Waste Legislation Guide

Understanding Irish Waste Regulation

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About this Guide

This Guide has been written to provide our customers with an insight into the legislation that governs the management of waste in Ireland. This element of environmental law has developed significantly since the Waste Management Act was passed in 1996; some of it is a little complex and not all of the requirements are well known. We hope that this Guide will help our customers' understanding of these increasingly complex provisions.*

This Guide covers legislation in place as of August 2014. We have tried to illustrate the significance of some of the more important provisions by providing some accompanying background information, such as tonnages of waste being handled by different routes. Much of this information stems from the most recent figures published by the Environmental Protection Agency (EPA), which are based on a 2012 data set.

The Guide will be re-issued to incorporate any significant new initiatives. To ensure that you are referring to the most up to date edition, please contact us or check on our website www.indaver.ie.

About Us

Indaver Ireland Ltd was established to deliver high quality and cost-effective specialist services for the treatment, recovery and disposal of hazardous and non-hazardous waste.

Whether their waste quantities are large or small, we provide our clients with a tailored solution – either in tandem with our customers’ own teams or by providing our own highly trained staff to work on their sites. With bases in both Dublin and Cork, we are available when and wherever we are needed. In addition, our EPA-licensed waste facilities are accessible whenever specialist waste needs to be dealt with quickly and conveniently.

The Future

We are progressing a number of infrastructural projects for both hazardous and non-hazardous waste. These are designed to offer a more sustainable and secure solution for the treatment of hazardous and non-hazardous waste.

Up-to-date information on these projects is available on www.indaver.ie.

Other Guides

We have produced a number of other educational publications that are freely available by contacting our office or by visiting our website www.indaver.ie.

If we can assist you with any of our services, please give us a call. We are always happy to help.

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* Indaver accept no responsibility or liability for the content of this document. This document is intended for information purposes only.
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Introduction

Each person in Ireland generates slightly over a half a tonne of municipal waste each year, with significantly greater quantities arising from other industrial activities. From 1995 to 2007, the amount of municipal waste generated increased from 1.8 to 3.4 million tonnes. While more recent, recession-related impacts have caused this figure to drop to nearly 2.7 million tonnes, it is expected that municipal waste generation will start to increase again once economic growth resumes.

This annual growth pattern is repeated for hazardous waste, with the 1996 figure of 229,000 tonnes peaking at nearly 320,000 tonnes and dropping to 297,000 tonnes in 2012.

If handled incorrectly, many types of waste – not only those which are hazardous – can cause environmental pollution, with the result that modern and sophisticated environmental protection requirements make it costly to recycle, recover or dispose of.

Besides mandating the required environmental protection arrangements, a parallel aim of national waste legislation is to reduce the amount of waste generated in Ireland. This is a rather more difficult and long-term goal, and it is expected that additional initiatives furthering this aim will be published in forthcoming years.

Waste Policy & Waste Plans

National waste management policy is governed primarily by the requirements of European law, particularly Directive 2008/98 on Waste. How the EU law applies in Ireland is set down and embellished upon in a succession of national policy statements, which collectively determine how a wide range of major waste types should be handled both now and in the future. EU law also has a major influence on the national legislation described in later sections below.

Waste policy in Ireland is set down in four documents issued by the Department of the Environment, Community and Local Government:


In addition, a National Strategy on Biodegradable Waste was published in 2006.

This national framework is substantiated by Regional Waste Management Plans. These are drafted by local authorities and set out how the implementation of these policies is to take place on the ground.

A National Hazardous Waste Management Plan is also in force. Published by the EPA, this describes how hazardous waste is to be handled.

The number of local authority waste planning regions was reduced to three in 2013, with revised plans being finalised in 2015.
Section 1: Irish Waste Policy and Regulation


Most of Ireland's waste management legislation stems from the Waste Management Acts 1996-2011, with the original 1996 legislation being amended a number of times. A series of what are termed statutory instruments or regulations set out additional requirements. This material will be summarised later in this Guide and, for simplicity, the Waste Management Acts 1996-2011 will be referred to as the 'Waste Management Act' below.

The Waste Management Act contains a number of key legal obligations, including requirements for waste management planning, waste collection and movement, the authorisation of waste facilities, measures to reduce the production of waste and/or promote its recovery.

It is important that readers be aware that the Waste Management Act and its related regulations have been amended.

Some of the subsidiary legislation has been replaced entirely and certain amendments have been changed more than once. Accordingly, care is needed in ensuring that all these amendments are noted and are being acted upon.

Regulatory Arrangements

While national policy and legislation is produced by the Department of the Environment, Community and Local Government, it is implemented by the EPA and by the local authorities. The EPA supervises the activities of an upper tier of the more environmentally significant waste management sites, whilst local authorities are responsible for many smaller, non-hazardous waste facilities. Local authorities are primarily responsible for the enforcement of waste management law in respect of unauthorised dumping, but more significant and large-scale criminal activities may be investigated by the EPA and, if necessary, the Gardai may become involved. Both the EPA and local authorities regulate the producer responsibility initiatives that affect particular waste streams and which are described in the final chapter to this Guide.

The EPA also acts as a source of guidance and supervision on local authority statutory environmental activities, including those arising from the Waste Management Act and related legislation.

Increasingly, local authorities are being required to work together. This leads to economies of scale and is intended to facilitate a more even form of regulation across Ireland. This approach usually involves a lead local authority having the primary responsibility for the implementation of some aspect of waste management law. As will be covered in more detail later, Dublin City Council is responsible for the waste tracking system for both hazardous waste movements within Ireland and transfrontier waste movements from Ireland. Offaly County Council has primary responsibility for the administration of the waste collection permit system. It is expected that there will be further initiatives of this nature in forthcoming years.

The Waste Hierarchy

The idea of a hierarchy of the most desirable approaches to the management of waste has featured in both EU and national waste policy for a number of years. It became an obligatory item of national law in 2011, when the Waste Hierarchy was inserted into the Waste Management Act as Section 21A.

While there were some, slightly different, earlier versions of the Waste Hierarchy, it now takes the guise of five levels. The European Commission has described the Hierarchy as the cornerstone of European waste policies and legislation.

In order of priority, the Waste Hierarchy sets out the most desirable approaches to waste management as involving:

(a) Waste prevention
(b) The preparation of waste for re-use
(c) Recycling
(d) Other recovery, including energy recovery
(e) Disposal
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These different concepts are defined in more detail in the legislation and by EU guidance. In summary, ‘Prevention’ includes measures to avoid the generation of waste. ‘Preparing for Re-use’ covers operations, such as refurbishment and repair, that make something suitable once again for its continued deployment. ‘Recycling’ sits above other recovery processes in the Hierarchy and includes activities such as composting and waste paper reprocessing. The ‘Other Recovery’ category covers activities that do not fall within the concept of Recycling, including the combustion of waste for the purposes of generating energy. ‘Disposal’ is regarded as the least desirable level in the Hierarchy and embraces activities such as landfill.

Both national and EU law requires that waste is handled in accordance to the Hierarchy. The EPA has been required to establish a Waste Prevention Programme and has developed a series of waste prevention initiatives for sectors such as health care and hospitality. Since 2011, producers of waste and other waste holders are required by the Waste Management Act to ensure that waste is handled in accordance to the Hierarchy; however, departures from this formalised system are allowable in certain circumstances. As this matter can get complex, members of Indaver’s technical team are available to advise.

The Move away from Landfill

A key element of EU waste policy is to move many member states away from their historic dependence upon landfill, with this objective being reflected as the least desirable level of the Waste Hierarchy. Each EU state has been left with a degree of discretion as to how this is to be achieved, but binding landfill reduction targets have been set across Europe. In addition, the disposal of certain types of waste to landfill are now prohibited, with this requirement being required to be reflected in the conditions of licences issued by the EPA to landfill operators.

The EU Directive on the Landfill of Waste (1999/31) sets three key targets that require a progressive reduction in the disposal of biodegradable municipal waste to landfill. For Ireland, the deadlines are as follows:

> By 2010, the proportion of biodegradable municipal waste going to landfills must be reduced to 75% of the 1995 figure
> By 2013, the amount of this type of waste passing to Irish landfills must have halved
> By 2016, the total must have been reduced to 35%.

The result is that the amount of biodegradable waste landfilled must reduce from the 1995 figure of about 1.2 million tonnes to some 420,000 tonnes by 2016.
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The Landfill Levy

One of the most important mechanisms in Ireland to achieve the EU landfill diversion targets is the landfill levy, which came into effect in July 2002. Its statutory basis is Section 73 of the Waste Management Act and the amended Waste Management (Landfill Levy) Regulations 2011.

Subject to certain exemptions, all users of landfill sites must pay this levy.

Local authorities are responsible for the collection of landfill levy and for passing the revenues to a central Environment Fund (see below). The initial rate charged was €15 per tonne of waste deposited, but this has now increased to €75 per tonne by the Waste Management (Landfill Levy)(Amendment) Regulations 2013. This amount could be increased further, with the Waste Management Act setting a cap at €120 per tonne.

In 2012, the landfill levy raised nearly €52 million in revenue for the Environment Fund.

There are certain exemptions from the levy, of which the most significant include:

- Certain construction, excavation and demolition waste used for landfill engineering, restoration or remediation purposes
- Stabilised residues from the composting of biodegradable municipal waste
- Waste from street cleaning activities arranged by local authorities
- Waste that has been illegally dumped and removed by a local authority or that which has been collected by approved local clean-up activities by community groups
- Dredge spoil from inland waterways and harbours
- Ash arising from a modern waste-to-energy plant
- Waste deposited at landfills located within the curtilage of EPA licensed manufacturing facilities
- Inert spoil arising and deposited within the same quarry.

Since 2012, the levy applies to the landfilling of shredder residues arising from the processing of end-of-life vehicles, white goods and other metal. This is intended to stimulate additional recycling in this sector, being a response to the waste recovery targets set by EU Directives affecting scrap motor vehicles and electrical equipment (see later).

EPA Landfill Diversion Initiatives

While other aspects of the EPA’s waste licensing practice will be covered in more detail later, the Agency’s landfill licences have a key function in furthering the aims of the Waste Hierarchy and diverting waste away to more preferable waste recovery options.

In accordance with the targets set by the Landfill Directive, the EPA has required each landfill site operator to accept diminishing quantities of untreated biodegradable municipal waste. This ensures that waste pre-treatment takes place, that materials or energy are recovered from this waste stream and that the polluting nature of the wastes being accepted at landfill sites is significantly reduced.

Since 2009, all waste licences for major landfill sites contain the following deadlines and associated limits on the amount of biodegradable waste that can be accepted. From July 2010 to the end of June 2013, a maximum of 55% by weight of the total amount of municipal solid waste accepted for disposal is to comprise biodegradable material. This then reduces to a 40% biodegradable fraction for the remainder of 2013 to 30 June 2016. From 1 July 2016, the allowable biodegradable fraction reduces to 15%.
Each landfill operator is required to report to the EPA quarterly on how these targets are being achieved. In addition, EPA site inspection activities are intended to enforce these targets, with penalties set down in the Waste Management Act applying when non-compliance is detected.

The EPA has published a number of guidance documents on this initiative, including:

> EPA Approved Factors to Calculate the BMW Content of Municipal Waste Streams (2011).

### Separate Collection of Recyclables

In accordance with the Directive on Waste, the European Communities (Waste Directive) Regulations 2011 mandate that the separate collection of paper, metal, plastic and glass takes place across Ireland by 2015. By 2020, these and other wastes from households have to be recycled at a level of not less than 50% by weight. The EPA considers that the 2020 target is achievable, for the reason that the recycling level of this waste stream had already reached 45% in 2012.

### The Environment Fund

The Environment Fund was established under Section 74 of the Waste Management Act in 2001 to handle revenues obtained from the plastic bag (see later) and landfill levies. Both the Revenue Commissioners and local authorities are allowed to retain a small proportion of the sums collected to cover their collection costs. The remainder accrued is disbursed by the Department of the Environment, Community and Local Government in accordance with the purposes specified in the Act and in the Waste Management (Environment Fund) (Prescribed Payments) Regulations 2003.

The following Table shows how the €70.7 million gathered in 2012 was spent. Some 28% of the total amount collected passed to local authorities to fund household waste recycling and enforcement activities. A further 26% was allocated to the EPA, mainly to fund its research programme.

### Environment Fund Expenditure in 2012

<table>
<thead>
<tr>
<th>Category</th>
<th>2012</th>
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</thead>
<tbody>
<tr>
<td>EPA R&amp;D Programme</td>
<td>€12,100,000</td>
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<tr>
<td>Local Authority Enforcement Initiatives</td>
<td>€11,352,501</td>
</tr>
<tr>
<td>Built and Natural Heritage Projects</td>
<td>€8,846,137</td>
</tr>
<tr>
<td>Contributions to National and International Bodies</td>
<td>€7,841,104</td>
</tr>
<tr>
<td>Local Authority Recycling Operational Costs</td>
<td>€7,250,000</td>
</tr>
<tr>
<td>Waste Prevention/Market Development Programmes</td>
<td>€4,321,714</td>
</tr>
<tr>
<td>EPA Water Quality Monitoring &amp; Related Initiatives</td>
<td>€4,148,983</td>
</tr>
<tr>
<td>Remediation of Landfill/Illegal Sites</td>
<td>€4,120,438</td>
</tr>
<tr>
<td>Operation of EPA Office of Environmental Enforcement</td>
<td>€2,100,000</td>
</tr>
<tr>
<td>Anti-Litter Initiatives</td>
<td>€1,836,638</td>
</tr>
<tr>
<td>Environment Awareness</td>
<td>€1,637,524</td>
</tr>
<tr>
<td>Nuclear Safety</td>
<td>€1,526,250</td>
</tr>
<tr>
<td>Local Authority Recycling Capital costs</td>
<td>€1,480,008</td>
</tr>
<tr>
<td>Radiological Protection Institute</td>
<td>€1,078,000</td>
</tr>
<tr>
<td>Other</td>
<td>€478,333</td>
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<tr>
<td>Environmental Levy Collection Costs</td>
<td>€401,683</td>
</tr>
<tr>
<td>Producer Responsibility Initiatives</td>
<td>€212,303</td>
</tr>
<tr>
<td>Total</td>
<td>€70,731,616</td>
</tr>
</tbody>
</table>

Source: Adapted from the publication ‘Environment Fund Accounts 2012 & Comptroller and Auditor General Report’

### What is meant by the Term ‘Waste’?

The key foundation to the regulation of waste management is the definition of ‘waste’. This is because the definition defines the scope of the material that is to be controlled, thereby determining whether a waste collection permit may be needed for its transportation, whether a licence or permit is required to authorise where the material is recovered or disposed of, and so on. The definition found in the Irish legislation stems from European law, for the reason that it is important that the same types of waste be defined in the same manner across the EU. Besides the text of the statutory wording, the European Court of Justice has clarified a number of more complex aspects of this definition.
The Waste Management Act defines waste as something the holder of it discards, intends to discard or is required to discard.

This means that if you have material either in your home or in your workplace that has to be got rid of, then this is defined as waste. This principle may apply even if the material has some financial value. Accordingly, materials consigned for recycling or recovery usually fall within the definition of waste. This is because waste management at all levels of the hierarchy can have some impact on resource consumption, greenhouse gas emissions, local water and air pollution and other environmental indicators.

These basic principles mean that the scope of materials that are defined as waste is very wide-ranging. It can include spent solvents from the pharmaceutical industry or used cardboard from a retailer. The definition also embraces substances such as soils, used bricks or broken up concrete, where these are removed from a construction site and taken elsewhere for disposal or recovery. Waste generated by householders is also covered, including recyclables taken to bottle banks and to similar infrastructure. Scrap metal is normally defined as waste until it has been processed.

In order to clarify the boundary between materials legally defined as waste and goods that are commonly traded, a change in EU law caused the Waste Management Act to be both amended and supplemented in 2011. New provisions in Section 3 of the Act have resulted in certain activities being excluded from its embrace entirely, while additional regulations have been made to differentiate between waste and substances that are defined alternatively as by-products. If something fits within the legal term of a by-product, the other requirements of the national waste legislation do not apply. These provisions are contained in the European Communities (Waste Directive) Regulations 2011.

At some point when a waste is recovered or recycled, the resultant materials become indistinguishable from normal commercial goods. At this juncture, the definition of waste ceases to apply. Again, this point has been defined by regulations, with these provisions being supplemented by EU Regulations 333/2011 and 1179/2012 that, respectively, determine when certain forms of scrap metal and recycled glass cease to be subject to waste management controls.

In accordance with the European Communities (Waste Directive) Regulations 2011, the EPA is empowered to rule on whether a material is a waste rather than a by-product. A somewhat more complicated procedure applies, which allows the Agency also to determine whether something has acquired so-called ‘end-of-waste status’.

Hazardous Waste

The Waste Management Act distinguishes between ‘waste’ and ‘hazardous waste’. This difference is important to understand, as an additional layer of statutory control applies to waste that is defined as hazardous.

The Waste Management Act defines hazardous waste as being waste that exhibits one or more specified properties, such as flammability, toxicity or carcinogenicity. The vast majority of these wastes are identified in what is known as the ‘List of Waste’. That List was developed at EU level, with its purpose being to ensure that waste is defined uniformly across Europe. A copy of this publication, which is also termed the European Waste Catalogue and Hazardous Waste List, can be found on the EPA’s web site.

Assigning EWC Codes

The List of Waste contains twenty chapters, each dealing either with separate industrial sectors or with groupings of similar categories of waste. Within these chapters and their sub-headings, individual waste types are assigned a unique six-figure European Waste Catalogue (EWC) code. If an asterisk follows the assigned EWC code, the waste is automatically defined as hazardous.

For example, Chapter 7 is entitled ‘Waste from Organic Chemical Processes’, with sub-heading 07 05 containing 12 different codes which cover all forms of waste arising from the manufacture, formulation, supply and use (MFSU) of pharmaceuticals. Waste code
Section 1: Irish Waste Policy and Regulation

07 05 07* covers halogenated still bottoms and reaction residues and, being accompanied by an asterisk, is a hazardous waste (see opposite table).

While an EWC entry for a particular material may not have an asterisk associated with it, this does not automatically mean that the waste in question is always classified as non-hazardous. Ultimately, this issue is determined in accordance with the Waste Management Act and whether the substance or object exhibits any specified hazardous properties.

As the List of Waste is used for the consistent identification, classification and reporting of all wastes generated in the EU, the EWC coding system forms the basis of both national and international waste reporting obligations. Accordingly, it is reflected in EPA licences and in permits, in waste movement/tracking systems and in official documents such as the EPA’s annual National Waste Reports.

The classification of hazardous waste can be complex, and therefore it may be necessary to obtain clarification from the relevant statutory bodies. This is either from the regulatory authorities or by the EPA, with the Agency having a role in determining this matter definitively, via Article 29 of the European Communities (Waste Directive) Regulations 2011.

Indaver’s dedicated Technical Team also is available to help our customers with any difficulties they may have.

Chapter 07 of the List of Waste

<table>
<thead>
<tr>
<th>07 05</th>
<th>Wastes from the MFSU of Pharmaceuticals</th>
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<tbody>
<tr>
<td>07 05 03*</td>
<td>organic halogenated solvents, washing liquids and mother liquors</td>
</tr>
<tr>
<td>07 05 04*</td>
<td>other organic solvents, washing liquids and mother liquors</td>
</tr>
<tr>
<td>07 05 07*</td>
<td>halogenated still bottoms and reaction residues</td>
</tr>
<tr>
<td>07 05 08*</td>
<td>other still bottoms and reaction residues</td>
</tr>
<tr>
<td>07 05 09*</td>
<td>halogenated filter cakes and spent absorbents</td>
</tr>
<tr>
<td>07 05 10*</td>
<td>other filter cakes and spent absorbents</td>
</tr>
<tr>
<td>07 05 11*</td>
<td>sludges from on-site effluent treatment containing dangerous substances</td>
</tr>
<tr>
<td>07 05 12</td>
<td>sludges from on-site effluent treatment other than those mentioned in 07 05 11</td>
</tr>
<tr>
<td>07 05 13*</td>
<td>solid wastes containing dangerous substances</td>
</tr>
<tr>
<td>07 05 14</td>
<td>solid wastes other than those mentioned in 07 05 13</td>
</tr>
<tr>
<td>07 05 99</td>
<td>wastes not otherwise specified</td>
</tr>
</tbody>
</table>

Penalties for Non-Compliance

The Waste Management Act contains penalties that apply when someone is found guilty of breaching either its requirements or the obligations specified in its subsidiary legislation. These are contained in Section 10 of the Act, with some of these penalties being increased further by the Fines Act 2010.

Prosecutions are taken at District Court level by local authorities or by the EPA, with more serious cases being passed over to be pursued by the Director of Public Prosecutions. Cases taken at District Court level usually are subject to a maximum fine of €5,000 per charge and/or up to 12 months imprisonment. In many cases, a summons containing more than one charge is issued and, if the defendant is found guilty, a series of fines may be collectively imposed. Guilty parties also can be required to pay the prosecuting authority’s legal costs.
More serious cases taken on by the Director of Public Prosecutions can result in fines of up to €15 million or may involve prison sentences of up to ten years. If someone continues to contravene a provision of the legislation after being convicted of an offence, that person can be subject to a fine for each day that the offence continues.

So far, the largest fine awarded in respect of offences under the Waste Management Act was a penalty of €1,080,000 issued in a case taken by the Director of Public Prosecutions in 2012. €40,000 of this sum was paid to the EPA to cover its investigation and prosecution costs.

_The legislation contains special provisions that single out company directors, managers and other senior staff in an organisation. These individuals can be prosecuted personally, in addition to legal proceedings being taken against the actual company._

Sections 57 and 58 of the Act allow local authorities and EPA to apply for court orders to prevent the continuation of unauthorised waste activities that have the potential to cause environmental pollution or affect human health. Non-compliance is contempt of court and can result in a prison sentence.

Special provisions have been introduced to make it easier to prosecute certain types of offence. For example, when there is evidence that environmental pollution is being caused, such as from the open burning of waste, the responsibility for disproving this allegation rests with the defendant. Similarly, where a landowner is prosecuted for waste offences, it is up to that person to convince the court that he or she was somehow unaware of what was going on.

Besides the EPA and local authorities, commercial organisations and citizens are empowered to take prosecutions at the District Court by the Waste Management (Miscellaneous Provisions) Regulations 1998.
Section 2: Movement of Waste

Waste Storage prior to Collection

Section 32 of the Waste Management Act prohibits any person or organisation from holding waste in a manner that causes or is likely to cause environmental pollution. This provision affects inappropriate waste storage activities at the place where the waste is produced. As the Act forbids such activities when they are ‘likely to cause’ environmental pollution, should storage arrangements present a potential pollution risk sometime in the future, then the person who holds the waste may also be committing an offence.

A second key element of this offence is the Act’s definition of ‘environmental pollution’. This concept is defined widely, covering both the endangerment of human health and activities that may harm the environment. It extends to risks to ground and surface water and to the atmosphere, as well as nuisance creation by the production of litter, odour or noise.

Unsurprisingly, no licence or other form of authorisation is needed under the Waste Management Act for the temporary storage of waste on the premises where it is produced and pending its collection. However, the Act limits the concept of ‘temporary storage’ to a period not exceeding six months, with the result that longer-term waste storage should be subject to one of the forms of statutory authorisation described later in this Guide. In effect, the Act is incentivising waste producers not to hold on to waste for prolonged periods, but to have it removed as soon as practical.
Burning Waste

The unauthorised burning of waste, whether by householders or by commercial entities, contravenes a number of the provisions of the Waste Management Act, including Sections 32 and 39. Persons found guilty of this activity are subject to the penalties described earlier in this Guide. Besides these provisions, this practice is also outlawed by the Waste Management (Prohibition of Waste Disposal by Burning) Regulations 2009.

A Fundamental Legal Duty on all Waste Producers and Subsequent Handlers

The Waste Management Act requires that waste be transferred only to an organisation that is allowed by the Act to receive it. This provision places a legal duty on companies, partnerships, sole traders, householders and other similar bodies that produce waste to ensure that it is handled correctly. If it is not, then the source of the waste is open to prosecution.

This requirement is set down in Section 32 of the Waste Management Act, which requires that waste passes only to an organisation that is authorised to undertake its collection or its recovery or disposal. As will be covered in more detail below, this authorisation can take the form of a waste collection permit, a waste or industrial emissions licence, a waste facility permit or a certificate of registration. There are also a small number of legal exclusions to this general principle.

It is therefore vital that any organisation that produces waste ensures that it is handled only by a body authorised under the Waste Management Act to manage it. This duty implies, at the very least, checking to see that the required authorisation is in place, has not expired and is appropriate for the waste types that are to be handled.

Waste Presentation Bye-Laws

A number of local authorities have enacted bye-laws to dictate how certain types of waste should be presented for collection. These initiatives are made under powers contained in Part 19 of the Local Government Act 2001, Section 35 of the Waste Management Act and the Local Government Act 2001 (Bye-Laws) Regulations 2006.

For example, Dublin City Council has published bye-laws covering the storage, presentation and collection of household and commercial waste. These include provisions to restrict times when waste can be put out for collection, when it can be collected, and which types of waste must be segregated.

Non-compliance with a bye-law is an offence that is punishable by a fine, with daily fines being applicable if breaches persist. On-the-spot fines of €75 also can be issued.

It should be noted that not all local authorities have enacted bye-laws on waste presentation, and that the content, scope and, sometimes, the geographical extent of them varies significantly between different councils. Amendment and updating also takes place from time-to-time. Accordingly, persons with waste management responsibilities need to verify the exact situation by checking the relevant county or city council’s web site periodically.
Section 2: Movement of Waste

Waste Collection Permits
Subject to some minor exceptions, Section 34 of the Waste Management Act requires all bodies involved in the collection of waste to have this activity authorised by a waste collection permit. Besides the legal obligation to be in possession of a valid permit, the holder also has to abide by its conditions. For example, these may limit collection activities to particular areas of Ireland, restrict them to certain types of waste or require the permit holder to use specified tiers of the Waste Hierarchy.

The main purpose of the collection permit system is to ensure that waste collectors are known to regulatory bodies and that they only handle wastes they are authorised to manage. Besides permit holders being open to prosecution for non-compliance, waste collection permits can be revoked. At the start of 2012, 3,578 collection permits were in existence.

The detail of the waste collection permit system is set down in the amended Waste Management (Collection Permit) Regulations 2007, with permits being issued to authorise the collection of waste in one or more of the former 10 regional waste planning areas of Ireland. The constituent local authorities of these areas are shown in the opposite table. Since February 2012, new and replacement waste collection permits are applied for and issued by the National Waste Collection Permit Office, which is hosted by Offaly County Council. This Office also administers other aspects of existing permits; however, the enforcement of the waste collection permit system remains with each local authority.

The geographical extent of each waste collection permit is dependent upon the content of the application made by the permit holder. For example, a permit issued to authorise waste collection activities in the Connaught region only allows for waste collection to take place in the functional areas of Galway City Council and the county councils of Mayo, Galway, Sligo, Leitrim and Roscommon. Accordingly, such a permit does not authorise waste collection in Limerick. Should the permit holder wish to collect waste over a wider geographical area than just the Connaught region, then a multi-regional permit must be obtained.

The duration of each waste collection permit is a maximum of five years. This period can be extended by an application for a permit review, with this request being submitted no later than 60 days before the expiry of the permit. Provided the application has been lodged within that timeframe, the expiry date of the permit is lifted while the application is being processed. All being well, a new permit is issued to authorise waste collection activities for a further five-year period.

Hazardous Waste
As noted at the start of this chapter, all producers of waste are under a legal duty to ensure that this material is collected or otherwise handled only by a body that is duly authorised to manage it. Additional controls affect all sources of hazardous waste, reflecting the fact that this type of waste may, when inappropriately handled, have significant environmental and human health impacts.

Storing Hazardous Waste Prior to its Movement
Producers of hazardous waste must ensure that its storage and subsequent handling are compatible with the need to protect the environment and human health, as well as preventing environmental pollution. This legal obligation is found both in the Waste Management Act and in Article 33 of the European Communities (Waste Directive) Regulations 2011.
Section 2: Movement of Waste

Article 34 of the European Communities (Waste Directive) Regulations 2011 forbids waste producers mixing different types of hazardous waste together or diluting it to make it less hazardous. These regulations also require that hazardous waste is appropriately labelled.

Moving Hazardous Waste within Ireland

The European Communities (Shipments of Hazardous Waste exclusively within Ireland) Regulations 2011 require that a system of waste transfer forms be used to document the movement of hazardous waste within Ireland. This enables the appointed regulatory authority, Dublin City Council, to track hazardous waste from its source to a recovery or disposal facility within the State. This system ensures that the waste is handled properly and is not illegally dumped or otherwise mis-managed. Waste transfer forms replaced an older consignment note system, which was based on what was generally known as a 'C1 Form', and which was phased out at the end of December 2011.

Waste transfer forms are obtained by the waste producer from Dublin City Council's web site, being completed on-line before the waste is collected. A copy is downloaded, printed and signed, accompanying the consignment of hazardous waste when it is in transit. On the load's arrival, the operator of the recipient disposal or recovery facility logs-in and completes the relevant details documenting the receipt of the waste.

Prior to accessing the system for the first time, all users must register and allow two working days for an approval to access the system to be granted. At Indaver, we arrange this for virtually all of our customers, as well as handling the required data input and paperwork.

All producers of hazardous waste are required by law to keep a chronological record of the quantity, nature and origin of any hazardous waste produced, as well as its destination, frequency of collection, mode of transport and treatment method. This obligation is a requirement of the European Communities (Waste Directive) Regulations 2011, which also mandate that this information be held for at least three years.

It is an offence under European Communities (Shipments of Hazardous Waste exclusively within Ireland) Regulations 2011 to move hazardous waste in a manner that contravenes this legislation. However, in some instances, there is no need to comply with this waste transfer form system. The most important of these is when hazardous waste is moved directly from a producer's site for export from Ireland. In this case, the movement is controlled by EU Regulation 1013/2006 on the Shipments of Waste and by the Waste Management (Shipments of Waste) Regulations 2007 and this system is covered in the next section.

Moving Waste from Ireland

Nearly 50% of hazardous waste generated in Ireland is exported for specialist treatment, mainly in continental Europe. In addition, increasing quantities of non-hazardous waste also are consigned from Irish ports, with the figure for 2012 being nearly 850,000 tonnes. The bulk of this is paper and cardboard recovered from household and commercial sources, along with glass, scrap metal and refuse derived fuel.

All forms of waste export are subject to a Europe-wide control system founded on EU Regulation 1013/2006 on the Shipments of Waste. This legislation is supplemented by the Waste Management (Shipments of Waste) Regulations 2007, which makes Dublin City Council responsible for the enforcement of this regulatory system throughout Ireland.
Section 2: Movement of Waste

In summary, Regulation 1013/2006 establishes a system that is aimed at ensuring that any EU or non-EU state is able to exercise what is known as ‘prior informed consent’ on a proposed waste shipment of any environmental significance. Both the state of dispatch and state of receipt can object to a proposed shipment before it takes place, with the relevant grounds being set down in the legislation. Transit states are also allowed to engage in this process, as well as participating in the legislation’s enforcement by, for example, making port-based inspections.

The fundamental purpose of this system is to ensure that not only is waste moved to another country with that country’s advance knowledge, but that wastes from the EU are not dumped in less developed countries. In this respect, some forms of waste export from the EU are banned entirely, with non-EU countries being allowed to extend the list of banned materials or indicate that they will not accept any form of transfrontier shipment. Alternatively, they can require that specific materials should be subject to the most stringent level of control contained in the EU legislation.

Shipments to Disposal Facilities

The most onerous provisions in Regulation 1013/2006 fall on international waste movements to disposal facilities. Exports of this nature to most countries outside the EU are banned, while European countries are granted wide discretion to object to proposed movements within the EU. The UK, for example, only allows movements from Ireland to its disposal sites in England, Wales or Scotland in exceptional circumstances.

By contrast, the EU Regulation takes a somewhat less stringent approach to proposals to move waste to recovery facilities. In summary, for shipments within the EU, there are two levels of control, which relate to wastes on the so-called ‘amber’ and ‘green’ lists.

Green List Waste

The least onerous control system applies to green list waste which is identified either in Annex III or in the second part to Annex V to Regulation 1013/2006. As these comprise common, separated and potentially recyclable materials of low potential environmental impact, they are not subject to the prior notification and consent system described above. Instead, shipments simply travel with a consignment note (Annex VII).

A written contract must be in place between the parties to the shipment to ensure that, if necessary, the waste can be returned to its place of origin or subject to alternative treatment. Dublin City Council requires that all green list waste movements be reported to it quarterly and charges a fee to cover its enforcement activities.

Examples of the types of waste on the green list include clean and uncontaminated scrap metal, waste batteries, glass cullet, plastics, paper and cardboard, electronic scrap and depolluted end-of-life vehicles. This list includes materials generated from domestic dwellings, such as glass, plastic packaging or paper and cardboard. However, the legislation requires these wastes to be uncontaminated, and this rules out many materials that have been mechanically separated from household waste.
Section 2: Movement of Waste

Amber List Shipments to Recovery

More difficult types of recyclable waste that are to be exported are classified under the amber list set down in Regulation 1013/2006’s Annex IV or in the first part to Annex V. This includes many hazardous and non-hazardous wastes of potential environmental significance.

For example, when they are being consigned internationally for recovery or combustion as a fuel, virtually all waste types generated in the production and preparation of pharmaceutical products are present on the amber list. Mixed recyclable waste from municipal sources, as well as extracted materials stemming from the mechanical treatment of household waste, are also amber list wastes.

The grounds that entitle EU and non-EU countries to object to an amber list shipment are more limited than those applicable to proposed movements to disposal facilities, relating mainly to environmental protection reasons. Unlike shipments to disposal, there is a general presumption in favour of the free trade of waste passing to recovery within Europe. Accordingly, provided that the intended destination is duly authorised to accept the material being shipped and that there has been compliance with the relevant statutory requirements, a movement of amber list waste within Europe is allowed to go ahead.

Shipping the Waste

Once they have been subject to advance approval by the affected countries, shipments to disposal and amber list movements to recovery can take place, with the different stages of their movement being documented by a consignment note system (TFS Notification). A contract and financial guarantee must be in place to ensure that finance is available for the waste to be returned or subject to alternative treatment. As part of the prior approval process, a fee must be paid to Dublin City Council to cover the cost of both its consideration of the documentation and its general enforcement activities.
Shipping Household Waste from Ireland

Indaver has arranged transfrontier waste shipments from Ireland for many years. Besides our hazardous waste business, we are handling increasing quantities of household and commercial waste. For example, separately collected recyclables are exported for recovery in the EU and elsewhere.

We are also involved in the export of mixed household waste to other European countries, where it is burnt as a fuel for electricity generation or in cement manufacture. This material is either mechanically treated within Ireland, by processes such as shredding and drying, prior to export or is simply baled. Exports of this nature fully accord with EU Regulation 1013/2006 containing special provisions that apply when untreated mixed municipal waste is being sent to another EU country.

The level of pretreatment applied is mainly determined by the handling requirements of the destination and whether the recipient country wishes to impose any additional restrictions. Provided that all the regulatory authorities in the affected EU countries agree, baled untreated household waste is consigned from Ireland under Regulation 1013/2006, being subject to the List of Wastes’ code 20 03 01 ‘Mixed Municipal Waste’. Alternatively, this material is mechanically processed in Ireland and converted into a fuel that matches waste code 19 12 10 ‘Combustible Waste (Refuse Derived Fuel)’.

All these exports help Ireland reduce its dependence on landfill, and valuable energy is recovered when this material is burnt. Heat also may be recovered and supplied, via a district heating system, to nearby dwellings and other buildings.

Waste Broker or Dealer Registration

In accordance with the Waste Management (Registration of Broker and Dealers) Regulations 2008, organisations that fall within the definition of waste brokers or dealers are required to be registered with Dublin City Council. This system applies nationally, with the term ‘broker’ meaning someone who arranges for waste to be managed by others and ‘dealer’ covering organisations that purchase and re-sell waste. Accordingly, and in conjunction with its function of the oversight of transfrontier waste movements, Dublin City Council requires that all persons who arrange for waste to be shipped abroad to possess this form of registration.

To become a registered broker or dealer, an application must be submitted along with a small fee. If the application is accepted, a certificate of registration is issued. The lifespan of this certificate is determined by Dublin City Council, but it cannot exceed five years and needs to be renewed prior to expiry. Certificates also can be revoked in specified circumstances.

All registered brokers and dealers are required to retain certain records of their waste management activities for a period of not less than five years.

Controlled Drugs

Besides the legislation governing the export of waste, substances that are defined as controlled drugs require an additional export licence. This is a consequence of the Misuse of Drugs Act and the much-amended Misuse of Drugs Regulations 1988.

Many of the drugs listed in the Schedules to this legislation require an export licence from the Department of Health. These include waste containing amphetamines, morphine and barbiturates. An import licence also may be needed for the intended destination.

Drawing on Indaver’s long-term experience in handling waste from the pharmaceutical industry, we are able to take care of this type of application on behalf of any waste producer.
Section 2: Movement of Waste

Interaction between Waste and Transport of Dangerous Goods Regulations

The waste legislation and the provisions relating to the transport and labelling of dangerous goods are quite separate, with both needing to be observed when waste movements are contemplated.

*It is important to understand that these systems contain different rules by which wastes are categorised and, for example, something that is defined as a hazardous waste in respect of the Waste Management Act may not be regulated under the dangerous goods legislation.*

An immediate example is a scrap fridge, which may be defined as hazardous waste due to its CFC or HFC content, but which does not pose any immediate danger when transported by road or sea.

This kind of issue can get complicated at times and we have produced a separate Guide covering the requirements of the transport legislation. A copy of this Guide can be found on our web site, www.indaver.ie. Should you have any queries, please do call us on 01-2804534 or email us on info@indaver.ie, we would be delighted to send it to you.

Environmental Liability affecting Waste Producers and Handlers

Quite independently from the Waste Management Act, separate EU-sourced legislation sets down how certain specified types of organisations are financially and legally liable for any pollution they cause. These obligations affect not only pollution and environmental damage caused by the manufacturing or other industrial processes, but also damage consequent from waste generated from such activities. The key point is that, if an organisation falls within these provisions, it must fully fund any clean-up, regardless of whether it is at fault.

These requirements stem from European Directive 2004/35 on Environmental Liability, which became part of Irish law in April 2009, in the form of the European Communities (Environmental Liability) Regulations 2008. The 2008 legislation was amended twice in 2011.

This environmental liability legislation affects all operators that hold a statutory environmental authorisation that has its basis in EU law, including any waste producer that holds a licence under the Industrial Emissions Directive. Organisations authorised under the Waste Management Act are also subject to these provisions, as are those that have been granted water or atmospheric emission discharge licences when these authorisations are a requirement of EU law. While most affected firms will be subject to the forms of authorisation just mentioned, also covered are manufacturers and similar organisations that supply goods that fall within EU law on dangerous substances and preparations, plant protection products or biocides.

Besides all these categories of industrial activity, the legislation contains additional provisions that apply where damage has been caused to an EU protected species or to a designated habitat. In this instance, any type of commercial organisation is financially liable for clean-up and rectification costs.

*A key element of these provisions is the strengthening of the ‘Polluter Pays Principle’ in a more rigorous manner than was hitherto possible under Irish civil law.*

Subject to certain exceptions, the Environmental Liability Regulations mandate that organisations that have caused specified types of pollution automatically should be required to pay for not only the cost of clean-up but also for the return of a damaged habitat back to its original state. They also are obliged to fund any mitigation measures that may be necessary where it is likely that imminent environmental damage will take place. There is no upper limit to the costs that may need to be paid by an operator in this process. As noted, what is particularly significant about this regime is that affected operators are required to fund corrective measures regardless of whether they were at fault or negligent. In other words, this legislation imposes a ‘strict liability’ legal regime.

Due to the potential financial costs involved in clean-up and habitats restoration, this legislation is intended to spur affected organisations to take a
more pro-active approach to running their businesses, with a view to ensuring that they do not pose any significant risk to sensitive habitats and other environmental receptors.

The EPA has been designated as responsible for this legislation’s implementation. It has wide powers to direct an organisation to carry out immediate measures where there is an imminent threat to the environment or where damage has already occurred. Any failure to comply with any of these requirements is an offence. Operators are required by law to inform the EPA where environmental damage is imminent despite protective measures or where it has occurred.

Individuals who are affected or threatened by environmental damage, as well as certain environmental organisations, can request the EPA to respond under this legislation. The EPA has published explanatory material about this legislation, entitled Environmental Liability Regulations - Guidance Document.
Section 3
Authorisation of Waste Facilities
Section 3: Authorisation of Waste Facilities

Introduction
Many types of waste facility have the potential to cause environmental pollution unless they are appropriately controlled. As some are associated with significantly greater risks than others, the Waste Management Act contains a hierarchy of control systems, with the most stringent of these being licensed by the EPA. Local authorities are required to regulate waste sites of a relatively low degree of environmental significance. Because local authorities also operate their own infrastructure, the EPA is mandated to oversee such activities.

The following types of authorisation apply to waste management facilities in Ireland:

> industrial emissions licences
> waste licences
> waste facility permits
> registration certificates.

In cases where doubt remains, an application can be made to the EPA, under Article 11 of the Waste Management (Facility Permit and Registration Regulations 2007), for a ruling on which form of authorisation should apply.

Industrial Emissions Licences
On 26 April 2013, a new upper-tier of EPA licences was introduced, by the European Union (Industrial Emissions) Regulations 2013, which made significant changes to the Environmental Protection Agency Acts 1992 to 2011 and to the Waste Management Act. As from that date, any proposal for a waste facility that fell within this new licensing regime has to be subject to an application under the Environmental Protection Agency (Industrial Emissions)(Licensing) Regulations 2013. If the application is granted, an industrial emissions licence is issued.

In addition, all waste licences that were extant on 26 April 2013 and which authorise activities subject to the Industrial Emissions Directive became industrial emissions licences on 7 January 2014. As the Directive also places a few additional waste activities, such as some of the larger composting plants, into the EPA’s licensing regime for the first time, these have until 7 July 2015 to be subject to this type of licence. Hitherto, this type of activity was authorised under the waste facility permit regime described below.

Waste incineration and co-incineration plants that fall within the industrial emissions licensing regime are also required to comply with the European Union (Waste Incineration and Waste Co-incineration Plants) Regulations 2013.

Examples of waste sites subject to industrial emissions licences include:

> All operating landfills, other than those accepting inert waste
> Hazardous waste disposal or recovery sites handling more than 10 tonnes of waste per day
> Waste incineration, co-incineration, gasification and pyrolysis plants processing more than three tonnes per hour of non-hazardous waste
> Anaerobic digestion facilities with a capacity of more than 100 tonnes per day
> Other composting facilities accepting more than 75 tonnes of waste per day.

The activities shown above are used to illustrate the types of waste site that may be subject to industrial emissions licensing. Additional constraints are contained in the legislation and hence advice from the EPA may be needed.
Section 3: Authorisation of Waste Facilities

EPA Licence Number W0167-02.

In November 2005, Indaver was granted a licence by the EPA to operate a waste-to-energy facility at Carranstown in County Meath. In 2010, this licence was revised to allow up to 200,000 tonnes of non-hazardous household, commercial and industrial waste to be accepted.

This facility cost some €140 million and, since it started operating in October 2011, it has made a significant contribution to Ireland’s achievement of EU waste targets, particularly the diversion of biodegradable waste away from landfill. Some 18 MW of electricity is generated from the combustion process.

A copy of the current licence can be found at this link: http://www.epa.ie/licences/lic_eDMS/090151b2804da528.pdf


In 2012, Indaver applied for a review of this licence to allow for a 10% rise in the maximum allowable annual waste intake, as well as to broaden the types of wastes that can be processed and to increase the hours in which wastes can be accepted and dispatched. That application remains under the EPA’s consideration. Planning permission for these proposals was granted in early 2013.

EPA Licence Number W0036-2.

Indaver operates its own EPA licensed transfer station at Tolka Quay in Dublin. This licence was revised in 2005 and authorises the receipt of up to 50,000 tonnes of hazardous and non-hazardous waste.

The location of this facility within the docks complex at Dublin allows waste to be stored at a highly convenient location prior to shipping. Small quantities of hazardous waste can be accumulated at this location, providing significant financial savings for our customers, particularly industrial and public sector operated laboratories.

Since 2005, we have operated a solvent blending plant at this location, which allows the composition of incoming wastes to be adjusted in our 700m3 tank farm to optimise recovery on continental Europe. For example, the calorific value can be altered to suit any of the specifications demanded by cement manufacturers for the use of this material as a fuel.

We also offer repacking and re-drumming services, as well as being able to handle waste electrical and electronic equipment, waste batteries and other authorised materials.

A copy of the current licence can be found at this link: http://www.epa.ie/licences/lic_eDMS/090151b2804e2355.pdf

This site became a licensable activity under the Industrial Emissions Directive in 2014.
Waste Licences
The waste licensing system operated by the EPA was introduced in 1998 and, since then, has been the main way major waste facilities are controlled in Ireland. This system causes high environmental standards to apply in the development, operation, closure and aftercare of such sites.

The Waste Management Act and the Waste Management (Licensing) Regulations 2004 govern the process under which waste licences are applied for and maintained. Once granted, each waste licence defines the nature of environmentally acceptable activities that can take place at a waste facility, including the acceptable types of waste that can be received. This is done mainly by the conditions of the licence, and these cannot be changed without the formal approval of the EPA. EPA consent also must be sought if a licence is to be surrendered or transferred, thereby ensuring that the licensee remains responsible for all short and long-term environmental liabilities associated with the site’s operation, including in any post-closure period.

In the period from 2013 to 2015, there have been some changes to the scope of waste licensing.

As discussed in the previous section, this is due to the introduction of new EU law, in the form of the Industrial Emissions Directive (Directive 2010/75). A number of the more significant waste sites, including landfills, incinerators and large composting facilities, are no longer subject to the Waste Management Act and its waste licensing system. Instead, they will transfer and be licensed under the Environmental Protection Agency Act.

Facilities that are not subject to the Industrial Emissions Directive remain controlled by waste licences including:

- Landfills accepting only inert waste or those that closed by 7 January 2014
- Hazardous waste disposal or recovery sites handling less than 10 tonnes of waste per day
- Waste incineration, co-incineration, gasification and pyrolysis plants processing less than three tonnes per hour of non-hazardous waste
- Anaerobic digestion facilities with a capacity of less than 100 tonnes per day but where the annual intake exceeds 10,000 tonnes
- Other composting facilities that accept less than 75 tonnes of waste per day but where the annual intake exceeds 10,000 tonnes
- Materials reclamation facilities that handle more than 50,000 tonnes of non-hazardous waste.

It should be noted that the type of waste site covered above are just illustrative examples of some of those that are expected to remain within waste licensing. As the legislation contains more detailed thresholds and other requirements, the exact picture can only be found from reading the relevant amended Schedule to the Environmental Protection Agency Act and by obtaining advice from the EPA.

Integrated Pollution Control Licences (IPC)
All waste and industrial activities that were subject to the former Integrated Pollution and Prevention and Control Directive (IPPC Directive) are now subject to the industrial emissions licensing system. Industrial activities that fell within the EPA’s Integrated Pollution Prevention and Control (IPPC) licensing system but which were not specified in the IPPC Directive are now authorised by Integrated Pollution Control (IPC) licences.

Applications for IPC licences are made under the Environmental Protection Agency (Integrated Pollution Control) (Licensing) Regulations 2013, with such licences being issued under the Environmental Protection Agency Act. This system does not generally apply to waste management activities, albeit that certain factories may be involved in some waste reprocessing. This activity is allowable under the relevant legislation, provided that it is specifically authorised by the IPC licence.

Section 3: Authorisation of Waste Facilities
Waste Facility Permits

A system of waste facility permits was introduced in Ireland to authorise waste sites having a lower potential environmental impact than those subject to waste licences. They are granted by the county or city council in which the activity is to take place, being issued under the amended Waste Management (Facility Permit and Registration) Regulations 2007. The purpose of a waste facility permit is to ensure that the operations taking place are appropriate in the context of the local environment.

The types of activity that can be subject to a waste facility permit are listed in the first part of the Third Schedule to the amended Facility Permit Regulations. While additional terms and conditions may constrain these activities further, examples of sites subject to waste facility permits include:

- Composting facilities managing up to 10,000 tonnes per annum of biowaste
- Materials recovery facilities, handling up to 50,000 tonnes of dry recyclables annually
- Premises where up to 10,000 tonnes per year of waste electronic and electrical equipment are received and treated
- Places where concrete and brick crushers are being operated to recover up to 50,000 tonnes per year of inert construction and demolition waste
- Sites accepting scrap metal and end-of-life vehicles.

In general, most waste facility permits can only authorise the ‘recovery’ of non-hazardous waste, with this term requiring that the waste being processed acts as a substitute for a primary material. In other words, for a waste facility permit rather than a licence to be required, the waste recovery activity always must entail the displacement of primary products or materials by the processed waste. Being restricted to only waste recovery activities, waste facility permits also cannot authorise significant amounts of waste to be disposed of.

Like licences issued by the EPA, waste facility permits contain conditions that require the holder to install site infrastructure, keep records and undertake environmental monitoring. They dictate what wastes can be handled and the times they can be accepted.

Certificates of Registration

Smaller-scale waste recovery activities are authorised by registration certificates, with these also being issued under the amended Waste Management (Facility Permit and Registration) Regulations 2007. They are granted to private sector waste site operators by the local authority for the area in which the waste management activity is to take place. Local authorities are also entitled to obtain certificates for non-licensable waste operations, with the EPA being the issuing authority in this instance.

In 2012, 282 registration certificates had been issued for small private sector operated waste sites, with 2,331 certificates authorising local authority-run facilities.
The types of activity that can be subject to a certificate are set down in the second part of Schedule 3 to the amended Regulations. Examples of such activities include:

- Bottle and paper banks and other similar types of bring centre
- Small-scale construction and demolition waste recovery activities
- Composting facilities located at the site where the waste is produced.

The legislation also contains quantity and other limits to these activities, which generally ensure that sites that are subject to registration certificates are of a limited size. Larger facilities are subject to waste facility permits or EPA licences.

Like waste facility permits, the relevant legislation requires registration certificates to have only a five-year life, which may be extended by an application for a review of the certificate. In some instances, local authorities have reduced this period. Successful applications for a certificate’s renewal extend the site’s authorisation up to a further five years.

A slightly different system of registration certificates applies to the holding of certain wastes that are subject to the producer responsibility initiatives discussed in the next section. For example, specified types and quantities of waste electrical goods can be stored under Article 42 of the European Union (Waste Electrical and Electronic Equipment) Regulations 2014. Similar provisions also are in place for the storage of waste batteries.

The EPA has produced a flowchart to assist in deciding if you require a Waste Licence, Certificate of Registration, or a Registration Certificate.

Follow link: http://www.epa.ie/pubs/advice/process/localauthority-doineedawastellicenceorcertofregistration.html
Section 4

Regulations

Controlling Different Waste Streams
Introduction

The polluter pays principle underlies much of Irish and European environmental protection policy, requiring that waste generators must account for the full cost of managing the waste they produce. A sub-component of this is the producer responsibility approach, whereby particular waste streams are singled out for additional control and where, in instances where this is possible, the producer is required to fund the management of any waste generated in its production and from any subsequent consumption activities.

This chapter will cover these initiatives and, as will be seen, there are certain variations on the producer responsibility theme. These differences are often a function of the degree to which it is possible to make particular sectors fully accountable for the cost of the management of waste that their commercial activities generate.

Packaging

A major success story in Ireland has been the rapid increase in the quantity of packaging being recycled. While less than 15% was recovered in 1998, this percentage climbed to nearly 87% in 2012, exceeding the required EU target by a number of years. This accomplishment is particularly significant, given that the percentage of Irish packaging recovered in the 1990s was so low that the EU granted Ireland, along with Greece and Portugal, a special dispensation to delay target compliance by five years.


The original Directive required 25% of Irish packaging waste to be recovered by 1 July 2001, with this level to reach 50% by the end of 2005. Recycling targets were also included, reflecting the need for collected packaging to be reprocessed, rather than recovered by way of its use as a fuel.

In 2004, the EU targets were made more stringent, with the end of 2011 being set for the date by when 60% of Irish packaging had to be recovered, with 55% being recycled. Substance-specific recycling targets to be met by that year were set for glass (60%), paper and board (60%), metals (50%), plastic (22.5%) and wood (15%).

The Waste Management (Packaging) Regulations place certain legal responsibilities on all producers of packaging, with this term embracing businesses that import, manufacture, sell or supply not only packaging, but also packaging materials and packaged products. In other words, the legislation applies to virtually all organisations in the commercial sector as, almost inevitably, these bodies will supply goods to others that are contained in packaging. Included is packaging designed to be consumed at the point of sale, such as bottles sold in bars, clubs and hotels, the fast food sector, and so on.

Regardless of their size, all of these producers are under a legal obligation to segregate packaging waste.
are segregated when they arise on their premises: aluminium, fibreboard, glass, paper, plastic sheeting, steel and wood. Unless contaminated, this material must either be transferred back to the supplier or collected by a packaging recovery business. If this waste is to be collected by a third party, that organisation is under a legal obligation to have it recovered. It cannot be landfilled.

Larger sources of packaging and packaging waste are subject to additional and more onerous requirements. Such organisations are termed ‘major producers’ in the legislation, comprising commercial bodies that have an annual turnover in excess of €1 million and which sell or supply over ten tonnes of packaging material, packaging or packaged products per year. Packaging that passes to re-use via processes such as refilling, and packaging that is exported, does not count against this quantity threshold.

Commercial organisations that fall within the concept of a major producer are given a choice. This is either to comply fully with a range of what are quite onerous individual obligations in the legislation or to join the compliance scheme operated by Repak Ltd.

The Self-Compliance Option
Where a major producer elects not to participate in a compliance scheme, that organisation must put up signage indicating that packaging waste can be accepted at each of its premises, provide adequate storage capacity for the receipt of this material, accept without charge any packaging delivered by a member of the public and, if required, collect packaging waste from customers. Other legal obligations also apply, including having to publish newspaper notices advertising the fact that packaging can be deposited at the organisation’s premises.

Quarterly mandatory targets for packaging waste recovery must be met, with these targets reflecting those in the EU legislation. A three-year plan setting out how these elements of the legislation are to be attained must be drawn up, with a yearly report being produced to demonstrate progress in compliance with this plan. In subsequent years, revised three-year plans must be drafted. All this documentation must be made publically available.

A self-compliant major producer of packaging must register the location of all affected premises annually with the local authority in which they are situated. The registration application fee is set at €15 per tonne of packaging or packaging material placed on the market, with the minimum fee being €500 and the maximum €15,000.

Membership of Repak
Given the breadth of the requirements for self-compliance, most major producers of packaging have joined the sole compliance scheme in Ireland for waste packaging which is run by Repak Ltd. Membership of Repak means that the organisation is exempt from all of the requirements that apply to major producers that have elected to self-comply. Some 2300 companies in Ireland are Repak members; there were 136 companies registered with local authorities as a self-complier in 2012.

In exchange for not having the additional requirements of the Packaging Regulations applying to them, major producers who are Repak members pay a membership fee. This fee is then used to arrange for packaging waste to be recovered or recycled. This is usually done via the Repak Repayment Scheme which is a subsidy that waste collection organisations can claim in respect of packaging waste collected.

As fees are based on the amount of packaging a Repak member places on the market, a major producer has some incentive to reduce packaging quantities. While the requirements that apply to major producers that are self-compliers do not apply to Repak members, the major producer is still responsible for the segregation of packaging waste arising at each of its premises.

Enforcement
The Waste Management (Packaging) Regulations are enforced by local authorities, who are allowed to require any producer of packaging to furnish a packaging report and/or provide financial and other evidence to show that the organisation is not a major producer.
Waste Electrical and Electronic Equipment (WEEE) and RoHS

Along with packaging, the European Commission has defined waste electrical and electronic equipment (WEEE) as one of the EU’s priority waste streams. This is due to WEEE having a significant recycling potential, including for precious metal recovery and because some components may contain environmentally hazardous materials. The response was the WEEE Directive (2002/96) and the Directive on the Restriction of the use of Certain Hazardous Substances in Electrical and Electronic Equipment (commonly referred to as the RoHS Directive).

The EU legislation became law in Ireland in 2005, with these requirements now being contained in the European Union (Waste Electrical and Electronic Equipment) Regulations 2014. The RoHS provisions are found in the European Union (Restriction of Certain Hazardous Substances Electric and Electronic Equipment) Regulations 2012.

The WEEE Regulations are similar to the packaging legislation, in that producers and importers of electronic and electrical goods are required to either participate in a collective compliance scheme or self-comply. Naturally, the self-compliance option is quite onerous.

Obligated organisations include manufacturers, resellers retailing their own brand of electrical items and importers or exporters. This list includes so-called distance sellers that offer electrical goods on the internet. Unlike producers and importers, most retailers and other distributors of electrical products do not need to join an actual compliance scheme, but are required instead to register each premises in accordance with the legislation. This is achieved either by registering with one of the compliance schemes or annually with the relevant local authority.

In general, retailers are forbidden from selling equipment that has been supplied by a producer who is not registered with the WEEE Registration Society Ltd. They are required to operate a free take-back scheme for WEEE generated by private households, with the legislation mandating the placing of notices advertising this service in retail outlets. They are also prohibited from passing collected WEEE to organisations that are not employed either by a self-complying producer or by a collective compliance scheme. Alternatively, the waste can be consigned to a local authority civic amenity site.

Until recently, when items such as fridges and other large household appliances were sold, what was known as the visible environmental management cost had to be charged, with this figure appearing on till receipts. Its purpose was to pay for the recycling of appliances purchased prior to 2005, via a producer recycling fund. This practice ceased on 13 February 2013.

The arrangements for the operation of a WEEE compliance scheme are more complicated than for packaging. The original Directive contained a recovery target of four kgs of WEEE per person per year for the recovery of WEEE. As the responsibility for target compliance must be apportioned equitably across all the producers and importers of electrical goods, a separate body known as the WEEE Registration Society Ltd has been established. All producers

Section 4: Regulations Controlling Different Waste Streams

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and importers are required to register, with an annual membership fee applying.

Besides being registered with the WEEE Registration Society, producers and importers of electronic goods must join one of the two compliance schemes or self-comply with the full requirements of the WEEE Regulations.

The two compliance schemes are the European Recycling Platform Ireland and WEEE Ireland.

Nearly 41,000 tonnes of WEEE was collected in Ireland in 2012, a figure that is nearly double the recovery target set in the EU legislation.

However, the EU provisions changed in 2014, when the WEEE Directive 2002/96 was replaced by Directive 2012/19, with more onerous collection and recovery targets entering into force in the period up to 2019. Accordingly, the European Communities (Waste Electrical and Electronic Equipment) Regulations 2011 were replaced in March 2014.

In Irish law, the updated RoHS Directive takes the form of the amended European Union (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2012. The purpose of these provisions is to reduce the presence of toxic metals and other hazardous substances in electrical goods, cables and spare parts. This should, over time, make it easier to recycle and recover WEEE.

Like the legislation affecting batteries (see below), the WEEE legislation is enforced partly by the EPA, with the remainder, including the legal obligations placed on retailers, being covered by each local authority.

Batteries

There is also EU legislation on waste batteries and accumulators, which now takes the form of Directive 2006/66 on Batteries and Accumulators and Waste Batteries and Accumulators. These provisions are separate from the WEEE Directive for the reason that the Irish provisions were introduced much earlier, in 1991. Since the original Directive was replaced, the Irish provisions now are found in the European Union (Batteries and Accumulators) Regulations 2014. Subject to certain exceptions, this legislation affects virtually all batteries that are commonly used by households and commercial organisations, including automotive batteries.

The Batteries and Accumulators Regulations place an onus on battery producers - normally importers and wholesalers - either to self-comply with the full requirements of the legislation or to join the collective compliance schemes run by either WEEE Ireland or by the European Recycling Platform Ireland. Producers must also register with the WEEE Registration Society. Waste battery collection is then financed either directly by the self-complier or by the collective compliance scheme via fees gathered from its members.

Retailers and other distributors of batteries are required to register each of their premises. However, if the organisation is already registered under the WEEE Regulations, no additional registration is needed.

Retailers are required to offer a free waste battery take-back facility for the different types of battery they sell. Subject to limited exceptions, collected batteries must be handed over to a waste collector that is acting on behalf of either a self-complier or a compliance scheme. Alternatively, they can be picked up by, or returned directly to, the battery producer or deposited at a civic amenity facility.

Following the EU legislation, the Batteries Regulations also prohibit the selling of batteries containing mercury or cadmium above specified levels, as well as requiring appropriate labelling.

The Batteries Directive contains two compulsory waste battery collection rates, mandating that 25% be separately collected by 26 September 2012, with this figure increasing to 45% by 2016. Ireland exceeded the 25% target in 2011, but the 45% target is considered by the EPA to be rather more difficult to achieve.
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Waste Tyres

Unlike the producer responsibility initiatives described above, Ireland’s scheme for waste tyre recovery does not stem directly from EU legislation. The relevant provisions are the Waste Management (Tyres and Waste Tyres) Regulations 2007, which came into effect on 1 January 2008. They are enforced by local authorities.

At present, there are two compliance schemes in Ireland for waste tyres. These are operated by the Tyre Recovery Activity Compliance Scheme (TRACS) and Tyre Waste Management Ltd (TWM). TRACS is the larger of the two schemes, with TWM only attaining Ministerial approval in December 2009.

While the waste tyres legislation has a basic similarity to the packaging and WEEE legislation, there are some differences. A compliance scheme established under the Tyre Regulations does not appoint contractors to collect waste tyres from its members; nor does it redistribute any fees collected from tyre producers to recovery operators to subsidise tyre recycling.

Besides tyre importers, wholesalers and similar organisations, tyre retailers also have to join a compliance scheme or self-comply. Unlike the WEEE initiative, there are no legal obligations to take-back waste tyres, nor is there a free take-back system. Along with tyre suppliers, contractors that supply waste tyres to others also have to be part of a compliance scheme or self-comply with the additional requirements of the legislation.

Membership of TRACS and TWM is not compulsory and tyre suppliers can elect to self-comply. As with the other producer responsibility initiatives covered above, membership of a compliance scheme releases an obligated organisation from a significant proportion of the requirements of the Tyres Regulations. For example, those in the tyre industry that elect to self-comply have to register all of the business’ premises with a local authority and submit records of their tyre sales and waste-related activities. Registration only lasts for one year, records need to be submitted quarterly and registration renewal fees have to be paid. A tyre waste management plan and an annual report summarising the organisation’s tyre waste management activities must be produced.

The Tyres Regulations require organisations authorised to collect tyres to pass them to a recovery operator, to farmers or for other forms of re-use as authorised by a local authority. These regulations set limits on how many tyres can be accepted on farms, thereby preventing stock-piling. The Tyres Regulations also prohibit the disposal of waste tyres and, quite separately, the landfilling of tyres is prohibited under the Waste Management (Licensing) Regulations 2004.

Farm Plastics

The producer responsibility initiative legislation for farm plastics was introduced to increase greatly the recovery of this waste stream, thereby reducing rural litter and undesirable waste management practices such as open burning. This legislation came into operation in 1997, being later replaced by Waste Management (Farm Plastics) Regulations 2001. These regulations are enforced by local authorities.

The farm plastics legislation obligates manufacturers and importers to take responsibility for the collection and subsequent handling of silage bale wrap, bale bags and sheeting. Like the Packaging
Regulations, the provisions on farm plastics are founded upon a compliance scheme, which in this case is operated by the Irish Farm Film Producers Group (IFFPG) and managed by Repak Ltd.

As with the other producer responsibility initiatives described above, producers of farm plastics and importers are given a choice, which is to either join the IFFPG or self-comply. The self-compliance route places such bodies under a legal obligation to set up a deposit-refund scheme to ensure that the material is handed back by a farmer after use. In addition, a self-compliant producer has to arrange for the material’s collection and to ensure that it is recovered.

By contrast, the IFFPG provides its own farm plastic collection service to farmers, as well as collection points where used plastic can be deposited. The collection cost is significantly subsidised, being funded by a levy that is recouped when farm plastic is sold for silage-making purposes.

Outside of the Waste Management (Farm Plastics) Regulations, a separate non-statutory scheme has been established for other forms of plastic waste generated at farms, such as fertiliser bags, containers, netting and twine.

**End-of-life Vehicles**

Part VA of the Waste Management Act and the Waste Management (End-of-Life Vehicles) Regulations 2006 originally enacted into Irish law EU Directive 2000/53. In accordance to the European legislation, the national regulations ensure that a free take-back system operates for end-of-life vehicles (ELVs) that comprise cars and light vans. This legislation has been replaced by the European Union (End-of-Life Vehicles) Regulations 2014.

Like the RoHS Directive in the context of the manufacture of electronic goods, the EU ELV legislation is also intended to reduce the utilisation of hazardous materials in car-making. These provisions are set down in Part IV to the ELV Regulations 2014. Enforcement was conferred on the EPA by the Waste Management (End-of-Life Vehicles) (Amendment) Regulations 2010. The remainder of the ELV legislation is enforced by each local authority.

As a contrast to the legislation on packaging waste, WEEE, batteries and tyres, there is no collective compliance scheme for ELVs. Instead, all manufacturers and other vehicle importers are required to register with each local authority in Ireland and individually to comply with the requirements of the legislation. By 1 November 2006, all such organisations had to have national network of authorised treatment facilities in place, so that the public could deposit scrap vehicles without charge.

The legislation sets down a minimum number of facilities that have to be in place across Ireland, allowing existing dismantling sites to be utilised. Where third-party site operators are involved, the arrangements must be formalised by a contract, which specifies how a car manufacturer or importer is to reimburse the site operator for the cost of its participation in the free ELV take-back scheme.

The EU legislation sets targets for the re-use and recovery of ELVs. By January 2006, re-use and recycling levels had to be 80%, with a minimum of 85% re-use and recovery. By 1 January 2015, re-use and recycling has to climb to 85%, with re-use and recovery levels reaching 95%. In this context, the waste recovery targets can be achieved by a contribution from the consignment of waste plastics and other similar materials for use as a waste-derived fuel; however, such combustion activities do not count in respect of the re-use and recycling targets.

EPA data for 2012 suggests that the national ELV re-use and recycling rate was 82%, with the re-use and recovery figure being 88%.

The ELV legislation is also intended to improve the environmental performance of vehicle dismantling activities, setting down operational standards. All vehicles are required to be de-polluted by processes such as fluid removal within 10 days of their receipt. These and other requirements are normally enforced via the dismantling site’s waste facility permit. Manufactures and other vehicle importers are required to ensure that the prescribed
dismantling standards are followed at the facilities that form part of their national network. They are also required to supervise of each facility’s record-keeping arrangements.

Manufacturers and importers of vehicles must place twice-yearly advertisements in national or local newspapers publicising the existence of the free take-back scheme and identifying the yards that are participating. Along with an operator of a dismantling facility that accepts vehicles not subject to a contract with a manufacturer or importer, manufacturers and importers are required to submit specified records to each local authority every year, as well as to achieve compliance with prescribed EU recycling, re-use and ELV recovery targets.

The End-of-Life Vehicles Regulations mandate car and van owners to dispose of scrap vehicles only at dismantling facilities that are compliant with the ELV Regulations. The disposal of a vehicle by any other route is an offence. A system of certificates of destruction entered into force in 2007, being intended to prevent a scrap motor vehicle being returned for use on the public road. These are now linked to the National Vehicle and Driver File that is kept by the Department of Transport, Tourism and Sport on all Irish registered vehicles and their drivers.

Food Waste

Two sets of regulations affect the handling of waste food, the Waste Management (Food Waste) Regulations 2009 and the European Union (Household Food Waste and Bio-Waste) Regulations 2013. The 2009 Regulations have been amended since they were originally published. The 2013 Regulations extend the requirement to source-segregate food to the householder on a phased basis, with the legislation applying to all urban centres of a population greater than 20,000 by the end of 2013. The requirements of the legislation extend to communities of more than 10,000 by July 2014, to villages of 1,500 persons by July 2015 and to other villages of a population of more than 500 persons.

While the complexity of this commercial sector precludes the imposition of a collective compliance scheme, all operators of obligated premises are required by law to segregate any food waste generated, keeping it separate from contamination by other waste. It then must be separately collected or delivered directly by the producer to a composting or other similar plant that is authorised under either the Waste Management Act or Environmental Protection Agency Act to receive it.

Alternatively, segregated commercial food waste can be composted on the premises where it is being produced. In this instance, this activity is required to be subject to a registration certificate issued under the Waste Management (Facility Permit and Registration) Regulations 2007 (discussed earlier). Hotels and other sites where food is prepared are prohibited from using macerators to make waste food suitable for flushing into the sewerage system.

The European Union (Household Food Waste and Bio-Waste) Regulations 2013 extend the requirement to source-segregate food waste from commercial activities to apply also to householders. This is to be done on a phased basis, with the legislation applying to all urban centres of a population greater than 20,000 by the end of 2013.

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Ozone Depleting Substances

One of the major success stories in international cooperation on environmental issues has been the implementation of the Vienna Convention for the Protection of the Ozone Layer and Montreal Protocol on Substances that Deplete the Ozone Layer.

These international treaties are designed to protect the ozone layer by phasing out the production of substances that are understood to be causing its depletion. These substances are chlorine and bromine-based organic chemicals, such as chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs). Many of these materials were once common in aerosols or were used as solvents, refrigerants, in air conditioning and for fire retardant purposes. Besides depleting the ozone layer, many of them also have a virulent global warming potential.

The Montreal Protocol entered into force in 1989 and has been revised a number of times. Since its ratification, there is evidence that some stratospheric ozone recovery has occurred. If the present level of compliance continues, it has been suggested that the ozone layer may recover fully by mid-century. Both Ireland and the EU are parties to the two Conventions.

The main legislation applying to Ireland is EU Regulation 1005/2009 on Substances that Deplete the Ozone Layer, which replaced the earlier Regulation 2037/2000 of the same title in January 2010. These provisions have been supplemented in national law by the Control of Substances that Deplete the Ozone Layer Regulations 2011, which replaced the 2006 version of these regulations in September 2011.

In summary, this legislation applies to the production, importation, exportation, placing on the market, use, recovery, recycling, reclamatation and destruction of ozone depleting substances (ODS). Subject to certain exceptions, an EU-wide ban applies to the production of the ODS listed in Annex I to the Regulation. The placing on the market and use of these materials is also prohibited, and this ban extends to equipment that contains them. Most fire protection systems and equipment containing halons are required to be decommissioned. Imports and exports of these materials into the European Community are tightly controlled.

Certain critical uses of halons are required to be phased-out in the immediate future. For example, reclaimed or recycled HCFCs can be used in the maintenance of refrigeration, air-conditioning and heat-pump equipment only until 31 December 2014. This allows the equipment to be replaced, as servicing involving refilling with HCFCs will not be possible after that date. A variety of other phase-out dates are contained in the legislation; but, generally, ODS phase-out is to take place by the 2014 deadline.

The legislation also sets down requirements that affect users operating equipment such as refrigeration, air conditioning, heat pumps and fire control systems that contain ODS. Records of maintenance must be kept, including details of ODS used, recovered and disposed of. These requirements also extend to organisations involved in the equipment maintenance, ODS recycling and destruction. All such bodies are obligated by law to report specified information to the EPA, which then forwards this material to the European Commission.

Waste containing CFCs and HCFC are defined as hazardous waste in accordance with the EU List of Waste (see above). Besides a number of other requirements stemming from the Waste Management Act, waste containing ODS has to be handled in a manner that complies with EU Regulation 1005/2009 and the Control of Substances that Deplete the Ozone Layer Regulations 2011. For example, the EU Regulation sets down a range of different destruction technologies that are mandatory for generic categories of ODS waste. In conjunction with other provisions, this requirement prevents, for example, fridges that contain ODS from being landfilled or broken up in an uncontrolled manner in Ireland.
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The Control of Substances that Deplete the Ozone Layer Regulations 2011 place primary responsibility for ensuring compliance with this legislation with the EPA. Besides carrying out inspections, the EPA has published guidance on how ODS should be handled. The Regulations require users and other handlers of ODS to apply this guidance. Holders of ODS are required to ensure that only appropriately qualified individuals are involved in activities such as the servicing of equipment, with the legislation also specifying the necessary qualifications for such persons. Any handler of waste that contains or comprises ODS must keep records in accordance with the requirements of the EPA.

Registration certificates issued under the Waste Management (Facility Permit and Registration) Regulations 2007 can be granted to authorise the temporary holding of small quantities of CFCs, halons and discarded equipment containing CFCs.

Substances containing Fluorinated Greenhouse Gases

Fluorinated gases (F-gases) are atmospherically persistent substances than contribute to the greenhouse effect. There are three types, with hydrofluorocarbons (HFCs) being the most common. HFCs are found in refrigeration and air-conditioning systems, as well as in heat pump equipment. They are also used as blowing agents for foams, fire extinguishants, aerosol propellants and solvents. Until their global warming potential became apparent, HFCs were often used as a replacement for CFCs and HCFCs.

Given its concerns about global warming, the EU elected to regulate the manufacture, supply, use and disposal of these substances, by way of Regulation 842/2006 on Certain Fluorinated Greenhouse Gases. This Regulation is concerned principally about ensuring that F-gases are not released into the environment when equipment is being used, serviced or dismantled. Accordingly, all equipment subject to the legislation is required to be checked periodically by a qualified person and, for larger systems, leakage detection systems are to be deployed. Records of the F-gas inventory associated with larger equipment must be held. In applications where other, less environmentally harmful, substitutes were readily available, F-gas use was banned over the period 2006 to 2009.

The EU Regulation mandates that F-gases arising from equipment such as refrigeration cooling circuits, equipment containing F-gases as solvents, fire extinguishers and high voltage switchgear are collected, recovered or destroyed. It has spawned a series of subsidiary EU Regulations, which prescribe in more detail matters such as how different types of equipment are to be subject to leakage checking and detection systems. For example, Regulation 1497/2007 covers leak detection from fire protection systems and Regulation 303/2008 sets down requirements relating to the qualification of personnel maintaining refrigeration, air conditioning and heat pump equipment.

Like the legislation controlling ODS, the EPA is primarily responsible for the enforcement of the EU Regulation, by way of the Fluorinated Greenhouse Gas Regulations 2011 and the Environmental Protection Agency Act 1992 (Fluorinated Greenhouse Gas) Regulations 2011.

The Fluorinated Greenhouse Gas Regulations 2011 also set down how persons involved in the servicing of F-gas containing equipment are to be trained and qualified in Ireland.

Waste containing HFCs is a hazardous waste in accordance with the EU List of Waste (see above). Registration certificates can be issued under the Waste Management (Facility Permit and Registration) Regulations 2007 to authorise the temporary holding of small quantities of F-gases.

The EU legislation on F-gases is to be replaced on 1 January 2015 when Regulation 842/2006 is superseded by Regulation 517/2014.
Persistent Organic Pollutants (POPs)

Persistent organic pollutants (POPs) are man-made organic compounds that are resistant to the chemical, biological, and photolytic processes that normally cause substances to degrade in the natural environment. This makes them environmentally persistent, and able to bioaccumulate in human and animal tissue. They also spread globally, ending up being deposited far away from their original source.

These compounds were used as pesticides or solvents, with POPs also being produced in polyvinyl chloride and pharmaceutical manufacture. Examples include aldrin and dieldrin, DDT, hexachlorobenzene, polychlorinated biphenyls (PCBs), polychlorinated dibenzo-p-dioxins and dibenzofurans, polycyclic aromatic hydrocarbons (PAHs), brominated flame-retardants and organometallic compounds such as tributyltin (TBT). Many of these materials were, in the past, deliberately manufactured, but some, such as dioxins, are generated as inadvertent by-products of poorly controlled processes such as combustion.

POPs are subject to the Stockholm Convention on Persistent Organic Pollutants, an international environmental treaty that entered into force in May 2004. Ireland ratified the Convention in 2010, with the European Union also being a party.

Control of POPs in Ireland is mainly done through Regulation 850/2004 on Persistent Organic Pollutants, with this EU Regulation being amended a number of times since it entered into force. It is supplemented by the Persistent Organic Pollutants Regulations 2010.

Regulation 850/2004 generally prohibits the manufacture, placing on the market and use of all POPs that stem from manufactured sources. In some cases, derogations allow for the progressive phase-out of the supply of these materials. The existence of stockpiles has to be notified to a regulatory body, with the content eliminated, being treated as waste and subject to that control system. Subject to certain exceptions, all such wastes are to be treated by physico-chemical treatment or by combustion using processes such as incineration, with the EU Regulation setting down minimum POP concentration levels in respect of this requirement.

As there is no other disposal solution for some POP-containing materials, such as dusts, slags and ashes from production processes and waste treatment activities, these materials have to be subject to long-term storage in duly authorised waste management facilities. Typically, these wastes are exported to specialist waste facilities in continental Europe when they arise in Ireland.

The EPA is primarily responsible for the implementation and enforcement of the EU Regulation 850/2004. In accordance with the Stockholm Convention and the EU Regulation, it published a National Implementation Plan for POPs in November 2012.

An additional function of the EPA is the monitoring of dioxin, furan and PCB levels in the Irish environment. The Agency also has to collate and provide the statistical data that is required by the Regulation and Convention.

In accordance with EU Regulation 850/2004 and the Persistent Organic Pollutants Regulations 2010, the EPA has to be notified of any organisations that hold stockpiles of POPs or waste that contains POPs above the level specified by the EU legislation.

Backyard burning is a significant source of POPs

Further substances that are under consideration as being candidates for the list of POPs can be found on the Stockholm Convention’s web site.
Polychlorinated Biphenyls

A sub-set of the family of substances that are defined as Persistent Organic Pollutants (POPs) are polychlorinated biphenyls (PCBs) and their derivatives. While subject to the general control provisions relating to all POPs that have been described above, additional control measures also apply. These stem from amended EU Directive 96/59/EC on the Disposal of Polychlorinated Biphenyls and Polychlorinated Terphenyls.

This EU Directive has been made part of Irish law by the Waste Management (Hazardous Waste) Regulations 1998. While a significant proportion of other elements of the 1998 Regulations have been repealed and replaced, the requirements on the handling of PCBs and derivative compounds still apply. Beyond these provisions, PCBs are identified as hazardous waste under the Waste Management Act and the EU List of Wastes. Other elements of the Waste Management Act, along with legislation such as the EU Regulation 1013/2006 on the Shipments of Waste and the Waste Management (Shipments of Waste) Regulations 2007, control their handling and management.

While many forms of POPs are banned in Ireland and no longer used, PCBs are still to be found in electrical apparatus, such as larger industrial transformers and capacitors, as the equipment in which they are housed has a long design life. For the year 2012, the EPA’s National Implementation Plan for POPs estimates that some 44,000 litres of PCB remains in equipment that is still in use.

The Hazardous Waste Regulations prohibit the importation or supply of PCBs, along with the topping up of transformers and other equipment with such substances. They also mandate that the decontamination of transformers containing more than 0.05% by weight of PCBs had to take place by the end of 2010; however, where PCB levels are between 0.05% to 0.005%, this can be postponed until the end of the unit’s useful life.

In cases where more than five litres of PCBs is held, the equipment and the doors of the premises where the PCBs are located must be appropriately labelled. This is to warn the site workforce, maintenance engineers, the emergency services and other similar bodies of the presence of these substances on-site. In all instances, PCBs must be segregated from other flammable materials.

All holders of PCBs, including those responsible for equipment that contains more than five litres of PCB, must register the location of this equipment with the EPA, with the Agency also being notified annually of its continual existence.

In 2008, the EPA published a Management Plan for Polychlorinated Biphenyls (PCBs) in Ireland. This included a Code of Practice for the In-use Management of PCBs and PCB Containing Equipment. More up-to-date statistical information can be found in the National Implementation Plan for POPs and in the National Hazardous Waste Management Plan 2014-2020.

Both the EPA and local authorities are responsible for the enforcement of the Hazardous Waste Regulations. A key requirement is to ensure that PCBs and similar substances do not become mixed with other waste, particularly waste oil.

Sewage Sludge

Sewage sludge comprises the processing residue arising from sewage treatment, plus sludge collected from septic tank maintenance. Like other common wastes, these materials are subject to the Waste Management Act and the subsidiary provisions that apply to both waste collectors and, unless exempted, those that operate waste facilities.

Sewage sludge falls within the amended Waste Management (Use of Sewage Sludge in Agriculture) Regulations 1998, particularly when used as an agricultural fertiliser. The Waste Management (Registration of Sewage Sludge Facility) Regulations 2010 may also have relevance. These provisions enact EU Directive 86/278 on Sewage Sludge used in Agriculture into Irish law.
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All sewage treatment facilities are required to be authorised by the EPA under a new system contained in the Waste Water Discharge (Authorisation) Regulations 2007. By the end of 2013, the EPA had received licence applications for 529 wastewater treatment plants serving urban agglomerations exceeding 500 persons equivalent (pe), along with 542 applications for certificates of authorisation for plants below this size threshold. Collectively, these sites produced nearly 73,000 tonnes of sewage sludge (as expressed as dry solids) in that year.

94% of sewage sludge was managed on agricultural land in 2012. The bulk of the remainder was consigned for use in composting. The amount passing to landfill was only four tonnes, reflecting the Landfill Directive's requirements relating to the reduction of the quantity of biodegradable waste being handled by this route. This amount contrasts sharply with the EPA's data for 2005, which indicated that 17% of all sewage sludge was landfilled in that year.

94% of sewage sludge was used as a fertilizer on agricultural land in 2012. The amount passing to landfill was only four tonnes, reflecting the Landfill Directive's requirements relating to the reduction of the quantity of biodegradable waste being handled by this route. This amount contrasts sharply with the EPA's data for 2005, which indicated that 17% of all sewage sludge was landfilled in that year.

As noted, the principal means in Ireland by which sewage sludge is handled is by way of agricultural land spreading. This is controlled by the amended Waste Management (Use of Sewage Sludge in Agriculture) Regulations 1998, which require surface spreading to be restricted to treated sludge; untreated sludge has to be injected or otherwise worked into the land. The Regulations allow septic tank sludge to be spread on grassland, provided that it is not grazed for a specified number of months. Land used for certain types of fruit crop cannot be subject to spreading.

The quantity of sludge that can be spread is determined mainly by a mandatory nutrient management plan drawn up for the spreadlands. If the sludge is contaminated with metal levels above those set by the amended 1998 Regulations, it cannot be applied; nor can spreading continue when soil metals levels are exceeded. In all cases, representative samples of both the sludge and the recipient soil must be subject to laboratory analysis at frequencies set by the legislation.

In order to prevent regulatory duplication, Section 51 of the Waste Management Act was amended in 2011 to ensure that the recovery of sludge for use in agriculture is not an activity that is subject to a waste licence. This means that all other spreading activities on land that do not fall within the meaning in the legislation of ‘recovery’ and ‘agriculture’ are subject to the Act and its subsidiary regulations. For example, the Waste Management (Facility Permit and Registration) Regulations allow for a registration certificate to be issued authorising the spreading of sludge on non-agricultural land. Composting facilities receiving sewage sludge are usually regulated by waste licences or waste facility permits.

Certain forms of intermediate sludge storage are subject to the Waste Management (Registration of Sewage Sludge Facility) Regulations 2010. This legislation applies to temporary storage sites that are located away from authorised sewage treatment plants, mainly regulating so-called ‘sludge hubs’. Such locations are to be registered with the local authority in which the storage facility is situated, with the regulations making it an offence to use non-registered premises.


Agriculture 94.3%

Composting and Other Uses <5.7%

Landfill <0.01%

<5.7%
Construction and Demolition Waste

At present, the total amount of construction and demolition waste being generated in Ireland is about the same as the national volume of municipal waste, with nearly three million tonnes being produced in 2011. This is an 83% decrease from its maximum level, which, in 2007, was close to 18 million tonnes.

About two million tonnes of this waste stream comprises natural substances such as soil, soil and rock, with one million tonnes being composed of rubble, timber, metals, plastic, wood and other similar mixed materials. This material is mainly managed either at sites licensed by the EPA or at some 200 smaller facilities that are subject to waste facility permits.

There has been significant progress in the diversion of this waste stream away from both disposal in landfill sites and its management in an unregulated fashion. The Department of the Environment’s 1998 waste policy statement, Waste Management - Changing our Ways set two targets, requiring 50% to be recycled by the end of 2003, with this figure increasing to 85% by 2013.

A 70% target for the re-use, recycling and recovery of man-made construction and demolition waste is now part of Irish law in accordance with the European Communities (Waste Directive) Regulations 2011. This target stems from EU legislation and has to be met by 2020. The EPA reported that this was achieved in 2011.

Plastic Bags

The key objective of the plastic bag levy is to decrease greatly the number of bags in circulation in Ireland and thereby reduce litter, generating revenue for the Environment Fund. The relevant legislation is Section 72 of the Waste Management Act and the Waste Management (Environmental Levy)(Plastic Bag) Regulations 2001. Both Section 72 and the 2001 Regulations have been amended.

At the time the levy was introduced, it was estimated that 328 bags per person were used each year; since then, the Department of the Environment, Community and Local Government estimate that the per capita annual usage of plastic bags has dropped to 21.

The levy came into effect in March 2002, with retailers originally having to charge 15 cent per bag at the point of sale. This amount was subsequently increased to 22 cent by the Waste Management (Environmental Levy) (Plastic Bag) (Amendment) (No 2) Regulations 2007.

The deduction of the levy has to be itemised on any invoice, till receipt or docket issued by a retailer to a customer, with the amount collected being sent periodically to the Revenue Commissioners. Nearly €14 million was accrued in 2012. Since the levy was introduced, over 50% of the total funds have been collected by five major retailers.

There are certain exemptions from the levy, including:

- Re-usable bags sold to customers for more than 70 cent each
- Bags below the size specified in the legislation that are used by the retailer to hold loose meat, fish, fruit, nuts, confectionary and other listed products
- Bags supplied to passengers at ports and airports or on board commercial ships and aircraft.

Rolls of refuse collection bags, freezer bags and sandwich bags are also not subject to the levy.