

1995 No. 296**HEALTH AND SAFETY****Mines and Quarries (Tips and Tipping Plans) Regulations
(Northern Ireland) 1995***Made* 24th July 1995*Coming into operation* 1st September 1995

ARRANGEMENT OF REGULATIONS

PART I

GENERAL

1. Citation and commencement.
2. Interpretation.

PART II

GENERAL PROVISIONS RELATING TO TIPS

3. Security of tips.
4. Information relating to tips.
5. Drainage of tips.
6. Supervision of tips.
7. Duties of owners and managers.
8. Notification of beginning and cessation of tipping operations.

PART III

PROVISIONS RELATING TO ACTIVE CLASSIFIED TIPS

9. Procedure before beginning tipping operations.
10. Tipping rules.
11. Inspections.
12. Reports.
13. Reports, plans and sections of tips and geological map.
14. Records of refuse tipped.
15. Notification of change in design or specification of tips.
16. Transitional provisions for existing tips.

PART IV

PROVISIONS RELATING TO CLOSED CLASSIFIED TIPS

17. Inspections.
18. Reports.
19. Recording of particulars of operations.
20. Reports, plans and sections of tips and geological map.

PART V

TIPPING PLANS

21. Application.
22. Plans and sections.
23. Correlation with Irish Grid.
24. Contour lines, gradient and faults.
25. Topographical features.
26. Design, etc.
27. Correlation.

PART VI

RESUMPTION OF TIPPING OPERATIONS AT CLOSED TIPS

28. Notification of resumption of tipping operations.
29. Procedure before resumption at classified tips.
30. Tipping rules.

PART VII

MISCELLANEOUS PROVISIONS

31. Transmission of plans, etc. relating to tips ceasing to be associated with a mine or quarry.
32. Owner to send plans, etc. to the Department.
33. Directions.
34. Conduct of employees.
35. Exemption certificates.

The Department of Economic Development, being the Department concerned(a), in exercise of the powers conferred on it by Articles 17(1) to (5) and 55(2) of, and paragraphs 1(1)(c), 5(1), 13, 14(1), 15, 17(a), 19 and 20 of Schedule 3 to, the Health and Safety at Work (Northern Ireland) Order 1978(b) and of every other power enabling it in that behalf, after consultation

(a) See Article 2(2) of S.I. 1978/1039 (N.I. 9)

(b) S.I. 1978/1039 (N.I. 9)

in accordance with Article 46(1) of that Order with the Health and Safety Agency for Northern Ireland and such other bodies as appeared to the Department to be appropriate, hereby makes the following Regulations:

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Mines and Quarries (Tips and Tipping Plans) Regulations (Northern Ireland) 1995 and shall come into operation on 1st September 1995.

Interpretation

2.—(1) In these Regulations—

“the 1969 Act” means the Mines Act (Northern Ireland) 1969(a);

“the 1970 Rules” means the Mines (References) Rules (Northern Ireland) 1970(b);

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978;

“the 1983 Order” means the Quarries (Northern Ireland) Order 1983(c);

“active tip”, “closed tip” and “tip” have the meanings assigned in relation to—

(a) a mine, by section 128(3) of the 1969 Act;

(b) a quarry, by Article 9(4) of the 1983 Order,

and “active classified tip” and “closed classified tip” shall be construed accordingly;

“classified tip” means an active or closed tip of any of the following classes—

(a) a tip consisting of refuse accumulated or deposited wholly or mainly in a solid state and not in solution or suspension and where—

(i) the superficial area of the land covered by the refuse exceeds 10,000 square metres;

(ii) the height of the tip exceeds 15 metres; or

(iii) the average gradient of the land covered by the refuse exceeds 1 in 12;

(b) a tip consisting of refuse accumulated or deposited wholly or mainly in solution or suspension and where—

(a) 1969 c. 6 (N.I.)

(b) S.R. & O. (N.I.) 1970 No. 124

(c) S.I. 1983/150 (N.I. 4)

- (i) any part of the tip (other than any wall or other structure retaining or confining it but including any liquid in it) is more than 4 metres above the level of any part of the neighbouring land within 50 metres of the perimeter of the tip; or
- (ii) the volume of the tip (other than any wall or other structure retaining or confining it but including any liquid in it) exceeds 10,000 cubic metres,

and in determining whether refuse has been accumulated or deposited wholly or mainly in a solid state or wholly or mainly in solution or suspension any wall or other structure retaining or confining the tip shall be excluded;

“dangerous occurrence” in relation to a tip means any occurrence in which any movement of material or any fire or any other event indicates that the tip is, or is likely to become, insecure;

“the Department” means the Department of Economic Development;

“height” in relation to a tip means the vertical distance between the horizontal planes passing through the lowest and highest points of the tip;

“owner” in relation to a quarry means the occupier where the person who for the time being is in actual use and occupation of the quarry, or any part of it, for the purpose of getting minerals from it, is other than the owner;

“the person having responsibility for a tip” means—

- (a) in the case of an active or closed tip which is associated with a quarry, the owner of the quarry;
- (b) in the case of an active tip which is associated with a mine, the manager of the mine; and
- (c) in the case of a closed tip which is associated with a mine, the owner of the mine;

“tipping operations” means the depositing of refuse from a mine or quarry and the carrying out of any operations necessary for, or incidental to, the depositing of the refuse;

“tipping rules” means rules made in accordance with regulation 10(1);

“watercourse” includes all rivers, streams, ditches, drains, sewers, culverts, cuts, dykes, sluices and passages, through which water flows.

(2) For the purposes of these Regulations the mine or quarry with which a tip is associated shall be determined as follows—

- (a) in the case of a tip on premises which are deemed to form part of a mine or quarry for the purposes of the 1969 Act or, as the case may be, the 1983 Order the tip is associated with that mine or quarry;
- (b) in the case of a tip not falling within sub-paragraph (a) but on premises which, at any time after the commencement of the 1969 Act or the 1983 Order, were deemed to form part of a mine or quarry respectively for the purposes of that Act or Order, the tip is associated with that

mine or quarry (or, as the case may be, the last such mine or quarry); and

- (c) in any other case, the tip is associated with the mine or quarry from which refuse was deposited on the tip, or, in the case of a tip which was used for the deposit of refuse from two or more mines or quarries, such one of those mines or quarries as the Department may direct.

(3) Expressions to which meanings are assigned by the 1969 Act in relation to mines and the 1983 Order in relation to quarries shall have the same meanings in these Regulations and in any document issued under these Regulations.

PART II

GENERAL PROVISIONS RELATING TO TIPS

Security of tips

3. Every active and closed tip shall be made and kept secure.

Information relating to tips

4.—(1) It shall be the duty of the owner and of the manager of every mine and of the owner and of the agent of every quarry to take such steps as may be necessary for securing that he is at all material times in possession of all information relevant for determining the nature and extent of any steps which it is requisite for him to take in order to discharge efficiently the duties imposed on him by these Regulations.

(2) The manager of a mine as such shall not be guilty of an offence by virtue of section 130(1) of the 1969 Act, and the agent of a quarry as such shall not be guilty of an offence by virtue of Article 20(2) of the 1983 Order (which provide among other things that they may be guilty of an offence where some other person contravenes a particular statutory provision) by reason of a contravention, in relation to a closed tip which is associated with the mine or quarry, of—

- (a) any provision of the 1969 Act, the 1983 Order, any statutory provision made under that Act or Order or these Regulations;
- (b) a direction, prohibition, restriction or requirement given or imposed by a notice served under the 1969 Act, the 1983 Order or these Regulations by the Department or an inspector; or
- (c) a condition attached to an exemption, consent, approval or authority granted or given under the 1969 Act, the 1983 Order or these Regulations by the Department or an inspector.

(3) In paragraph (2), the expression “manager”, in relation to a mine, includes an under-manager of the mine and any person who is for the time being treated for the purposes of the 1969 Act as the manager or an under-manager of the mine.

(4) For the purpose of determining whether an active or closed tip is, or is likely to become, insecure the Department may require the owner of the

mine or quarry with which it is associated to furnish such information as the Department may specify and may by notice served on the owner require him to carry out such procedures or conduct such tests as may be specified in the notice.

(5) Instead of, or as well as, requiring information from, or serving a notice requiring the carrying out of procedures or the conduct of tests by, the owner of the mine or quarry under paragraph (4), the Department may, in relation to an active tip, require information from, or serve a notice requiring the carrying out of procedures or the conduct of tests by, the manager of the mine or, as the case may be, the agent of the quarry.

(6) The provisions of Part XIII of the 1969 Act with respect to references upon notices served by the Department shall apply to a notice served by the Department under this regulation and accordingly, for the purposes of this regulation—

- (a) the references to “regulations” in section 146(1) and (7) of that Act shall be deemed to include a reference to these Regulations;
- (b) the references to the owner or manager of a mine in section 146(1) of that Act and in the 1970 Rules shall be deemed to include a reference to the owner or agent of a quarry;
- (c) the references to the President of the Institution of Mining Engineers in section 146(2) and (3) of that Act and in the 1970 Rules shall, in a case where a notice has been served by the Department under this regulation in relation to a tip associated with a quarry, be deemed to be a reference to the President of the Institute of Quarrying;
- (d) the references to “mines” and “mine” in section 146(3) and (4) of that Act shall be deemed to include references to “quarries” and “quarry” respectively;
- (e) any reference to “mine” in the 1970 Rules shall be deemed to include a reference to “quarry”.

(7) The following shall, for the purposes of section 146(5) of the 1969 Act, be relevant grounds of objection on a reference under this regulation, namely—

- (a) that compliance with a requirement sought to be imposed by or by virtue of the notice is, wholly or to a particular extent unnecessary, inadvisable for reasons of safety or impracticable;
- (b) that any period limited by the notice is insufficient for enabling any works to be executed or other thing done.

Drainage of tips

5.—(1) Tipping operations from every mine and quarry shall be carried out in such a way as to secure that the operations and the tip resulting from them do not cause an accumulation of water in, under or near the tip which may make the tip insecure.

- (2) Every active and closed tip shall be kept efficiently drained.

Supervision of tips

6.—(1) For every active tip the person having responsibility for the tip shall appoint a competent person to supervise or effect the carrying out of tipping operations on the tip.

(2) For every active and closed tip the person having responsibility for the tip shall appoint a competent person to supervise or effect—

- (a) any provision of a system of drainage for the tip;
- (b) the maintenance in proper order of the drainage of the tip; and
- (c) the making and keeping of the tip secure.

(3) For every active and closed tip other than a classified tip the person having responsibility for the tip shall appoint a competent person to supervise or effect the regular inspection of the tip and of the premises on which it is situated and, to the best of his ability, of its drainage.

(4) Every competent person so appointed under this regulation shall record in a book, provided for that purpose by the owner of the mine or quarry with which the tip is associated, a report of every defect revealed by any inspection of the tip, the premises on which it is situated and its drainage in pursuance of this regulation.

(5) The person having responsibility for a tip shall record in a book, provided for that purpose by the owner of the mine or quarry with which the tip is associated, the action taken to remedy any defect revealed by any inspection of the tip, the premises on which it is situated and its drainage in pursuance of this regulation.

Duties of owners and managers

7.—(1) It shall be the duty of the owner and, without prejudice to the provisions of section 14 of the 1969 Act, of the manager of every mine and of the owner of every quarry to ensure, to the best of his ability, that every person appointed by him in pursuance of these Regulations to carry out supervision or inspections understands the nature and scope of any duties which fall to be performed by that person by virtue of these Regulations.

(2) It shall be the duty of the owner of every mine and quarry with which is associated a closed tip, with respect to each report, record or other item of information on or relating to the tip which, in pursuance of any provision of these Regulations, Regulations made under section 128 of the 1969 Act or Rules made under Article 9 of the 1983 Order is entered into a book which by virtue of any of those provisions is required to be provided by him for that purpose, to secure that there is promptly brought—

- (a) to his notice; or
- (b) to the notice of any person to whom written instructions have been given by the owner in pursuance of section 1 of the 1969 Act specifying as, or including amongst, the matters with respect to which that person is charged with securing the fulfilment in relation to the tip of statutory responsibilities of the owner, matters of the class to which the provision relates,

any matter disclosed by the report, record or other item of information which either is of an abnormal or unusual nature as regards the tip or, not being of such a nature, is of a kind which will or may necessitate the taking of any steps by the owner or any other person.

Notification of beginning and cessation of tipping operations

8.—(1) If at any time tipping operations from a mine or quarry are to be begun on premises which at that time are not the site of an active or closed tip, the owner of the mine or quarry shall give notice to the Department of the intention to begin the tipping operations, and stating whether it is intended that the resulting tip is or is not to be a classified tip, not less than thirty days, or such shorter period as the Department may permit, before the beginning of the operations.

(2) Where an owner of a mine or quarry has given notice under paragraph (1) that it is intended that the resulting tip is not to be a classified tip the Department may at any time before tipping operations are begun for the purpose of ensuring the security of the resulting tip or for securing that the land on which the tipping operations are to be carried out is satisfactory for the purpose by notice served on the owner direct that the resulting tip shall be treated for the purpose of these Regulations as a classified tip, and any such notice shall, if it so specifies, become operative forthwith.

(3) The provisions of Part XIII of the 1969 Act with respect to references upon notices served by the Department shall apply to a notice served by the Department under paragraph (2) and accordingly, for the purposes of this regulation—

- (a) the references to “regulations” in section 146(1) and (7) of that Act shall be deemed to include a reference to these Regulations;
- (b) the references to the owner of a mine in section 146(1) of that Act and in the 1970 Rules shall be deemed to include a reference to the owner of a quarry;
- (c) the references to the President of the Institution of Mining Engineers in section 146(2) and (3) of that Act and in the 1970 Rules shall, in a case where a notice has been served by the Department under paragraph (2) in relation to a tip associated with a quarry, be deemed to be a reference to the President of the Institute of Quarrying;
- (d) the references to “mines” and “mine” in section 146(3) and (4) of that Act shall be deemed to include references to “quarries” and “quarry” respectively;
- (e) any reference to “mine” in the 1970 Rules shall be deemed to include a reference to “quarry”.

(4) For the purposes of section 146(5) of the 1969 Act the relevant ground of objection on a reference under this regulation shall be that compliance with the notice is unnecessary for the purpose of ensuring the security of the resulting tip or for securing that the land on which the tipping operations are to be carried out is satisfactory for the purpose.

(5) Where an owner of a mine or quarry has given notice under paragraph (1) that it is intended that the resulting tip is to be a classified tip, the tip shall be treated for the purposes of these Regulations as being a classified tip.

(6) Not more than two months after the date on which tipping operations from a mine or quarry cease at an active tip, the owner of the mine or quarry shall give notice to the Department that tipping operations have ceased at that tip.

PART III

PROVISIONS RELATING TO ACTIVE CLASSIFIED TIPS

Procedure before beginning tipping operations

9.—(1) If, at any time before tipping operations from a mine or quarry are begun on premises which at that time are not the site of an active or closed tip, an owner of a mine or quarry gives notice pursuant to regulation 8(1) that it is intended that the resulting tip is to be a classified tip or the Department gives a direction pursuant to regulation 8(2) that the resulting tip shall be treated for the purposes of these Regulations as a classified tip, then the owner shall, not less than thirty days, or such shorter period as the Department may permit, before the beginning of the tipping operations, obtain or make and thereafter keep, until the premises become the site of an active classified tip (in relation to which regulation 13 applies to impose a like duty on the manager of the mine or the owner of the quarry), at the office at the mine or quarry or at such other place as may be approved by the Department—

- (a) a geological map of the district in which it is intended that the tip shall be situated, being a map on the scale of 1/10,000 or, if a map on so large a scale is not available, a map on the nearest scale which shows the boundaries of the premises on which it is intended that the tip shall be situated and the neighbouring land within 250 metres of those boundaries;
- (b) such accurate sections of durable material on a scale of not less than 1/1,250 of the strata underlying the intended tip as may be necessary to show any variation in the thickness or character of the strata, which may affect the security of the tip, and to show, so far as it can be ascertained, the position of any known fault which may affect the security of the tip;
- (c) an accurate plan of durable material of the premises on which it is intended the tip shall be situated and of the neighbouring land within 250 metres of the boundaries of those premises being a plan—
 - (i) on a scale of not less than 1/2,500 contoured and orientated to and correlated with the Irish Grid and marked with squares corresponding to the 100 metre squares shown on an ordnance map on the scale of 1/2,500; and
 - (ii) showing all mine workings (whether abandoned or not), previous landslips, springs, artesian wells, watercourses and other natural and other topographical features which might affect the security of the intended tip or might be relevant for determining whether

the land on which the tipping operations are to be carried out is satisfactory for the purpose.

(2) If, at any time before tipping operations from a mine or quarry are begun on premises which at that time are not the site of an active or closed tip, an owner of a mine or quarry gives notice pursuant to regulation 8(1) that it is intended that the resulting tip is to be a classified tip or the Department gives a direction pursuant to regulation 8(2) that the resulting tip shall be treated for the purposes of these Regulations as a classified tip, tipping operations shall not be begun until the following conditions have been satisfied—

- (a) the owner of the mine or quarry has obtained a report from a person competent to make the report on the method of carrying out the intended tipping operations and on every other matter which might affect the security of the tip or might be relevant for determining whether the land on which tipping operations are to be carried out is satisfactory for the purpose and containing in particular—
 - (i) the designed total amount of the refuse to be deposited and average amount per week;
 - (ii) an account of any surveys, tests, boreholes and ground water measurements made for the purposes of the report and the results thereof;
 - (iii) details of the site preparation, drainage and foundations of the intended tip;
 - (iv) accurate plans of durable material on a scale of not less than 1/2,500 and sections of durable material on a scale of not less than 1/1,250 of the intended tip or on such larger scale as the Department may direct in either case by notice served on the owner of the mine or quarry, recording the design of the tip including in particular the superficial area of the land to be covered by the refuse, the gradients in respect of any such land, the designed height of the tip, the designed contours and boundaries of the tip, the designed position and nature of construction of any wall or other structure retaining or confining the tip and the nature and location of the types of refuse to be deposited;
 - (v) a specification of the intended tip showing the method of depositing and, where necessary, compacting the refuse;
 - (vi) the nature and extent of inspection, supervision and safety measures that in the opinion of the person making the report are necessary to be carried out during the tipping operations to ensure the security of the intended tip;
- (b) the owner of the mine or quarry has given notice to the Department that he has obtained the said report and any supplementary report required to be obtained under paragraph (3);

- (c) the owner of the mine or quarry has preserved the said reports at the office at the mine or quarry or at such other place as may be approved by the Department; and
- (d) a period of thirty days has expired beginning with the date on which the last of the notices referred to in this regulation became operative or such shorter period as the Department may permit.

(3) If the Department is of the opinion that additional surveys, tests, boreholes or ground water measurements ought to be made before tipping operations are begun or that provision ought to have been made in any report under this regulation for any matter for which provision was not made in the report or that different provision ought to have been made in the report, the Department may serve on the owner of the mine or quarry a notice stating that it is of that opinion, specifying the additional surveys, tests, boreholes or ground water measurements which in its opinion ought to be made or the matter for which, in its opinion, provision or, as the case may be, different provision ought to have been made in the report and the nature of the provision which, in its opinion, ought to be made, and requiring the owner to make additional surveys, tests, boreholes or ground water measurements and to obtain a supplementary report from the person who made any previous report under this regulation or from some other person competent to make the report in accordance with the tenor of the notice, and any such notice shall, if it so specifies, become operative forthwith.

(4) The provisions of Part XIII of the 1969 Act with respect to references upon notices served by the Department shall apply to a notice served by the Department under paragraph (3) and accordingly, for the purposes of this regulation—

- (a) the references to “regulations” in section 146(1) and (7) of that Act shall be deemed to include a reference to these Regulations;
- (b) the references to the owner of a mine in section 146(1) of that Act and in the 1970 Rules shall be deemed to include a reference to the owner of a quarry;
- (c) the references to the President of the Institution of Mining Engineers in section 146(2) and (3) of that Act and in the 1970 Rules shall, in a case where a notice has been served by the Department under paragraph (3) in relation to a tip associated with a quarry be deemed to be a reference to the President of the Institute of Quarrying;
- (d) the references to “mines” and “mine” in section 146(3) and (4) of that Act shall be deemed to include references to “quarries” and “quarry” respectively;
- (e) any reference to “mine” in the 1970 Rules shall be deemed to include a reference to “quarry”.

(5) For the purposes of section 146(5) of the 1969 Act the relevant ground of objection on a reference under this regulation shall be that adequate surveys, tests, boreholes or ground water measurements have already been made or that adequate provision is already made in the report for ensuring the security of the intended tip or for determining whether the land on which the tipping operations are to be carried out is satisfactory for the purpose.

Tipping rules

10.—(1) In the case of any mine or quarry with which is associated an active classified tip, the manager of the mine or, as the case may be, the owner of the quarry shall make tipping rules with respect to tipping operations on that tip and the nature of the refuse to be deposited on that tip and such rules shall in particular specify the following matters—

- (a) the manner in which tipping operations on that tip are to be carried out;
- (b) the nature and extent of supervision of such tipping operations and the precautions to be taken in carrying out such tipping operations in order to avoid a dangerous occurrence in relation to the tip and in order to keep the tip secure and which of the persons employed at the mine or quarry has been appointed under regulation 6(1) to carry out that supervision and which of them are to take those precautions;
- (c) the nature and frequency of inspections of the tip and of the premises on which it is situated and of the drainage of the tip that in the opinion of the person making the rules are necessary to be carried out during such tipping operations to ensure the security of the tip, additional to the inspections required by other provisions of these Regulations, and which of the persons employed at the mine or quarry are to carry out those inspections;
- (d) the action to be taken in respect of any defect revealed by any of those inspections.

(2) Where, after the coming into operation of these Regulations, tipping operations are begun on premises which at that time are not the site of an active or closed tip, the tipping rules shall be made upon the beginning of the operations.

(3) If, with respect to any tipping rules for the time being in force, the Department is of the opinion that the rules require modification in any particular, it may serve on the manager of the mine concerned or, as the case may be, the owner of the quarry concerned, a notice specifying the particular in which, in its opinion, the rules require modification and the nature of the modification which, in its opinion, ought to be made, and requiring the manager or owner, before the expiry of such period beginning with the date on which the notice becomes operative as may be specified in the notice, to modify the tipping rules in accordance with the tenor of the notice.

(4) The provisions of Part XIII of the 1969 Act with respect to references upon notices served by the Department shall apply to a notice served by the Department under paragraph (3) and accordingly, for the purposes of this regulation—

- (a) the references to “regulations” in section 146(1) and (7) of that Act shall be deemed to include a reference to these Regulations;
- (b) the references to the owner of a mine in section 146(1) of that Act and in the 1970 Rules shall be deemed to include a reference to the owner of a quarry;

- (c) the references to the President of the Institution of Mining Engineers in section 146(2) and (3) of that Act and in the 1970 Rules shall, in a case where a notice has been served by the Department under paragraph (3) in relation to a tip associated with a quarry, be deemed to be a reference to the President of the Institute of Quarrying;
 - (d) the references to “mines” and “mine” in section 146(3) and (4) of that Act shall be deemed to include references to “quarries” and “quarry” respectively;
 - (e) any reference to “mine” in the 1970 Rules shall be deemed to include a reference to “quarry”.
- (5) The following shall, for the purposes of section 146(5) of the 1969 Act, be relevant grounds of objection on a reference under this regulation, namely—
- (a) that compliance with the requirement sought to be imposed by or by virtue of the notice is, wholly or to a particular extent, unnecessary, inadvisable for reasons of safety or impracticable;
 - (b) that any period limited by the notice is insufficient for enabling the modification to be made.
- (6) Notwithstanding paragraph (3), a notice served under paragraph (3) shall not become operative until the expiration of the period within which a reference thereon may be demanded under Part XIII of the 1969 Act or, if within that period such a reference is so demanded, until the notice is confirmed by the referee or referees.
- (7) Any provision of tipping rules which is inconsistent with the provisions of these Regulations, Regulations made under the 1969 Act or Rules made under the 1983 Order shall, to the extent of the inconsistency, be of no effect.
- (8) A copy of all tipping rules for the time being in force with respect to a mine or quarry shall be kept at the office at the mine or quarry, or at such other place as may be approved by the Department, and it shall be the duty of the manager of every mine and the owner of every quarry with respect to which tipping rules are for the time being in force to supply to every person employed at the mine or quarry whose duties consist of or include the carrying out of tipping operations a document explaining the effect of the tipping rules so far as they concern him.
- (9) A document purporting to be certified by the manager of a mine or the owner of a quarry to be a true copy of any tipping rules for the time being in force with respect to that mine or quarry shall be receivable in evidence and shall, unless the contrary is proved, be deemed to be such a copy.

Inspections

11. In the case of any mine or quarry with which is associated an active classified tip—

- (a) the manager of the mine or, as the case may be, the owner of the quarry shall make and ensure the efficient carrying out of arrangements whereby a competent person appointed for that purpose by the

manager of the mine, or, as the case may be, by the owner of the quarry shall inspect weekly every such tip and the premises on which it is situated and to the best of his ability inspect the drainage of the tip and shall carry out such other inspections as are required by tipping rules;

- (b) a person who has carried out an inspection in pursuance of this regulation shall forthwith make and sign a full and accurate report of the inspection, and every such report, or a copy of such report, shall, until the expiration of three years after such inspection, be kept at the office at the mine or quarry or at such other place as may be approved by the Department and be open to inspection by, or by a person authorised in that behalf in writing by, any person employed at that mine or quarry;
- (c) a person who has carried out an inspection in pursuance of this regulation shall forthwith record in a book provided for that purpose by the owner of the mine or quarry a report of every defect revealed by the inspection;
- (d) the person having responsibility for a tip shall record in a book provided for that purpose by the owner of the mine or quarry the action taken to remedy any defect revealed by any inspection carried out in pursuance of this regulation.

Reports

12.—(1) Subject to paragraph (3), tipping operations shall not be carried out at any active classified tip associated with any mine or quarry unless a report has been obtained in the last two preceding years from a person competent to make the report on the tip and on every matter which might affect the security of the tip.

(2) A special supplementary report on the tip and on every matter which might affect the security of the tip shall be obtained from a person competent to make the report as soon as practicable after a dangerous occurrence has occurred in relation to the tip, or after such a change in the design of the tip or in the nature or location of the types of refuse deposited or such a variation to or departure from its specification, as might affect its security, has been made.

(3) Where after the coming into operation of these Regulations tipping operations are begun on premises which at that time are not the site of an active or closed tip, the first report, other than a special supplementary report, for the purposes of this regulation shall be obtained not more than two years after the date on which the tipping operations begin.

(4) Every report obtained for the purposes of this regulation shall contain in particular—

- (a) an opinion whether the tip is secure;
- (b) an opinion whether, so far as the person making the report can ascertain, there have been any changes in the design of the tip or in the nature or location of the types of refuse deposited or any variation to or departure from the specification since the original design and

specification (other than those noted in a previous report under these Regulations) with details of those changes;

- (c) an opinion whether, so far as the person making the report can ascertain, there has occurred or is likely to occur any subsidence or other surface movement which may affect the security of the tip with details of that subsidence or other surface movement and its effect or probable effect on the security of the tip;
- (d) an account of any surveys, tests, boreholes and ground water measurements made for the purposes of the report and the results thereof; and
- (e) the nature and extent of inspection, supervision and safety measures that in the opinion of the person making the report are necessary to be carried out during tipping operations to ensure the security of the tip.

Reports, plans and sections of tips and geological map

13.—(1) In the case of any mine or quarry with which is associated an active classified tip it shall be the duty of the manager of the mine or, as the case may be, of the owner of the quarry to keep at the office at the mine or quarry or at such other place as may be approved by the Department—

- (a) any reports on or relating to every such tip obtained under these Regulations;
- (b) any directions relating to every such tip made by the Department under these Regulations;
- (c) accurate plans and sections of every such tip showing clearly and accurately the extent of the tip up to a date within the previous fifteen months or such other date as the Department may require in any particular case, accurate plans of the premises on which every such tip is situated and of the neighbouring land within 250 metres of the boundaries of those premises and such accurate sections of the strata underlying every such tip as may be necessary to show any variation in the thickness or character of the strata which may affect the security of the tip;
- (d) a geological map of the district in which every such tip is situated, being a map on the scale of 1/10,000 or, if a map on so large a scale is not available, a map on the nearest scale which shows the boundaries of the premises on which the tip is situated and the neighbouring land within 250 metres of those boundaries.

(2) If it appears to the Department that any information which, under paragraph (1), is required to be recorded on a plan or section required to be kept by the manager of the mine or the owner of the quarry cannot be recorded thereon fully and clearly, the Department may serve on that manager or owner a notice requiring him to keep at the office at the mine or quarry with which the tip is associated or at such other place as may be approved by the Department such supplementary plan, section or drawing specified in the notice as appears to the Department to be requisite for the purpose of

recording that information fully and clearly and any such plans, sections and drawings shall be of durable material.

Records of refuse tipped

14. In the case of any mine or quarry with which is associated an active classified tip—

- (a) it shall be the duty of the manager of the mine or, as the case may be, of the owner of the quarry to make and ensure the efficient carrying out of arrangements whereby a weekly record of the nature, quantity and location of the types of refuse deposited at every such tip is entered by a competent person appointed by him in a book provided for that purpose by the owner of the mine or quarry;
- (b) it shall be the duty of the manager of the mine or, as the case may be, of the owner of the quarry to make and ensure the efficient carrying out of arrangements whereby an annual record of the nature, quantity and location of the types of refuse deposited at every such tip is made by a competent person appointed by him, and every such record, or a copy of such record, shall, until the tip ceases to be an active classified tip, be kept at the office at the mine or quarry or at such other place as may be approved by the Department and be open to inspection by, or by a person authorised in that behalf in writing by, any person employed at that mine or quarry.

Notification of change in design or specification of tips

15. Where such a change in the design of an active classified tip or in the nature or location of the types of refuse deposited or such a variation to or departure from its specification, as might affect its security, has been made, it shall be the duty of the manager of the mine or of the owner of the quarry with which the tip is associated to give notice forthwith of the change, variation or departure to the Department.

Transitional provisions for existing tips

16. Regulations 10(1), 11 (in so far as it refers to tipping rules), 12(1) and 13(1)(c) and (d) shall not apply in relation to any tip which is an active classified tip at the date of the coming into operation of these Regulations until twelve months after the said date.

PART IV

PROVISIONS RELATING TO CLOSED CLASSIFIED TIPS

Inspections

17.—(1) In the case of any mine or quarry with which is associated a closed classified tip the owner of the mine or quarry shall make and ensure the efficient carrying out of arrangements whereby a competent person appointed for that purpose by the owner shall inspect every such tip and the premises on which it is situated and to the best of his ability inspect the drainage of the tip—

- (a) where the tip consists of refuse accumulated or deposited wholly or mainly in solution or suspension, at intervals not exceeding six months;
- (b) where the tip consists of refuse accumulated or deposited wholly or mainly in a solid state and not in solution or suspension, at intervals not exceeding twelve months.

(2) A person who has carried out an inspection in pursuance of this regulation shall forthwith make and sign a full and accurate report of the inspection, and every such report, or a copy of such report, shall, until the expiration of three years after such inspection, be kept at the office at the mine or quarry or at such other place as may be approved by the Department and be open to inspection by, or by a person authorised in that behalf in writing by, any person employed at that mine or quarry.

(3) A person who has carried out an inspection in pursuance of this regulation shall forthwith record in a book provided for that purpose by the owner of the mine or quarry a report of every defect revealed by the inspection.

(4) The person having responsibility for a tip shall record in a book provided for that purpose by the owner of the mine or quarry the action taken to remedy any defect revealed by any inspection carried out in pursuance of this regulation.

(5) Every entry made in any book mentioned in paragraph (3) or (4) or a copy of that entry shall be preserved—

- (a) where the tip consists of refuse accumulated or deposited wholly or mainly in solution or suspension, until the expiration of five years after the date on which it was made or until a report has been obtained for the purposes of regulation 18, whichever is the earlier;
- (b) where the tip consists of refuse accumulated or deposited wholly or mainly in a solid state and not in solution or suspension, until the expiration of ten years after the date on which it was made or until a report has been obtained for the purposes of regulation 18, whichever is the earlier.

Reports

18.—(1) In the case of any mine or quarry with which is associated a closed classified tip the owner of the mine or quarry shall obtain—

- (a) a report from a person competent to make the report on the tip and on every matter which might affect the security of the tip—
 - (i) where the tip consists of refuse accumulated or deposited wholly or mainly in solution or suspension, at intervals not exceeding five years;
 - (ii) where a tip consists of refuse accumulated or deposited wholly or mainly in a solid state and not in solution or suspension, at intervals not exceeding ten years; and
- (b) a special supplementary report on the tip and on every matter which might affect the security of the tip from a person competent to make

the report as soon as practicable after a dangerous occurrence has occurred in relation to the tip.

(2) Every report obtained for the purposes of this regulation shall contain in particular—

- (a) an opinion whether the tip is secure;
- (b) details of any subsidence or other surface movement that has occurred which may affect the security of the tip;
- (c) an account of any surveys, tests, boreholes and ground water measurements made for the purposes of the report and the results thereof;
- (d) the nature and extent of inspection, supervision and safety measures that in the opinion of the person making the report are necessary to be carried out to ensure the security of the tip.

(3) The owner shall obtain the first report under paragraph (1)(a)—

- (a) where no report has been obtained from a person competent to make the report on the tip under any other provision of these Regulations — within two years after the tip becomes a classified tip or, in the case of a tip which is a classified tip at the date of the coming into operation of these Regulations, within two years after that date;
- (b) where a report has been obtained from a person competent to make the report on the tip under any other provision of these Regulations and the tip consists of refuse accumulated or deposited wholly or mainly in solution or suspension — within five years after the report has been obtained;
- (c) where a report has been obtained from a person competent to make the report on the tip under any other provision of these Regulations and the tip consists of refuse accumulated or deposited wholly or mainly in a solid state and not in solution or suspension — within ten years after the report has been obtained.

Recording of particulars of operations

19.—(1) In the case of any mine or quarry with which is associated a closed classified tip, it shall be the duty of the owner of the mine or quarry to make and ensure the efficient carrying out of arrangements whereby correct particulars of any operations carried out at every such tip which might affect its security are recorded by a competent person appointed by him in a book provided by him for that purpose and, where necessary, on plans, drawings and sections attached thereto.

(2) In this regulation “operations” includes surveys and tests as well as building, engineering, mining and other operations.

Reports, plans and sections of tips and geological map

20.—(1) In the case of any mine or quarry with which is associated a closed classified tip it shall be the duty of the owner of the mine or quarry to keep at the office at the mine or quarry or at such other place as may be approved by the Department—

- (a) any reports on or relating to every such tip obtained under these Regulations;
- (b) any directions relating to every such tip made by the Department under these Regulations;
- (c) accurate plans and sections of every such tip showing clearly and accurately the extent of the tip up to the date on which it ceased to be used for the deposit of refuse from the mine or quarry, accurate plans of the premises on which every such tip is situated and of the neighbouring land within 250 metres of the boundaries of those premises and such accurate sections of the strata underlying every such tip as may be necessary to show any variation in the thickness or character of the strata which may affect the security of the tip;
- (d) a geological map of the district in which every such tip is situated, being a map on the scale of 1/10,000 or, if a map on so large a scale is not available, a map on the nearest scale which shows the boundaries of the premises on which the tip is situated and the neighbouring land within 250 metres of those boundaries;
- (e) all records (or copies thereof) of refuse deposited at every such tip made pursuant to regulation 14(b);
- (f) all records of operations carried out at every such tip made pursuant to regulation 19.

(2) If it appears to the Department that any information which, under paragraph (1), is required to be recorded on a plan or section required to be kept by the owner of the mine or quarry cannot be recorded thereon fully and clearly, the Department may serve on that owner a notice requiring him to keep at the office at the mine or quarry with which the tip is associated or at such other place as may be approved by the Department such supplementary plan, section or drawing specified in the notice as appears to the Department to be requisite for the purpose of recording that information fully and clearly and any such plans, sections and drawings shall be of durable material.

(3) In the case of any tip which is a closed classified tip at the date of the coming into operation of these Regulations, paragraph (1)(c) and (d) shall not apply until two years after that date, and in the case of any tip which becomes a closed classified tip after that date by virtue of a direction given by the Department under these Regulations, paragraph (1)(c) and (d) shall not apply until two years after that direction becomes operative.

PART V

TIPPING PLANS

Application

21. This Part shall apply to all such plans and sections of active classified tips or closed classified tips associated with mines and quarries and to all such sections of the strata underlying these tips as are required to be kept in pursuance of regulations 13(1)(c) and 20(1)(c).

Plans and sections

22.—(1) Every plan shall be on a scale of not less than 1/2,500 and every section shall be on a scale of not less than 1/1,250.

(2) Every plan and section shall be of durable material.

Correlation with Irish Grid

23. Every plan shall be orientated to and correlated with the Irish Grid and marked with squares corresponding to the 100 metre squares shown on an Ordnance map on the scale of 1/2,500.

Contour lines, gradient and faults

24.—(1) Every plan shall be marked with contour lines showing vertical variations from Ordnance Datum at intervals not exceeding five metres.

(2) In every case the vertical variation represented by any consecutive contour lines marked on every such plan shall be the same throughout the plan and the lines shall be marked with the height relative to the Ordnance Datum.

(3) Every plan shall show the general direction and rate of dip of the strata underlying the tip.

(4) Every plan and section shall show, so far as it can be ascertained, the position of any known fault which may affect the security of the tip.

Topographical features

25. Every plan shall show all mine workings (whether abandoned or not), previous landslips, springs, artesian wells, watercourses and other natural and other topographical features which might affect the security of the tip or might be relevant for determining whether the land on which tipping operations are to be carried out is satisfactory for the purpose.

Design, etc.

26. Every plan and section shall show the land covered or to be covered by the refuse to be deposited, the designed height for the time being of the tip, the designed contours and boundaries for the time being of the tip and the nature and location of the types of refuse deposited at the tip up to a date within the previous fifteen months or such other date as the Department may require in any particular case.

Correlation

27. Every plan shall indicate—

(a) the direction of the Irish Grid North;

(b) the date on which it was made; and

(c) the date on which it was last revised.

PART VI

RESUMPTION OF TIPPING OPERATIONS AT CLOSED TIPS

Notification of resumption of tipping operations

28.—(1) If at any time tipping operations from a mine or quarry are to be resumed at a tip which at that time is a closed tip, the owner of the mine or quarry shall give notice to the Department of the intention to resume the tipping operations and, where the tip is not a classified tip, stating whether it is intended that the tip is or is not to become a classified tip, not less than thirty days or such shorter period as the Department may permit, before the resumption of the operations.

(2) The provisions of paragraphs (2) to (5) of regulation 8 shall apply in relation to such a notice as they apply in relation to a notice under regulation 8(1) as if the reference in those paragraphs to the resulting tip were a reference to the closed tip and as if the reference in regulation 8(2) to the beginning of tipping operations were a reference to their resumption.

Procedure before resumption at classified tips

29.—(1) If at any time tipping operations from a mine or quarry are to be resumed at a tip which at that time is a closed classified tip or if an owner of a mine or quarry with which is associated a closed tip, at which tipping operations are to be resumed but which is not a classified tip, gives notice pursuant to regulation 28(1) that it is intended that the tip is to become a classified tip, or if the Department before tipping operations from a mine or quarry are resumed at a closed tip which is not a classified tip gives a direction by virtue of regulation 28(2) that the tip shall be treated as a classified tip—

- (a) the owner of the mine or quarry, with which the tip is associated, shall, not less than thirty days, or such shorter period as the Department may permit, before the resumption of tipping operations at that tip from the mine or quarry, obtain or make and thereafter keep, until the premises become the site of an active classified tip, at the office at the mine or quarry or at such other place as may be approved by the Department such map, sections and plans as are required to be obtained or made and kept by regulation 9(1);
- (b) tipping operations shall not be resumed at that tip from the mine or quarry until such conditions are satisfied as are specified in regulation 9(2); but nothing in this sub-paragraph shall require the owner to obtain a report within two years of any report already obtained on the tip and on every matter which might affect the security of the tip under regulations 9(2)(a), 9(3) and 12(1), unless such a change in the design of the tip or in the nature or location of the types of refuse deposited or such a variation to or departure from its specification, as might affect its security, has been made.

(2) The provisions of regulation 9(3) to (5) shall apply as if the reference in regulation 9(3) to reports under that regulation were a reference to the reports required to be obtained by virtue of paragraph (1)(b) and as if the

reference in regulation 9(3) to the beginning of tipping operations were a reference to their resumption.

Tipping rules

30. Where after the coming into operation of these Regulations tipping operations are resumed at a tip which at that time is a closed classified tip tipping rules shall be made upon the resumption of those operations.

PART VII

MISCELLANEOUS PROVISIONS

Transmission of plans, etc. relating to tips ceasing to be associated with a mine or quarry

31.—(1) In the event of the abandonment of a mine or quarry, the owner of the mine or quarry shall within three months thereafter send to the Department—

- (a) all such plans, drawings and sections relating to tips associated with the mine or quarry as were required to be kept under these Regulations;
- (b) all such reports or records relating to tips associated with the mine or quarry as were required to be kept by virtue of regulations 13, 14(b) and 20.

(2) Subject to paragraph (3), plans, drawings, sections and other information sent to the Department under paragraph (1) shall be preserved by the Department or by some other person under arrangements made or approved by the Department.

(3) Where, at the time at which the working of a mine or quarry is resumed, any plans, drawings, sections or other information relating to a tip associated, or formerly associated, with the mine or quarry are, by virtue of paragraph (2), preserved by the Department or by some other person (not being the owner of the mine or quarry), the owner shall, on giving not less than fourteen days' notice to the person by whom they are preserved and (where that person is not the Department) to the Department, be entitled to have the plans, drawings, sections and other information delivered to him.

(4) If required to do so before the expiry of a notice given by him under paragraph (3), the owner of a mine or quarry shall afford to the Department a reasonable opportunity of making copies of the whole, or such part as the Department thinks fit, of any plans, drawings, sections and other information to which the notice relates.

Owner to send plans, etc. to the Department

32. Before an owner of a mine or quarry with which is associated an active or closed tip parts with the exclusive occupation of the whole of the premises on which the tip is situated, he shall send to the Department all such plans, drawings, sections, reports and records relating to the tip as are mentioned in regulation 31 or an accurate copy thereof.

Directions

33.—(1) The Department may at any time not already provided for in these Regulations by notice served on the person having responsibility for a tip which is not a classified tip for the purpose of ensuring the security of the tip direct that the tip shall be treated for the purposes of all or any of these Regulations as a classified tip and any such notice shall, if it so specifies, become operative forthwith.

(2) The provisions of Part XIII of the 1969 Act with respect to references upon notices served by the Department shall apply to a notice served by the Department under paragraph (1) and accordingly, for the purposes of this regulation—

- (a) the references to “regulations” in section 146(1) and (7) of that Act shall be deemed to include a reference to these Regulations;
- (b) the references to the owner of a mine in section 146(1) of that Act and in the 1970 Rules shall be deemed to include a reference to the owner of a quarry;
- (c) the references to the President of the Institution of Mining Engineers in section 146(2) and (3) of that Act and in the 1970 Rules shall, in a case where a notice has been served by the Department under paragraph (1) in relation to a tip associated with a quarry, be deemed to be a reference to the President of the Institute of Quarrying;
- (d) the references to “mines” and “mine” in section 146(3) and (4) of that Act shall be deemed to include references to “quarries” and “quarry” respectively;
- (e) any reference to “mine” in the 1970 Rules shall be deemed to include a reference to “quarry”.

(3) For the purposes of section 146(5) of the 1969 Act the relevant ground of objection on a reference under this regulation shall be that compliance with the notice is wholly, or to a particular extent, unnecessary for the purpose of ensuring the security of the tip.

Conduct of employees

34.—(1) Without prejudice to the generality of section 3(3) of the 1969 Act, every person employed at an active or closed tip shall obey any instruction given to him by any person upon whom duties are laid by these Regulations, being an instruction given by that person for the purpose of the performance of those duties.

(2) A person so employed shall not impede or obstruct any other person in the performance of such duties.

(3) Regulation 4(1) of the Coal and Other Mines (General Duties and Conduct) Regulations (Northern Ireland) 1970(a) shall not apply to any such instruction and regulation 4(2) of those Regulations shall not apply to such duties.

(a) S.R. & O. (N.I.) 1970 No. 133.

Exemption certificates

35.—(1) Subject to paragraph (2), the Department may, by a certificate in writing served on the person having responsibility for a tip, exempt—

- (a) in the case of an active tip, the mine or quarry with which the tip is associated or any part thereof including the tip; or
- (b) in the case of a closed tip, the tip or any part thereof,

from the application of any of the provisions of these Regulations, and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by a certificate in writing served on the person having responsibility for the tip.

(2) The Department shall not grant any such exemption unless, having regard to the circumstances of the case and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirement imposed by or under any statutory provision which applies to the case,

it is satisfied that the security of the tip will not be prejudiced in consequence of the granting of the exemption.

Sealed with the Official Seal of the Department of Economic Development on 24th July 1995.

(L.S.)

Philip B. Strong

Assistant Secretary

(This note is not part of the Regulations.)

These Regulations apply to tips associated with mines and quarries.

Regulations 3 to 8 set out general requirements notably in relation to the provision of information relating to tips and the drainage, supervision, maintenance and inspection of tips. The beginning and ending of all tipping operations must be notified to the Department of Economic Development ("the Department").

Regulations 9 to 27 set out more detailed provisions applicable to "classified tips", i.e. tips which because of their size or location are more likely to present a potential hazard. These provisions cover inspections and the making and keeping of records and reports and of maps, sections and plans to particular specifications. Different provision is made for tips which are operating and tips which are closed. "Classified tips" are defined in regulation 2 but the Department may serve a notice directing that a tip shall be treated for the purposes of these Regulations as a classified tip (regulations 8(2) and 33). This as well as certain other notices served by the Department can be referred to a referee (regulations 4(6) and (7), 8(3) and (4), 9(4) and (5), 10(4) to (6) and 33(2) and (3)).

Provision is also made requiring the manager of a mine or the owner of a quarry with which is associated an active classified tip to make rules with respect to tipping operations on that tip (regulation 10).

Regulation 15 requires notice of a change in the design or specification of an active classified tip which might affect its security to be given to the Department.

Regulations 28 to 30 require notice to be given of the resumption of tipping operations at a closed tip. More detailed requirements are set out in relation to classified tips.

Regulations 31 and 32 provide for the preservation of records relating to a tip where the mine or quarry associated with it is abandoned or where the tip changes ownership.

Regulation 34 deals with the conduct of employees.

Regulation 35 provides that the Department, by a certificate in writing may, subject to conditions, grant exemptions from the Regulations.

A person who contravenes the Regulations is guilty of an offence under Article 31 of the Health and Safety at Work (Northern Ireland) Order 1978 and is liable, on summary conviction, to a fine not exceeding the statutory maximum (currently £5,000) or, on conviction on indictment, to a fine.