

2002 No. 1559

**ENVIRONMENTAL PROTECTION,
ENGLAND AND WALES**

The Landfill (England and Wales) Regulations 2002

Made - - - - - 13th June 2002

*Coming into force
for the purpose of
regulation 19(1) 31st August 2002
for all other purposes 15th June 2002*

The Secretary of State, in exercise of the powers conferred on her by section 2 of the Pollution Prevention and Control Act 1999(a) (the “1999 Act”), having in accordance with section 2(4) of the 1999 Act consulted the Environment Agency, such bodies or persons appearing to her to be representative of the interests of local government, industry, agriculture and small businesses respectively as she considers appropriate, and such other bodies and persons as she considers appropriate, hereby makes the following Regulations, a draft of which has, in accordance with section 2(8) of the 1999 Act, been laid before, and approved by a resolution of, each House of Parliament:

PART I

PRELIMINARY

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Landfill (England and Wales) Regulations 2002.

(2) These Regulations shall come into force on 15th June 2002 except for regulation 19(1) which shall come into force on 31st August 2002.

(3) These Regulations extend to England and Wales only.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“the 2000 Regulations” means the Pollution Prevention and Control (England and Wales) Regulations 2000(b);

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

“hazardous waste” has the meaning given by regulation 7(2);

“holder” means the producer of waste or the person who is in possession of it;

“inert waste” has the meaning given by regulation 7(4);

(a) 1999 c.24; the Secretary of State can exercise these powers only in relation to England and Wales—see section 53 of the Scotland Act 1998 (c.46) and section 5(3) of the Pollution Prevention and Control Act 1999.

(b) S.I. 2000/1973, to which there are amendments not relevant to these Regulations.

“landfill” means a landfill to which these Regulations apply (see regulations 3 and 4);

“landfill gas” means any gas generated from landfilled waste;

“landfill permit” has the meaning given by regulation 6(2);

“leachate” means any liquid percolating through deposited waste and emitted from or contained within a landfill;

“municipal waste” means waste from households as well as other waste which because of its nature or composition is similar to waste from households;

“non-hazardous waste” has the meaning given by regulation 7(3);

“operator” has the meaning given by regulation 2(1) and (2) of the 2000 Regulations;

“relevant authorisation” means, in relation to a landfill, the landfill permit or waste management licence for the time being in force in relation to the landfill;

“relevant waste acceptance criteria” means, in relation to a landfill, the waste acceptance criteria set out in Schedule 1 which apply to the class of landfill to which that landfill belongs;

“treatment” means physical, thermal, chemical or biological processes (including sorting) that change the characteristics of waste in order to reduce its volume or hazardous nature, facilitate its handling or enhance recovery;

“waste” means controlled waste within the meaning of section 75(4) of the Environmental Protection Act 1990(a);

“waste management licence” means a waste management licence within the meaning of Part II of the Environmental Protection Act 1990; and

other expressions used in these Regulations which are also used in Directive 99/31/EC on the landfill of waste(b) shall have the same meaning as in that Directive.

Application of regulations

3.—(1) Subject to regulation 4, these Regulations apply to landfills.

(2) Subject to paragraphs (3) and (4), for the purposes of this regulation, a landfill is a waste disposal site for the deposit of the waste onto or into land.

(3) Landfills include—

- (a) subject to paragraph (4), any site which is used for more than a year for the temporary storage of waste; and
- (b) any internal waste disposal site, that is to say a site where a producer of waste is carrying out its own waste disposal at the place of production.

(4) Landfills do not include—

- (a) any facility where waste is unloaded in order to permit its preparation for further transport for recovery, treatment or disposal elsewhere;
- (b) any site where waste is stored as a general rule for a period of less than three years prior to recovery or treatment; or
- (c) any site where waste is stored for a period of less than one year prior to disposal.

Cases where regulations do not apply

4. These Regulations do not apply to—

- (a) the spreading of sludges (including sewage sludges and sludges resulting from dredging operations) and similar matter on the soil for the purposes of fertilisation or improvement;

(a) 1990 c.43 and *see* regulation 7A of S.I. 1992/588 as amended by S.I. 1993/566, regulations 1 and 24(8) of, and paragraph 9 of Schedule 4 to, S.I. 1994/1056 and the prospective amendments made to section 75 by paragraph 88 of Schedule 22 to the Environment Act 1995 (c.25).

(b) OJ No. L182, 16.7.1999, p.1; the Directive was designated by S.I. 2001/3585 as a relevant directive for the purposes of paragraph 20(2)(c) of Schedule 1 to the 1999 Act.

- (b) the use of suitable inert waste for redevelopment, restoration and filling-in work or for construction purposes;
- (c) the deposit of—
 - (i) non-hazardous dredging sludges along the bank or towpath of a waterway from which they have been dredged where that activity falls within the exemption from waste management licensing in paragraph 25 of Schedule 3 to the Waste Management Licensing Regulations 1994^(a);
 - (ii) non-hazardous sludges in surface waters, including the bed and its sub-soil; or
- (d) any landfill which finally ceased to accept waste for disposal before 16th July 2001.

Location

5. A planning permission under the Town and Country Planning Act 1990^(b) may be granted for a landfill only if the requirements of paragraph 1(1) of Schedule 2 to these Regulations have been taken into consideration.

Extension of categories of landfill subject to the 2000 Regulations etc.

6.—(1) At the end of Part A(1) of Section 5.2 in Part 1 of Schedule 1 to the 2000 Regulations (disposal of waste by landfill) insert—

“(b) The disposal of waste in any other landfill to which the 2002 Regulations apply.”

(2) In these Regulations “landfill permit” means the permit which is required by the 2000 Regulations for the carrying out of the disposal of waste in a landfill.

(3) Regulations 11 and 12(1) to (11) and (14) of the 2000 Regulations shall not apply to landfills.

(4) Paragraph 5(b) in Part 1 of Schedule 4, and paragraph 4(8)(b) in Part 2 of Schedule 7 to the 2000 Regulations (requirement to advertise in the London Gazette), shall not apply to landfills falling within paragraph (b) of Part A(1) of Section 5.2 in Part 1 of Schedule 1 to those Regulations.

PART II

LANDFILL PERMITS

Classification of landfills

7.—(1) Before granting a landfill permit, the Environment Agency shall classify the landfill—

- (a) as a landfill for hazardous waste;
- (b) as a landfill for non-hazardous waste; or
- (c) as a landfill for inert waste,

and shall ensure that the classification is stated in the landfill permit.

(2) Hazardous waste means any waste as defined in Article 1(4) of Directive 91/689/EEC^(c) (hazardous waste).

(3) Non-hazardous waste is waste which is not hazardous waste.

(4) Waste is inert waste if—

- (a) it does not undergo any significant physical, chemical or biological transformations;
- (b) it does not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm to human health; and
- (c) its total leachability and pollutant content and the ecotoxicity of its leachate are insignificant and, in particular, do not endanger the quality of any surface water or groundwater.

^(a) S.I. 1994/1056; relevant amendments were made by S.I. 1995/288.

^(b) 1990 c.8.

^(c) OJ No. L377, 31.12.91, p.20 as amended by Council Directive 94/31/EC (OJ L168, 2.7.1994, p.28).

Conditions to be included in landfill permits

8.—(1) A landfill permit shall include conditions specifying the list of defined types, and the total quantity, of waste authorised to be deposited in the landfill.

- (2) A landfill permit shall also include appropriate conditions—
- (a) specifying requirements for—
 - (i) preparations for, and the carrying out of, landfilling operations;
 - (ii) monitoring and control procedures, including contingency plans;
 - (b) ensuring that the financial provision required by regulation 4(3)(b)(a) of the 2000 Regulations is maintained until the permit is surrendered in accordance with those Regulations;
 - (c) ensuring that the landfill is operated in such a manner that the necessary measures are taken to prevent accidents and to limit their consequences; and
 - (d) requiring the operator to report at least annually to the Environment Agency on—
 - (i) the types and quantities of waste disposed of; and
 - (ii) the results of the monitoring programme required by regulations 14 and 15.

- (3) A landfill permit shall also include—
- (a) appropriate conditions for ensuring compliance with the requirements of the following provisions of these Regulations—
 - (i) Schedule 2 (general requirements for all landfills);
 - (ii) regulation 9 (prohibition of acceptance of certain wastes at landfills);
 - (iii) regulation 10 (waste which may be accepted in the different classes of landfill);
 - (iv) regulation 11 (costs of disposal of waste in landfills);
 - (v) regulation 12 (waste acceptance procedures);
 - (vi) regulation 13 (initial site inspections by Environment Agency);
 - (vii) regulation 14 (control and monitoring of operational landfill sites);
 - (viii) regulation 15 (closure and after-care procedures for landfills); and
 - (b) such other conditions as appear appropriate to the Environment Agency, including in particular conditions giving effect to—
 - (i) any requirement imposed by Community or national legislation; and
 - (ii) in the case of landfills falling within paragraph (a) of Part A(1) of Section 5.2 in Part 1 of Schedule 1 to the 2000 Regulations, the principle that energy should be used efficiently.

(4) The provisions of these Regulations mentioned in paragraph (3)(a) above shall impose obligations directly on an operator of a landfill (rather than through the conditions of a landfill permit) only to the extent specified in paragraph 3(3) to (5) of Schedule 4.

Prohibition of acceptance of certain wastes at landfills

9.—(1) The operator of a landfill shall not accept any of the following types of waste at the landfill—

- (a) any waste in liquid form (including waste waters but excluding sludge);
- (b) waste which, in the conditions of landfill, is explosive, corrosive, oxidising, flammable or highly flammable;
- (c) hospital and other clinical wastes which arise from medical or veterinary establishments and which are infectious;
- (d) chemical substances arising from research and development or teaching activities, such as laboratory residues, which are not identified or which are new, and whose effects on man or on the environment are not known;

(a) See paragraph 1(3) of Schedule 5 to these Regulations.

- (e) as from 16th July 2003, whole used tyres other than—
 - (i) tyres used as engineering material;
 - (ii) bicycle tyres; and
 - (iii) tyres with an outside diameter above 1400mm;
 - (f) as from 16th July 2006, shredded used tyres other than—
 - (i) bicycle tyres; and
 - (ii) tyres with an outside diameter above 1400mm; and
 - (g) any waste which does not fulfil the relevant waste acceptance criteria.
- (2) The operator of a landfill shall ensure that the landfill is not used for landfilling waste which has been diluted or mixed solely to meet the relevant waste acceptance criteria.
- (3) For the purposes of this regulation, waste is—
- “corrosive” if it consists of substances and preparations which may destroy living tissue on contact;
- “explosive” if it consists of substances and preparations which may explode under the effect of flame or which are more sensitive to shocks or friction than dinitrobenzene;
- “flammable” if it consists of liquid substances and preparations having a flash point equal to or greater than 21°C and less than or equal to 55°C;
- “highly flammable” if it consists of—
- (a) liquid substances and preparations having a flash point below 21°C (including extremely flammable liquids);
 - (b) substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any application of energy;
 - (c) solid substances and preparations which may readily catch fire after brief contact with a source of ignition and which continue to burn or to be consumed after removal of the source of ignition;
 - (d) gaseous substances and preparations which are flammable in air at normal pressure;
 - (e) substances and preparations which, in contact with water or damp air, evolve highly flammable gases in dangerous quantities;
- “infectious” if it consists of substances containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in man or other living organisms; or
- “oxidising” if it consists of substances and preparations which exhibit highly exothermic reactions when in contact with other substances, particularly flammable substances.

Waste which may be accepted in the different classes of landfill

- 10.—**(1) The operator of a landfill shall ensure that the landfill is only used for landfilling waste which is subject to prior treatment unless—
- (a) it is inert waste for which treatment is not technically feasible; or
 - (b) it is waste other than inert waste and treatment would not reduce its quantity or the hazards which it poses to human health or the environment.
- (2) The operator of a landfill for hazardous waste shall ensure that only waste which fulfils the waste acceptance criteria in paragraphs 1 and 2 of Schedule 1 is accepted at the landfill.
- (3) The operator of a landfill for non-hazardous waste shall ensure that the landfill is only used for landfilling—
- (a) municipal waste;
 - (b) non-hazardous waste of any other origin which fulfils the waste acceptance criteria in paragraphs 1 and 3(1)(b) of Schedule 1; and
 - (c) stable, non-reactive hazardous waste (such as that which is solidified) with leaching behaviour equivalent to that of non-hazardous waste referred to in sub-paragraph (b) and which fulfils the waste acceptance criteria in paragraphs 1 and 3(1)(a) of Schedule 1.

(4) Where hazardous waste of the type described in paragraph (3)(c) is disposed of at a landfill for non-hazardous waste, the operator shall ensure it is not deposited in cells used or intended to be used for the disposal of biodegradable non-hazardous waste.

(5) The operator of a landfill for inert waste shall ensure that the landfill is only used for landfilling inert waste which meets the waste acceptance criteria in paragraphs 1 and 4 of Schedule 1.

Costs of disposal of waste in landfills

11. The operator of a landfill shall ensure that the charges it makes for the disposal of waste in its landfill covers all of the following—

- (a) the costs of setting up and operating the landfill;
- (b) the costs of the financial provision required by regulation 4(3)(b) of the 2000 Regulations; and
- (c) the estimated costs for the closure and after-care of the landfill site for a period of at least 30 years from its closure.

Waste acceptance procedures

12.—(1) The operator shall visually inspect the waste at the entrance to the landfill and at the point of the deposit and shall satisfy himself that it conforms to the description provided in the documentation submitted by the holder.

(2) The operator shall, in accordance with such procedures as are specified by the Environment Agency, test waste to establish whether it corresponds to the description in the accompanying documents and, if representative samples are taken for analysis, the operator shall retain the samples and results of any analysis for at least one month.

(3) The operator shall keep a register showing—

- (a) the quantities of waste deposited;
- (b) its characteristics;
- (c) its origin;
- (d) the dates of its delivery;
- (e) the identity of the producer or, in the case of municipal waste, the collector; and
- (f) in the case of hazardous waste, its precise location on the site.

(4) The information required to be kept under paragraph (3) shall be made available to the Environment Agency on request.

(5) The operator on accepting each delivery of waste shall provide a written receipt to the person delivering it.

(6) Where waste is not accepted at a landfill, the operator shall inform the Environment Agency of that fact as soon as reasonably possible.

Initial site inspections by Environment Agency

13. The operator of a landfill shall not commence disposal operations before the Environment Agency has inspected the site in order to ensure that it complies with the relevant conditions of the landfill permit.

Control and monitoring of operational landfill sites

14.—(1) The following requirements shall apply to landfill sites from the start of the operational phase until definitive closure.

(2) The operator shall carry out the control and monitoring procedures set out in Schedule 3.

(3) Where the procedures required by paragraph (2) reveal any significant adverse environmental effects, the operator shall notify the Environment Agency as soon as reasonably possible.

(4) When it receives a notification of significant adverse environmental effects in accordance with paragraph (3), the Environment Agency shall determine the nature and timing of corrective measures that are necessary and shall require the operator to carry them out.

(5) The operator shall report at intervals specified by the Environment Agency, on the basis of aggregated data, the results of monitoring and on such other matters which the Environment Agency requires to demonstrate compliance with the conditions of the landfill permit or to increase its knowledge of the behaviour of waste in landfill.

(6) The operator shall ensure that quality control of—

(a) analytical operations of control and monitoring procedures; and

(b) analyses of representative samples taken in accordance with regulation 12(2),

is carried out by competent laboratories.

Closure and after-care procedures for landfills

15.—(1) The following closure and after-care procedures shall apply to all landfill sites.

(2) The procedures may relate to the closure of the whole of the landfill or part of it.

(3) The closure procedure shall begin—

(a) when the conditions specified in the landfill permit are satisfied;

(b) when the Environment Agency approves the initiation of the closure procedure following a request from the operator; or

(c) by a reasoned decision of the Environment Agency which shall be set out in a closure notice served on the operator in accordance with regulation 16.

(4) A landfill shall not be definitively closed until—

(a) such reports as may be required by the Environment Agency have been submitted to it by the operator; and

(b) the Environment Agency—

(i) has assessed all the reports submitted by the operator;

(ii) has carried out a final on-site inspection; and

(iii) has notified the operator by notice in writing served on the operator that it approves the closure.

(5) Following definitive closure of a landfill, after-care procedures shall ensure that—

(a) the operator remains responsible for the maintenance, monitoring and control for such period as the Environment Agency determines is reasonable, taking into account the time during which the landfill could present hazards;

(b) the operator notifies the Environment Agency of any significant adverse environmental effects revealed by the control procedures and takes the remedial steps required or approved by the Agency; and

(c) the operator is responsible for monitoring and analysing landfill gas and leachate from the landfill and the groundwater regime in its vicinity in accordance with Schedule 3 for as long as the Environment Agency considers that the landfill is likely to cause a hazard to the environment.

(6) Notwithstanding regulations 19 and 21 of the 2000 Regulations (requirements on surrender or revocation of permits), the Environment Agency shall not accept any complete or partial surrender of the landfill permit, or revoke it in whole or part, for as long as the Environment Agency considers that the landfill (or the relevant part of it) is likely to cause a hazard to the environment.

(7) The operator shall not be relieved from liability under the conditions of the landfill permit by reason of the Environment Agency's approval of closure under paragraph (4)(b)(iii).

Closure Notices

16.—(1) Where the Environment Agency has taken a reasoned decision under regulation 15(3)(c), it shall serve a closure notice under this regulation (“a closure notice”) on the operator of the landfill.

- (2) A closure notice shall—
- (a) state the Environment Agency's reasons for requiring initiation of the closure procedure;
 - (b) specify the steps the operator is required to take to initiate the procedure; and
 - (c) the period within which they must be taken.
- (3) The Environment Agency may withdraw a closure notice at any time.

PART III

MISCELLANEOUS

Offences

- 17.—(1) It shall be an offence for a landfill operator to contravene—
- (a) regulation 9 or 12 in each case as applied by paragraph 3(3)(a) of Schedule 4;
 - (b) regulation 10(1) or (2) in both cases as applied by paragraph 3(3)(b) of Schedule 4; or
 - (c) paragraph 3(5) of Schedule 4.
- (2) A person who is guilty of an offence under paragraph (1) shall be liable—
- (a) on summary conviction, to a fine not exceeding £20,000 or to imprisonment for a term not exceeding six months or to both; and
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding five years or to both.
- (3) Where an offence under this regulation committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (4) Where the affairs of a body corporate are managed by its members, paragraph (3) shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (5) Where the commission by any person of an offence under this regulation is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings for the offence are taken against the first-mentioned person.

Transitional provisions

18. Schedule 4 (which contains transitional provisions) shall have effect.

Amendments

- 19.—(1) In regulation 2(2)(a) (contents of transfer notes) of the Environmental Protection (Duty of Care) Regulations 1991^(a) after “identify the waste to which it relates” insert “by reference to the appropriate codes in the European Waste Catalogue^(b)”.
- (2) Schedule 5 (which makes amendments to other subordinate legislation) shall have effect.

Michael Meacher
Minister of State,
Department for Environment,
Food and Rural Affairs

13th June 2002

^(a) S.I. 1991/2839; relevant amendments were made by S.I. 2000/1973.

^(b) Council Decision 2000/532/EC (OJ L226, 6.9.2000, p.3) as amended by Council Decisions 2001/118/EC (OJ L47, 16.2.2001, p.1), 2001/119/EC (OJ L47, 16.2.2001, p.32) and 2001/573/EC (OJ L203, 28.7.2001, p.18).

WASTE ACCEPTANCE CRITERIA

Criteria for acceptance of waste which apply to all kinds of landfill

- 1.—(1) The following criteria shall apply to the acceptance of waste at any landfill.
- (2) Waste may only be accepted at a landfill where its acceptance would not—
- (a) result in unacceptable emissions to groundwater, surface water or the surrounding environment;
 - (b) jeopardise environment protection systems (such as liners, leachate and gas collection and treatment systems) at the landfill;
 - (c) put at risk waste stabilisation processes (such as degradation or wash out) within the landfill; or
 - (d) endanger human health.

Additional criteria for acceptance of waste at landfills for hazardous waste

2. Waste may only be accepted at a landfill for hazardous waste if—
- (a) it is listed on the Hazardous Waste List of the European Waste Catalogue^(a) or has similar characteristics to those so listed; and
 - (b) its total content or leachability—
 - (i) does not present a short term occupational risk or an environmental risk; and
 - (ii) would not prevent the stabilisation of the landfill within its projected lifetime taking account of its after care period following closure.

Additional criteria for acceptance of waste at landfills for non-hazardous waste

- 3.—(1) Waste may only be accepted at a landfill for non-hazardous waste if—
- (a) it is listed on the Hazardous Waste List of the European Waste Catalogue or has similar characteristics to those so listed (and its deposit at the landfill otherwise meets the requirements of regulation 10(3)(c) and (4)); or
 - (b) it is any other waste listed on the European Waste Catalogue or has similar characteristics to those so listed.

Additional criteria for acceptance of waste at landfills for inert waste

4. Waste may only be accepted at a landfill for inert waste if it is listed in the following Table or it otherwise falls within the definition of inert waste in regulation 7(4)—

Waste acceptable at landfills for inert waste

European Waste Catalogue Code	Description	Exclusions
10 11 03	Waste glass based fibrous materials	
15 01 07	Glass packaging	
17 01 01	Concrete	
17 01 02	Bricks	
17 01 03	Tiles and ceramics	

^(a) Council Decision 2000/532/EC (OJ L226, 6.9.2000, p.3) as amended by Council Decisions 2001/118/EC (OJ L47, 16.2.2001, p.1), 2001/119/EC (OJ L47, 16.2.2001, p.32) and 2001/573/EC (OJ L203, 28.7.2001, p.18).

European Waste Catalogue Code	Description	Exclusions
17 02 02	Glass	
17 05 04	Soil and stones	Excluding topsoil, peat
20 01 02	Glass	
20 02 02	Soil and stones	Excluding topsoil, peat

SCHEDULE 2

Regulations 5 and 8(3)(a)(i)

GENERAL REQUIREMENTS FOR LANDFILLS

- 1.—(1) The location of a landfill must take into consideration requirements relating to—
- the distances from the boundary of the site to residential and recreational areas, waterways, water bodies and other agricultural or urban sites;
 - the existence of groundwater, coastal water or nature protection zones in the area;
 - the geological or hydrogeological conditions in the area;
 - the risk of flooding, subsidence, landslides or avalanches on the site; and
 - the protection of the natural or cultural heritage in the area.
- (2) A landfill permit may be issued for the landfill only if—
- the characteristics of the site with respect to the requirements in sub-paragraph (1); or
 - the corrective measures to be taken,

indicate that the landfill does not pose a serious environmental risk.

(3) In this paragraph “nature protection zone” means a site of special scientific interest within the meaning of section 52 of the Wildlife and Countryside Act 1981^(a) or a European site within the meaning of regulation 10(1) of the Conservation (Natural Habitats, &c.) Regulations 1994^(b).

2.—(1) Subject to the following provisions of this paragraph, appropriate arrangements shall be made with regard to the characteristics of the landfill and prevailing meteorological conditions in order to—

- control rainwater entering the landfill body;
- prevent surface water or groundwater from entering into landfilled waste;
- collect contaminated water and leachate and treat it to the appropriate standard so that it can be discharged.

(2) Arrangements need not be made in accordance with sub-paragraph (1)(c) if the Agency decides that the landfill poses no potential hazard to the environment in view of its location and the kinds of waste to be accepted at the landfill.

(3) This paragraph shall not apply to inert landfills.

3.—(1) The landfill must be situated and designed so as to—

- provide the conditions for prevention of pollution of the soil, groundwater or surface water; and
- ensure efficient collection of leachate as and when required by paragraph 2.

(2) Soil, groundwater and surface water is to be protected by the use of a geological barrier combined with—

^(a) 1991 c.69; inserted by paragraph 5 of Schedule 9 to the Countryside and Rights of Way Act 2000 (c.37).

^(b) See S.I. 1994/2716; relevant amendments were made by S.I. 2000/192.

- (a) a bottom liner during the operational phase of the landfill; and
- (b) a top liner following closure and during the after-care phase.

(3) The geological barrier shall comply with the requirements of sub-paragraph (4) and shall also provide sufficient attenuation capacity to prevent a potential risk to soil and groundwater.

(4) The landfill base and sides shall consist of a mineral layer which provides protection of soil, groundwater and surface water at least equivalent to that resulting from the following permeability and thickness requirements—

- (a) in a landfill for hazardous waste: $k \leq 1.0 \times 10^{-9}$ metre/second: thickness ≥ 5 metres;
- (b) in a landfill for non-hazardous waste: $k \leq 1.0 \times 10^{-9}$ metre/second: thickness ≥ 1 metres;
- (c) in a landfill for inert waste: $k \leq 1.0 \times 10^{-7}$ metre/second: thickness ≥ 1 metres.

(5) Where the geological barrier does not meet the requirements of sub-paragraph (4) naturally, it may be completed artificially and reinforced by other means providing equivalent protection; but in any such case a geological barrier established by artificial means must be at least 0.5 metres thick.

(6) A leachate collection and sealing system to ensure that leachate accumulation at the base of the landfill is kept to a minimum must also be provided in any hazardous or non-hazardous landfill in accordance with the following table—

Leachate collection and bottom sealing

Landfill category	Non-hazardous	Hazardous
Artificial sealing liner	Required	Required
Drainage layer ≥ 0.5 metres	Required	Required

(7) Where the potential hazards to the environment indicate that the prevention of leachate formation is necessary, surface sealing may be prescribed taking account of the following guidelines—

Landfill category	Non-hazardous	Hazardous
Gas drainage layer	Required	Not required
Artificial sealing liner	Not required	Required
Impermeable mineral layer	Required	Required
Drainage layer > 0.5 metres	Required	Required
Top soil cover > 1 metre	Required	Required

(8) The requirements of sub-paragraphs (3) to (7) may be reduced to an appropriate extent if on the basis of an assessment of environmental risks, having regard in particular to Directive 80/68/EEC(a)—

- (a) it has been decided in accordance with paragraph 2 that the collection and treatment of leachate is not necessary; or
- (b) it is established that the landfill poses no potential hazard to soil, groundwater or surface water.

(a) OJ No. L20, 26.1.80, p.43 as amended by Directive 91/692/EEC OJ No. L377, 31.12.91, p.48.

4.—(1) Appropriate measures must be taken in order to control the accumulation and migration of landfill gas.

(2) Landfill gas must be collected from all landfills receiving biodegradable waste and the landfill gas must be treated and, to the extent possible, used.

(3) The collection, treatment and use of landfill gas under sub-paragraph (2) must be carried on in a manner which minimises damage to or deterioration of the environment and risk to human health.

(4) Landfill gas which cannot be used to produce energy must be flared.

5.—(1) Measures must be taken to minimise the nuisances arising from the landfill in relation to—

- (a) emissions of odours and dust;
- (b) wind-blown materials;
- (c) noise and traffic;
- (d) birds, vermin and insects;
- (e) the formation of aerosols; and
- (f) fires.

(2) The landfill must be equipped so that dirt originating from the site is not dispersed onto public roads and the surrounding land.

6.—(1) The placement of waste must ensure stability of all the waste on the site and associated structures and in particular must avoid slippages.

(2) Where an artificial barrier is used, the geological substratum must be sufficiently stable, taking into account the morphology of the landfill, to prevent settlement that may cause damage to the barrier.

7.—(1) The landfill must be secured to prevent free access to the site.

(2) The gates of the landfill must be locked outside operating hours.

(3) The system of control and access to each facility must provide systems to detect and discourage illegal dumping in the facility.

SCHEDULE 3

Regulations 14(2) and 15(5)(c)

MINIMUM MONITORING PROCEDURES FOR LANDFILLS

1. This Schedule sets out minimum procedures for monitoring to be carried out to check—

- (a) that waste has been accepted for disposal only if it fulfils the relevant waste acceptance criteria;
- (b) that the processes within the landfill proceed as desired;
- (c) that environmental protections systems are functioning fully as intended; and
- (d) that the conditions of the landfill permit are fulfilled.

2.—(1) Samples of leachate or surface water (if present) must be collected at representative points.

(2) Sampling and measuring of the volume and composition of any leachate must be performed separately at each point at which leachate is discharged from the site.

(3) Monitoring of surface water (if present) shall take place at at least two points, one upstream from the landfill and one downstream.

(4) Gas monitoring must be carried out for each section of the landfill and representative samples must be collected and analysed in accordance with Table 1.

(5) A representative sample of leachate and water shall be taken for monitoring purposes in accordance with Table 1.

TABLE 1

	Operational phase	After-care phase ¹
Leachate volume ²	Monthly ^{1,3}	Every six months
Leachate composition ^{2,4}	Quarterly ¹	Every six months
Volume and composition of surface water ⁵	Quarterly ¹	Every six months
Potential gas emissions and atmospheric pressure ⁶ (CH ₄ , CO ₂ , O ₂ , H ₂ S, H ₂ etc)	Monthly ^{1,7}	Every six months ⁸

Notes to Table 1

- ¹ Longer intervals may be allowed if the evaluation of data indicates that they would be equally effective. For leachates, the conductivity must always be measured at least once a year.
- ² These do not apply where leachate collection is not required under paragraph 2(1)(c) of Schedule 2.
- ³ The frequency of sampling may be adapted on the basis of the morphology of the landfill waste (in tumulus, buried, etc) (but only if the Environment Agency considers that the conditions of the landfill permit should allow for it).
- ⁴ The parameters to be measured and substances to be analysed vary according to the composition of the waste deposited. They must be specified in the conditions of the landfill permit and reflect the leaching characteristics of the wastes.
- ⁵ On the basis of the characteristics of the landfill site, the Environment Agency may determine that these measurements are not required.
- ⁶ These measurements are related mainly to the content of the organic material in the waste.
- ⁷ CH₄, CO₂, O₂ regularly, other gases as required, according to the composition of the waste deposited, with a view to reflecting its leaching properties.
- ⁸ Efficiency of the gas extraction system must be checked regularly.

3.—(1) The sampling measurements taken must be sufficient to provide information on groundwater likely to be affected by the discharge from the landfill, with at least one measuring point in the groundwater inflow region and two in the outflow region.

(2) The number of measurements referred to sub-paragraph (1) may be increased on the basis of a specific hydrogeological survey or the need for an early identification of accidental leachate release in the groundwater.

(3) Sampling must be carried out in at least three locations before filling operations in order to establish reference values for future sampling.

4.—(1) The monitoring of groundwater shall be carried out in accordance with Table 2.

(2) The parameters to be analysed in the samples taken must be derived from the expected composition of the leachate and the groundwater quality in the area.

(3) In selecting the parameters for analysis, the mobility in the groundwater zone must be taken into account.

(4) Parameters may include indicator parameters in order to ensure an early recognition of change in water quality (the recommended parameters are pH, TOC, phenols, heavy metals, fluoride, As, oil/hydrocarbons).

TABLE 2

	Operational phase	After-care phase
Level of groundwater	Every six months ¹	Every six months ¹
Groundwater composition	Site-specific frequency ^{2,3}	Site-specific frequency ^{2,3}

Notes to Table 2

- ¹ If there are fluctuating groundwater levels, the frequency must be increased.
- ² The frequency must be based on the possibility for remedial action between two samplings if a trigger level is reached, i.e. the frequency must be determined on the basis of knowledge and the evaluation of the velocity of groundwater flow.
- ³ When a trigger level is reached (see paragraph 5), verification is necessary by repeating the sampling. When the level has been confirmed, a contingency plan set out in the landfill permit conditions must be followed.

5.—(1) Significant adverse environmental effects, as referred to in regulations 14(3) and 15(5)(b), should be considered to have occurred in the case of groundwater when an analysis of a groundwater sample shows a significant change in water quality.

(2) The level at which the effects referred to in sub-paragraph (1) are considered to have occurred (“the trigger level”) must be determined taking account of the specific hydrogeological formations in the location of the landfill and groundwater quality.

(3) The trigger level must be set out in the conditions of the landfill permit whenever possible.

(4) The observations must be evaluated by means of control charts with established control rules and levels for each downgradient well.

(5) The control levels must be determined from local variations in groundwater quality.

6. The topography of the site and settling behaviour of the landfill body shall be monitored in accordance with Table 3.

TABLE 3

	Operational phase	After-care phase
Structure and composition of landfill body ¹	Yearly	
Settling behaviour of the level of the landfill body	Yearly	Yearly reading

Note to Table 3

¹ Data for the status plan of the relevant landfill: surface occupied by waste, volume and composition of waste, methods of depositing, time and duration of depositing, calculation of the remaining capacity still available at the landfill.

SCHEDULE 4

Regulations 17(1) and 18

TRANSITIONAL PROVISIONS

Existing landfills : transitional provisions

1.—(1) Subject to paragraph 2(1), this paragraph shall apply to a landfill if—

- (a) it is already in operation on 15th June 2002; or
- (b) it has not been brought into operation by that date but the relevant authorisation for its operation was granted before that date.

(2) A landfill to which this paragraph applies which falls within paragraph (b) of Part A(1) of Section 5.2 in Part 1 of Schedule 1 to the 2000 Regulations shall be treated as an existing installation for the purposes of Part 1 of Schedule 3 to those Regulations.

(3) If the operator proposes to continue to accept waste after 16th July 2002, the operator shall prepare a conditioning plan for the landfill site and submit it to the Environment Agency by that date.

(4) The conditioning plan required by sub-paragraph (3) must—

- (a) be prepared on a form provided for that purpose by the Environment Agency; and
- (b) contain details of any corrective measures which the operator considers will be needed in order to comply with the relevant requirements of these Regulations.

(5) If the operator does not propose to continue to accept waste after 16th July 2002, the operator shall notify the Environment Agency in writing by that date.

(6) Subject to sub-paragraph (7), where—

- (a) the operator notifies the Environment Agency that he does not propose to accept waste for disposal after 16th July 2002;

- (b) the Environment Agency decides, following the submission by the operator of a conditioning plan, that there is no reasonable prospect of the landfill or part of it meeting the relevant requirements of these Regulations (such decision, and the reasons for it, to be set out in a notice served on the operator); or
- (c) the operator fails to submit a conditioning plan as required by sub-paragraphs (3) and (4) or to notify the Agency as required by sub-paragraph (5),

the Environment Agency shall ensure that closure of the landfill site (in whole or in part) takes place as soon as possible in accordance with regulation 15.

(7) Where the operator proposes to continue to accept waste but fails to submit a conditioning plan in accordance with sub-paragraphs (3) and (4), the relevant authorisation shall cease to have effect so as to authorise the disposal of waste at the landfill, and the Environment Agency shall proceed with the closure of the site under sub-paragraph (6), unless and until a conditioning plan which complies with sub-paragraph (4) is submitted and the Agency has agreed to consider it.

(8) In any case falling within sub-paragraph (6)—

(a) regulation 15 shall apply as if—

- (i) references to a landfill permit were references to a relevant authorisation;
- (ii) where the relevant authorisation is a waste management licence, references to the operator were references to the licence holder; and
- (iii) in paragraph (6) after “revocation of permits” there were inserted “and sections 38, 39 and 42 of the Environmental Protection Act 1990 (revocation, suspension and surrender of waste management licences)”; and

(b) the Environment Agency shall, if necessary, by notice in writing served on the operator or, in the case of a waste management licence, the licence holder, vary the conditions of the relevant authorisation so that—

- (i) waste is no longer accepted for disposal on the whole or the relevant part of the landfill site from such date as is specified in the notice; and
- (ii) the closure and after-care procedures will operate in accordance with regulation 15.

(9) In any case where the whole of a landfill site is not subject to closure under sub-paragraph (6), the Environment Agency shall by notice served on the operator specify the period (which shall not be less than six months) within which an application must be made (accompanied by a copy of the conditioning plan)—

- (a) where no landfill permit is in force, for a landfill permit under regulation 10 of the 2000 Regulations; or
- (b) where a landfill permit is in force, for a variation of the permit under regulation 17(2) of the 2000 Regulations,

so that waste may continue to be accepted for disposal at the landfill.

(10) In any case falling within sub-paragraph (9)(b), if an application is not duly made within the period specified in the notice served on the operator under that provision, the landfill permit shall cease to authorise the disposal of waste at the landfill until the application is duly made.

(11) Where the Environment Agency decides to grant or vary a landfill permit pursuant to an application made in accordance with sub-paragraph (9), the Agency shall specify the date or dates on which the permit conditions authorised or required by these Regulations shall take effect.

(12) The Environment Agency shall exercise its powers under sub-paragraphs (9) and (11)—

- (a) on the basis of an assessment of environmental risks; and
- (b) with a view to achieving full compliance with the relevant requirements of these Regulations—
 - (i) as soon as possible; and
 - (ii) by 31st March 2007 at the latest.

(13) In this Schedule “the relevant requirements of these Regulations” do not include the requirements of paragraph 1 of Schedule 2.

2.—(1) Paragraph 1 does not apply to a landfill if—

- (a) a landfill permit for its operation was granted on or after 16th July 2001 and before 15th June 2002;
- (b) it falls within paragraph (b) of Part A(1) of Section 5.2 in Part 1 of Schedule 1 to the 2000 Regulations and a waste management licence for its operation was granted on or after 16th July 2001 and before 15th June 2002; or
- (c) the prescribed date determined in accordance with Schedule 3 to the 2000 Regulations for the installation at which the landfill activity is carried out is before 15th June 2002 and an application for a landfill permit was duly made (but not determined) before 15th June 2002.

(2) In any case falling within sub-paragraph (1)(b), the waste management licence shall have effect on or after 15th June 2002 as if it were a landfill permit.

(3) In any case falling within sub-paragraph (1) the Environment Agency shall exercise its power to vary the relevant authorisation (or determine the outstanding application) so that the relevant requirements of these Regulations are complied with as soon as possible in relation to the landfill in question.

(4) In any case falling within sub-paragraph (1)(c), where an application for a waste management licence is also outstanding on 15th June 2002, there shall be no obligation on the Agency to determine the application for a waste management licence.

3.—(1) The Environment Agency shall by notice in writing served on the operator no later than 16th July 2002, classify any landfill which appears to the Agency to require classification as a landfill for hazardous waste.

(2) If a landfill classified under sub-paragraph (1) as a landfill for hazardous waste ceases to accept hazardous waste in accordance with the conditioning plan required under paragraph 1(3), the Environment Agency may at any time before 16th July 2004 by notice in writing served on the operator revoke the classification made under sub-paragraph (1).

(3) The following provisions of these Regulations shall impose obligations directly on the operator of any landfill which is for the time being classified under sub-paragraph (1) as a landfill for hazardous waste pending determination of an application made pursuant to paragraph 1(9)—

- (a) on or after 16th July 2002—
 - (i) regulation 9 (prohibition of acceptance of certain wastes); and
 - (ii) regulation 12 (waste acceptance procedures);
- (b) on or after 16th July 2004, regulation 10(1) and (2) (waste acceptance requirements).

(4) For the purposes of applying regulation 9(1)(g) under sub-paragraph (3)(a)(i) in relation to the period beginning on 16th July 2002 and ending on 15th July 2004, only the criteria in paragraph 1 of Schedule 1 are to be treated as relevant waste acceptance criteria.

(5) The operator of a landfill which is not classified as a landfill for hazardous waste shall only accept hazardous waste at that landfill on or after 16th July 2002 in the circumstances specified in regulation 10(3)(c) and (4).

4.—(1) This paragraph shall apply to any landfill if—

- (a) it falls within paragraph (b) of Part A(1) of Section 5.2 in Part 1 of Schedule 1 to the 2000 Regulations; and
- (b) it has not been brought into operation by 15th June 2002 but an application for a waste management licence was duly made before that date.

(2) Paragraph 1 of Part 1 of Schedule 3 to the 2000 Regulations shall apply as if in sub-paragraphs (a) and (b) “15th June 2002” were substituted for “1st January 2001”.

(3) Anything duly done by or in relation to the application for a waste management licence shall be treated as if it had been duly done in relation to an application for a landfill permit.

(4) The Environment Agency may give the applicant notice requiring him—

- (a) to provide such further information of any description specified in the notice; or
- (b) to take such further steps as it may require for the purpose of determining the application.

AMENDMENTS TO OTHER SUBORDINATE LEGISLATION

Further amendment of the 2000 Regulations

- 1.—(1) The 2000 Regulations shall be amended as follows.
- (2) In regulation 2(1) (Interpretation: general)—
- (a) before the definition of “change in operation” insert ““the 2002 Regulations” means the Landfill (England and Wales) Regulations 2002;” and
 - (b) after the definition of “installation” insert ““landfill” means a landfill to which the 2002 Regulations apply;”.
- (3) In regulation 4 (fit and proper person)—
- (a) in paragraph (3) for sub-paragraphs (b) and (c) substitute—

“(b) he has not made, or will not before commencement of the specified waste management activity make, adequate financial provision (either by way of financial security or its equivalent) to ensure that—

 - (i) the obligations (including after-care provisions) arising from the permit in relation to that activity are discharged; and
 - (ii) any closure procedures required by the permit in relation to that activity are followed;

(c) he and all staff engaged in carrying out that activity will not be provided with adequate professional technical development and training; or

(d) the management of that activity will not be in the hands of a technically competent person.”; and
 - (b) in paragraph (5)(b) for “paragraph (3)(b)” substitute “paragraph (3)(d)”.
- (4) In regulation 5 (application to the Crown)—
- (a) in paragraph (1) after “these Regulations” insert “and the 2002 Regulations”;
 - (b) in paragraph (2)—
 - (i) after “these Regulations” insert “or the 2002 Regulations”; and
 - (ii) after “liable under regulation 32” insert “below or under regulation 17 of the 2002 Regulations”;
 - (c) in paragraph (3) after “these Regulations” insert “and the 2002 Regulations”; and
 - (d) in paragraph (4) after “these Regulations” insert “or the 2002 Regulations”.
- (5) In regulation 6(1) (notices) after “these Regulations” insert “or the 2002 Regulations”.
- (6) In regulation 10(2) (Permits: general provisions) after “regulation 12” insert “below (or regulation 8 of the 2002 Regulations)”.
- (7) In regulation 12(16) (Conditions: specific requirements) after “this regulation” insert “or regulation 8 of the 2002 Regulations”.
- (8) In regulation 17(1) and (4) (variation of conditions of permits) after “regulations 11 and 12” in both places where it occurs insert “above or regulation 8 of the 2002 Regulations”.
- (9) In regulation 27 (persons who may appeal to the Secretary of State)—
- (a) in paragraph (1) after sub-paragraph (e) insert—

“(f) a person whose request to initiate the closure procedure is not approved under regulation 15(3)(b) of the 2002 Regulations;

(g) a person who is aggrieved by a decision under paragraph 1(6)(b) of Schedule 4 to the 2002 Regulations”;
 - (b) in paragraph (2) for “or a suspension notice” substitute “a suspension notice or a closure notice under regulation 16(1) of the 2002 Regulations”;

(c) after paragraph (8) insert—

“(8A) Where an appeal is brought under paragraph (1)(g) in relation to a requirement to initiate the closure procedure or under paragraph (2) in relation to a closure notice, the closure procedure shall not be initiated pending the final determination or the withdrawal of the appeal.”;

(d) in paragraph (9) after “Regulations 11 and 12” insert “above or regulation 8 of the 2002 Regulations”;

(e) after paragraph (11) insert—

“(12) Where an appeal is brought under paragraph (1)(g) in relation to which a waste management licence within the meaning of Part II of the Environmental Protection Act 1990 (“a licence”) is in force, this regulation and Schedule 8 shall apply as if:

(a) references to a permit were references to a licence;

(b) references to the operator were references to the licence holder; and

(c) references to an installation or mobile plant were references to a landfill.”

(10) In regulation 28(1) and (2) (information) after “functions under these Regulations” in both places where it occurs insert “or the 2002 Regulations”.

(11) In regulation 32(1) (offences)—

(a) in sub-paragraph (d) for “or a suspension notice” substitute “, a suspension notice or a closure notice under regulation 16 of the 2002 Regulations”; and

(b) in sub-paragraph (f)(i), after “these Regulations” insert “or the 2002 Regulations”.

(12) In regulation 36(1) and (2) (directions to regulators) after “these Regulations” in both places where it occurs insert “or the 2002 Regulations”.

(13) In regulation 37(1) and (2) (guidance to regulators) after “these Regulations” in both places where it occurs insert “or the 2002 Regulations”.

(14) In Schedule 3 (prescribed date and transitional arrangements)—

(a) in the table in paragraph 2(2) for the entry relating to Section 5.2 substitute the following—

Section 5.2 Part A(1)	The period specified in the notice served on the operator under paragraph 1(9) of Schedule 4 to the 2002 Regulations.
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(b) at the end of paragraph 2(11) add—

“(12) If—

(a) an activity falling within Part A(1) of Section 5.2 in Part 1 of Schedule 1 is carried out in an existing Part A installation; and

(b) an activity falling within some other Section in Part 1 of Schedule 1 is also carried out in the same installation (“a transitional landfill installation”),

the preceding provisions of this paragraph shall apply as if there were two separate existing Part A installations one consisting of the part of the installation where the activity falling within Part A(1) of Section 5.2 in Part 1 of Schedule 1 is carried out and the other consisting of the remainder of the installation.

(13) If—

(a) the relevant period has expired for a transitional landfill installation; and

(b) an application for a permit to operate the installation has been duly made but has not been determined at 15th June 2002, then—

(i) the application shall be treated as an application to operate the parts of the installation other than those where the activity falling within Part A(1) of Section 5.2 in Part 1 of Schedule 1 is carried out; and

(ii) the prescribed date for the remaining part of the installation shall be determined as if it were a separate installation.”

(15) After paragraph 1 of Part 1 of Schedule 4 (applications for permits) there shall be added—

“**1A.** An application for a landfill permit under regulation 10 relating to an installation where an activity falling within Part A(1) of Section 5.2 in Part 1 of Schedule 1 is carried out shall contain the following additional information—

- (a) a description of the types and total quantity of waste to be deposited;
- (b) the proposed capacity of the disposal site;
- (c) a description of the site, including its hydrogeological and geological characteristics;
- (d) the proposed operation, monitoring and control plan;
- (e) the proposed plan for the closure and after-care procedures; and
- (f) the financial provision required by virtue of regulation 4(3)(b).”.

(16) In paragraph 1 of Schedule 9 (registers),

- (a) in sub-paragraph (k) after “suspension notice” insert “or closure notice under the 2002 Regulations”;
- (b) in sub-paragraph (q) after “regulation 32(1)” insert “above or regulation 17(1) of the 2002 Regulations”;
- (c) in sub-paragraph (t) after “regulation 28(2)” insert “or a closure notice under the 2002 Regulations”;
- (d) after sub-paragraph (w) insert—
 - “(x) all particulars of any site conditioning plan or notice submitted under sub-paragraph 1(3) or (5) of Schedule 4 to the 2002 Regulations;
 - (y) all particulars of any notice requiring a landfill to close (in whole or part) issued under paragraph 1(6) of Schedule 4 to the 2002 Regulations;
 - (z) all particulars of any notification or report required before definitive closure of a landfill under regulation 15(4) of the 2002 Regulations.”.

The Waste Management Licensing Regulations 1994

2.—(1) The Waste Management Licensing Regulations 1994(**a**) shall be amended as follows.

(2) In regulation 3 (relevant offences), after sub-paragraph (o) insert—

“(p) regulation 17(1) of the Landfill (England and Wales) Regulations 2002.”

(3) In regulation 10(1) (registers),

- (a) in sub-paragraph (f) after “(whether or not in relation to a licence)” insert “or regulation 17(1) of the Landfill (England and Wales) Regulations 2002”;
- (b) after sub-paragraph (o) insert—
 - “(p) all particulars of any site conditioning plan or notice submitted to the authority under paragraph 1(3) or (5) of Schedule 4 to the Landfill (England and Wales) Regulations 2002;
 - (q) all particulars of any notice of a decision under paragraph 1(6) of Schedule 4 to the Landfill (England and Wales) Regulations 2002;
 - (r) all particulars of any notification or report required before definitive closure of a landfill under regulation 15(4) of the Landfill (England and Wales) Regulations 2002.”.

(a) S.I. 1994/1056; relevant amending instruments are S.I. 2000/1973 and S.S.I. 2000/323.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out a pollution control regime for landfills for the purpose of implementing Council Directive 99/31/EC on the landfill of waste (“the Landfill Directive”) in England and Wales. Landfills have previously been subject to either the Waste Management Licensing Regulations 1994 or the Pollution Prevention and Control (England and Wales) Regulations 2000 (“the 2000 Regulations”) (which in turn implemented Council Directive 96/61/EC concerning integrated pollution prevention and control (“the IPPC Directive”)).

Part I of the Regulations sets out the preliminary provisions. Regulation 3 sets out their scope (subject to the certain exceptions contained in regulation 4). Regulation 5 requires planning authorities to take the location requirements of these Regulations into consideration when granting planning permission. Regulation 6 amends the 2000 Regulations so that all landfills covered by these Regulations are Part A(1) installations for the purposes of those Regulations and therefore require a permit under those Regulations. The powers to set conditions in permits under the 2000 Regulations are disapplied for landfills as alternative powers are included in these Regulations.

Part II deals with conditions to be included in landfill permits. Regulation 7 requires the Environment Agency to classify landfills as for hazardous waste, non-hazardous waste or inert waste. Regulation 8 sets out the requirements for conditions to be incorporated in landfill permits. These include conditions for ensuring compliance by landfill operators with the relevant requirements of these Regulations which are set out in remaining regulations in this Part and Schedules 1 (waste acceptance criteria), 2 (general requirements) and 3 (monitoring procedures). Regulation 16 provides for closure notices which may be used by the Environment Agency to initiate closure of landfills.

Part III contains miscellaneous provisions. Regulation 17 creates offences where waste is accepted contrary to the requirements which apply directly to landfill operators under paragraph 3 of Schedule 4. Regulation 19(1) amends the Environmental Protection (Duty of Care) Regulations 1991, which impose requirements to document transfers of controlled waste, to add a requirement to identify the waste by reference to the appropriate category in the European Waste Catalogue. This provision comes into force on 31st August 2002.

Schedule 4 contains transitional provisions for existing landfills. It sets up a procedure for operators of landfills that will remain operational after 16th July 2002 to bring their operations into compliance with the relevant requirements of these Regulations. Sites which cannot comply will be closed, while the remainder will be granted new permits in accordance with these Regulations as soon as possible within a transitional period up to 31st March 2007.

Schedule 5 makes amendments to other secondary legislation. Amendments are made to the 2000 Regulations and the Waste Management Licensing Regulations 1994 (which covers those landfills previously not subject to the 2000 Regulations) to deal with the introduction of the requirements of these Regulations. Amendments are also made to the “fit and proper person” test applied by regulation 4 of the 2000 Regulations relating to arrangements an operator has to have in place to ensure the landfill is properly managed and financed.

A transposition note setting out how the Government will transpose the main elements of the Landfill Directive into law has been prepared and copies can be obtained from Waste Strategy Division, Department for Environment, Food and Rural Affairs, Zone 7/H10 Ashdown House, 123 Victoria Street, London SW1E 6DE. A copy has been placed in the library of each House of Parliament.

A regulatory impact assessment has been prepared and copies can be obtained from Waste Strategy Division, Department for Environment, Food and Rural Affairs, Zone 7/H10 Ashdown House, 123 Victoria Street, London SW1E 6DE. A copy has been placed in the library of each House of Parliament.

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