
STATUTORY RULES OF NORTHERN IRELAND

2010 No. 64

The Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland) 2010

PART 6

DUTIES OF THE DEPARTMENT

Inspections by the Department

14.—(1) The Department shall, prior to the commencement of operations involving the management of extractive waste and thereafter at regular intervals, inspect each waste facility for which permission for relevant development has been granted to ensure that the operator is complying with the conditions imposed on that permission pursuant to these Regulations and implementing the waste management plan approved by it.

Financial guarantee

15. Where planning permission for relevant development is subject to the condition in regulation 8(1) the Department shall—

- (a) calculate the financial guarantee on the basis of—
 - (i) the likely environmental impact of the waste facility, taking into account in particular the classification of the waste facility, the characteristics of the waste and the future use of the rehabilitated land; and
 - (ii) the assumption that independent and suitably qualified third parties will assess and perform any rehabilitation work needed;
- (b) determine the form of the financial guarantee and may accept the provision of a guarantee from an industry-sponsored mutual guarantee fund or equivalent; and
- (c) periodically review the size of the guarantee and adjust as necessary, in accordance with any rehabilitation work which it may deem necessary on the land affected by the extractive waste, as described in the approved waste management plan prepared in accordance with regulation 6.

Construction and management

16. Where planning permission for relevant development is subject to the condition in regulation 9(1)(d)(ii), the Department shall consider whether the monitoring report submitted to it should be validated by an independent expert.

Closure

17.—(1) Where the Department receives a request for authorisation for closure of a waste facility, it shall issue an authorisation for closure notice.

(2) The Department shall not issue an authorisation for closure notice unless it is satisfied that all conditions of the planning permission relating to the waste facility in question have been met.

(3) Prior to the issue of a final closure notice in accordance with paragraph (4), the Department shall, without undue delay—

- (a) carry out a final on-site inspection of the waste facility in question; and
- (b) certify that the land affected by the waste facility has been rehabilitated.

(4) Where the Department is satisfied, following its inspection and assessment pursuant to paragraph (3), that the closure procedures have been appropriately carried out, it shall issue a final closure notice in writing which—

- (a) certifies that the land affected by the waste facility has been rehabilitated; and
- (b) releases the operator from obligations in respect of any financial guarantee condition to which the planning permission is subject pursuant to regulation 8, except insofar as they relate to any after-closure conditions to which the permission is subject pursuant to regulation 12.

(5) The Department may, if it considers it appropriate to do so, take over responsibility for the obligations relating to a condition to which a planning permission is subject pursuant to regulation 12(a).

External emergency plan

18.—(1) Where planning permission has been granted or deemed to be granted for relevant development in respect of a Category A waste facility, the Department shall draw up an external emergency plan specifying the measures to be taken off-site in the event of an accident.

(2) The external emergency plan shall have the following objectives—

- (a) to contain and control major accidents and other incidents so as to minimise their effects, and in particular to limit damage to human health and the environment;
- (b) to implement the measures necessary to protect human health and the environment from the effects of major accidents and other incidents;
- (c) to communicate the necessary information to the public and to the relevant services or authorities in the area; and
- (d) to provide for the rehabilitation, restoration and clean-up of the environment following a major accident.

(3) The public concerned will be provided with early and effective opportunities to participate in the preparation and review of the external emergency plan referred to in paragraph (1) and the Department shall make arrangements to inform the public concerned of proposals to prepare and review the plan, including information about the right to participate in that process and how to do so.

(4) The Department shall afford the public concerned a reasonable timescale to express comments and shall have due account to the comments received in reaching its decision on the preparation or review of the plan.

(5) Information on safety measures and the action required in the event of an accident at the site shall be provided by the Department to the public concerned, free of charge.

(6) The information referred to in paragraph (5) shall contain at least all matters specified in Schedule 4.

(7) The information referred to in paragraph (5) shall be reviewed by the Department at least every three years and updated as necessary.

(8) Where the Department becomes aware of an accident involving a Category A waste facility which is likely to have significant adverse effects on the environment of, and any resultant risks

to human health in, another Member State, the Department shall forward the information provided to it pursuant to a condition imposed by virtue of paragraph regulation 13(6) to the other Member State concerned.

Co operation with other Member States

19.—(1) Where it appears to the Department that proposed relevant development which is the subject of an application for planning permission or a waste management plan, as the case may be, is likely to have significant adverse effects on the environment of, and any resultant risks to human health in, another Member State or where another Member State likely to be thus affected so requests, the Department shall—

- (a) forward a copy of the application or waste management plan, as the case may be, and all related material to the other Member State at the same time as it makes such documents available to the public in Northern Ireland;
- (b) give the Member State a reasonable time in which to consult its own nationals and allow them to submit representations before the Department decides whether or not to grant the application or approve the waste management plan, as the case may be.

(2) This regulation shall not apply to those applications or waste management plans, as the case may be, in respect of planning permission for relevant development which constitutes “EIA development” within the meaning of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 1999(1).

Inventory of closed waste facilities

20.—(1) The Department shall prepare and maintain an inventory of closed waste facilities, including abandoned waste facilities, which cause serious negative environmental impacts or have the potential of becoming, in the short or medium term, a serious threat to human health or the environment.

(2) The inventory shall be available for inspection by the public at all reasonable hours.

(3) On request by any member of the public and on payment of a reasonable fee, the Department shall provide a copy of any item entered in the inventory.

(4) The inventory shall be prepared by 1st May 2012 and shall take into account the methodologies referred to in Article 21 of the Directive, where available.

Review

21.—(1) The Department shall review the conditions imposed pursuant to these Regulations on a planning permission for relevant development—

- (a) where there are substantial changes in the operation of the waste facility or the waste deposited;
- (b) on the basis of monitoring results reported by the operator pursuant to regulation 9(3) or inspections carried out pursuant to regulation 9(1)(d) or 14(1); or
- (c) in the light of substantial changes in best available techniques.

(2) Where the Department undertakes a review in accordance with paragraph (1), it shall inform the public concerned and give them an opportunity to make comment before the Department completes its review.

(3) A review undertaken in consequence of paragraph (1) may add to, reduce or update the conditions attached to that permission in pursuance of these Regulations.

(1) [S.R. 1999 No.73](#); relevant amending Regulations are [S.R. 2005 No.300](#) and [S.R. 2008 No.17](#)

Status: *This is the original version (as it was originally made).*
