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Review of Inert Waste Regulation

A Discussion Paper
December 2007



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1. About this Document

Introduction

- 1.1. Defra, the Welsh Assembly Government and the Environment Agency are undertaking a review of the regulation of inert waste. This review does not affect the position in Scotland and Northern Ireland.
- 1.2. The aim of the review is to provide a more risk-based and proportionate approach to the regulation of inert waste. This discussion paper aims to inform and to seek the views of those who are interested in the regulation of inert waste.
- 1.3. In the rest of this paper, references to the Government are to Defra and the Welsh Assembly Government (WAG).

How to provide your views

- 1.4. The questions asked in this paper are all listed in Annex 1.
- 1.5. Written views on this discussion paper may be submitted, preferably by email, to the addresses below.
- 1.6. We will be accepting views for at least 13 weeks so please can you provide these by 21 March 2008.
- 1.7. We intend to organise one or more workshops during this period to help you respond to the discussion paper. The workshop date or dates will be given on the Defra website. Everyone who received this discussion paper by e-mail will be notified of the workshop date or dates.
- 1.8. Please return any views you may have to:

By email: inertwaste@defra.gsi.gov.uk

By post: Inert Waste Review
Waste Licensing Unit
Defra
Area 6D
Ergon House
17 Smith Square
London
SW1P 3JR

Or in Wales:

By email: waste@wales.gsi.gov.uk

By post: Waste Policy Branch
Welsh Assembly Government
First Floor
Room 1-002
Cathays Park (CP2)
Cardiff
CF10 3NQ

1.9. If you have any enquiries relating to this discussion paper please email via the addresses above or call:

In England: 020 7238 4351; or
020 7238 4331

Or in Wales: 02920 823665

2. Background

Context

- 2.1. Businesses are concerned about the level of regulation of inert waste deposits. The Quarry Products Association published a Position Statement¹ in June 2006 which described these concerns. A particular issue raised by the Quarry Products Association is the need to ensure that inert waste remains available to restore mineral extraction sites.
- 2.2. The current level of regulation of inert waste deposits ranges from the highly regulated disposal of characterised waste in engineered landfills to the spreading of waste on land with a lower level of active regulatory control. The disposal of inert waste in a permitted landfill costs significantly more (including, in some cases, landfill tax) than the spreading of waste on land without the need for a licence.
- 2.3. The cumulative impact of differences in the level of regulation, waste characterisation and associated costs could lead to undesirable environmental and business outcomes.
- 2.4. The Davidson Review² reported in November 2006. The review recommended that Defra and the Environment Agency should conduct a full review of the regulation of inert waste with the aim of adopting a more proportionate and risk based regulatory landscape.
- 2.5. It was recommended that the review should cover:
 - the appropriate use of inert waste exemptions [derogations] in EC legislation;
 - the creation of a more level playing field between different activities involving inert waste (proportionate to the risk posed);
 - how the implementation of the waste acceptance criteria might be made more efficient;
 - inconsistencies with the landfill tax regime; and
 - the quality of guidance, including the issue of when an activity should be classified as recovery or disposal.

¹ Position Statement from the Quarry Products Association
<http://www.qpa.org/downloads/inertfull.pdf>

² Davidson Review of the Implementation of EU Legislation
http://www.cabinetoffice.gov.uk/regulation/reviewing_regulation/davidson_review/index.asp

- 2.6. The Hampton Review³ proposes entrenching the principle of risk assessment throughout the regulatory system, so that the burden of enforcement falls most on highest-risk businesses and least on those with the best records of compliance.
- 2.7. The Government is committed to improving the way business is regulated⁴.
- 2.8. The Environment Agency is committed to a regulatory regime that helps business and individuals to improve, rewards good performers but is tough on those who do not meet acceptable standards⁵.
- 2.9. It is in this context that the review of the regulatory framework for inert waste has been undertaken.

What is inert waste?

- 2.10. Inert waste is defined for the purposes of the Landfill Directive (article 2(e)). Inert waste means:

“waste that does not undergo any significant physical, chemical or biological transformations; Inert waste will 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. The total leachability and pollutant content of the waste and the ecotoxicity of the leachate must be insignificant and in particular not endanger the quality of surface water and/or groundwater.”

- 2.11. The Landfill Directive also provides a list of wastes that can be considered to meet the criteria of inert waste provided they are from a single source and are free from the suspicion of contamination. This list is reproduced as Table A1 in Annex 2. Wastes other than those on the Directive list can be inert waste provided they are tested and meet certain numerical waste acceptance criteria.
- 2.12. Although the term “inert waste” is widely used it is not actually defined other than in the context of landfill (see paragraphs 2.28 to 2.29 below on the situation for “inert waste” with respect to the Mining Waste Directive) . In the context of landfill, the meaning of “inert waste” relates to a number of requirements in the Landfill Directive. To avoid any potential confusion, this paper will only use the term “inert waste” in the context of landfill.

³ Reducing administrative burdens: effective inspection and enforcement
http://www.hm-treasury.gov.uk/budget/budget_05/press_notices/bud_bud05_presshampton.cfm

⁴ Better Regulation
<http://www.defra.gov.uk/corporate/regulat/better/index.htm>

⁵ Modern Regulation
http://www.environment-agency.gov.uk/business/1745440/1745559/?version=1&lang=_e

- 2.13.** This paper will concentrate on wastes generated by the Construction, Demolition and Excavation (CD&E) industry. The CD&E sector generates such wastes as brick, concrete, hardcore and subsoil. For simplicity this paper will describe these wastes as inert CD&E waste.
- 2.14.** CD&E wastes can also include quantities of timber, metal, plastics and potentially some hazardous waste materials such as asbestos and chemically contaminated materials. These hazardous and non-hazardous wastes cannot be inert wastes and are therefore outside the scope of this review.
- 2.15.** There is a standard means of classifying wastes. This is provided in the List of Waste Regulations⁶. The codes from these Regulations will be used in this paper to identify the relevant waste types.
- 2.16.** Table A2 in Annex 2 sets out the inert CD&E waste that this paper will consider.

The regulatory framework

- 2.17.** The regulatory framework for inert waste is summarised in the following paragraphs. Later sections of this paper provide more detail on each part of the regulatory framework.
- 2.18.** The “Duty of Care” is one of the main ways in which the handling of waste is controlled. It is set out in section 34 of the Environmental Protection Act 1990, and meets the UK’s obligations under article 8 of the European Community’s Waste Framework Directive (2006/12/EC) to take measures to place responsibilities on holders of waste. It applies to producers of waste as well as anyone who subsequently takes responsibility for the waste. The duty of care places a legal duty on anyone who has control of waste to ensure that waste is not allowed to escape from control, that it is only handed on to an authorised person and that all reasonable efforts are made to ensure that the waste is not illegally disposed of.
- 2.19.** In general, anyone who recovers or disposes of waste requires a permit from the Environment Agency. The requirement for a permit is set out in articles 9 and 10 of the Waste Framework Directive.
- 2.20.** Article 11 of the Waste Framework Directive does allow for some waste activities to be exempt from the need to hold a permit. These are commonly known as “exemptions” or “exempt sites”.
- 2.21.** The European Community’s Landfill Directive provides specific requirements for the disposal of waste on land. A permit for a landfill must meet the requirements of both the Landfill Directive and the Waste Framework Directive.

⁶ List of Wastes (England) Regulations 2005 SI 895 and List of Wastes (Wales) Regulations 2005 SI 1820. These can be found at the NetRegs website: <http://www.netregs.gov.uk/netregs/legislation/287972/652894/658423/?version=1&lang=e>

- 2.22.** Landfills for hazardous and non-hazardous waste are also covered by the Integrated Pollution Prevention and Control (IPPC) Directive . Landfills for inert waste (and very small landfills) are excluded from the scope of the IPPC Directive.
- 2.23.** Landfills currently require a Pollution Prevention and Control (PPC) permit. Recovery operations involving the deposit of waste on land require a waste management licence or an exemption from the need to have a waste management licence.
- 2.24.** Environmental Permitting⁷ is a new permitting system for England and Wales. The regime is due to come into force in April 2008. Environmental Permitting will provide a single, simplified permitting system to replace waste management licensing and Pollution Prevention and Control permits.
- 2.25.** When the Environmental Permitting Regulations come into force anyone who recovers or disposes of waste will require either an environmental permit or an exemption from the need to have an environmental permit – an “exempt waste operation”. These permits must ensure that the relevant requirements of the applicable European Directives are met.
- 2.26.** The Environmental Permitting Regulations will allow the Environment Agency to create a simpler form of permits known as “standard permits”. These standard permits will require that the operator complies with “standard rules”. The Environment Agency will develop these standard rules at a national level and in consultation with industry.
- 2.27.** Figure 1 provides an illustration of the regulatory framework for inert waste under Environmental Permitting.

The Mining Waste Directive

- 2.28.** The European Community’s Mining Waste Directive (Directive on the management of waste from extraction industries 2006/21/EC) is intended to “cover the management of waste from land-based extractive industries, that is to say, the waste arising from prospecting, extraction (including the pre-production development stage), treatment and storage of mineral resources and from the working of quarries” (recital 6).
- 2.29.** Waste covered by the Mining Waste Directive no longer falls within the scope of the Waste Framework Directive and Landfill Directive, so is not subject to the requirements of those two Directives.

⁷ Environmental Permitting
<http://www.defra.gov.uk/environment/epp/index.htm>

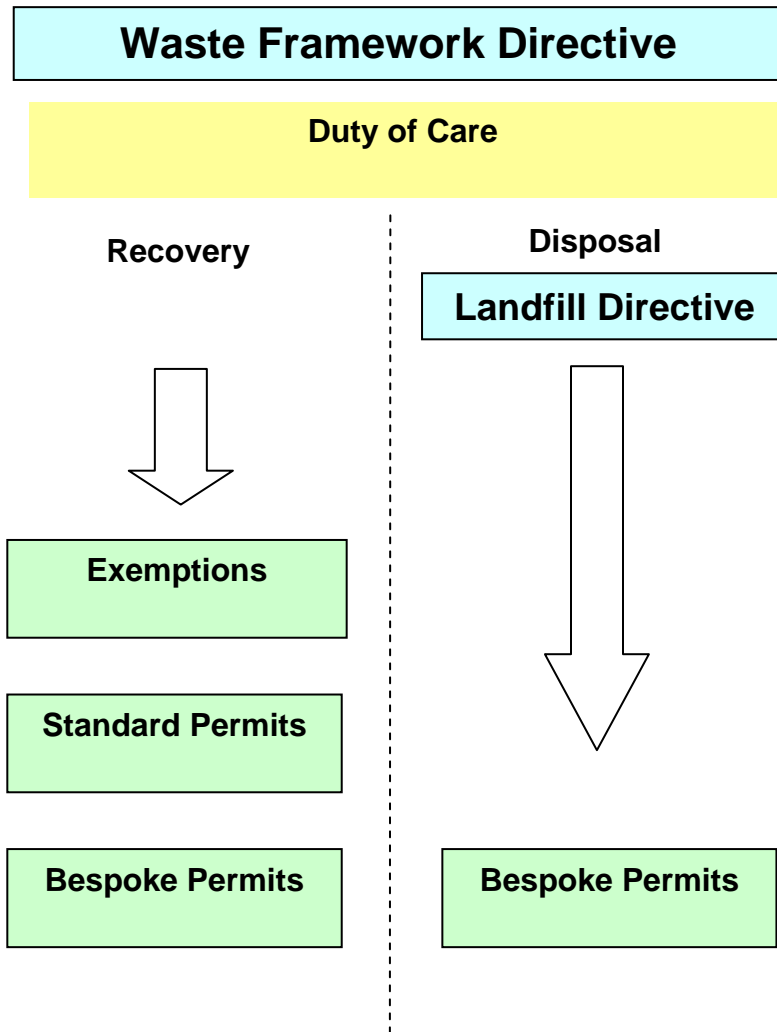
Structure of this document

2.30. The following sections set out the issues and the possible ways forward under the headings of:

- Waste production and producers – Chapter 3
 - Waste production;
 - Recycling and waste treatment;
 - Ceasing to be a waste;
 - Duty of Care;
- Recovery of waste – Chapter 4
 - Recovery or disposal;
 - Recovery activities;
- Disposal of waste – Chapter 5
 - Landfill Directive;
 - Descriptions of waste for landfill.

2.31. A summary is provided in Chapter 6. This acknowledges that there is no simple, single solution to the issues however a combination of changes to different areas of regulation can produce a more proportionate regulatory framework for inert CD&E wastes.

Figure 1 - Illustration of the regulatory framework for inert CD&E waste under Environmental Permitting



3. Waste production and producers

Waste production

- 3.1. The production of inert construction, demolition and excavation (CD&E) waste in England is estimated to have been around 90 million tonnes⁸ in 2005. In Wales the estimated production of inert CD&E wastes was 10.8 million tonnes⁹.
- 3.2. Further information on waste production and on waste strategy for the CD&E sector can be found on the Defra, Welsh Assembly Government and Environment Agency websites¹⁰. It is important that the suggested actions in this paper are consistent with the overall strategic direction for the CD&E sector.
- 3.3. Waste Strategy 2007 sets out three specific targets for CD&E wastes in England. These relate to the diversion of CD&E waste from landfill, improved resource efficiency and for some major construction projects to be “waste-neutral”.
- 3.4. Proposed target 1 in Waste Strategy 2007 is to halve the CD&E waste going to landfill by 2012. It is important to note that this applies to all CD&E waste and not just the inert element. The target specifically excludes the diversion of waste from landfill to exempt sites, backfilling quarry voids, site restoration and landfill engineering.
- 3.5. Wales Waste Strategy 2002 (currently being reviewed) set out targets in relation to CD&E waste produced. The revised waste strategy is likely to impose stricter targets for this waste.
- 3.6. There is a significant level of illegal waste management activity in the CD&E sector¹¹. It will be important to consider this illegal activity when looking at the overall regulatory framework for inert CD&E waste.
- 3.7. The Environment Agency is developing a Construction Sector Partnership Plan with bodies representing the main construction contractors and representative organisations of smaller businesses in the sector. This seeks to put the relationship with the construction sector on to a more practical

⁸ Survey of Arisings and Use of Alternatives to Primary Aggregates in England, 2005 Construction, Demolition and Excavation Waste

<http://www.communities.gov.uk/publications/planningandbuilding/survey>

⁹ Source : Environment Agency Wales Construction and Demolition Waste survey 2005-06 due to be published early 2008

¹⁰ Waste Strategy information can be found at:

http://www.environment-agency.gov.uk/subjects/waste/1031954/315439/?version=1&lang=_e

http://new.wales.gov.uk/topics/environmentcountryside/epq/waste_recycling/wise_about_waste_strategy?lang=en

<http://www.defra.gov.uk/environment/waste/strategy/review/index.htm>

¹¹ Information on flytipping can be found at:

<http://www.defra.gov.uk/environment/localenv/flytipping/index.htm>

basis to foster partnership working and to support compliance as a first step, and then improved practices to protect and enhance the environment.

- 3.8.** Government has consulted on a legal requirement in England for site waste management plans (SWMP)¹². These would apply to developments over a certain value and would mean that clients and principal contractors with responsibility for construction projects would have to consider explicitly each waste stream and the necessary options for their management.
- 3.9.** It is the intention that Government guidance on the content of site waste management plans would cover requirements such as waste characterisation and treatment before a waste could be landfilled.

Recycling and waste treatment

- 3.10.** Waste Strategy 2007 identifies that reuse and recycling of inert CD&E wastes is now normal practice with recycling rates of 80% or more achieved on some projects. There is however still scope for improvement, by ensuring that reuse and recycling practices become even more widespread.

Landfill Directive Requirements

- 3.11.** The Landfill Directive requires waste to be treated before it is landfilled. Under article 2(h) of the Directive, 'treatment' means the physical, thermal, chemical or biological processes, including sorting, that change the characteristics of the waste in order to reduce its volume or hazardous nature, facilitate its handling or enhance recovery. For inert waste, treatment is always required before it is landfilled unless treatment is not technically feasible.
- 3.12.** Possible treatments for inert waste can include physical crushing, segregation, sorting, washing or screening to make it suitable for use. Segregation or sorting materials can be an acceptable treatment provided the separated materials are not then all sent to landfill for disposal.

Ceasing to be a waste

- 3.13.** Waste materials can often be recovered and at a certain point they may no longer be regarded as a waste, but as a product. This point is reached when there is evidence to support the conclusion that the waste has been the subject of a complete recovery operation and has been fully recovered within the terms of the Waste Framework Directive.
- 3.14.** For the wastes generated by the CD&E industry there is significant scope to reuse waste materials or recycle wastes into construction materials.

¹² Consultation on site waste management plans for the construction industry
<http://www.defra.gov.uk/corporate/consult/construction-sitewaste/index.htm>

- 3.15. A quality protocol for the production of aggregates from inert waste has been developed¹³. The purpose of the Quality Protocol is to provide a standard process for producers which enables them to demonstrate, in an auditable way, that their product has been fully recovered and is no longer to be considered as a waste. The protocol also gives the user confidence that products produced in accordance with the protocol will meet the right specification for use as non-waste.

Possible ways forward – waste protocols

- 3.16. Work should continue on protocols that provide a means of demonstrating that waste has been fully recovered and is a non-waste product. The aggregate protocol is currently being reviewed. Protocols should provide a robust, auditable process that sets clear standards.

Q 1. What are the advantages and disadvantages of the quality protocol approach in the regulation of inert CD&E waste?

Duty of Care

- 3.17. The duty of care is an important requirement that places responsibilities on the producer and any other holders of the waste to ensure that the waste is properly controlled, is only passed to an authorised person, which will include an appropriate recovery or disposal facility.
- 3.18. Defra have consulted¹⁴ on a review of the duty of care. The aim of the review is to reduce illegal waste activity and to simplify the regimes, making them easier for businesses to comply with and for regulators to enforce.

Describing the waste

- 3.19. The duty of care requires, when waste is transferred, a written description of the waste with the appropriate List of Waste code – the waste transfer note.
- 3.20. The review of the duty of care should help deliver a reduction in the mis-management of waste. It is essential for the correct management of waste that the wastes arising from the CD&E industry are correctly described. This applies equally to the treatment industry for CD&E wastes, where treatment residues may go to landfill or to a waste recovery activity.

¹³ http://www.aggregain.org.uk/quality/quality_protocols/index.html

¹⁴ <http://www.defra.gov.uk/corporate/consult/waste-controls/doc-061129.pdf>

3.21. Inert waste listed in the Landfill Directive (Table A1 in Annex 2) can be landfilled without testing providing it is from a single source and there is no reason to suspect that the waste is contaminated. However if that same material is sent to a recycling facility, the residues from the process, which are now from more than one source, would require testing if they were to be landfilled. It is anecdotally suggested that this is providing a disincentive to recycle the waste and an incentive to mis-describe the waste.

Characterising the waste

3.22. Characterisation of waste is about identifying the properties and nature of the waste in a way that allows an understanding of the potential risk the waste presents to the environment. It is usually the producer of the waste who is best placed to characterise the waste.

3.23. The Landfill Directive requires that all waste destined for disposal in landfill is subject to “basic characterisation”. This basic characterisation must provide all the information necessary to ensure the safe disposal of the waste.

3.24. The consultation on the duty of care discusses the possible use of waste transfer notes to demonstrate compliance with the requirements of basic characterisation and pre-treatment for the purposes of the Landfill Directive. This might help place the responsibility for describing the waste on the producer.

3.25. The requirement for basic characterisation only applies to waste destined for disposal in landfill. The duty of care however, requires that waste is adequately described to ensure that it meets the terms of the permit of the site to which it is going. This requirement applies to permits for recovery operations as well as disposal (see the section on “Permits for recovery activities”). The duty of care requirement to adequately characterise the waste also applies to waste going to a site exempt from the need to hold a permit.

3.26. For the inert wastes that can be landfilled without testing (Table A1 in Annex 2 to this document) the information on basic characterisation can potentially be assessed on receipt at a landfill. However it is likely that, for the listed wastes, and all other inert CD&E waste the information required to characterise the waste will have to be assessed in advance by the operator of the landfill.

3.27. The recovery of waste must take place in a way that does not endanger human health or harm the environment. For recovery sites, the duty of care should require a description of the properties and nature of the waste sufficient to meet this objective. This could include site investigation information where available (for example borehole or trial pit information and analyses of soils samples). It is likely that this information would also have to be viewed in advance of receipt at the recovery site.

Possible ways forward – Duty of Care

- 3.28.** The information required on a waste transfer note could include the basic characterisation required by the Landfill Directive. For recovery operations the information required should relate to the characterisation requirements of the permit.
- 3.29.** If this proposal is taken forward, the resultant guidance should clearly set out the different waste characterisation requirements for disposal and recovery permits and how the characterisation should be recorded.
- 3.30.** The Environment Agency proposes that its monitoring and enforcement activities with respect to inert CD&E waste should focus on illegal activity and ensuring that the producers and handlers of the waste deal with it in an appropriate way. Enforcement of the duty of care will be an important element of this.
- 3.31.** Industry trade bodies, with the support of Government and the Environment Agency, should develop Codes of Practice that help producers to describe, code and characterise their waste.

Revisions to the Duty of Care are being consulted on separately and so this discussion document is not asking for views on this element of the review of inert waste regulation.

4. Recovery of waste

Recovery or disposal?

- 4.1. The Waste Framework Directive¹⁵ provides the statutory basis for regulating waste activities.
- 4.2. The Waste Framework Directive makes a distinction between recovery and disposal activities and this distinction is critical in determining how the activity is regulated.
- 4.3. Both recovery and disposal activities are required by the Waste Framework Directive to have a permit that ensures environmental protection. However the Directive provides that recovery activities can be exempt from the need to hold a permit. Disposal activities can only be exempt from the need to hold a permit if the activity is carried out by the producer where the waste is produced and the waste is non-hazardous.
- 4.4. The Landfill Directive requirements only apply to waste disposal and not to recovery activities.

Deciding whether waste is being recovered

- 4.5. The responsibility for the interpretation of EC legislation, including the Waste Framework Directive, ultimately rests with the European Court of Justice (ECJ). The judgment that contributes to determining the distinction between recovery and disposal at present is the "Abfall" ruling – which has been reiterated in subsequent ECJ judgments. The key element to this is that :-

“...the essential characteristic of a waste recovery operation is that its principal objective is that the waste serve a useful purpose in replacing other materials which would have had to be used for that purpose, thereby conserving natural resources.”

- 4.6. Government has recently consulted on draft guidance on the Waste Framework Directive with respect to environmental permitting¹⁶. This, currently draft, guidance will provide the basis for understanding the distinction between recovery and disposal.

¹⁵ the European Community Directive on waste 2006/12/EC

¹⁶ [Draft Environmental Permitting Guidance: The Waste Framework Directive](#)

- 4.7.** Decisions on the classification of operations as recovery or disposal can only be taken on a case by case basis. Operators have the responsibility for deciding whether their activity is recovery or disposal. The Environment Agency, in determining a permit application, will make its decision as to whether it agrees with the operator. The Environment Agency should however provide advice on its view of recovery as part of any pre-application discussions.
- 4.8.** The Environment Agency has recently established a single national Permitting Support Centre and a National Permitting Service. Decisions on exemptions that require notification and applications for recovery permits will be made within this new organisational structure.

Quarry restoration

- 4.9.** Quarry operators have expressed particular concern regarding to the restoration of their quarries since planning permission for extraction will only be granted provided the land can be appropriately restored. Where restoration to the original level of the land is required, the restoration will need an equivalent volume of material to that extracted (or even slightly more to allow for settlement).
- 4.10.** Government and the Environment Agency do not believe that it can generally be argued that, where waste is used to fill the void, this is replacing a non-waste material that would otherwise be used (i.e. it does not satisfy the test set by the ECJ in the Abfall judgment – see paragraph 4.5 above). However it is recognised that in some individual cases the waste used to fill a quarry may replace a non-waste material. Guidance must support this decision on recovery or disposal (see paragraphs 4.6 and 4.13).
- 4.11.** Restoration is recognised as an essential part of the mineral extraction process. However quarry operators can find it difficult to source material to infill the voids caused by extraction. Materials that have previously been used to fill the voids are increasingly being recovered. Waste that is reused, for example under an exemption, will be subject to lower costs, because a disposal permit would not be required. It has been suggested that higher rates of recovery of inert CD&E waste may increase the likelihood that non-waste materials would have to be used to restore active quarries.
- 4.12.** Disposal, including landfill, lies at the bottom of the waste hierarchy. However Waste Strategy 2007 in excluding the back filling of quarry voids from a landfill diversion target (see paragraph 3.4) recognises filling an extraction void as an essential part of the restoration of the site to subsequent beneficial uses.

Possible ways forward – recovery and disposal

- 4.13.** The Environment Agency is proposing to produce revised guidance (for the deposit of waste on land) to ensure that those staff making decisions on recovery and disposal are fully aware of the terms of the ECJ's judgment in the Abfall case (see paragraph 4.5 above) and have a clear set of criteria to support consistent and transparent decision making.
- 4.14.** This Environment Agency guidance should be developed in consultation with industry. Operators should ensure that any applications they make to the Environment Agency set out clearly how the relevant criteria are met. The guidance should be illustrated with practical examples, which should largely be provided by industry, that illustrate the most common activities undertaken by industry. It is proposed that the guidance should be in place before the implementation of the Environmental Permitting Regime.
- 4.15.** Where industry wishes to produce Codes of Practice or guidance, the Government and Environment Agency should support this so that applications for recovery activities are only made where there should be little likelihood of disagreement between the regulator and the operator.

Q2. What are the advantages and disadvantages of using of guidance to deal with the distinction between recovery and disposal for the deposit of waste on land?

Recovery activities

- 4.16.** According to the European Court of Justice, the essential characteristic of a waste recovery operation is that its principal objective is that waste serves a useful purpose in replacing other non-waste materials which would have had to be used for that purpose, thereby conserving natural resources (see paragraph 4.5 above on the Abfall judgment).
- 4.17.** Some of these recovery activities are low risk and can be exempt from the need to hold a permit.

The exemptions review

- 4.18.** A review of the exemption system is currently underway¹⁷. The range of proposals on which comments were invited included a proposal to simplify the exemption system by removing the concept of notifiable exemptions. In this proposal, higher risk activities would become regulated through standard permits (see paragraphs 4.26 and 4.27 below) whilst truly low risk activities

¹⁷ <http://www.defra.gov.uk/environment/waste/management/exemptions/index.htm>

would remain exempt from the need to hold a permit. A possible outcome from this risk based approach could be that some recovery activities that can currently be operated under an exemption will in future require a permit.

- 4.19.** Of particular relevance to CD&E wastes are the possible changes to the use of waste to benefit the land and the use of waste in construction. A risk based process would suggest that the lower risk activities using these wastes would continue to be exempt while the higher risk activities would require a permit.
- 4.20.** The exemption review project is currently considering the comments received as a result of the informal consultation and will consult further on its proposals in early 2008.

Permits for recovery activities

- 4.21.** A waste recovery activity needs a permit which satisfies the requirements of the Waste Framework Directive unless an exemption has been provided.
- 4.22.** The recovery activities that require a permit will be those that pose a higher risk to the environment (see paragraph 4.18 above). For recovery activities where the use of the waste involves the permanent deposit of waste on land, the permit must ensure that the risk to the environment is acceptable. This will include waste acceptance procedures and some form of “waste characterisation”.
- 4.23.** The “waste characterisation” requirements in recovery permits should be aimed at demonstrating that the material is suitable for use and does not pose an environmental risk. The Landfill Directive requirements of basic characterisation and waste acceptance criteria do not apply to recovery activities. However the “waste characterisation” requirements in recovery permits can, in some circumstances, be the same as those for landfills for inert waste.
- 4.24.** The Landfill Directive includes a list of waste which, if they are from a single source and there is confidence that they are not contaminated, can be accepted without testing at a landfill site (see Table A1 in Annex 2). This list could be used across permits for recovery as waste types that require no further characterisation. This would mean that the characterisation requirements for the wastes on this list would be the same regardless of whether they are for recovery or disposal.
- 4.25.** The development of a common “waste characterisation” framework would provide a common basis for the characterisation of waste destined for recovery and disposal. The types and number of tests on the waste could vary depending on the risk of contamination of the waste and the relevant Landfill Directive requirements. Where leaching tests are necessary, the same leaching test method could be used.

- 4.26.** The Environmental Permitting regime will allow the Environment Agency to produce standard rules. These will be able to take the place of site specific permit conditions and should provide a simpler, standard form of permits (known as standard permits).
- 4.27.** Standard rules are only appropriate for activities where the risk can be described in a generic way. Standard rules are not appropriate for activities that require a site-specific consideration of risk. It is likely therefore that standard rules will not be appropriate for some recovery activities. Where standard rules cannot be produced, a standard permit cannot be used and an operator would require a “bespoke” permit.

Possible ways forward – permits for recovery operations

- 4.28.** The Environment Agency is proposing to develop standard rules for as many permitted recovery activities as is possible.
- 4.29.** These standard rules and the guidance that supports them should be developed in consultation with industry.
- 4.30.** The standard rules should be in place three months before the exemptions review is due to be implemented (due to be April 2009).
- 4.31.** The Landfill Directive’s list of waste which can be accepted without testing at a landfill site should be used in permits and standard rules for recovery operations as waste types that require no further characterisation.
- 4.32.** For those wastes that require further characterisation, where leaching tests are required, the same leaching test method should be used for both recovery and disposal operations. The Environment Agency is proposing to produce generic guidance on waste acceptance. This guidance should cover waste destined for landfills for inert waste and the same waste types destined for recovery (see the section on Waste Acceptance Criteria).

Q3. What are the advantages and disadvantages of adopting a common approach for characterising waste for permitted recovery and disposal operations which involve the permanent deposit of inert waste on land?

5. Disposal of waste

The Landfill Directive

- 5.1. Where waste is disposed of to land this is landfill.
- 5.2. The Landfill Directive sets out the requirements for landfills including those for inert waste. Government has recently consulted on draft guidance on the Landfill Directive requirements¹⁸.
- 5.3. Within European Directives there are often choices where Member States can determine the best approach for them. The specific choices for inert waste within the Landfill Directive are described below.

Financial Provision

- 5.4. Article 8 of the Landfill Directive gives Member States the option not to require financial provision for landfills for inert waste.
- 5.5. This option has not currently been adopted by Government and financial provision is required by legislation for all landfills for inert waste.
- 5.6. Financial provision is required for issues such as aftercare monitoring. The nature of inert waste means that the scope of the aftercare requirements will be limited. This is very different from the scope of requirements for landfills for hazardous and non-hazardous waste. For these landfills, the management and monitoring of the landfill has to deal with potentially polluting leachate and landfill gas over long periods.
- 5.7. One advantage of maintaining financial provision for landfills for inert waste is that it focuses the operator's attention on the need for aftercare and quantifies the liabilities. However it is essential to understand that the removal of specific financial provision would not remove the operator's liabilities following closure of the landfill.
- 5.8. It should also be noted that the removal of the requirement for specific financial provision would not remove the requirement in the Environmental Permitting regime for the operator to be competent to run the site in accordance with the permit. This can include a consideration of whether the operator is financially capable.

¹⁸ [Draft Environmental Permitting Guidance: The Landfill Directive](#)

Possible ways forward - financial provision

- 5.9.** There are three possible options for financial provision for landfills for inert waste:
1. maintain the requirement for financial provision but ensure its application continues to be proportionate and not overly onerous;
 2. amend the legislation to remove the requirement for financial provision for all landfills for inert waste; or
 3. amend the legislation to replace the universal requirement for financial provision with a power to enable the Environment Agency to require financial provision where it believes it to be necessary. Government guidance could steer the Environment Agency as to when this may be required. This could allow a risk based and flexible approach to financial provision for landfills for inert waste.

Q4. What are the advantages and disadvantages of the three options for financial provision for landfills for inert waste?

Landfill engineering requirements – Annex I to the Landfill Directive

- 5.10.** Annex I to the Landfill Directive sets out a number of important requirements for all classes of landfills. Some of these allow discretion as to whether the requirements apply to landfills for inert waste and some explicitly allow a decision to be made as to the necessary requirements.
- 5.11.** Paragraph 2 of the Annex relates to water control and leachate management and states that "The above provisions may not apply to landfills for inert waste". The Landfill Regulations 2002 and the proposed Environmental Permitting Regulations make it clear that these provisions do not apply to landfills for inert waste.
- 5.12.** Paragraph 3 of Annex I to the Landfill Directive relates to the protection of soil and water. Paragraphs 3.1 to 3.3 set out the requirements for geological barriers, basal liners and caps. Paragraph 3.1 sets out the overall requirements with 3.2 and 3.3 providing more detail on the requirements.
- 5.13.** Paragraph 3.1 of Annex I to the Landfill Directive says that a landfill must be located and designed in a way that prevents pollution of soil and water. This is to be achieved by the use of a geological barrier combined with a basal liner during the operational phase of the landfill and combined with a cap after closure of the landfill.

- 5.14.** Paragraph 3.2 of Annex I to the Landfill Directive relates to the requirements for geological barriers. This states that the geological barrier is determined by geological and hydrogeological conditions below and in the vicinity of a landfill site providing sufficient attenuation capacity to prevent a potential risk to soil and groundwater.
- 5.15.** Paragraph 3.3 of Annex I to the Landfill Directive relates to the requirement for leachate collection and sealing systems. The paragraph says that "Member States may set general or specific requirements for inert waste landfills and for the characteristics of the abovementioned technical means."
- 5.16.** The draft Government Environmental Permitting Guidance on the Landfill Directive states that leachate collection is not required at a landfill for inert waste and so an artificial sealing liner is not needed (paragraph 3.155 of that guidance).
- 5.17.** Paragraph 3.4 of Annex I to the Landfill Directive relates to the appropriate reduction of the detailed requirements set out in paragraphs 3.2 and 3.3 of the Annex. It states that "If, on the basis of an assessment of environmental risks taking into account in particular, [the Groundwater Directive] the competent authority has decided, in accordance with Section 2 ("water control and leachate management") that collection and treatment of leachate is not necessary or it has been established that the landfill poses no potential hazard to soil, groundwater or surface water, the requirements of paragraphs 3.2 and 3.3 above may be reduced accordingly".
- 5.18.** Paragraph 3.4 finishes by saying "In the case of landfills for inert waste these requirements may be adapted by national legislation".
- 5.19.** The relevant requirements that can be adapted for landfills for inert waste are the provisions for a geological barrier (see paragraphs 5.15 to 5.16 above on the situation for leachate collection and sealing systems). Any adaptation of the provisions in paragraph 3.2 of Annex I to the Landfill Directive must meet the objection of paragraph 3.1 of the Annex i.e. the landfill must meet the necessary conditions to prevent pollution.
- 5.20.** The relevant legislative change would be an amendment to the Environmental Permitting (England and Wales) Regulations 2007. Any change in the legislation would have to make clear that the adapted provisions for the geological barrier would have to ensure the prevention of pollution of soil and water.
- 5.21.** The necessary provisions for a geological barrier could be based on the landfill location and also on the permitted waste types and waste assessment practices. For example the filling of a landfill with a single and well characterised sub-soil excavation presents a lower risk of accepting contaminated waste than a wide range of waste types from a wide range of sources.

5.22. This adaptation of the requirements for landfills for inert waste could mean that, at certain sites, the necessary conditions for preventing pollution may not include a geological barrier. The Environment Agency could be given the ability to not require a geological barrier in these specific circumstances. Clear guidance would be required on how this ability should be applied including on the site specific environmental risk assessment which should form the basis for the necessary requirements.

Possible ways forward - landfill engineering

5.23. With respect to the provision in paragraph 3.4 of Annex I to the Landfill Directive there are two main options:

1. maintain the current implementation of the Directive without attempting to adapt the requirements for landfills for inert waste; or
2. Government could adapt the relevant requirements for landfills for inert waste by amending the Environmental Permitting Regulations. This adaptation of the Directive requirements could give the Environment Agency the ability to not require a geological barrier where a high degree of environmental protection can be demonstrated through an assessment of the site specific environmental risk.

5.24. A consultation would be needed on any legislative change. The consultation would need to be supported by draft versions of Government and Environment Agency guidance which would have to set out how decisions on the geological barrier requirements would be made and how the objective of paragraph 3.1 of Annex I to the Landfill Directive would continue to be met.

5.25. The Environment Agency is proposing to develop guidance on the risk assessment for landfills for inert waste. The guidance should also cover how to assess the environmental risk where the same or similar waste types are to be used in a recovery operation involving the permanent deposit of waste to land. The guidance should be developed with industry involvement.

5.26. The Environment Agency is proposing to develop guidance on the practical application of any geological barrier requirements. This should include the use of suitable waste in barriers and cover construction quality assurance. This should ensure that any requirements for a geological barrier are implemented in a proportionate manner. The guidance should be developed with industry involvement.

Q5. What are the advantages and disadvantages of adapting the legislation for landfills for inert waste and providing a power for the Environment Agency to determine whether or not to require a geological barrier on the basis of environmental risk?

Waste Acceptance Criteria

- 5.27.** The Landfill Directive sets out a number of requirements with respect to waste acceptance at landfills. One of these requirements is that tested wastes must meet certain numerical criteria if they are to be disposed of in a landfill for inert waste. These “leaching limits” are part of the waste acceptance criteria (“WAC”).
- 5.28.** Member States must decide which test method should be used for compliance with the leaching limit values (section 2.1.2.1 of the Council Decision on waste acceptance – see Annex 3 of the draft Government guidance on the Landfill Directive). The alternative leaching limit values that Member states can choose are a liquid-to-solid ratio of 2, a liquid-to-solid ratio of 10 or a percolation test. The decision was taken by Government that the relevant criteria to use are those for a liquid-to-solid ratio of 10.
- 5.29.** The required testing methods for waste acceptance are set out in the Landfill Directive (section 3 of the Council Decision). The alternative tests are the European compliance leaching test EN 12457 Parts 1 to 4 and the up-flow percolation test prEN 14405.
- 5.30.** Parts 1 to 3 of BS EN 12457 are all conducted on waste which has been prepared so that 95% of the sample passes through a 4 mm sieve. The three parts differ only in the liquid-to-solid ratios (L/S) at which the test is conducted and number of leaching steps. Part 1 is conducted with a liquid-to-solid ratio of 2. Parts 2 and 3 both result in a liquid-to-solid ratio of 10. Part 2 has a single leaching step whereas Part 3 has two leaching steps (L/S 2 and L/S 8). Part 4 is conducted with a liquid-to-solid ratio of 10 but differs in that it is conducted on material that has passed through a 10mm sieve.
- 5.31.** The third alternative leaching limit value that Member States can choose is the percolation test (C_0). This comprises the flushing of a column of granular material. The water is passed through a vertical column of the waste material in upflow mode, so that the column of waste is water saturated.
- 5.32.** The WAC provide that if an inert waste does not meet the sulphate L/S10 limit, alternative limit values of 1500 mg l^{-1} sulphate at C_0 and 6000 mg kg^{-1} sulphate at L/S10 (either from the percolation test or BS EN 12457 Part 3), can be used to demonstrate compliance with the acceptance criteria for inert wastes. This means that the use of the percolation test to determine the limit values would allow a single test to determine the acceptability of the sulphate leachability.

- 5.33.** With the exception of particle size, L/S ratio and number of leaching steps, the general test conditions for all four parts of BS EN 12457 are the same. Because of this there would appear to be no strong reason in terms of cost or efficiency for adopting the liquid-to-solid ratio of 2 in place of the liquid-to-solid ratio of 10. The preparation of the waste column for the percolation test, including the time needed to reach equilibrium means that this alternative test would not provide savings in terms of cost or time.
- 5.34.** The same 2 stage test is currently required for hazardous waste (including stable non-reactive hazardous waste), non-hazardous wastes (in the cases where there are numerical WAC) and inert waste. There are practical advantages in requiring the same test for all waste types, for example it provides certainty and cost effectiveness for the laboratories which provide this service.

Possible ways forward - WAC testing

- 5.35.** The liquid-to-solid ratio for WAC compliance should not be changed for landfills for inert waste.
- 5.36.** The Environment Agency is proposing to revise its' guidance on testing respect to inert waste. This revision should consider the possible use of the single stage leaching test for inert waste (BS EN 12457 Part 2). The guidance should cover the tests to be undertaken on waste destined for permanent deposit on land as a recovery activity. The development of this guidance should be undertaken with industry to produce guidance that works with the standard industry practices.
- 5.37.** Industry, with the support of Government and the Environment Agency, should develop Codes of Practice for sampling and testing to meet the Landfill Directive requirements for inert waste.

Q6. What are the advantages and disadvantages of maintaining the current liquid to solid ratio and of the possible adoption of the single stage test for inert waste?

Descriptions of waste for landfill

- 5.38.** The terminology and definitions used to describe inert waste in landfill permits and in duty of care waste transfer documentation are different from those used in the landfill tax regime.
- 5.39.** Landfill permits specify the wastes that can be accepted using the List of Wastes codes. In each permit there is a table of waste types with the appropriate code. Landfill operators have to report the waste types they have received to the Environment Agency using the List of Wastes codes.

- 5.40.** There is a legal requirement to use the List of Wastes codes for duty of care waste transfer notes. All producers have to assign a List of Wastes code to their waste.
- 5.41.** Landfill tax is a tax on waste disposed of in landfill sites throughout the UK. Landfill site operators pay the tax to HM Revenue and Customs and pass on the additional cost to waste producers by way of increased gate fees. There are two rates of tax – a standard rate covering active waste and a lower rate (currently £2 per tonne) covering a list of wastes that are commonly regarded as inactive. Information on the landfill tax can be found on the website of HM Revenue and Customs¹⁹.
- 5.42.** The tax was introduced in October 1996 and therefore predates the Landfill Directive and the List of Wastes Regulations. The landfill tax legislation sets out a definitive list of wastes that qualify for the lower rate of tax.
- 5.43.** The Environmental Permitting Regulations (and currently the Landfill Regulations) provide that those wastes that meet the Landfill Directive definition and criteria for inert waste can be accepted for disposal at a landfill for inert waste. The regulations for the permitting regime do not include a definitive list of inert wastes.

Possible ways forward – Descriptions of waste for landfill

- 5.44.** Defra will discuss with HM Revenue and Customs and devolved administrations whether there are ways in which greater consistency of terminology of wastes sent to landfill can be achieved throughout the UK in a way that does not alter the current scope of the lower rate of landfill tax in any way.

Q7. What are the advantages and disadvantages of a more consistent terminology for describing inert waste going to landfill?

¹⁹http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageExcise_InfoGuides&propertyType=document&id=HMCE_CL_001206

6. Summary and implementation

- 6.1. This discussion paper contains a number of possible actions on which we are seeking views. The actions must work together to produce a proportionate regulatory approach for inert Construction Demolition and Excavation (CD&E) waste. A number of the actions would place more responsibility on those who are generating the waste.
- 6.2. A number of the strands discussed in the review are already distinct work streams. The role of this review is to ensure that these individual strands work together in the context of inert CD&E waste.

Summary

- 6.3. The Government's waste strategies and the requirement for treatment prior to landfill are encouraging the increased recycling and reuse of CD&E wastes.
- 6.4. The work on quality protocols will continue to produce robust and auditable methods for reclaiming wastes into products which can then replace raw materials.
- 6.5. Site waste management plans in England will mean a better understanding of waste generated by construction activities. Site waste management plans should lead to waste minimisation, increased recovery of waste and better waste characterisation.
- 6.6. A revised duty of care should require better descriptions of the waste and provide an improved tool for enforcement against illegal activities.
- 6.7. Combating illegal waste activity within the CD&E industry will be an important element of the Environment Agency's regulatory approach.
- 6.8. The Environment Agency's Construction Sector Partnership Plan, under development at the present time, seeks to put the relationship with the construction sector on to a more practical basis to foster partnership working and to support improved practices to protect and improve the environment.
- 6.9. The review of exemptions proposes to move higher risk recovery activities into the environmental permitting system and will thereby limit the scope for abuse of the exemption system.
- 6.10. Standard permits for recovery activities will provide an appropriate level of regulation where inert CD&E wastes are used. The waste characterisation requirements in these standard permits for recovery will be as consistent as possible with the requirements in permits for disposal (without being over onerous).

- 6.11. Standard permits for recovery activities will lead to a more consistent level of regulation between recovery and disposal activities.
- 6.12. The Environment Agency's Permitting Support Centre and National Permitting Service will concentrate decision making into dedicated centres and will provide the basis for robust and consistent decision making.
- 6.13. The suggested changes in the Landfill Directive requirements will implement the Directive in a more risk based way for landfills for inert waste.
- 6.14. Revised Environment Agency guidance will provide a simpler and clearer framework for inert waste. This will include the practical application of the Landfill Directive requirements such as Waste Acceptance Criteria, in particular, waste testing. Clear guidance on when an activity may be recovery will provide a consistent basis for decision making.
- 6.15. Industry Codes of Practice will ensure that industry takes responsibility for the wastes it generates, uses and disposes of. They will also aid the regulator in dealing with those elements of industry who choose to operate outside of agreed best practice.

Q8. What other approaches could meet the objectives of: promoting a sustainable use of inert waste; protecting the environment from inappropriate activity and minimising the regulatory burden for both industry and the regulator?

Implementation

- 6.16. Following this informal consultation, final proposals will be developed alongside an implementation timetable.
- 6.17. Some of the suggestions in this document are being moved forward through separate consultations. Others could be delivered through guidance and others would require changes to legislation. Annex 3 provides an indicative timetable of when they could be implemented.
- 6.18. Where a change to the legislation is required a further consultation on the proposed change would be necessary.
- 6.19. It is proposed that all the identified actions should be in place no later than the implementation date for the exemptions review. This is planned for April 2009.

ANNEX 1 - Summary of Questions

Q 1. What are the advantages and disadvantages of the quality protocol approach in the regulation of inert CD&E waste?

Q2. What are the advantages and disadvantages of using of guidance to deal with the distinction between recovery and disposal for the deposit of waste on land?

Q3. What are the advantages and disadvantages of adopting a common approach for characterising waste for permitted recovery and disposal operations which involve the permanent deposit of inert waste on land?

Q4. What are the advantages and disadvantages of the three options for financial provision for landfills for inert waste?

Q5. What are the advantages and disadvantages of adapting the legislation for landfills for inert waste and providing a power for the Environment Agency to determine whether or not to require a geological barrier on the basis of environmental risk?

Q6. What are the advantages and disadvantages of maintaining the current liquid to solid ratio and on the possible adoption of the single stage test for inert waste?

Q7. What are the advantages and disadvantages of a more consistent terminology for describing inert waste going to landfill?

Q8. What other approaches could meet the objectives of: promoting a sustainable use of inert waste; protecting the environment from inappropriate activity and minimising the regulatory burden for both industry and the regulator?

ANNEX 2 – Waste types

Table A1

Waste types that can be accepted at landfills for inert waste without testing.

European Waste Catalogue Code	Description	Restrictions
10 11 03	Waste glass based fibrous materials	Only without organic binders
15 01 07	Glass packaging	
17 01 01	Concrete including solid dewatered concrete process waste	Selected construction and demolition waste only *
17 01 02	Bricks	Selected construction and demolition waste only *
17 01 03	Tiles and ceramics	Selected construction and demolition waste only *
17 01 07	Mixtures of concrete, bricks, tiles and ceramics	Selected construction and demolition waste only *
17 02 02	Glass	
17 05 04	Soils and stones including gravel	Excluding topsoil, peat; excluding soil and stones from contaminated sites
19 12 05	Glass	
20 01 02	Glass	Separately collected glass only
20 02 02	Soils and stones	Only from garden and parks; Excluding topsoil, peat

* Selected construction and demolition waste (C&D waste) with low content of other types of materials (like metals, plastic, soil, organics, wood, rubber, etc. The origin of the waste must be known.

- No C&D waste from constructions, polluted with inorganic or organic dangerous substances, e.g. because of production processes in the construction, soil pollution, storage and usage of pesticides or other dangerous substances, etc., unless it is clear that the demolished construction was not significantly polluted.
- No C&D waste from constructions, treated, covered or painted with materials, containing dangerous substances in significant amounts.

[Note that “soils” includes clays and silts.]

Table A2
Waste types covered by this review

<i>Source of waste</i>	<i>Kind of waste</i>	<i>List of wastes code</i>
CONSTRUCTION AND DEMOLITION WASTES (INCLUDING EXCAVATED SOIL FROM CONTAMINATED SITES)		
Concrete, bricks, tiles and ceramics	Concrete	17 01 01
	Bricks	17 01 02
	Tiles and ceramics	17 01 03
	Mixtures of concrete, bricks, tiles and ceramics	17 01 07
Soil (including excavated soil from contaminated sites), stones and dredging spoil	Soil and stones including clays, silts and topsoil and including soil and stones from contaminated sites.	17 05 04
WASTES FROM WASTE MANAGEMENT FACILITIES, OFF-SITE WASTE WATER TREATMENT PLANTS AND THE PREPARATION OF WATER INTENDED FOR HUMAN CONSUMPTION AND WATER FOR INDUSTRIAL USE		
wastes from the mechanical treatment of waste (for example sorting, crushing, compacting, pelletising) not otherwise specified	Minerals (for example sand, stones)	19 12 09

Annex 3 - Summary of possible ways forward

Topic	Davidson review point (see paragraph 2.5)	Proposal summary	Indicative timetable		
			2007	2008	2009
Ceasing to be a waste		Work on Quality Protocols for wastes suitable for reuse in activities such as quarry infilling should be encouraged and supported. ^{Note 1}	Ongoing	Ongoing	Ongoing
Duty of Care	Level playing field	The duty of care should require additional information for waste destined for deposit on land. ^{Note 2}		Consultation Spring	
Recovery	Quality of guidance including recovery or disposal	Revised Environment Agency recovery guidance for the deposit of waste on land. ^{Note 1}	Development	In place for April	
	Level playing field	Review of exemptions. ^{Note 2}		Consultation	Implemente April
	Level playing field	The development of standard rules for recovery activities involving the permanent deposit of waste on land. ^{Note 1}		Development and consultation	In place for April
	Level playing field	Development of permit template and conditions for recovery activities involving the permanent deposit of waste on land. ^{Note 1}		Development	In place for April
Landfill Directive	Inert waste exemptions [derogations] in EC Directives and level playing field	Removal of the requirement for financial provision for landfills for inert waste. ^{Note 2} Government Guidance as to when financial provision should be required. ^{Note 1}		Consultation	In place for April
	Inert waste exemptions [derogations] in EC Directives and level playing field	The requirements for geological barriers adapted by national legislation (paragraph 3.4 of Annex I). ^{Note 2}		Consultation	In place for April
	Quality of guidance and level playing field	Revised Environment Agency guidance on the risk assessment for inert waste. ^{Note 1}	Development	In place for April	
	Quality of guidance, implementation of the waste acceptance criteria and level playing field	Revised Environment Agency guidance on testing inert waste. ^{Note 1}	Development	In place for April	
	Quality of guidance and level playing field	Revised Environment Agency guidance on inert waste landfills. ^{Note 1}	Development	In place for April	
Descriptions of waste for landfill	Inconsistencies with the landfill tax regime	Consideration of whether a more consistent terminology for wastes sent to landfill can be achieved throughout the UK without affecting the tax's scope.		Discussions to take place	

Note 1: implementation through guidance only.

Note 2: legislative change would be required.

ANNEX 4 – Glossary of Terms

Basic characterisation	<p>Basic characterisation must provide all the information on the waste necessary to ensure its safe disposal at a landfill – Landfill Directive</p> <p>Basic Characterisation includes: source and origin of the waste; the process producing the waste (including a description of the process and characteristics of its raw materials and products); the waste treatment applied in compliance with article 6(a) or a statement of reasons why such treatment is not considered necessary; the composition of the waste, including where relevant, an assessment of it against the relevant limit values and, where necessary and available, its other characteristic properties; the appearance of the waste (including its smell, colour, consistency and physical form); the code applicable to the waste under the List of Waste Regulations; a demonstration that the waste is not prohibited under article 5(3); the landfill class at which the waste may be accepted; the likely behaviour (including, where relevant, leaching behaviour) of the waste in a landfill and any additional precautions to be taken at the landfill; whether the waste can be recycled or recovered and the variability of the waste and how much compliance checking needs to be done.</p>
CD&E waste	<p>Waste generated by the Construction, Demolition and Excavation industry</p>
Disposal operation	<p>Disposal operations are primarily aimed at getting rid of waste and include preparatory/interim operations, including storage, that precede final disposal. Any benefit that results as a secondary consequence will not affect the nature of the operation</p>
Duty of Care	<p>The duty of any person who imports, produces, carries, keeps, treats or disposes of controlled waste or, as a broker, has control of such waste to take all reasonable steps to prevent illegal waste disposal, to prevent the escape of waste from his control and to transfer the waste only to an authorised person - Section 34 of the Environmental Protection Act 1990</p>
Environmental Permitting Regulations	<p>The Environmental Permitting (England and Wales) Regulations 2007</p>

Environmental Permit	A permit granted by the regulator under the Environmental Permitting Regulations allowing the operation of a regulated facility subject to certain conditions
Exempt waste operation	A waste operation exempt from the need to hold an environmental permit (where it meets certain criteria)
Geological barrier	The Landfill Directive states that “The geological barrier is determined by geological and hydrogeological conditions below and in the vicinity of a landfill site providing sufficient attenuation capacity to prevent a potential risk to soil and groundwater”
Inert waste	This is defined in the Landfill Directive as “waste that does not undergo any significant physical, chemical or biological transformations; Inert waste will 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. The total leachability and pollutant content of the waste and the ecotoxicity of the leachate must be insignificant and in particular not endanger the quality of surface water and/or groundwater.”
Landfill Directive	European Community Directive 1999/31/EC on the landfill of waste
List of Wastes	The implementation in England and Wales of the European Waste Catalogue. The List of Wastes (England) Regulations 2005 SI 895 The List of Wastes (Wales) Regulations 2005 SI 1820
Landfill tax	Landfill tax is a tax on the disposal of waste at landfill throughout the UK. It aims to encourage waste producers to produce less waste, recover more value from waste, for example through recycling or composting and to use more environmentally friendly methods of waste disposal.
Recovery operation	The key feature of a recovery operation is that its principal objective is to ensure that the waste serves a useful purpose by replacing other substances which would have had to be used for that purpose (thereby conserving natural resources)
Single source	A single stream (only one source) of a single waste type – Landfill Directive

Site waste management plans (SWMP)	A SWMP is a plan that details the amount and type of waste that will be produced on a construction site and how it will be reused, recycled or disposed of. The plan is then updated during the construction process to record how the waste is managed and to confirm the disposal of any materials that cannot be reused or recycled at a legitimate site – Regulations would be made by exercising the powers conferred by 54 of the Clean Neighbourhoods and Environment Act 2005
Standard permits	An environmental permit where the standard rules are the permit conditions
Standard rules	Rules which establish nationally fixed sets of conditions for standard permits – Environmental Permitting Regulations
Waste Acceptance Criteria (WAC)	Waste acceptance criteria are aimed at specifying the chemical properties that are actually landfilled in order to provide an acceptable level of risk – Landfill Directive
Waste characterisation	For wastes subject to a recovery operation, waste characterisation must provide all the information on the waste necessary to ensure its use does not harm the environment
Waste Framework Directive	European Community Directive 2006/12/EC on waste
Waste operation	Any recovery or disposal of waste.