SCOTTISH STATUTORY INSTRUMENTS

2010 No. 60

The Management of Extractive Waste (Scotland) Regulations 2010

PART 7

CONSTRUCTION AND MANAGEMENT

Prevention of water status deterioration, air and soil pollution

23.—(1) In providing documentation to the planning authority (or, where appropriate, SEPA) in accordance with a condition attached by virtue of regulation 14, the operator shall provide evidence, both prior to the commencement of any operations and during operations demonstrating, where applicable, compliance with the Water Environment and Water Services (Scotland) Act 2003(**1**) and the Water Environment (Controlled Activities) (Scotland) Regulations 2005(**2**), through—

(a) the evaluation of the leachate generation potential, including contaminant content of the leachate, of the deposited waste during the operational phase of the waste facility and determined water balance of that facility;

(b) prevention or minimisation of leachate generation and surface water or groundwater and soil from being contaminated by the waste;

(c) collection and treatment of contaminated water and leachate from the waste facility to the appropriate standard required for their discharge; and

(d) the taking of adequate measures to prevent or reduce dust and gas emissions.

(2) The planning authority (or, where appropriate, SEPA) may reduce or waive compliance with the requirements of paragraph (1)(b) and (c), during both the operational and after-closure phases, where it has assessed environmental risks, taking into account in particular and as applicable Directives 76/464/EEC, 80/68/EEC or 2000/60/EEC, and has decided that—

(a) the collection and treatment of leachate is not necessary, or

(b) it has been established that the waste facility poses no potential hazard to soil, groundwater or surface water.

(3) Where the operator disposes or intends to dispose of extractive waste, whether in solid, slurry or liquid form, into any receiving body of water other than one constructed for the purpose of disposing of extractive waste, the operator shall provide and submit evidence to demonstrate that the operator has complied, or will on disposal comply, with Directives 76/464/EEC, 80/68/EEC and 2000/60/EEC.

(4) Where the operator places or intends to place extractive waste back into excavation voids, whether created through surface or underground extraction and which will be allowed to flood after closure, the operator shall provide and submit evidence to demonstrate—

(**1**) asp 3.
(**2**) S.S.I. 2005/348.

(a) that the operator has taken, or will when the extractive waste is so placed take, the necessary measures to prevent or minimise water status deterioration and soil pollution in accordance with paragraphs (1)(b), (c) and (d), insofar as applicable; and

(b) compliance with Community obligations, in particular those in Directive 2000/60/EC.

(5) Where the operator manages or intends to manage a pond involving the presence of cyanide, the operator shall provide and submit evidence to demonstrate—

(a) that the concentration of weak acid dissociable cyanide in the pond is reduced to the lowest possible level using best available techniques, or when the pond is so managed will be reduced to that level using such techniques; and

(b) evidence that the concentration of weak acid dissociable cyanide at the point of discharge of the tailings from the processing plant into the pond does not exceed 10 parts per million at waste facilities.

(6) Where the planning authority so requests, the operator shall demonstrate through a risk assessment that takes site-specific conditions into account that the concentration limits in paragraph (5)(b) need not be further lowered.