Draft Regulations laid before Parliament under section 2(8) of the Pollution Prevention and Control Act 1999, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2002 No.

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Landfill (England and Wales) Regulations 2002

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

The Secretary of State, in exercise of the powers conferred on her by section 2 of the Pollution Prevention and Control Act 1999(**1**) (the "1999 Act"), having in accordance with section 2(4) of the 1999 Act consulted the Environment Agency, such bodies or persons appearing to her to be representative of the interests of local government, industry, agriculture and small businesses respectively as she considers appropriate, and such other bodies and persons as she considers appropriate, hereby makes the following Regulations, a draft of which has, in accordance with section 2(8) of the 1999 Act, been laid before, and approved by a resolution of, each House of Parliament:

PART I

PRELIMINARY

Citation, commencement and extent

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

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

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

(**1**) 1999 c. 24; the Secretary of State can exercise these powers only in relation to England and Wales—*see* section 53 of the Scotland Act 1998 (c. 46) and section 5(3) of the Pollution Prevention and Control Act 1999.

Interpretation

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

"the 2000 Regulations" means the Pollution Prevention and Control (England and Wales) Regulations 2000(**2**);

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

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

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

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

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

"landfill gas" means any gas generated from landfilled waste;

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

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

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

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

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

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

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

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

"waste" means controlled waste within the meaning of section 75(4) of the Environmental Protection Act 1990(**3**);

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

other expressions used in these Regulations which are also used in Directive 99/31/EC on the landfill of waste(**4**) shall have the same meaning as in that Directive.

Application of regulations

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

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

(3) Landfills include—

(a) subject to paragraph (4), any site which is used for more than a year for the temporary storage of waste; and

(**2**) S.I.2000/1973, to which there are amendments not relevant to these Regulations.
(**3**) 1990 c. 43 and *see* regulation 7A of S.I. 1992/588 as amended by S.I. 1993/566, regulations 1 and 24(8) of, and paragraph 9 of Schedule 4 to, S.I. 1994/1056 and the prospective amendments made to section 75 by paragraph 88 of Schedule 22 to the Environment Act 1995 (c. 25).
(**4**) OJNo. L182, 16.7.1999, p.1; the Directive was designated by S.I. 2001/3585 as a relevant directive for the purposes of paragraph 20(2)(c) of Schedule 1 to the 1999 Act.

(b) any internal waste disposal site, that is to say a site where a producer of waste is carrying out its own waste disposal at the place of production.

(4) Landfills do not include—

(a) any facility where waste is unloaded in order to permit its preparation for further transport for recovery, treatment or disposal elsewhere;

(b) any site where waste is stored as a general rule for a period of less than three years prior to recovery or treatment; or

(c) any site where waste is stored for a period of less than one year prior to disposal.

Cases where regulations do not apply

4. These Regulations do not apply to—

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

(b) the use of suitable inert waste for redevelopment, restoration and filling-in work or for construction purposes;

(c) the deposit of—

(i) non-hazardous dredging sludges along the bank or towpath of a waterway from which they have been dredged where that activity falls within the exemption from waste management licensing in paragraph 25 of Schedule 3 to the Waste Management Licensing Regulations 1994(**5**);

(ii) non-hazardous sludges in surface waters, including the bed and its sub-soil; or

(d) any landfill which finally ceased to accept waste for disposal before 16th July 2001.

Location

5. A planning permission under the Town and Country Planning Act 1990(**6**) may be granted for a landfill only if the requirements of paragraph 1(1) of Schedule 2 to these Regulations have been taken into consideration.

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

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

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

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

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

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

(**5**) S.I. 1994/1056; relevant amendments were made by S.I. 1995/288.
(**6**) 1990 c. 8.

PART II

LANDFILL PERMITS

Classification of landfills

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

(a) as a landfill for hazardous waste;

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

(c) as a landfill for inert waste,

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

(2) Hazardous waste means any waste as defined in Article 1(4) of Directive 91/689/EEC(**7**) (hazardous waste).

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

(4) Waste is inert waste if—

(a) it does not undergo any significant physical, chemical or biological transformations;

(b) it does not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm to human health; and

(c) its total leachability and pollutant content and the ecotoxicity of its leachate are insignificant and, in particular, do not endanger the quality of any surface water or groundwater.

Conditions to be included in landfill permits

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

(2) A landfill permit shall also include appropriate conditions—

(a) specifying requirements for—

(i) preparations for, and the carrying out of, landfilling operations;

(ii) monitoring and control procedures, including contingency plans;

(b) ensuring that the financial provision required by regulation 4(3)(b)(**8**) of the 2000 Regulations is maintained until the permit is surrendered in accordance with those Regulations;

(c) ensuring that the landfill is operated in such a manner that the necessary measures are taken to prevent accidents and to limit their consequences; and

(d) requiring the operator to report at least annually to the Environment Agency on—

(i) the types and quantities of waste disposed of; and

(ii) the results of the monitoring programme required by regulations 14 and 15.

(3) A landfill permit shall also include—

(a) appropriate conditions for ensuring compliance with the requirements of the following provisions of these Regulations—

(i) Schedule 2 (general requirements for all landfills);

(**7**) OJ No. L377, 31.12.91, p.20 as amended by Council Directive 94/31/EC (OJ L168, 2.7.1994, p.28).
(**8**) *See* paragraph 1(3) of Schedule 5 to these Regulations.

(ii) regulation 9 (prohibition of acceptance of certain wastes at landfills);

(iii) regulation 10 (waste which may be accepted in the different classes of landfill);

(iv) regulation 11 (costs of disposal of waste in landfills);

(v) regulation 12 (waste acceptance procedures);

(vi) regulation 13 (initial site inspections by Environment Agency);

(vii) regulation 14 (control and monitoring of operational landfill sites);

(viii) regulation 15 (closure and after-care procedures for landfills); and

(b) such other conditions as appear appropriate to the Environment Agency, including in particular conditions giving effect to—

(i) any requirement imposed by Community or national legislation; and

(ii) in the case of landfills falling within paragraph (a) of Part A(1) of Section 5.2 in Part 1 of Schedule 1 to the 2000 Regulations, the principle that energy should be used efficiently.

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

Prohibition of acceptance of certain wastes at landfills

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

(a) any waste in liquid form (including waste waters but excluding sludge);

(b) waste which, in the conditions of landfill, is explosive, corrosive, oxidising, flammable or highly flammable;

(c) hospital and other clinical wastes which arise from medical or veterinary establishments and which are infectious;

(d) chemical substances arising from research and development or teaching activities, such as laboratory residues, which are not identified or which are new, and whose effects on man or on the environment are not known;

(e) as from 16th July 2003, whole used tyres other than—

(i) tyres used as engineering material;

(ii) bicycle tyres; and

(iii) tyres with an outside diameter above 1400mm;

(f) as from 16th July 2006, shredded used tyres other than—

(i) bicycle tyres; and

(ii) tyres with an outside diameter above 1400mm; and

(g) any waste which does not fulfil the relevant waste acceptance criteria.

(2) The operator of a landfill shall ensure that the landfill is not used for landfilling waste which has been diluted or mixed solely to meet the relevant waste acceptance criteria.

(3) For the purposes of this regulation, waste is—

"corrosive" if it consists of substances and preparations which may destroy living tissue on contact;

"explosive" if it consists of substances and preparations which may explode under the effect of flame or which are more sensitive to shocks or friction than dinitrobenzene;