

Commission Decision of 20 April 2009 on technical guidelines for the establishment of the financial guarantee in accordance with Directive 2006/21/EC of the European Parliament and of the Council concerning the management of waste from extractive industries (notified under document number C(2009) 2798) (2009/335/EC)

COMMISSION DECISION

of 20 April 2009

on technical guidelines for the establishment of the financial guarantee in accordance with Directive 2006/21/EC of the European Parliament and of the Council concerning the management of waste from extractive industries

(notified under document number C(2009) 2798)

(2009/335/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC<sup>(1)</sup>, and in particular Article 22(1)(c) thereof,

Whereas:

- (1) In order to ensure a common approach between the Member States when the financial guarantee referred in Article 14 of Directive 2006/21/EC is established, a minimum common basis for the calculation of the guarantee should be defined and notably for what concerns the information to take into account and the method of calculation of the guarantee;
- (2) The measures provided for in this Decision are in accordance with the opinion of the Committee established in accordance with Article 23(2) of Directive 2006/21/EC,

HAS ADOPTED THIS DECISION:

**Modifications etc. (not altering text)**

C1 Decision: power to modify conferred (26.2.2022) by [The Waste and Agriculture \(Legislative Functions\) Regulations 2022 \(S.I. 2022/190\)](#), regs. 1(1), **10(1)(2)(a)**

*Article 1*

1 <sup>F1</sup>... Competent authorities shall base the calculation of the financial guarantee <sup>F2</sup>... on the following:

- a the likely impacts on the environment and on human health of the waste facility;
- b the definition of the rehabilitation including the after use of the waste facility;

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**Changes to legislation:** There are currently no known outstanding effects for the Commission Decision of 20 April 2009 on technical guidelines for the establishment of the financial guarantee in accordance with Directive 2006/21/EC of the European Parliament and of the Council concerning the management of waste from extractive industries (notified under document number C(2009) 2798) (2009/335/EC). (See end of Document for details)

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- c applicable environmental standards and objectives, including physical stability of the waste facility, minimum quality standards for the soil and water resources and maximum release rates of contaminants;
  - d the technical measures needed to achieve environmental objectives, in particular measures aiming at ensuring the stability of the waste facility and limit environmental damages;
  - e the measures required to achieve objectives during and after closure, including land rehabilitation, after closure treatment and monitoring if required, and, if relevant, measures to reinstate biodiversity;
  - f the estimated time scale of impacts and required mitigation measures;
  - g an assessment of the costs necessary to ensure land rehabilitation, closure and after closure including possible after closure monitoring or treatment of contaminants.
- 2 The assessment referred to in point (g) shall be performed by independent and suitably qualified third parties and shall take into account the possibility of unplanned or premature closure.

[<sup>F3</sup>3. In paragraph 1—

- a in so far as it extends to England and Wales—
  - i “financial guarantee” means the financial guarantee referred to in Article 14 of [Directive 2006/21/EC](#), as it applies by virtue of paragraph 7(j) of Schedule 20 to the Environmental Permitting (England and Wales) Regulations 2016 (“the 2016 Regulations”);
  - ii “rehabilitation” has the meaning given in Article 3(20) of [Directive 2006/21/EC](#), and for the purposes of that definition “waste facility” has the meaning given in paragraph (iv);
  - iii “treatment” has the meaning given in Article 3(8) of [Directive 2006/21/EC](#), and for the purposes of that definition “waste” has the meaning given in paragraph (b) of the definition of “waste” in regulation 2(1) of the 2016 Regulations;
  - iv “waste facility” has the meaning given to “mining waste facility” in paragraph 2(1) of Schedule 20 to the 2016 Regulations;
- b in so far as it extends to Scotland, “financial guarantee”, “rehabilitation”, “treatment” and “waste facility” have the meanings given in regulation 2(1) of the Management of Extractive Waste (Scotland) Regulations 2010;
- c in so far as it extends to Northern Ireland, “financial guarantee”, “rehabilitation”, “treatment” and “waste facility” have the meanings given in regulation 2(2) of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2015.]

#### Textual Amendments

- F1** Words in [Art. 1\(1\)](#) omitted (31.12.2020) by virtue of [The Waste \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/620), regs. 1(2)(b), [17\(2\)\(a\)\(i\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in [Art. 1\(1\)](#) omitted (31.12.2020) by virtue of [The Waste \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/620), regs. 1(2)(b), [17\(2\)\(a\)\(ii\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F3** [Art. 1\(3\)](#) inserted (31.12.2020) by [The Waste \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) (S.I. 2019/620), regs. 1(2)(b), [17\(2\)\(b\)](#) (as amended by S.I. 2020/1540, [reg. 13\(14\)\(a\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

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**Changes to legislation:** There are currently no known outstanding effects for the Commission Decision of 20 April 2009 on technical guidelines for the establishment of the financial guarantee in accordance with Directive 2006/21/EC of the European Parliament and of the Council concerning the management of waste from extractive industries (notified under document number C(2009) 2798) (2009/335/EC). (See end of Document for details)

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*F4 Article 2*

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**Textual Amendments**

**F4** [Art. 2](#) omitted (31.12.2020) by virtue of [The Waste \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/620\)](#), regs. 1(2)(b), **17(4)**; 2020 c. 1, Sch. 5 para. 1(1)

Done at Brussels, 20 April 2009.

*For the Commission*

Stavros DIMAS

*Member of the Commission*

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- (1) [OJ L 102, 11.4.2006, p. 15.](#)

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