(C) Dimensions (metres), and

(D) Orientation of North Point,

- (l) the specified class or classes of activity concerned, in accordance with
 - (i) the third and fourth schedules of the Act, and in the case of two or more activities identify the principal activity, and
 - (ii) Part I or Part II, as the case may be, of the third schedule of these Regulations, and in the case of two or more activities identify the principal activity,
- (m) details of the quantity of waste (in tonnes or cubic metres or number of units as appropriate to the waste stream concerned) and the nature of the waste or wastes, which will be recovered or disposed of, as the case may be, including -
 - (i) European Waste Catalogue Code(s) and description(s) pursuant to Commission Decision 2001/118/EC of 16 January 2001 or subsequent list as may be amended from time to time, and
 - (ii) particulars of the manner in which accurate records of the types and quantities of waste accepted at the facility will be measured,
- (n) a description of the plant, methods, processes and operating procedures for the activity,
- (o) particulars of the source, location, nature, composition, quantity, level and rate of emissions arising, or which will arise, from the activity and, where relevant, the period or periods during which such emissions are made or are to be made,
- (p) an identification of the proposed monitoring and sampling points and details of the proposed arrangements for the monitoring of emissions and the environmental consequences of any such emissions,
- (q) a description of the existing or proposed measures, including emergency procedures, to prevent unauthorised or unexpected emissions and minimise the impact on the environment of any such emissions,
- (r) the expected lifetime of the facility or activity,
- (s) particulars in respect of such matters affecting the ability of the applicant(s) to meet the financial commitments or liabilities which will be entered into or incurred by the person(s) in carrying on the activity or in ceasing to carry on the activity at the facility,
- (t) planning permission number, or planning application number, or if applicable copy of certificate of exemption issued by the relevant planning authority,

- (u) declaration from the Agency (if appropriate) that the proposed activity requires a waste facility permit,
- (v) details of any proposed traffic management system,
- (w) in the case of an application for a waste facility permit which involves the biological treatment of animal by-products within the meaning of Regulation (EC) No. 1774/2002 laying down health rules concerning animal by-products not intended for human consumption, details of any application made to the Minister for Agriculture and Food for a veterinary authorisation for the facility,
- (x) in the case of an activity involving the improvement or development of land -
 - (i) details of the existing and final profiles and contours of the land,
 - (ii) a statement of whether the facility is located in, on or adjacent to, or impinges upon, a European site, and
 - (iii) a facility closure plan.
- (y) details of the biodiversity of the land,
- (z) where appropriate, details of discussions or correspondence which have taken place with the Minister for the Environment, Heritage and Local Government,
- (aa) in the case of a facility which is situated in the immediate catchment of a watercourse, details of the flood studies which have been undertaken to ensure that the potential for increased run-off or contamination of the watercourse is adequately mitigated,
- (bb) where appropriate, in the case of onward transport of waste from the facility, details of all other facilities which are proposed to be used to receive such waste,
- (cc) any other information which the local authority considers necessary to determine the application,
- (dd) information in relation to any offence, prescribed under article 19(3)(a), of which the applicant has been convicted within the period of ten years prior to the making of the application, including information in relation to the court hearing the case, the nature of the offence and any penalty or requirement imposed by the court,
- (ee) information in relation to the terms of any requirement imposed on the applicant by order of a court under the Act,
- (ff) description of the waste acceptance procedures to be established and applied,
- (gg) description of the proposed measures to be taken to prevent unauthorised waste disposal or litter abatement at the facility,

(hh) description of the proposed measures to be taken for vermin control at the facility.

- (2) The information to be provided under paragraphs (dd) and (ee) of sub-article (1) shall
- (a) in a case where the applicant is a body corporate, include such information in relation to the applicant and to -
 - (i) each director, manager, company secretary or other similar officer of that body corporate, and
 - (ii) each body corporate in relation to which a director, manager, company secretary or other similar officer of the applicant body corporate is, or was, at any time during the period of 10 years prior to the making of the application, a director, manager, company secretary or other similar officer.
 - (b) in a case where the applicant is a person or a partnership, include such information in relation to the applicant and each body corporate in which the person or any partner, as the case may be, is, or was, at any time during the period of 10 years prior to the making of the application, a director, manager, company secretary or other similar officer.
- (3) An application shall be accompanied by -
- (a) a copy of the relevant page of the newspaper, or newspapers, in which the notice in accordance with articles 7 and 8 has been published,
 - (b) a copy of the text of the notices erected or fixed in accordance with articles 7 and 8,
 - (c) a copy of such plans, including a site plan, location map, and Ordnance Survey sheet number, and levels referring to ordnance datum status and such other particulars, reports and supporting documentation as are necessary to identify and describe, as appropriate –
 - (i) the position of the notice which has been erected or fixed in accordance with article 8,
 - (ii) the point or points from which emissions are made or are proposed to be made, and
 - (iii) the point or points at which monitoring and sampling are to be undertaken,
 - (d) a copy of current tax clearance/C2 certificate issued to the applicant by the Revenue Commissioners or, where the applicant is ordinarily resident outside the State, an appropriate certificate from the relevant tax authorities,
 - (e) a copy of proof of company registration and trade name where applicable, and
 - (f) the fee payable in accordance with article 42 and as set out in the fifth schedule.

Declarations on waste licences, waste facility permits or certificates of registration.

11. (1) If an applicant has doubts concerning whether a proposed activity or activities shall be regarded as a licensable activity under section 39(1) of the Act or as requiring a waste facility permit or certificate of registration under these Regulations, or as none of these, the applicant shall make a request to the Agency to determine the question in advance of the submission of an application for a waste facility permit or a certificate of registration under these Regulations.
- (2) Where an applicant has not made a request to the Agency in accordance with sub article (1) and, upon receipt of an application by a local authority for a waste facility permit or a certificate of registration, the local authority has doubts concerning whether a proposed activity or activities shall be regarded as a licensable activity under section 39(1) of the Act or as requiring a waste facility permit or certificate of registration under these Regulations, or as none of these, the local authority shall -
 - (a) make a written request to the Agency to determine the question, and
 - (b) shall not consider the application until such a determination has been notified to the local authority in writing by the Agency.
- (3) The Agency shall make a determination and shall notify the appellant in writing within 15 working days of the receipt of any requests received under sub-articles (1) and (2).
- (4) The Agency -
 - (a) may determine, in consultation with the relevant local authority, whether an activity shall be regarded as a licensable activity under section 39(1) of the Act or as requiring a waste facility permit or certificate of registration under these Regulations, or as none of these, and
 - (b) shall, where such a determination does not correspond to the current waste authorisation in the case of an existing facility, notify the local authority and, as appropriate, the permit holder or the registration holder of the determination which has been made.
- (5) Where, in the case of a permit holder or a registration holder, the Agency makes a determination that an activity shall be regarded as a licensable activity under section 39(1) of the Act or as requiring a waste facility permit for the purposes of sub-article (4) –
 - (a) an activity the subject of a waste facility permit which has been determined by the Agency to now require a waste licence in accordance with the Waste Management (Licensing) Regulations 2004, as may be amended from time to time, shall remain valid if an application for a waste licence is made to the

Agency within 180 working days of the date of notification in writing of a determination by the Agency, until such time as a decision is taken to grant or to refuse a waste licence under article 34 of the Waste Management (Licensing) Regulations 2004, as may be amended from time to time, or the permit is reviewed under article 35, or

- (b) an activity the subject of a certificate of registration which has been determined by the Agency to now require a waste licence in accordance with the Waste Management (Licensing) Regulations 2004, as may be amended from time to time, shall remain valid if an application for a waste licence is made to the Agency within 180 working days of the date of notification in writing of a determination by the Agency, until such time as a decision is taken to grant or to refuse a waste licence under article 34 of the Waste Management (Licensing) Regulations 2004, as may be amended from time to time, or until the certificate of registration has been reviewed under article 38, or
 - (c) an activity the subject of a certificate of registration which has been determined by the Agency to now require a waste facility permit, shall remain valid if an application for a waste facility permit is made to the local authority within 60 working days of the date of notification in writing of a determination by the Agency, until such time as a decision is taken to grant or to refuse a waste facility permit under article 18 of these Regulations, or the certificate of registration has been reviewed under article 38, or
 - (d) an activity the subject of a waste licence which has been determined by the Agency to now require a waste facility permit or a certificate of registration shall remain in force until such time as the waste licence is revoked or surrendered in accordance with the Waste Management (Licensing) Regulations 2004,
 - (e) an activity the subject of a waste facility permit which has been determined by the Agency to now require a certificate of registration shall remain in force until such time as the waste facility permit is revoked or surrendered or falls to be reviewed under these Regulations,
- (6) Where the Agency makes a determination in accordance with sub-articles (1), (2) or (4), the determination shall be final.

Procedure on receipt of an application for a waste facility permit.

12. (1) On receipt of an application for a waste facility permit, a local authority shall -
- (a) immediately stamp the application with the date of receipt and assign a reference number to the application, and,
 - (b) notify the applicant in writing that the application has been received by the authority.
- (2) Within a period of 10 working days following receipt of an application for a waste facility permit, a local authority shall -

- (i) decide whether the requirements of article 7, sub-articles 8 (1), 8 (2), 8 (3) and article 10 have been complied with, and
 - (ii) comply with the relevant requirements of article 41.
- (3) Where a local authority refers an application for a waste facility permit to the Agency for a determination under sub-article 11(2), the period specified in sub-article (2) shall not commence until such time as a determination has been notified to the local authority by the Agency in accordance with sub-article 11(3).
- (4) Where -
 - (a) a period of more than 10 working days has elapsed between the publication in a newspaper of a notice in accordance with article 8 and the making of the relevant application, or
 - (b) it appears to the local authority that any notice published pursuant to article 8 does not comply with the provisions of article 8, or is, because of its content or for any other reason, misleading or inadequate for the information of the public,

the local authority shall require the applicant to publish such further newspaper notice in such manner for such period and under such terms as it may specify and to submit to it such evidence as it may specify in relation to compliance with any such requirement. No further consideration will be given to the application by the local authority until the applicant has complied with the terms of such notice.
- (5) Where -
 - (a) a period of more than 10 working days has elapsed between the erection or fixing of a site notice pursuant to articles 7 and 8 and the making of the relevant application, or
 - (b) it appears to the local authority that the site notice does not comply with the requirements of article 8 or is, because of its content or for any other reason, misleading or inadequate for the information of the public,

the local authority may, by notice in writing, require the applicant to erect or fix such further site notice in such manner, by such time and for such period and in such terms as it may specify and to submit to it such evidence as it may specify in relation to compliance with any such requirement. The local authority shall not further consider the application until the applicant has complied with the terms of such notice.
- (6) The local authority shall not serve a notice under sub-articles (4) or (5) any later than 5 working days after the making of its decision in accordance with sub-article (2).
- (7) Where a local authority reasonably considers that any of the requirements of article 10 have not been complied with in respect of an application, it shall, as it considers appropriate, having regard to the extent of the failure to comply with the said requirements, and by notice in writing within 5 working days of making its decision -

- (a) inform the applicant of such failure of compliance and advise that the application is invalid and cannot be considered further by the local authority, or
 - (b) require the applicant, within a period of 25 working days from the date of the notice, to take such steps or furnish such submissions, plans, documents or other information and particulars, as the local authority considers are necessary for compliance with the said requirements.
- (8) The local authority shall not serve a notice under sub-article 7 any later than 5 working days after the making of its decision in accordance with sub-article (2).
- (9) Where a local authority serves a notice in accordance with sub-article (7), and the applicant fails to comply with the requirements specified therein, the local authority may, by notice in writing, within 5 working days of making its decision, inform the applicant of such failure of compliance and that the application is invalid and cannot be considered by the authority.
- (10) Where, in accordance with sub-articles (7)(a) and (9), a local authority informs an applicant that an application is invalid, it shall return to the applicant all documentation which was submitted to the local authority in relation to the application.
- (11) Where a local authority considers, in accordance with sub-article (2), that the requirements of article 7, sub articles 8(1), 8(2), 8(3) and article 10 have been complied with in respect of an application, it shall, within 5 working days of making its decision,
 - (a) send to the applicant an acknowledgement of receipt of a valid application,
 - (b) notify the Agency that a valid application has been received,
 - (c) notify the Minister for Agriculture and Food, where the application is made for a waste facility permit which is concerned with the composting of animal by-products within the meaning of Regulation (EC) No. 1774/2002, and such notice shall be accompanied by a copy of the said application,
 - (d) in the case of an application which is concerned with the development or improvement of land, where the -
 - (i) applicant states in article 10(1) that the facility is located in, on or adjacent to, or impinges upon a European site, or
 - (ii) local authority considers, in its reasonable opinion, that the facility has the potential to impinge upon a European site,

the local authority shall notify the Minister for the Environment, Heritage and Local Government that the application has been made and such notice shall be accompanied by a copy of the said application.

- (12) Before it gives notice of a decision under article 18, the local authority shall have regard, within a period of 25 working days from the date of a relevant notification under sub-articles (11)(c) or (11)(d), to any written submission received from the Minister for Agriculture and Food or Minister for the Environment, Heritage and Local Government.
- (13) Where the Minister for Agriculture and Food or the Minister for the Environment, Heritage and Local Government specifically states that particular matters raised in their submission to the local authority are required for compliance with relevant veterinary or conservation legislation or the implementation of strategic or statutory plans, the local authority must incorporate conditions in the waste facility permit to give effect to such matters.

Further information.

- 13. (1) Without prejudice to the provisions of article 12(11), a local authority may, by notice in writing, require the applicant to –
 - (a) furnish such further information or particulars relating to the application, including information on any investigations required under article 17, as it considers necessary to enable it make a decision in respect of the application, or
 - (b) produce such evidence as it may reasonably require in order to verify any information or particulars furnished by the applicant in, or in relation to, the application.
- (2) A notice under sub-article (1) shall not be served by a local authority more than 25 working days after the date of issue by the local authority, in accordance with article 12(11), of an acknowledgment of the receipt of a valid application.
- (3) Notwithstanding article 44, where there is a failure or refusal to comply with a requirement of a local authority under sub-article (1) within 25 working days of the date of notice of such requirement, the local authority may, if it thinks fit, proceed with its consideration of the application in the absence of the information, particulars or evidence specified in the requirement and make a decision in relation to the application and notify the applicant under article 18 of that decision.

Availability and inspection of documents.

- 14. (1) Where a local authority receives an application it shall make available for public inspection, as soon as may be.
- (2) Where a local authority considers in its reasonable opinion that the application is valid in accordance with the requirements of article 12, it shall make available for public inspection in accordance with this article –
 - (a) a copy of any correspondence or notifications under article 11,

- (b) information and particulars received in relation to the application pursuant to any written notice under article 12,
 - (c) further information provided by the applicant pursuant to a notice in writing under article 13(1),
 - (d) submissions received in relation to the application pursuant to article 15,
- (3) The documents and information specified at sub-article (2) shall be made available for public inspection during office hours at the principal office of the local authority from as soon as may be after making a decision under article 12 that the application is valid.
- (4) During the period specified in sub-article (2), a copy of the application, or any extract therefrom, shall be made available on request during office hours at the principal office of the local authority for inspection or purchase at such charge (if any), not exceeding the reasonable cost of making such copies, as the local authority may determine.

Submissions to a local authority regarding an application for a waste facility permit.

15. (1) Any person may, on his or her initiative, or at the invitation of the local authority within a period of 25 working days following the making available for inspection by a local authority of an application, make a written submission to the local authority in relation to the said application, and the local authority shall have regard to the submission in making its decision on the application.
- (2) The local authority shall, as soon as may be after receipt of a submission under sub-article (1) –
- (a) notify the person in writing that the submission has been received by the local authority,
 - (b) notify the applicant in writing that the submission has been received by the local authority, and has been made available for inspection in the principal office of the local authority from a specified date, and
 - (c) make the submission available for public inspection in accordance with article 14.
- (3) An applicant may make a submission in writing to the local authority in relation to any submission received by the local authority under sub-article (1) within a period of 25 working days of the date of its notification to the applicant.

Period for determination of an application for a waste facility permit.

16. (1) A local authority shall not, subject to sub-article (2), grant or refuse to grant a waste facility permit until after the expiration of 25 working days beginning on -

- (a) the date of receipt by the authority of a valid application under article 12(2), or
- (b) in a case where the applicant has been required to provide further information or particulars under articles 12 or 13, the day of receipt by the authority of such information or particulars,

by whichever date is the later.

- (2) In exceptional circumstances, the local authority may grant a waste facility permit prior to the 25 working day period if, in the reasonable opinion of the local authority, such facilities are required urgently to prevent environmental pollution.
- (3) Subject to sub-article (4), a local authority shall make a decision in relation to an application for a waste facility permit as expeditiously as possible and, in any event, grant, with or without conditions, or refuse to grant a waste facility permit –

- (a) within a period of 40 working days from –

- (i) the date of the receipt of a valid application in accordance with articles 12(1) and 12(2), or

- (ii) the date of the receipt of further information or particulars from the applicant pursuant to a notice served under articles 12(7)(b) or 13(1), or

- (b) within a period of 25 working days of the date of receipt of any submission received by the local authority under and in accordance with article 15, or

- (c) within a period of 25 working days from the date on which investigations as may be required under article 17 are completed,

whichever period is the longest.

- (4) Where it appears to a local authority that it would not be possible or appropriate, because of the particular circumstances of an application for a waste facility permit or because of the number of applications which have been submitted to the local authority, to decide on an application within the period referred to in sub-article (3), the local authority shall, by notice in writing served on each party to the application before the expiration of that period, inform such party of the reasons why it would not be possible or appropriate to determine the application within that period and shall specify the date before which the authority intends that the application shall be determined.
- (5) Where a notice has been served under sub-article (4), the local authority concerned shall take all reasonable steps to ensure that the application is decided upon before the date specified in the notice.

Investigations concerning discharges to groundwater.

17. (1) Where it appears to a local authority or, as the case may be, the Agency that an activity, which is the subject of an application for a waste facility permit or a certificate of registration, could give rise to -
- (a) the indirect discharge into groundwater of a substance for the time being specified in List I of the Annex to Council Directive 80/68/EEC⁵³, or
 - (b) the direct or indirect discharge into groundwater of a substance for the time being specified in List II of the said Annex,
- the local authority or, as the case may be, the Agency shall, before it grants a waste facility permit or a certificate of registration, carry out or cause to be carried out (by the applicant or otherwise) such investigations as it considers necessary in order to comply with the relevant requirements of articles 3, 4, 5 and 7 of the aforesaid Directive.
- (2) Notwithstanding the entry into force of Directive 2006/118/EC⁵⁴, the local authority or, as the case may be, the Agency shall, in respect of any authorisation procedure completed before 22 December 2013 for an activity to which sub-article (1) applies, carry out or cause to be carried out (by the applicant or otherwise) such investigations as it considers necessary in order to comply with the relevant requirements of articles 3, 4, 5 and 7 of Directive 80/68/EEC before it grants a waste facility permit or a certificate of registration.

Determination and notice of decision of grant or refusal in relation to a waste facility permit.

18. (1) A local authority may, on application being made to it, grant a waste facility permit in accordance with these Regulations, or refuse to grant such a permit, in relation to the carrying on by the applicant of an activity specified in Part 1 of the third schedule at a facility located in the functional area of the said local authority.
- (2) Where considered necessary a local authority shall physically inspect a facility or, as the case may be, a proposed facility, before deciding whether to grant or refuse an application for a waste facility permit.
- (3) A waste facility permit shall be granted for a period of 5 years, unless the applicant can demonstrate to the satisfaction the local authority that a shorter period is appropriate.
- (4) A local authority shall not grant a waste facility permit unless it is satisfied that -
- (a) the activity concerned, carried on in accordance with such conditions as are attached to the waste facility permit, will not cause environmental pollution,

⁵³ Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances, O.J. No. L 20/43, 26 January 1980.

⁵⁴ Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration, O.J. No. L 372/19, 27 December 2006.

- (b) any emissions from the activity concerned will not result in the contravention of any relevant standard, including any standard for an environmental medium, or any relevant emission limit value, prescribed under any enactment,
- (c) best available techniques will be used to prevent or eliminate or, where that is not practicable, to limit, abate or reduce an emission from the activity concerned,
- (d) the facility is compliant with planning or is exempt from planning permission under Section 5 of the Planning and Development Act 2000, and
- (e) the applicant is a fit and proper person.

A local authority may, if it considers it proper to do so in any particular case, regard a person as a fit and proper person for the purposes of this Part notwithstanding that that person or any other relevant person has been convicted of an offence under the Act, the Environmental Protection Agency Acts 1992 and 2003, the Local Government (Water Pollution) Acts 1977 and 1990 or the Air Pollution Act 1987.

- (5) A local authority shall, as soon as may be after making a decision under article 16(3) of these Regulations in relation to an application, give notice in writing of the decision to the applicant, to any person who made a submission in relation to the application in accordance with article 15, and to the Agency in accordance with the requirements of article 24(1), and, where appropriate, to the Minister for Agriculture and Food in accordance with article 24(2).
- (6) A notification to an applicant, permit holder, the Agency or the Minister for Agriculture and Food under sub-article (5) of a decision to grant a waste facility permit shall be accompanied by a copy of the said waste facility permit.
- (7) A notification under sub-article (5) of a decision to grant a waste facility permit shall state that a copy of the said permit will be available for inspection or purchase during office hours at the principal office of the local authority and the said authority shall arrange accordingly.
- (8) A notification under sub-article (5), of a decision of a refusal to grant a waste facility permit, to an applicant or waste facility permit holder shall include a reference to the right of appeal to a court of competent jurisdiction against such a decision and, on hearing the appeal, the court may confirm, annul or amend the decision.
- (9) For the purposes of sub-article (5), in the case of a submission signed by more than one person, the local authority shall give notice only to the person who forwarded, or appears to the authority to have forwarded, that submission to the said authority.

Conditions which shall be attached to a waste facility permit.

- 19. (1) A local authority shall attach to each waste facility permit granted by the authority –

- (a) such conditions as are, in the reasonable opinion of that authority, necessary to give effect to the provisions of the Community Acts specified in the second schedule, insofar as such provisions are relevant to the waste related activity concerned.
- (b) such conditions as are necessary, in the reasonable opinion of the authority –
 - (i) to give effect to the objectives of the relevant Waste Management Plan or the National Hazardous Waste Management Plan, as the case may be, or
 - (ii) for the purposes of article 18(4), or
 - (iii) to prevent the disposal of waste which has previously been collected in source-segregated form in order to facilitate recycling or to prevent the collection, transport, handling or mixing of waste in a manner so as to make it unsuitable for recycling or recovery.
- (c) conditions requiring the making of payments by the holder of the waste facility permit to the authority to defray such costs as may reasonably be incurred by the authority in inspecting, monitoring, auditing, enforcing or otherwise performing any functions in relation to the activity concerned, other than required under article 10(3)(f) in accordance with the fifth schedule, and which costs shall not exceed the actual expenditure reasonably incurred by the authority.
- (d) conditions relating to the waste acceptance requirements to be applied at the facility, including details of -
 - (i) the nature and types of wastes which may/ may not be accepted,
 - (ii) the days and times at which acceptance of waste is/is not permitted at the facility,
 - (iii) waste inspection procedures,
 - (iv) waste acceptance and handling procedures,
 - (v) waste sampling, analysis and characterisation procedures,
 - (vi) requirements for pre-treatment of wastes,
 - (vii) waste quarantine arrangements,
 - (viii) waste rejection and notification procedures, and
 - (ix) other appropriate procedures and arrangements relating to the acceptance of waste.
- (e) Spare,

- (f) conditions relating to the existing or proposed measures, including emergency procedures, to prevent unauthorised emissions and minimise the impact on the environment of any such emissions,
 - (g) conditions relating to the prevention of unauthorised fly-tipping at the facility,
 - (h) conditions to provide financial security or a bond where it is considered necessary to ensure rehabilitation of the site when activities cease.
- (2) For the purpose of the attachment by a local authority of conditions to a waste facility permit that may be granted by it in respect of an activity which involves the holding of waste oils, the authority shall take such steps as are necessary for the purposes of compliance with article 13.2 of Council Directive 75/439/EEC, as amended by Council Directive 87/101/EEC of 22 December 1986⁵⁵.
- (3) A local authority shall attach to each waste facility permit granted by the authority such conditions requiring the person to whom the said permit is granted to -
- (a) notify the authority within five working days of -
 - (i) the imposition of any requirement on that person by order under the Act, or
 - (ii) any conviction of that person for an offence prescribed under the Act,
 - (b) hold or cause to be held a copy of the said permit at all times at the facility which is used for the purposes of the activity to which the waste facility permit relates, and
 - (c) compile and maintain specified records in a specified format for a period of not less than 7 years in relation to the activity to which the waste facility permit relates of -
 - (i) the types and quantities of waste dealt with in the course of business (including European Waste Catalogue Code(s) and description(s) pursuant to Commission Decision 2001/118/EC of 16 January 2001 or subsequent amendments),
 - (ii) the treatment, recovery or disposal activities to which the waste is subject, including the compilation of commercial documentation for all collected waste deposited at the facility, and
 - (d) not later than the 28th day of February in each year, to furnish to the local authority, in such form as may be specified, an Annual Environmental Report containing summary information in relation to the preceding calendar year or part thereof as the case may be, in respect of the activities specified in sub-article (c).

⁵⁵ Council Directive 75/439/EEC of 16 June 1975 on the disposal of waste oils, as amended by Council Directive 87/101/EEC of 22 December 1986, O.J. No. L 194/23, 25 July 1975, and O.J. No. L 42/43, 12 February 1987.

- (4) A local authority shall attach to each waste facility permit that may be granted by it such conditions as are, in the opinion of that authority, necessary to ensure the proper enforcement of the waste facility permit.

Conditions which may be attached to a waste facility permit.

20. (1) A local authority may attach to any waste facility permit granted by the authority conditions –
- (a) requiring the waste facility permit holder to provide a system to verify the completeness and accuracy of records on the nature, types and quantities of waste accepted at the facility,
 - (b) to encourage the sound environmental management of waste and in particular to encourage waste prevention, re-use, recycling and recovery, including the establishment of performance targets for the levels of recycling and recovery of waste
 - (c) regarding the collection, maintenance and reporting, in a specific format, of data or records necessary to monitor compliance with targets set in Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging Waste, as amended by Directive 2004/12/EC of the European Parliament and of the Council of 11 February 2004,
 - (d) regarding the collection, maintenance and reporting, in a specific format, of data or records necessary to monitor compliance with targets set in the WEEE Directive,
 - (e) regarding the collection, maintenance and reporting, in a specific format, of data or records necessary to monitor compliance with targets set in Directive 2000/53/EC of the European Parliament and Council of 18 September 2000 on end of life vehicles, as amended by Commission Decision 2005/673/EC of 20 September 2005,
 - (f) regarding the collection, maintenance and reporting, in a specific format, of data or records necessary to monitor compliance with targets set in Directive 2006/66/EC of the European Parliament and the Council of 26 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC,
 - (g) regarding the collection, maintenance and reporting, in a specific format, of data or records necessary to monitor compliance with targets set for the management of construction and demolition waste in national waste management policy and legislation,
 - (h) spare,
 - (i) requiring each vehicle operating at the facility to be fitted with electronic tracking technology which facilitates the surveillance operations of the authority in

monitoring compliance of the permit holder with the requirements of the waste facility permit,

- (j) requiring the maintenance of waste records and the provision of these to the local authority to support the National Database on Waste in a format, as may be specified by the Agency,
 - (k) regarding the collection, maintenance and reporting, in a specific format, of data or records necessary to monitor compliance with targets set in Regulation (EC) No 850/2004 of the European Parliament and the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC (O.J. No. L229/5 of 29 June 2004) as amended by Council Regulation (EC) No. 1195/2006 (O.J. No. L55/1 of 23 January 2007) and Council Regulation (EC) No. 172/2007 (O.J. No. L272/19, 27 December 2006 (O.J. No. L217/1, 8 August 2006), and
 - (l) regarding the collection, maintenance and reporting, in a specific format, of data or records necessary to monitor compliance with targets set for the management of waste tyres in national waste management policy and legislation.
- (2) Conditions requiring the installation of closed circuit recordings and data surveillance management systems at the facility and the maintenance of all such records for such reasonable period as may be determined by the local authority.
 - (3) Conditions requiring the local authority to be informed when the activity ceases at the facility.
 - (4) A local authority may attach to any waste facility permit granted by it conditions concerning the establishment and maintenance of environmental management systems which shall set out an action plan to address a 5-year period and shall be updated on an annual basis and such environmental management systems may –
 - (a) set out specific objectives,
 - (b) contain measurable targets,
 - (c) contain a requirement to comply with any written guidance issued by the local authority or the Agency, and
 - (d) contain a requirement for prior agreement with the local authority.

Conditions relating to the operation of mobile plant.

- 21. (1) In addition to the provisions of articles 19 and 20, a local authority may attach to a waste facility permit that may be granted by it conditions authorising the operation of mobile plant at more than one facility.
- (2) A local authority shall not grant a reviewed waste facility permit providing for the cessation of use of mobile plant at a facility or facilities unless it is satisfied that the

condition of the relevant facility or facilities is not causing or likely to cause environmental pollution.

- (3) Where a local authority grants a waste facility permit in respect of the carrying on of waste recovery activities at a facility, being a facility to which a waste facility permit in relation to the operation of mobile plant already applies, any conditions of the waste facility permit first granted which relate to the operation of the said mobile plant at the facility in question shall cease to have effect.

Offences for the Purpose of articles 36 and 38.

22. It is hereby prescribed that, notwithstanding the revocation of any Regulations specified hereunder, subject to any amendments which may be made to the regulations from time to time -

- (a) an offence under article 3(2) or 5(4) of the European Communities (Waste) Regulations 1979⁵⁶,
- (b) a contravention of article 5 or 6 of the European Communities (Toxic and Dangerous Waste) Regulations 1982⁵⁷,
- (c) a contravention of article 4, 5 or 8 of the European Communities (Waste Oils) Regulations 1992⁵⁸,
- (d) an offence under article 9 of the Waste Management (Transfrontier Shipment of Waste) Regulations 2007⁵⁹,
- (e) a contravention of the Waste Management (Movement of Hazardous Waste) Regulations 1998⁶⁰,
- (f) a contravention of articles 6 or 8 of the Waste Management (Miscellaneous Provisions) Regulations 1998⁶¹,
- (g) an offence under Sections 14(6), 18(2), 18(8), 28(6), 29(6), 32(6), 34(1), 36(3) or 39(9), 53C(4), 53F, 53I(6), 53J(6), 53K(5), 53L(5) or 53M(5) of the Act, or as appropriate, any appropriate section or Part, concerning producer responsibility obligations, that may be inserted into the Act from time to time,
- (h) an offence under Sections 3, 4, 6, 10, 12, 14, 16, 19, 23, 26A, 27 or 28 of the Local Government (Water Pollution) Act 1977⁶²,

⁵⁶ S.I. No. 390 of 1979

⁵⁷ S.I. No. 33 of 1982

⁵⁸ S.I. No. 399 of 1992

⁵⁹ S.I. No. 419 of 2007

⁶⁰ S.I. No. 147 of 1998

⁶¹ S.I. No. 164 of 1998

⁶² S.I. No. 1 of 1977

- (i) an offence under Sections 21, 21A or 23 of the Local Government (Water Pollution) (Amendment) Act, 1990⁶³,
- (j) an offence under Sections 171 or 172 of the Fisheries (Consolidation) Act, 1959⁶⁴,
- (k) an offence under Section 24 of the Air Pollution Act, 1987⁶⁵,
- (l) an offence under the Litter Pollution Acts, 1997 - 2003⁶⁶,
- (m) an offence under articles 18 and 26 of the Waste Management (End of Life Vehicles) Regulations, 2006⁶⁷,
- (n) an offence under article 9 of the European Communities (Batteries and Accumulators) Regulations, 1994⁶⁸, or as appropriate
- (o) an offence under article 43 of these Regulations

shall be an offence for the purposes of articles 36 and 38

Amendment to the Waste Management Act 1996.

23. Section 51(2)(a) of the Waste Management Act, 1996 is hereby amended by the substitution of the following sub-paragraph for sub-paragraph (i):

- (i) sludge for use in agriculture.

Notice and information to the Agency and the Minister for Agriculture and Food.

24. (1) A local authority shall –

- (a) by notice in writing, or in such a manner as may be specified by the Agency, inform the Agency in accordance with article 18(5), within 10 working days, of any waste facility permit or certificate of registration granted by the authority, and;
- (b) furnish such information, in such form and at such frequency as may be specified by the Agency for the purpose of this article, in relation to activities carried on in the functional area of the authority by persons to whom waste facility permits or certificate of registrations have been granted by the authority,

⁶³ S.I. No. 21 of 1990

⁶⁴ S.I. No. 14 of 1959

⁶⁵ S.I. No. 6 of 1987

⁶⁶ S.I. No. 12 of 1997 and No. 27 of 2003

⁶⁷ S.I. No. 282 of 2006

⁶⁸ S.I. No. 262 of 1994

- (2) Where a waste facility permit is issued which involves the biological treatment of animal by-products within the meaning of Regulation (EC) No. 1774/2002 laying down health rules concerning animal by-products not intended for human consumption, the local authority shall also notify the Minister for Agriculture and Food and include a copy of the said permit.
- (3) A waste facility permit or certificate of registration holder shall furnish such information to the Agency in relation to waste collected, accepted, sorted, transferred, recycled, recovered, disposed of, brokered, or otherwise managed or treated within a specified period, in such form and at such frequency as may be specified by the Agency.

Notice and information to the local authority regarding a waste facility permit.

25. (1) A permit holder shall give notice in writing to the local authority which granted the said permit of any changes in the information furnished to that local authority under article 10(1), in advance of any such change coming into effect.
- (2) Where the notification under sub-article (1) identifies a material or significant change in the nature, extent or focus of the waste-related activities or in the nature or extent of any emission concerned, the permit holder shall obtain the written agreement of the local authority before implementing such operational changes to the waste-related activity.

Amendments to a waste facility permit of a clerical or technical nature.

26. (1) Notwithstanding the requirements pursuant to articles 30 and 31 or of any other provision concerning the recovery and disposal of waste, a local authority may amend a waste facility permit for the purposes of -
 - (a) correcting any clerical error therein,
 - (b) facilitating the doing of any thing pursuant to a condition attached to the waste facility permit where the doing of that thing may reasonably be regarded as having been contemplated by the terms of the condition or the terms of the permit taken as a whole but which was not expressly provided for in the condition,
 - (c) updating the conditions attached to the waste facility permit to take account of scientific or technological progress,
 - (d) facilitating the application of new, or the amending of existing procedures and conditions to the waste facility permit which are necessary for the operation of the facility in accordance with new or revised requirements, including any such conditions as are deemed necessary by the local authority, to facilitate compliance by the permit holder with any minimum technical requirements that may be established, or amended, arising from the introduction of new, or amendments to existing Community acts, or

- (e) otherwise facilitating the operation of the waste facility permit.
- (2) The local authority shall ensure that the making of any amendment under sub-article (1) does not result in the relevant requirements of sub-article 18(4) ceasing to be satisfied.
- (3) The local authority shall, where appropriate, consult with the holder of the waste facility permit before exercising its powers under sub-article (1).
- (4) The local authority shall, as soon as may be after the exercise of the power under sub-article (1), notify particulars of the amendment effected by that exercise to -
 - (a) the Agency, and
 - (b) the Minister for Agriculture and Food, as appropriate, in the case where the waste facility permit is concerned with the treatment of animal by-products within the meaning of Regulation (EC) No. 1774/2002.
 - (c) the Minister for the Environment, Heritage and Local Government, as appropriate, in the case where the waste facility permit is concerned with the development or improvement of land which has the potential to impinge upon a European site.

Transfer of a waste facility permit.

27. (1) A waste facility permit may be transferred from the permit holder to another person in accordance with this article.
- (2) Where the holder of a waste facility permit desires that the said permit be transferred to another person, the permit holder and the proposed transferee shall jointly make an application to the local authority requesting that such a transfer be effected by the authority.
 - (3) An application under sub-article (2) shall be made in such form and include such information as may be required by the local authority and shall be accompanied by the fee as set out in the fifth schedule.
 - (4) The local authority may require the provision of such further information by the permit holder or the proposed transferee as it considers appropriate for the purposes of dealing with an application made by them under this article.
 - (5) If, on consideration of an application under sub-article (2), and any relevant information provided in respect thereof, the local authority is satisfied that the proposed transferee would, if he or she were an applicant for the waste facility permit, be regarded by it as being a fit and proper person to be granted a like waste facility permit under article 18 for the waste facility concerned, it shall effect a transfer of the waste facility permit to the proposed transferee.

- (6) A person to whom a waste facility permit is transferred under this article shall be deemed to have assumed and accepted all liabilities, requirements and obligations provided for, in or arising under, the waste facility permit, regardless of how and in respect of what period, including a period prior to the transfer of the waste facility permit, that may arise.

Withdrawal or abandonment of an application for a waste facility permit.

28. (1) Without prejudice to an applicant's liability under article 44(2), an application may be withdrawn at any time before the making of the decision by the local authority on the application.
- (2) Where the local authority is of the opinion that an application has been abandoned, it shall give to the applicant a notice in writing stating that fact and requiring that person, within a period specified in the notice (being a period of not less than 10 or not more than 25 working days beginning on the date of the giving of the notice), to make to the local authority a submission in writing as to why the application should not be regarded as having been abandoned.
 - (3) Where a notice has been given under sub-article (2), the local authority may, at any time after the expiration of the period specified in the notice, and after considering the submission (if any) made to the local authority pursuant to the notice, declare that the application to which the notice relates shall be regarded as having been abandoned.
 - (4) Where an application is withdrawn under sub-article (1) or the local authority declares that an application shall be regarded as having being abandoned under sub-article (3), the local authority shall -
 - (a) return all documentation received pursuant to articles 9, 10, 11, 12 and 13 to the applicant, and
 - (b) have absolute discretion to refund all or part of the fee payable in accordance with article 42.
 - (5) Where pursuant to this article the local authority declares that an application is to be regarded as having been withdrawn, any submission in relation to the application shall not be further considered by the local authority.

Surrender of a waste facility permit.

29. (1) A waste facility permit may, subject to the agreement of the local authority, be surrendered at any time by notice in writing to the local authority of an application for the surrender for a waste facility permit.
- (2) A waste facility permit shall, subject to the agreement of the local authority, be surrendered by notice in writing by the permit holder to the local authority when the –
 - (a) waste related activity ceases,

- (b) waste facility permit expires,
 - (c) waste facility permit is revoked under article 36, or
 - (d) waste facility permit is refused under articles 18 or 35.
- (3) A local authority shall not agree to the surrender of a waste facility permit unless it is satisfied that the condition of the facility is not causing or likely to cause environmental pollution and may carry out or cause to carry out such investigations as, are necessary, in the reasonable opinion of the local authority, to verify the condition of the facility.
 - (4) A local authority may, in agreeing to the surrender of a waste facility permit, attach conditions by way of a notice in writing to the permit holder, which shall be complied with by the person surrendering the permit.
 - (5) On surrender of the waste facility permit notwithstanding the provisions of this article, the local authority may decide that any bond or financial security required under article 19(1) –
 - (a) shall be maintained in place for such period as the authority may require, or
 - (b) may be released to the permit holder.
 - (6) The making of an application for the surrender of a waste facility permit under this article, the revocation of the waste facility permit or the cessation of the activity to which a waste facility permit relates, shall in no way affect or diminish such conditions, requirements or obligations applying to or falling on the permit holder as are specified in or arise under the waste facility permit.

Notice from the local authority requiring a review of a waste facility permit.

30. (1) Where–

- (a) the local authority has reason to believe that a material change in the nature, focus or extent of the waste-related activity or in the nature or extent of any emission concerned has taken place to an extent which renders the conditions attached to the existing waste facility permit inappropriate, or
- (b) an amendment to the waste management plan for the region concerned requires a review of the waste facility permit,

the local authority shall initiate a review of a waste facility permit granted by it at any time after the date on which the said permit was granted.

- (2) Where a local authority proposes to review a waste facility permit under sub-article (1), it shall give notice in writing of such intention to the permit holder and to the Agency and the waste facility permit shall remain in force until such time as a

reviewed waste facility permit is granted or refused pursuant to article 35 or the existing permit is revoked under article 36.

(3) A notice given under sub-article (2) -

- (a) shall inform the permit holder of the intent of the local authority to review the existing waste facility permit,
- (b) shall advise the permit holder that the local authority is available for pre-application consultations and that such course of action is recommended in order to assess the application for the review of a waste facility permit in terms of the procedures which are likely to apply to the review process under article 32.
- (c) shall require the permit holder to make an application to the local authority for a review of the waste facility permit,
- (d) may specify such submissions, plans, documents, other information and particulars to be furnished with the application by the permit holder as the local authority considers necessary for the purposes of the proposed review,
- (e) shall require the permit holder to pay the appropriate fee for the review of the waste facility permit in accordance with the fifth schedule as set out in article 42,
- (f) may, in accordance with article 44(2), require the holder of a permit to defray or contribute towards any costs reasonably incurred by the local authority in respect of the proposed review and such costs shall not exceed the actual costs incurred,
- (g) shall indicate that -
 - (i) a submission relating to the proposed review, including requirements specified by the local authority under sub-article 3(d), may be made by the waste facility permit holder in writing to the local authority within 25 working days of the date of the giving of the notice, and that the local authority shall not decide to amend conditions attached to, a waste facility permit which it has granted, before the expiry of the said period, and
 - (ii) where the permit holder does not make a submission in accordance with paragraph (i), the local authority shall revoke the existing waste facility permit it has granted and give notice in writing of the decision with the reasons for the decision to the waste permit holder and notify the applicant under article 18 of that decision.

- (4) Where a waste facility permit has been revoked by a local authority, in accordance with this article, the former permit holder shall make an application to the local authority for the surrender of the waste facility permit in accordance with article 29.
- (5) The former holder of a waste facility permit which has been revoked may, within a period of 30 working days, appeal to a court of competent jurisdiction against the revocation of the waste facility permit and, on hearing the appeal, the court may confirm or annul the revocation.

Application made by permit holder for the review of a waste facility permit.

31. (1) A waste facility permit holder may, at any time, submit an application to a local authority to review a waste facility permit but in any event, in accordance with the provisions of article 35(8), no later than 60 working days before the date of expiry of an existing waste facility permit if it is to remain in force until such time as a reviewed waste facility permit is granted or refused under article 35 or, as the case may be, a new waste facility permit is granted under article 18, or the existing permit is revoked under article 36.
- (2) Where a waste facility permit holder proposes to have an existing permit reviewed under sub-article (1), the permit holder shall -
- (a) make an application to the local authority for a review of the waste facility permit,
 - (b) furnish such submissions, plans, documents, other information and particulars to the local authority as are necessary to support the application for the proposed review of the waste facility permit, and
 - (c) include payment of the appropriate fee for an application for the review of a waste facility permit as set out in the fifth schedule in accordance with article 42.

Procedures to be applied by the local authority in the determination of an application for the review of a waste facility permit.

32. Where an application for the review of an existing waste facility permit has been received by a local authority under articles 30 and 31, the local authority shall notify the Agency of the review and –
- (1) the local authority may decide, in its reasonable opinion, that –
- (a) adequate information has been provided by the applicant and proceed to review the waste facility permit on the basis of the information received by it in accordance with the procedure set out in article 33, or as appropriate
 - (b) adequate information has been provided by the applicant, but that there is a need for a public consultation process on the basis of the changes proposed in the nature, focus or extent of the waste-related activities or in the nature or extent of any emission concerned, and -
 - (i) require the applicant to insert a public notice in either a national newspaper, or in newspapers circulating in the area in which the facility or premises is located, that an application for a review of the existing waste facility permit has been sent to the local authority, and

- (ii) seek submissions on the application for the review of a waste facility permit from members of the public in accordance with the procedures set out in article 34, before making a decision on the review of the waste facility permit; or as appropriate.
 - (c) an application for a waste facility permit in accordance with articles 7, 8, 9 and 10 is warranted due to the nature, focus or extent of the waste-related activities or in the nature or extent of any emission concerned, proposed in the application for a review of a waste facility permit being so significantly changed from the existing permit.
- (2) The local authority shall make a decision under this article on the procedures to apply to the review of the waste facility permit within 25 working days from the date of submission of an application for the review of a waste facility permit under article 31 or in response to a notice issued under article 30.
- (3) Where a local authority decides under sub-article (1)(c) that an applicant for the review of a waste facility permit should make an application for a new waste facility permit in accordance with articles 7, 8, 9 and 10, the local authority shall notify the applicant in writing to this effect within 5 working days of making its decision.
- (4) Where an applicant for the review of a waste facility permit receives a notification under sub-article (3), he or she may appeal to a court of competent jurisdiction against such a decision and, on hearing the appeal, the court may confirm or annul the decision.

Decision on an application for the review of a waste facility permit on the basis of particulars received from the applicant.

33. Where the local authority considers, in its reasonable opinion, and following an assessment of any submissions, observations, documents, particulars, records and information received by it in relation to the application for the review of a waste facility permit, that the proposed review of the waste facility permit does not represent a significant change in the nature, focus or extent of the existing waste-related activities or in the nature and extent of any emission concerned, the local authority shall proceed to make a decision on the review of the waste facility permit review within 25 days working days on that basis.

Decision on an application for the review of a waste facility permit on the basis of particulars received from the applicant and other persons.

34. (1) Notwithstanding article 32(1)(c), where the local authority considers, in its reasonable opinion, following an assessment of any submissions, observations, documents, particulars, records and information received by it in relation to the application for the review of a waste facility permit, that the proposed activities contain a significant change in the nature, focus and extent of the existing waste-related activities or in the nature or extent of any emissions concerned, the local authority shall –

- (a) require the applicant to publish notice within 10 working days that an application has been made to the local authority for a review of the existing waste facility permit in either a national newspaper, or in newspapers circulating in the local authority area in whose functional area the facility is located.
 - (i) A notice published pursuant to this sub-paragraph shall -
 - (A) contain as a heading, and in uppercase, the words "APPLICATION TO [NAME OF THE LOCAL AUTHORITY] FOR THE REVIEW OF A WASTE FACILITY PERMIT",
 - (B) give the name and the address of the principal place of business of the applicant,
 - (C) state the location or postal address of the facility to which the application for a review relates,
 - (D) give a brief description of the nature and purpose of the activity,
 - (E) state that an application for the review of the waste facility permit has been made to the above mentioned local authority,
 - (F) specify the class or classes of activity concerned, in accordance with -
 - (i) the third schedule and the fourth schedule of the Act and, in the case of two or more activities, identify the principal activity, and
 - (ii) part I of the third schedule of these Regulations and, in the case of two or more activities, identify the principal activity,
 - (G) state that a copy of the application for a review of the waste facility permit will be available for inspection or purchase at the principal office of the local authority and that any member of the public may, within a period of 25 working days of the date of the published notice, make a written submission to the local authority in relation to the said application for a waste facility permit review.
- (b) make available for public inspection, as soon as may be, in accordance with this article –
 - (i) a copy of the application for the review of the waste facility permit, including the documents and information received therein,
 - (ii) submissions received from the public in relation to the application for review of the waste facility permit,
- (c) arrange that a copy of the application for the review of a waste facility permit, or any extract therefrom, shall be made available for purchase, on request, during office hours at the principal office of the local authority, at such charge (if any),

not exceeding the reasonable cost of making such copies, as the authority may determine.

- (2) (a) Any person may, on his or her own initiative, or on the invitation of the local authority, within a period of 25 working days following the making available for inspection by a local authority of an application for a review of a waste facility permit, make a written submission to the authority in relation to the said application and the local authority shall have regard to the submission when making its decision on the application.
- (b) The local authority shall, as soon as may be after receipt of a submission under sub-article (a) –
 - (i) notify the person in writing that the submission has been received by the local authority,
 - (ii) make the submission available for public inspection in accordance with sub article 34(1),
 - (iii) notify the applicant in writing that the submission has been received by the local authority and has been made available for inspection in the principal office of the local authority from a specified date,
- (c) An applicant may make a submission in writing to the local authority in relation to any submission received under sub-article 2(a) within a period of 25 working days of the date of its notification to the applicant.

Determination and notice of grant or refusal of a reviewed waste facility permit.

- 35. (1) Notwithstanding a decision under sub-article 32(3) to require an applicant for the review of a waste facility permit to make an application for a waste facility permit in accordance with articles 7, 8, 9 and 10, a local authority may, on application being made to it for the review of a waste facility permit, grant a reviewed waste facility permit in accordance with these Regulations, or refuse to grant such a permit, in relation to the carrying on by the applicant of a waste-related activity at the facility.
- (2) A local authority shall make a decision in relation to an application for a review of a waste facility permit as expeditiously as possible and, in any event, grant, with or without conditions, or refuse to grant a review of a waste facility permit within a period of –
 - (a) 40 working days from the date of the receipt of an application for the review of a waste facility permit, or
 - (b) 25 working days from the date of receipt of any submission received under and in accordance with sub-article 34(2),

whichever period is the longest.

- (3) Where it appears to a local authority that it would not be possible or appropriate, because of the particular circumstances of an application for the review of a waste facility permit or because of the number of applications which have been submitted to the authority, to decide on an application within the period referred to in sub-article (2), the local authority shall, by notice in writing served on each party to the application before the expiration of that period, inform such party of the reasons why it would not be possible or appropriate to determine the application within that period and shall specify the date before which the authority intends that the application shall be determined.
- (4) Where a notice has been served under sub-article (3), the local authority concerned shall take all reasonable steps as are open to it to ensure that the application is decided upon before the date specified in the notice.
- (5) A reviewed waste facility permit shall be granted for a period of 5 years, unless the applicant can demonstrate to the satisfaction of the local authority that a shorter period is appropriate.
- (6) A local authority shall not grant a reviewed waste facility permit unless it is satisfied that -
 - (a) the activity concerned, carried on in accordance with such conditions as are attached to the reviewed waste facility permit, will not cause environmental pollution,
 - (b) any emissions from the activity concerned will not result in the contravention of any relevant standard, including any standard for an environmental medium, or any relevant emission limit value, prescribed under any enactment,
 - (c) best available techniques will be used to prevent or eliminate or, where that is not practicable, to limit, abate or reduce an emission from the activity concerned,
 - (d) the applicant is a fit and proper person,

A local authority may, if it considers it proper to do so in any particular case, regard a person as a fit and proper person for the purposes of this Part notwithstanding that that person or any other relevant person has been convicted of an offence under the Act, the Environmental Protection Agency Acts 1992 and 2003, the Local Government (Water Pollution) Acts 1977 and 1990 or the Air Pollution Act 1987.

- (7) Where an application is made under these Regulations for the review of an existing waste facility permit at least 60 working days before the expiry date of the permit, the waste facility permit shall remain in force until -
 - (a) a reviewed waste facility permit is granted or refused under sub-article (1), or
 - (b) an application for a waste facility permit is required under articles 7, 8, 9 and 10 and is granted or refused under article 18, or
 - (c) the existing permit is revoked under article 36.

(8) Where an application is not made for the review of an existing waste facility permit-

(a) at least 60 working days before the expiry date of the permit, or

(b) in the case of notification by the local authority under article 32(3) that an application for a waste facility permit is required in accordance with articles 6, 7, 8 and 10, at least 60 working days from the date of issue of this notification,

the existing waste facility permit shall cease to have effect after the expiry date and the person shall not engage in waste-related activities at the facility until such time as a waste permit is granted in accordance with article 18 or, as the case may be, a reviewed waste facility permit is granted in accordance with article 35.

(9) The local authority shall, as soon as may be after making a decision on the review of a waste facility permit to amend conditions attached to a waste facility permit which has been granted or to refuse to grant a reviewed waste facility permit, give notice in writing of its decision and the reasons for its decision to the permit holder, to the Agency and where appropriate, to any person who made a submission in relation to the application for the review of a waste facility permit.

(10) A notification under sub-article (9) to the waste facility permit holder and to the Agency in relation to amending conditions attached to a waste facility permit shall be accompanied by a copy of the amended waste facility permit.

(11) A notification to any person who made a submission in relation to the application for the review of a waste facility permit under sub-article (9) of a decision to grant a reviewed waste facility permit shall state that a copy of the permit will be available for inspection or purchase during office hours at the principal office of the local authority, and the said authority shall arrange accordingly.

(12) An applicant for a review of a waste facility permit which has been refused or the waste facility permit conditions amended pursuant to a notice under sub-article (9) may appeal to a court of competent jurisdiction against such a decision and, on hearing the appeal, the court may confirm, annul or amend the decision.

(13) Where a waste facility permit which involves the treatment of animal by-products within the meaning of Regulation (EC) No. 1774/2002 laying down health rules concerning animal by-products not intended for human consumption has been reviewed by a local authority, it shall notify the Minister for Agriculture and Food and send a copy of the reviewed waste facility permit to that Minister following the review of the waste facility permit.

(14) For the purposes of sub-article (9), in the case of an application for the review of a waste facility permit signed by more than one person, the local authority shall give notice only to the person who forwarded, or appears to the local authority to have forwarded, that application to the said authority.

Revocation of a waste facility permit.

36. (1) A local authority may revoke a waste facility permit, if it appears to it that the –
- (a) permit holder, or other relevant person, is not, in its reasonable opinion, a fit and proper person to hold a waste facility permit, or
 - (b) activity being carried out is, or may be, in contravention of the waste facility permit conditions granted by the local authority, or
 - (c) activity is, or may be, in contravention of the Waste Management (Collection Permit) Regulations 2007, the Waste Management (Movement of Hazardous Waste) Regulations 1998, or the Waste Management (Transfrontier Shipment of Waste) Regulations 2007, or
 - (d) waste facility permit holder, or other relevant person, is likely, by a continuation of his or her activities, to cause environmental pollution, or
 - (e) waste facility permit holder, or other relevant person, is participating in, facilitating, or otherwise contributing towards the onward movement of waste to unauthorised facilities or unauthorised collectors.
- (2) In determining whether a person shall be a relevant person for the purpose of this article, a local authority shall consider the extent to which the person is, or is likely to be, in a position to direct or control the carrying on of the activity to which the relevant waste facility permit relates.
- (3) A local authority shall, as soon as may be after making a decision under sub-article (1) to revoke a waste facility permit it has granted, give notice in writing of the decision and the reasons for the decision to the waste facility permit holder and to the Agency.
- (4) Where a waste facility permit has been revoked by a local authority in accordance with this article, the former permit holder shall make an application to the local authority for the surrender of the waste facility permit in accordance with article 29.
- (5) The former holder of a waste facility permit which has been revoked may appeal to a court of competent jurisdiction against the revocation of the waste facility permit and, on hearing the appeal, the court may confirm or annul the revocation.

Registration of certain activities.

37. (1) In accordance with the provisions of article 6(2)(c), a person may carry on an activity of a class specified in part II of the third schedule at a facility from the coming into operation of these Regulations where a certificate of registration has been granted in relation to the carrying on of the said activity at that facility.

- (2) The Agency or a local authority, as the case may be, may on an application being made to it in accordance with these Regulations', grant a certificate of registration, or refuse to grant such a certificate, in relation to the carrying on at a facility of an activity specified in Part II of the third schedule.
- (3) An application for a certificate of registration shall be made in the case of –
 - (a) an activity carried on by or on behalf of a local authority, to the Agency,
 - (b) an activity carried on by a person other than a local authority, to a local authority in whose functional area the relevant facility is located.
- (4) The application for a certificate of registration shall be made in writing, or other form of notification, including electronic means, as may be determined by the local authority in whose functional area the facility is located or, as the case may be, by the Agency.
- (5) An application for a certificate of registration shall contain –
 - (a) the information specified in article 10(1),
 - (b) details of the measures proposed to enable the applicant to comply with the requirements set out in article 6(2)(c) and the fourth schedule, or a statement of reasons why such measures are not considered necessary, and
 - (c) the fee payable as set out in the fifth schedule.
- (6) On receipt of an application for a certificate of registration, a local authority or, as the case may be, the Agency shall –
 - (a) immediately stamp the application with the date of receipt and assign a reference number to the application, and
 - (b) notify the applicant in writing that the application has been received by the local authority or the Agency, as the case may be.
- (7) Within a period of 10 working days following receipt of an application for a certificate of registration, a local authority or, as the case may be, the Agency shall –
 - (a) decide whether the requirements of sub-article (5) have been complied with, and
 - (b) comply with the relevant requirements of article 41.
- (8) Where –
 - (a) a local authority refers an application for a certificate of registration to the Agency for a determination under article 11(2), the period specified in sub-article (7) shall not commence until such time as a determination has been notified to the local authority by the Agency in accordance with article 11(3),

- (b) the Agency decides to make a determination in accordance with article 11(4) in relation to an application for a certificate of registration received by it, the period specified in sub-article (7) shall not commence until such time as a determination is made.
- (9) Where a local authority or, as the case may be, the Agency, considers in accordance with sub-article (7) that the requirements of sub-article (5) have been complied with in respect of an application, it shall, within 5 working days of making its decision, send to the applicant an acknowledgement of receipt of a valid application.
- (10) A local authority or, as the case may be, the Agency, shall decide on an application for a certificate of registration as expeditiously as possible and, in any event, grant, or refuse to grant, a certificate of registration within –
- (a) 25 working days, or
 - (b) in the case of WEEE, the period specified in article 39(5)(f) of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 subject to any amendment that may be made to those regulations from time to time,

from the date of determination of a valid application in accordance with this article.

- (11) If a local authority or, as the case may be, the Agency considers that -
- (a) there is insufficient information to determine whether an application for a certificate of registration is valid, it may return the application to the applicant stating its reason(s), or
 - (b) following a determination by the Agency in accordance with article 11, that the activity concerned is not appropriate to registration, it shall refuse to issue a certificate of registration.
- (12) A local authority or, as the case may be, the Agency shall not grant a certificate of registration unless it is satisfied that -
- (a) the activity concerned when carried on within the terms of the certificate of registration will not cause environmental pollution,
 - (b) any emissions from the activity concerned will not result in the contravention of any relevant standard, including any standard for an environmental medium, or any relevant emission limit value, prescribed under any enactment,
 - (c) best available techniques will be used to prevent or eliminate or, where that is not practicable, to limit, abate or reduce an emission from the activity concerned, and
 - (d) the applicant is a fit and proper person,

A local authority or, as the case may be, the Agency, may if it considers it proper to do so in any particular case, regard a person as a fit and proper person for the

purposes of this Part notwithstanding that that person or any other relevant person has been convicted of an offence under the Act, the Environmental Protection Agency Acts 1992 and 2003, the Local Government (Water Pollution) Acts 1977 and 1990 or the Air Pollution Act 1987.

- (13) Where considered necessary, a local authority, or as the case may be, the Agency shall physically inspect a facility or, as the case may be, a proposed facility before deciding whether to grant or refuse an application for a certificate of registration.
- (14) A certificate of registration shall be granted for a period of five years, unless the applicant can demonstrate to the satisfaction of the local authority or, as the case may be, the Agency that a shorter period is appropriate.
- (15) When issuing a certificate of registration to an applicant under sub-article (14), a local authority or, as the case may be, the Agency may require -
 - (a) the making of payments by the registration holder to the local authority or, as the case may be, the Agency in accordance with article 44 to defray such costs as may reasonably be incurred by the authority in inspecting, monitoring, auditing, enforcing or otherwise performing any functions in relation to the activity concerned, other than in accordance with the fifth schedule, and
 - (b) such costs shall not exceed the actual expenditure incurred by the local authority or, as the case may be, the Agency.
- (16) Any proposed activity for which an application for registration is made shall not commence until a certificate of registration has been issued by the local authority or, as the case may be, the Agency.
- (17) Where a significant change in the nature, focus or extent of the waste-related activity or in the nature or extent of any emission concerned is proposed by the registration holder, the local authority or, as the case may be, the Agency shall -
 - (a) be notified in advance, in writing, of such change by the registration holder, and
 - (b) assess the information in accordance with article 38(2).
- (18) An applicant for a certificate of registration which has been refused may appeal to a court of competent jurisdiction against such a decision and, on hearing the appeal, the court may confirm or annul the refusal.

Review, amendment, revocation or transfer of a certificate of registration.

38. (1) A local authority or, as the case may be, the Agency, shall have absolute discretion to review or revoke a certificate of registration granted by it at any time where -
- (a) there is reason to believe that a material change in the nature, extent or focus of the waste-related activity or in the nature or extent of any emission concerned has taken place, or

- (b) an amendment to the waste management plan for the region concerned requires a review of the certificate of registration, and

the local authority, or as the case may be, the Agency shall initiate a review of a certificate of registration granted by it.

- (2) A registration holder may, at any time, make an application for the review a certificate of registration in accordance with sub-article (5) to a local authority or, as the case may be, the Agency.
- (3) Where a local authority or, as the case may be, the Agency proposes to review a certificate of registration under sub-article (1), it shall give notice in writing to the registration holder which shall indicate that -
 - (a) the local authority or, as the case may be, the Agency intends to review the existing certificate of registration,
 - (b) the registration holder is required within 30 working days of the date of issue of the notice to make an application in accordance with sub-article 4 for a review of the said certificate of registration to the local authority or, as the case may be, the Agency and that the local authority or, as the case may be, the Agency shall not decide to amend conditions attached to a certificate of registration which it has granted, before the expiry of the said period,
 - (c) where the registration holder does not make a submission in accordance with sub-article (b), the local authority or, as the case may be, the Agency shall make and issue a decision in relation to the application for a review in accordance with the requirements of these regulations, and
 - (d) in accordance with article 44(2), the holder of a certificate of registration, as the case may be, may be required to defray or contribute towards any costs reasonably incurred by the local authority or, as the case may be, the Agency in respect of the proposed review and such costs shall not exceed the actual costs incurred.
- (4) An application for a review of a certificate of registration shall –
 - (a) contain such submissions, plans, documents, other information and particulars as are necessary to support the application for the proposed review of the certificate of registration, and
 - (b) include the appropriate fee payable for an application for the review of a certificate of registration as set out in the fifth schedule.
- (5) The local authority or, as the case may be, the Agency shall make and issue a decision in relation to the application for a review of a certificate of registration in accordance with the requirements of these regulations.

- (6) A certificate of registration may be transferred from the holder to another person in accordance with the following procedures -
- (a) Where the holder of a certificate of registration desires that the certificate be transferred to another person, the registration holder and the proposed transferee shall jointly make an application to the local authority or, as the case may be, the Agency, requesting that such a transfer be effected by the local authority, or, as the case may be, the Agency,
 - (b) An application under sub-article 6(a) shall be made to the local authority or, as the case may be, the Agency and shall be accompanied by the fee as set out in the fifth schedule,
 - (c) The local authority or, as the case may be, the Agency may require the provision of such further information by the certificate of registration holder or the proposed transferee as it considers appropriate for the purposes of dealing with an application made by them under this sub-article,
 - (d) If, on consideration of an application under this sub-article, and any relevant information provided in respect thereof, the local authority or, as the case may be, the Agency is satisfied that the proposed transferee would, if he or she were an applicant for the certificate of registration, be regarded by it as being a fit and proper person to be granted under this sub-article a like certificate of registration to the certificate of registration concerned, it shall effect a transfer of the certificate of registration to the proposed transferee.
- (7) A local authority, or, as the case may be, the Agency may revoke a certificate of registration, if it appears to it that—
- (a) the registration holder, or other relevant person, is not, in its reasonable opinion, a fit and proper person to hold a waste facility permit,
 - (b) the activity is being carried out in contravention of the terms of the certificate of registration or the rules imposed in the fourth schedule,
 - (c) the activity is, or may be, in contravention of the Waste Management (Collection Permit) Regulations 2007, the Waste Management (Movement of Hazardous Waste) Regulations 1998, or the Waste Management (Transfrontier Shipment of Waste) Regulations 2007,
 - (d) the registration holder, or other relevant person, is likely, by a continuation of his or her activities, to cause environmental pollution, or
 - (e) the registration holder, or other relevant person, is participating in, facilitating, or otherwise contributing towards the onward movement of waste to unauthorised facilities or unauthorised collectors.
- (8) In determining whether a person shall be a relevant person for the purpose of the revocation of a certificate of registration, a local authority or, as the case may be, the Agency shall consider the extent to which the person is, or is likely to be, in a position

to direct or control the carrying on of the activity to which the relevant certificate of registration relates.

- (9) A local authority or, as the case may be, the Agency shall, as soon as may be after making a decision under sub-article (7) to revoke a certificate of registration it has granted, give notice, where appropriate, in writing of the decision and the reasons for the decision to the registration holder and to the Agency.
- (10) Where an application for a certificate of registration has been refused or a certificate of registration revoked under this article by a local authority or, as the case may be, the Agency, the former holder of a certificate of registration shall make an application for the surrender of the certificate of registration under article 39.
- (11) In the case of an activity involving the biological treatment of animal by-products and where a certificate of registration has been granted, refused, revoked or surrendered, the local authority or, as the case may be, the Agency, shall, as appropriate, notify the Minister for Agriculture and Food of such a decision.
- (12) The former holder of a certificate of registration which has been refused or revoked may appeal to a court of competent jurisdiction against the refusal or revocation of the certificate of registration and, on hearing the appeal, the court may confirm or annul the revocation.

Surrender of a certificate of registration.

39. (1) An application for the surrender of a certificate of registration shall be made –

- (a) in the case of an activity carried on by or on behalf of a local authority, to the Agency, or
 - (b) in the case of an activity carried on by a person other than a local authority, to a local authority in whose functional area the relevant facility is located.
- (2) A certificate of registration, upon an application being made by the registration holder and subject to the agreement of the local authority in whose functional area the facility is located or, as the case may be, the Agency –
- (a) may be surrendered by the registration holder at any time,
 - (b) shall be surrendered by the registration holder when the waste-related activity ceases, or
 - (c) shall be surrendered by the registration holder when the certificate of registration expires

by notice in writing to the local authority or, as the case may be, the Agency.

- (3) A local authority or, as the case may be, the Agency, shall not agree to the surrender of a certificate of registration unless it is satisfied that the condition of the facility is not causing or likely to cause environmental pollution.
- (4) A local authority or, as the case may be, the Agency, may, in agreeing to the surrender of a certificate of registration, attach conditions, which shall be complied with by the registration holder.
- (5) The making of an application for the surrender of a certificate of registration under this article, the revocation of the certificate of registration or the cessation of the activity to which a certificate of registration relates, shall in no way affect or diminish such conditions, requirements or obligations applying to or falling on the registration holder as are specified in or arise under the terms of the certificate of registration.

Monitoring, inspection, auditing and enforcement.

40. (1) Local authorities or, as the case may be, the Agency, shall be responsible for –
- (a) the monitoring, inspection and auditing of facilities authorised under these Regulations, and
 - (b) the enforcement of the obligations imposed by waste facility permits and certificates of registration, including the provisions of Section 32 of the Act.
- (2) Each local authority or, as the case may be, the Agency shall take such steps as are necessary for the purpose of checking the compliance of waste activities subject to a waste facility permit or certificate of registration in meeting –
- (a) the general environmental requirements set out in article 4 of Directive 2006/12/EC, and
 - (b) in the case of activities subject to a waste facility permit, the conditions attached to the permit, and
 - (c) in the case of activities subject to a certificate of registration, the rules set out in the fourth schedule.
- (3) Each local authority or, as the case may be, the Agency may develop processes, including as appropriate, audit programmes which shall be designed to verify the data provided by holders of waste facility permits and certificates of registration on waste acceptance, waste recovery and waste disposal. Any such audit programmes should include procedures for the assessment of annual environmental reports submitted by permit holders and registration holders and be adequate to ensure that the reported information is accurate.
- (4) For the purposes of ensuring that holders of waste facility permits, certificates of registration are complying with their obligations under these Regulations, a local authority or, as the case may be, the Agency, or an Authorised Officer may take all reasonable measures as are decided to be appropriate in each case, including –

- (a) measures prescribed under sections 14, 15, 16 and 18 of the Act, and
- (b) in accordance with a risk-based enforcement plan prepared on the basis of the Recommendation 2001/331/EC of the European Parliament and of the Council of 4 April 2001 providing minimum criteria for inspections in Member States and the Enforcement Handbook published by the Agency.

Entries in registers established under section 19 of the Act.

41. (1) It is hereby prescribed that the register established and maintained by a local authority in accordance with section 19 of the Act shall contain entries specifying –

- (a) in relation to each activity in respect of which a waste facility permit is granted, reviewed, revoked, transferred or surrendered, such relevant information as provided under the requirements of article 10(1),
- (b) in relation to each activity in respect of which a certificate of registration is granted, reviewed, revoked, transferred or surrendered, the -
 - (i) full name, address and telephone number of the person responsible for managing the facility, and
 - (ii) location of the facility concerned, and
 - (iii) records of the types and quantities of waste dealt with at the facility (including European Waste Catalogue Code(s) and description(s) pursuant to Commission Decision 2001/118/EC of 16 January 2001 or subsequent amendments), and
 - (iv) commencement date of the activity

Fees payable.

42. (1) The applicant shall pay a fee to the local authority or, as the case may be, the Agency in respect of an application for a –

- (a) waste facility permit,
- (b) review of a waste facility permit,
- (c) certificate of registration,
- (d) review of a certificate of registration,
- (e) transfer of a waste facility permit, or
- (f) transfer of a certificate of registration.

- (2) The fee payable shall be -
- (a) the amount indicated in column (3) of the fifth schedule for the particular category of application, or
 - (b) where a class of activity can be identified by reference to more than one class in either Parts I or II, as appropriate, within the third schedule, the only fee payable under sub-article (1) shall be the highest of the fees specified in column (3) of the fifth schedule opposite the class of activity so identified in column (2) of that schedule.
- (3) Notwithstanding the provisions of sub-articles (1) and (2), the local authority or the Agency, as appropriate, shall have an absolute discretion to refund or waive all or part of the fee payable in respect of a particular application where the local authority or the Agency is satisfied that the payment in full of the fee would not be just and reasonable having regard to the limited scale or nature of the activity concerned, or where the charging of a full fee may act as a financial disincentive to individuals or companies who are operating on a small scale and are engaged in environmentally beneficial operations such as waste recovery or recycling.

False or misleading information or failure to provide information.

43. (1) A person shall not compile information, which he or she knows to be false or misleading in a material respect, or furnish any such information in support of an application or in response to any notice or other document used for the purposes of these Regulations and any person who does so shall be guilty of an offence.
- (2) A person who fails to comply with a notice or to provide information which a local authority or the Agency requires under these Regulations shall be guilty of an offence.

Defrayal of local authority or agency costs.

44. (1) Having considered the information submitted by the applicant under article 10 and any further information provided by the applicant at the request of the local authority under article 13 to verify particulars or information furnished by the applicant in relation to the application and the need to carry out investigations concerning discharges to groundwater in accordance with article 17, the local authority may decide, where it appears to it to be reasonable, to carry out or cause to be carried out such inspections, investigations and analyses as are necessary to decide on an application.
- (2) The local authority or, as the case may be, the Agency may, by notice in writing, require an applicant or the holder of a waste facility permit or a certificate of registration, as the case may be, to defray or contribute towards any costs reasonably incurred by the local authority or, as the case may be, the Agency including -

- (a) the cost of any investigations carried out or caused to be carried out by the local authority or, as the case may be, the Agency so as to enable the authority or the Agency to decide on an application for, or the review of, a –
 - (i) waste facility permit, or
 - (ii) certificate of registration.
 - (b) any costs incurred by the local authority or the Agency for the purpose of ensuring compliance by the holder of a waste facility permit or certificate of registration with the requirements imposed by the said permit or registration, including the cost of any inspection, monitoring, auditing, enforcement or investigations deemed necessary and carried out or caused to be carried out by the local authority or, as the case may be, the Agency and the taking and analysis of any sample of waste.
- (3) The amount of any payment required under sub-article (2) in respect of an application or the review, or in ensuring compliance by a permit holder or registration holder, taken together with the application fee set out in the fifth schedule, shall not exceed the costs incurred by a local authority or the Agency, as appropriate, in deciding on the application, review or compliance.
- (4) A person on whom a notice is served under sub-article (2) shall comply with the requirements of the notice within such period, being a period of not less than 15 working days, as may be specified in the notice, and in default of such payment,
- (a) the local authority concerned or, as the case may be, the Agency may refuse to grant a waste facility permit or a certificate of registration, and
 - (b) the amount concerned may be recovered by the local authority concerned or, as the case may be, the Agency as a simple contract debt in any court of competent jurisdiction.

THE FIRST SCHEDULE
REGULATIONS REVOKED

Article 3

Number	Title	Extent of Revocation
S.I. No. 165 of 1998	Waste Management (Permit) Regulations 1998	The whole regulations subject to transitional arrangements in article 3 of these Regulations

THE SECOND SCHEDULE.

PROVISIONS OF COMMUNITY ACTS WHICH ARE TO BE GIVEN EFFECT TO IN RELEVANT WASTE PERMITS GRANTED BY A LOCAL AUTHORITY.

Article 4

Council Directive 75/439/EEC of 16 June 1975 (O.J. No. L 194/23 of 25 July 1975) on the disposal of waste oils, as amended by Council Directive 87/101/EEC of 22 December 1986 (O.J. No. L 42/43 of 12 February 1987).
Council Directive 75/442/EEC of 15 July 1975 on waste (O.J. No. L 194/39 of 25 July 1975), as amended by Council Directive 91/156/EEC of 18 March 1991 (O.J. No. L 78/32 of 26 March 1991) and consolidated under Directive 2006/12/EC of the European Parliament and the Council of 5 April 2006 on waste (O.J. No. L114/9 of 27 April 2006).
Directive 2006/11/EC of 15 February 2006 of the European Parliament and of the Council on pollution caused by certain dangerous substances discharged into the aquatic environment of the community (O.J. No. L64/52 of 4 March 2006)
Directive 2006/118/EC of 12 December 2006 of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration (O.J. No. L372/19 of 27 December 2006)
Council Directive 87/217/EEC of 19 March 1987 on the prevention and reduction of environmental pollution by asbestos (O.J. No. L85/40 of 28 March 1987)
Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (O.J. No. L 375/1 of 31 December 1991)
European Parliament and Council Directive 2000/60/EC of 23 October 2000 establishing a framework for Community action in the field of water policy (O.J. No. L 327/1 of 22 December 2000)
Council Directive 91/689/EEC of 12 December 1991 on hazardous waste (O.J. No. L 377/20 of 31 December 1991).
Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment, (O.J.No.L37/24, 13 February 2003), as amended by Directive 2003/108/EC of the European Parliament and of the Council of 8 December 2003 (O.J. No. L 345/106, 31 December 2003).
Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste (O.J. No. L365/10 of 31 December 1994), as amended by Directive 2004/12/EC of the European Parliament and of the Council of 11 February 2004 on packaging and packaging waste (O.J. No. L47/26 of 18 February 2004)
Directive 2000/53/EC of the European Parliament and Council of 18 September 2000 on end – of life vehicles (O.J. No.L269/34, 21 October 2000) as amended by Council Decision 2005/673/EC of 20 September 2005
Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (O.J. No. L182/1 16 July 1999).
Regulation (EC) No. 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer (O.J. No. L244/1 of 29 September 2000), as amended by Council Regulations (EC) Nos. 2038/2000 (O.J. No. L244/25 of 29 September 2000), 2039/2000 (O.J. No. L244/26 of 29 September 2000), 1804/2003 (O.J. No. L265/1 of 16 October 2003), Commission Regulation (EC) No. 2077/2004 (O.J. No. L359/28 of 4 December 2004), Commission Regulation (EC) No. 29/2006 (O.J. No. L6/27 of 11 January 2006) and

Commission Regulation (EC) No. 1784/2006 of 4 December 2006 (O.J. No. L337/3 of 5 December 2006)
Regulation (EC) No. 842/2006 of the European Parliament and of the Council of 17 May 2006 on certain fluorinated greenhouse gases (O.J. No. L161/1 of 14 June 2006)
Directive 2006/66/EC of 6 September 2006 of the European Parliament and the Council on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (O.J. No. L 266/49 of 26 September 2006)
Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances (O.J. No. L078/38 of 26 March 1991) as amended by Commission Directive 93/86/EEC of 4 October 1993 (O.J. No. L264/51 of 23 October 1993) and by Commission Directive 98/101/EC of 22 December 1998 (O.J. No. L1/1 of 5 January 1999)
Regulation (EC) No 2150/2002 of the European Parliament and of the Council of 25 November 2002 on waste statistics (O.J. No. L332/1 of 9 December 2002)
Regulation (EC) No 850/2004 of the European Parliament and the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC (O.J. No. L229/5 of 29 June 2004) as amended by Council Regulation (EC) No. 1195/2006 (O.J. No. L55/1 of 23 January 2007) and Council Regulation (EC) No. 172/2007 O.J. No. L272/19, 27 December 2006 (O.J. No. L217/1, 8 August 2006)
Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption, as amended by Commission Regulation (EC) No. 808/2003 of 12 May 2003 (O.J. No. L117/1 of 13 May 2003)
Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (O.J. No. L103/1 of 25 April 1979)
Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (O.J. No. L 206/7 of 22 July 1992)
Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances
Directive 2006/118/EC of 12 December 2006 of the European Parliament and of the Council on the protection of groundwater against pollution and deterioration

THIRD SCHEDULE

PART I

CLASSES OF ACTIVITY SUBJECT TO WASTE FACILITY PERMIT APPLICATION TO A LOCAL AUTHORITY

Article 6

The carrying on by a person (other than a local authority) at a facility (other than a facility located in whole or in part in an area which is not within the functional area of a local authority) of any of the following activities, provided that –

- (a) the activity is not an activity which is carried on adjacent to, a facility at which a licensable activity is being carried on by the same legal entity, and
- (b) In the cases of Class 5 and Class 6 the upper limits on the amount of waste, which may be accepted, shall relate to
 - (i) the total quantity of waste which has been received and is proposed to be accepted at the facility at any time, or
 - (ii) in the case of an activity which is carried on in, on or adjacent to, a facility at which a waste-related activity is being carried on which is the subject of a waste facility permit or certificate of registration, the total quantity of waste which has been received at both the facility itself and all such facilities at any time.

CLASS NO.	DESCRIPTION
1.	<p>The reception and temporary storage, pending collection, other than by a local authority, where not otherwise regulated by a waste licence or certificate of registration, or exempted in accordance with the provisions of article 39 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 of –</p> <ul style="list-style-type: none">(1) household hazardous waste (other than WEEE and mercury containing waste or used batteries and accumulators) at a civic amenity facility, recycling centre or central collection point where annual intake shall not exceed –<ul style="list-style-type: none">(i) in the case of liquid waste, 100,000 litres,(ii) in the case of non-liquid waste, 100 tonnes.(2) WEEE at any premises <p>for the purpose of onward transport and submission to recovery at an authorised facility.</p>

2.	The Reception, storage (including temporary storage) and recovery of waste vehicles (other than end-of-life vehicles) having regard to the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006).
3.	The reception, treatment and recovery of WEEE (including removal of all fluids and dismantling or disassembly or removal of WEEE substances, preparations and components prior to treatment) in accordance with the provisions of articles 20 and 21 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations (S.I. No. 340 of 2005). Annual intake shall not exceed 10,000 tonnes per annum.
4.	<p>The reception, storage and recovery of scrap metal, including scrap metal arising from end-of-life vehicles, waste vehicles (other than end-of-life vehicles) and WEEE where scrap metal from –</p> <ul style="list-style-type: none"> (1) end-of-life vehicles shall be subject to appropriate treatment and recovery in accordance with the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006) prior to acceptance at the scrap metal facility, and as appropriate, (2) waste vehicles (other than end-of-life vehicles) shall be subject to appropriate treatment and recovery having regard to the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006) prior to acceptance at the scrap metal facility, and as appropriate, (3) WEEE shall be subject to appropriate treatment and recovery in accordance with the provisions of articles 20, 21 and 22 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005) prior to acceptance at the scrap metal facility.
5.	Recovery of excavation or dredge spoil, comprising natural materials of clay, silt, sand, gravel or stone and which comes within the meaning of inert waste, through deposition for the purposes of the improvement or development of land, where the total quantity of waste recovered at the facility is less than 100,000 tonnes.
6.	Recovery of inert waste (other than excavations or dredgings comprising natural materials of clay, silt, sand, gravel or stone) through deposition for the purposes of the improvement or development of land, where the total quantity of waste recovered at the facility is less than 50,000 tonnes.
7.	<p>Recovery of inert waste arising from construction and demolition activity, including concrete, bricks, tiles, or other such similar material, at a facility (excluding land improvement or development) where –</p> <ul style="list-style-type: none"> (a) the annual intake shall not exceed 50,000 tonnes, and (b) the maximum quantity of residual waste consigned from the facility for collection, onward transport and submission to disposal at an authorised facility shall not exceed 15% of the annual intake.
8.	The reception, storage and biological treatment of biowaste at a facility

	<p>where –</p> <p>(a) the maximum amount of compost, biowaste and digestate held at the facility does not exceed 6,000 cubic metres at any time, and</p> <p>(b) the annual intake shall not exceed 10,000 tonnes.</p>
9.	<p>The reception, temporary storage and recovery of used batteries and accumulators where-</p> <p>(a) from 26 September 2008, the treatment and recycling of used batteries and accumulators meets the requirements of article 12 of Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and</p> <p>(b) the annual intake shall not exceed 1,000 tonnes.</p>
10.	<p>The recovery of waste (not mentioned elsewhere in this part of the third schedule), other than hazardous waste or an activity specified in Category 5 of Annex I of Council Directive 96/61/EC, where –</p> <p>(a) the annual intake does not exceed 50,000 tonnes, and</p> <p>(b) the maximum quantity of residual waste consigned from the facility for onward transport and submission to disposal at an authorised facility shall not exceed 15% of the annual intake.</p>
11.	<p>The reception, storage and transfer of waste (other than hazardous waste) for disposal at a facility (other than a landfill facility) where the annual intake does not exceed 7,500 tonnes.</p>
12.	<p>The collection and storage (including the temporary storage) and the appropriate treatment and recovery of end-of-life vehicles in accordance with the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006).</p>

Note: Where the waste-related activities being undertaken within a facility encompass a number of the classes as set out within Part I of the third schedule, the quantity of waste concerned shall be taken as meaning the total quantity of waste accepted at the facility taking account of inputs relating to all classes of activity and compared to the threshold of the principal class.

THIRD SCHEDULE

PART II

CLASSES OF ACTIVITY SUBJECT TO REGISTRATION WITH LOCAL AUTHORITY OR THE AGENCY

Article 6

The carrying on by a person at a facility of any of the following activities, provided that –

- (1) the activity is not an activity which is carried on adjacent to, a facility at which a licensable activity is being carried on by the same legal entity, and
- (2) In the cases of Class 5 and Class 6, the upper limits on the amount of waste, which may be accepted, shall relate to -
 - (a) the total quantity of waste which has been received and is proposed to be accepted at the facility at any time, or
 - (b) in the case of an activity which is carried on in, on or adjacent to, a facility at which a waste-related activity is being carried on which is the subject of a waste facility permit or certificate of registration, the total quantity of waste which has been received at both the facility itself and all such facilities at any time.

CLASS NO.	DESCRIPTION
1.	<p>The storage, pending collection, of household hazardous waste (other than WEEE) at a civic amenity facility, recycling centre or central collection point, where not otherwise regulated by a waste licence or waste facility permit for the purpose of onward transport and submission to recovery at an authorised facility where-</p> <p>(a) annual intake shall not exceed -</p> <p style="padding-left: 40px;">(i) in the case of liquid waste, 25,000 litres</p> <p style="padding-left: 40px;">(ii) in the case of non-liquid waste, 25 tonnes, and</p> <p>(b) the maximum period of storage of waste does not exceed 30 days.</p>
2.	<p>The reception and temporary storage of waste (other than WEEE) deposited by members of the public at a central collection point (including a temporary central collection point) when such activity is undertaken by, on behalf of, or with the approval of the local authority, where the maximum amount of waste stored at any time does not exceed 1,000 tonnes.</p>
3.	<p>The reception and interim storage of crashed or immobilised vehicles, other than end-of-life-vehicles, pending decisions by the registered</p>

	owners of these vehicles, or as appropriate, by an authorised person of a local authority, or a member of An Garda Síochána on whether the vehicles are to be classed as end-of-life vehicles. The number of vehicles stored at any one time shall not exceed 6 at any one location and at any one time.
4.	<p>Reception and temporary storage, pending collection for recovery of –</p> <ul style="list-style-type: none"> (a) less than 1000 kilograms of used batteries and accumulators, or (b) less than 1 tonne of discarded equipment containing chlorofluorocarbons (other than WEEE), or (c) less than <ul style="list-style-type: none"> (i) 540 cubic metres of household WEEE, (ii) 12,000 units of WEEE categories in accordance with Category 5 of the first schedule of the Waste Management (Waste Electrical and Electronic Equipment) Regulations, 2005 (S.I. No. 340 of 2005) or, as appropriate (iii) 300 kilograms of mobile phones, <p>for the purpose of onward transport to an authorised treatment facility of WEEE when undertaken in accordance with the requirements of article 39 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005.</p>
5.	Recovery of excavation or dredge spoil, comprising natural materials of clay, silt, sand, gravel or stone and which comes within the meaning of inert waste, through deposition for the purposes of the improvement or development of land and the total quantity of waste recovered at the site shall not exceed 25,000 tonnes.
6.	Recovery of inert waste (other than excavations or dredgings comprising natural materials of clay, silt, sand, gravel or stone), for the purpose of the improvement or development of land and the total quantity of waste recovered at the site shall not exceed 10,000 tonnes.
7.	<p>Recovery of inert waste arising from construction and demolition activity, including concrete, bricks, tiles, or other such similar material, at a facility (excluding the improvement or development of land) where –</p> <ul style="list-style-type: none"> (a) the annual intake shall not exceed 10,000 tonnes, and (b) the maximum quantity of residual waste consigned from the facility for submission to disposal at an authorised facility shall not exceed 15% of the annual intake.
8	This is a spare class.
9	<p>The storage at the place of extraction, for an indefinite length of time to await possible use for site restoration of waste material arising from quarrying or excavation where –</p> <ul style="list-style-type: none"> (a) conditions on waste management have not been imposed under section 261 of the Planning and Development Act 2000 (No. 30 of

	<p>2000), and</p> <p>(b) such material is in a chemically unaltered state.</p>
10.	<p>The reception, storage and transfer of waste by a local authority, not mentioned elsewhere in this schedule, where the annual intake does not exceed 10,000 tonnes, and –</p> <p>(a) the maximum amount of waste dispatched from the facility for onward transport and disposal does not exceed 1,500 tonnes per annum, and</p> <p>(b) a period of storage of waste for disposal does not exceed 30 days.</p>
11.	<p>The reception, storage and biological treatment of biowaste by a local authority, not mentioned elsewhere in this schedule, where –</p> <p>(a) the annual intake does not exceed 5,000 tonnes, and</p> <p>(b) the maximum amount of biowaste, compost and digestate held at a composting facility does not exceed 2,000 tonnes at any time.</p>
12.	<p>The storage and biological treatment on the premises where it is produced, of biowaste, where –</p> <p>(a) the amount stored and treated does not exceed 50 tonnes per annum, and</p> <p>(b) the maximum amount of biowaste, compost and digestate held at the facility at any time does not exceed 20 tonnes.</p>
13	<p>Recovery of organic waste, other than manure and sludge when used in agriculture for the purposes of benefit to agriculture (including energy crops), silviculture or ecological improvement, where the total quantity of organic waste recovered at the facility shall not exceed 1,000 tonnes per annum.</p>
14.	<p>The reception and temporary storage of –</p> <p>(a) waste, returned or recovered refrigerant gases in refrigerant containers, or</p> <p>(b) waste, returned or recovered halons in halon containers, or</p> <p>(c) waste, returned or recovered fluorinated greenhouse gases in fluorinated greenhouse gas containers,</p> <p>pending collection or onward transport prior to submission to recycling, reclamation or destruction in accordance with the relevant legislative requirements for the specific type of refrigerant gas, halon or fluorinated greenhouse gas, where recovery has the meaning assigned to it under Regulation (EC) No. 2037/2000 and Regulation (EC) No. 842/2006, and where the total quantity stored at any one time on a premises does not exceed 18 tonnes.</p>

Note: Where the waste-related activities being undertaken within a facility encompass a number of the classes as set out within part II of the third schedule, the quantity of waste concerned shall be taken as meaning the total quantity of waste accepted at the facility taking account of inputs relating to all classes of activity and compared to the threshold of the principal class.

FOURTH SCHEDULE

PART I

GENERAL RULES IN RESPECT OF REGISTERED ACTIVITIES

Article 32

- (1) A Registration holder shall demonstrate within the application for a Certificate of registration the manner in which it is proposed to comply in all respects with the particulars of the Rules of this schedule, unless as may otherwise agreed in writing by the local authority or, as the case may be, the Agency.
- (2) Any emissions from the recovery or disposal activity concerned (including both storage and temporary storage) shall not result in contravention of any relevant standard, including any standard for an environmental medium, or any relevant emission limit value, prescribed under any enactment.
- (3) The registration holder shall ensure that all recovery and disposal of waste (including both storage and temporary storage) is undertaken in a manner which does not endanger human health.
- (4) Waste shall only be accepted by the registration holder at the site between 0800 and 1800 hours, Monday to Friday inclusive, and between 0800 and 1400 hours on Saturdays unless otherwise approved in writing by the relevant local authority or, as the case may be, the Agency.
- (5) The registration holder shall put in place appropriate procedures relating to the acceptance of waste at the facility, including
 - (i) waste inspection procedures,
 - (ii) waste acceptance and handling procedures,
 - (iii) waste characterisation and waste quarantine procedures,
 - (iv) other appropriate procedures and arrangements relating to the acceptance of waste, and
 - (v) measures to ensure compliance with article 6 of these Regulations.
- (6) The registration holder shall put in place appropriate procedures relating to the supervision of the storage, recovery or disposal activity.
- (7) The registration holder shall ensure that all waste accepted at the facility has been collected and transported in accordance with Section 34 of the Act and the Waste Management (Collection Permit) Regulations, 2007.
- (8) The registration holder shall take all necessary measures relating to prevention of unauthorised waste activities and the establishment of controls on entry to the facility, including the rejection of all waste arriving at the facility where the vehicle does not possess the requisite authorisation to permit the collection and transportation of waste in accordance with Section 34 of the Act, the Waste Management (Collection Permit)

Regulations, 2007 and Waste Management (Collection Permit) (Amendment) Regulations, 2008.

- (9) The registration holder shall conduct, document and maintain an assessment of the risk of environmental pollution, having regard to the types of the wastes to be accepted and the nature of the activity being undertaken at the facility.
- (10) The registration holder shall take preventative measures to ensure that the activity is carried out in a manner which does not have any adverse effect on drainage of lands, watercourses, shallow wells, bored wells, raw water intakes or other sources of water supply, public and private roads or footways.
- (11) In the case of an activity involving the storage or temporary storage of waste, the registration holder shall establish the necessary measures to ensure the secure and safe storage of the wastes, including appropriately designed storage locations and containment arrangements.
- (12) The registration holder shall take all necessary measures to ensure compliance with all legal obligations pertaining to the carrying on of the activity or activities at the facility.
- (13) The registration holder shall take preventative measures to ensure that the activity does not result in unreasonable noise, dust, grit and other nuisances, which would result in the impairment of, or significant interference with, the amenities or the environment beyond the site boundary.
- (14) The registration holder, if requested by the Agency or relevant local authority, shall provide detailed written reports on investigations and monitoring of the activities and related ancillary matters.
- (15) The registration holder shall maintain a register in relation to the activity to which the certificate of registration relates, which shall be available for inspection by the local authority, which details:
 - (a) the dates, time of arrivals and quantities of each waste consignment (by European Waste Catalogue code(s) and description(s) pursuant to Commission Decision 2001/118/EC of 16 January 2001 or subsequent amendments) delivered to the facility,
 - (b) names of the carriers, including details of vehicle registrations and waste collection permits numbers,
 - (c) origin of waste delivered,
 - (d) quantities and composition of wastes rejected at the facility, and
 - (e) quantities, composition and destination of waste consigned for onward transport from the facility.
- (16) The registration holder shall compile and maintain records in a format agreed with the local authority or, as the case may be, the Agency in respect of the particulars of the summary information contained in the register established in accordance with Rule (15), for a period of not less than 7 years.

- (17) The registration holder shall immediately notify the relevant local authority or, as the case may be, the Agency of any incident arising from the activity, which:
- (a) has the potential for contamination of surface or ground water, or
 - (b) poses an environmental threat to air or land.
- (18) As part of the notification process, the operator shall include, within the 24 hours of any such incident occurring, details as to -
- (a) the date and time of the incident,
 - (b) details of the incident,
 - (c) evaluation of the pollution caused, and
 - (d) remedial corrective measures undertaken or to be undertaken, including details of preventative measures.
- (19) Not later than the 28th day of February in each year, the registration holder shall furnish to the local authority or, as the case may be, the Agency in such form as may be agreed, an Annual Environmental Report containing summary information in relation the preceding calendar year or part thereof as the case may be, in respect of the activities to which the Certificate of registration relates and giving particulars of the manner in which the Rules specified in this schedule have been implemented.
- (20) The registration holder shall also comply with any additional rules for the management of particular streams of waste:

Part II: Waste Electrical and Electronic Equipment Facilities,
Part III: Refrigerant Gas, Halon and Fluorinated Greenhouse Gas Facilities,
Part IV: Organic Waste Composting Facilities,
Part V: Spreading of Organic Waste on Land, and
Part VI: Storage of Immobilised Vehicles.

PART II

ADDITIONAL RULES FOR WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT FACILITIES

- (1) The registration holder shall comply with all requirements of the Waste Management (Waste Electrical and Electronic Equipment) Regulations, 2005 (S.I. No. 340 of 2005), subject to any amendment that may be made to those regulations from time to time.
- (2) The registration holder shall establish the provenance of WEEE deposited (e.g. deposited on behalf of an collective compliance scheme approved for the management of WEEE, a self complying producer of electrical and electrical equipment, a business end user etc.).
- (3) The registration holder shall forward details of the source of household WEEE deposited at a waste facility on behalf of a person (other than a collective compliance

scheme approved for the management of WEEE or a self complying producer of electrical and electrical equipment or a householder depositing a quantity of household WEEE similar to that arising in a single household), together with details of the person depositing the WEEE to the local authorities in the functional area or areas where the –

- (a) waste facility is located,
- (b) person depositing the WEEE has his or her place of business and if not a business his or her place of residence, and
- (c) source of the household WEEE concerned has his or her place of business and if not a business his or her place of residence.

PART III

ADDITIONAL RULES FOR FACILITIES ACCEPTING WASTE, RETURNED OR RECOVERED REFRIGERANT GASES IN REFRIGERANT CONTAINERS OR WASTE, RETURNED, OR RECOVERED HALONS IN HALON CONTAINERS OR WASTE, RETURNED OR RECOVERED FLUORINATED GREENHOUSE GASES IN FLUORINATED GREENHOUSE GAS CONTAINERS

- (1) In the case of the temporary storage of waste, returned or recovered refrigerant gases in refrigerant containers or waste, returned or recovered halons in halon containers or waste returned or recovered Fluorinated Greenhouse Gases in Fluorinated Greenhouse Gas Containers the operator shall take all necessary measures to ensure that the handling and controlled storage of the containers is carried out in a manner that shall prevent the leakage or venting of the gases to the atmosphere.
- (2) In the case of temporary storage at the facility:
 - (a) each container should be consigned for onward transport to an authorised facility for appropriate recycling, reclamation or disposal in accordance with the relevant legislative requirements for the specific gas type,
 - (b) there should be no mixing of refrigerant gases or the transfer of individual types of refrigerant gas from one cylinder to another to facilitate bulking for onward transportation,
 - (c) there should be no mixing of halons or the transfer of halons from one cylinder to another to facilitate bulking for onward transportation,
 - (d) there should be no mixing of fluorinated greenhouse gases or the transfer of fluorinated greenhouse gases from one cylinder to another to facilitate bulking for onward transportation.

PART IV

ADDITIONAL RULES FOR COMPOSTING FACILITIES

The registration holder shall comply with all requirements of –

- (1) the Animal By-products Regulation (EC) No. 1774/2002 of 3 October 2002,
- (2) Diseases of Animals Act, 1966 (Prohibition on the Use of Swill) Order 2001 (S.I. No. 597 of 2001),
- (3) Diseases of Animals Act, 1966 (Transmissible Spongiform Encephalopathies) (Meat and Bone Meal and Poultry Offal) Order 2002 (S.I. No. 551 of 2002),
- (4) Waste Management (Use of Sewage Sludge in Agriculture) Regulations, 1998 (S.I. No. 148 of 1998), as amended by Waste Management (Sewage Sludge in Agriculture) (Amendment) Regulations 2001 (S.I. No. 267 of 2001),
- (5) European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2006 (S.I. No. 612 of 2006), and
- (6) Diseases of Animals Act 2006 (Transmissible Spongiform Encephalopathies)(Fertilisers & Soil Improvers) Order 2006 (S.I. No. 615 of 2006),

subject to any amendment that may be made to those regulations from time to time.

PART V

ADDITIONAL RULES FOR SPREADING OF ORGANIC WASTE ON LAND

- (1) The spreading of organic waste on land shall be confined to the application of compost derived from source segregated municipal waste, spent mushroom compost and sewage sludge used for non-agricultural purposes
- (2) The registration holder shall comply with all requirements of –
 - (a) the Animal By-products Regulation (EC) No. 1774/2002 of 3 October 2002, and
 - (b) Diseases of Animals Act, 1966 (Prohibition on the Use of Swill) Order 2001 (S.I. No. 597 of 2001),
 - (c) Diseases of Animals Act, 1966 (Transmissible Spongiform Encephalopathies) (Meat and Bone Meal and Poultry Offal) Order 2002 (S.I. No. 551 of 2002),
 - (d) European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2006 (S.I. No. 612 of 2006), and

(e) Diseases of Animals Act 2006 (Transmissible Spongiform Encephalopathies)(Fertilisers & Soil Improvers) Order 2006 (S.I. No. 615 of 2006)

subject to any amendment that may be made to those regulations from time to time.

PART VI

ADDITIONAL RULES FOR STORAGE OF IMMOBILISED VEHICLES

In circumstances where the condition of an immobilised vehicle is considered to represent a threat to the environment, the registration holder shall comply with the storage requirements set out within the second schedule of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006), subject to any amendment that may be made to those regulations from time to time.

FIFTH SCHEDULE.

FEES

Category of Application (1)	Type of Application (2)	Fee Payable (3)
1.	Application for a waste facility permit in accordance with article 9	Classes 5, 6 and 7 €2,000 All other Activities €1,000
2.	Application for the review of a waste facility permit in accordance with article 30	50% of the fees applicable to an application for a waste facility permit, or €100 for minor changes not requiring a full review.
3.	Application for a certificate of registration in accordance with article 37	Classes 5, 6, 7 and 10 €600 All other Activities €300
4.	Application for the review of a certificate of registration in accordance with article 38	50% of the fees applicable to an application for a certificate of registration, or €100 for minor changes not requiring a full review.
5.	Application for the transfer of a waste facility permit in accordance with article 27	25% of the fees applicable to an application for a waste facility permit
6.	Application for the transfer of a certificate of registration in accordance with article 38	25% of the fees applicable to an application for a certificate of registration

Given the Official Seal of the Minister for the Environment, Heritage and Local Government, this xx day of xx, 2007.



John Gormley
Minister for the Environment,
Heritage and Local Government.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

These Regulations amend and replace the Waste Management (Permit) Regulations 1998 and set out procedures for the making of permit and registration applications, public consultation, consideration by local authorities of submissions in relation to permit or registration applications, and the grant, refusal and review of facility permits and registration by local authorities.

2. INTERPRETATIVE COMMUNICATION FROM EC ON WASTE AND BY-PRODUCTS



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.2.2007
COM(2007) 59 final

**COMMUNICATION FROM THE COMMISSION TO THE COUNCIL
AND THE EUROPEAN PARLIAMENT**

on the Interpretative Communication on waste and by-products

TABLE OF CONTENTS

1.	Introduction	3
2.	background to the Communication	4
2.1.	Scope of the Communication	4
2.2.	Context of the Communication	4
3.	The application of the European Court of Justice case law	6
3.1.	General notions around the definition of waste	6
3.2.	Is the material concerned a production residue or a product?.....	6
3.3.	Conditions where a production residue would not be waste.....	7
3.4.	Other factors used by the court to distinguish between waste and by-product.....	9
	Annex 1 – examples of wastes and non-wastes	11
1.	Slags and dusts from iron and steel production	11
2.	By-products from the food and drink industry - animal feed.....	11
3.	By-products from combustion – flue gas desulphurisation gypsum.....	12
4.	Off cuts and other similar material.....	12
	Annex II – a decision tree for waste versus by-product decisions	13

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT

on the Interpretative Communication on waste and by-products

(Text with EEA relevance)

1. INTRODUCTION

The definition of waste has been a key part of protecting the European environment from the impacts of waste generation and management over the past thirty years. Objects or substances that are defined as 'waste' are controlled by Community waste legislation in order to protect human health and the environment. The definition of waste is applied by the competent authorities specified by Directive 2006/12/EC¹ (the Waste Framework Directive), on a case by case basis, when making waste shipment or permit decisions. In general it is clear what is or is not waste. However, a number of issues have arisen in relation to the interpretation of this definition.

One of these is related to the distinction between materials that are not the main objective of a production process but can be considered as non-waste by-products, and those that should be treated as wastes. In reality, there is not a black and white distinction, but rather a wide variety of technical situations with widely differing environmental risks and impacts and a number of grey zones. However, for the purposes of applying environmental legislation, it is necessary to draw a clear line between the two legal situations on a case by case basis – waste or not waste. It is this distinction that has on occasions proved difficult to apply.

In order to improve the legal certainty of waste legislation, and to make the definition of waste easier to understand and apply, this Communication seeks to guide competent authorities in making case by case judgements on whether a given material is a waste or not, and to give economic operators information on how these decisions should be taken. The Communication will also help to smooth out differences in the interpretation of these provisions throughout the EU.

The Communication aims to explain the definition of waste set down in Article 1 of the Waste Framework Directive, as interpreted by the European Court of Justice, in order to ensure that the Directive is properly implemented. In EU waste law, notions such as by-product or secondary raw material have no legal meaning – materials are simply waste or not. For the purposes of this Communication only², the following illustrative terms, in addition to waste as defined in the Directive, will be used:

- Product – all material that is deliberately created in a production process. In many cases it is possible to identify one (or more) "primary" products, which is the principal material produced.

¹ OJ L 114, 27.4.2006, p. 9-21.

² The definitions do not represent a legal interpretation of the European Commission and are not destined to be used outside of the context of this Communication.

- Production residue – a material that is not deliberately produced in a production process but may or may not be a waste.
- By-product – a production residue that is not a waste.

As announced in the Thematic Strategy on the prevention and recycling of waste, the effectiveness of the guidelines proposed in the Communication will be reviewed in 2010, in the context of the review of the strategy. At the same occasion, there will be a review whether further jurisprudence from the ECJ has made a revision of the guidelines necessary.

2. BACKGROUND TO THE COMMUNICATION

2.1. Scope of the Communication

The scope of this Communication is the distinction between waste and non-waste in a production process context. It is not relevant to other waste such as municipal waste or other similar waste streams, or to consumption residues. It does not deal with the issue of when a product may become a waste, or when a waste ceases to be a waste. It does not deal with waste that is excluded from the scope of the Waste Framework Directive.

2.2. Context of the Communication

Article 8(2)(iv) of Decision 1600/2002/EC of the European Parliament and of the Council of 22 July 2002³, laying down the Sixth Community Environment Action Programme, called for a clarification of the distinction between waste and non-waste. In the Communication towards the Thematic Strategy on the prevention and recycling of waste of 27 May 2003⁴, the Commission outlined the situation on the definition of waste, called for a wide, evidence backed debate on the issue and asked stakeholders with better alternatives to the existing definition of waste to come forward with them. The majority of the comments asked rather for the basic definition of waste to be kept and for certain specific aspects to be made clearer.

In the light of this consensus, the Commission committed itself in the Thematic Strategy on the prevention and recycling of waste, adopted on 21 December 2005⁵, to come forward with a “Communication containing guidelines, based on the jurisprudence of the European Court of Justice and addressing the issues of by-products in relevant industry sectors, on when by-products should or should not be considered as waste in order to clarify the legal situation for economic operators and competent authorities.” This document now carries out that commitment.

2.2.1. Why are guidelines needed?

The evolving jurisprudence and relative absence of legal clarity has made in some cases the application of the definition of waste on this issue difficult for competent authorities and economic operators alike. There is some evidence of differing case by case solutions on similar facts by competent authorities in different Member States – this leads to inequalities in the treatment of economic operators and obstacles in the internal market. An excessively wide

³ OJ L 242, 10.9.2002, p. 1.

⁴ COM(2003)301 Final.

⁵ COM(2005)666 Final.

interpretation of the definition of waste imposes unnecessary costs on the businesses concerned, and can reduce the attractiveness of materials that would otherwise be returned into the economy. An excessively narrow interpretation could lead to environmental damage, and undermine Community waste law and common standards for waste in the EU.

The Commission considers that guidelines are better suited to delivering legal clarity than a definition of by-products in the Waste Framework Directive. Notably, a distinction between waste and by-product that is based on whether the material is destined for recovery or disposal, or based on whether or not the material has a positive economic value, would not seem to offer the necessary guarantees for the protection of the environment. Alternatively, the direct translation in the text of the Directive of some of the language used by the ECJ, outside of its context, may simply result in creating new uncertainties. Other options, including any list type approach, appear to be impractical in operational terms and in terms of legal enforcement. Within the legally binding criteria set out by the ECJ, guidelines represent a flexible tool, adaptable to new evidence and technologies.

2.2.2. Industrial context

There are a wide variety of different types of materials that are produced in industrial processes and could be concerned by this Communication. In business vocabulary, these may be identified as by-products, co-products, intermediate products, non-core products or sub-products. None of these terms have any meaning in Community environmental law, i.e. products and by-products have the same status: materials are simply waste or not.

Industrial production processes are often complex and can generate several different materials with different economic values, environmental impacts and waste/non-waste statuses. In addition to this the consequences of waste/non-waste status can vary from sector to sector. In some sectors, materials that are sold whilst being classified as wastes are traded freely amongst businesses throughout the internal market. In other sectors, such as the food and drink sector, a clear distinction between waste and product is crucial to the economic exploitation of the material concerned. The technical situation is evolving continuously, with rapid changes in technology, both in production processes and the waste treatments available.

2.2.3. Environmental situation

It is clear that both products and wastes can contain toxic materials and be a risk to human health and the environment if badly handled or controlled. Additionally, industrial and extraction wastes often have characteristics that mean that they may pose particular risks for the environment, when compared with products. These are linked to the fact that whereas the content of products is generally specifically designed and controlled, the composition of wastes may be less clear.

This means that from an environmental point of view, it is extremely important that materials are correctly classified as wastes or not. Waste law protects the environment from the consequences of industrial waste in a number of ways, and notably through permitting and shipment procedures, and specific standards for the incineration of waste. If a material is not a waste, this does not mean that it falls completely out of the system of environmental protection set down in Community law. Product based regulation, and other legislation such as the proposed REACH Regulation aim at protecting human health and the environment from the potential environmental impacts of products and other materials that are not wastes.

3. THE APPLICATION OF THE EUROPEAN COURT OF JUSTICE CASE LAW

3.1. General notions around the definition of waste

The ECJ has consistently stated that the definition of waste must be interpreted widely, in order to be consistent with the aim of Directive 2006/12/EC, and with Article 174(2) of the EC Treaty which provides that Community policy on the environment is to aim at a high level of protection. The definition of waste in Directive 2006/12/EC makes reference to its Annex 1, and to the European Waste List in Commission Decision 2000/532/EC⁶. However, as both of these sources are indicative, the definition of waste essentially turns on the notion of ‘discard’.

The court has stressed on several occasions that whether a material is a waste or not depends on the specific factual circumstances, and that therefore the decision must be taken by the competent authority on a case by case basis.

Finally, it is important to note that even where a particular material satisfies the tests set out by the ECJ (and described in sections 3.3) in order to be considered as a non-waste, if it is in practice discarded, it must clearly be considered and treated as a waste.

3.2. Is the material concerned a production residue or a product?

In *Palin Granit*⁷, the ECJ stated that a production residue is something that is not the end product that the manufacturing process directly seeks to produce. In *Saetti*,⁸ the ECJ noted that where the production of the material concerned was “the result of a technical choice” (to deliberately produce such a material) it could not be a production residue.

Therefore, the first question to be asked when determining whether a material is waste or not is did the manufacturer deliberately choose to produce the material in question.

If the manufacturer could have produced the primary product without producing the material concerned but chose to do so, then this is evidence that the material concerned is not a production residue. Other evidence that the production of the material concerned was a technical choice could include a modification of the production process in order to give the material concerned specific technical characteristics.

The case of petroleum coke

In the case of *Saetti and Frediani*, the ECJ was asked to give an opinion on whether petroleum coke, a carbon based material produced in the refining of crude oil, was a waste or not. The court held that petroleum coke could not be classified as a production residue as the production of coke is the result of a technical choice, specifically intended for use as a fuel. They also held that even if petroleum coke was an automatic result of the refining process, if it was certain that the coke production in its entirety would be used, mainly for the same purposes as other substances (produced in the refining process), then petroleum coke was also a petroleum product, manufactured as such, and not a production residue.

⁶ As last amended by Council Decision 2001/573/EC, OJ L 203 28.7.2001 p. 18.

⁷ Case C-9/00 *Palin Granit Oy* (2002) ECR I-3533.

⁸ C-235/02, *Saetti* Order, 15th January 2004.

3.3. Conditions where a production residue would not be waste

Even where a material is considered to be a production residue, the Court has indicated that it is not necessarily a waste. The characteristics of the material in terms of its readiness for further use in the economy can mean that it should not be considered to be a waste.

In recent jurisprudence, (*Palin Granit* and following cases) the ECJ has set out a three part test that a production residue must meet in order to be considered as a by-product. The court stated that where the further use of the material was not a mere possibility but a certainty, without any further processing prior to reuse and as part of a continuing process of production, then the material would not be a waste. This test is cumulative – all three parts must be met. In addition to this test, the ECJ has noted that the use for which the by-product is destined must also be lawful - in other words that the by-product is not something that the manufacturer is obliged to discard or for which the intended use is forbidden under EU or national law (see Decision tree in Annex II).

3.3.1. *Is the further use of the material a certainty not a mere possibility?*

If there is a possibility that the material is in fact not useable, does not meet the technical specifications that would be required for it to be useable, or there is no market for that material, then it should continue to be considered as a waste. The waste status protects the environment from the potential consequences of this uncertainty. If it subsequently turns out that the waste can in fact serve a useful purpose, then the material will lose its waste status when it is ready for use as a recovered product (see *Mayer Parry*⁹).

In some cases, there may be the potential for a certain proportion of the material to be used, with the rest needing to be disposed of. If, in the case by case judgment of the competent authority, certain use cannot be guaranteed for all the material concerned then the material should start as a waste. However, the existence of long term contracts between the material holder and its subsequent users can be an indication that the material covered by the contract will be used and therefore that certainty of use is present.

Similarly, if the material is going to be stored for an indefinite amount of time, prior to a potential but not certain re-use, then it should be considered as a waste while it is being stored (*Palin Granit*).

3.3.1.1. Further use will bring a financial advantage to the waste holder

Where a manufacturer can sell the material concerned for a profit, this can indicate that it is more likely that such a material will certainly be used. (*Palin Granit*) However, this alone is not definitive – see previous case law confirming that waste can have an economic value. (*Vessoso and Zanetti*¹⁰, *Tombesi*¹¹). The Commission considers that it is also important to weigh up the costs of treatment of waste when considering this test, as there is a risk that a token price could be offered to have the material classified as non-waste, and therefore allow it to be treated outside of proper waste treatment facilities. However, a high price, in line with or above current market prices for the material, may indicate that the material is not waste.

⁹ C-444/00 *Mayer Parry* (2003) ECR I-6163.

¹⁰ Cases C-206/88 and 207/88, *Vessoso and Zanetti* (1990) ECR 1461.

¹¹ Joined cases C-304/94, C-330/94, C-342/94 & C-224/95 *Tombesi* (1997) ECR I-3561.

The Spanish Manure cases

In the joined cases of *Commission v Spain* (C-416/02 and C-121/03), the court held that manure will not be waste where it is used as soil fertiliser as part of a lawful practice of spreading on clearly identified parcels (regardless of whether the parcels are within or outside the agricultural holding that generated the effluent) and if its storage is limited to the needs of those spreading operations.

3.3.2. *Can the material be used again without any further processing?*

In some cases, this can be a difficult test to apply. Often, in the value chain of a by-product there is a chain of tasks that must be undertaken as part of the further use of the material: The material is produced, it may then be washed, dried, refined or homogenised, characteristics or other materials that are necessary for its further use may be added, its quality will be controlled and so on. Some tasks will be carried out on the production site of the manufacturer, some on the site of the next user, and some by intermediaries. To the extent that these tasks are an integral part of the production process (see next section), they do not prevent the material from being considered as a by-product.

The Court has found that if an additional recovery process is required before further use, even if such subsequent use is certain, this is evidence that the material is a waste until the process has been completed (*Avesta Polarit*¹²).

3.3.3. *As part of the continuing process of production?*

If, however, the material is made ready for a further use as an integral part of the continuing process of production, and is then effectively sent for such a further use, then it is a by-product, according to the test set down by the ECJ.

In this situation, the competent authority will need to decide whether the tasks described in the section above are **an integral part of the continuing process of production**. In doing so the Commission considers that they will need to make a distinction based on all the facts: the degree of readiness of the material for further use, the nature and extent of the tasks needed to prepare the material before further use, the integration of these tasks into the main production process and whether the tasks are being carried out by someone other than the manufacturer, could all be relevant. BREF documents could also be taken into consideration by the competent authority as guidance when deciding whether the tasks are an integral part of the continuing process of production. It should be noted that the approach set out by the Court in the *Palin Granit*, *Niselli*¹³ and *Spanish manure* cases indicates a narrow rather than a broad approach to the notion of production process.

If the material leaves the site or factory where it has been produced in order to undergo further processing then this may be evidence that such tasks are no longer a part of the same production process. However, with the increasing specialisation of industrial processes, this cannot be taken as definitive evidence. Next users and intermediated companies may be involved in preparing the material for further use, through carrying out the type of tasks described above in 3.3.2.

¹² Case C-114/01 *AvestaPolarit Chrome Oy* judgment 11 September 2003.

¹³ C-457/02, *Niselli*, order of 11th November 2004.

If the material is needed as part of the primary activity of the manufacturer then this is evidence that the material concerned is not a waste.

The case of the leftover rocks

In the cases of Avesta Polarit and Palin Granit, the Court was asked to settle in what circumstances leftover rock from mining and quarrying should be considered as a waste. The Court stated that where the rocks were being stored prior to a possible future use or a future waste treatment obligation, they would be waste. Where certain residues that could be physically identified were being stored prior to a potential but not certain re-use, without being processed, in order to fill in underground galleries for stability purposes as required for the principal activity of the mine (extraction of ore), they would not be waste.

3.4. Other factors used by the court to distinguish between waste and by-product

In *Arco Chemie*¹⁴, and in other similar jurisprudence, the ECJ lists a whole range of factors that may indicate that a material is a waste. None of these elements are necessarily conclusive, but some may be helpful in some circumstances.

3.4.1. No other use than disposal can be envisaged, or the use has a high environmental impact or requires special protection measures

As the ECJ noted, if a given material has no possible use, and therefore will have to be disposed of, it would seem normal that such a material would be considered waste from the moment of production. In some cases further use of the material is prohibited, or the material must be disposed of or recovered as a waste in an obligatory procedure. This could occur for environmental, safety or public health reasons. One example of EU legislation that could lead to it being obligatory to dispose of a given material or to treat it as waste is Directive 96/59 on PCBs/PCTs¹⁵. Equally, if the material does not meet product legislation standards for its potential use, then it should be treated as a waste until it is ready to meet such standards.

The issue of the potential for environmental damage from a given material, and the need for special environmental protection measures to be taken in order for the material to be used is more complex. A number of primary products also have a high potential for environmental damage, and require careful use in order not to damage the environment. However, following the ECJ position on interpreting the waste definition, if a by-product has a higher environmental impact than an alternative material or product that it replaces, this may affect the boundaries of the waste/non-waste decision in situations where a comparison is possible and relevant.

The contrary situation, the absence of a clear risk to the environment from a material, does not prove that it is not a waste. In *Palin Granit*, the ECJ considered that even if it was proven that the material in question does not pose any real risk to human health and environment; this was not a relevant criterion in order to consider that a material was not waste. This is logical – inert industrial waste dumped in an inappropriate area may pose no risk to human health or to the environment. However, it undoubtedly constitutes a nuisance and should be covered by the scope of the waste definition. Following on from this, the fact that a substance can be

¹⁴ Joined Cases C-418/97 & C-419/97 *ARCO Chemie* (2000) ECR I-4475.

¹⁵ O J L 243, 24.9.1996 P. 31-35.

recovered as a fuel in an environmentally responsible manner and without substantial treatment does not mean that the substance is not a waste (*Arco Chemie*). The waste definition exists to ensure that this environmentally responsible treatment is indeed carried out on wastes.

In the same case, the ECJ stated that neither the place of storage of a material or the composition of a material was relevant to whether the material was waste or not. In some cases – marble quarrying, for example – waste production residues such as off cuts can indeed be composed of exactly the same material as the primary product. However, if they are destined to be discarded, then they will still be waste.

3.4.2. The treatment method for the material in question is a standard waste treatment method

In some circumstances, the destination of the material can give a strong hint as to the status of that material. The ECJ has, however, also held that whether the operation that will be applied to the material is or is not a waste treatment operation listed in Annex IIA or IIB cannot provide the definitive answer on whether the material is waste or not (*Niselli*). This is inevitable, as several methods of treatment or disposal listed in the Annex could also be perfectly validly applied to a product, and vice versa. Notably, there is no way of distinguishing between the combustion of a fuel as a product and the combustion of a waste based on the treatment method.

3.4.3. The undertaking perceives the material as waste

In *Arco Chemie* the Court has noted that the perception of the material as waste could be a factor that could indicate that the material concerned was waste. However, the Commission considers that this test could encourage a negligent approach to waste law, by giving an advantage to businesses that are not aware of their legal obligations or who seek to avoid compliance with these obligations. In addition, as the notion is extremely subjective, it could lead to the concept of waste varying from one Member State to another.

3.4.4. The undertaking seeks to limit the quantity of material produced

Again in *Palin Granit*, the ECJ noted that if the undertaking seeks to limit the quantity of material produced this could be an indicator that the material is a waste. This is not definitive, as it is possible to seek to vary the quantities produced of a given material for factors related to cost, price and markets, rather than as a desire to minimise the quantities of a material that is to be discarded. Further, applying this criterion in a rigorous manner could dissuade companies from adopting waste prevention policies in some circumstances.

Annex 1 – examples of wastes and non-wastes

These examples are designed to illustrate some cases in which materials may be classified as wastes or not. They are taken from a number of different sectors, but are neither definitive nor comprehensive. There are many other examples that could have been used, and even the examples here may vary across the EU in some circumstances, notably if there is no certainty of use for a given by-product, or on the contrary, if use is certain for a material in a region or Member State, where this is not the case across the whole EU.

1. SLAGS AND DUSTS FROM IRON AND STEEL PRODUCTION

Blast furnace slag is produced in parallel with hot iron in a blast furnace. The production process of the iron is adapted to ensure that the slag has the requisite technical qualities. A technical choice is made at the start of the production process that determines the type of slag that is produced. Moreover, use of the slag is certain in a number of clearly defined end uses, and demand is high. Blast furnace slag can be used directly at the end of the production process, without further processing that is not an integral part of this production process (such as crushing to get the appropriate particle size). This material can therefore be considered to fall outside of the definition of waste.

In contrast, de-sulphurisation slag is produced due to the need to remove sulphur prior to the processing of iron into steel. The resulting slag is rich in sulphur, cannot be used or recycled in the metallurgical circuit and is therefore usually disposed of in a landfill. Another type of example is dust extracted from the steel production process when cleaning the air inside the plant. This is captured in filters via an extraction process. These filters can be cleaned and the metallic content returned to the economic cycle via a recycling operation. Both of these production residues are therefore wastes from the point of production with the iron content extracted from the filters ceasing to be waste once it has been recycled.

2. BY-PRODUCTS FROM THE FOOD AND DRINK INDUSTRY - ANIMAL FEED

A major use for by-products from the food and drink sector is animal feed. The production processes in numerous sectors (e.g. sugar production, oilseed crushing, starch production and malt production) generate materials that are used as feed material either directly by farmers or by the animal compound feed industry. Although not all production residues destined for animal feed are automatically non-wastes¹⁶, the above feed materials are produced deliberately in adapted production processes, or may not be produced deliberately but meet the cumulative by-product criteria of the court as their further use in animal feed is certain, without further processing outside of the production process of that material. In addition, the feed material is governed by legislation such as Regulation 178/2002 on food law¹⁷ and Directive 96/25/EC on the circulation and use of feed material¹⁸. In both cases, this material can therefore be considered to fall outside of the definition of waste.

¹⁶ (as per the position of the Commission before the court in pending case *Commission v Italy*, C-195/05 - the existence of specified technical characteristics and certain re-use is not enough on its own – the three cumulative elements of the ECJ jurisprudence must be applied).

¹⁷ OJ L 100, 8.4.2006, p. 3.

¹⁸ OJ L 123, 23.5.1996, p. 35-58.

3. BY-PRODUCTS FROM COMBUSTION – FLUE GAS DESULPHURISATION GYPSUM

Flue gas desulphurisation facilities remove sulphur from the flue gases that are produced when sulphurous fossil fuels are combusted in power plants, in order to prevent these emissions contributing to air pollution and acid rain. The resulting material, flue gas desulphurisation (FGD) gypsum is used for the range of uses that natural gypsum can be put to and notably the production of plasterboard. The process is modified and controlled to produce FGD gypsum of the required characteristics. In addition, use of the material is certain, without further processing prior to re-use and as part of an integrated production process.

A number of other coal combustion products can have further uses with little or no further processing. Some, however, are in practice regularly landfilled – lignite fly ash, for example. As there is therefore no certainty of use at an EU wide level, they do not fulfil the ECJ criteria across the EU and will therefore often be wastes, although in some local situations an application and therefore certainty of use may exist.

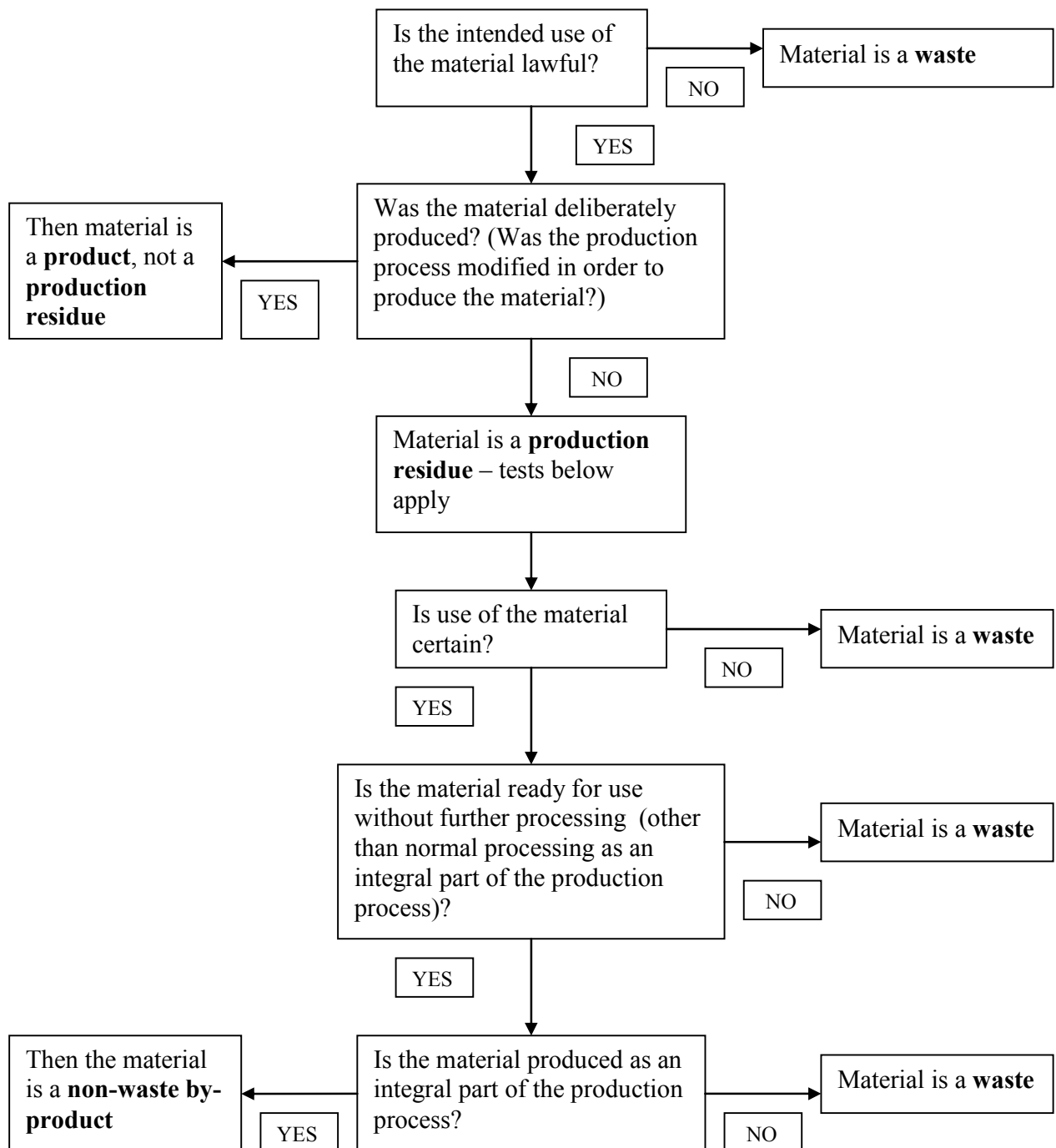
4. OFF CUTS AND OTHER SIMILAR MATERIAL

Sawdust, wood chips and off cuts from untreated wood is generated at saw mills or at secondary operations such as the manufacturing of furniture or pallets and packaging, along with the primary product, cut wood. These elements are then used as the raw material for the production of wood based panels such as chip board or in paper production. Use is certain, as part of an integral production process and without further processing other than being adapted to the appropriate size for being integrated into the final product.

In more general terms, excess material from a primary production process, or material that is deficient only in a cosmetic way but that is materially similar to the primary product, such as rubber compound and vulcanisation mix, cork shavings and pieces, plastic scrap and similar material may be seen as by-products. For this to be the case they must be able to be reused directly either back in the primary production process or in other integrated productions where reuse is also certain. Materials of this type can also be considered to fall outside of the definition of waste.

Where material of this kind requires a full recycling or recovery operation, or contains contaminants that need to be removed before it can be further used or processed, this would indicate that the material is a waste until the recycling or recovery operation is completed.

Annex II – a decision tree for waste versus by-product decisions



3. RECENT EU CASE LAWS

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JUDGMENT OF THE COURT (Third Chamber)

18 December 2007 (*)

(Failure of a Member State to fulfil obligations – Environment – Directives 75/442/EEC and 91/156/EEC – Concept of ‘waste’ – Excavated earth and rocks intended for re-use)

In Case C-194/05,

ACTION under Article 226 EC for failure to fulfil obligations, brought on 2 May 2005,

Commission of the European Communities, represented by M. Konstantinidis, acting as Agent, assisted by G. Bambara, avvocato, with an address for service in Luxembourg,

applicant,

v

Italian Republic, represented by I.M. Braguglia, acting as Agent, assisted by G. Fiengo, avvocato dello Stato, with an address for service in Luxembourg,

defendant,

THE COURT (Third Chamber),

composed of A. Rosas, President of the Chamber, U. Löhmus, J.N. Cunha Rodrigues, A. Ó Caoimh (Rapporteur) and P. Lindh, Judges,

Advocate General: J. Mazák,

Registrar: J. Swedenborg, Administrator,

having regard to the written procedure and further to the hearing on 17 January 2007,

after hearing the Opinion of the Advocate General at the sitting on 22 March 2007,

gives the following

Judgment

- 1 By its application, the Commission of the European Communities claims that the Court should declare that, in so far as Article 10 of Law No 93 of 23 March 2001 concerning provisions on the environment (GURI No 79 of 4 April 2001; hereinafter ‘Law No 93/2001’) and Article 1(17) and (19) of Law No 443 of 21 December 2001 delegating to the Government matters of infrastructure and strategic installations of production and of other action to boost production (Ordinary Supplement to GURI No 299 of 27 December 2001; hereinafter ‘Law No 443/2001’) excluded from the scope of the national legislation on waste excavated earth and rocks intended for

actual re-use for filling, backfilling, embanking or as aggregates, with the exception of materials from contaminated and decontaminated sites with a concentration of pollutants above the acceptable limits laid down by the regulations in force, the Italian Republic has failed to fulfil its obligations under Council Directive 75/442/EEC of 15 July 1975 on waste (OJ 1975 L 194, p. 39), as amended by Council Directive 91/156/EEC of 18 March 1991 (OJ 1991 L 78, p. 32) ('the directive').

Legal background

Community legislation

- 2 Points (a) and (c) of Article 1 of the directive provide that, for the purposes of that directive:

'(a) "waste" shall mean any substance or object in the categories set out in Annex I which the holder discards or intends or is required to discard.

The Commission, acting in accordance with the procedure laid down in Article 18, will draw up, not later than 1 April 1993, a list of wastes belonging to the categories listed in Annex I. This list will be periodically reviewed and, if necessary, revised by the same procedure;

...

(c) "holder" shall mean the producer of the waste or the natural or legal person who is in possession of it'.

- 3 Article 1(e) and (f) of the directive define the meanings of 'disposal' and 'recovery' as 'any of the operations provided for in' Annexes IIA and IIB thereof, respectively.

- 4 Article 2 of the directive provides:

'1. The following shall be excluded from the scope of this Directive:

...

(b) where they are already covered by other legislation:

...

(ii) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries;

...

2. Specific rules for particular instances or supplementing those of this Directive on the management of particular categories of waste may be laid down by means of individual Directives.'

- 5 The Commission adopted Decision 94/3/EC of 20 December 1993 establishing a list of wastes pursuant to Article 1(a) of Directive 75/442 (OJ 1994 L 5, p. 15). That list was updated by Commission Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3 and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste (OJ 2000 L 226, p. 3). The European Waste Catalogue thus established by Decision 2000/532 has been amended a number of times, most recently by Council Decision 2001/573/EC of 23 July 2001 (OJ 2001 L 203, p. 18). That list contains Chapter 17, entitled 'Construction and demolition wastes (including excavated material from contaminated sites)', which contains, among others, Section 17 05, itself entitled 'soil (including excavated material from contaminated sites) stones and dredging

spoil' and includes heading 17 05 03, 'soil and stones containing dangerous substances', and 17 05 04, 'soil and stones other than those mentioned in 17 05 03'.

National legislation

- 6 Article 6(1)(a) of Legislative Decree No 22 of 5 February 1997 on the implementation of Directives 91/156/EEC on waste, 91/689/EEC on hazardous waste and 94/62/EC on packaging and packaging waste (Ordinary Supplement to GURI No 38 of 15 February 1997, 'Legislative Decree No 22/97') is worded as follows:

'For the purposes of this Decree:

- (a) "waste" shall mean any substance or object in the categories set out in Annex A which the holder discards, or intends or is required to discard

...'

- 7 Article 8(1) of Legislative Decree No 22/97 excludes from its scope certain substances and materials, including, under point (b), 'waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries', in so far as they are covered by specific legislation.

- 8 Article 10 of Law No 93/2001 added a new point (f-a) in Article 8(1) of Legislative Decree No 22/97 which reads as follows:

'excavated earth and rocks intended for actual use for filling, backfilling, embanking or as aggregates, with the exception of materials from contaminated and decontaminated sites with a concentration of pollutants above the acceptable limits laid down by the provisions in force.'

- 9 Article 1(17) of Law No 443/2001 provides that Article 8(1)(f-a) of Legislative Decree No 22/97 is to be interpreted:

'as meaning that excavated earth and rocks, including from tunnels, are not waste and, consequently, are excluded from the scope of that legislative decree, even if they are contaminated during the production cycle by pollutant substances from excavation, drilling or construction, in so far as the average composition of the total mass does not have a concentration of pollutants above the maximum limits laid down by the provisions in force.'

- 10 Moreover, Article 1(19) of Law No 443/2001 provides that:

'[f]or materials referred to in paragraph 17, actual use for filling backfilling, embanking or as aggregates shall also mean use for different cycles of industrial production, including the filling of worked quarries and the tipping on another site, authorised for any reason whatsoever by the competent administrative authority, provided that the limits referred to in paragraph 18 are complied with and that the dumping is effected in accordance with the detailed rules for environmental redevelopment of the site concerned.'

- 11 By Article 23 of Law No 306 of 31 October 2003 fulfilling obligations arising from Italy's membership of the European Community (GURI No 266 of 15 November 2003; hereinafter 'Law No 306/2003'), the Italian legislature amended Article 1(17) and (19) of Law No 443/2001.

Pre-litigation procedure

- 12 The Commission, taking the view that the combination of Article 10 of Law No 93/2001 and Article 1(17) and (19) of Law No 443/2001 (collectively 'the provisions at issue') does not comply with the directive, initiated the infringement procedure laid down by Article 226 EC.

- 13 Since the Italian authorities did not reply to the letter of formal notice of 27 June 2002, the Commission, on 19 December 2002, delivered a reasoned opinion requesting the Italian Republic to adopt the measures necessary to comply with the directive within two months from the receipt of that opinion, which occurred on the same day.
- 14 In their reply of 5 March 2003 to that opinion, the Italian authorities sent the Commission a draft amendment to the national legislation concerning excavated earth.
- 15 At a joint meeting held on 25 June 2003, the Commission maintained that the draft law continued to require a narrow construction of the concept of waste and was therefore contrary to the directive.
- 16 By letter of 3 February 2004, the Italian authorities sent the Commission a copy of the text of Law No 306/2003, which effected the amendments referred to in their letter of 5 March 2003.
- 17 Since it considered that the situation remained unsatisfactory, the Commission decided to bring the present action.

The action

Admissibility

- 18 In its defence, the Italian Republic contends, first of all, that the present action is inadmissible since the Commission did not take into account the amendments effected by Law No 306/2003, which was adopted on 31 October 2003 and entered into force on 30 November 2003, that is to say before this action for failure to fulfil obligations was brought.
- 19 In that regard, it is sufficient to observe, first, that the Court has repeatedly held that the question whether a Member State has failed to fulfil its obligations must be determined by reference to the situation prevailing in the Member State at the end of the period laid down in the reasoned opinion and the Court cannot take account of any subsequent changes (see, in particular, Case C-168/03 *Commission v Spain* [2004] ECR I-8227, paragraph 24, and Case C-23/05 *Commission v Luxembourg* [2005] ECR I-9535, paragraph 9).
- 20 Secondly, the subject-matter of an action under Article 226 EC for failure to fulfil obligations is delimited by the pre-litigation procedure provided for by that article, so that the application cannot be founded on any objections other than those stated in that procedure (see, to that effect, Case C-152/98 *Commission v Netherlands* [2001] ECR I-3463, paragraph 23, and Case C-221/03 *Commission v Belgium* [2005] ECR I-8307, paragraph 38).
- 21 In this case the amendments effected by Law No 306/2003 were not introduced until after the expiry of the period prescribed in the reasoned opinion.
- 22 Whilst the Commission considers that those amendments have not brought the Italian legislation into compliance with the directive, it has none the less been at pains to point out, both in its reply and at the hearing of oral argument, that it does not seek to challenge that law in the context of the present action.
- 23 In those circumstances, since the subject-matter of the action brought under Article 226 EC is not founded on complaints other than those made during the pre-litigation procedure, the Italian Government's plea of inadmissibility must be rejected.

Substance

Arguments of the parties

- 24 The Commission claims that the provisions at issue exclude, generally and by default, excavated earth and rocks intended for certain re-uses from the scope of the national legislation on waste, with the result that the directive's provisions relating to waste management do not apply to those materials.
- 25 The Commission submits that excavated earth and rocks, which are mentioned in the European Waste Catalogue, are materials which the holder intends to discard and are covered by the definition of the concept of 'waste' in Article 1(a) of the directive. The provisions at issue do not limit the exclusion of the application of the provisions of national law arising from the directive to the cases expressly described in the Court's case-law, but lay down a more general exclusion.
- 26 In the Italian Republic's submission, the Community concept of waste is subject to reasonable exceptions in the case of by-products which an undertaking does not intend to 'discard' as waste. A careful reading of the Court's case-law relating to that concept shows that the essential requirement for the classification of residue as a by-product rather than as waste is not the re-use of the materials concerned in the same process of production as that from which they derive but rather the certainty that they will be re-used without any prior processing. In that regard, the Commission is relying on an erroneous construction of the judgment in Case C-457/02 *Niselli* [2004] ECR I-10853, paragraph 52, which is confined to declaring illegal general exclusions from the category of waste in the absence of proof of the actual re-use of the materials concerned.
- 27 That Member State submits that residues which are certain to be used without any prior processing in a process of production other than that from which they derive must be regarded as by-products, if the process of re-use either occurs at the same time as the process from which they originate, or serves to ensure their re-use in good time, that is to say., before the storage of residues can cause damage.
- 28 The Italian Republic emphasises the connection between the provisions at issue and the realisation of a vast public works programme relating to the country's road and rail links, for which the use of excavated earth and rocks is indispensable, since it probably constitutes the most important part of that programme. The re-use of those materials is thus guaranteed. Such a guarantee arises also from the obligation undertaken by those responsible for the various aspects of that programme to complete them.
- 29 In that context, the provisions at issue, far from laying down a general exclusion, determine, through that programme and the supervision of the carrying out of the works concerned, the situations in which excavated earth and rocks are to fall outside the rules on waste, in so far as they are materials which may be re-used in accordance with a coherent plan which assesses in advance specific effects on the environment and on health.

Findings of the Court

- 30 By its argument, the Commission claims, in essence, that the provisions at issue are contrary to the directive, and particularly to Article 1(a) thereof, on the ground that they misconstrue the concept of 'waste' applicable by virtue of the directive, thereby excluding excavated earth and rocks intended for certain re-uses from the scope of the national legislation transposing the directive's provisions relating to waste management.
- 31 **Under Article 1(a) of the directive, "waste" shall mean any substance or object in the categories set out in Annex I [to the directive] which the holder discards or intends or is required to discard'.**
- 32 **The annex referred to clarifies and illustrates that definition by providing a list of categories of substances and objects which may be classified as 'waste'. That list is intended only as guidance, however, and the classification of a substance or object as waste is to be inferred primarily**

from the holder's actions and the meaning of the term 'discard' (see, to that effect, Case C-129/96 *Inter-Environnement Wallonie* [1997] ECR I-7411, paragraph 26, Case C-1/03 *Van de Walle and Others* [2004] ECR I-7613, paragraph 42, and Case C-252/05 *Thames Water Utilities* [2007] ECR I-3883, paragraph 24).

- 33 The term 'discard' must be interpreted in the light not only of the fundamental aim of the directive, which, according to the third recital in the preamble thereto, is 'the protection of human health and the environment against harmful effects caused by the collection, transport, treatment, storage and tipping of waste', but also of Article 174(2) EC. The latter provision states that 'Community policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Community. It shall be based on the precautionary principle and on the principles that preventive action should be taken ...'. It follows that the term 'discard' – and, accordingly, the concept of 'waste', within the meaning of Article 1(a) of the directive – cannot be interpreted restrictively (see, to that effect, inter alia, Joined Cases C-418/97 and C-419/97 *ARCO Chemie Nederland and Others* [2000] ECR I-4475, paragraphs 36 to 40, and *Thames Water Utilities*, paragraph 27).
- 34 Certain circumstances may constitute evidence that the holder has discarded a substance or object, or intends or is required to discard it, within the meaning of Article 1(a) of the directive (*ARCO Chemie Nederland and Others*, paragraph 83). That is the case in particular where a substance is a production or consumption residue, that is to say, a product which it was not, as such, sought to produce (see, to this effect, *ARCO Chemie Nederland and Others*, paragraph 84, and *Niselli*, paragraph 43).
- 35 Thus, the Court has stated that leftover stone from a granite quarry, which is not the product primarily sought by its operator, is, in principle, waste (see, to that effect, Case C-9/00 *Palin Granit and Vehmassalon kansanterveystyön kuntayhtymän hallitus* [2002] ECR I-3533, '*Palin Granit*', paragraphs 32 and 33).
- 36 Moreover, neither the method of treatment reserved for a substance nor the use to which that substance is put determines conclusively whether or not it is to be classified as waste (see *ARCO Chemie Nederland and Others*, paragraph 64, and Case C-176/05 *KVZ retec* [2007] ECR I-1721, paragraph 52).
- 37 The Court has thus stated, first, that the fact that a substance or object undergoes one of the disposal or recovery operations listed, respectively, in Annexes II A and II B to the directive does not, by itself, mean that a substance or object involved in such an operation is to be classified as waste (see, to that effect, inter alia, *Niselli*, paragraphs 36 and 37); and, secondly, that the concept of waste does not exclude substances and objects which are capable of economic re-use (see, to that effect, inter alia, Joined Cases C-304/94, C-330/94, C-342/94 and C-224/95 *Tombesi and Others* [1997] ECR I-3561, paragraphs 47 and 48). The system of supervision and control established by the directive is intended to cover all objects and substances discarded by their owners, even if they have a commercial value and are collected on a commercial basis for recycling, recovery or re-use (see, inter alia, *Palin Granit*, paragraph 29).
- 38 However, it is also clear from the case-law of the Court that, in certain situations, goods, materials or raw materials resulting from an extraction or manufacturing process, the primary aim of which is not their production, may be regarded not as residue, but as by products which their holder does not seek to 'discard', within the meaning of Article 1(a) of the directive, but which he intends to exploit or market on terms advantageous to himself in a subsequent process – including, as the case may be, in order to meet the needs of economic operators other than the producer of those substances –

provided that such re-use is a certainty, does not require any further processing prior to re-use and forms an integral part of the process of production or use (see, to that effect, *Palin Granit*, paragraphs 34 to 36; Case C-114/01 *AvestaPolarit Chrome* [2003] ECR I-8725, paragraphs 33 to 38; *Niselli*, paragraph 47; and also Case C-416/02 *Commission v Spain* [2005] ECR I-7487, paragraphs 87 and 90, and Case C-121/03 *Commission v Spain* [2005] ECR I-7569, paragraphs 58 and 61).

- 39 Accordingly, in addition to the criterion of whether a substance constitutes a production residue, a relevant criterion for determining whether or not that substance is waste within the meaning of the directive is the degree of likelihood that that substance will be re-used without any prior processing. If, beyond the mere possibility of re-using the substance, there is also a financial advantage for the holder in so doing, the likelihood of such re-use is high. In such circumstances, the substance in question must no longer be regarded as a burden which its holder seeks to 'discard', but as a genuine product (see *Palin Granit*, paragraph 37, and *Niselli*, paragraph 46).
- 40 However, if such re-use requires long-term storage operations which constitute a burden to the holder and are also potentially the cause of precisely the environmental pollution which the directive seeks to reduce, that re-use cannot be described as a certainty and is foreseeable only in the longer term, and accordingly the substance in question must, as a general rule, be regarded as waste (see, to that effect, *Palin Granit*, paragraph 38, and *AvestaPolarit Chrome*, paragraph 39).
- 41 Whether a substance is in fact 'waste' within the meaning of the directive must be determined in the light of all the circumstances, account being taken of the aim of the directive and the need to ensure that its effectiveness is not undermined (see *ARCO Chemie Nederland and Others*, paragraph 88; *KVZ retect*, paragraph 63; and the order in Case C-235/02 *Saetti and Frediani* [2004] ECR I-1005, paragraph 40).
- 42 In the present case, it is common ground that the provisions at issue exclude excavated earth and rocks from the scope of the national legislation transposing the directive provided that those materials, first, are not contaminated within the meaning of those provisions and, second, are intended for actual re-use for filling, backfilling, embanking or as aggregates, which includes 'the filling of worked quarries and the tipping on another site, authorised for any reason whatsoever'.
- 43 In that regard, as is clear from paragraphs 5 and 31 of this judgment, 'soil and stones' in the European Waste Catalogue must be regarded as being 'waste' within the meaning of the directive if their holder discards them or intends or is required to discard them.
- 44 Since the directive does not provide any single decisive criterion for discerning whether the holder intends to discard a given substance or object, Member States are free, in the absence of Community provisions, to choose the modes of proof of the various matters defined in the directives which they are transposing, provided that the effectiveness of Community law is not thereby undermined (see *ARCO Chemie Nederland and Others*, paragraph 41, and *Niselli*, paragraph 34). Thus Member States may, for example, define different categories of waste, in particular to facilitate the organisation and control of waste management, provided that the obligations arising under the directive or other provisions of Community law relating to such waste are complied with and that the exclusion of any categories from the scope of legislation enacted in order to transpose obligations under the directive is in compliance with Article 2(1) of the directive (see, to that effect, Case C-62/03 *Commission v United Kingdom*, not published in the ECR, paragraph 12).

- 45 In essence, the Italian Republic contends that the materials covered by the provisions at issue may be regarded, in accordance with the case-law of the Court, not as excavation residue, but as a by-product which the holder, because of his clear intention that it be re-used, is not seeking to 'discard' within the meaning of Article 1(a) of the directive; and that, accordingly, those provisions do not limit the obligations laid down in the directive in respect of the management of waste.
- 46 However, in view of the obligation, recalled in paragraph 33 of this judgment, to give the concept of waste a broad meaning and in the light of the requirements of the case-law set out in paragraphs 34 to 40 of this judgment, reasoning along the lines of the arguments put forward by the Italian Government, relating to by-products which the holder does not wish to discard, must be confined to situations where re-use of goods, materials or raw materials (including, as the case may be, in order to meet the needs of economic traders other than the producer) is not merely a possibility, but a certainty, and where such re-use does not require any prior processing and forms an integral part of the process of production or use.
- 47 In this case, the provisions at issue, particularly Article 1(19) of Law No 443/2001, evidently envisage a wide range of situations, including cases where excavated earth or rocks are tipped on another site.
- 48 In addition, it is possible, contrary to what is suggested, in essence, by the Italian Republic, that the 'actual re-use' referred to in the provisions at issue will take place only after a significant, or even open-ended, delay, thereby requiring long-term storage of the materials in question. As is clear from paragraph 40 of the present judgment, such operations are likely to constitute a burden to the holder and are also potentially the cause of precisely the environmental pollution which the directive seeks to reduce.
- 49 Moreover, as is clear in particular from paragraphs 36 and 37 of this judgment, the use to which a substance is put does not determine conclusively whether or not that substance is to be classified as waste. Consequently, the mere fact that the materials in question will be re-used does not support the inference that they do not constitute 'waste' within the meaning of the directive.
- 50 What subsequently happens to an object or a substance is not in itself determinative of its nature as waste, which, in accordance with Article 1(a) of the directive, is defined in terms of the holder of that object or substance discarding it or intending or being required to discard it (see, to that effect, *ARCO Chemie Nederland and Others*, paragraph 64, and *KVZ retec*, paragraph 52).
- 51 It is accordingly clear that the provisions at issue raise a presumption, in the situations to which they apply, that the excavated earth and rocks in question are by-products which represent for their holder – by dint of his intention that they be re-used – a benefit or an economic value, rather than a burden which he would seek to be rid of.
- 52 However, although in some cases that may actually reflect the true position, there cannot be a general presumption that a holder of excavated earth and rocks should derive from the fact that they are intended for re-use an advantage over and above that of simply being able to discard them.
- 53 Consequently, even assuming that it could be ensured that materials covered by the provisions at issue really are re-used for filling, backfilling, embanking or as aggregates – the Italian Republic not having pointed to any specific rule to that effect – it must be held that those provisions result in the exclusion of residue which nevertheless meets the definition in Article 1(a) of the directive from being treated as waste in Italian law.
- 54 Article 1(a) of the directive not only sets out the definition of the concept of 'waste' for the purposes of the directive, but also – in conjunction with Article 2(1) – defines the scope of the directive. Article 2(1) lists the forms of waste that are excluded

from the scope of the directive, as well as those that may be excluded, and the circumstances in which that is possible, whereas in principle the directive covers all waste which corresponds to the definition set out in Article 1(a) thereof. Any provision of national law which limits in general terms the scope of the obligations arising under the directive, to a greater degree than is permitted under Article 2(1), is necessarily disregarding the scope of the directive (see, to that effect, *Commission v United Kingdom*, cited above, paragraph 11), thus undermining the effectiveness of Article 174 EC (see, to that effect, *ARCO Chemie Nederland and Others*, paragraph 42).

- 55 In the present case, even assuming, as the Italian Republic argued at the hearing, that the operations referred to in the provisions at issue are also governed by the national legislation on the carrying out of public works, such as the construction of embankments and tunnels, it is sufficient to observe in that regard that that type of works and the materials used in them do not, as a rule, come within the exception from the directive's scope under Article 2 (1) thereof.
- 56 Finally, as regards the argument put forward by that Member State that application of the waste regime would mean that waste-disposal undertakings or undertakings licensed to transport or collect waste would have to be involved in the works in question and that that might increase their costs considerably, the Commission rightly pointed out that this situation stems from the Italian legislation rather than from the directive. Subject to the requirements as to registration, or, as the case may be, of a permit, the holder of the waste may simply recover it or dispose of it himself in accordance with the provisions of the directive. In that regard, it should be added that the directive applies not only to disposal and recovery of waste by specialist undertakings, but also to disposal and recovery of waste by the undertaking which produced it, at the place of production (*Inter-Environnement Wallonie*, cited above, paragraph 29).
- 57 In those circumstances, the Commission's action must be upheld.
- 58 It must therefore be held that, in so far as the provisions at issue excluded from the scope of the national legislation relating to waste excavated earth and rocks intended for actual re-use for filling, backfilling, embanking or as aggregates, with the exception of those from contaminated and decontaminated sites with a concentration of pollutants above the acceptable limits laid down by the regulations in force, the Italian Republic has failed to fulfil its obligations under the directive.

Costs

- 59 Under Article 69(2) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been claimed in the successful party's pleadings. Since the Commission has applied for costs and the Italian Republic has been unsuccessful, the latter must be ordered to pay the costs.

On those grounds, the Court (Third Chamber) hereby:

- 1. Declares that, in so far as Article 10 of Law No 93 of 23 March 2001 concerning provisions on the environment and Article 1(17) and (19) of Law No 443 of 21 December 2001 delegating to the Government matters of infrastructure and strategic installations of production and of other action to boost production excluded from the scope of the national legislation relating to waste excavated earth and rocks intended for actual re-use for filling, backfilling, embanking or as aggregates, with the exception of those from contaminated and decontaminated sites with a concentration of pollutants above the acceptable limits laid down by the regulations in force, the Italian Republic has failed to fulfil its obligations under Council Directive**

75/442/EEC of 15 July 1975 on waste, as amended by Council Directive 91/156/EEC of 18 March 1991;

2. Orders the Italian Republic to pay the costs.

[Signatures]

* Language of the case: Italian.

4. WASTE ACTIVITY AUTHORISATIONS (DECISION TREES)

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5. THIRD SCHEDULE PART 1 - CLASSES OF ACTIVITIES SUBJECT TO A WASTE FACILITY PERMIT

<p>Class No. 1 The reception and temporary storage, pending collection, other than by a local authority, where not otherwise regulated by a waste licence or certificate of registration, or exempted in accordance with the provisions of article 39 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 of —</p> <p>(1) household hazardous waste (other than WEEE and mercury containing waste or used batteries and accumulators) at a civic amenity facility, recycling centre or central collection point where annual intake shall not exceed—</p> <p>(i) in the case of liquid waste, 100,000 litres,</p> <p>(ii) in the case of non-liquid waste, 100 tonnes.</p> <p>(2) WEEE at any premises</p> <p>for the purpose of onward transport and submission to recovery at an authorised facility.</p>	
Examples	Private sector waste transfer station, civic amenity site, recycling centre or central collection point for reception and temporary storage of household hazardous waste (HHW) and/or WEEE prior to onward submission to recovery.
Wastes	<p>HHW and/or WEEE.</p> <p>HHW means 'hazardous waste produced within the curtilage of a building or self-contained part of a building used for the purposes of living accommodation as well as commercial and other waste which, because of its nature or composition, is similar to household waste'.</p> <p>Waste electrical and electronic equipment (WEEE) means 'electrical and electronic equipment which is waste within the meaning of article 1(a) of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006, including all components, subassemblies and consumables which are part of the product at the time of discarding'.</p>
Caveats	<p>Reception and temporary storage only.</p> <p>Storage duration shall not exceed 6 months.</p> <p>Waste must be stored for the purpose of onward submission to recovery.</p> <p>HHW shall not contain WEEE, mercury-containing waste, used batteries or accumulators.</p>
Threshold	<p>Annual intake shall not exceed 100,000 litres of liquid HHW and 100 tonnes of non-liquid HHW.</p> <p>No limit for WEEE.</p>

Class No. 2 The Reception, storage (including temporary storage) and recovery of waste vehicles (other than end-of-life vehicles) having regard to the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006).	
Examples	Private sector depollution facility for waste vehicles other than end-of-life vehicles (ELVs), e.g. motorbikes, lorries, tractors and buses.
Wastes	<p>Waste vehicles other than ELVs.</p> <p>ELVs are typically waste passenger cars or light commercial vans – see definitions in the Waste Management (End-Of-Life Vehicles) Regulations 2006 for more detail. Therefore, examples of waste vehicles that are not ELVs are waste motorbikes, lorries, tractors and buses.</p>
Caveats	The recovery of waste vehicles must have regard to the provisions of Articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006. Article 14 deals with obligations on Authorised Treatment Facilities to hold a waste licence or permit and to meet minimum technical requirements for storage, treatment and recovery. Article 15 deals with the appropriate treatment including minimum requirements for depollution.
Threshold	None.

Class No. 3 The reception, treatment and recovery of WEEE (including removal of all fluids and dismantling or disassembly or removal of WEEE substances, preparations and components prior to treatment) in accordance with the provisions of articles 20 and 21 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations (S.I. No. 340 of 2005). Annual intake shall not exceed 10,000 tonnes per annum.	
Examples	Authorised Treatment Facility for the treatment of WEEE accepting not more than 10,000 tonnes per year.
Wastes	WEEE – see WFP Class No. 1 for definition.
Caveats	The activity shall be carried out in accordance with the provisions of Articles 20 and 21 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations (S.I. No. 340 of 2005). These articles relate to the proper storage and treatment of WEEE.
Threshold	Annual intake shall not exceed 10,000 tonnes.

Class No. 4 The reception, storage and recovery of scrap metal, including scrap metal arising from end-of-life vehicles, waste vehicles (other than end-of-life vehicles) and WEEE where scrap metal from —

- (1) end-of-life vehicles shall be subject to appropriate treatment and recovery in accordance with the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006) prior to acceptance at the scrap metal facility, and as appropriate,
- (2) waste vehicles (other than end-of-life vehicles) shall be subject to appropriate treatment and recovery having regard to the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006) prior to acceptance at the scrap metal facility, and as appropriate,
- (3) WEEE shall be subject to appropriate treatment and recovery in accordance with the provisions of articles 20, 21 and 22 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005) prior to acceptance at the scrap metal facility.

Examples	Private sector scrap metal recycling facility. Accepts scrap metal, depolluted end-of-life vehicles (ELVs), depolluted waste vehicles other than ELVs and treated WEEE.
Wastes	<ul style="list-style-type: none"> ➤ Scrap metal. ➤ ELVs – see WFP Class No. 2 for definition. ➤ Waste vehicles other than ELVs – see WFP Class No. 2 for definition. ➤ WEEE – see WFP Class No 1 for definition.
Caveats	The ELVs, waste vehicles other than ELVs and WEEE shall be treated in accordance with the relevant regulations, i.e. treated/depolluted, before being brought on-site.
Threshold	None.

Class No 5. Recovery of excavation or dredge spoil, comprising natural materials of clay, silt, sand, gravel or stone and which comes within the meaning of inert waste, through deposition for the purposes of the improvement or development of land, where the total quantity of waste recovered at the facility is less than 100,000 tonnes.

Examples	A farmer needs to fill part of a field which is steeply sloping and cannot be safely trafficked with farm machinery reducing the usability of the land. The topsoil will be removed, the area filled and the topsoil replaced. Approximately 30,000 tonnes of material is required to reduce the slope to a suitable gradient. The farmer intends to use
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	<p>inert subsoil discarded from excavations associated with housing developments in the area as this is a cheap and suitable source and more environmentally friendly than using quarry product.</p> <p>A farmer keeping livestock. Part of the land has elevated levels of selenium, which have been identified as toxic to the livestock. The best solution is placement of a 1m layer of subsoil topped with topsoil to break the pathway from source to receptor. Approximately 35,000tonnes of topsoil and subsoil is required to cover the area. The farmer intends to use inert waste soil and subsoil discarded from excavations associated with housing developments in the area as this is a cheap and suitable source and more environmentally friendly than using quarry product.</p> <p>This class is not confined to improvement of land such as agricultural land. It also covers development of land, e.g. engineering uses such as the car-park example given for WFP Class No. 6 if inert soil and stone only is involved.</p>
Wastes	<p>Excavation or dredge spoil, comprising natural materials of clay, silt, sand, gravel or stone.</p> <p>Dredge spoil means 'waste materials arising from dredging operations from the sea, an estuary or an inland waterway'.</p>
Caveats	<p>The waste shall be inert.</p> <p>Inert waste means 'waste that:</p> <ul style="list-style-type: none"> (a) does not undergo any significant physical, chemical or biological transformations, (b) will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter, or be adversely affected by other matter, including waters, with which it comes into contact in a way that causes or is likely to cause environmental pollution, or (c) in particular, will not endanger the quality of surface water or groundwater. <p>The deposition shall be for the purposes of the improvement or development of land. Evidence from an appropriately qualified person (e.g. agricultural scientist or engineer) should be sought detailing how the waste will be used, its suitability for purpose and how it will lead to improvement of the land or contribute to the development of the land.</p>
Threshold	100,000 tonnes total intake over the life of the activity.

Class No. 6 Recovery of inert waste (other than excavations or dredgings comprising natural materials of clay, silt, sand, gravel or stone) through deposition for the purposes of the improvement or development of land, where the total quantity of waste recovered at the facility is less than 50,000 tonnes.	
Examples	Private sector car-park development associated with a shopping center. The developer requires an estimated 15,000tonnes of material to form a base for the car-park and intends to use waste concrete, bricks, tiles and ceramics from the demolition of a nearby building complex.
Wastes	<p>Inert waste (other than excavations or dredgings comprising natural materials of clay, silt, sand, gravel or stone), e.g. mixtures of concrete, bricks, tiles and ceramics.</p> <p>See WFP Class No. 5 for definition of inert waste.</p>
Caveats	As per WFP Class No. 5.
Threshold	50,000 tonnes total intake over the life of the activity.

Class No. 7 Recovery of inert waste arising from construction and demolition activity, including concrete, bricks, tiles, or other such similar material, at a facility (excluding land improvement or development) where—	
(a) the annual intake shall not exceed 50,000 tonnes, and	
(b) the maximum quantity of residual waste consigned from the facility for collection, onward transport and submission to disposal at an authorized facility shall not exceed 15% of the annual intake.	
Examples	Private sector construction and demolition (C&D) waste recycling facility that takes in inert waste from construction and demolition activities, such as concrete, bricks and tiles. The material is separated (including removal of entrained materials such as metals, timber and plastic) and the concrete, bricks and tiles are crushed to a suitable specification for use in construction projects. Most of the entrained material (e.g. metals) is sent onwards for recovery but some residual has to be sent for disposal. The annual intake is 40,000tonnes and the maximum quantity of residual sent for disposal is 6,000tonnes (15%).
Wastes	Inert wastes arising from C&D activity, such as mixtures of concrete, bricks, tiles and ceramics.
Caveats	<p>The waste shall be inert. See WFP Class No. 5 for definition of inert waste.</p> <p>Selected C&D wastes with low contents of other types of materials (metals, plastic, organics, wood, rubber, etc) are acceptable. The origin of the waste must be known.</p> <p>C&D waste from constructions polluted with dangerous substances</p>

	<p>(e.g. because of production processes in the construction, soil pollution, storage and usage of pesticides or other dangerous substances, etc.) are not acceptable unless it is demonstrated that the demolished construction was not significantly polluted. C&D waste from constructions, treated, covered or painted with materials containing dangerous substances in significant amounts are not acceptable.</p> <p>Residual waste consigned onwards for disposal shall not exceed 15% of the annual intake.</p>
Threshold	Annual intake shall not exceed 50,000 tonnes.

<p>Class No. 8 The reception, storage and biological treatment of biowaste at a facility where—</p> <p>(a) the maximum amount of compost, biowaste and digestate held at the facility does not exceed 6,000 cubic metres at any time, and</p> <p>(b) the annual intake shall not exceed 10,000 tonnes.</p>	
Examples	Private sector composting or anaerobic digestion facility which takes in various organic wastes including food/organic wastes from a domestic brown bin collection service and from canteens in local offices and commercial developments.
Wastes	<p>Biowaste.</p> <p>Biowaste means 'source segregated household or commercial waste of an organic or putrescible character, such as food or garden waste'.</p>
Caveats	Maximum amount of compost, biowaste and digestate held at the facility shall not exceed 6,000 cubic metres at any time.
Threshold	Annual intake shall not exceed 10,000 tonnes

<p>Class No. 9 The reception, temporary storage and recovery of used batteries and accumulators where—</p> <p>(a) from 26 September 2008, the treatment and recycling of used batteries and accumulators meets the requirements of article 12 of Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and</p> <p>(b) the annual intake shall not exceed 1,000 tonnes.</p>	
Examples	Private sector battery recycling center with an annual intake less than 1,000tonnes.
Wastes	Batteries and accumulators.

Caveats	<p>From 26 September 2008, the treatment and recycling of used batteries and accumulators shall meet the requirements of article 12 of Directive 2006/66/EC (establishment of schemes for the collection and treatment of waste batteries).</p> <p>Storage duration shall not exceed 6 months.</p>
Threshold	Annual intake shall not exceed 1,000 tonnes

<p>Class No. 10 The recovery of waste (not mentioned elsewhere in this part of the third schedule), other than hazardous waste or an activity specified in Category 5 of Annex I of Council Directive 96/61/EC, where— (a) the annual intake does not exceed 50,000 tonnes, and (b) the maximum quantity of residual waste consigned from the facility for onward transport and submission to disposal at an authorised facility shall not exceed 15% of the annual intake.</p>	
Examples	<p>Private sector materials recovery facility, which takes in kerbside dry recyclables. The dry recyclables are separated into various fractions (e.g. newspaper, cardboard, tin, aluminum, plastic) by hand picking and tromelling and consigned onwards for further recovery. The annual intake is approximately 40,000tonnes and typically approximately 4,000tonnes (10%) is not recyclable and has to be sent for disposal.</p> <p>For general purpose skip hire activities, it is not known in advance what percentage of the waste will be recoverable and, accordingly, facilities which take in waste in this manner should be considered waste disposal facilities and should not be authorised under WFP Class No. 10. They could be authorised under WFP Class No. 11 below subject to the 7,500 tonne/annum threshold. Otherwise, an EPA waste licence is required.</p> <p>Facilities which take in construction and demolition waste skips, where there is confidence in obtaining a high percentage of recyclables, could be considered under WFP Classes No. 7 or 10 subject to the caveats therein.</p>
Wastes	Wastes other than hazardous waste.
Caveats	<p>Shall not be mentioned elsewhere in the Third Schedule Part 1.</p> <p>Residual waste consigned onwards for disposal shall not exceed 15% of the annual intake.</p>
Threshold	Annual intake shall not exceed 50,000 tonnes.

Class 11. The reception, storage and transfer of waste (other than hazardous waste) for disposal at a facility (other than a landfill facility) where the annual intake does not exceed 7,500 tonnes.	
Examples	Waste transfer station which takes in mixed municipal waste which is bulked-up and consigned onwards for disposal.
Wastes	Wastes other than hazardous waste.
Caveats	Reception, storage and transfer only. Waste must be stored for the purpose of onward submission to disposal .
Threshold	Annual intake shall not exceed 7,500 tonnes.

Class No. 12 The collection and storage (including the temporary storage) and the appropriate treatment and recovery of end-of-life vehicles in accordance with the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006).	
Examples	Private sector depollution facility for end-of-life vehicles (ELVs).
Wastes	ELVs – see WFP Class No. 2 for definition.
Caveats	The recovery of the ELVs must be in accordance with the provisions of Articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006. Article 14 deals with obligations on Authorised Treatment Facilities to hold a waste licence or permit and to meet minimum technical requirements for storage, treatment and recovery. Article 15 deals with the appropriate treatment including minimum requirements for depollution.
Threshold	None.

6. THIRD SCHEDULE PART II - CLASSES OF ACTIVITIES SUBJECT TO A CERTIFICATE OF REGISTRATION

<p>Class No. 1 The storage, pending collection, of household hazardous waste (other than WEEE) at a civic amenity facility, recycling centre or central collection point, where not otherwise regulated by a waste licence or waste facility permit for the purpose of onward transport and submission to recovery at an authorised facility where—</p> <p>(a) annual intake shall not exceed—</p> <p>(i) in the case of liquid waste, 25,000 litres</p> <p>(ii) in the case of non-liquid waste, 25 tonnes, and</p> <p>(b) the maximum period of storage of waste does not exceed 30 days.</p>	
Examples	Small-scale hazardous waste transfer stations or civic amenity sites.
Wastes	HHW other than WEEE – see WFP Class No. 1 for definitions of HHW and WEEE.
Caveats	<p>Storage only.</p> <p>Storage duration shall not exceed 30 days.</p> <p>Waste must be stored for the purpose of onward submission to recovery.</p>
Threshold	Annual intake shall not exceed 25,000 litres of liquid HHW and 25 tonnes of non-liquid HHW.

<p>Class No. 2 The reception and temporary storage of waste (other than WEEE) deposited by members of the public at a central collection point (including a temporary central collection point) when such activity is undertaken by, on behalf of, or with the approval of the local authority, where the maximum amount of waste stored at any time does not exceed 1,000 tonnes.</p>	
Examples	<p>Civic amenity site operated by a private contractor for a local authority.</p> <p>Bring centre for glass, paper, cans, plastic, clothes.</p>
Wastes	Waste other than WEEE - see WFP Class No. 1 for definition of WEEE.
Caveats	<p>Reception and temporary storage only.</p> <p>Storage duration shall not exceed 6 months.</p> <p>Activity shall be undertaken by, on behalf of, or with the approval of the local authority.</p>

Threshold	Maximum amount of waste stored at any time shall not exceed 1,000 tonnes.
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Class No. 3 The reception and interim storage of crashed or immobilised vehicles, other than end-of-life-vehicles, pending decisions by the registered owners of these vehicles, or as appropriate, by an authorised person of a local authority, or a member of An Garda Síochána on whether the vehicles are to be classed as end-of-life vehicles. The number of vehicles stored at any one time shall not exceed 6 at any one location and at any one time.

Examples	Local authority compound for storage of crashed or immobilised vehicles.
Wastes	Vehicles.
Caveats	Reception and interim storage only.
Threshold	Maximum number of vehicles stored at any one time shall not exceed 6.

Class No. 4 Reception and temporary storage, for a period not exceeding 30 days, pending collection for recovery of—

- (a) less than 1000 kilograms of used batteries and accumulators other than waste specified in paragraph (b), or
- (b) less than 10 tonnes of used automotive batteries and accumulators, or used industrial batteries and accumulators, or
- (c) less than 1 tonne of discarded equipment containing chlorofluorocarbons (other than WEEE), or
- (d) less than
 - (i) 540 cubic metres of household WEEE, other than waste specified in subparagraphs (ii) and (iii),

- (ii) 12,000 units of WEEE categories in accordance with Category 5 of the first schedule of the Waste Management (Waste Electrical and Electronic Equipment) Regulations, 2005 (S.I. No. 340 of 2005) or, as appropriate
 - (iii) 300 kilograms of mobile phones,

for the purpose of onward transport to an authorised treatment facility of WEEE when undertaken in accordance with the requirements of article 39 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005.

Examples	Bring centre for used batteries, accumulators, discarded equipment, containing chlorofluorocarbons and certain categories of WEEE.
Wastes	Used batteries and accumulators. Discarded equipment containing CFCs. Household WEEE – see WFP Class No. 1 for definition of WEEE. Lighting equipment. Mobile phones.

Detail	<p>Temporary storage only.</p> <p>Storage duration shall not exceed 30 days.</p> <p>Waste must be stored for the purpose of onward submission to recovery.</p>
Threshold	<p>Less than 1000 kilograms of batteries and accumulators.</p> <p>Less than 10 tonnes of automotive batteries and accumulators.</p> <p>Less than 1 tonne of discarded equipment containing chlorofluorocarbons (other than WEEE).</p> <p>Less than 540 cubic metres of household WEEE.</p> <p>Less than 12,000 units of lighting equipment.</p> <p>Less than 300 kilograms of mobile phones.</p>

Class No. 5 Recovery of excavation or dredge spoil, comprising natural materials of clay, silt, sand, gravel or stone and which comes within the meaning of inert waste, through deposition for the purposes of the improvement or development of land and the total quantity of waste recovered at the site shall not exceed 25,000 tonnes.

Examples	As per WFP Class No. 5, except thresholds.
Wastes	As per WFP Class No. 5.
Caveats	As per WFP Class No. 5.
Threshold	25,000 tonnes total intake over the life of the activity.

Class No. 6 Recovery of inert waste (other than excavations or dredgings comprising natural materials of clay, silt, sand, gravel or stone), for the purpose of the improvement or development of land and the total quantity of waste recovered at the site shall not exceed 10,000 tonnes.

Examples	As per WFP Class No. 6, except thresholds.
Wastes	As per WFP Class No. 6.
Caveats	As per WFP Class No. 6.
Threshold	10,000 tonnes total intake over the life of the activity.

Class No. 7 Recovery of inert waste arising from construction and demolition activity, including concrete, bricks, tiles, or other such similar material, at a facility (excluding the improvement or development of land) where—

- (a) the annual intake shall not exceed 10,000 tonnes, and
- (b) the maximum quantity of residual waste consigned from the facility for submission to disposal at an authorised facility shall not exceed 15% of the annual intake.

Examples	As per WFP Class No. 7, except thresholds.
Wastes	As per WFP Class No. 7.
Caveats	As per WFP Class No. 7.
Threshold	10,000 tonnes total intake over the life of the activity.

Class No. 9 The storage at the place of extraction, for an indefinite length of time to await possible use for site restoration of waste material arising from quarrying or excavation where —

- (a) conditions on waste management have not been imposed under section 261 of the Planning and Development Act 2000 (No. 30 of 2000), and
- (b) such material is in a chemically unaltered state.

Examples	Storage of quarry excavations within quarry for indefinite length of time to await possible use in restoration of the quarry. Storage of road excavations within the boundary of the road project for an indefinite length of time to await possible use in site restoration.
Wastes	Excavated material
Caveats	Storage only. Storage shall be at place of extraction. Conditions on waste management have not been imposed under section 261 of the Planning and Development Act 2000. Material shall be chemically unaltered.
Threshold	None.

Class No. 10 The reception, storage and transfer of waste by a local authority, not mentioned elsewhere in this schedule, where the annual intake does not exceed 10,000 tonnes, and— (a) the maximum amount of waste dispatched from the facility for onward transport and disposal does not exceed 1,500 tonnes per annum, and (b) a period of storage of waste for disposal does not exceed 30 days.	
Examples	Local Authority civic amenity site. Local Authority materials recycling facility for dry kerbside recyclables.
Wastes	All wastes
Caveats	Local Authority activities only. Reception, storage and transfer only. Shall not be mentioned elsewhere in the Third Schedule. Residual waste consigned onwards for disposal shall not exceed 1,500 tonnes and shall not be stored for >30days.
Threshold	Annual intake shall not exceed 10,000 tonnes.

Class No. 11 The reception, storage and biological treatment of biowaste by a local authority, not mentioned elsewhere in this schedule, where — (a) the annual intake does not exceed 5,000 tonnes, and (b) the maximum amount of biowaste, compost and digestate held at a composting facility does not exceed 2,000 tonnes at any time.	
Examples	Local Authority composting or anaerobic digestion facility which takes in various organic wastes including food/organic wastes from a domestic brown bin collection service and from canteens in local offices and commercial developments.
Wastes	Biowaste. Biowaste means 'source segregated household or commercial waste of an organic or putrescible character, such as food or garden waste'.
Caveats	Local Authority activities only. Maximum amount of compost, biowaste and digestate held at the facility shall not exceed 2,000 cubic metres at any time.
Threshold	Annual intake shall not exceed 5,000 tonnes.

Class No. 12 The storage and biological treatment on the premises where it is produced, of biowaste, where— (a) the amount stored and treated does not exceed 50 tonnes per annum, and (b) the maximum amount of biowaste, compost and digestate held at the facility at any time does not exceed 20 tonnes.	
Examples	Small-scale composting or anaerobic digestion units, e.g. operated at hotels.
Wastes	Biowaste. Biowaste means 'source segregated household or commercial waste of an organic or putrescible character, such as food or garden waste'.
Detail	Activity shall be on premises where waste produced. The maximum amount of biowaste, compost and digestate held at the facility shall not exceed 20 tonnes.
Threshold	Amount stored and treated shall not exceed 50 tonnes per annum.

Class No. 13 Recovery of organic waste, other than manure and sludge when used in agriculture for the purposes of benefit to agriculture (including energy crops), silviculture or ecological improvement, where the total quantity of organic waste recovered at the facility shall not exceed 1,000 tonnes per annum.	
Examples	Landspreading of organic waste from non-IPPC dairy plant.
Wastes	Organic waste. Organic waste means 'any waste that is capable of undergoing anaerobic or aerobic decomposition through a biological treatment process, such as food and garden waste'.
Caveats	Recovery only.
Threshold	Total quantity recovered shall not exceed 1,000 tonnes per annum.

Class No. 14 The reception and temporary storage of—

(a) waste, returned or recovered refrigerant gases in refrigerant containers, or

(b) waste, returned or recovered halons in halon containers, or

(c) waste, returned or recovered fluorinated greenhouse gases in fluorinated greenhouse gas containers,

pending collection or onward transport prior to submission to recycling, reclamation or destruction in accordance with the relevant legislative requirements for the specific type of refrigerant gas, halon or fluorinated greenhouse gas, where recovery has the meaning assigned to it under Regulation (EC) No. 2037/2000 and Regulation (EC) No. 842/2006, and where the total quantity stored at any one time on a premises does not exceed 18 tonnes.

Examples	Small scale centralised collection and transfer station for refrigerant gases, halons and fluorinated greenhouse gases.
Wastes	Refrigerant gases. Halons. Fluorinated greenhouse gases.
Caveats	Reception and temporary storage only. Storage duration shall not exceed 6 months. Storage must be pending onward submission to recycling, reclamation or destruction in accordance with the relevant legislative requirements.
Threshold	Total quantity stored shall not exceed 18 tonnes at any one time.

Activities covering more than one class

The Third Schedule Parts I and II have a note to the effect that:

Where the waste-related activities being undertaken within a facility encompass a number of the classes as set out within part II of the third schedule, the quantity of waste concerned shall be taken as meaning the total quantity of waste accepted at the facility taking account of inputs relating to all classes of activity and compared to the threshold of the principal class.

This means that the cumulative amount of waste managed must be taken into account and compared with the threshold for the principal activity when deciding what authorisation is required. This is best illustrated by way of the two following examples.

Example 1

A farmer needs to fill part of a field which is steeply sloping and cannot be safely trafficked with farm machinery reducing the usability of the land. The topsoil will be removed, the area filled and the topsoil replaced. The farmer intends to use inert soil discarded from excavations associated with a housing development in the area but also wishes to use inert construction and demolition (C&D) waste (concrete, bricks and tiles) which will also arise as part of the housing development. The farmer intends to bring in 20,000tonnes of soil and 8,000tonnes of C&D.

The 20,000tonnes of soil is the principal activity and on its own would require CoR Class 5. However, the 8,000tonnes of C&D brings the cumulative amount of material to 28,000 tonnes which breaches the threshold of 25,000tonnes for CoR Class 5. Therefore, a WFP is required.

Example 2

Combined C&D recycling facility and materials recovery facility for kerbside dry recyclables. The C&D waste recycling part of the facility has an annual intake is 35,000tonnes and the maximum quantity of residual sent for disposal is 5,000tonnes. The materials recovery part of the facility has an annual intake of 40,000tonnes and 4,000tonnes is sent for disposal. The materials recovery part of the facility is the principal activity and on its own would require WFP Class 10. However, the combined the annual intake of 75,000tonnes would breach the threshold of 50,000tonnes for Class 10, hence the combined activity requires a waste licence.

**7. WASTE FACILITY PERMIT AND CERTIFICATE OF
REGISTRATION APPLICATION FORM**

For Office Use Only:

Application Reference Number:

Return Number (If Applicable):

**WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION
APPLICATION FORM**

[TO LOCAL AUTHORITY NAME]

Document Reference number:

1. GENERAL	1
1.1 Introduction	1
1.2 Pre-application consultation	1
1.3 Guidance on the Application Form	2
1.4 Additional Documents to be Included:	3
1.5 About these Guidance Notes	4
2. WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM	5
Section A: Type of Application	5
Section B: About the Applicant	6
Section C: About the Facility	10
Section D: About the Activity	13
Section E: Facility Setting.	23
Section F: Additional Information.	26
Section G: Statutory Declaration	27

APPENDICES

- 1. CHECKLIST OF INFORMATION TO BE SUPPLIED WITH APPLICATION**
- 2. DISPOSAL AND RECOVERY ACTIVITIES AS PER THE THIRD AND FOURTH SCHEDULES OF THE WASTE MANAGEMENT ACTS 1996-2007**
- 3. THIRD SCHEDULE PART 1 AND PART 11**
- 4. FOURTH SCHEDULE**
- 5. ARTICLE 11 REQUEST FORM**

1. GENERAL

1.1 Introduction

This form is for the following purposes under the Waste Management (Facility Permit and Registration) Regulations S.I. No. 821 of 2007 and the Waste Management (Facility Permit and Registration) Amendment Regulations S.I. No. 86 of 2008 (hereafter referred to as the Regulations);

- (a) The making of an application for a Waste Facility Permit; or
- (b) The making of an application for a Review of a Waste Facility Permit; or
- (c) The making of an application for a Certificate of Registration; or
- (d) The making of an application for a Review of a Certificate of Registration.

The Guidance Manual and application form are available to download from the **(Insert Local Authority Name and weblink)** or from www.epa/wastepermit

In order to make the application process as efficient as possible it may be necessary for the relevant local authority to contact the applicant or a representative for the applicant while processing the application. The application contact person must have a good knowledge of the application form and the detail within. For this reason it is recommended that the application contact person should be the person who has completed the application form and any relevant supporting information.

1.2 Pre-application consultation

It is recommended that pre-application consultations or discussions with the relevant local authority (In the case of a private sector application) or with the Agency (In the case of a Local Authority application) are undertaken before a formal submission of any of the above types of applications.

The pre-application consultation also fulfils requirements under the Environmental Impact Assessment (EIA) Regulations, for sites that may require an EIA¹. It may be that you need to hold a separate meeting with the relevant planning authority.

Where people want clarification under Article 11 of the Regulations, Appendix three contains a proforma on **Request to Environmental Protection Agency for determination as to whether an activity requires a waste licence, waste facility permit, certificate of registration or none of these**

It is recommended that the applicant familiarise themselves with the application form and regulations before beginning to complete the application. In addition applicants need to be aware of the requirements of the relevant Waste Management Plan/s for the region or regions and the National Hazardous Waste Management Plan 2008-2012.

¹ Disposal or recovery activity >25,000 tonnes require an EIS (S.I. No. 349/1989: European Communities (Environmental Impact Assessment) Regulations, 1989.)

Any change or extension of development which would result in an increase in size greater than 25%, or an amount equal to 50% of the appropriate threshold, whichever is the greater. (S.I. No. 93 of 1999. European Communities (Environmental Impact Assessment) (Amendment) Regulations, 1999.)

Waste management plans are available to download from all local authority websites. The National Hazardous Waste Management Plan 2008-2012 produced by the EPA is available at:

<http://www.epa.ie/downloads/pubs/waste/haz/>

If you need to contact << Local authority/Agency to insert authority and the division name dealing with application here>> concerning your application, please use the numbers provided in the table below.

<<Insert Local Authority Contact Name/s and Numbers Here>>

1.3 Guidance on the Application Form

An application for a Waste Facility Permit is made under Article 10 of the Regulations. The contents of an application and the information to accompany an application are specified in this Article.

An application for a Review of an existing Waste Facility Permit by a permit holder is made under Article 31.

An application for a Certificate of Registration is made under Article 37.

An application for a Review of an existing Certificate of Registration is made under Article 38.

The application form is designed in such a way as to set out these questions in a structured manner and not necessarily in the order presented in the Regulations.

All sections in this application form may not be relevant to every application, activity or type of applicant. However, the applicant should look carefully through the complete form and provide all relevant information. If any question is considered 'not applicable' this should be stated in full. The use of the abbreviations (e.g., N.A. or dash) should be avoided.

Applicants for a review of a facility permit or a certificate of registration should provide all relevant information specific to the review. If any question is considered 'not applicable' this should be stated in full.

Additional attachments may be included to supply any further information supporting the application. Attachments should be clearly numbered, titled and paginated and must contain the required information as set out in the application form.

Consistent measurement units must be used throughout the application form. **Table 1** on page 3 details the volume to weight conversion factors taken from the waste management (landfill levy) regulations, 2002, S.I. No. 86 of 2002.

Table 1. Volume to weight conversion factors

Waste category	Typical waste types	Cubic metres to tonnes - multiply by:	Cubic yards to tonnes – multiply by:
Inactive or inert waste	Largely water insoluble and non or very slowly biodegradable: e.g. sand, subsoil, concrete, bricks, mineral fibres, fibreglass etc.	1.5	1.15
General industrial waste - non-special, not compacted. (As compaction can significantly increase the density of this category of waste, if compacted wastes are accepted it will be necessary to uplift the conversion factor accordingly)	Paper and plastics.	0.15	0.11
	Card, pallets, plasterboard, canteen waste, sawdust, textiles, leather.	0.4	0.3
	Timber, building and construction wastes, factory waste and sweepings, etc.	0.6	0.46
	Foundry sands, slags, pulverised fuel ash, ashes from waste incineration.	1.5	1.15
Household waste - not compacted	Non-special, non-inert wastes from domestic premises, including collected household waste.	0.2	0.15
Household waste - compacted (includes all bulk disposals)	Non-special, non-inert wastes from domestic premises, including collected household waste.	0.4	0.30
Commercial waste - not compacted. (As compaction can significantly increase the density of this category of waste, if compacted wastes are accepted it will be necessary to uplift the conversion factor accordingly)	Non-special, non-inert wastes from shops, hospitals, leisure centres, offices, etc., including civic amenity waste, parks and gardens waste, supermarket, shop and restaurant waste, general office waste.	0.2	0.15
Other wastes not otherwise referred to		1.0	0.76

Note: If a consignment of waste falls into more than one of the categories specified in the above table, the higher conversion factor shall apply to all of the waste.

1.4 Additional Documents to be Included:

Documents and information which must be supplied with the application are presented as a checklist in **Appendix 1** of this application form. The applicant is advised to complete the checklist and submit with the application. Any applicant who not submit all of the relevant documents will be contacted by the local authority to supply the missing documents within a set timescale.

NOTE: Local authority to insert required numbers of copies of all documentation. 5 is the legal requirement, but some local authorities request more.

1.5 About these Guidance Notes

These guidance notes have been developed to assist applicants in the preparation of an application for a Waste Facility authorisation.

This document does not purport to be and should not be considered a legal interpretation of the provisions and requirements of the Waste Management (Facility Permit and Registration) Regulations 2007 and the Waste Management (Facility Permit and Registration) Amendment Regulations S.I No.86 of 2008.

While every effort has been made to ensure the accuracy of the material contained in this document, the competent authority assumes no responsibility and gives no guarantees; undertakings and warranties concerning the accuracy, completeness or up-to-date nature of the information provided herein and does not accept any liability whatsoever arising from any errors or omissions.

For more detailed guidance please refer to the website at www.epa/wastepermit

2. WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

Section A: Type of Application

A.1 Please tick the relevant box to which this application applies (Only one box may be ticked).

Application for a Waste Facility Permit	<input type="checkbox"/>
Application for a Review of a Waste Facility Permit	<input type="checkbox"/>
Application for a Certificate of Registration	<input type="checkbox"/>
Application for a Review of a Certificate of Registration	<input type="checkbox"/>

A.2 Is the application being completed by a Consultant/Agent?

Yes ☐

No ☐

If **yes** give the Consultant's/Agent's name, address and contact details below.

Address:	
Tel:	
Fax:	
e-mail:	
Contact Name:	

Section B: About the Applicant

This section relates to the applicant(s) who will be operating the waste facility.

B.1 Full name of applicant(s) [Article 10 (1) (a)]

Applicant(s) must be a legal entity (individual, sole trader, partnership or body corporate).

Name(s):	
Name(s):	
Name(s):	

B.2 All trade name(s) used or proposed to be used by the applicant(s) [Article 10 (1) (b)]

Trade Name:	
Trade Name:	

If the applicant(s) is a sole trader, section B3 and B4 do not need to be completed.

B.3 Is the applicant(s) a body corporate? [Article 10 (1) (h)]

Yes ☐

No ☐

(i) If yes please give the company number and supply a copy of the appropriate certificate issued by the Companies Registration Office

(ii) If yes please give the specified Company Registration or Trade Name if trading under a name. [Article 10 (1) (i)]

Company Number:	
Document(s) Reference:	

B.4 Is the applicant(s) a partnership? [Article 10 (1) (e)]

Yes ☐

No ☐

If the applicant is a partnership, give the names and addresses of all partners:

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

Name:	
Address:	
Name:	
Address:	
Name:	
Address:	

B.5 Full address of applicant(s) [Article 10 (1) (d)]

The address of the principal place of business, or in the case of a body corporate the registered or principal office, of the applicant(s) and, where applicable, the telephone number, telefax number and e-mail address of the applicant(s), and, if different, any address to which correspondence relating to the application should be sent:

Address:	
Tel:	
Fax:	
e-mail:	
Contact Name:	

If the applicant(s) is a body corporate please give the name and address of any person who is a director, manager, company secretary or other similar officer of each body corporate: [Article 10 (1) (f)]

Name, address and position:	
Name, address and position:	
Name, address and	

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

position:	
Name, address and position	
Name, address and position:	

B.6 Legal Interest in the land [Article 10 (1) (c)]

State and provide a copy of the proof of the legal interest and permission held by the applicant(s) in the land on which the proposed facility is located (e.g. leaseholder, owner, tenant, prospective purchaser):

Legal Interest:	
Document(s) Reference:	

B.7 Relevant Convictions/Court Order

Has the applicant, including in the case of a body corporate any officer of that body corporate, been convicted of any offence, the Act, the Environmental Protection Agency Acts 1992 and 2003, the Local Government (Water Pollution) Acts 1977 and 1990 or the Air Pollution Act 1987 and the Waste Management (Facility Permit and Registration) Regulations S.I No. 821 of 2007 and the Waste Management (Facility Permit and Registration) Amendment Regulations S.I No. 86 of 2008 within the previous 10 years? [Article 10 (1) (dd)]

Yes ☐

No ☐

If yes (a) please include a supplementary sheet detailing the court hearing, case, nature of the offence and any penalty or requirements imposed by the court. Where there is more than one offence to be considered, please use a separate sheet for each offence. [Article 10 (1) (dd)]

Document(s) Reference:	
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If yes (b) please include a supplementary sheet detailing any requirement imposed on the applicant by order of the court under the Act [Article 10 (1) (ee)]

Document(s) Reference:	
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Where the applicant is a person or partnership, include details of any such conviction where the person or partner was at any time within the last 10 years prior to this application, a director, manager, company secretary or similar officer for a body corporate. [Article 10 (2) (b)]

Document(s)	
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WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

Reference:	
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B.8 Technical Competence (Fit and Proper Person)

Please detail the applicant(s) technical knowledge and qualifications (Article 5) relevant to the management of a waste facility. Please use a separate sheet if required.

Document(s) Reference:

B.9 Financial Commitment Discharge [Article 10 (1) (s)]

Please provide particulars in respect of such matters affecting the ability of the applicant(s) to meet the financial commitments or liabilities which will be entered into or incurred by the person(s) in carrying on the activity or in ceasing to carry on the activity at the facility.

Document(s) Reference:	
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Section C: About the Facility

C.1 The location or postal address of the facility to which the application relates [Article 10 (1) (g)]

Address:	
Townland:	
National Grid Reference for centre of site (10 digit 5E,5N)	

C.2 Site Location Map and Layout Plans [Article 10 (1) (k)]

The following details must also be included:

- **Five copies (Local authority to insert number as required)** of the appropriate plans and maps (1:2500) relating to the facility including:
 - site location map,
 - proposed layout plan of facility
 - a clear delineation of the site boundaries, and
 - particulars of:
 - Ordnance Survey Sheet Reference Number(s) (1:50,000 – discovery series)
 - Elevation Levels (metres) and Ordnance Datum used
 - Dimensions (metres)
 - Orientation of North Point
- In addition five copies **(Local authority to insert number as required)** of a site layout plan (<1:5000) must also be supplied showing how the site will be laid out and including details of (where applicable)
 - Site entrance
 - Waste Storage areas
 - Waste Treatment areas
 - Site drainage, including oil interceptor (if installed)

- Site office
- Weighbridge (if present)
- Traffic flow
- Nature of surfacing within the permitted facility
- Emission points

C.3 Planning Permission and Planning Authority [Article 10 (1) (t)]

State the planning permission or planning application number (whichever is applicable at the time of submission of the application) for the facility, along with the name of the planning authority who issued it. If a certificate/declaration of exemption applies, please state this and supply a copy of the certificate/declaration of exemption:

Planning Permission Number :	
Planning Application Number:	
Local Authority:	
Document(s) Reference:	

C.4 Operating Hours

What are the proposed operating hours of the facility?

Weekdays:	
Weekends:	
Public Holidays:	

C.5 Traffic Management System [Article 10 (1) (v)]

Please provide details on any proposed internal traffic management system (including queuing)

Document(s) Reference:	
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C.6 Lifetime of the facility [Article 10 (1) (r)]

What is the expected lifetime, in years, of the facility or activity?

Expected Lifetime:	
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C.7 Agency declaration on type of authorisation [Article 10 (1) (u) & Article 11]

Has the Environmental Protection Agency declared what type of authorisation the proposed activity requires? If yes, please enclose a copy of this declaration.

Yes ☐

No ☐

Document(s) Reference:	
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Section D: About the Activity**D.1 Description of the waste activity**

Describe the nature of the waste related activity which is proposed to be carried on within the facility. [Article 10 (1) (j)]. (Continue on a separate sheet if necessary)

D.2 Is an Environmental Impact Statement (EIS) required for this activity¹? If yes, please enclose a copy of the EIS.

Yes ☐

No ☐

Document(s) Reference:	
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D.3 Class or classes of the waste activity [Article 10 (1) (l)]

Identify the class or classes of activity that will take place at the facility, in accordance with;

- (i) Disposal and Recovery activities as per the third and fourth schedules of the Waste Management Acts 1996-2007 (see **Appendix 2**); **and**

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

- (ii) Classes of Activity subject to waste facility permit application to a local authority as per Part I of the third schedule of the Regulations (see **Appendix 3**) or
- (iii) Classes of Activity subject to certificate of registration with the local authority or the Agency as per Part II of the third schedule of the Regulations (see **Appendix 4**)

Where two or more activities are carried out at the facility, identify the principal activity as per the Regulations.

Please use a separate sheet if required.

Disposal activities as per the third schedule of the Waste Management Acts 1996-2007	
Insert Class Number:	Insert Class Description
<i>Example: Class No. 1</i>	<i>Example: Deposit on, in or under land.</i>
Recovery activities as per the fourth schedule of the Waste Management Acts 1996-2007	
Insert Class Number:	Insert Class Description
Classes of Activity subject to waste facility permit application to a local authority as per Part I of the third schedule of the Regulations	
Insert Class Number:	Insert Class Description
Classes of Activity subject to certificate of registration with the local authority or the Agency as per Part II of the third schedule of the Regulations	
Insert Class Number:	Insert Class Description
Principal Activity:	
Document(s) Reference:	

D.4 Waste Volumes: [Article 10 (1) (m)]

Detail the annual quantity of waste to be handled at the facility, for each class. Please provide specifics of the following, where relevant:

- The lifetime tonnage for WFP Class 5&6 and CoR Class 5&6.
- The amount of residual waste for WFP Class 7&10 and CoR Class 7, 10
- Days of storage for CoR Class 1&10
- Quantity at any one time for WFP Class 8 and CoR Class 11, 12 & 13

Class	Upper Threshold as per 3 rd Schedule	Proposed Volume

Please state units used, which may be tonnes, cubic metres or number of units dependent upon waste type. Refer to section Table 1 Volume to weight Conversion factors in section 1.3 Guidance on the application form.

Site Throughput (with Units):	
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Where waste is accepted by volume, or estimations are used, the volumes to weight conversion factors shall be detailed on a separate sheet.

Document(s) Reference:	
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D.5 Waste Types [Article 10 (1) (m) (i)]

Using the current European Waste Catalogue Code(s), state the waste types to be handled at the facility:

EWG Code (6 digits)	Quantity/units

EWC Code (6 digits)	Quantity/units

D.6 Improvement or development of land [Article 10 (1) (x)]

Does the proposed activity involve the improvement or development of land?

Yes ☐

No ☐

If yes, please supply details of

- The existing and final profiles and contours of the land
- Average and maximum depth of fill
- Facility closure plan
- Purpose of fill (landscaping, engineering, etc,)
- Supporting statement as to the purpose of the placement of waste on land from agricultural advisor, engineer, landscape architect or other technical expert

If necessary some of this information may be supplied in drawing plan form.

Document(s) Reference:	
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D.7 Waste Processes [Article 10 (1) (n)]

Please describe the plant, methods, processes, and operating procedures for all activities undertaken at the facility.

If necessary continue onto additional sheets, ensuring that all sheets are numbered and labelled.

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

Document(s) Reference:

D.8 Recording waste types and quantities [Article 10 (1) (m) (ii)]

Detail how the types and quantities of waste accepted will be accurately recorded. If any estimation or conversion factors are to be applied please detail these.

Waste Quantities:	
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D.9 Waste Acceptance Procedures [Article 10 (1) (ff)]

What are the waste acceptance procedures that will be applied at the facility? Include details of what will happen with wastes that do not comply with the acceptance criteria (quarantine or rejection):

D.10 Emissions from the Facility [Article 10 (1) (o)]

Will the facility create any emissions to air (including dust and odour), water, land, sewer or noise?

Yes ☐

No ☐

If yes, please detail the source, location, nature, composition, quantity, level and rate of these emissions. State whether the emissions will be continuous or periodic and if periodic please give details.

If necessary, continue onto additional sheets, ensuring that all sheets are numbered and labelled.

Document(s) Reference:

D.11 Monitoring Emissions at Source [Article 10 (1) (p)]

Detail how the emissions and the environmental impact of such emissions will be monitored. Include on the site layout plan details of monitoring and sampling points, including a key to allow clear identification of these points.

If necessary, continue onto additional sheets, ensuring that all sheets are numbered and labelled.

Label emissions and sampling/monitoring points as follows:

- Discharge points to water and associated sampling/monitoring locations - SW1, SW2, etc
- Discharge points to sewer – S1, S2, etc
- Discharge points to air and associated sampling/monitoring locations - A1, A2, etc
- Noise sources and associated monitoring locations – N1, N2, etc
- Discharges to land (for example, via percolation area or sludge for landspreading) – LD1, LD2
- Soil Sampling: SS1, SS2

Document(s) Reference:

D.12 Minimising environmental impact of emissions [Article 10 (1) (gg)]

What are the likely environmental impacts of these emissions? Include details of how these emissions will be minimised to prevent the following:

If necessary, continue onto additional sheets, ensuring that all sheets are numbered and labelled.

- (i) adverse environmental impact
- (ii) Litter
- (iii) Dust
- (iv) Odour
- (v) Noise

Document(s) Reference:

D.13 Ambient Monitoring [Article 10 (1) (p)]

Detail how the emissions and the environmental impact of such emissions will be monitored. Include on the site layout plan details of monitoring and sampling points, including a key to allow clear identification of these points. Label emissions and sampling/monitoring points as follows:

- Surface water ambient sampling/monitoring locations – ASW1, ASW2, etc
- Groundwater – GW1, GW2
- Air ambient sampling/monitoring locations – AA1, AA2, etc
- Noise ambient monitoring locations – AN1, AN2, etc

If necessary, continue onto additional sheets, ensuring that all sheets are numbered and labelled.

Document(s) Reference:

D.14 Housekeeping [Article 10 (1) (q)]

What are the measures in place to prevent unauthorised or unexpected emissions from the facilities and minimise the impact on the environment of any such emissions, including emergency measures for incidents such as spillages.

If necessary, continue onto additional sheets, ensuring that all sheets are numbered and labelled.

Document(s) Reference:

Description of the proposed measures to be taken for vermin control (for example, flies, birds and rodents) [Article 10 (1) (hh)].

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

Document(s) Reference:

D.15 Facility Security [Article 10 (1) (gg)]

Provide details of the on-site security measures, including details of how unauthorised disposal of waste at the facility will be prevented.

If necessary, continue onto additional sheets, ensuring that all sheets are numbered and labelled.

Document(s) Reference:

D.16 Other Procedures

Provide details of any other operational or housekeeping procedures on site, not already covered (for example accident and emergency, EMS/EMAS, environmental reporting).

If necessary, continue onto additional sheets, ensuring that all sheets are numbered and labelled.

Document(s) Reference:

D.17 Arrangements for the off-site recovery or disposal of wastes [Article 10 (1) (bb)]

Provide a description of any proposed arrangements for the off-site recovery or disposal of wastes. If this waste is destined for another waste facility, include the site name and permit / licence number of the site(s) which it is proposed to use:

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

If waste is destined for export relevant details (for example, waste broker, proposed TFS arrangements, etc.) should be provided.

Document(s) Reference:	
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D.18 Animal By-Products [Article 10 (1) (w)]

Does the facility biologically treat animal by-products within the meaning of Regulation (EC) 1774/2002 (as amended)?

Yes ☐

No ☐

If yes, please supply details of any application made to the Minister for Agriculture and Food for veterinary authorisation for the facility.

Document(s) Reference:	
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Section E: Facility Setting.

E.1 Proximity to European or designated sites [Article 10 (1) (x)]

Is the proposed facility located in, or adjacent to, or impinges upon any European (for example SAC's, SPA's or Ramsar) sites? Does the facility sit within any other designated sites (for example NHA'S)?

Designation	Yes	No
Special Area of Conservation (SACs)		
Special Protection Area (SPAs)		
Ramsar		
Natural Heritage Areas (NHAs)		
Nature Reserves		
Refuge for Flora or Fauna		
Wildfowl Sanctuaries		
Management Agreements ²		

If yes, please give details of the sites and identify on a map their location relative to site of the activity:

Affected Sites:	
Document(s) Reference:	

E.2 Water Catchment [Article 10 (1) (aa)]

Is the site located in the immediate catchment of a water course³?

Yes ☐

No ☐

If yes, please supply details of the flood studies undertaken to ensure that the potential for increased run-off or contamination of the watercourse is adequately mitigated.

² The Wildlife Act 1976, enables the Minister to enter into a voluntary management agreement with private landowners. Under these agreements landowners will manage their lands to ensure that desirable wildlife habitats are protected. The number and type of such agreements depends on the resources available to the Department at any time

³ Local Government (Water Pollution) Act, 1977 defines "waters" to include the following:

(a) any (or any part of any) river, stream, lake, canal, reservoir, aquifer, pond, watercourse or other inland waters, whether natural or artificial,

(b) any tidal waters, and

(c) where the context permits, any beach, river bank and salt marsh or other area which is contiguous to anything mentioned in paragraph (a) or (b), and the channel or bed of anything mentioned in paragraph (a) which is for the time being dry,

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

Document(s) Reference:	
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E.3 Land Use

Please provide details of the following:

Current use of the land:	
Historic Use of the Land:	
Condition of the land (for example contamination):	
Adjacent land use:	North:
	South:
	East:
	West:

E.4 Correspondence with Minister/National Parks and Wildlife Service [Article 10 (1) (z)]

Please supply details of any discussions or correspondence which have taken place with the Minister for the Environment, Heritage and Local Government and/or the National Parks and Wildlife Service.

Document(s) Reference:	
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E.5 Biodiversity [Article 10 (1) (y)]

Please provide details of the biodiversity of the site.

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

Document(s) Reference:	
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Section F: Additional Information.

F.1 Additional Information

If there is additional information which the applicant feels may be required by the authority in making its decision and any information identified as part of pre-application consultation, should be included here.

Supporting documents may be provided.

Document(s) Reference:

Section G: Statutory Declaration

I declare that the information given in the application by (Legal Entity)

_____ for the purpose of obtaining a <<Select appropriate waste facility permit>> <<certificate of registration>> is correct, and that no information which is required to be included in the said application has been omitted.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

I authorise [Insert name of local authority to which application is being made] to make any enquiries from official sources as it may consider necessary for the purpose of determining this application and, pursuant to section 8 of the Data Protection Act 1988, I consent to the disclosure of details of convictions for relevant offences specified under article 10 of the Waste Management (Facility) Permit Regulations 2007.

Signature:

Name (block capitals)

Declared before me at _____ this _____ day of _____,

_____, 20____. #

To be completed by a Solicitor/Commissioner of Oaths/Notary Public/Peace Commissioner/Garda Síochána.

Signature of Witness

Occupation

Date _____

WARNING: Any person who gives false or misleading information for the purpose of obtaining a << Select appropriate waste facility permit>> <<certificate of registration>> renders themselves liable to severe penalties.

APPENDICES

1. CHECKLIST OF INFORMATION TO BE SUPPLIED WITH APPLICATION

Information required	Article	Included
A copy of the relevant page from the newspaper(s) in which notices in accordance with articles 7 and 8 have been published.	10(3)(a)	<input type="checkbox"/>
A copy of the text of the notices erected or fixed in accordance with articles 7 & 8 must also be supplied.	10(3)(b)	<input type="checkbox"/>
Details of any court hearing, case, nature of the offence and any penalty or requirements imposed by the court.	10(1)	<input type="checkbox"/>
Where the applicant is a person or partnership, include details of any such conviction where the person or partner was at any time within the last 10 years prior to this application, a director, manager, company secretary or similar officer for a body corporate	10(1)	<input type="checkbox"/>
Site location plan, with clearly marked site boundaries in red, and North point indicated, Ordnance survey reference sheet number(s), the site elevation with reference to the ordnance datum used must be included	10(3)(c)	<input type="checkbox"/>
Proposed site layout must be included, with the North point indicated and site dimensions in metres. This plan should include all necessary monitoring and sampling point locations, and any emission point(s) clearly marked. There should be a clearly legible key for the identification of the relevant points. Ordnance survey reference sheet number(s), the site elevation with reference to the ordnance datum used must be included. All maps/drawings/plans must be no larger than A3 size and scaled appropriately such that they are clearly legible. In exceptional circumstances, where A3 is considered inadequate, a larger size may be requested	10(3)(c) (ii) and (iii)	<input type="checkbox"/>
An additional copy of the site location plan, detailing the site boundary in red, with the locations of the notice erected or fixed in accordance with article 8 clearly marked on it.	10(3)(c) & (i)	<input type="checkbox"/>
A copy of the current tax clearance / C2 certificate issued to the applicant(s) by the Revenue Commissioners, or appropriate certificate from the relevant tax authority for non-domiciled applicants.	10(3)(d)	<input type="checkbox"/>
Where applicable, a copy of proof of the company registration and trade name must be supplied.	10(3)(e)	<input type="checkbox"/>
The correct application fee in accordance with article 42 and as specified in the fifth schedule of the Regulations.	10(3)(f)	<input type="checkbox"/>

2. DISPOSAL AND RECOVERY ACTIVITIES AS PER THE THIRD AND FOURTH SCHEDULES OF THE WASTE MANAGEMENT ACTS 1996-2007

**THIRD SCHEDULE
WASTE DISPOSAL ACTIVITIES**

1. Deposit on, in or under land.
2. Land treatment, including biodegradation of liquid or sludge discards in soils.
3. Deep injection of the soil, including injection of pumpable discards into wells, salt domes or naturally occurring repositories.
4. Surface impoundment, including placement of liquid or sludge discards into pits, ponds or lagoons.
5. Specially engineered landfill, including placement into lined discrete cells which are capped and isolated from one another and the environment.
6. Biological treatment not referred to elsewhere in this Schedule which results in final compounds or mixtures which are disposed of by means of any activity referred to in *paragraphs 1 to 5 or paragraphs 7 to 10 of* this Schedule.
7. Physico-chemical treatment not referred to elsewhere in this Schedule which results in final compounds or mixtures which are disposed of by means of any activity referred to in *paragraphs 1 to 5 or paragraphs 8 to 10 of* this Schedule.
8. Incineration on land or at sea.
9. Permanent storage, including emplacement of containers in a mine.
10. Release of waste into a water body (including a seabed insertion).
11. Blending or mixture prior to submission to any activity referred to in *a preceding paragraph of* this Schedule.
12. Repackaging prior to submission to any activity referred to in *a preceding paragraph of* this Schedule.
13. Storage prior to submission to any activity referred to in *a preceding paragraph of* this Schedule, other than temporary storage, pending collection, on the premises where the waste concerned is produced.

**FOURTH SCHEDULE
WASTE RECOVERY ACTIVITIES**

1. Solvent reclamation or regeneration.
 2. Recycling or reclamation of organic substances which are not used as solvents. (*including composting and other biological processes*).
 3. Recycling or reclamation of metals and metal compounds.
 4. Recycling or reclamation of other inorganic materials.
 5. Regeneration of acids or bases.
 6. Recovery of components used for pollution abatement.
 7. Recovery of components from catalysts.
 8. Oil re-refining or other re-uses of oil.
 9. Use of any waste principally as a fuel or other means to generate energy.
 10. — The treatment of any waste on land with a consequential benefit for an agricultural activity or ecological system.
 11. Use of waste obtained from any activity referred to in a preceding paragraph of this Schedule.
 12. Exchange of waste for submission to any activity referred to in a preceding paragraph of this Schedule.
 13. Storage of waste intended for submission to any activity referred to in a preceding paragraph of this Schedule, other than temporary storage, pending collection, on the premises where such waste is produced.
- Section 6.

3. THIRD SCHEDULE PART 1 AND PART 11

Extract from the Waste Management (Facility Permit and Registration) Amendment Regulations, 2008

THIRD SCHEDULE**PART I**

**CLASSES OF ACTIVITY SUBJECT TO WASTE FACILITY PERMIT
APPLICATION TO A LOCAL AUTHORITY**

Article 6

The carrying on by a person (other than a local authority) at a facility (other than a facility located in whole or in part in an area which is not within the functional area of a local authority) of any of the following activities, provided that –

- (a) the activity is not an activity which is carried on in, on or adjacent to, a facility at which a licensable activity is being carried on, and
- (b) In the cases of Class 5 and Class 6 the upper limits on the amount of waste, which may be accepted, shall relate to
 - (i) the total quantity of waste which has been received and is proposed to be accepted at the facility at any time, or
 - (ii) in the case of an activity which is carried on in, on or adjacent to, a facility at which a waste-related activity is being carried on which is the subject of a waste facility permit or certificate of registration, the total quantity of waste which has been received at both the facility itself and all such facilities at any time.

CLASS NO.	DESCRIPTION
1.	<p>The reception and temporary storage, pending collection, other than by a local authority, where not otherwise regulated by a waste licence or certificate of registration, or exempted in accordance with the provisions of article 39 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 of –</p> <p>household hazardous waste (other than WEEE and mercury containing waste or used batteries and accumulators) at a civic amenity facility, recycling centre or central collection point, or</p> <p>WEEE at any premises</p> <p>for the purpose of onward transport and submission to recovery at an authorised facility.</p> <p>Annual intake shall not exceed –</p> <p>(i) in the case of liquid waste, 100,000 litres,</p>

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

	(ii) in the case of non-liquid waste, 100 tonnes.
2.	The Reception, storage (including temporary storage) and recovery of waste vehicles (other than end-of-life vehicles) having regard to the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006).
3.	The reception, treatment and recovery of WEEE (including removal of all fluids and dismantling or disassembly or removal of WEEE substances, preparations and components prior to treatment) in accordance with the provisions of articles 20 and 21 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations (S.I. No. 340 of 2005). Annual intake shall not exceed 10,000 tonnes per annum.
4.	<p>The reception, storage and recovery of scrap metal, including scrap metal arising from end-of-life vehicles, waste vehicles (other than end-of-life vehicles) and WEEE where scrap metal from –</p> <p>(1) end-of-life vehicles shall be subject to appropriate treatment and recovery in accordance with the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006) prior to acceptance at the scrap metal facility, and as appropriate,</p> <p>waste vehicles (other than end-of-life vehicles) shall be subject to appropriate treatment and recovery having regard to the provisions of articles 14 and 15 of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006) prior to acceptance at the scrap metal facility, and as appropriate,</p> <p>(3) WEEE shall be subject to appropriate treatment and recovery in accordance with the provisions of articles 20, 21 and 22 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005) prior to acceptance at the scrap metal facility.</p>
5.	Recovery of excavation or dredge spoil, comprising natural materials of clay, silt, sand, gravel or stone and which comes within the meaning of inert waste, through deposition for the purposes of the improvement or development of land, where the total quantity of waste recovered at the facility is less than 100,000 tonnes.
6.	Recovery of inert waste (other than excavations or dredgings comprising natural materials of clay, silt, sand, gravel or stone) through deposition for the purposes of the improvement or development of land, where the total quantity of waste recovered at the facility is less than 50,000 tonnes.
7.	<p>Recovery of inert waste arising from construction and demolition activity, including concrete, bricks, tiles, or other such similar material, at a facility (excluding land improvement or development) where –</p> <p>the annual intake shall not exceed 50,000 tonnes, and</p> <p>(b) the maximum quantity of residual waste consigned from the facility for collection, onward transport and submission to disposal at an authorised facility shall not exceed 15% of the annual intake.</p>
8.	<p>The reception, storage and biological treatment of biowaste at a facility where –</p> <p>the maximum amount of compost and biowaste held at the facility does not exceed 6,000 cubic metres at any time, and</p> <p>the annual intake shall not exceed 10,000 tonnes.</p>
9.	The reception, temporary storage and recovery of used batteries and

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

	<p>accumulators where-</p> <p>from 26 September 2008, the treatment and recycling of used batteries and accumulators meets the requirements of article 12 of Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and</p> <p>(b) the annual intake shall not exceed 1,000 tonnes.</p>
10.	<p>The recovery of waste (not mentioned elsewhere in this part of the third schedule), other than hazardous waste or an activity where there is a scheduled requirement to hold an IPPC licence or a waste licence, where –</p> <p>the annual intake does not exceed 50,000 tonnes, and</p> <p>the maximum quantity of residual waste consigned from the facility for onward transport and submission to disposal at an authorised facility shall not exceed 15% of the annual intake.</p>
11.	<p>The reception, storage and transfer of waste (other than hazardous waste) for disposal at a facility (other than a landfill facility) where the annual intake does not exceed 7,500 tonnes.</p>
12.	<p>The reception, treatment and recovery of End of Life vehicles.</p>

Note: Where the waste-related activities being undertaken within a facility encompass a number of the classes as set out within Part I of the third schedule, the quantity of waste concerned shall be taken as meaning the total quantity of waste accepted at the facility taking account of inputs relating to all classes of activity and compared to the threshold of the principal class.

THIRD SCHEDULE

PART II

CLASSES OF ACTIVITY SUBJECT TO REGISTRATION WITH LOCAL AUTHORITY OR THE AGENCY

Article 6

The carrying on by a person at a facility of any of the following activities, provided that –

- (1) the activity is not an activity which is carried on in, on or adjacent to, a facility at which a licensable activity is being carried on, and
- (2) In the cases of Class 5 and Class 6, the upper limits on the amount of waste, which may be accepted, shall relate to -
 - (a) the total quantity of waste which has been received and is proposed to be accepted at the facility at any time, or
 - (b) in the case of an activity which is carried on in, on or adjacent to, a facility at which a waste-related activity is being carried on which is the subject of a waste facility permit or certificate of registration, the total quantity of waste which has been received at both the facility itself and all such facilities at any time.

CLASS NO.	DESCRIPTION
1.	<p>The storage, pending collection, of household hazardous waste (other than WEEE) at a civic amenity facility, recycling centre or central collection point, where not otherwise regulated by a waste licence or waste facility permit for the purpose of onward transport and submission to recovery at an authorised facility where-</p> <p>(a) annual intake shall not exceed -</p> <p>(i) in the case of liquid waste, 25,000 litres</p> <p>(ii) in the case of non-liquid waste, 25 tonnes, and</p> <p>(b) the maximum period of storage of waste does not exceed 30 days.</p>
2.	<p>The reception and temporary storage of waste (other than WEEE) deposited by members of the public at a central collection point (including a temporary central collection point) when such activity is undertaken by, on behalf of, or with the approval of the local authority, where the maximum amount of waste stored at any time does not exceed 1,000 tonnes.</p>
3.	<p>The reception and interim storage of crashed or immobilised vehicles, other than end-of-life-vehicles, pending decisions by the registered owners of these vehicles, or as appropriate, by an authorised person of a local authority, or a member of An Garda Síochána on whether the vehicles are to be classed as end-of-life vehicles. The number of vehicles stored at any one time shall not exceed 6 at any one location and at any one time.</p>

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

4.	<p>Reception and temporary storage, pending collection for recovery of - less than 1000 kilograms of used batteries and accumulators, or less than 1 tonne of discarded equipment containing chlorofluorocarbons (other than WEEE), or less than</p> <p>540 cubic metres of household WEEE,</p> <p>(b) 12,000 units of WEEE categories in accordance with Category 5 of the first schedule of the Waste Management (Waste Electrical and Electronic Equipment) Regulations, 2005 (S.I. No. 340 of 2005) or, as appropriate</p> <p>(c) 300 kilograms of mobile phones,</p> <p>for the purpose of onward transport to an authorised treatment facility of WEEE when undertaken in accordance with the requirements of article 39 of the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005.</p>
5.	<p>Recovery of excavation or dredge spoil, comprising natural materials of clay, silt, sand, gravel or stone and which comes within the meaning of inert waste, through deposition for the purposes of the improvement or development of land, where the works do not constitute exempted development within the meaning of Classes 11 (b) and 11(f) of Exempted Development – Rural within part 3 of the second schedule of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001), and the total quantity of waste recovered at the site shall not exceed 25,000 tonnes.</p>
6.	<p>Recovery of inert waste (other than excavations or dredgings comprising natural materials of clay, silt, sand, gravel or stone), for the purpose of the improvement or development of land where the works do not constitute exempted development within the meaning of Classes 11 (b) and 11(f) of Exempted Development – Rural within part 3 of second schedule of the Planning and Development Regulations 2001 (S.I. No. 600 of 2001), and the total quantity of waste recovered at the site shall not exceed 10,000 tonnes.</p>
7.	<p>Recovery of inert waste arising from construction and demolition activity, including concrete, bricks, tiles, or other such similar material, at a facility (excluding the improvement or development of land) where –</p> <p>(a) the annual intake shall not exceed 10,000 tonnes, and</p> <p>(b) the maximum quantity of residual waste consigned from the facility for submission to disposal at an authorised facility shall not exceed 15% of the annual intake.</p>
8	<p>This is a spare class.</p>
9	<p>The storage at the place of extraction, for an indefinite length of time to await possible use for site restoration of waste material arising from quarrying or excavation where –</p> <p>(a) conditions on waste management have not been imposed under section 261 of the Planning and Development Act 2000 (No. 30 of 2000), and</p> <p>(b) such material is in a chemically unaltered state.</p>
10.	<p>The reception, storage and transfer of waste by a local authority, not mentioned elsewhere in this schedule, where the annual intake does not exceed 10,000 tonnes, and –</p> <p>(a) the maximum amount of waste dispatched from the facility for onward</p>

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

	<p>transport and disposal does not exceed 1,500 tonnes per annum, and</p> <p>(b) a period of storage of waste for disposal does not exceed 30 days.</p>
11.	<p>The reception, storage and composting of biowaste by a local authority, not mentioned elsewhere in this schedule, where –</p> <p>(a) the annual intake does not exceed 5,000 tonnes, and</p> <p>(b) the maximum amount of biowaste and compost held at a composting facility does not exceed 2,000 tonnes at any time.</p>
12.	<p>The storage and composting, on the premises where it is produced, of biowaste, where –</p> <p>(a) the amount stored and treated does not exceed 50 tonnes per annum, and</p> <p>(b) the maximum amount of biowaste and compost held at the facility at any time does not exceed 20 tonnes.</p>
13	<p>Recovery of organic waste, other than manure and sludge when used in agriculture for the purposes of benefit to agriculture or ecological improvement, where the total quantity of organic waste recovered at the facility shall not exceed 1,000 tonnes per annum.</p>
14.	<p>The reception and temporary storage of –</p> <p>(a) waste, returned or recovered refrigerant gases in refrigerant containers, or</p> <p>(b) waste, returned or recovered halons in halon containers, or</p> <p>(c) waste, returned or recovered fluorinated greenhouse gases in fluorinated greenhouse gas containers,</p> <p>pending collection or onward transport prior to submission to recycling, reclamation or destruction in accordance with the relevant legislative requirements for the specific type of refrigerant gas, halon or fluorinated greenhouse gas, where recovery has the meaning assigned to it under Regulation (EC) No. 2037/2000 and Regulation (EC) No. 842/2006, and where the total quantity stored at any one time on a premises does not exceed 18 tonnes.</p>

Note: Where the waste-related activities being undertaken within a facility encompass a number of the classes as set out within part II of the third schedule, the quantity of waste concerned shall be taken as meaning the total quantity of waste accepted at the facility taking account of inputs relating to all classes of activity and compared to the threshold of the principal class.

4. FOURTH SCHEDULE

FOURTH SCHEDULE

PART I

GENERAL RULES IN RESPECT OF REGISTERED ACTIVITIES

Article 32

- (1) A Registration holder shall demonstrate within the application for a Certificate of registration the manner in which it is proposed to comply in all respects with the particulars of the Rules of this schedule, unless as may otherwise agreed in writing by the local authority or, as the case may be, the Agency.
- (2) Any emissions from the recovery or disposal activity concerned (including both storage and temporary storage) shall not result in contravention of any relevant standard, including any standard for an environmental medium, or any relevant emission limit value, prescribed under any enactment.
- (3) The registration holder shall ensure that all recovery and disposal of waste (including both storage and temporary storage) is undertaken in a manner which does not endanger human health.
- (4) Waste shall only be accepted by the registration holder at the site between 0800 and 1800 hours, Monday to Friday inclusive, and between 0800 and 1400 hours on Saturdays unless otherwise approved in writing by the relevant local authority or, as the case may be, the Agency.
- (5) The registration holder shall put in place appropriate procedures relating to the acceptance of waste at the facility, including
 - (i) waste inspection procedures,
 - (ii) waste acceptance and handling procedures,
 - (iii) waste characterisation and waste quarantine procedures,
 - (iv) other appropriate procedures and arrangements relating to the acceptance of waste, and
 - (v) measures to ensure compliance with article 6 of these Regulations.
- (6) The registration holder shall put in place appropriate procedures relating to the supervision of the storage, recovery or disposal activity.
- (7) The registration holder shall ensure that all waste accepted at the facility has been collected and transported in accordance with Section 34 of the Act and the Waste Management (Collection Permit) Regulations, 2007.
- (8) The registration holder shall take all necessary measures relating to prevention of unauthorised waste activities and the establishment of controls on entry to the facility, including the rejection of all waste arriving at the facility where the vehicle does not possess the requisite authorisation to permit the collection and transportation of waste in accordance with Section 34 of the Act and the Waste Management (Collection Permit) Regulations, 2006.
- (9) The registration holder shall conduct, document and maintain an assessment of the risk of environmental pollution, having regard to the types of the wastes to be accepted and the nature of the activity being undertaken at the facility.

- (10) The registration holder shall take preventative measures to ensure that the activity is carried out in a manner which does not have any adverse effect on drainage of lands, watercourses, shallow wells, bored wells, raw water intakes or other sources of water supply, public and private roads or footways.
- (11) In the case of an activity involving the storage or temporary storage of waste, the registration holder shall establish the necessary measures to ensure the secure and safe storage of the wastes, including appropriately designed storage locations and containment arrangements.
- (12) The registration holder shall take all necessary measures to ensure compliance with all legal obligations pertaining to the carrying on of the activity or activities at the facility.
- (13) The registration holder shall take preventative measures to ensure that the activity does not result in unreasonable noise, dust, grit and other nuisances, which would result in the impairment of, or significant interference with, the amenities or the environment beyond the site boundary.
- (14) The registration holder, if requested by the Agency or relevant local authority, shall provide detailed written reports on investigations and monitoring of the activities and related ancillary matters.
- (15) The registration holder shall maintain a register in relation to the activity to which the certificate of registration relates, which shall be available for inspection by the local authority, which details:
 - (a) the dates, time of arrivals and quantities of each waste consignment (by European Waste Catalogue code(s) and description(s) pursuant to Commission Decision 2001/118/EC of 16 January 2001 or subsequent amendments) delivered to the facility,
 - (b) names of the carriers, including details of vehicle registrations and waste collection permits numbers,
 - (c) origin of waste delivered,
 - (d) quantities and composition of wastes rejected at the facility, and
 - (e) quantities, composition and destination of waste consigned for onward transport from the facility.
- (16) The registration holder shall compile and maintain records in a format agreed with the local authority or, as the case may be, the Agency in respect of the particulars of the summary information contained in the register established in accordance with Rule (15), for a period of not less than 7 years.
- (17) The registration holder shall immediately notify the relevant local authority or, as the case may be, the Agency of any incident arising from the activity, which:
 - (a) has the potential for contamination of surface or ground water, or
 - (b) poses an environmental threat to air or land.
- (18) As part of the notification process, the operator shall include, within the 24 hours of any such incident occurring, details as to -
 - (a) the date and time of the incident,
 - (b) details of the incident,
 - (c) evaluation of the pollution caused, and
 - (d) remedial corrective measures undertaken or to be undertaken, including details of preventative measures.
- (19) Not later than the 28th day of February in each year, the registration holder shall furnish to the local authority or, as the case may be, the Agency in such form as may be agreed, an

Annual Environmental Report containing summary information in relation the preceding calendar year or part thereof as the case may be, in respect of the activities to which the Certificate of registration relates and giving particulars of the manner in which the Rules specified in this schedule have been implemented.

- (20) The registration holder shall also comply with any additional rules for the management of particular streams of waste:

Part II: Waste Electrical and Electronic Equipment Facilities,
Part III: Refrigerant Gas, Halon and Fluorinated Greenhouse Gas Facilities,
Part IV: Organic Waste Composting Facilities,
Part V: Spreading of Organic Waste on Land, and
Part VI: Storage of Immobilised Vehicles.

PART II

ADDITIONAL RULES FOR WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT FACILITIES

- (1) The registration holder shall comply with all requirements of the Waste Management (Waste Electrical and Electronic Equipment) Regulations, 2005 (S.I. No. 340 of 2005), subject to any amendment that may be made to those regulations from time to time.
- (2) The registration holder shall establish the provenance of WEEE deposited (e.g. deposited on behalf of a collective compliance scheme approved for the management of WEEE, a self complying producer of electrical and electrical equipment, a business end user etc.).
- (3) The registration holder shall forward details of the source of household WEEE deposited at a waste facility on behalf of a person (other than a collective compliance scheme approved for the management of WEEE or a self complying producer of electrical and electrical equipment or a householder depositing a quantity of household WEEE similar to that arising in a single household), together with details of the person depositing the WEEE to the local authorities in the functional area or areas where the –
 - (a) waste facility is located,
 - (b) person depositing the WEEE has his or her place of business and if not a business his or her place of residence, and
 - (c) source of the household WEEE concerned has his or her place of business and if not a business his or her place of residence.

PART III

ADDITIONAL RULES FOR FACILITIES ACCEPTING WASTE, RETURNED OR RECOVERED REFRIGERANT GASES IN REFRIGERANT CONTAINERS OR WASTE, RETURNED, OR RECOVERED HALONS IN HALON CONTAINERS OR WASTE, RETURNED OR RECOVERED FLUORINATED GREENHOUSE GASES IN FLUORINATED GREENHOUSE GAS CONTAINERS

- (1) In the case of the temporary storage of waste, returned or recovered refrigerant gases in refrigerant containers or waste, returned or recovered halons in halon containers or waste returned or recovered Fluorinated Greenhouse Gases in Fluorinated Greenhouse Gas Containers the operator shall take all necessary measures to ensure that the handling and controlled storage of the containers is carried out in a manner that shall prevent the leakage or venting of the gases to the atmosphere.
- (2) In the case of temporary storage at the facility:

- (a) each container should be consigned for onward transport to an authorised facility for appropriate recycling, reclamation or disposal in accordance with the relevant legislative requirements for the specific gas type,
- (b) there should be no mixing of refrigerant gases or the transfer of individual types of refrigerant gas from one cylinder to another to facilitate bulking for onward transportation,
- (c) there should be no mixing of halons or the transfer of halons from one cylinder to another to facilitate bulking for onward transportation,
- (d) there should be no mixing of fluorinated greenhouse gases or the transfer of fluorinated greenhouse gases from one cylinder to another to facilitate bulking for onward transportation.

PART IV

ADDITIONAL RULES FOR COMPOSTING FACILITIES

The registration holder shall comply with all requirements of –

- (1) the Animal By-products Regulation (EC) No. 1774/2002 of 3 October 2002,
- (2) Diseases of Animals Act, 1966 (Prohibition on the Use of Swill) Order 2001 (S.I. No. 597 of 2001),
- (3) Diseases of Animals Act, 1966 (Transmissible Spongiform Encephalopathies) (Meat and Bone Meal and Poultry Offal) Order 2002 (S.I. No. 551 of 2002),
- (4) Waste Management (Use of Sewage Sludge in Agriculture) Regulations, 1998 (S.I. No. 148 of 1998), as amended by Waste Management (Sewage Sludge in Agriculture) (Amendment) Regulations 2001 (S.I. No. 267 of 2001),
- (5) European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2006 (S.I. No. 612 of 2006), and
- (6) Diseases of Animals Act 2006 (Transmissible Spongiform Encephalopathies) (Fertilisers & Soil Improvers) Order 2006 (S.I. No. 615 of 2006),

subject to any amendment that may be made to those regulations from time to time.

PART V

ADDITIONAL RULES FOR SPREADING OF ORGANIC WASTE ON LAND

- (1) The spreading of organic waste on land shall be confined to the application of compost derived from source segregated municipal waste, spent mushroom compost and sewage sludge used for non-agricultural purposes
- (2) The registration holder shall comply with all requirements of –
 - (a) the Animal By-products Regulation (EC) No. 1774/2002 of 3 October 2002, and

- (b) Diseases of Animals Act, 1966 (Prohibition on the Use of Swill) Order 2001 (S.I. No. 597 of 2001),
- (c) Diseases of Animals Act, 1966 (Transmissible Spongiform Encephalopathies) (Meat and Bone Meal and Poultry Offal) Order 2002 (S.I. No. 551 of 2002),
- (d) European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2006 (S.I. No. 612 of 2006), and
- (e) Diseases of Animals Act 2006 (Transmissible Spongiform Encephalopathies)(Fertilisers & Soil Improvers) Order 2006 (S.I. No. 615 of 2006)

Subject to any amendment that may be made to those regulations from time to time.

PART VI

ADDITIONAL RULES FOR STORAGE OF IMMOBILISED VEHICLES

In circumstances where the condition of an immobilised vehicle is considered to represent a threat to the environment, the registration holder shall comply with the storage requirements set out within the second schedule of the Waste Management (End-of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006), subject to any amendment that may be made to those regulations from time to time.

5. ARTICLE 11 REQUEST FORM

Request to Environmental Protection Agency for determination as to whether an activity requires a waste licence, waste facility permit, certificate of registration or none of these⁴

Enquires regarding this application should be made should be made to:

Office of Climate, Licensing and Resource Use, Environmental Protection Agency, P.O. Box 3000, Johnstown Castle Estate, Co. Wexford

Tel: 053-9160600

Fax: 053-9160699

Email: info@epa.ie

LoCall: 1890 335599

Opening hours: 9.00am to 5.00pm

Reception hours: 9.00am to 5.30pm

The application must be submitted to the same point of contact. The form can be submitted by post, facsimile or email. If submitting electronically, the form should be in WORD or PDF format and the declaration must still contain a signature, e.g. a scanned version of the original signed hardcopy could be submitted.

Where there is insufficient space, additional information should be attached.

Details of person/body/company making request for determination	
Name (if Local Authority, give name of Local Authority)	
Address	
Telephone	
Fax	
Email	
Contact name & position	

⁴ Under Article 11 of the Waste Management (Facility Permit and Registration) Regulations, 2007

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

Details of person/body/company proposing to carry-out the activity	
Name (if Local Authority, give name of Local Authority)	
Address	
Telephone	
Fax	
Email	
Contact name & position	
Details of the proposed activity	
Proposed location ⁵	
Local Authority in whose functional area the activity is located:	
Interest of person making request, in the proposed activity	
Does the person proposing to carry-out the activity own the land on which it is to be carried out	

⁵ Provide map (scale 1:10,000) showing the location of the proposed activity and the boundary outlined in red

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

Nature and extent of proposed activity					
Describe in detail the nature of the proposed activity					
Describe the type and quantity of waste(s)/material(s) to be managed at the proposed activity including whether hazardous or not					
	Description	Annual intake ⁶	Total intake ³	Hazardous	
				Yes	No
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
Total =					

⁶ In tonnes for solid waste, in tonnes and litres for liquid waste

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION APPLICATION FORM

For recovery activities, also detail the quantity of residual waste that will arise annually for disposal – in tonnes for solid waste and in litres and tonnes for liquid wastes	
For composting activities, also detail the amount of compost and biowaste that will be held at the facility at any one time - in tonnes and cubic meters	
Detail the source(s) of the waste/material	

Deposition for improvement or development of land, e.g. farmland reclamation or construction foundations	
Detail the purpose of the fill⁷	
Detail the suitability of the material as fill, where possible by reference to specific standards⁴	
Detail whether the material to be used as fill will undergo any processing prior to use⁴	

Other factors	
Describe any associated activities on or adjacent to the site, e.g. industrial activities	
Is the proposed waste activity part of a larger waste plan for the site involving further activities or is it a once-off activity	
Describe adjacent land use	

⁷ Provide support by way of written statement from appropriately qualified person, e.g. farm advisor, engineer. Please also provide a cross-section of the proposed fill.

Identify any proposed or designated Natural Heritage Areas, Special Protection Areas or Special Areas of Conservation within, or contiguous to, the proposed site of the waste activity within 2km of the site	
Is the site of the proposed activity a wetland ⁸	
Does the activity require any environmental protection measures?	
Does the activity require any other authorisations? (e.g. planning permission, ministerial consent for works in protected sites) and, if so, are these in place	

Declaration

I hereby request the Environmental Protection Agency (EPA) to make determination under Article 11 of the Waste Management (Facility Permit and Registration) Regulations, 2007 as to whether the above detailed activity requires a waste licence, waste facility permit, certificate of registration or none of these

I certify that the information given in this application is truthful, accurate and complete.

I give consent to the EPA to copy this application for its own use and to make it available for inspection and copying by the public, both in the form of paper files available for inspection at EPA and local authority offices, and via the EPA's website. This consent relates to this application itself and to any further associated information whether provided by me as, any person acting on my behalf, or any other person.

Signature _____

Date _____

Print name _____

Position

⁸ Wetlands are defined as: areas of marsh, fen, peatland, or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish, or salt, including marine waters, the depth of which at low tide does exceed six metres.

**8. WASTE FACILITY PERMIT APPLICATION PROCESS -
FLOWCHART 1**

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**9. WASTE FACILITY PERMIT HOLDER INITIATED REVIEW -
FLOWCHART 2**

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**10. WASTE FACILITY PERMIT LOCAL AUTHORITY INITIATED
REVIEW -FLOWCHART 3**

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**11. CERTIFICATE OF REGISTRATION APPLICATION PROCESS –
PRIVATE SECTOR FLOWCHART 4**

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**12. CERTIFICATE OF REGISTRATION APPLICATION PROCESS –
LOCAL AUTHORITIES FLOWCHART 5**

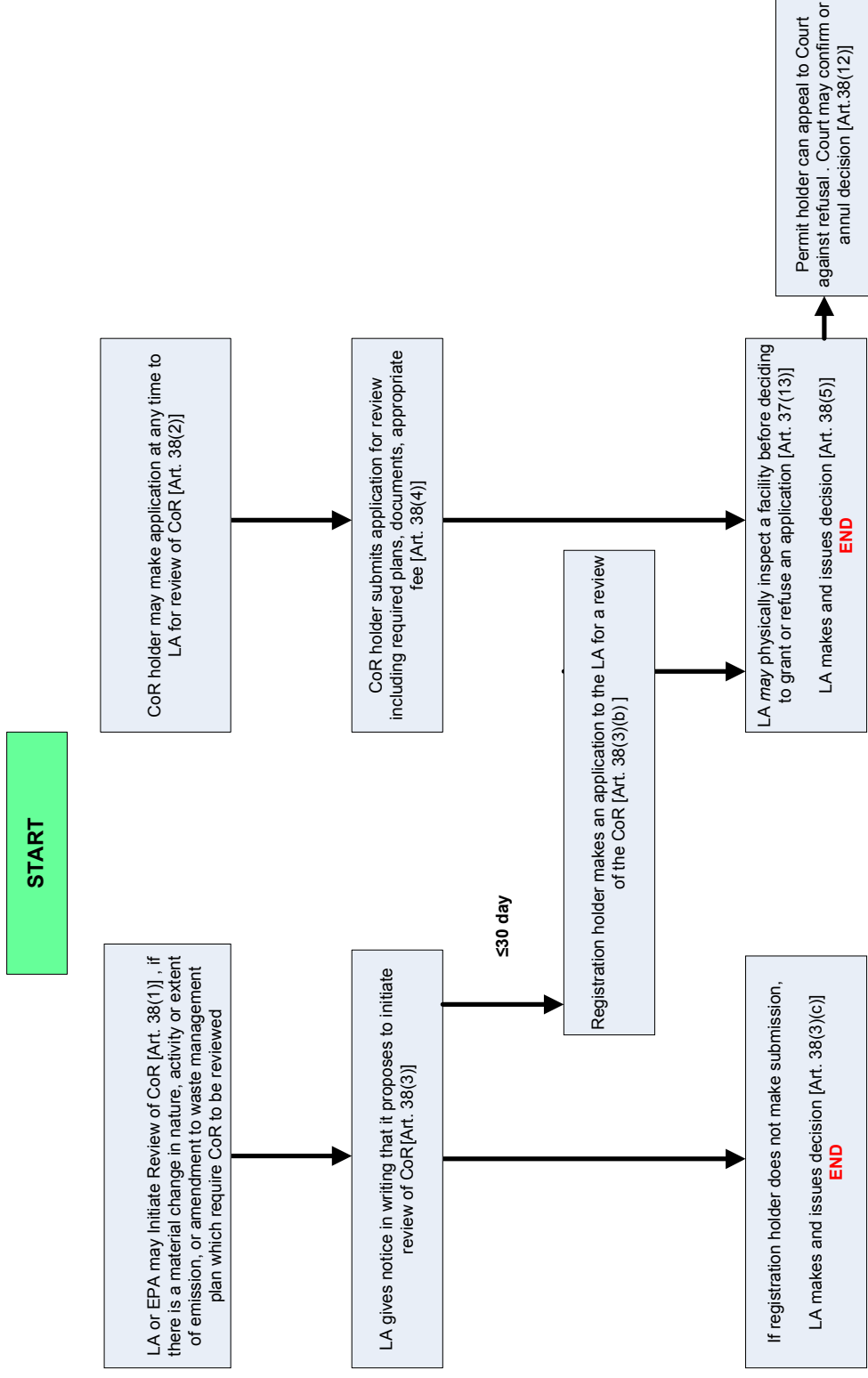
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**13. CERTIFICATE OF REGISTRATION REVIEW PROCESS –
PRIVATE SECTOR FLOWCHART 6**

FLOWCHART 6. REVIEW OF CERTIFICATE OF REGISTRATION PROCESS – Private Sector

May 2008 V.2



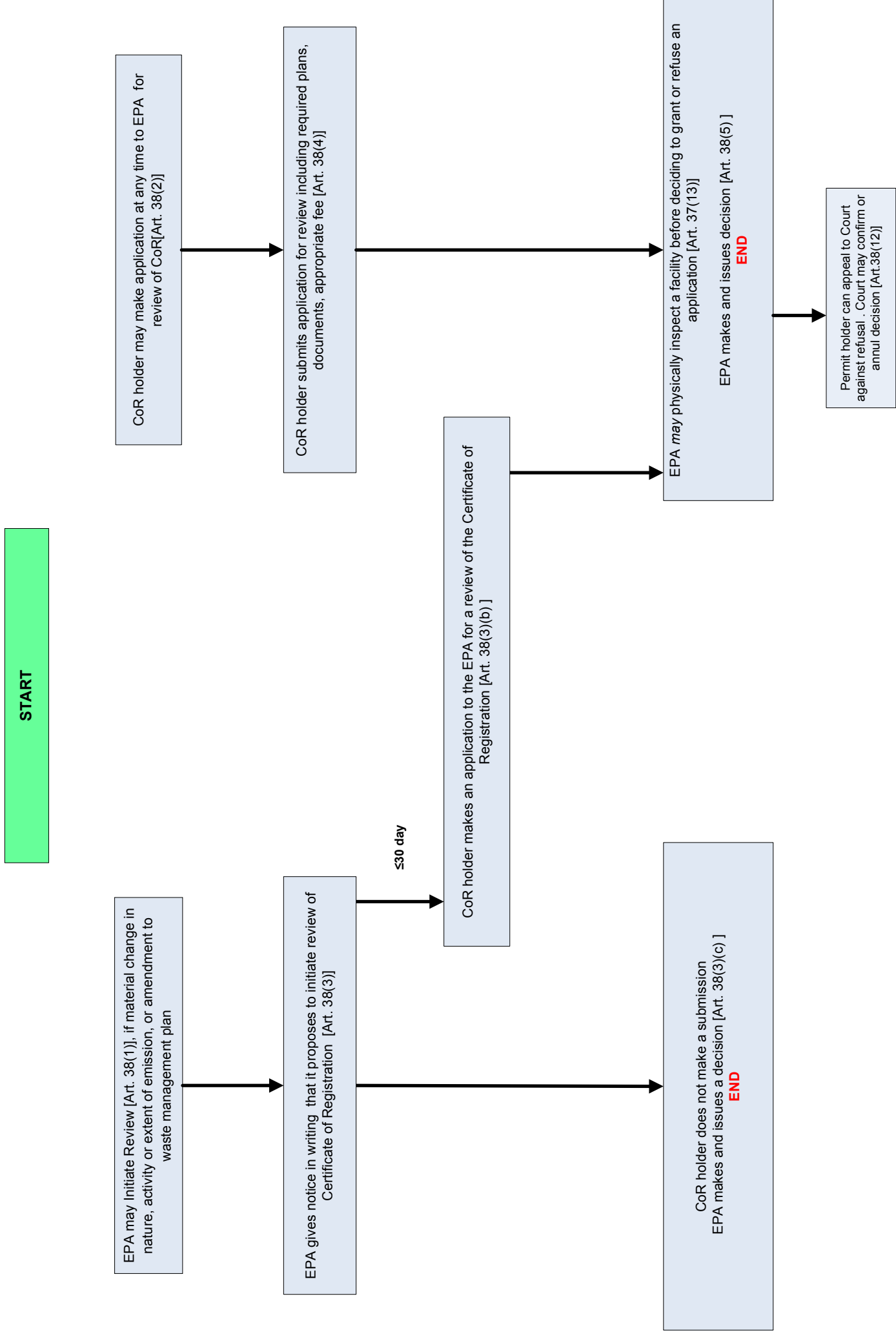
Note

Ref: Waste Management (Facility Permit & Registration) Regulations 2007 (S.I No. 821 of 2007, as amended by S.I No. 86 of 2008).

CoR - means Certificate of Registration
 LA - Local Authority
 EPA - Environmental Protection Agency

**14. CERTIFICATE OF REGISTRATION REVIEW PROCESS – LOCAL
AUTHORITIES FLOWCHART 7**

FLOWCHART 7.
REVIEW OF WASTE CERTIFICATE OF REGISTRATION PROCESS – LOCAL AUTHORITIES



Note

Ref: Waste Management (Facility Permit & Registration) Regulations 2007 (S.I No. 821 of 2007, as amended by S.I No. 86 of 2008).

CoR - means Certificate of Registration

LA - Local Authority

EPA - Environmental Protection Agency

15. WASTE FACILITY PERMIT NEWSPAPER NOTICE EXAMPLE

APPLICATION TO (NAME OF LOCAL AUTHORITY) FOR A WASTE FACILITY PERMIT

Notice is hereby given in accordance with Articles 7 and 8 of the Waste Management (Facility Permit and Registration) Regulations 2007 that <<Name of Applicant>> of <<Address of Applicant's Principal Place of Business>> intends to apply for a Waste Management Facility Permit at <<address of site to which the application relates>> to <<brief description of the nature and purpose of the activity>>. The application for a waste facility permit will be made to <<Name of Local Authority>> within 10 working days of the date of this notice.

The Class(es) of Activity at the site, as specified in the <<Third or Fourth>> Schedule of the Waste Management Act, 1996, is/are as follows;

<<Class of Activity under the Third and Fourth Schedules. In the case of two or more activities, identify the principal activity>>

A copy of the application for the waste permit will as soon as is practicable after receipt by the Local Authority, be available for inspection or purchase at the principal office at XXXX.

16. WASTE FACILITY PERMIT SITE NOTICE

APPLICATION TO <<NAME OF LOCAL AUTHORITY>> FOR A WASTE FACILITY PERMIT

Notice is hereby given in accordance with Articles 7 and 8 of the Waste Management (Facility Permit and Registration) Regulations 2007 that <<Name of Applicant>> of <<Address of Applicant's Principal Place of Business>> intends to apply for a Waste Management Facility Permit at <<address of site to which the application relates>> to <<briief description of the nature and purpose of the activity>>). The application for a waste facility permit will be made to (Name of Local Authority) within 10 working days of the date of this notice.

The Class(es) of Activity at the site, as specified in the <<Third or Fourth>> Schedule of the Waste Management Act, 1996, is/are as follows;

<<Class of Activity under the Third and Fourth Schedules. In the case of two or more activities, identify the principal activity>>

A copy of the application for the waste permit will as soon as is practicable after receipt by the Local Authority, be available for inspection or purchase at the principal office at XXXX.

It is an offence for any person other than the applicant, his agent, the Local Authority or Agency to remove this site notice.

(Date Notice Erected)

**17. TRANSFER AND SURRENDER FORMS FOR WASTE
FACILITY PERMIT AND CERTIFICATE OF REGISTRATION**

For Office Use Only:

Application Reference Number:

Return Number (If Applicable):

(Insert LA Logo - Optional)

Waste Facility Permit or Certificate of Registration Transfer Application Form

Guidance Notes
&
Application Form

[TO LOCAL AUTHORITY NAME]

Introduction:

This form is for the purpose of transferring an existing Waste Facility Permit or a Certificate of Registration issued under the Waste Management (Facility Permit and Registration) Regulations S.I No. 821 of 2007 and the Waste Management (Facility Permit and Registration) Amendment Regulations S.I No. 86 of 2008 (hereafter referred to as the Regulations);

- (a) The making of an application for a transfer of a Waste Facility Permit;
- (b) The making of an application for a transfer of a Certificate of Registration.

The Guidance Manual and application form are available to download from the **(Insert Local Authority Name and weblink)** or from www.epa.ie/wastepermit

Guidance on the Application Form:

- This application form is for the transfer of a waste facility permit, or the transfer of a certificate of registration from one operator to another.
- The form is to be completed by the current holder of the permit and the transferee.
- The transfer of a waste facility permit is made under Article 27 of the Regulations
- The transfer of a certificate of registration is made under Article 38(6) of the Regulations
- Upon transfer to the new operator, the permit /certificate will remain the same as previously, unless a review application is also made.
- The new operator must be able to comply with the requirements of an application as provided in the Regulations.
- All questions in Section A must be answered.
- Only the relevant questions in Section B require answering.
- The form must be signed in Section C by both the current permit holder and the proposed new operator.
- Attachments should be clearly numbered, titled and paginated and must contain the required information as set out in the application form.

Additional Documents to be Included:

- The following documents must be supplied with the application. Any application which does not contain all of the relevant documents will be contacted by the local authority to supply the missing documents within a set timescale. Any application which still has missing information at the end of the set timescale will be deemed invalid by the local authority and rejected.
- A copy of the current tax clearance / C2 certificate issued to the applicant(s) by the Revenue Commissioners, or appropriate certificate from the relevant tax authority for non-domiciled applicants.
- Where applicable, a copy of the company registration document must be supplied.
- The correct application fee as specified in the fifth schedule of the Regulations.

NOTE: Local authority to insert required numbers of copies of all documentation. 5 is the legal requirement, but some local authorities request more.

About these Guidance Notes:

These guidance notes have been developed to assist applicants in the preparation of a transfer of a waste facility permit, or the transfer of a certificate of registration from one operator to another. This document does not purport to be and should not be considered a legal interpretation of the provisions and requirements of the Waste Management (Facility Permit and Registration) Regulations S.I No. 821 of 2007 and the Waste Management (Facility Permit and Registration) Amendment Regulations S.I No. 86 of 2008.

WASTE FACILITY PERMIT TRANSFER APPLICATION FORM

While every effort has been made to ensure the accuracy of the material contained in this document, the competent authority assumes no responsibility and gives no guarantees; undertakings and warranties concerning the accuracy, completeness or up-to-date nature of the information provided herein and does not accept any liability whatsoever arising from any errors or omissions.

If you need to contact << Local authority/Agency to insert authority and the division name dealing with application here>> concerning your application, please use the numbers provided in the table below.

<<Insert Local Authority Contact Name/s and Numbers Here>>

For more detailed guidance on the waste facility permit system please refer to the Waste Facility Permit manual at www.epa.ie/wastepermit

Section A: About the facility being transferred to another operator

A.1 Waste facility permit or certificate of registration number to be transferred.

Permit Number:	
-----------------------	--

A.2 Facility name and address.

Facility Name	
Address:	
Tel:	
Fax:	

A.3 Detail the class or classes of activity being carried out at the facility as per the Third Schedule, Part 1 or Part 11 of the Waste Management (Facility Permit and Registration) Regulations 2007-2008.

Class of Activity:	
---------------------------	--

A.4 Who is the current operator of this facility?

Facility Operator:	
---------------------------	--

A.5 Contact details for person or persons in relation to the application for transfer.

Contact Details of current facility operator:	
--	--

A.6 When does the transferee require the transfer to take effect?

Date of proposed transfer:	
-----------------------------------	--

Section B: About the Applicant

This section relates to the applicant or transferee who will be operating the facility following the transfer of the waste facility permit or a certificate of registration.

B.1 Full name of applicant(s).

Name(s):	
-----------------	--

B.2 Name, address and contact details of proposed applicant.

Contact Details of Applicant for Transfer :	
--	--

B.3 Any Trade Name(s) the facility will be operated under.

Trade Name:	
--------------------	--

If the applicant is a sole trader, the next two sections do not need to be completed.

To be Completed by Applicants who are a Body Corporate

B.4 Is the applicant a body corporate?

Yes ☐
 No ☐

If yes, provide the following as appropriate:

- (a) Certified Copy of Certificate of Incorporation
- (b) Company's Number in Company's Registration Office and
- (c) Particulars of Registered Office of the Company

Company Number:	
Document Reference:	

The address of the principal place of business, or in the case of a body corporate the registered office, of the applicant(s) and, where applicable, the telephone number, telefax number and e-mail address of the applicant(s), and, if different, any address to which correspondence relating to the application should be sent:

Address:	
Tel:	
Fax:	
e-mail:	
Contact Name:	

If the applicant is a body corporate please give the names of any person who is a director, manager, company secretary or similar officer of the body corporate:

Name and position:	
Name and position:	
Name and position:	
Name and position:	
Name and position:	

To be Completed by Partnerships

B.5 Is the applicant a partnership?

Yes ☐
 No ☐

If the applicant is a partnership, give the names and addresses of all partners:

Name:	
Address:	

WASTE FACILITY PERMIT TRANSFER APPLICATION FORM

Name:	
Address:	
Name:	
Address:	

Technical Competence (Fit and Proper Person)

B.6 Please detail the applicants technical knowledge and qualifications relevant to the management of a waste facility. Please use a separate sheet if required.

[illegible]

Relevant Convictions

B.7 Has the applicant, including in the case of a body corporate any officer of that body corporate, been convicted of an offence under the Waste Management Act 1996-2007, the Environmental Protection Agency Acts 1992 and 2003, the Local Government (Water Pollution) Acts 1977 and 1990 or the Air Pollution Act 1987,

Yes ☐

No ☐

If yes, please include a supplementary sheet detailing the court hearing, case, nature of the offence and any penalty or requirements imposed by the court. Where there is more than one offence to be considered, please use a separate sheet for each offence.

Document Reference:	
----------------------------	--

Financial Commitment Discharge

B.8 In the event of the application being granted, the applicant must provide particulars to demonstrate how the financial commitments or liabilities entered into by operating the site may be discharged. This includes details of how the site will be cleared should operations at the facility cease:

Document(s) Reference:	
-----------------------------------	--

Section C: Signatures

This section must be signed by an authorised representative of **both** the current **Waste Facility Permit** and the proposed new operator or the current **Certificate of Registration** holder and the proposed new operator. If one signature is missing, the application cannot be progressed until such time as proof that the current holder agree to the transfer is supplied. If the current holder is a body corporate, the signatory of the transfer must be an authorised officer of the body for such transfers.

Current Holder:

Name of Operator Representative:

Name:	
--------------	--

Position within Organisation (if body corporate or partnership):

Position:	
------------------	--

Signature:

Signature:	
-------------------	--

Date:

Date:	
--------------	--

Applicant (Transferee):

Name of applicant:

Name:	
--------------	--

Position within Organisation (if body corporate or partnership):

Position:	
------------------	--

Signature:

Signature:	
-------------------	--

Date:

Date:	
--------------	--

For Office Use Only:

Application Reference Number:

Return Number (If Applicable):

(Insert LA Logo or EPA Logo- Optional)

Waste Facility Permit or Certificate of Registration Surrender Application Form

**Guidance Notes
&
Application Form**

[TO LOCAL AUTHORITY NAME]

Introduction:

This form is for the following purposes under the Waste Management (Facility Permit and Registration) Regulations S.I No. 821 of 2007 and the Waste Management (Facility Permit and Registration) Amendment Regulations S.I No. 86 of 2008 (hereafter referred to as the Regulations):

- (a) The making of an application for the surrender of a Waste Facility Permit;
- (b) The making of an application for the surrender of a Certificate of Registration.

The Guidance Manual and application form are available to download from the (**Insert Local Authority Name and weblink**) or from www.epa.ie/wastepermit

Guidance on the Application Form:

- An application for the surrender of a Waste Facility Permit is made under Article 29 of the Regulations.
- An application for the surrender of a Certificate of Registration is made under Article 39 of the Regulations.
- All sections in this application form may not be relevant to every application, activity or type of applicant. However, the applicant should look carefully through the complete form and provide all relevant information. If any question is considered 'not applicable' this should be stated in full. The use of the abbreviations (e.g., N.A. or dash) should be avoided.
- Additional attachments may be included to supply any further information supporting the application. Attachments should be clearly numbered, titled and paginated and must contain the required information as set out in the application form.
- Consistent measurement units must be used throughout the application form.

Surrender of a Waste Facility Permit:

A waste facility permit shall, subject to the agreement of the local authority, be surrendered by notice in writing by the permit holder to the local authority when the –

- (a) waste related activity ceases,
- (b) waste facility permit expires after 5 years (or a shorter period as specified in the permit), and no review permit has been applied for within 90 days of the expiration date,
- (c) waste facility permit is revoked under article 36 of the Regulations, or
- (d) waste facility permit is refused under articles 18 or 35 of the Regulations.

Surrender of a Certificate of Registration:

An application for the surrender of a certificate of registration shall be made –

- (a) in the case of an activity carried on by or on behalf of a local authority, to the Agency, or
- (b) in the case of an activity carried on by a person other than a local authority, to a local authority in whose functional area the relevant facility is located.

A certificate of registration may be surrendered by the registration holder by notice in writing to the local authority or, as the case may be, the Agency.

- (a) at any time,
- (b) shall be surrendered by the registration holder when the waste-related activity ceases, or
- (c) shall be surrendered by the registration holder when the certificate of registration expires

Additional Information and Conditions:

A local authority (or the Agency as the case may be) shall not agree to the surrender of a waste facility permit or a certificate of registration unless it is satisfied that the condition of the facility is not causing or likely to cause environmental pollution. The competent authority may require the applicant for surrender to carry out investigations as are necessary, in the reasonable opinion of the authority, to verify the condition of the facility. In this event reference should be made to the **EPA Guidance on Environmental Liability Risk Assessment, Residuals Management Plans and Financial Provision, 2006**.

Reports detailing the results of any such investigations should be submitted with the surrender application.

A competent authority may, in agreeing to the surrender of a waste facility permit or a certificate of registration attach conditions by way of a notice in writing to the permit holder, which shall be complied with by the person surrendering the permit. These conditions may include requirements for continued monitoring or assessments of the pollution risks at the facility for a period of time.

NOTE: Local authority to insert required numbers of copies of all documentation. 5 is the legal requirement, but some local authorities request more.

Financial Bond or Security:

If the permit holder who has applied to surrender their waste facility permit currently holds a bond or financial security under article 19(2) of the Regulations, the local authority may decide, as the case may be, that the financial security:

- (a) shall be maintained in place for such period as the authority may require, or
- (b) may be released to the permit holder.

The making of an application for the surrender of a waste facility permit under this article, the revocation of the waste facility permit or the cessation of the activity to which a waste facility permit relates, shall in no way affect or diminish such conditions, requirements or obligations applying to or falling on the permit holder as are specified in or arise under the waste facility permit.

About these Guidance Notes:

These guidance notes have been developed to assist applicants in the preparation of an application for the Surrender of a Waste Facility Permit or the Surrender of a Certificate of Registration. This document does not purport to be and should not be considered a legal interpretation of the provisions and requirements of the Waste Management (Facility Permit and Registration) Regulations S.I No. 821 of 2007 and the Waste Management (Facility Permit and Registration) Amendment Regulations S.I No. 86 of 2008.

While every effort has been made to ensure the accuracy of the material contained in this document, the competent authority assumes no responsibility and gives no guarantees; undertakings and warranties concerning the accuracy, completeness or up-to-date nature of

WASTE FACILITY PERMIT & CERTIFICATE OF REGISTRATION SURRENDER APPLICATION FORM

the information provided herein and does not accept any liability whatsoever arising from any errors or omissions.

If you need to contact << Local authority/Agency to insert authority and the division name dealing with application here>> concerning your application, please use the numbers provided in the table below.

<<Insert Local Authority Contact Name/s and Numbers Here>>

For more detailed guidance on the waste facility permit system please refer to the Waste Facility Permit manual at www.epa.ie/wastepermit .

Section A: Type of Application

A.1 Please tick the relevant box to which this application applies.

Surrender of a Waste Facility Permit ☐
 Surrender of a Certificate of Registration by a local authority ☐
 Surrender of a Certificate of Registration by a private operator ☐

Section B: About the Applicant

This section relates to the applicant who is applying to surrender the waste facility permit/ or a certificate of registration.

B.1 Full name of applicant(s):
 In the case of joint applicants, identify the principal applicant. If applicable.

Registration/ Permit Number:	
---	--

Name(s):	
Principal Applicant	

B.2 Any Trade Name(s) the facility will be operated under.

Trade Name:	
--------------------	--

Section C: About the Facility

C.1 The location or postal address of the facility to which the application relates.

Address:	
Townland:	

C.2 Reason why the Waste Facility Permit/ Certificate of Registration is being surrendered

State the reason why an application for surrender of waste facility permit/ certificate of registration is being made.

REASON FOR SURRENDER	COMMENTS / ADDITIONAL INFORMATION
Waste related activity has ceased	
Waste facility permit/certificate of registration has expired	
Waste facility permit has been revoked under article 36 of the Regulations,	
Waste facility permit is refused under articles 18 or 35 of the Regulations.	

C.3 Please provide a copy of the permit/ certificate of registration licence you wish to surrender.

Document Reference:	
----------------------------	--

Section D: Environmental Pollution and Liabilities

D.1 Environmental Pollution

Provide information on any investigations that have been carried out to ascertain whether environmental pollution is likely to have been caused due to the conditions of the facility. If investigative reports OR Environmental Liability Risk Assessments have been furnished these should be attached and submitted as part of this application.

Yes ☐
No ☐

If yes, provide additional Information on the investigations carried out.

Document Reference:	
----------------------------	--

Section E: Financial Bond for Waste Facility Permit Holders

Please provide information regarding any bond or financial security that is held as part of the current waste facility permit. On surrender of the waste facility permit the local authority may decide whether the bond shall be maintained for a period of time, or whether it may be released to the permit holder.

E.1 Is a bond or financial security currently in place as required under article 19(2) of the regulations?

Yes ☐
No ☐

If yes provide details of the bond or financial security below, and attach a copy of your financial bond with this application.

Document(s) Reference:	
-------------------------------	--

Section F: Additional Information

If there is additional information which the applicant feels may be required by the authority in making its decision, it should be included here.

Section G: Signatures

This section must be signed by an authorised representative of the applicant.

Name:	
--------------	--

Position within Organisation (if body corporate or partnership).

Position:	
------------------	--

Signature:

Signature:	
-------------------	--

Date:

Date:	
--------------	--

**18. EPA ENVIRONMENTAL MANAGEMENT GUIDANCE DOCUMENT
ON THE EXTRACTION INDUSTRIES (NON-SCHEDULED
MINERALS**

Environmental Management Guidelines

Environmental Management in the Extractive Industry (Non-Scheduled Minerals)

Environmental Protection Agency

AGENCY STATUS

The Environmental Protection Agency (EPA) is an independent public body established in July 1993 under the Environmental Protection Agency Act, 1992. Its sponsor in Government is the Department of the Environment, Heritage and Local Government.

The EPA is managed by a full time Executive Board consisting of a Director General and four Directors. Independence is assured through the selection procedures for the Director General and Directors and the freedom, as provided in the legislation, to act on its own initiative. The assignment, under the legislation, of direct responsibility for a wide range of functions underpins this independence. Under legislation, it is a specific offence to attempt to influence the Agency, or anyone acting on its behalf, in an improper manner.

The Agency is assisted by an Advisory Committee of twelve members, appointed by the Minister for the Environment, Heritage and Local Government.

RESPONSIBILITIES

The EPA has a wide range of statutory duties and powers under the Environmental Protection Act. In addition, the capacity of the EPA in relation to enforcement has been enhanced by powers contained in the Protection of the Environment Act 2003. The main responsibilities of the EPA include the following:

- licensing large/complex industrial and other processes with significant polluting potential;
- monitoring environmental quality, including the establishment of databases to which the public have access;
- publishing periodic reports on the state of the environment;
- promoting environmentally sound practices;
- promoting and co-ordinating environmental research;
- licensing all significant waste disposal and recovery activities, including landfills, and the preparation of a national hazardous waste management plan;
- implementing a system of permitting for the control of VOC emissions resulting from the storage of significant quantities of petrol at terminals;
- implementing and enforcing the GMO Regulations for the contained and deliberate release of GMOs into the environment;
- preparing and implementing a national hydrometric programme;

- drafting a National Allocation Plan for greenhouse gas emissions allowance trading; the establishment of a National Competent Authority for the issuing of trading permits and allowances to those covered by the scheme; the monitoring, overseeing and verification of emissions from participating companies; and the establishment of a National Emissions Trading Registry;

and, under the Office of Environmental Enforcement, established in 2003 and dedicated to the implementation and enforcement of environmental legislation in Ireland:

- improving overall compliance with environmental protection legislation in Ireland;
- raising awareness about the importance of enforcement of environmental protection legislation in Ireland;
- enforcing IPPC licences and Waste licences issued by the EPA;
- auditing and reporting on the performance of local authorities in the discharge of their environmental protection functions, including:
 - enforcement in respect of breaches of waste permits,
 - taking action in relation to illegal dumping,
 - implementation of waste collection permits, and
 - enforcement of producer responsibility initiatives (for example, in the area of packaging waste);
- taking action against local authorities that are not discharging their environmental protection functions in an adequate manner;
- prosecuting, or assisting local authorities to prosecute, significant breaches of environmental protection legislation, in a timely manner; and
- assisting local authorities to improve their environmental protection performance on a case by case basis, through the establishment of an enforcement network to promote information exchange and best practice, and by the provision of appropriate guidance.



Environmental Management Guidelines

Environmental Management in the Extractive Industry (Non-Scheduled Minerals)

ENVIRONMENTAL PROTECTION AGENCY

An Ghníomhaireacht um Chaomhnú Comhshaoil
PO Box 3000, Johnstown Castle, Co. Wexford, Ireland

Telephone: +353 53 916 0600 Fax: +353 53 916 0699
E-mail: info@epa.ie Website: www.epa.ie

Lo Call 1890 33 55 99

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Acknowledgements

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The project team comprised John Barnett & Associates Ltd – Chartered Mineral Surveyors, Environmental, Planning & Geotechnical Consultants in association with the Centre for Environmental Research, University of Limerick, the Geological Survey of Ireland and the Centre Terre et Pierre, Belgium. Mr Gerry Stanley (Geological Survey of Ireland) and Dr Frederic Brodtkom (Centre Terre et Pierre, Belgium) as members of the project team, and Dr Jonathan Derham (EPA), Helen Walsh (EPA) and Stephen McCarthy (EPA) provided valuable review and comment on drafts of the guidelines.

A public consultation process was carried out as part of the preparation of the guidelines, and the comments/constructive criticism on the consultation draft guidelines offered by the participating organisations are gratefully acknowledged.

Published by the Environmental Protection Agency, Ireland

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Price: €7

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Purpose of these Guidelines

Since the formation of the Agency in 1994, it has been our experience that complaints from the public in relation to quarry activities have been all too frequent. The EPA has no statutory function in the regulation of aggregate and construction stone quarries and pits, yet it recognised that such operations have the potential to impact on the environment and amenity of a community. The Agency also recognised that there were no clearly articulated guidelines on environmental best practices for these operations, nor a consistent approach to the regulation of the sector. This was the basis for the ERTDI research project 2000-MS-11-M1 that, *inter alia*, yielded these guidelines.

In recent years the Irish Concrete Federation has produced excellent guidance for its member on matters of environmental performance of quarry and pit activities (see ICF *Environmental Code – Second Edition, October 2005*). In 2000, the State, through the amended Planning & Development Act included provision for the registration and environmental management of such activities (Section 261). This part of the Planning & Development Act came into effect in April 2004, and was accompanied by very useful guidance

titled *Quarries & Ancillary Activities – Guidelines for Planning Authorities* (DoEHLG, 2004).

These EPA guidelines on Environmental Management in the Extractive Industry are intended to complement existing guidance and be of assistance to operators, regulatory authorities, and the general public. They are also complemented by a sister EPA publication *Environmental Management in the Extractive Industry – Guidelines for Regulators*. It is hoped that they will assist in the implementation of the Statutory Requirements under Section 261 of the Planning Acts, as well as lead to a harmonised regulatory approach to the authorisation and supervision of such activities. In addition, the EPA believes that these guidelines will contribute to a more environmentally sustainable quarry & pit industrial sector, greater protection for the environment and human health, and thereby a greater public confidence in such operations.

The Agency would be pleased to receive feedback on the guidelines that may assist in improving future editions.

Table of Contents

Acknowledgements	ii
Purpose of these Guidelines	iii
1 Introduction	1
1.1 General Background	1
1.2 Definition of ‘Minerals’	2
1.3 Use of the Guidelines	2
2 Environmental Management Practice	4
2.1 General	4
2.2 Benefits of Good Environmental Management Practice	5
2.3 Environmental Management Systems	5
3 Environmental Management Guidelines	7
3.1 Ecology	7
3.1.1 Environmental management guidelines	7
3.2 Surface Water	8
3.2.1 Environmental management guidelines	8
3.2.2 Recommended ELVs	9
3.3 Groundwater	9
3.3.1 Environmental management guidelines	9
3.3.2 Recommended ELVs	10
3.4 Air Quality	11
3.4.1 Environmental management guidelines	11
3.4.2 Recommended ELVs	12
3.5 Noise and Vibration	12
3.5.1 Environmental management guidelines	12
3.5.2 Recommended ELVs	13
3.6 Landscape, Restoration and Afteruse	14

3.6.1	Environmental management guidelines	14
3.7	Waste Management	15
3.7.1	Environmental management guidelines	15
3.8	Archaeological Heritage	16
3.8.1	Environmental management guidelines	16
3.9	Transport and Traffic	16
3.9.1	Environmental management guidelines	17
3.10	Energy	17
3.10.1	Environmental management guidelines	18
3.11	Environmental Management and Monitoring	18
References		19
Appendix A	List of RTDI 2000-MS-11 Project Consultees	20
Appendix B	Glossary of Terms	21
Appendix C	Guidelines on Requirements for an EMS	24
Appendix D	Guidelines for Settlement Lagoons	27

1 Introduction

1.1 General Background

Construction aggregates and dimension stone are basic materials essential for construction. Both materials are predominantly sourced from 'Non-Scheduled' minerals (refer to the definition in Section 1.2).

A recent review of the Irish construction materials sector indicates that approximately 100 to 110 million tonnes of aggregates are used annually (Irish Concrete Federation (ICF), 2000 and see Main Report for this project). This includes aggregates used in the production of concrete products, bituminous mixes and asphalt, and fill materials (Figs 1.1 and 1.2).

In addition, Irish dimension stone operators produce approximately 250 thousand tonnes of cut stone annually (private communication, Irish Dimension Stone Producers Association, 2000) (Figs 1.3 and 1.4). There is a significant export market in northern Europe for these products and up to 50% of the dimension stone produced in Ireland is exported to Belgium, Holland and Germany.

For the purposes of these guidelines, construction aggregates are sub-divided into two main categories:



Figure 1.1. Concrete batching plant (Shay Murtagh Ltd, Raharney, Co. Westmeath).



Figure 1.2. Extraction of sand and gravel (Keohane Readymix, Innishannon, Co. Cork).

- i. Primary aggregates: naturally occurring rock and sand and gravel extracted directly from land or from marine sources
- ii. Secondary/recycled aggregates: previously used materials that are capable of substituting for primary aggregates. These include waste materials arising from demolition of buildings and road surface planings, etc.

At present, in Ireland, most primary aggregates are sourced from land-based quarries. There is currently no commercial extraction of aggregates from marine sources. The use of secondary/recycled aggregates is at a relatively low level, but it is envisaged that this will increase over the next few years, particularly with the recent introduction of the Landfill Levy, the establishment of the National Construction and Demolition Waste Council and the recent development of a number of construction and demolition (C & D) waste recycling facilities at major urban centres, and the greater acceptance of the use of secondary/recycled aggregates. A number of these C & D waste recycling facilities have been located at existing quarry developments.

Due to the relatively low volume of C & D waste available for recycling in comparison to the overall demand for aggregates, land-based resources will remain as the principal future source of aggregates in Ireland.

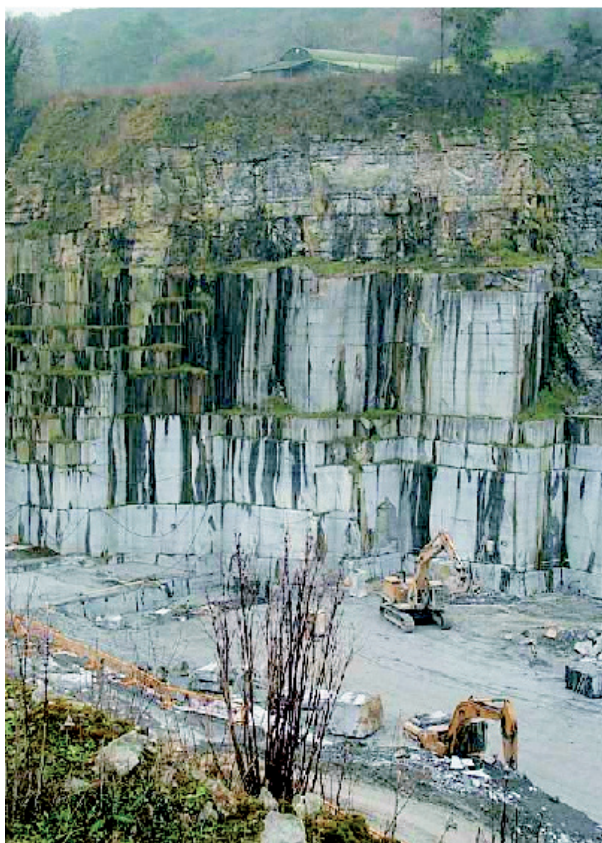


Figure 1.3. Extraction of dimension stone (McKeon Stone, Threecastles, Co. Kilkenny).

There are approximately 500 operating quarry developments in Ireland (Geological Survey of Ireland (GSI), 2001 and see Main Report for this project). At present, there is no national planning policy or strategy in Ireland for construction aggregates or dimension stone. Local authorities consider the land use and planning issues associated with quarries and the extractive industry in their county development plans. A recent review of these plans indicates that there is a requirement for a more consistent approach to land-use planning for provision of aggregates and dimension stone (see Main Report for this project).

The general objective in planning for provision of these materials is to ensure that the supply is managed in a sustainable way so the best balance is obtained between environmental, economic and social considerations.

1.2 Definition of ‘Minerals’

In Ireland, minerals are defined in two different Statutes. In the Minerals Development Act, 1940, minerals are



Figure 1.4. Use of dimension stone at East Point Business Park (Feelystone Ltd, Co. Kilkenny).

defined as *All substances (other than the agricultural surface of the ground and other than peat or turf in, on or under the ground but without prejudice to the generality of the foregoing, the said word includes all scheduled minerals.* A list of 72 minerals is defined in the Schedule under the Act. These minerals known as ‘Scheduled Minerals’ include metalliferous and industrial minerals, and hydrocarbons. The Minerals Development Act, 1979, further clarified this issue and stated that the definition of ‘minerals’ *shall not include stone, gravel, sand or clay except to the extent that any such substance falls within the list of minerals mentioned in the Schedule to the Act of 1940.*

The planning code has a wider definition of minerals. *Viz., under the 2001 Planning & Development Regulations (SI No. 600) minerals are defined as meaning all minerals and substances in or under the land of a kind ordinarily worked by underground or by surface working for the removal but does not include turf.*

1.3 Use of the Guidelines

These guidelines are principally aimed at surface developments within the extractive industry, other than those working minerals as they are defined in the Mineral Development Acts, 1940 to 1999. They apply to surface developments that are extracting and processing construction aggregates and dimension stone (i.e. quarries and ancillary facilities), i.e. typically those regulated by Section 261 of the Planning & Development Act 2000.

There may be other issues, beyond the scope of these guidelines, that need to be considered for underground workings.

These environmental management guidelines represent a summary of current environmental management practices for quarries and ancillary facilities (including manufacturing of concrete and bituminous mixes/asphalt products, and processing of dimension stone). They are based on a review of current environmental management practice in Ireland, the UK and Europe. Over 20 quarry locations in Ireland have been visited and inspected as part of the development of the guidelines. Key environmental management issues have been identified and addressed.

Consultation has been carried out with a wide range of organisations including industry bodies, local authorities, regional fisheries boards, government agencies, professional bodies and non-governmental organisations. A full list of consultees is provided in Appendix A.

Chapter 2 provides some background to environmental management practice and highlights the benefits that can be achieved by organisations that adopt good environmental practice. The use of environmental management systems (EMSs) is outlined together with the requirements for an EMS.

The environmental management practice guidelines are presented in Chapter 3. Under each of the key environmental issues, good environmental practice is summarised together with recommendations for emission limit values (ELVs), where appropriate.

A glossary of terms is provided in Appendix B. Further information on EMSs and settlement lagoons is provided in Appendices C and D.

The guidelines are intended to provide general advice and guidance in relation to environmental issues to practitioners involved in the planning, design, development, operation and restoration of quarry developments and ancillary facilities. It should be noted that each individual quarry location will have site-specific issues to be addressed.

No distinction is made between new and existing developments in this document. Some allowances in respect of ELVs may be provided for existing developments over an agreed time frame, to allow operators to put in place the relevant measures to meet the recommended ELVs.

Existing background levels for air quality, surface water, groundwater and noise should be taken into account when setting ELVs.

Parts of these guidelines relevant to quarry developments are referenced in the *Quarries & Ancillary Activities – Guidelines for Planning Authorities* published by the Department of the Environment, Heritage and Local Government, under Section 261 of the Planning and Development Act, 2000 – Control of Quarries (www.environ.ie).

The regulations referred to in this document can be obtained from the Government Publications Office or from www.irishstatutebook.ie or www.irishlaw.org.

These guidelines do not specifically address health and safety, or socio-economic issues.

2 Environmental Management Practice

2.1 General

Inspections of over 20 operating quarries were carried out during 2001 and 2002 to assess current environmental practice. The quarries selected covered a broad distribution of size, type and geographical location. Each quarry has planning permission or pre-1964 planning status.

The following key environmental management issues were noted and are listed below in no particular order of priority.

- Noise, vibration and dust management were generally satisfactory, and compliant with ELVs where specified in planning conditions.
- There was a general lack of bunding to fuel/bitumen storage facilities.
- Companies are generally proactive in managing community relations and dealing with complaints.
- Those quarry operations with an EMS in place or in preparation addressed environmental issues in a more proactive manner.
- In a number of cases, mainly relating to pre-1964 developments, some ecological, archaeological and visual/restoration issues needed further review to mitigate existing or potential impacts.
- Management of unsuitable rock is an issue that requires further consideration by dimension stone quarries. In this respect, it is noted that some dimension stone quarries are processing unsuitable rock into construction aggregates.

A copy of the inspection report was provided to the quarry operators for their records and action.

The EPA maintains a complaints register and has recorded complaints at 38 quarries (1996–2003). The complaints relate to the full spectrum of environmental issues addressed within these guidelines. The majority of complaints related to noise and dust emissions, followed by issues relating to alleged illegal dumping and quarry



Figure 2.1. Permanent blast monitoring station (Roadstone Provinces Ltd, Brownswood, Co. Wexford).

blasting. In most cases, the EPA considered the issues raised were a matter for the relevant Local Authority.

Since 1996, the Irish Concrete Federation (ICF) has developed and implemented an Environmental Code for the Aggregate and Concrete Product Industries (ICF, 2005). This voluntary self-regulatory code sets out environmental management practice and guidelines for ICF member companies, and covers all of the relevant environmental issues. The ICF is currently in the process of reviewing and updating its Environmental Code. An Environmental Code Checklist has been developed for member companies to use as a basis for environmental audits (ICF, 1997). In parallel to the Environmental Code, the ICF has also initiated an Environmental Award Scheme which assesses and recognises good environmental management practice. A number of the ICF award-winning entries have been used as examples of good practice in Section 3 of these Guidelines. An ICF/Department of the Arts, Heritage, Gaeltacht and the Islands joint initiative led to the implementation of a joint Code of Practice for the Protection of Archaeological Heritage in 2002.

Local authorities are responsible for the planning and environmental regulation of quarry developments (extracting non-scheduled minerals) and ancillary facilities (including concrete and asphalt manufacturing facilities). The current planning and environmental regulatory framework requires these developments to comply with the Planning and Development Act (2000) and related regulations. The local authorities and An Bord Pleanála attach conditions relating to environmental management of these developments to planning permissions granted.

In addition to obtaining planning permission, the following licences/permits may be required from local authorities where discharges, emissions or waste activities are carried out:

- A discharge licence is required under the Local Government (Water Pollution) Acts, 1977 and 1990, where a discharge of trade effluent or sewage effluent is made to waters
- A licence under the Air Pollution Act, 1987 (Licensing of Industrial Plant) Regulations, 1988, is required where there are specific point emissions from new asphalt plants erected on or after 1st November 1988
- A waste permit under the Waste Management (Permit) Regulations, 1998 may be required where soil or clay is imported to sites pending recovery for restoration purposes. The local authorities attach conditions (covering environmental issues) to waste permits granted for such activities.

It should be noted that even where an operation is not required to have a permit or single media licence there remains an obligation to comply with the provisions of the Acts.

2.2 Benefits of Good Environmental Management Practice

There are a number of key benefits to organisations that adopt good environmental management practice and EMSs. These include:

- Increased business competitiveness
- Ensuring regulatory compliance
- Reduced corporate liabilities
- Enhanced public and community relations.

2.3 Environmental Management Systems

The purpose of an EMS is to enable an organisation to establish procedures to set an environmental policy and objectives, to achieve compliance with them, and to ensure continuous improvement through regular updating of knowledge and demonstrate such competence to others (Bouchier *et al.*, 1998) (Fig. 2.2). There are international standards relating to EMSs – refer to ISO 14001 (1996) and EU EMAS (1993).

In many cases it is possible to integrate EMS requirements into an existing management system framework. In particular, for operations where a Quality Assurance System such as ISO 9000 is in place, it is not a major undertaking to develop and implement an EMS. For sites where an Environmental Impact Statement has been carried out, this will have generated all of the necessary environmental information for an EMS.

The main components of an EMS should include the following elements:

- Organisational commitment
- Environmental policy statement
- Environmental audits and site assessments
- Environmental monitoring
- Operational and emergency procedures

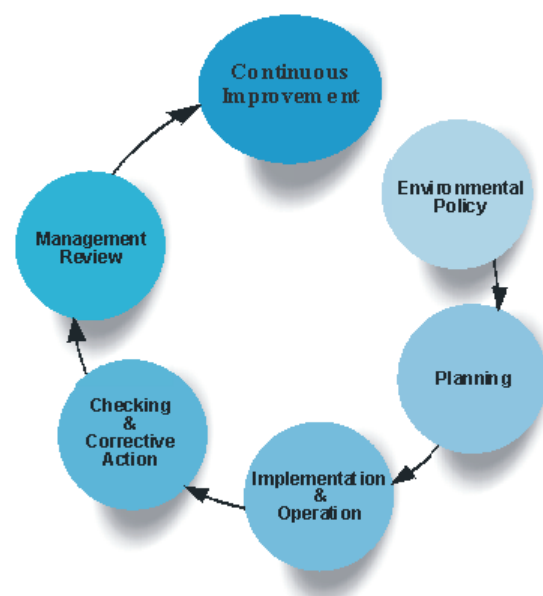


Figure 2.2. EMS implementation.

- Responsibility and reporting
- Training and awareness.

Guidelines for the requirements of an EMS are provided in Appendix C. It should be noted that these guidelines are general in nature and will need to be reviewed during the development of an organisation-specific EMS. An operator should develop an EMS that is appropriate to the scale of the operation, and that covers the key objectives outlined in Appendix C.

To be fully effective, an EMS must be fully integrated into the everyday operation of the quarry development and activities. An EMS requires periodic internal and external review to refine and optimise its operation and benefits.

Environmental management audits are an inherent part of an EMS. The audits assess the use and application of the EMS, progress in relation to achievement of the stated environmental objectives, and compliance with regulatory issues.

It is considered that implementation of an EMS will assist quarry operators and producers of construction materials in achieving and maintaining good environmental management practice. In addition, it will promote compliance with environmental conditions that are attached to planning permissions, discharge licences, air pollution licences and waste permits, and assist in community relations.

3 Environmental Management Guidelines

The following sections describe and summarise good environmental management practice guidelines under key environmental issues.

3.1 Ecology

Quarry developments by their nature are resource based and result in the removal of soil and rock. This results in disturbance and removal of original habitats. With sensitive and effective restoration, the original habitat can be replaced by another, new, and often more ecologically diverse, habitat that attracts new species of flora and fauna (Figs 3.1 and 3.2).

The biodiversity associated with quarry developments is recognised in the designation of a number of disused quarry developments as conservation areas (English Nature, Quarry Products Association and Silica & Mouldings Sands Association, 1999). One notable success story is the increase in the peregrine falcon population, which is often found to roost in quarries.

In some cases where protected species cannot be retained *in situ*, conservation techniques such as translocation/relocation may be the best available means of mitigating the loss of the ecosystem. Where required, such measures should be undertaken in consultation with the National Parks and Wildlife Service (DoEHLG) and under expert ecological supervision.



Figure 3.1. Quarry restoration – natural habitat: improved biodiversity.



Figure 3.2. Natural recolonisation.

Restoration schemes for quarry developments can provide a mechanism for enhancing biodiversity of local areas (refer to Section 3.6).

3.1.1 Environmental management guidelines

The following guidelines represent good practice in relation to ecological issues.

- Carry out ecological baselines studies and understand the ecological environment within and in the vicinity of the quarry.
- Mitigation measures:
 - Provide a minimum buffer zone of 10 m width (from edge of habitat to edge of extraction area) for designated ecological habitats defined under National and European legislation. The actual width will depend on the type of development and the habitat to be protected
 - Use translocation/relocation techniques, where necessary and appropriate.
- Link to restoration and afteruse: natural habitats, wetland areas.
- Protect and enhance existing habitats where appropriate as part of the landscaping and restoration scheme.
- Comply with regulations in relation to protected species, habitats and designated conservation areas.

- Plan for restoration at design stage of a quarry, and update/review the restoration scheme regularly during the life of the development.
- Retain topsoil and overburden materials on site to facilitate operational landscaping and restoration.

3.2 Surface Water

This section addresses issues relating to the surface water environment. It should be read in association with Section 3.3 on groundwater. The key objectives are to protect existing surface watercourses and to optimise the requirements for water abstraction through best water management practice. Discharges of effluent to surface waters are regulated under the Local Government (Water Pollution) Acts, 1977 and 1990. The associated regulations also specify water quality standards. There is an obligation for operators to comply with the provisions of these Acts.

3.2.1 Environmental management guidelines

- Consult the relevant Local Authority, Fisheries Board and, where applicable, Waterways Ireland about any alterations to existing surface watercourses, nearby river corridors and any discharges/abstractions.
- Consult with the Department of Communications, Marine and Natural Resources in relation to discharges to the foreshore.
- Obtain a discharge licence for discharges of effluent to surface watercourses.
- Where a discharge licence is required, undertake a surface water quality baseline study to assess the water quality and the assimilative capacity of the receiving surface waters.
- Undertake an aquatic survey (e.g. a biological survey to obtain a Q value) where discharge of effluent is to salmonid surface waters.
- Provide an appropriate drainage system to minimise surface water run-off into the quarry workings.
- Adopt an integrated approach to water management, including the following:
 - Control of suspended solids by settlement in sumps and lagoons (Fig. 3.3)
 - Ensure all surface run-off from hardstanding areas used for refuelling is directed to an appropriately sized hydrocarbon interceptor prior to discharge
 - Optimise use of water in processing plants and treatment of effluent including vehicle washing water
 - Where practical, provide closed water systems to reuse process and wheelwash water, and conserve water resources by abstracting water for 'top-up' only
 - Optimise use of water in dust suppression/control systems
 - Use of appropriate water recharge or other practical measures, where it is demonstrated that the quarrying activities have impacted on surface water levels in nearby streams, rivers, or lakes
 - Regular cleaning and maintenance of the water management system.
- Limit erosion by:
 - Rapidly vegetating exposed areas
 - Vegetating the surfaces of overburden and topsoil mounds
 - Progressively restoring worked-out areas, where practical
 - Limiting the areas of topsoil/overburden stripping exposed at any one time.
- Design sumps and lagoons to cope with all reasonable anticipated conditions, by ensuring that:
 - They are adequately sized
 - Scouring is avoided



Figure 3.3. Settlement lagoon.

- The retention time is adequate, and if necessary, enhancing settlement by use of flocculants or mechanical means
- Lagoons are adequately sealed with an impermeable material
- Regular cleaning and maintenance can be carried out
- Surface water monitoring stations are established both down and upstream of the site.

(Refer to Appendix D for specific guidance on the design, construction and maintenance of settlement lagoons.)

- Leave adequate margins/buffer zones around watercourses, and other sensitive areas.
- Control surface water run-off, e.g. minimise obstruction of flood flows by inappropriate placing of mounds of overburden or waste.
- Provide pollution control measures in relation to fuel and chemical storage (refer to Section 3.3).
- Where high concentrations of suspended solids are generated (e.g. in the processing of dimension stone) and where space limitations prevent the use of settlement lagoons, mechanical means of removal of suspended solids should be adopted.

3.2.2 Recommended ELVs

Where there are discharges of treated effluent from quarry developments to surface watercourses, the following ELVs are generally recommended:

- pH less than 9
- Biochemical oxygen demand (BOD): 25 mg/l
- Total suspended solids (TSS): 35 mg/l
- Nitrate (NO_3) 50 mg/l
- Chemical oxygen demand (COD): 100 mg/l O_2
- Total hydrocarbons: 1 mg/l.

It is noted that the specific ELVs will be determined by the nature of the treated effluent to be discharged and the receiving surface waters. These limits will be specified in the conditions attached to the associated discharge licence.

3.3 Groundwater

Groundwater is a significant natural resource in Ireland providing between 20% and 25% of drinking water supplies (GSI, 1999). In rural areas where there is no public water supply or group water scheme, groundwater is usually the only source of water. It is estimated that there are over 100,000 wells/springs in use around the country.

At present, groundwater resources are protected through the Local Government (Water Pollution) Acts, 1977 and 1990, at national level, and through the EU Groundwater Directive (80/68/EEC). These regulations control the discharge of specified substances to groundwater.

The GSI has prepared groundwater protection plans for a number of counties. These plans classify aquifers and aquifer vulnerability on a county basis, and some counties have incorporated this information into their county development plans.

Quarry developments by their nature remove topsoil and overburden materials within the extraction area and these activities may change aquifer recharge characteristics and increase the aquifer vulnerability. Depending on the depth of the quarry relative to the surrounding groundwater regime, groundwater control or dewatering measures may also have to be incorporated into quarry operations. The impact of these activities, if any, on the groundwater resource can be mitigated by appropriate quarry planning and design, together with the operational practices outlined below.

3.3.1 Environmental management guidelines

Groundwater control

- Where applicable, assess the hydrogeological regime around the quarry and its environs.
- Optimise the location and extent (plan area and depth) of the workings to ensure that there is no significant impact on groundwater resources.
- Implement groundwater monitoring where applicable, within EMSs.
- Provide for recharge of surface water regimes and aquifers, where such measures are necessary and practical.

- Provide replacement water supplies, where quarrying activity is found to adversely affect local water supplies.
- Provide an appropriate location for discharge of groundwater (where this is being abstracted and not reused).
- Obtain a discharge licence for any discharge of treated effluent to groundwater.
- Provide an appropriate buffer zone to ecological habitats that would be affected by any significant change in the groundwater regime.

Protection of groundwater (and surface water)

- Provide bunding to all fuel/chemical storage tank areas (refer to the EPA IPPC Guidance Note (EPA, 2005): 110% of the capacity of the largest tank within the area or 25% of the total volume of the substance which could be stored within the area, whichever is greater). Covering of bunded areas should be considered to minimise the requirement to dispose of contaminated rainwater collecting in the bund (Fig. 3.4).
- Use spill pallets to store drums of chemicals and oils (including waste oils) (Fig. 3.5).
- Assess and monitor the integrity and watertightness of all bunding structures.



Figure 3.4. Bunded fuel oil tanks (Arkil Ltd, Rathangan, Co. Kildare).



Figure 3.5. Spill pallets – storage of oils and chemicals.

- Provide spillage control equipment on site (booms and suitable absorbent materials, etc.) to contain any accidental spillage.
- Ensure blasting practice minimises the risk of occurrence of nitrate/ammonia residues by proper blast design and implementation, appropriate disposal of any excess explosives, and selection of the appropriate type of explosives (particularly in some limestone environments where significant karst features such as open cavities have been observed/encountered).
- Infiltration drainage (e.g. soakaways) should be designed in accordance with the principles outlined in CIRIA Report 156 (1996).
- Effluent treatment systems should be designed, constructed and maintained in accordance with the EPA Guidelines on Wastewater Treatment Systems (EPA, 1999a).

3.3.2 Recommended ELVs

Where there are point discharges of treated effluent from quarry developments to groundwater, the ELVs should be based on an assessment of the existing groundwater quality, the assimilative capacity and the appropriate legislation and environmental quality standards (e.g. the interim *Guideline Values for the Protection of Groundwater in Ireland* issued by the Environmental Protection Agency (EPA, 2003a)).

The specific ELVs will be determined by the nature of the treated effluent to be discharged and the receiving

aquifer. These limits will be specified in the conditions attached to the associated Discharge Licence.

3.4 Air Quality

Quarrying activities and ancillary facilities, by their nature, generate dust. The dust arises predominantly from inert soil and rock materials.

The main potential sources of dust include processing plant, stockpiles, traffic on internal haul roads, stripping, and overburden storage. They are generally dispersed sources rather than specific point sources, and this dictates the measures required to mitigate potential dust-related impacts.

The Air Quality Standards Regulations (2002 SI No. 271 of 2002) sets limit values for sulphur dioxide, nitrogen oxide, particulate matter and lead in ambient air. These regulations apply to ambient air quality in the local vicinity of land-use/development types including quarries and concrete/asphalt manufacturing facilities.

3.4.1 Environmental management guidelines

Minimise the creation of dust by planning and design

- Consider the use of conveyors rather than internal haul roads, where practical.
- Locate fixed/mobile processing plant within the quarry area, where practical.
- Locate haul roads, tips and stockpiles away from sensitive receptors and take into account prevailing wind directions.
- Lay out and construct stockpiles, tips and mounds to minimise dust creation.
- Use screening berms.
- Use crushing and screening plant within its design capacity.

Control the escape of dust from plant

- Enclose fixed conveyors and the processing plant.
- Where applicable, provide a dust removal system for the plant.
- Use water sprays and mists as dust suppression measures.
- Carry out regular maintenance on all plant.

- Use appropriate dust filter systems on asphalt and ready-mix plants.

Minimise wind-blown dust

- Compact, grade and maintain internal haul roads.
- Fit dust extractors, filters and collectors on drilling rigs.
- Use screening bunds to shelter plant and storage areas.
- Limit the drop of falling material.
- Reduce speeds and limit movement of vehicles, use upswept exhausts.
- Use water bowsters, sprays or vapour mists.
- Spray exposed surfaces, e.g. unsurfaced haul roads, stockpiles.
- Vegetate exposed surfaces, e.g. topsoil and overburden storage mounds.
- Carry out road sweeping, where appropriate (Fig. 3.6).
- Provide vehicle/wheel washing facilities and surface the road between the washing facility and the quarry entrance (Fig. 3.7).
- Use covered (closed or sheeted) vehicles, or spraying, for the transport of dry fine materials.
- Clean up any accidental spillages on public roads, as soon as such a spillage arises or is notified.



Figure 3.6. Vacuum road sweeper (Frank Harrington Ltd, Carrowscoltia, Co. Mayo).



Figure 3.7. Wheelwash facility (Loughnane Concrete, Birr, Co. Offaly).

New fixed or mobile asphalt plants constructed on or after 1 November 1988, require a licence under the Air Pollution Act, 1987, (Licensing of Industrial Plant) Regulations, 1988. This licence is issued by the relevant local authority and enables specific conditions in relation to air emissions to be applied to asphalt plants. The use of low sulphur fuels is recommended where practical.

Regular maintenance of vehicles should be carried out to control exhaust emissions.

3.4.2 Recommended ELVs

The impact of dust is usually monitored by measuring rates of dust deposition (DoE, 1995). There are currently no Irish statutory standards or EPA guidelines relating specifically to dust deposition thresholds for inert mineral dust. There are a number of methods to measure dust deposition but only the German TA Luft Air Quality Standards (TA Luft, 1986) specify a method of measuring dust deposition – The Bergerhoff Method (German Standard VDI 2119, 1972) – with dust nuisance. It is the only enforceable method available. Where this method is deemed unsuitable for use, and only in these circumstances, an alternative method may be agreed with the local authority.

On this basis, it is recommended that the following TA Luft dust deposition limit value be adopted at site boundaries associated with quarry developments – total dust deposition (soluble and insoluble): 350 mg/m²/day (when averaged over a 30-day period).

The following ELVs are recommended for emissions to air arising from asphalt plants regulated under the Air Pollution Act, 1987:

- Sulphur dioxide 500 mg/Nm³
- Nitrogen oxide 450 mg/Nm³
- Dust 50 mg/Nm³

3.5 Noise and Vibration

People, property and animals are regularly exposed to vibration, both ground-borne and airborne. Noise and vibration are present in many normal everyday activities. Tables 3.1 and 3.2, respectively, describe the noise and vibration levels associated with these activities.

3.5.1 Environmental management guidelines

The following practical measures can be adopted to reduce noise and vibration levels at quarry sites.

Noise control

- Design of the workings and ancillary facilities: layout, sequence of working.
- Selection of locations for processing, storage and loading.
- Screening by bunds and working face (Fig. 3.8).
- Screening of haul roads and provision of suitable gradients.
- Consider noise characteristics as part of the overall assessment when purchasing new plant and equipment.
- Internal traffic routing: optimise vehicle reversing requirements (to minimise noise associated with reversing alarms).
- Use of rubber linings on chutes and transfer points
- Minimise height which material drops from plant and machinery.
- Enclosure and cladding of processing plant, where applicable.
- Regular maintenance for plant and machinery.

Vibration and air overpressure control

Efficient blasting ensures that as much of the explosive energy as possible is utilised for rock fragmentation, and

Table 3.1. Typical noise levels generated by everyday activities.

Description of activity	Noise level (dB(A))
Absolute silence	0
Very quiet room	25
Rural night-time setting (no wind)	35
Daytime, busy road 0.5 km away	55
Busy restaurant	70
Very busy pub, voice has to be raised to be heard	85
Disco or rock concert	100
Uncomfortably loud, conversation impossible	120
Noise causes pain in ears	140

Source: EPA (1996).

Table 3.2. Typical vibration levels generated by everyday activities.

Vibration level	Description of activity
1.0–2.5 mm/s	Walking measured on a wooden floor
2.0–5.0 mm/s	Door slam, measured on a wooden floor
12–35 mm/s	Door slam, measured over doorway
5–50 mm/s	Footstamp, measured on wooden floor
30–70 mm/s	Daily changes in temperature and humidity
120 dB	Constant wind of 5 m/s: Beaufort Scale 3, Gentle Breeze
130 dB	Constant wind of 8 m/s: Beaufort Scale 4, Moderate Breeze

Source: DETR (1998).

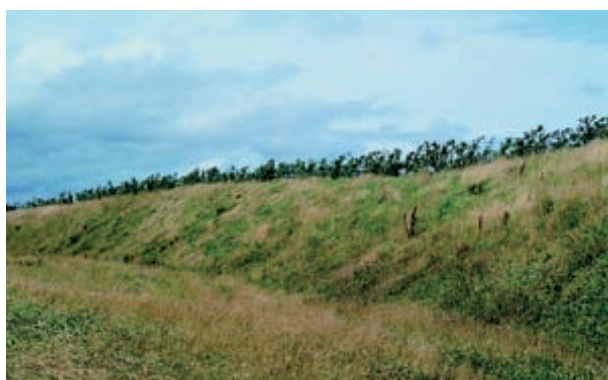


Figure 3.8. Landscaped screening berm.

by implication ground vibration and air overpressure is inefficient use of this energy. Air overpressure values arising from blasting operations fluctuate depending on the weather conditions, a factor outside the control of

operators. The ELV is specified with a 95% confidence limit to address this issue. The following measures should be considered to reduce the effects of blasting:

- Optimise blast design
- Monitor blasts and revise blast design, as required
- Limit ground-borne vibration and minimise air overpressure by:
 - Taking care in unusual situations, e.g. corners
 - Including geological considerations in blast design
 - Minimising air overpressure through proper blast design, avoiding detonation of large unconfined charges, and by consideration of atmospheric conditions before blasting
- A blast must be carried out on a specified day as concerns over security do not allow for explosives to be stored on site. In exceptional or unforeseen circumstances (e.g. late delivery, security, meteorological conditions, etc.), a blast may be delayed or brought forward. Where possible the operator should endeavour to inform the public of the revised blasting timetable
- Adequate stemming of holes
- Ensure the correct blasting ratio is obtained. The blasting ratio is a measure of the amount of work per unit volume of explosives, i.e. tonnes/kg
- Notify nearest residences prior to the blast.

3.5.2 Recommended ELVs

The Environmental Protection Agency (EPA) has produced a *Guidance Note for Noise in Relation to Scheduled Activities* (EPA, 1996). It deals in general terms with the approach to be taken in the measurement and control of noise, and provides advice in relation to the setting of noise ELVs and compliance monitoring.

- In relation to quarry developments and ancillary activities, it is recommended that noise from the activities on site shall not exceed the following noise ELVs at the nearest noise-sensitive receptor:

Daytime:	08:00–20:00 h LAeq (1 h) = 55 dBA
Night-time:	20:00–08:00 h LAeq (1 h) = 45 dBA

(Note: 95% of all noise levels shall comply with the specified limit value(s). No noise level shall exceed the limit value by more than 2 dBA.)

- On-site activities should be permitted during night-time hours where they comply with the noise ELVs (e.g. heating up of asphalt plants, loading of materials).
- Where existing background noise levels are very low, lower noise ELVs may be appropriate.
- Audible tones or impulsive noise should be avoided at night.
- It is also appropriate to permit higher noise ELVs for short-term temporary activities such as construction of screening bunds, etc., where these activities will result in a considerable environmental benefit.
- In relation to blasting activities within quarry development, it is recommended that the following vibration and air overpressure ELVs are adopted and applied at the nearest vibration and air overpressure sensitive location (e.g. a residential property):

Ground-borne vibration: Peak particle velocity = 12 mm/s, measured in any of the three mutually orthogonal directions at the receiving location (for vibration with a frequency of less than 40 Hz)

Air overpressure: 125 dB (linear maximum peak value), with a 95% confidence limit.

- Normal hours of blasting should be defined (e.g. 09:00–18:00 h Monday to Friday), and provision should be included to permit blasting outside these hours for emergency or safety reasons beyond the control of the quarry operator.
- It is recommended that quarry operators provide advance notification of blasting to nearby residents through use of written notes, signage at site entrance, telephone, or warning sirens (or a combination of these methods).

3.6 Landscape, Restoration and Afteruse

Landscape change and visual intrusion are some of the key environmental issues associated with quarry developments. Because of the diversity of local landscapes, the potential impacts vary considerably in nature. The method of extraction and associated

restoration scheme, where properly planned and implemented, can eliminate and/or minimise these potential impacts. The Landscape Institute/Institute of Environmental Management and Auditing has provided useful guidelines for landscape and visual assessment (IEMA, 2002).

There are a number of publications providing guidelines for the restoration of quarry developments and these are provided in the References (DoE, 1992, 1996; CTP, 2000). In addition, the EPA Landfill Manual – *Landfill Restoration and Aftercare* – (EPA, 1999b) provides useful information on the principles of restoration and on issues such as soil handling and afteruse options.

3.6.1 Environmental management guidelines

- Minimise impact on the landscape through proper planning and design:
 - Direction of working and phasing of extraction
 - Implement progressive restoration, where possible
 - Location of processing plant and stockpiles
 - Use of screening bunds (Fig. 3.8)
 - Use of pre-planting, where possible, to minimise the impact of future phases of extraction
 - Operational landscaping around site perimeter and at site entrance, where appropriate
 - Suitable choice of colours/finishes for plant and buildings
 - Retain and/or reinstate boundaries and boundary features where practical
 - Use of directional lighting, as appropriate during hours of darkness.
- Restoration and afteruse:
 - Consider and develop a restoration scheme at the earliest possible stage in the planning of quarry developments (Fig. 3.9)
 - Consult with interested parties regarding afteruse/restoration options
 - These are some of the afteruses that can be considered:
 - Agricultural
 - Forestry



Figure 3.9. Quarry restoration scheme.

Amenity (fisheries; golf courses)

Natural habitat (lake, wetland – nature conservation)

Landfill – waste disposal

- Implement progressive restoration, where possible (Fig. 3.10)
- Maximise soil recovery during stripping operations, and store topsoil and overburden materials separately
- Retain topsoil and overburden to ensure the materials can be reused in restoration
- Provide an appropriate programme of maintenance and aftercare.

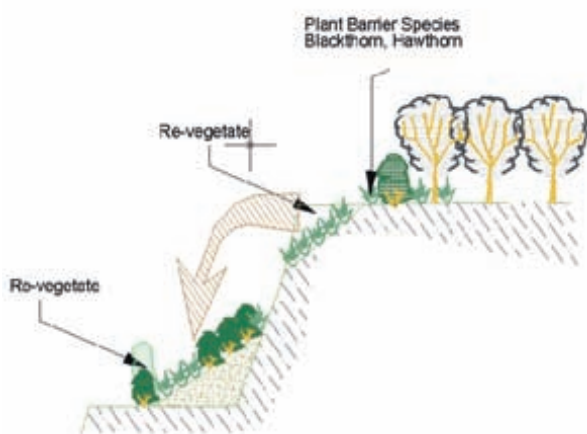


Figure 3.10. Face treatment on upper bench of quarry.

3.7 Waste Management

Quarrying and related value-added activities result in a number of waste streams. These may include waste associated with plant/vehicle maintenance and on-site canteens. The management of waste within quarries is regulated under the Waste Management Acts, 1996–2003, and associated regulations.

A waste permit under the Waste Management (Permit) Regulations, 1998, may be required where overburden materials are imported to site pending future recovery for restoration purposes.

In the past, some quarries have been subjected to illegal fly-tipping and disposal of waste by third parties. The industry is addressing this issue by providing improved security around site boundaries and entrances.

The guidelines provided below cover the management of waste in quarry developments.

3.7.1 Environmental management guidelines

- Eliminate and minimise the production of waste.
- Reuse and recycle unsuitable materials (such as poor-quality rock arising from dimension stone quarries, and clay/silt materials arising from settlement processes).
- Reuse and recycle rejected products from block making, concrete and asphalt production operations.
- Ensure appropriate disposal of excess/unused explosives, in accordance with the manufacturers guidelines and health and safety regulations.
- Use designated storage areas for particular waste types and authorised waste contractors for the collection, reuse and disposal of waste oils, batteries, tyres, domestic waste and scrap metal (in compliance with current waste management legislation) (Fig. 3.11).
- No burning, disposal or mixing of waste materials, or use of waste materials in boilers should take place without prior consent of the local authority.
- Appropriate security and signage around entrance(s) and boundaries to deter and prevent illegal fly-tipping of waste materials by third parties.
- Particular waste materials, such as oils, oil filters, batteries, empty oil drums, fluorescent lamps and

printer cartridges, are classified as hazardous waste materials. These materials should be stored on site in designated areas and collected and recycled or disposed of by an authorised waste contractor.



Figure 3.11. Segregated storage of wastes in a designated area (Roadstone Provinces Ltd, Bunratty, Co. Clare).

3.8 Archaeological Heritage

As archaeological heritage is a non-renewable resource, the presence of known archaeological sites or the anticipation of potential sites is a major consideration in the extension of existing quarries and the selection of sites for new quarry developments.

The Irish Concrete Federation, and the Department of Arts, Heritage, Gaeltacht and the Islands (DoAHGI) have developed a Code of Practice in relation to archaeological heritage (ICF/DoAHGI, 2002).

The purpose of the Code is to “*Provide a framework within existing legislation and policies to enable members of the Irish Concrete Federation to expand their operations whilst carrying out appropriate archaeological mitigation having regard to a set of principles and actions agreed by both parties.*”

The guidelines summarised below are based on information contained in the Code. It is understood that the Code of Practice will be reviewed by both parties 1 year after its adoption, and at regular intervals thereafter.

3.8.1 Environmental management guidelines

- Undertake archaeological investigations at initial site selection and planning stages (for both ‘greenfield’

developments and quarry extensions) to minimise the impact on known archaeological sites or areas of established significant archaeological potential (Fig. 3.12).

- Preserve by record all known sites being removed by development works (Fig. 3.13).
- Notify the National Monuments Section of the Department of Environment, Heritage and Local Government of, and preserve by record, any other monument or archaeological site of archaeological significance deemed worthy of preservation that may be uncovered during the operational phase of a quarry development.

3.9 Transport and Traffic

Construction materials have to be transported to the market place. In Ireland, the predominant mode of transport used is by road via the use of heavy goods vehicles including trucks, concrete lorries, and container lorries for dimension stone. Where quarries are adjacent to, or adjoin, existing railway lines, rail transport is sometimes adopted for transport of aggregates used in track maintenance.



Figure 3.12. Trial excavation under supervision of licensed archaeologist (Harrington Concrete (Sligo) Ltd, Ballysadare, Co. Sligo).



Figure 3.13. Archaeological excavation at Brownstown, Kilcullen, Co. Kildare (Kilsaran Concrete Products Ltd).

Construction aggregates are typically relatively low-value materials and it is generally only economic to use road transport for delivery to the market place within a 50-km radius from the quarry. For higher value materials, such as concrete and asphalt/bituminous mix products and dimension stone, the market can stand higher transport costs and therefore greater haulage distances.

On-site traffic within quarry developments typically arises from activities including stripping of topsoil and overburden materials, haulage of fragmented rock, cut stone or sand and gravel, and movement of site personnel and finished materials/value-added products.

Off-site traffic associated with quarry developments typically arises from transport of finished product/value-added products to the market, deliveries to the quarries (e.g. fuel, cement, bitumen, sand and explosives), and personnel movements.

The potential impacts of traffic associated with quarry developments can be mitigated by implementation of the guidelines outlined below and other guidelines related to on-site and off-site traffic given in Sections 3.4 and 3.5.

3.9.1 Environmental management guidelines

- Consider, where appropriate, alternatives to internal road haulage from excavation to processing plant or depot, e.g. conveyors.
- Careful design and layout of the site entrance, providing adequate visibility (Fig. 3.14).
- Regular maintenance and servicing of vehicles.
- Agree main traffic routes, where appropriate, to avoid sensitive areas and the use of large vehicles on narrow winding roads.
- Require drivers and others to use agreed routes.
- Use vehicle/wheel washing facilities and sheet vehicles (when transporting dry fine materials), where appropriate.
- Provide on-site truck parking to avoid queuing of trucks outside quarry entrances.



Figure 3.14 Splayed site access with landscaping (Loughnane Concrete, Birr, Co. Offaly).

3.10 Energy

Quarry developments and associated ancillary facilities are large users of energy (fuel and electricity). There are significant environmental and financial benefits from ensuring that the use of energy is optimised.

Energy consumption is associated with processing plant (crushing, screening and washing activities), on-site and off-site vehicles, asphalt, ready-mix concrete and concrete block/pipe manufacturing plants, and cutting/finishing processes used within the dimension stone sector.

The guidelines in Section 3.10.1 below outline measures to optimise energy consumption. Further advice on energy issues can be obtained from Sustainable Energy Ireland (www.sei.ie).

3.10.1 Environmental management guidelines

- Carry out energy efficiency audits (refer to *Guidance Note on Energy Efficiency Auditing* (EPA, 2003b)).
- Identify opportunities and implement appropriate measures for energy use reduction and efficiency, e.g. use of variable speed drives.
- Consult with the electricity supplier in relation to tariff management and use of off-peak electricity.
- Provide regular maintenance for processing plant, pumps, and boilers, etc.
- Use photosensors to control and optimise the use of outside lighting.
- Provide insulation for storage bins: asphalt/tarmacadam plants (Fig. 3.15).
- Consider using off-peak electricity for certain operations, e.g. pumping of water, heating of bitumen tanks, etc.
- Optimise layout and design of internal haulage routes and processing plant.



Figure 3.15. Energy efficient asphalt plant incorporating insulated bitumen tanks and aggregate bins (Roadstone Provinces Ltd, Bunratty, Co. Clare).

- Use automatic controls to ensure idling or shutdown of plant when not in use.
- Use float operated pumping systems.

3.11 Environmental Management and Monitoring

Each quarry operator should implement an EMS in accordance with the principles set out in Section 2.3.

The system should include an ongoing environmental monitoring programme. The purpose of the monitoring is to demonstrate compliance with any conditions attached to planning permissions, discharge licenses, etc. and to enable the operator to address any third-party complaints in relation to activities within the quarry. The monitoring programme should be agreed with the local authority and reviewed on an annual basis. Monitoring results should be submitted to the local authority on a regular basis and be available at the local authority offices for review by any interested third parties. A copy of the monitoring results should be retained on-site for a period not less than 7 years.

The monitoring programme should be carried out by trained company personnel or external companies with appropriate experience. Monitoring and analysis equipment should be operated and maintained as necessary so that monitoring results accurately reflect the emission or discharge.

Typically, an environmental monitoring programme will include:

- Measurement of dust deposition at a number of locations on the site boundary
- Measurement of noise levels at sensitive receptors
- Measurement of ground-borne vibration and air overpressure at sensitive receptor locations where blasting operations are carried out
- Measurement of groundwater levels, where applicable
- Measurement of discharge volumes and water quality, where applicable
- Regular monitoring of fuel and chemical storage areas
- Keeping a record of waste collections.

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Appendix A List of RTDI 2000-MS-11 Project Consultees

IFA (Irish Farmers Association)	Laois County Council
Dúchas, The Heritage Service	Leitrim County Council
An Taisce	Limerick County Council
Dept. Marine & Natural Resources – Exploration & Mining Division	Longford County Council
Health & Safety Authority	Louth County Council
Geological Survey of Ireland	Mayo County Council
OPW (Office of Public Works)	Meath County Council
Irish Planning Institute	Monaghan County Council
IBEC	Offaly County Council
Inst. Engineers of Ireland	Roscommon County Council
Irish Concrete Federation	Sligo County Council
Irish Mining & Quarrying Society	South Dublin County Council
East Coast Area Health Board	Tipperary North County Council
South Western Area Health Board	Tipperary South County Council
Midland Health Board	Waterford County Council
Mid-Western Health Board	Waterford County Borough Council
North Eastern Health Board	Westmeath County Council
Northern Area Health Board	Wexford County Council
North Western Health Board	Wicklow County Council
Southern Health Board	Eastern Regional Fisheries Board
Western Health Board	Northern Regional Fisheries Board
South Eastern Health Board	North Western Regional Fisheries Board
Carlow County Council	Shannon Regional Fisheries Board
Cavan County Council	Southern Regional Fisheries Board
Clare County Council	South Western Regional Fisheries Board
Cork County Council	Western Regional Fisheries Board
Donegal County Council	The Heritage Council
Dublin Corporation	Department of the Environment and Local Government
Dun Laoghaire–Rathdown Council	Irish Dimension Stone Producers
Fingal County Council	Irish Asphalt Producers
Galway County Council	Irish Creamery Milk Suppliers Association
County Borough of Galway	Earthwatch (Friends of the Earth – Ireland)
Kerry County Council	Environmental Protection Agency
Kildare County Council	Wicklow Planning Alliance
Kilkenny County Council	

Appendix B Glossary of Terms

A-weighting	Normal hearing covers the frequency (pitch) range from about 20 to 20,000 Hz, but sensitivity is greatest between about 500 and 5,000 Hz. The 'A-weighting' is an electrical circuit built into noise meters to mimic this human characteristic.
Admixtures	Chemicals which, except in special cases, are added to concrete or mortar in quantities no larger than 5% by mass of cement in order to modify the normal properties of concrete or mortar.
Aggregates	A granular product obtained by processing natural materials. It may be sand or gravel produced by natural disintegration of rock, or it may be manufactured by passing rock through a series of crushers.
Aggregate resource	A concentration of naturally occurring aggregates in such form that economic extraction is currently or potentially feasible.
Air overpressure	Intensity of air pressure wave caused by blasting, expressed as dB (Lin).
Aquifer	A permeable geological formation which is capable of storing and yielding water.
Asphalt	A natural or artificial mixture in which bitumen is associated with a substantial proportion of mineral matter.
Bench	A working level in a quarry.
Bench height	The height of the rock face between two benches in a quarry.
Berm	A man-made landscape feature comprising mounded soil.
Bitumen	A viscous liquid or a solid consisting essentially of hydrocarbons and their derivatives; it is substantially non-volatile and softens gradually when heated. It is black or brown in colour and possesses waterproofing and adhesive properties. It is obtained by refinery processes from petroleum and is also found as a natural deposit or as a component of naturally occurring asphalt, in which it is associated with mineral matter.
Bituminous mixes	A paving material consisting of crushed rock held together with bitumen.
Blasting	Fragmentation of rock by the use of explosives.
Blast vibration	Energy released by an explosion and transmitted through the ground.
Bund	An extended mound of soils, overburden or structure erected as a barrier to sight, sound or water.
Cement	Natural or synthetic material that binds rock particles together.
Clay	(i) A specific group of layered silicate minerals. (ii) Particles of size less than 2 μm , forming rock.
Concrete	Consists of sand and gravel, crushed rock or other aggregate, bound together by a paste of cement and water.
Crusher	A device for breaking rock in which the components contacting the rock follow a strictly controlled path.
Decibel (dB)	The unit of sound pressure level, calculated as a logarithm of the intensity of sound. 0 dB is the threshold of hearing; 140 dB is the threshold of pain. A change of 1 dB is detectable only under laboratory conditions.
dB(A)	Decibels measured on a sound level meter incorporating a frequency weighting (A-weighting) which differentiates between sounds of different frequency (pitch) in a similar way to the human ear. Measurements in dB(A) broadly agree with people's assessments of loudness. The background noise level in a living room may be about 40 dB(A), normal conversation 60 dB(A), heavy road at 60 m about 80 dB(A), the level near a pneumatic drill about 100 dB(A). A change of 3 dB(A) is the minimum perceptible under normal conditions, and a change of 10 dB(A) corresponds roughly to doubling or halving the loudness of a sound.
dB (Lin) _{max peak}	Instantaneous Maximum Peak sound pressure level measured in decibels on a sound level meter, without the use of a frequency weighting system. It is the parameter used to quantify air overpressure.

Dimension stone	A natural stone product that has been cut or fashioned to a particular size and shape.
Fines	Material finer than 60 μm , i.e. the silt and clay-sized fraction, but in connection with aggregates it usually refers to material finer than 75 μm .
Flyrock	The projection of material from the blast site to any area beyond the designated danger zone.
Fragmentation	A term associated with hard rock quarrying to describe the degree of mechanical breakdown produced by blasting.
Gravel	In the British Standard particle size classification (BS 1377: 1975 and BS 5930: 1981), the term denotes granular material in the size range 2–60 mm.
Hertz (Hz)	Unit of frequency (pitch) of a sound. Formerly called cycles per second.
Impulsive noise	A noise which is of short duration (typically less than 1 s), the sound pressure level of which is significantly higher than the background.
L_{AeqT}	The equivalent continuous sound level – the sound level of a steady sound having the same energy as a fluctuating sound over a specified measuring period (T). Used to describe many types of noise, and can be measured directly with an integrating sound level meter.
L_{arT}	The equivalent continuous A-weighted sound level during a specified time interval, plus adjustments for tonal character and impulsiveness of the sound.
Lagoon (silt)	A contained volume of water providing time for the sedimentation of silt and, perhaps, clays to permit reuse or discharge of clean water.
Macadam	Crushed stone mechanically locked by rolling and cemented together by application of stone screenings and water. Bituminous macadam is crushed material in which the fragments are bound together by bituminous materials.
Marine aggregate	Sand and gravel, which is excavated by dredger from the seabed and taken ashore for processing and distribution.
Minerals	Means all minerals and substances in or under land of a kind ordinarily worked by underground or by surface working for the removal but does not include turf (Planning & Development Regulations 2001, SI No. 600 of 2001).
Noise	Unwanted sound. Any sound which has the potential to cause disturbance, discomfort, or psychological stress to a subject exposed to it, or any sound which has the potential to cause actual physiological harm to a subject exposed to it or physical damage to any structure exposed to it, is known as noise.
Noise-sensitive receptor	Any dwelling house, hotel or hostel, health building, educational establishment, place of worship or entertainment, or any other facility or area of high amenity which for its proper enjoyment requires an absence of noise at nuisance levels.
Overburden	Rock, soil overlying aggregate to be extracted.
Pavement	The whole constructed thickness of a road or similar slab whether of concrete, asphalt, macadam, stabilised soil, etc.
Peak particle velocity	A measure of ground vibration magnitude which is the maximum rate of change of ground displacement with time, usually measured in millimetres/second. Velocity will vary from zero to a maximum value – the peak particle velocity. It is the parameter usually used to describe ground vibration in relation to blasting activities.
Precast concrete	Term used to describe concrete products that have been manufactured off-site in specialist precast production plants.
Primary blasting	Describes the initial blast, where more than one stage of blasting is needed to obtain the required fragmentation.
Quarry	An excavation or system of excavations made for the purpose of, or in connection with, the getting of minerals (whether in their natural state or in solution or suspension) or products of minerals, being neither a mine nor merely a well or borehole or a well and borehole combined.
Sand	In the British Standard particle size classification (BS 1377: 1975 and BS 5930: 1981) sand is a granular material in the size range 0.06 mm to 2 mm. In the sense of ‘concreting sand’, however, the nominal upper size limit is 5 mm and there are constraints on the particle size distribution (see BS 882: 1983).
Scheduled minerals	Minerals defined in the Schedule attached to the Minerals Development Act, 1940. The 72 minerals listed include metalliferous and industrial minerals, and hydrocarbons.

Screen	A particle sizing device like a sieve, consisting of a surface (usually flat) which is perforated by apertures of characteristic size and shape. Screening is a sizing operation effected by means of a screen.
Secondary blasting	The blasting of rock which has not been adequately fragmented by the primary blast. Also called plaster blasting.
Settling pond	A reservoir of still water in which very fine material is allowed to settle (see lagoon).
Silt	A deposit which has the average grain size between that of sand and clay (i.e. 0.06 mm and 0.002 mm, respectively).
Soil	In engineering geology: all unlithified material overlying the bedrock. In soil science: the natural medium for the growth of land plants and classifiable into soil types and soil horizons on characteristic physical properties such as structure, texture, colour and chemical composition including organic content, acidity, alkalinity, etc.
Toe	The base of a quarry face or the base of a slope of an accumulation of material. A remnant 'toe' comprising a mass of solid, unbroken rock at the base of the face projecting into the quarry may result from poor blast design. Also sometimes used to refer to the base of natural slopes where an abrupt change of gradient occurs.
Tonality	The degree to which a noise contains audible pure tones. Broadband noise is generally less annoying than noise with identifiable tones (noise with a narrow frequency composition). A pure tone is a sound in which the pressure varies regularly, at a single frequency over time.
Vibrograph	An instrument to measure vibration, e.g. blasting vibration.
Water bowser	Equipment incorporating a water tank used to spray a fine mist of water onto the surface over which it is towed.
Wet suppression	Control of dust levels during processing operations by the use of water sprays into crushers, onto screens or conveyor belt transfer points.
Wet screening	Screening employing water sprays directed onto the deck.

Appendix C Guidelines on Requirements for an EMS

Environmental Management System (EMS)

The system must provide for the preparation and implementation of documented system procedures and instructions.

A programme for achieving environmental objectives and targets needs to be established and maintained. This, in part, is achieved through the definition of corporate environmental policy.

Environmental Policy

Definition and documentation of an organisation's environmental policy. The policy should be in the form of a public statement of the company's intentions with respect to the environment. It should also inform the company's own employees with regard to environmental goals and the level of performance the company intends to maintain.

Organisation and Personnel

Responsibility, authority and resources

Definition and documentation of the responsibility, authority and interrelations of key personnel who manage, perform and verify work affecting the environment.

Verification resources and personnel

Identification of in-house verification requirements and procedures, provision of adequate resources and assignment of trained personnel for verification activities.

Management representative

Appointment of a management representative who has the defined authority and responsibility for ensuring that the requirements of the environmental standard are implemented and maintained. This appointment should normally take place at a senior level.

Personnel, communication and training

Establishment and maintenance of procedures to ensure that employees are aware of:

- the importance of compliance with environmental policy and objectives

- the potential environmental effects of their work activities and the benefits of improved environmental performance
- their roles and responsibilities in achieving compliance with the environmental policy and objectives
- the potential consequences of departure from agreed operating procedures.

Environmental Effects

Register of legislative, regulatory and other policy requirements

Establishment and maintenance procedures to record all legislative regulatory and other policy requirements relating to the environmental aspects of the organisation's activities, products and services.

Communications

Establishment and maintenance of procedures for receiving, documenting and responding to communications from relevant interested parties concerning its environmental effects and management (e.g. complaints).

Environmental impact assessment

Establishment and maintenance of procedures for examining and assessing the environmental effects, both direct and indirect, of activities, products and services and the production of an environmental impact assessment (EIA). The EIA is an essential component of company strategy with respect to minimising environmental impacts arising from its operations.

Environmental Objectives and Targets

The objectives and targets should be consistent with the environmental policy and should quantify, wherever practicable, the commitment to continual improvement in environmental performance over defined timescales, relative to data collected during the EIA and associated audits.

Definitions

- i. Environmental objectives: The goals, in terms of environmental performance, which an organisation sets itself to achieve and which should be quantified wherever practicable, e.g.
 - performance levels specified in the EIA
 - compliance with regulatory limits
 - reduction of environmental impacts
 - public satisfaction with company responses to complaints or inquiries.
- ii. Environmental targets: Detailed performance requirements, quantified wherever practicable, applicable to the organisation or parts thereof, which arise from the environmental objectives and which need to be met in order to achieve those objectives, e.g.
 - compliance with recommendations from site audit or regular checklist inspections
 - internal waste reduction
 - internal savings targets.

Environment Management Plan

The Environment Management Plan should be designed to illustrate how the company will achieve its objectives and targets. It should also set out the environmental performance indicators that will be used to measure progress. Environmental performance indicators are defined by the International Standards Organisation as “a type of environmental indicator used in relation to the organisation’s management and operations”.

Environmental Management Manual and Documentation

Manual

Establishment and maintenance of a manual to:

- collate the environmental policy, objectives, targets and programme
- document the key roles and responsibilities of personnel
- describe the interactions of system elements

- provide direction to related documentation and describe other aspects of the management system, where appropriate.

Document control

Establish and maintain procedures for controlling all environmentally related documents.

Environmental management records

Establishment and maintenance of a system of records in order to demonstrate compliance with the requirements of the environmental management system.

Operational Control

General (management responsibilities)

Management responsibilities should be defined.

Control

Identification of functions, activities and processes that affect, or have the potential to affect, the environment. These functions and activities should be planned to ensure that they are carried out under properly controlled conditions.

Verification, measurement and testing

Establishment and maintenance of procedures for verification of compliance with specified requirements and for establishing and maintaining records.

Non-compliance and corrective action

The responsibility and authority for initiating investigation and taking corrective action in the event of non-compliance with specified requirements shall be defined.

Environmental Management Audits

General

Establishment and maintenance of procedures for audits to be carried out in order to determine:

- whether or not the environmental management activities conform to the environmental management programme, and are implemented effectively
- the effectiveness of the environmental management system in fulfilling the organisation’s environmental policy.

For this purpose, an audit plan should be established and maintained.

Audit plan

The audit plan should deal with the following points:

- the specific activities and areas to be audited
- the frequency of auditing of each activity area based on the nature and environmental importance of the activity concerned, and the results of the previous audit
- who has the responsibility for auditing each activity area
- personnel requirements
- the protocol for conducting the audits, which may involve the use of questionnaires, checklists, interviews, measurements and direct observations, depending on the nature of the function being audited

- the procedures for reporting audit findings to those responsible for the activity area audited and who shall take action on reported deficiencies
- the procedures for publishing audit findings if the organisation has undertaken such a commitment.

Environmental Management Reviews

At appropriate intervals, the environmental management system adopted needs to be reviewed to ensure it satisfies the organisation's requirements and to ensure its continuing effectiveness. Management reviews should include an assessment of the results of environmental management audits, which are a systematic, documented and objective evaluation of the performance of the organisation, environmental management and control systems currently in place with the aim of protecting the environment.

Appendix D Guidelines for Settlement Lagoons

Introduction

The traditional site treatment of process water (from aggregate washing plants) and surface run-off to reduce suspended solids is by means of settlement lagoons. Other methods of suspended solids removal are available, such as silt presses and cyclones, but settlement lagoons are generally the most cost effective for quarry developments.

The design of on-site settlement lagoons is based on proven practices of sedimentation and flow control developed for the water treatment and sewage treatment sectors (Miller, 1994).

There is increased awareness in relation to reuse/recycling process water (in closed systems) and conserving the use of water. Where trade effluent is discharged to surface waters, the discharge licence generally specifies an ELV for suspended solids. The design, construction and maintenance of settlement lagoons associated with quarry developments are critical to addressing these issues.

The following guidelines describe the key factors in the design, construction and maintenance of settlement lagoons for use in quarry developments.

Design Issues

The design of settlement lagoons is based on Stokes Law that defines the critical settling velocity with which suspended solids in a fluid fall under gravity. Stokes Law has a number of assumptions as follows:

- Particles are spheres
- Particles act independently of each other
- The fluid within which settlement takes place is tranquil.

In addition, there is a minimum particle size below which Stokes Law does not apply (typically clay-size particles <0.002 mm diameter). However, in practice, clay particles tend to flocculate naturally into larger composite particles which can settle.

On site, the above assumptions are not strictly valid but practical experience indicates that the application of Stokes Law provides a reasonable basis for sizing settlement lagoons.

Retention time

For practical values of water temperature and particle specific gravity (density), and a settlement lagoon depth of 1 m, the following theoretical retention times are calculated:

- 11 h to settle out particles of 0.006 mm (medium silt) or greater
- 24 h to settle out particles of 0.004 mm (fine silt) or greater.

The retention time varies with temperature and particle specific gravity but ± 2 h covers the normal temperature range (5–15°C) and specific gravity range (2.60–2.65).

Where the process water and surface water run-off to be treated contain a higher proportion of sand size particles (0.06 mm or greater) then the settlement time will be faster than the retention times stated above, and the retention time will be reduced. Use of chemical flocculants may be appropriate in some cases to accelerate the settlement process.

Flow conditions

One of the main design problems is achieving uniform horizontal flow at the inlet to the lagoon. Although it is possible to design radial flow settlement lagoons, they are not practical for on-site operation within quarry developments and therefore linear flow lagoons are adopted.

Sizing settlement lagoons

The sizing of settlement lagoons requires consideration of the design flow rate and minimum size of particle to be fully removed.

The depth of water in the settlement lagoons is not a variable in the equation relating capacity flow rate to minimum settling velocity (i.e. making lagoons deeper does not improve their efficiency or performance). In practice, it has been shown that settlement lagoons are

efficient if the water depth in the lagoon is not less than 1 m.

The overall depth of the lagoons should also consider the maximum depth of sediment that will be allowed to collect before removal (typically 0.5–1.0 m) and provision of freeboard (typically 0.5 m between maximum water level in the lagoon and the crest of the lagoon).

Construction of Settlement Lagoons

Within quarry developments, settlement lagoons are generally excavated with overburden material or created by a combination of impounding embankments and excavation. The size, shape and layout can be limited by the areas available on site.

The primary consideration is the maintenance of uniform horizontal flow. For this, the lagoons should be rectangular in shape with parallel sides in the directions of flow. The floor and sides of the lagoon should be as smooth as practicable to minimise turbulent flow. Where turbulence is created, currents can create scour conditions and negate the settlement process.

The settlement lagoons should be lined with impermeable material, either compacted clay or PVC liner, to eliminate any seepage from the lagoons.

Operational Practice

The lack of maintenance is the primary cause of poor efficiency of settlement lagoons. Typical problems arising include instability of lagoon side slopes, blocked pipes that can affect flows, and reduction in efficiency arising from settled materials forming shallows within the lagoon. Typically, settled materials will need to be removed from primary lagoons every 3–6 months. Regular maintenance can prevent these types of problems occurring.

Provision should be made to allow settlement lagoons to be cleaned/maintained without affecting the overall settling process (i.e. by using over-pumping or installing pipes to bypass individual lagoons).

The most difficult suspended solids to remove from drainage waters are clay-size particles. These often originate from excavated topsoil and overburden materials/stockpiles. Minimising surface water run-off from these materials through shaping, optimising locations, and re-vegetation of stockpiles can reduce the generation of suspended solids at source.

An Gníomhaireacht um Chaomhnú Comhshaoil

STÁDAS NA GNÍOMHAIREACHTA

Is comhlacht poiblí neamhspleách í an Gníomhaireacht um Chaomhnú Comhshaoil (EPA) a bunaíodh i mí Iúil 1993 faoin Acht fán nGníomhaireacht um Chaomhnú Comhshaoil, 1992. Ó thaobh an Rialtais, is í an Roinn Comhshaoil agus Rialtais Áitiúil a dhéanann urraíocht uirthi.

Déanann Bord Feidhmeach lánaimseartha comhdhéanta d'Ard-Stiúrthóir agus ceathrar Stiúrthóirí bainistíocht ar an EPA. Cinntítear neamhspleáchas trí nósanna imeachta roghnaithe i gcás an Ard-Stiúrthóra agus na Stiúrthóirí agus an tsaoirse, de réir mar a sholáthraítear sa reachtaíocht, gníomhú as a stuaim féin. Tá an sannadh, faoin reachtaíocht, maidir le freagracht dhíreach as réimse leathan feidhmeanna mar bhonn taca ag an neamhspleáchas sin. Faoin reachtaíocht, is cion sainiúil é iarracht a dhéanamh tionchar a imirt ar an Gníomhaireacht, nó ar aon duine a bhíonn ag gníomhú thar ceann na Gníomhaireachta, ar bhealach míchuí.

Cuidíonn Coiste Comhairleach ar a bhfuil dhá chomhalta déag arna gceapadh ag an Aire Comhshaoil, Oidhreacht agus Rialtais Áitiúil leis an nGníomhaireacht.

FREAGRACHTAÍ

Tá réimse leathan dualgas agus cumhachtaí reachtúla ag an EPA faoin Acht fán nGníomhaireacht um Chaomhnú Comhshaoil. Chomh maith leis sin, tá curtha le hacmhainn an EPA maidir le forfheidhmiú le cumhachtaí san Acht um Chaomhnú an Chomhshaoil 2003. Áirítear orthu seo a leanas príomhfhreagrachtaí an EPA:

- ceadúnú a dhéanamh ar phróisis thionsclaíocha mhóra/choimpléascacha a bhféadfadh cumas truaillithe suntasach a bheith ag baint leo;
- monatóireacht ar chaighdeán comhshaoil, lena n-áirítear bunachair shonraí a bhunú ar a mbeidh rochtain ag an bpobal;
- tuarascálacha tréimhsiúla maidir le staid an chomhshaoil a fhoilsiú;
- sárchleachtais comhshaoil a chur chun cinn;
- taighde comhshaoil a chur chun cinn agus a chomhordú;
- gníomhaíochtaí diúscartha dramhaíola agus aighabhála suntasacha, lena n-áirítear láithreacha líonta talún a cheadúnú agus plean bainistíochta guaisdramhaíola náisiúnta a ullmhú;
- córas a chur i bhfeidhm a cheadaíonn rialú astaithe VOC a bhíonn mar thoradh ar scaoileadh GMOanna isteach sa chomhshaoil in aon turas;

- rialacháin GMO a chur i bhfeidhm agus a fhorfheidhmiú ó thaobh GMOanna a choinneáil agus a scaoileadh amach sa chomhshaoil in aon turas;
- clár hidriméadrach náisiúnta a ullmhú agus a chur i bhfeidhm;
- dréacht a chur le chéile de Phlean Leithroinnte Náisiúnta do thrádáil liúntas astaithe gáis ceaptha teasa; Údarás Inniúla Náisiúnta a bhunú le ceadanna trádála agus liúntais a eisiúint orthu siúd atá clúdaithe ag an scéim; monatóireacht, léargas, agus fíorú maidir le hastuithe ó chuideachtaí rannpháirteacha; agus Clár Trádála Astuithe Náisiúnta a bhunú;

agus, faoin Oifig Forfheidhmiúcháin Comhshaoil, a bunaíodh i 2003 agus atá tiomanta as reachtaíocht comhshaoil a chur i bhfeidhm agus a fhorfheidhmiú in Éirinn;

- feabhas a chur ar chomhlíonadh reachtaíocht cosanta comhshaoil in Éirinn;
- feachtas a ardú maidir leis an tábhacht a bhaineann le forfheidhmiú i gcás reachtaíochta cosanta comhshaoil in Éirinn;
- ceadúnais IPPC agus ceadúnais Dramhaíola a eisiúint an EPA a fhorfheidhmiú;
- iniúchadh agus tuairisciú ar fheidhmíocht údarás áitiúil maidir lena bhfeidhmeanna cosanta comhshaoil a chur ar bun, lena n-áirítear:
 - forfheidhmiú maidir le ceadúnais dramhaíola a sháraítear;
 - gníomh maidir le dumpáil mhídhleathach;
 - ceadanna bailithe dramhaíola a chur i bhfeidhm, agus
 - tionscnaimh a bheidh mar fhreagracht ar an táirgeoir a fhorfheidhmiú (mar shampla, sa réimse a bhaineann le dramhaíl pacáiste);
- gníomh in aghaidh údarás áitiúil nach bhfuil ag comhlíonadh a gcuid feidhmeanna cosanta comhshaoil ar bhealach cuí;
- an dlí a chur nó cuidiú le húdaráis áitiúla an dlí a chur ó thaobh sháraithe suntasacha reachtaíochta cosanta comhshaoil ar bhealach caoithiúil; agus
- cuidiú le húdaráis áitiúla a gcuid feidhmíocht cosanta comhshaoil a fheabhsú ar bhonn cás ar chás, trí ghréasán forfheidhmithe a bhunú le malartú eolais a chur chun cinn chomh maith le sárchleachtas, agus trí threoir chuí a sholáthar.

Headquarters

**PO Box 3000, Johnstown Castle Estate
County Wexford, Ireland**

Bosca Poist 3000, Eastát Chaisleán Bhaile Sheáin
Contae Loch Garman, Éire

T: +353 53 916 0600

F: +353 53 916 0699

Regional Inspectorate

**McCumiskey House, Richview
Clonskeagh Road, Dublin 14, Ireland**

Cigireacht Réigiúnach, Teach Mhic Chumascaigh
Dea-Radharc, Bóthar Cluain Sceach
Baile Átha Cliath 14, Éire

T: +353 1 268 0100

F: +353 1 268 0199

Regional Inspectorate

Inniscarra, County Cork, Ireland

Cigireacht Réigiúnach, Inis Cara
Contae Chorcaí, Éire

T: +353 21 487 5540

F: +353 21 487 5545

Regional Inspectorate

**John Moore Road, Castlebar
County Mayo, Ireland**

Cigireacht Réigiúnach, Bóthar Sheán de Mórdha
Caisleán an Bharraigh, Contae Mhaigh Eo, Éire

T: +353 94 904 8400

F: +353 94 902 1934

Regional Inspectorate

Butts Green, Kilkenny, Ireland

Cigireacht Réigiúnach, Faiche an Bhúit
Cill Chainnigh, Éire

T: +353 56 772 2329

F: +353 56 776 5085

Regional Inspectorate

The Glen, Monaghan, Ireland

Cigireacht Réigiúnach, An Gleann
Muíneachán, Éire

T: +353 47 77600

F: +353 47 84987

E: info@epa.ie

W: www.epa.ie

Lo Call: 1890 33 55 99



19. ***DRAFT* DAFF DOCUMENT ON ‘CONDITIONS FOR APPROVAL AND OPERATION OF COMPOSTING AND BIOGAS PLANTS TREATING ANIMAL BY-PRODUCTS IN IRELAND’.**



THE DEPARTMENT OF
AGRICULTURE, FISHERIES & FOOD
AN ROINN TALMHAÍOCHTA, IASCAIGH & BIA

CONDITIONS FOR APPROVAL AND OPERATION OF COMPOSTING AND BIOGAS PLANTS TREATING ANIMAL BY-PRODUCTS IN IRELAND

DRAFT

REGULATION (EC) No. 1774/2002

laying down health rules concerning animal by-products not intended for human consumption.

Enforced By

ANIMAL BY-PRODUCTS REGULATIONS S.I. 612 of 2006 and S.I. 615 of 2006

**DAFF Animal By-Products Division
January 2008**

<u>Contents</u>	<u>Page</u>
1. Introduction	4
2. Categorisation of animal by-products	5
3. Feedstock	6
4. Premises	6
4.1 Location	6
4.2 Equipment-Composting Plant	7
4.3 Equipment-Biogas Plant	7
4.4 Laboratory Requirements	8
4.5 Waste Permit/Licence	8
4.6 Mechanical Biological Treatment Plants (MBT)	8
5. Hygiene requirements	9,10
6. Processing /Treatment standards	11
6.1 Biogas plants	11
6.2 Composting plants	11
6.3 National processing standards for catering waste alone or if mixed with manure and/or digestive tract content separated from the digestive tract provided that the resulting material is considered as if it were from catering waste	11,12
6.4 Alternative processing conditions for category 3 material and/or category 2 manure which will be placed on the market	12
6.5 On farm AD facilities using manure as the only animal by- product feedstock	13
6.6 General requirements	13
7. Sampling of Digestion Residues and Compost	14
7.1 Sampling procedures and frequency	14
7.2 Microbiological standards	14,15
7.3 Non-compliances	15
8. Record Keeping	16
9. HACCP Plans for Composting/Biogas Plants	17
10. Collection and Transport	17
10.1 Identification	17,18
10.2 Vehicles and containers	18
10.3 Commercial documents	18
10.4 Records	18
10.5 Catering Waste collection and transport	19
11. Organic fertilisers and soil improvers derived from compost or digestion residues	19
11.1 End-uses for organic fertilisers, soil improvers compost/ digestion residue derived from compost /digestate based on feedstock origin	19,20
11.2 Transport and labelling of organic fertilisers and soil improvers	20
11.3 Register of approved users	21
11.4 Record keeping	21
11.5 Storage	21

<u>Contents</u>	<u>Page</u>
Appendix 1: Animal Proof Fencing	22
Appendix2: List of Department of Agriculture, Fisheries and Food Approved Disinfectants	23-25
Appendix 3: Sample waste acceptance form	26
Appendix 4: List of Non-Departmental Laboratories Approved for microbiological testing by the Department of Agriculture, Fisheries and Food.	27

1. INTRODUCTION

Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3 October 2002 lays down health rules concerning animal by-products not intended for human consumption. This regulation defines animal by-products as “ *entire bodies or parts of animals or products of animal origin... not intended for human consumption*”.

S.I. 612 of 2006 (European Communities (Transmissible Spongiform Encephalopathies and Animal By-Products) Regulations 2006, transposes EU Reg. 1774/2002 into Irish law.

S.I. 615 of 2006 (Diseases of Animals Act 1966 (Transmissible Spongiform Encephalopathies) (Fertilisers and Soil improvers) Order 2006 lays down national rules for organic fertilisers and soil improvers.

The purpose of the legislation is to safeguard human and animal health by providing controls for the safe disposal of animal by-products.

Under the Regulation

- A **composting plant** is defined as “*a plant in which biological degradation of products of animal origin is undertaken under aerobic conditions*”
- A **biogas plant** is defined as “*a plant in which biological degradation of products of animal origin is undertaken under anaerobic conditions for the production and collection of biogas*”.

Article 15 of Regulation (EC) No. 1774/2002 requires that biogas plants and composting plants shall be subject to veterinary approval by the competent authority. Under Regulation 10 of S.I 612 of 2006, which implements the above Regulation, the Minister for Agriculture, Fisheries and Food may grant an approval, attach conditions to an approval, revoke or vary a condition, withdraw an approval or refuse an application.

The objective of the composting/biogas legislation is to ensure that all products of animal origin which are treated by biogas digestion or composting must meet the treatment standards required by Regulation (EC) No. 1774/2002 to ensure sufficient pathogen reduction so that the treated material may be safely applied to land.

New sites at the design and planning stages should submit site plans and details to this Department, in order to ensure that plant design and processing procedures are in accordance with the regulations, and that potential problems may be identified and rectified prior to capital expenditure.

2. CATEGORISATION OF ANIMAL BY-PRODUCTS

Under Regulation (EC) No. 1774/2002, animal by-products are categorised in 3 distinct categories:

- **Category 1**
- **Category 2**
- **Category 3**

Category 1 Material includes the following material:

- BSE carcasses and suspects
- Specified Risk Material
- Catering waste from international transport

This material must be destroyed in accordance with Regulation (EC) No. 1774/2002 and is completely banned from use as feedstock in composting and biogas plants.

However, resulting materials from the processing of Category 1 material may be transformed in a biogas plant, provided that the processing was done pursuant to an alternative method approved in accordance with Article 4(2)(e) of Regulation (EC) No. 1774/2002. The biogas production must be part of that alternative method, and the resulting material must be disposed of in accordance with the conditions laid down for the alternative method.

Category 2 Material includes the following material:

- Manure
- Digestive tract content separated from the digestive tract
- Milk and colostrums

Category 3 Material includes:

- Catering waste – which is defined as ‘*all waste food including used cooking oil originating in restaurants, catering facilities and kitchens, including central kitchens and household kitchens.*’
- Former foodstuffs of animal origin, or former foodstuffs containing products of animal origin, other than catering waste, which are no longer intended for human consumption for commercial reasons or due to problems of manufacturing or packaging defects or other defects, which do not present any risk to humans or animals.
- Parts of slaughtered animals, which are fit for human consumption but are not intended for human consumption for commercial reasons.
- Parts of animals, which are rejected as unfit for human consumption but are not affected by any signs of diseases communicable to humans or animals and derive from carcasses that are fit for human consumption.
- Fish or other sea animals, except sea mammals, caught in the open sea for the purposes of fishmeal production.
- Fresh by-products from fish from plants manufacturing fish products for human consumption.
- Raw milk originating from animals that do not show clinical signs of any disease communicable to humans or animals through the milk.
- Shells, hatchery by-products and cracked egg by-products originating from animals which did not show clinical signs of any disease communicable through that product to humans or animals.

3. FEEDSTOCK

As part of the approval process, an application for a compost/biogas facility must list all intended feedstock and its animal by-product classification, and the sources of these materials. The processing parameters adopted and approved in a particular plant will determine the type of animal by-product that may be processed in the plant.

The following animal by-product materials may be used as feedstock in a biogas or composting plant in Ireland;

- **Category 2 Material** comprising the following:
 - Manure
 - Digestive tract content separated from the digestive tract,
- **Category 3 Material** comprising the following:
 - Catering waste
 - Former foodstuffs
 - Fresh by-products from fish from plants manufacturing fish products for human consumption

End-use criteria for different categories of material as well as processing parameter requirements will generally determine for operators what material is used as feedstock in a biogas/ composting plant.

The Department of Agriculture, Fisheries and Food must be notified in writing and at least 2 weeks in advance, of any intended changes to animal by-product feedstock type.

4. PREMISES

4.1. Location

The following controls are required for composting and biogas plants that are involved in the treatment of animal by-products:

- If a composting/biogas plant is located on premises where farmed animals are kept and does not only use manure which accrues from those animals, the plant shall be located at an adequate distance from the area where such animals are kept and there must, in any case, be total physical separation between that plant and those animals and their feed and bedding, with fencing where necessary. Approval of such sites will be risk-based and will be subject to stringent conditions regarding dedication of both personnel and equipment.
- The facility must be surrounded on all sides by permanent and effective animal-proof fencing. Details of suitable fencing are included in Appendix 1.
- A lockable gate of minimum height of 1.8 m must be present at the entrance to the facility.
- In order to prevent the possibility of contact with farm animals either directly or indirectly (via vermin, birds etc), all initial processing of raw material must be carried out indoors.

4.2. Equipment – Composting Plant

A composting plant must be equipped with:

- (a) a closed composting reactor, which cannot be by-passed, with:
 - (i) installations for monitoring temperature against time;
 - (ii) recording devices to record, where appropriate continuously, the results of the monitoring measurements referred to in (i); and
 - (iii) an adequate safety system to prevent insufficient heating;

However, other types of composting systems may be allowed provided they:

- (i) ensure adequate measures to control vermin;
- (ii) are managed in such a way that all the material in the system achieves the required time and temperature parameters, including, where appropriate, continuous monitoring of the parameters;
- (iii) comply with all other requirements of Regulation (EC) No. 1774/2002.

In practice, in the absence of a closed composting reactor, it will be very difficult to provide and demonstrate adequate safeguards to DAFF either to achieve sanitisation of the feedstock or to prevent potential access by vermin and birds to the raw material. However, other types of composting systems may be approved by DAFF provided the systems are managed in such a way that all of the material in the system achieves the required time, temperature and particle size parameters, including, where appropriate, continuous monitoring of the parameters.

4.3. Equipment – Biogas Plant

A biogas plant must be equipped with:

- (a) A pasteurisation/ hygienisation unit, which cannot be by-passed, with:
 - (i) installations for monitoring temperature against time;
 - (ii) recording devices to record continuously the results of the monitoring measurements referred to in (i); and
 - (iii) an adequate safety system to prevent insufficient heating;
- (b) However, a pasteurisation/hygienisation unit shall not be mandatory for biogas plants that transform only:
 - (i) animal by-products that have undergone processing Method 1¹ or one of the approved alternative processing methods;
 - (ii) Category 3 material that has undergone pasteurisation/ hygienisation elsewhere;
or
 - (iii) animal by-products which may be used as raw material without processing.

¹ Method 1 processing method refers to processing at 133 °C for at least 20 minutes at 3 bar pressure, at a particle size of 50mm or less.

4.4. Laboratory Requirements

Each biogas plant and composting plant must have its own laboratory or make use of an external laboratory. The laboratory must be equipped to carry out the necessary analyses and approved by the competent authority. A list of laboratories approved by the Department of Agriculture, Fisheries and Food for microbiological testing is attached in Appendix 4.

4.5. Waste Permit/ Licence

Applicants seeking approval to treat animal by-products in biogas or composting plants under S.I. 612 of 2006 must also apply for a separate waste permit/licence from and be compliant with all of the local authority/EPA requirements.

A facility must maintain all permits, licences and approvals attached to it in good standing. Failure to maintain any one of these authorisations may lead to the DAFF authorisation being revoked and the facility may no longer be entitled to accept or process animal by-products approved for that facility.

4.6. Mechanical Biological Treatment Plants (MBT)

Mechanical Biological Treatment Plants are mixed waste treatment facilities, which generally seek to stabilise biodegradable material prior to landfill.

If an MBT plant is treating the waste material to remove recyclables prior to landfill or incineration of residual waste only, they will not come under the scope of the Animal By-products Regulation.

The animal by-product legislation will only apply to MBT plants if the animal by-product material undergoes a composting or anaerobic digestion (AD) process for greater than 48 hours and/or if they are composting or digesting animal by-product material for subsequent land application or landfill cover. Consequently such plants must be approved by DAFF and must meet all of the approval conditions for composting plants.

The Department's position regarding MBT plants will be kept under review. If it becomes apparent that these facilities pose a risk to animal health, then the current position will change.

5. HYGIENE REQUIREMENTS

The premises should be separated into distinct 'clean' and 'dirty' areas. All unprocessed material must enter the plant via the dirty area. The processed material must be stored in the clean area prior to being taken off the premises. Dirty material must not be allowed to contaminate clean material. As well as the separation of distinct areas, this will also mean that machinery and/or equipment used in the dirty area must not be used in the clean area, nor should staff go from the dirty area into the clean area without complying with the Standard Operating Procedures documented in the plants own HACCP document. Premises should operate on a simple one-way flow basis i.e. material flows from the dirty area to the clean area and then will be discharged from site for use or disposal.

The following specific hygiene measures are required:

- Animal by-products approved for the facility must be transformed as soon as possible after arrival, and in any event within 24 hours of arrival at the plant. They must be stored properly until treated.
- Containers, receptacles and vehicles used for transporting untreated material must be cleaned and disinfected in a designated area. This area must be situated or designed to prevent risk of contamination of treated products.
In the case of vehicles transporting only untreated catering waste and not subsequently transporting treated material, only the wheels of the vehicle need be cleaned and disinfected as well as external surfaces and any gross external contamination of the vehicle. However, any vehicle which delivers other animal by-products, or any vehicle which is used for transporting any treated material off-site, must be thoroughly cleansed and disinfected, or steam-cleaned both internally and externally. Where disinfectant is used, a disinfectant from the list of Department of Agriculture, Fisheries and Food approved disinfectants should be used. (Appendix 2). Up to date versions of this list are available on the Department of Agriculture, Fisheries and Food website.
- Preventive measures must be taken against birds; rodents, insects or other vermin. A fully documented pest-control programme must be implemented throughout the whole facility. The plant operator may choose to employ a pest control firm, or may choose to use their own preventative measures. In both situations, there must be no evidence that rats or other vermin and birds have access to the plant. The operator must also be able to demonstrate that effective pest control measures are taken on an ongoing basis and at regular intervals. If an external agency is employed, at least eight visits per annum with approximately six-week intervals between visits must be made. The control programme must be demonstrated to work on the ground. A baiting point plan must be kept on site. Results of inspections carried out on bait points as well as corrective actions taken must be recorded and signed off.
- There must be a covered area for the receipt of the animal by-product.
- All initial processing of raw material (shredding, screening and mixing) must be done indoors. This dirty area must be constructed with smooth walls and floors. Floors must be designed and laid in a such a way to ensure adequate drainage of fluids and ease of cleaning and disinfection.
- In the case of a facility where raw material is being transported outdoors from the dirty area to the treatment/ hygienisation unit, this must be done using a closed leak-proof container.
- In the case of a facility where material is taken in and processed in the same building, the clean and unclean areas should be physically separated by a wall or some such substantial physical barrier, to prevent raw/untreated material or effluent contaminating treated material in the clean end. Suitable operating procedures must also be in place and documented in their HACCP programme to ensure that the separation is observed.

- In cases where raw material and processed material are being transported around a facility, separate machines and equipment must be used.
- Cleaning and disinfection procedures and their frequency must be documented and established for all parts of the premises. Suitable equipment and cleaning agents must be provided for cleaning. Cleaning measures must be effective and thorough in everyday practice.
- As part of a daily clean-up routine, steam- cleaning to remove all visible material may be used in place of disinfectants. Pressure-washing with cold water is not considered an acceptable alternative to disinfection and/or steam-cleaning. However, in the case of a non-compliance being highlighted during sampling of processed product, the plant must be thoroughly cleaned and disinfected under the supervision of the Department of Agriculture, Fisheries and Food. The operator will need to demonstrate that adequate disinfection facilities are always available and that the plant can be thoroughly disinfected, as and when it is required.
- Hygiene control measures must include regular inspections of the environment and equipment. Inspection schedules and results must be documented. Visual inspections of the environment and equipment must be made both daily and weekly and all results and corrective actions taken must be recorded and signed off. The plant's HACCP plan will set out frequency of monitoring and inspection for identified control points.
- Installations and equipment must be kept in a good state of repair and measuring equipment must be calibrated at regular intervals. An appropriate, competent independent agency must calibrate and certify measuring devices for time/ temperature/particle size parameters regularly and at least once every 3 months. Temperature probes must be calibrated to ISO standards.
- Digestion residues and processed compost must be handled and stored at the plant in such a way as to prevent recontamination at any time. Once compost/digestion residue has reached the appropriate time/temperature parameters, it may be stored outdoors for maturation purposes. It must be stored away from the intake area in the clean area and operators must ensure that a one-way system of material flow is in operation at the site, in order to prevent recontamination of processed products at any time.
- The clean area must only contain material that has been treated in accordance with the Regulations. Separation must be maintained at all times. In the event that any treated material becomes contaminated with material from the unclean area or fails microbiological testing, it, along with all in-contact material must be re-processed, or disposed of in accordance with the Regulations. The clean area must be thoroughly cleansed and disinfected/steam-cleaned. This procedure must be documented and signed off on by the plant operative responsible.
- During the application process, the operator must provide DAFF with copies of Standard Operating Procedures (SOPs) which will form part of their HACCP programme for their premises in relation to cleaning and hygiene procedures. Cleaning and hygiene procedures and checks must be documented.

6. PROCESSING/ TREATMENT STANDARDS

6.1. Biogas plants

EU Standard:

Animal by-products used as raw material in a biogas plant must be submitted to the following minimum requirements:

- **Maximum particle size before entering the unit: 12 mm;**
- **Minimum temperature in all material in the unit: 70 °C; and**
- **Minimum time in the unit without interruption: 60 minutes.**

6.2. Composting plants

EU Standard:

Animal by-products used as raw material in a composting plant must be submitted to the following minimum requirements:

- **Maximum particle size before entering the composting reactor: 12 mm**
- **Minimum temperature in all material in the reactor: 70 °C; and**
- **Minimum time in the reactor at 70 °C (all material): 60 continuous minutes.**

6.3. National processing standards for catering waste alone or if mixed with manure and/or digestive tract content separated from the digestive tract provided that the resulting material is considered as if it were from catering waste

The Department of Agriculture, Fisheries and Food has approved the following composting /biogas processing parameter conditions as a national standard for this category of waste. The following minimum requirements must be met:

- **Maximum particle size before entering the unit: 400 mm;**
- **Minimum temperature in all material in the unit: 60 °C; and**
- **Minimum time in the unit: 48 continuous hours.**

These processing parameters must be met twice, i.e. a twin barrier method.

- The standard comprises two separate stages. The first stage must take place in a closed reactor at a temperature of 60 degrees celcius for 48 continuous hours with a maximum particle size of 400 mm.
- The second stage must achieve time, temperature and particle size parameters similar to the first stage.
- Processing parameters must be automatically recorded on a thermograph in both stages. Material should be mixed thoroughly between processing stages. We would normally expect that the second stage would take place in a separate and distinct vessel/area (i.e the catering waste is treated in one vessel, then moved to a second vessel for the second stage.) However, some systems where the material is mixed may be able to achieve both stages in a single vessel. It would need to be clearly demonstrated to DAFF that the material within such a vessel achieves the two time/temperature treatment stages separately, and that mixing of

material should occur between the first and second stage.(e.g. by an auger or other turning device.) Cross contamination should not occur between the first and second stage materials.

Note that the introduction of national treatment standards for catering waste does not mean that catering waste must be treated only to the national standard. It may also be treated to the EU standard in the same manner as other category 3 animal by-products. Alternatively, processing as outlined in section 6.4 can apply to this category of waste also.

6.4. Alternative processing conditions for Category 3 material and/or Category 2 manure which will be placed on the market

The Department of Agriculture, Fisheries and Food may authorise the use of other standardised processing parameters (alternative processing systems) for processing animal by-products, provided the applicant demonstrates that such parameters ensure minimising of biological risks. The operator will have to produce documentary evidence in support of the system, including an independent risk assessment of the system. The operator must demonstrate and document the system's efficacy in inactivating pathogens using rigorous risk assessment techniques.

This validation, should be carried out in accordance with the following points:

- a) Identification and analysis of possible hazards, including the impact of input material, based on a full definition of the processing conditions
- b) A risk assessment which evaluates how the specific processing conditions referred to in a) are achieved in practice under normal and atypical situations
- c) Validation of the intended process by measuring the reduction of viability/infectivity of:
 - Endogenous indicator organisms during the process, where the indicator is:
 - Consistently present in the raw material in high numbers,
 - Not less heat resistant to the lethal aspects of the treatment process, but also not significantly more resistant than the pathogens for which it is being used to monitor,
 - relatively easy to quantify and relatively easy to identify and to confirm;
 - or**
 - a well characterised test organism or virus, during exposure, introduced in a suitable test body into the starting material.
- d) The validation of the intended process referred to in c) must demonstrate that the process achieves the following overall risk reduction :
 - For thermal and chemical processes by:
 - reduction of 5 log₁₀ of *Enterococcus faecalis* or *Salmonella Senftenberg* (775W, H₂S negative),
 - reduction of infectivity titre of thermo resistant viruses such as *parvovirus* by at least 3 log₁₀, whenever they are identified as a relevant hazard;
 - and**
 - as regards chemical processes also by:
 - reduction of resistant parasites such as eggs of *ascaris sp.*
By at least 99,9%(3 log₁₀) of viable stages.
- e) Designing a complete control programme including procedures for monitoring the functioning of the process referred to in (c).
- f) Measures ensuring continuous monitoring and supervision of the relevant process parameters fixed in the control programme when operating the plant.
- g) Records on the relevant process parameters as well as other critical control points must be recorded and maintained so that the owner, operator or their representative can monitor the operation of the plant.

6.5. On farm AD facilities using manure as the only animal by-product feedstock

Manure may be processed in on-farm biogas plants without the requirement of a pasteurisation/hygienisation unit provided that the manure originates from animals on the same farm premises and that the end-product is used on land on the farm of origin only. The end-product derived from such units is deemed as unprocessed material. These facilities must be approved by DAFF. All other biogas plants using 3rd party material will require product pasteurisation/hygienisation and approval by DAFF.

6.6. General Requirements

The operator needs to be able to demonstrate that all the material in the system has reached the required particle size, temperature standard for the required time, without interruption. All the material must achieve this at the same time without the risk of cross-contamination. If there is a failure at any of the critical control points during the treatment of a batch of an ABP, the operator must be able to isolate that batch and re-process it or dispose of it via an approved disposal route. Biogas plants must have equivalent fail-safe systems in place in order to avoid inadequate treatment.

In the case of plants processing material to the EU standard (processing for 1 hour), then temperature recordings must be taken at intervals not greater than 5 minutes. In the case of plants processing material to national standards (48 hour processing twice), then temperature readings must be taken at intervals not greater than 1 hour. In plants, which are barely achieving required temperatures, it would be necessary to reduce these temperature recording time intervals further in order to ensure that the processing parameters are being met. These temperatures must be continuously recorded on a thermograph.

As part of the application process for approval, the plant technology manufacturer must provide documentary evidence and data to demonstrate that the system can comply with the requirements of the regulations and that the composting/ biogas technology used must be capable of achieving the required time, temperature and particle size requirements consistently without the risk of cross-contamination. Such evidence should include data on the suitability of the system to treat different feed stocks, achieve the time/ temperature parameters, its efficacy in destroying pathogens and the conditions under which it must be operated, including any seasonal variations. The evidence supplied by the manufacturer will be assessed by this Department who will determine whether the system (or the information supplied) is sufficient. The initial technology testing would be followed up by continuity tests on a regular basis.

During the validation period when composting commences, a number of computer linked temperature probes would be required throughout the composting vessel or windrow, to draw up a temperature profile both longitudinally and in cross section. The minimum number of probes required would be calculated on the basis of 1 temperature probe per 3 cubic meters of material or as otherwise specified by DAFF. During the validation phase, the composting reactors must contain volumes of feedstock equivalent to volumes of feedstock that will be processed in the reactors post validation. It is important to determine which areas are the slowest to reach the required temperature and any areas which tend to be colder than others. Based on the temperature profile developed during the validation period, the number and location of probes permanently required will be determined by this Department.

The operator must also demonstrate that the system will be operated in such a way that this standard will be maintained and cross contamination is prevented.

7. SAMPLING OF DIGESTION RESIDUES AND COMPOST

7.1. Sampling Procedures and Frequency

Sampling procedures and a clear definition of what constitutes a ‘batch’ for the plant/ system in question must be documented in the plant’s HACCP and submitted for approval by this Department during the application process.² Sampling must subsequently be done in accordance with the approval as issued to a plant. Samples taken by plant operators should be sent to a DAFF approved laboratory. (see Appendix 4, DAFF approved laboratories)

During the initial commissioning and validation process of a plant and prior to full approval of the plant being granted, a minimum of 6 consecutive batches of compost/ digestion residue must be microbiologically sampled and achieve the required test results.² If a positive culture result occurs during validation, the cause must be investigated by the plant operator and corrective action instigated. The sampling validation period must restart from the beginning after the last positive result received.

The frequency of sampling will reduce over time as the plant establishes reliability, provided that the testing and monitoring of control points set out in the HACCP demonstrates that the site continues to comply with the requirements of the Regulation. The frequency of testing will vary depending on the plant and will be determined by this Department. All testing will be at the operator’s expense.

Sampling should be carried out on compost/ digestion residues during or immediately after processing in the case of E.Coli, and during or on withdrawal from storage for Salmonella. Clean/sterile receptacles should be used and hygienic practices employed. Five separate samples must be taken per batch. If the batch sizes are very large, 3 sub-samples per sample may be required in order to get representative samples.

Officials from this Department, will, as part of the approval process and ongoing routine inspection procedures, take samples for microbiological analysis.

It must be noted that using end-product monitoring or microbiological sampling alone to validate a process is not satisfactory and not reliable.

7.2. Microbiological Standards

Representative samples of the digestion residues or compost taken during or immediately after processing at the biogas or composting plant must comply with the following standards:

Escherichia coli: $n = 5$, $c = 1$, $m = 1000$, $M = 5000$ in 1 g;

or

Enterococaceae: $n = 5$, $c = 1$, $m = 1000$, $M = 5000$ in 1 g;

and

Representative samples of the digestion residues or compost taken during or on withdrawal from storage at the biogas or composting plant must comply with the following standards:

Salmonella: absence in 25 g: $n = 5$; $c = 0$; $m = 0$; $M = 0$;

where:

² 1774/2002 defines a “Batch” as a unit of production produced in a single plant using uniform production parameters – or a number of such units, when stored together – and that can be identified for the purposes of recall and re-treatment or disposal should tests show that to be necessary. In practice, a batch will be taken as being the amount of final product produced in the period of time since the last sample.

- n = number of samples to be tested;
- m = threshold value for the number of bacteria; the result is considered satisfactory if the number of bacteria in all samples does not exceed m;
- M = maximum value for the number of bacteria; the result is considered unsatisfactory if the number of bacteria in one or more samples is M or more; and
- c = number of samples the bacterial count of which may be between m and M, the sample still being considered acceptable if the bacterial count of the other samples is m or less.

Digestion residues or compost, which do not comply with the requirements set out in this paragraph shall be re-processed, in the case of Salmonella handled or disposed of in accordance with the instructions of the Department of Agriculture, Fisheries and Food. (See paragraph 7.3 below).

In the case of manure derived compost/digestate, which will be placed on the market, the sampling procedures outlined above applies. However the following bacteriological standards, which differ from those above, should be achieved:

Escherichia coli: n = 5, c = 1, m = 0, M = 1000 in 1 g;

or

Enterococaceae: n = 5, c = 1, m = 0, M = 1000 in 1 g;

and

Salmonella: absence in 25 g: n = 5; c = 0; m = 0; M = 0

7.3. Non-Compliances

In a situation where sample results do not comply with these standards, then, in accordance with the legislative provisions of Regulation (EC) No. 1774/2002, the following procedure must be adhered to:

- The Department of Agriculture, Fisheries and Food must be notified immediately
- The operator of the plant must investigate and establish the cause of the failure.
- The contaminated batch and any in-contact material must be re-processed or disposed of **under the supervision** of the Department of Agriculture, Fisheries and Food. In the case of facilities where the only animal by-product being processed is catering waste, contaminated batches may be sent directly for landfilling in an approved landfill site in accordance with EC Directive 1999/31 or reprocessed through the plant. For facilities using approved Category 3 animal by-products, material may either be recycled through the plant or sent for processing in an approved Category 1 or Category 3 processing plant.
- No other material should be moved off site until the situation has been assessed by Department officials and permission granted.
- The frequency of sampling and testing will be increased and specified by DAFF officials.
- Records relating to the contaminated material must be examined by DAFF officials.
- Appropriate decontamination and cleaning procedures must be followed under the supervision of DAFF officials.

Where appropriate, further recommendations will be issued by DAFF for these cases.

8. RECORD KEEPING

All records relating to all aspects of the composting or biogas process must be kept on site for a minimum period of 2 years. These records must be available for inspection on request by an authorised officer from the Department of Agriculture, Fisheries and Food and must include:

Intake records:

Records for all batches of animal by-products (including catering waste) delivered to or collected by the plant. The records must include the date of delivery, the source of the material, the quantity, description and animal by-product categorisation of the material, the name of the haulier and the receptacle number for vehicles other than those collecting catering waste only. In the case of Category 2 or Category 3 ABP material other than catering waste, the commercial documents for each consignment must also be kept and recorded by the facility.

- Completed waste acceptance forms from all animal by-product suppliers. (See Appendix 3, sample waste acceptance document.)
- Records of the relevant process parameters achieved in a biogas or composting plant as well as other critical control points must be maintained so that the owner, operator or their representative and the Department of Agriculture, Fisheries and Food can monitor the operation of the plant.
- Records relating to particle size verification checks.
- Thermographs relating to the composting or biogas process to ensure that the minimum time/temperature parameters as set out in section 6 are met. Expanded thermographs of the critical processing stage are required to ensure that no temperature fluctuations occur below the minimum temperature requirements.
- The pest control plan and all relevant documentation pertaining to pest control plan.
- Cleaning procedures for all parts of the premises, equipment and vehicles/receptacles and all relevant recording documentation.
- Hygiene control plan, cleaning schedules and all relevant recording documentation
- Equipment repair and calibration records.
- Sampling procedures and schedules as well as laboratory results for all samples taken (as outlined in section 7).
- A system to ensure traceability for all batches of compost produced and dispatched from the plant must be in place. This must detail the source, type and quantity of the raw material, the haulier name, the batch identifying number, the dates of treatment, the vessel/reactor/bay numbers where the material was treated, all other relevant processing records, intended end-use the date of dispatch and destination of the finished product if applicable. (name and address of consumer).
- A system of hazard analysis and critical control points (HACCP) plan for the plant. This plan must identify the critical control points and establish and implement methods for monitoring and checking these points. All checks of the Critical Control Points must be documented and non-compliances and the corrective actions taken in each instance must also be recorded.
- Records must be made available to this Department on request at any reasonable time.

9. HACCP PLANS FOR COMPOSTING/BIOGAS PLANTS

In accordance with the principles prescribed in **Regulation (EC) No. 1774/2002**, the system of hazard analysis and critical control points (HACCP) plan must pay particular attention to the following points:

- Procedures/ checks at the plant for reception of animal by-products, i.e waste acceptance procedures (see Appendix 3 Waste acceptance form template).
- Processing of material to the required standards.
- Hygiene controls – including cleansing and disinfection facilities, as well as arrangements to prevent cross-contamination of processed material with raw material through the use of flow diagrams.
- Record keeping including laboratory sampling results.
- Details of what corrective actions will be taken when necessary.

The HACCP plan must include provision for a full audit trail of all materials that passes through the plant.

Standard operating procedures (SOPs) describe the practical procedures which any operative working in the plant must follow to ensure the HACCP is adhered to and these must be documented in the plants procedures manual. All operatives should be familiar with all aspects of the HACCP and the SOPs. It may be necessary for plant managers and plant operatives to be trained in HACCP.

10. COLLECTION AND TRANSPORT

Hygiene requirements for the transport of animal by-products are laid down in Article 7, Article 9 and Annex II of Regulation (EC) No. 1774/2002.

In the case of catering waste, the requirements in Article 7 and Annex II do not apply and waste management controls will apply. A record of catering waste consignments must be kept for a period of at least two years from the date of such consignment or transport.

With the exception of the aforementioned, the following points are the conditions that apply to the collection and transport of animal by-products:

10.1. Identification

- Category 2 materials and Category 3 materials must be kept separate and identifiable during collection and transportation.
- Signage with wording detailed below must be permanently attached on both sides of the container in such a way they are clearly legible and visible. The letters should be at least 15cms high.
- ALL signs must be **PERMANENTLY** attached to the trailer, i.e. bolted, welded or riveted. It will not suffice to have the signs attached with glue magnets or slide in slots.
- The sign must bear the wording:
 - For Category 3 Material: **Category 3 Material – Not for Human Consumption**
 - In the case of Category 2 manure and digestive tract content: **‘Manure’**

- It is a legislative requirement that all hauliers transporting animal by-products are registered on the Animal By-Products transport register. Applications can be sent to DAFF, Animal By-Products Section, Pavillion B, Grattan Business Park, Portlaoise, Co. Laois. A sign depicting the haulier registration code as well as individually allocated receptacle number must also be permanently affixed to the haulier receptacles.

10.2. Vehicles and Containers

- All animal by-products must be transported in sealed new packaging or in covered leak-proof containers or vehicles.
- Containers, receptacles and vehicles used for transporting untreated animal by-products must be cleaned and disinfected in a designated area. This area must be situated or designed in a manner so as to prevent risk of contamination of treated products.
- Vehicles and all reusable equipment must:
 - Be cleaned, washed and disinfected after each use
 - Be maintained in a clean condition
 - Be clean and dry before use
- Reusable containers must be dedicated to the carriage of one particular category of animal by-product in order to prevent cross-contamination.

10.3. Commercial Documents

- A Commercial Document must accompany all animal by-products apart from catering waste during transport. This must be produced in quadruplicate with the original being retained by the consignee and copies are to be kept by the consignor and the haulier. The fourth copy must be returned by the consignee to the consignor.
- Commercial documents are not required for manure transported between two points located on the same farm, or between farms and users located in the same Member State.
- Information contained on Commercial Documents must include:
 - a) The name and address of the premises of origin, and its approval number (if appropriate)
 - b) The name and address of the carrier
 - c) A description of the material
 - d) The category of ABP as well as the specific sub-category detail
 - e) The quantity of material
 - f) The date of dispatch from the premises
 - g) The receptacle number
 - h) The signature of the consignor of the premises of origin and its official stamp
 - i) The name and address of the receiver (composting/biogas plant) and its approval number

10.4. Records

- Records relating to all material collected or delivered to the plant must be kept for a minimum period of 2 years. These records must be available at all times for examination by an authorised officer.

All of the above requirements (paragraphs 10.1 to 10.4) are detailed in Trader Notice 04 05 issued by the Department of Agriculture, Fisheries and Food. Copies of this notice are available on request.

10.5. Catering Waste Collection and Transport

Catering waste must be collected and transported in such a way as to ensure that it not a human health or environmental risk. In particular, all external surfaces of vehicles transporting catering waste must be kept clean and equipment must be available for this purpose. The wheels of these vehicles should be cleaned and disinfected or steam cleaned prior to the vehicle leaving the premises. (Under current EU rules, internal cleansing and disinfection is not routinely required for vehicles transporting catering wastes alone but is recommended).

11. ORGANIC FERTILISERS AND SOIL IMPROVERS DERIVED FROM COMPOST OR DIGESTION RESIDUES

Pre-notification of intended classes of end- use, as opposed to sites must be detailed in the application for approval. However, names and addresses of individuals who will be receiving large quantities of material (in excess of 1 tonne) must be recorded. Changes of intended end-use must be notified to DAFF a minimum of 2 weeks in advance of change.

Regulation (EC) No. 1774/2002 as amended, provides for the use of organic fertilisers and soil improvers on pasture land.

S.I. 612 and 615 of 2006 regulates the use of organic fertilisers and soil improvers in Irish Law.

11.1. End-uses for organic fertilisers, soil improvers compost/ digestion residue derived from compost / digestate based on feedstock origin.

1. CATEGORY 2 MATERIAL:

In accordance with S.I. 615 of 2006, an organic fertiliser or soil improver that consists of or contains CATEGORY 2 MATERIAL, (other than manure and the contents of the digestive tract), cannot be used on any land.

2. CATEGORY 3 CATERING WASTE ONLY:

Compost /digestion residues resulting from the processing of catering waste may be spread on land subject to the following conditions:

- Farmed animals (apart from pigs) must not be allowed access to the land for at least 21 days following application to the land
- In the case of pigs, this period is extended to 60 days.

This also applies to catering waste if mixed with manure and/or digestive tract content.

3. CATEGORY 3 MATERIAL referred to in Article 6 (1) (f) * or (i) ** of EU Regulation 1774/2002:

Compost/ digestion residues resulting from the transformation of the above may be spread on land subject to the following conditions:

- A farmed animal does not have access to any part of the land where the fertiliser or soil improver is spread or otherwise used, for three years after the fertiliser or soil improver is spread or otherwise used.
- A farmed animal does not have access to the fertiliser or soil improver and it does not come into contact with a feeding stuff.

- Ensiled crops or hay should not be made from a crop grown on land on which an organic fertiliser or soil improver of this type has been spread during the previous 12 months.

**Article 6 (1) (f): 'former foodstuffs of animal origin, or former foodstuffs containing products of animal origin, other than catering waste, which are no longer intended for human consumption for commercial reasons or due to problems of manufacturing or packaging defects or other defects which do not present any risk to humans or animals'*

***Article 6 (1) (j): 'fresh by-products from fish from plants manufacturing fish products for human consumption'*

4. OTHER CATEGORY 3 MATERIAL:

No other type of Category 3 material may be used to produce soil improvers or organic fertilisers from compost or biogas plants.

5. CATEGORY 2 MANURE AND/OR DIGESTIVE TRACT CONTENT:

The above animal by-product may be used on land as an organic fertiliser/ soil improver subject to landspread regulations.

11.2. Transport and labelling of organic fertilisers and soil improvers

1. After processing the compost/digestion residue must be stored so as to avoid re-contamination.
2. Organic fertilisers and soil improvers must be transported and supplied packaged to final users other than business operators. Alternatively, if collected in bulk by the final user, a commercial document must accompany the product and contain the wording detailed below in 11.2.4.
3. The packaging shall be clearly and legibly labelled with the name and address of the manufacturing plant and shall bear the words '*organic fertilisers and soil improvers/ farmed animals must not be allowed access to the land for at least 21 days following application to the land and 60 days in the case of pigs*', in the case of organic fertiliser derived from catering waste. In the case of organic fertiliser derived from other category 3 material, the labelling should state, '*organic fertilisers and soil improvers; farmed animals must not be allowed access to the land for at least 3 years following application to the land*' as well as '*ensiled crops or hay should not be made from a crop grown on land on which an organic fertiliser or soil improver of this type has been spread during the previous 12 months.*'
4. A commercial document must accompany the product if supplied to business operators and/or to final users if the product is supplied in bulk without packaging and labelling. (see ABP Trader Notice 04 2005) This document must bear the words '*organic fertilisers and soil improvers - farmed animals must not be allowed access to the land for at least 21 days following application to the land, and at least 60 days in the case of pigs*' in the case of organic fertilisers derived from catering waste. In the case of organic fertiliser derived from other category 3 material, this document must bear the words '*organic fertilisers and soil improvers; farmed animals must not be allowed access to the land for at least 3 years following application to the land*' as well as '*ensiled crops or hay should not be made from a crop grown on land on which an organic fertiliser or soil improver of this type has been spread during the previous 12 months.*'

11.3. Register of approved users

- It is a requirement under S.I. 615 of 2006 that a food or feed business operator who is a final user of organic fertiliser or soil improver, supplied by a retailer, on land, must register with the Animal By-Products Division of DAFF. All such persons must make their application to:

**Animal By-Products Division
Department of Agriculture, Fisheries and Food
Pavillion B,
Grattan Business Centre,
Portlaoise,
Co. Laois**

- The Animal By-Products Division will maintain a register of all applicants who have received authorisation from DAFF to use organic fertiliser or soil improver on land. The register will be updated on a yearly basis and will be published on DAFF's website.

11.4. Record Keeping

- Records of all product dispatched from the plant must be kept up to date by plant management and available for inspection at all times. This list must detail :
 - a) The name and address of the person receiving the product
 - b) The intended use for the material (type of land e.g. arable, pastureland, garden, landscaping, forestry etc)
 - c) The date the material was supplied
 - d) The batch number of material supplied
 - e) The quantity of material supplied
- A person responsible for land to which organic fertilisers and soil improvers are applied, and who is required to register under 11.3 above, shall keep records for a minimum period of two years of:
 - The quantities and description of material applied
 - The date on which and the parcels of land where material was applied
 - The dates on which livestock/poultry are allowed to graze the land or on which the land is cropped for feeding-stuffs

11.5. Storage

- Until such time as the animals are allowed access the land to which the organic fertiliser or soil improver has been spread, the farmed animals must have no access to the area where the organic fertiliser or soil improver is stored.
- The fertiliser must be stored in a manner that prevents contamination or contact with any other fertilizer or feedingstuff.

APPENDIX 1

<u>STOCK PROOF FENCING.</u>

The facility must be surrounded on all sides by permanent stock- proof fencing of a minimum height of 1.8 m.

Posts must be 2.3 m long minimum of either: -

- a) Reinforced concrete 125mm x 125mm at butt end (to IS 177: 1980)
- b) Galvanised angle iron 60mm x 60mm x 6mm thick
- c) Galvanised tubular steel, 75mm outside diameter, and 3.2 mm thick

Uprights and strainers shall be embedded in 0.5m square concrete bases, not more than 3.0m apart. Four strands of 3.2 mm plain wire shall be strained, and stapled or tied to the uprights with tying wire. Chain link fencing, 2.5mm, (to IS 130:1980), 1.8m high, shall be secured to the outside of the line wires over entire fence. One strand of 1.5mm barbed wire shall be placed along the top of the fence.

A gate 1.8m high, of galvanised steel, or preservative treated timber, with closing bolts and locks, shall be fitted at the entrance to the facility. The only horizontal bars shall be at the top and bottom of the gates. Chain-link fencing shall be fitted to the outside of the gates. The gates shall be designed such that neither people nor stock can get through or under when closed.

Other equivalent fence systems may be acceptable.

APPENDIX 2

DEPARTMENT OF AGRICULTURE, FISHERIES AND FOOD

1.1.1.1. Diseases of Animals (Disinfectants) Order, 1975 (Amendment) Order, 1978

LIST OF APPROVED DISINFECTANTS (15/08/2007)*

11.1.2. DISINFECTANT	Diseases in respect of which use is approved and dilution rates ¹				
	Foot and Mouth Disease	Swine Vesicular Disease	Fowl Pest (Newcastle Disease, Fowl Plague (Avian Influenza))	Tuberculosis	Anthrax, Brucellosis, Contagious Bovine Pleuropneumonia, Glanders and other Scheduled diseases
Acidfoam-C	70				
Agrisept MC Tabs	271	448*	271	---	450
Antec Ambicide	---	---	---	---	30
Antec Hyperox	150	50	375	100	179
Antec Virkon S	1300	200	280	----	120
Bio Dine	---	---	145	---	---
Bio Guard	---	---	80	---	---
Bio Kill	140	---	365	---	160
Bi-OO-Cyst	---	---	125	---	---
Bio Phen	---	175	190	---	---
Bio Phen Plus	400	160	210	---	---
Bio Shield	---	---	155	---	---
Bio VX	1200	135	285	---	100
Chlorasol	20	90	200	20	199
Citric acid ²	0.2%				
Citrox	---	---	0.66	---	---
Clinidine	320	---	140	---	---
Clinidine 28	500	400	170	---	---
Deosan Iodel FD	215	234	130	26	147
Dermicidal Extra	50	150	125	13	61
Envirocare A	99	99	99	---	99

<i>DISINFECTANT</i>	Foot and Mouth Disease	Swine Vesicular Disease	Fowl Pest (Newcastle Disease, Fowl Pest)	Tuberculosis	Anthrax, Brucellosis, Contagious Bovine Pleuropneumonia, Glanders and Other Scheduled Diseases
Enviroguard	60	300	150	10	60
Equissept	271	---	450	---	450
FAM (New Formulation)	525	400	150	15	110
FAM 30	550	600	125	30	180
GPC 8 (New Formulation)	80	250	190	---	---
Iodosure Bio	240	160	110	---	25
Iosan Farm Disinfectant	240	180	80	15	80
Jentabs	299	299	449	---	299
Jeyes Fluid	---	---	30	---	50
Kick Start 2	800	160	145	44	256
Novagen FP	240	180	80	22	145
Omnicide 325	50	150	125	13	61
Opticide 200	50	150	125	13	61
Osmodex	525	400	150	15	110
Purogene	250	240	20	20	22
Septrivet	299	299	449	---	299
Septrivet 17	1000	1000	700	---	1000
Sodium carbonate ³	4%				
Sodium hydroxide ³	2%				
Sorgene 5	75	75	100	75	200
Spectocide 2000	60	300	150	10	60
Supercide	150	450	200	---	200
Superdine	550	600	125	30	180
Superkill	---	50	100	---	22
SWC Bacto Detsan	20	10	---	---	10
SWC Maxikleen	600	400	100	45	43
Tego 2000	---	---	---	---	32
Tegodor FARM	---	---	51	---	---
					Anthrax,

<i>DISINFECTANT</i>	Foot and Mouth Disease	Swine Vesicular Disease	Fowl Pest (Newcastle Disease, Fowl Pest)	Tuberculosis	Brucellosis, Contagious Bovine Pleuropneumonia, Glanders and Other Scheduled Diseases
Trigene II	---	---	---	41	---
V26	200	200	200	105	178
Vadox	200	30	300	---	300
Vesphene D39	10	----	50	70	55
Verucidal Extra	1300	300	300	---	112
Victor	1300	200	280	---	120
Virex	1300	200	300	---	112
Virochlor	271	448	271	---	450
Virophen	---	200	210	---	---
Virophen Plus	---	---	240	---	---
Virophor 2.8%	---	---	185	---	---
Viroshield	---	---	165	---	---
Zal Perax II	800	160	145	44	256

11.2. NOTE: READ CAREFULLY THE MANUFACTURER'S INSTRUCTIONS BEFORE USAGE

11.3. PARTICULARLY IN RELATION TO SPECIFIED PRECAUTIONS

Note: Dilution rates for disinfectants for use against Foot and Mouth Disease and/or Swine Vesicular Disease relate to effectiveness when applied to a clean surface.
 (a) Thoroughly washed or sprayed with an approved disinfectant;
 (b) Thoroughly cleansed, ensuring that dung, litter, etc. is removed and disposed of so that there is no risk of contact with livestock; and
 (c) (The clean area) washed or sprayed with an approved disinfectant used at the approved dilution.

APPENDIX 3

SAMPLE WASTE ACCEPTANCE FORM

This form should include the following information

Name and address of Composting/Biogas site

Name, address and telephone number of waste supplier

List of feedstocks acceptable at the compost/biogas facility.

Specific definitions of all feedstock categories acceptable at the facility.

Description and source of supplier feedstock

Approximate volume of waste produced

Statement of conformity e.g. This waste contains *catering waste and/or former foodstuff and/or manure etc* only.

N.B. It is the compost/biogas plant's responsibility to ensure that regular checks are made to ensure that the information supplied above by the suppliers is up-to-date and accurate in order to ensure only acceptable feedstock types are accepted at the facility.

Signature and capacity of person signing on behalf of waste/ feedstock supplier

Date

Appendix 4

List of non-Departmental Laboratories Approved for Microbiological testing by the Department of Agriculture, Fisheries and Food

Advanced Micro Services,
South Ring Business Park,
Tramore Rd,
Co Cork

Anser Laboratories Ltd.
69A Killyman Street,
Moy, Co Tyrone
BT71 7ED.

Aqua Lab.
Donegal Road,
Killybegs,
Co. Donegal.

Biosearch (NI) Ltd
Dufferin Road
Belfast
BT3 9AA

Complete Laboratory
Solutions
Ros Muc,
Connemara,
Co. Galway.

Consult-Us Ltd.
Glanmire Industrial Estate,
Glanmire,
Co. Cork.

Enfer Micro Laboratories Ltd,
Carrigeen Business Park,
Clonmel,
Co. Tipperary

EnviroLab Ltd.
Christendom Enterprise
Centre
Christendom
Ferrybank
Waterford

Eurofins Scientific Ireland
Ltd.
Finnabair Industrial Estate,
Science Services Centre,
Dundalk, Co. Louth.

Foodtech Consultants Ltd.
Rocklawn,
West Village,
Ballincollig,
Co Cork.

Food Safety Laboratory,
Veterinary Department
Cork County Council,
County Hall,
Cork.

Independent Micro Lab Ltd.
Lismard Business Park,
Timahoe Road,
Portlaoise,
Co. Laois.

Irish Equine Centre
Johnstown,
Naas,
Co. Kildare.

Mercury Analytical Ltd,
Raheen Industrial Estate,
Limerick.

Microchem Laboratories
Clogherane,
Dungarvan,
Co. Waterford

Microlab Ltd.
Drumillard Little,
Monaghan Road,
Castleblayney,
Co. Monaghan.

Mid Antrim Laboratory
Services
42A Broughshane Road,
Ballymena,
Co. Antrim.

Monaghan Veterinary
Laboratory
Clones Road,
Monaghan.

Oldcastle Laboratories Ltd.
Cogan Street,
Oldcastle,
Co. Meath.

Q Lab Ltd.
P.O. Box 27,
Kerlogue Industrial Estate,
Drinagh,
Wexford.

Southern Scientific Services
Ltd.
Dunrine,
Killarney
Co. Kerry.

20. GUIDANCE NOTES ON FLOOD STUDIES

If the site adjoins a watercourse extra information may be sought including the following:

A Flood Study may be required as the proposed activity has the potential to remove part of a flood plain. Development on a flood plain is undesirable unless mitigation measures are undertaken to prevent any increase in flood risk. Development on a flood plain may increase the flood risk upstream if it restricts the conveyance capacity of the flood plain, thus leading to increased upstream water levels. The proposed development may increase downstream flood risk if it causes a reduction in the volume available for the storage of floodwater on the flood plain, thereby displacing water downstream.

Sample Request for Flood Plain Assessment

It should be noted that development on a flood plain is undesirable unless mitigation measures are undertaken to prevent any increase in flood risk. The proposed development may increase the flood risk upstream if it restricts the conveyance capacity of the flood plain, thus leading to increased upstream water levels. The proposed development may increase downstream flood risk if it causes a reduction in the volume available for the storage of floodwater on the flood plain, thereby displacing water downstream.

The applicant should now supply the following information:

- Establish the *100-year flood level and flow for the stream. This will indicate what portion of the site forms part of the *100-year flood plain. Calculations should be submitted to support levels and extents estimated.
- Details of catchment area.
- Extent and frequency of flood events.
- Storage volume of flood plain.
- Quantify the reduction of the flood plain as a result of the proposed raised soil levels.
- Assess the impacts caused by any reduction of the flood plain of the stream, i.e. increase in water levels, possible flooding of adjacent lands.
- Details of proposed mitigation measures to prevent increased flood risk.

*An appropriate design flood standard must be selected. 100 year for urban areas or where developments are involved and 25 year for rural areas or where developments are not involved.

21. GUIDANCE ON BIODIVERSITY

Article 10(1)(y) requires that an application for a waste facility permit or certificate of registration contain details of the biodiversity of the land.

Where the proposed activity will be located in an area that is already developed³ and will not, due to its nature and scale, significantly impact on biodiversity off-site, a statement to that effect shall be sufficient. Examples could include the following:

- Proposed location of a materials recycling facility in an industrial estate.
- Proposed redevelopment of an existing garage for depollution of waste vehicles.
- Proposed location of a storage and transfer facility for road maintenance and street cleaning wastes in an existing local authority depot.
- Proposed location of a composting facility in the yard of a hotel.
- Proposed location of small-scale civic amenity facility in a car park.

Where details of biodiversity is required, an ecological study of the site and surrounding environment⁴ shall be conducted by a person with an ecological qualification as follows:

Habitats shall be identified to level 3 in accordance with *A Guide to Habitats in Ireland*⁵ and mapped.

The habitat nomenclature scheme in *A Guide to Habitats in Ireland* shall be used, except in the case of any EU Habitats Directive⁶ Annex I habitats, which shall be identified in accordance with the nomenclature used in the EU Habitats Directive.

Key species of flora and fauna shall be identified, with particular emphasis on any rare, protected or annexed species by reference to the following:

- Irish Red Data Books 1 (plants) and 2 (animals)⁷.
- Annex I of the EU Habitats Directive.
- Annex I of the EU Birds Directive⁸.
- Red or amber listed bird species in the current list of Birds of Conservation Concern in Ireland⁹.

Sites of conservation interest shall be identified including:

- European sites¹⁰.
- Proposed or designated Natural Heritage Areas¹¹.

³ This assumes that any existing development is authorised, e.g. has planning permission if necessary.

⁴ To include the area of the waste activity and any area that could be impacted by it.

⁵ Fossitt, J.A. (2000) *A Guide to Habitats in Ireland*. Heritage Council, Kilkenny.

⁶ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as amended)

⁷ <http://www.npws.ie/en/PublicationsLiterature/RedLists/>

⁸ Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (as amended)

⁹ <http://www.birdwatchireland.ie/>

¹⁰ See Article 5(2) of the *Waste Management (Facility Permit and Registration) Regulations 2007* for definition.

¹¹ <http://www.npws.ie/en/ConservationSites/>

- Nature Reserves¹¹.
- Refuges for fauna or flora¹¹.
- Wildfowl sanctuaries¹¹.
- Sites subject to management agreements under the Wildlife Acts¹¹.
- Wetlands¹².

The study shall include an assessment of the impact of the proposed activity on the above and detail any measures proposed to mitigate same. Also cognizance must be taken of the policies set out current County Development Plan and Local Area Plans of the Local Authority when carrying out any assessment.

¹² See *Code of Practice - Environmental Risk Assessment for Unregulated Waste Disposal Sites* (EPA, 2006) regarding protection of wetlands in the context of waste activities. 'Wetlands' are defined as 'areas of marsh, fen, peatland, or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish, or salt, including marine waters, the depth of which at low tide does exceed six metres'.

