

WASTE MANAGEMENT (PERMIT) REGULATIONS 1998

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S.I. No. 165 of 1998.

In exercise of the powers conferred on the Minister for the Environment and Local Government by sections 7 of the Waste Management Act, 1996 (No. 10 of 1996), which said powers are delegated to me by the Environment and Local Government (Delegation of Ministerial Functions) (No. 2) Order, 1997 (S.I. No. 428 of 1997), I, Dan Wallace, Minister of State at the Department of the Environment and Local Government, hereby make the following Regulations:—

REG 1

Citation and commencement.

1. (1) These Regulations may be cited as the Waste Management (Permit) Regulations, 1998.
- (2) These Regulations shall come into operation on the 20th day of May, 1998.

REG 2

Purpose of Regulations.

2. The purposes for which these Regulations are made include the purpose of giving effect to provisions of—

(a) 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 (1),

(1) O.J. No. L 194/23, 25 July 1975, and O.J. No. L 42/43, 12 February 1987.

(b) Council Directive 75/442/EEC of 15 July, 1975 on waste, as amended by Council Directive 91/156/EEC of 18 March, 1991 (2), and

(2) O.J. No. L 194/39, 25 July 1975, and O.J. No. L 78/32, 26 March 1991.

(c) Council Directive 80/68/EEC of 17 December, 1979 on the protection of groundwater against pollution caused by certain dangerous substances (3), and

(3) O.J. No. L 20/43, 26 January, 1980.

(d) Council Directive 91/689/EEC of 12 December, 1991 on hazardous waste (4).

(4) O.J. No. L 377/20, 31 December, 1991.

REG 3

Interpretation generally.

3. (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 Act, 1996;

"application" means an application for a waste permit, and

"applicant" shall be construed accordingly;

"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; and

"waste permit" means a waste permit for the purposes of section 39(4) of the Act.

REG 4

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

4. (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 First Schedule 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 First Schedule-

- (i) the activity is being carried on in a manner which does not cause, and is not likely to cause, environmental pollution,
 - (ii) there is in force in relation to the carrying on of the activity a waste 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 permit; and
- (b) in the case of an activity of a class specified in Part II of the First Schedule-
- (i) a certificate of registration has been granted by the Agency under article 21 in relation to the carrying on of the activity at the facility, and
 - (ii) the activity is being carried on in accordance with the conditions specified in the Second Schedule.
- (3) The recovery or disposal of waste at an existing facility shall, in the period before a waste permit or certificate of registration is granted or refused, be deemed to comply with the conditions specified sub-article (2) if, before the 1st day of October 1998-
- (a) an application for a waste permit or certificate of registration, as the case may be, has been made in respect of the activity in accordance with these Regulations and the application has not been withdrawn by the applicant, and
 - (b) the activity is being carried on in accordance with a permit issued under the European Communities (Waste) Regulations, 1979, the European Communities (Toxic and Dangerous Waste) Regulations, 1982 or the European Communities (Waste Oils) Regulations, 1992, where such a permit is in force in relation to the activity.
- (4) In this article, "existing facility" means an existing facility within the meaning of the Waste Management (Licensing) Regulations, 1997.

REG 5

Grant of a waste permit.

5. (1) A local authority may, on application being made to it in that behalf, grant a waste 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 the First Schedule at a facility located in the functional area of the said local authority.
- (2) A local authority shall not grant a waste permit unless it is satisfied that-
- (a) the activity concerned, carried on in accordance with such conditions as are attached to the 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, and
 - (c) the best available technology not entailing excessive costs will be used to prevent or eliminate or, where that is not practicable, to limit, abate or reduce an emission from the activity concerned.

REG 6

Notice of intention to apply for a waste permit.

6. An applicant shall, in accordance with article 7-

- (a) within the period of two weeks before the making of an application for a waste permit, publish notice of the intention to make the application in a newspaper circulating in the district in which the activity is or will be carried on, and
- (b) not later than the making of the application, give notice of the application by the erection or fixing of a site notice on the facility or premises concerned.

REG 7

Requirements as to notices.

7. (1) A notice published in a newspaper pursuant to article 6 shall contain as a heading the words "APPLICATION TO [LOCAL AUTHORITY] FOR A WASTE PERMIT", and shall-

- (a) give the name and address of the applicant,
- (b) state the location or postal address of the facility to which the application relates,
- (c) specify the class or classes of activity concerned, in accordance with the Third and Fourth Schedules of the Act and, in the case of two or more activities, identify the principal activity,
- (d) state that a copy of the application for a waste permit will, as soon as is practicable after receipt by the local authority, be available for inspection or purchase at the principal office of the said authority.

(2) A site notice erected or fixed on any facility pursuant to article 6 shall-

- (a) be painted or inscribed, or printed and affixed, on a durable material,
- (b) be securely erected or fixed in a conspicuous position-
 - (i) on or near the main entrance to the facility from a public road, or
 - (ii) on any other part of the facility adjoining a public road, and shall be so erected or fixed and the text shall be so painted, inscribed or printed that the notice shall be capable of being read by persons using the said public road.

(3) Where the facility to which an application relates does not adjoin a public road, a site notice 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.

(4) A site notice erected or fixed on any facility pursuant to article 6 shall be headed "APPLICATION TO THE [LOCAL AUTHORITY] FOR A WASTE PERMIT" and shall-

- (a) indicate the site location or proposed location of the activity, and
- (b) comply with the requirements specified in paragraphs (a), (c) and (d) of sub-article (1).

(5) A site notice erected or fixed on any facility pursuant to article 6 shall be maintained in position where erected or fixed for at least one month after the making of the relevant application, 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.

REG 8

Further notice.

8. Where-

- (a) a period of more than two weeks has elapsed between the publication in a newspaper of a notice in accordance with article 6 and the making of the relevant application, or
- (b) it appears to the local authority that any notice published or given in pursuance of article 6 does not comply with the provisions of article 7, or is, because of its content or for any other reason, misleading or inadequate for the information of the public, the authority shall require the applicant to publish, erect or fix such further notice in such manner, whether in a newspaper or otherwise, 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.

REG 9

Making of an application to a local authority.

9. An application shall be made to the principal office of the local authority in whose functional area the waste activity is or will be carried on.

REG 10

Contents of an application for a waste permit.

10. (1) An application for a waste permit shall-

- (a) give the name, address and, where applicable, any telephone number and telefax number of the applicant and, if different, any address to which correspondence relating to the application should be sent and, if the applicant is a body corporate, the address of its registered or principal office,
- (b) give the location or postal address of the facility to which the application relates,
- (c) describe the nature of the facility concerned,
- (d) specify the class or classes of activity concerned, in accordance with the Third and Fourth Schedules of the Act,
- (e) specify the quantity and nature of the waste or wastes which will be recovered or disposed of, as the case may be,
- (f) describe the plant, methods, processes and operating procedures for the activity,
- (g) give particulars of the source, location, nature, composition, quantity, level and rate of emissions arising from the activity and, where relevant, the period or periods during which such emissions are made or are to be made,
- (h) identify monitoring and sampling points and indicate proposed arrangements for the monitoring of emissions and the environmental

consequences of any such emissions,

(i) describe any proposed arrangements for the off-site treatment or disposal of solid or liquid wastes, and

(j) describe 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.

(2) An application shall be accompanied by-

(a) a copy of the relevant page of the newspaper in which the notice in accordance with article 6 has been published,

(b) a copy of the text of the notice erected or fixed in accordance with article 6,

(c) a copy of such plans, including a site plan and location map, and such other particulars, reports and supporting documentation as are necessary to identify and describe, as appropriate-

(i) the position of the notice in accordance with article 7,

(ii) the point or points from which emissions are made or are to be made, and

(iii) the point or points at which monitoring and sampling are or are to be undertaken, and

(d) a fee of £200.

REG 11

Procedure on receipt of an application.

11. (1) On receipt of an application, a local authority shall -

(a) stamp the application with the date of receipt,

(b) assign a reference number to the application, and

(c) examine whether the requirements of article 10 have been complied with.

(2) Where a local authority considers that the requirements of article 10 have been complied with in respect of an application, it shall send to the applicant an acknowledgment of receipt of the application.

(3) Where a local authority 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, by notice in writing -

(a) inform the applicant of such failure of compliance and that the application cannot be considered by the authority, or

(b) require the applicant, within such period as may be specified by the authority, to take such steps or furnish such submissions, plans, documents or other information and particulars, as the authority considers are necessary for compliance with the said requirements.

(4) Where a local authority gives a notice in accordance with sub-article (3)(a), it shall return to the applicant all copies of the application and associated documents and particulars.

REG 12

Further information.

12. (1) Where a local authority receives an application, it may, by notice in writing, require the applicant-

(a) to furnish such further information or particulars relating to

the application as it considers necessary to enable it make a decision in respect of the application, or

(b) to 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) Where there is a failure or refusal to comply with a requirement of a local authority under sub-article (1) within one month of the date of notice of such requirement, the 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.

REG 13

Availability and inspection of documents.

13. (1) Where a local authority receives an application, it shall make available for public inspection in accordance with this article-

(a) a copy of the application (including the documents and information accompanying the application),

(b) information and particulars received pursuant to a notice under article 12(1) in relation to the application, and

(c) submissions received in relation to the application in accordance with article 14.

(2) The documents and information specified at sub-article (1) 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 their receipt until the authority has granted or refused to grant a waste permit or the application has been withdrawn by the applicant or the application has been returned by the authority in accordance with article 11(4), whichever first occurs.

(3) 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 purchase at such charge (if any), not exceeding the reasonable cost of making such copies, as the local authority may determine.

REG 14

Submissions to a local authority regarding an application.

14. Any person may make a written submission to a local authority in relation to an application.

REG 15

Minimum period for determination of an application.

15. A local authority shall not, subject to article 12(2), grant or refuse to grant a waste permit until after the expiration of twenty one days beginning on the day of receipt by the authority of-

(a) an application, or

(b) in a case where the applicant has been required to provide further information or particulars under articles 11(3) or 12(1), such information or particulars,

whichever date is the later.

REG 16

Investigations concerning discharges to groundwater.

16. Where it appears to a local authority that an activity which is the subject of the application to the authority 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/EEC (1), or

(1) 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.

(b) the direct or indirect discharge into groundwater of a substance for the time being specified in List II of the said Annex, the authority shall, before it grants a waste permit, 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 4, 5 and 7 of the aforesaid Directive.

REG 17

Conditions which may be attached to a waste permit.

17. A local authority may attach to any waste permit granted by the authority -

(a) such conditions as are, in the opinion of the authority, necessary for the purposes of article 5 (2), and

(b) a condition requiring the making of payments by the holder of the permit to the authority to defray such costs as may be incurred by the authority in inspecting, monitoring or otherwise performing any functions in relation to the activity concerned.

REG 18

Conditions which shall be attached to a waste permit.

18. (1) A local authority shall attach to each waste permit granted by the authority such conditions as are, in the opinion of that authority, necessary to give effect to the provisions, specified in column (1) of the Third Schedule, of the Community acts specified correspondingly in column (2) of the Schedule, insofar as such provisions are relevant to the waste activity concerned.

(2) For the purpose of the attachment by a local authority of conditions to a waste 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, 1986 (1).

(1) 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.

(3) A local authority shall attach to each waste permit granted by the authority a condition requiring the person to whom the permit is granted-

- (a) to notify the authority within seven days of-
 - (i) the imposition of any requirement on that person by order under Section 57 or 58 of the act, or
 - (ii) any conviction of that person for an offence prescribed under section 34(5) or 40(7) of the Act,
- (b) to 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 permit relates, and
- (c) to maintain specified records in relation to the activity to which the waste permit relates and, not later than the 28th day of February in each year, furnish to the local authority in such form as may be specified summary information in relation to such activities in the preceding calendar year or part thereof, as the case may be.
- (4) A waste permit shall be granted for such period, being a period not exceeding three years, as the relevant local authority may determine.

REG 19

Notice and information to the Agency.

19. A local authority shall-

- (a) by notice in writing, inform the Agency as soon as may be of any waste permit 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 permits have been granted by the authority.

REG 20

Notice and information to local authority.

20. A holder of a waste permit shall give notice in writing to the local authority which granted the said permit of any significant changes in the information furnished to that local authority under article 10 (1), within three weeks of any such change arising.

REG 21

Registration of certain activities.

21. (1) A person shall not carry on an activity of a class specified in Part III of the First Schedule at a facility on or after the 1st day of October 1998 unless 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, shall, on application being made to it in that behalf in accordance with these Regulations, grant a certificate of registration in relation to the carrying on at a facility of an activity specified in Part II or Part III of the First Schedule.

(3) An application for 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,
- (c) 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.

(4) An application for a certificate of registration shall contain the information specified in article 10(1) (other than paragraphs (g) and (h)), where appropriate.

REG 22

Entries in registers established under section 19 of the Act.

22. (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 permit is granted, the information specified in paragraphs (a) to (d) of article 10(1),

(b) in relation to each activity in respect of which a certificate of registration is granted, the location of the facility concerned, and the category or categories of hazardous waste, and the volumes of such waste, concerned.

(2) It is hereby prescribed that the register maintained by the Agency under section 19 of the Act shall contain entries specifying, in relation to each activity in respect of which a certificate of registration is granted, the location of the facility concerned, the class or classes of activity being carried on, and the volumes of waste concerned.

REG 23

Discretionary power to refund or waive fee in certain circumstances.

23. A local authority shall have absolute discretion to refund in whole or in part a fee payable in respect of a particular application where the authority is satisfied that the payment in full of the fee would not be just and reasonable having regard to the limited scale, or the limited cost, of the activity to which the application relates.

REG 24

False or misleading information.

24. A person shall not compile information which is false or misleading to a material extent or furnish any such information in any notice or other document used for the purposes of these Regulations.

REG 25

Defrayal of local authority or Agency costs.

25. (1) A local authority or the Agency may, by notice in writing, require a person to whom these Regulations apply to defray or contribute towards any costs incurred by the local authority or the Agency, as the case may be, in the performance of its functions in relation to these Regulations, including the cost of any inspection or investigations carried out or caused to be carried out by the local authority or Agency, and the taking and analysis of any

sample of waste.

(2) A person on whom a notice is served under sub-article (1) shall comply with the requirements of the notice within such period, being a period of not less than three weeks, as may be specified in the notice, and in default of such payment, the amount concerned may be recovered by the local authority concerned or the Agency, as the case may be, as a simple contract debt in any court of competent jurisdiction.

FIRST SCHEDULE

Activities to be permitted or registered.

PART I

Activities subject to waste permit

Article 4

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 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) -

1. the incineration of waste (other than hazardous or hospital waste) at a facility the capacity of which is equal to or less than 1 tonne per hour;
2. the recovery of scrap metal or other metal waste;
3. the dismantling or recovery of vehicles;
4. the recovery of waste which is composed of or contains mercury or its compounds (including electric lamps, light bulbs and fluorescent tubes);
5. the recovery of waste (other than hazardous waste) at a facility (other than a facility for the composting of waste where the amount of compost and waste held at the facility exceeds 1000 cubic metres at any time);
6. the disposal of waste (other than hazardous waste) at a facility (other than a landfill facility) where the annual intake does not exceed 5,000 tonnes per annum.

PART II

Article 4 and 21

Activities by Local Authority

The recovery of waste by a local authority other than -

- (a) recovery of waste at a facility where the annual intake exceeds 5,000 tonnes, or
- (b) the composting of waste at a facility where the amount of waste and compost held at the facility at any time exceeds 1,000 tonnes.

PART III

Article 21

Activities subject to Registration

The temporary storage, on the premises where it is produced, of hazardous waste, where the quantities being stored at any one time exceeds -

- (a) in the case of liquid waste, 25,000 litres, or
- (b) in the case of non-liquid waste, 40 cubic metres.

other than such storage carried on in, on or adjacent to, a facility at which a licensable activity is being carried on or a facility connected with a facility in respect of which a licence or a revised licence under Part IV of the Act of 1992 is in force where such storage is subject to the said licence or revised licence.

SECOND SCHEDULE

Article 4

Conditions in respect of registered activities

- (a) The activity concerned shall not cause, or be likely to 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.

THIRD SCHEDULE.

Article 18

Provisions of Community acts which are to be given effect to in relevant waste permits granted by a local authority.

Relevant Provisions Community act(1)(2)Articles 2, 4(b) and (c)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.Article 9 and 14Council Directive 75/442/EEC of 15 July, 1995 on waste, as amended by Council Directive 91/156/EEC of 18 March, 1991.Articles 4, 5, 8, 9, 10 and 18Council Directive 80/68/EEC of 17 December, 1979 on the protection of groundwater against pollution caused by certain dangerous substances.Articles 2.2 to 2.4Council Directive 91/689/EEC of 12 December, 1991 on hazardous waste.

Dated this 19th day of May, 1998

DAN WALLACE

Minister of State at the Department of the Environment and Local Government

EXPLANATORY NOTE

These Regulations provide for the granting of waste permits by local authorities in respect of specified waste disposal and recovery activities in lieu of a licence by the Environmental Protection Agency under section 39(1) of the Waste Management Act, 1996. The Regulations also provide for the registration by local authorities of the storage of hazardous waste, in excess of specified amounts, at its place of production and for the registration by the EPA of certain waste recovery activities carried on by local authorities.