



ENVIRONMENTAL PROTECTION ACT 1990.WASTE MANAGEMENT LICENCE

LICENCE REF. No:- SWW/168/L

FACILITY TYPE:- HOUSEHOLD
WASTE AMENITY
SITE

The Environment Agency, in pursuance of Part II of the Environmental Protection Act 1990, hereby grant a waste management licence authorising the keeping and treatment of controlled waste on the land specified in schedule 1 to this licence to Greenacre Waste Management Limited, Greenacre, Princes Gate, Narberth, Pembrokeshire SA67 8TQ that person being in occupation of the said land, the said licence being subject to the conditions specified in schedule 2 to this licence.

In this licence the words and expressions contained in schedule 2 shall have the meaning assigned to them therein.

SCHEDULE 1 - SPECIFIED LAND

The licence relates to the land near Brytwn Road, Cymmer, Neath, Port Talbot SA13 3EE hereinafter called "the site" shown edged red on Drawing Reference Number 1114/02 attached to this licence.

Signed.....

Name: D H Davies
(Area Waste Regulation Manager - Welsh
Region, South West Area)

Dated

12th September 1997

FOR ENVIRONMENT AGENCY OFFICIAL USE ONLY.

YOUR ATTENTION IS DRAWN TO THE RIGHTS OF APPEAL DETAILED IN THE NOTES AT THE END OF THIS LICENCE.

The Environment Agency
Welsh Region, South West Area
Llys Afon
Hawthorn Rise
Haverfordwest
Pembrokeshire
SA61 2BQ

EAWML
36151

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SCHEDULE 2 - INTERPRETATION AND CONDITIONS

These definitions apply only for the purposes of this licence in the interest of ensuring clarity.

THE 1990 ACT - The Environmental Protection Act 1990

THE 1995 ACT - The Environment Act 1995

THE AGENCY - The Environment Agency

THE AGENCY'S EMERGENCY TELEPHONE NUMBER - 0800 807060 or such number as from time to time is notified to the holder.

AUTHORISED OFFICER - means a person authorised in writing by the Agency pursuant to section 108(1) of the Environment Act 1995 to exercise any of the powers specified in subsection (4) of that section.

THE CONDITIONS OF THIS LICENCE - the conditions set out herein, as varied from time to time under section 37 of the 1990 Act and section 120 of the 1995 Act.

CONTROLLED WASTE - as defined in section 75(4) of the 1990 Act and the Controlled Waste Regulations 1992 or any statutory provisions or regulations amending or replacing them.

EMERGENCY - means a situation in which a person has reasonable cause to believe that circumstances are likely to endanger health or cause damage to property or pollution of the environment or could be seriously detrimental to the amenities of the locality.

THE HOLDER - the licence holder specified in this licence or other person to whom the licence has been transferred in accordance with section 40 of the 1990 Act and section 120 of the 1995 Act.

HOURS OF DARKNESS - as defined by statutory lighting up times published by the Science Engineering Research Council.

NAMAS - National Accreditation of Measuring & Sampling

THE OPERATOR - means a person who is in occupation of the site and has responsibility for carrying out day to day activities at the site.

RELEVANT OFFENCES - are offences within the meaning of regulation 3 of the Waste Management Licensing Regulations 1994 (SI 1994 No.1056) or any statutory provisions or regulations amending or replacing them

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THE SITE - the land, structures, plant and equipment to which the licence relates.

THE SITE LOCATION PLAN - the drawing referred to in Schedule 1 of this licence which delineates the licensed area.

SPECIAL WASTE - as defined by regulation 2 of the Special waste regulations 1996 (SI 1996 No. 972) or any statutory provisions or regulations amending or replacing them.

UKAS - United Kingdom Accreditation Service

WORKING PLAN - the documents and drawings detailing the intended methods of operation for this licence and any later drawings or written statements received by the Agency in substitution or augmentation of such drawings or documents subject to individual changes having been agreed by the Agency where this licence so requires.

TECHNICALLY COMPETENT PERSON - means for the purpose of this licence, a person who is a holder of a valid certificate of Technical Competence awarded by the Waste Management Industry Training and Advisory Board or an approved substitute which relates to the activities authorised by this licence and is in accordance with the Waste Management Licensing Regulations 1994 or subsequent amendments.

PROFICIENT PERSON Shall be a person trained to understand the terms and conditions of this licence, to recognise the general descriptions of waste that may arrive at the site, and actions to be taken to deal with such waste and what action to take in the event of an emergency. The person shall have direct access to the persons making up the Technically Competent Management of the site.

RELEVANT PERSONS shall have the same meaning as that described in 74 (7) of the Environmental Protection Act 1990 and any subsequent amendments.

APPROPRIATELY QUALIFIED PERSON shall mean a recognised Consultant Engineer or other such appropriately qualified persons as may be agreed in writing by the Waste Regulation Authority.

FLAMMABLE shall have the meaning assigned to it in schedule 1, part 1 of the Classification, Packaging and Labelling of Dangerous substances Act, 1984 and any subsequent amendment.

DRUM CONTAINER shall mean any container in which material is stored. Such containers having storage capacities less than 10 litres shall not be regarded as drum containers for the purpose of this licence.

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BIODEGRADABLE WASTE Shall mean material which may be broken down by the action of micro-organisms.

INERT WASTE Shall mean waste which is virtually insoluble in water and does not undergo any significant physical, chemical or biochemical transformation or for which the decomposition has an environmental impact which is less than or comparable with that of uncontaminated topsoil.

DIFFICULT WASTE means waste that creates difficulties in its handling or disposal because of its physical and/or chemical properties.

LEACHATE shall mean liquid which seeps from or through the waste and by doing so extracts substances from the deposited waste.

SCRAP METAL shall have the meaning assigned to it in section 9 (2) of the Scrap Metal Dealers Act 1964.

IMPERMEABLE PAVEMENT means a pavement which is constructed and maintained to a standard sufficient to prevent the transmission of liquid beyond the pavements surface.

SEALED DRAINAGE SYSTEM means a drainage system with impermeable components which does not leak and will ensure that;

- a) no liquid will run-off the pavement otherwise than via the system
- b) except where they maybe lawfully discharged, all liquids entering the system are collected in a sealed sump.

A sealed drainage system must discharge either to an oil interceptor and thence to an approved discharge or to a sealed sump.

An approved discharge may be a sewer, a watercourse or a soakway. For discharge to a sewer prior consent from the water company must be obtained by the operator. For a discharge to a watercourse or soakway prior consent from the Agency must be obtained by the operator.

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CONDITIONS

SECTION A - TYPES OF WASTE

A1 Acceptable Waste

A1.1 The type of waste being accepted at the facility shall, subject to condition A3.1 below, consist only of the following:

Household, Commercial and Industrial Wastes.

A2 Quantities of Waste

A2.1 The maximum annual quantity of waste acceptable at the site shall not exceed 4,999 tonnes.

A2.2 The maximum quantity of waste stored at the site shall not exceed 50 tonnes.

A3 Exclusions

A3.1 Notwithstanding the generality of the types of waste specified in this Schedule the following wastes shall be specifically excluded from delivery to the facility.

- (a) Controlled waste being defined as "Special Waste" except for waste which has been disposed of as being household waste.
- (b) Substances within the Control of Radioactive Substances Act 1960 and any subsequent amendments.
- (c) Percussive and explosives and other substances with similar characteristics, excepting where such wastes are in such form or state where the percussive or explosive properties are and will remain ineffective.
- (d) Any waste containing substances listed in the Highly Flammable Liquids and Liquefied Petroleum Gases Regulations 1972.
- (e) Wastes contained in sealed drums.

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SECTION B - GENERAL CONSIDERATIONS

B1 Application Area

B1.1 The area which is the subject of this licence is shown edged in red on drawing No L1114/02 of the agreed working plan.

B1.2 The deposit of waste shall only take place within the area edged in green on drawing No 1114/01.

B2 Waste types and quantities

a2/a3- B2.1 The types and maximum quantities of wastes permitted for deposit, within the licensed area, shall only be those as shown in Section A of this licence.

B3 Hours of operation

B3.1 Subject to condition No. B.7.1 the site shall only be operated between times indicated in the agreed Working Plan.

a2/a3- Operations outside the above hours shall not take place, except in an emergency where operations are necessary to protect public health and safety. For the purposes of this condition operated means the reception, deposit, movement, loading and removal of waste materials. All circumstances of the emergency movement of waste shall be reported forthwith in writing to the Agency.

B4 Commencement of operations

B4.1 No deposit of waste, other than inert waste for construction purposes, shall take place unless the operator has received written confirmation from the Agency that the site preparation works have been completed.

B5 Management and Staffing

a2/a3- B5.1 The activities of this licence shall be made known to any person given responsibility for the management or control of the site and of any persons employed in any operational activities on the site.

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B5.2 Any changes to the list of technically competent persons and the Management Structure detailed in the Working Plan shall be provided to the Agency in writing within 14 days. The list shall contain the following information:

- (i) Name of the person
- (ii) Position within Management Structure
- (iii) Responsibility of the person
- (iv) Certificate details, or evidence of competency
- (v) Business address and telephone number
- (vi) Names of persons to be deleted from the Technically Competent Management

B5.3 The Site shall be manned by at least one proficient person who shall have immediate access to Technically Competent Management for all periods that any operations are carried on at the site.

B5.4 If any "relevant person" is convicted of a "relevant offence" the holder shall notify the Agency within 14 days of the conviction.

B5.5 The licence holder shall notify the Agency in writing in advance of any changes in the name of the licence holder or operator and of any changes to the registered address or principal place of business.

B6 Working Plan

B6.1 Subject to the conditions of this licence the site shall be operated in accordance with the agreed working plan. All references to the working plan in this licence shall mean the working plan agreed in writing by the Agency.

B6.2 Details of any proposed amendments to the agreed working plan shall be submitted to the Agency at least 4 weeks in advance of the proposed date of implementation. No changes in the agreed method of operation shall be implemented until the proposals are agreed, in writing, by the Agency. The proposed changes shall not be implemented if the Agency informs the licence holder that its charges would require the variation of licence conditions.

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B7 Precautions and Emergency Procedures

B7.1 Waste shall only be moved, deposited or loaded in operational areas where the level of illumination is maintained above a minimum service value of 100 lux measured at ground level.

B7.2 The Agency shall be notified, without undue delay, by telephone of any incident involving serious injury to any person caused by site operations or any other serious incident related to operations at the site such as spillage of waste or wastes deposited at the site. Details of any such incident shall be confirmed in writing within 3 working days.

B7.3 No materials shall be burnt on site. Any outbreak of fire on the site shall be regarded as an emergency and immediate steps taken to extinguish it. All outbreaks of fire shall be notified immediately to the Agency by telephone and confirmed in writing within 3 working days.

B7.4 In the event of an emergency the procedures detailed in Section E of the Working Plan shall be implemented.

B7.5 The emergency procedures required by Condition B7.4 shall be reviewed at 6 monthly intervals and updated whenever necessary. The updated emergency plan shall be forwarded to the Agency forthwith.

B7.6 Provision shall be made for the parking loading and unloading of vehicles transporting waste to and from the site. The public shall be excluded from the site during any vehicular movements or operations involving council or commercial vehicles.

B8 Cessation of Operations

B8.1 Any cessation of operation at the site for a period in excess of 12 weeks shall be notified to the Agency in writing. Not less than 14 days notice shall be given to the Agency of the date on which the operation are to recommence in the event of such a cessation.

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SECTION C - SITE INFRASTRUCTURE

C1 Noticeboards

C1.1 An identification board of durable material and finish shall be displayed at the entrance to the facility. The following information shall be provided:

- 9/1
- (a) Name, address and telephone number of the site.
 - (b) Name, address and telephone number of the Agency office responsible for issuing this licence and the Waste Management Licence Number.
 - (c) Hours of operation (as per working plan).
 - (d) Name, address and telephone number of licence holder.
 - (e) Twenty-four hour emergency telephone number and contact.

C1.2 The board shall be maintained in a legible condition at all times and any relevant change to the information shall be made within one month of change.

C2 Site Security

9/1
C2.1 Site security measures as detailed in the Working Plan shall be maintained in good working order at all times.

C2.2 Defects which may permit unauthorised access to the site shall be repaired by the end of the working day in which they are discovered. Where such repair is not possible then personnel shall be employed to ensure 24 hour security cover until such repair is effected. All other defects in the site security measures shall be repaired within 3 working days. A written record of all repairs shall be made in the site diary.

C3 Bunding

6/4
C3.1 Any containers used for the storage of liquids shall be stored in a bunded area, the base and bund walls of which shall be constructed with an impermeable material so as to contain at any time 110% of the volume of the larger container. All containers shall be accurately labelled to indicate their contents.

C3.2 Inspection of all bunded areas at the site shall take place on a daily basis with the results of the inspection being recorded in the site diary. All repairs shall be commenced without delay and, in any event, be completed within 5 working days. Alternative storage agreements shall be made until such repairs are effected.

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C4 Signs

b7/4
C4.1 Clear, conspicuous and legible signs shall be provided within the site to indicate the type of waste to be deposited in each specified container designated area.

C5 Containers

C5.1 Each container used for waste storage shall be of sound physical condition with no leaks.

C6 Surfaces

b7/3
C6.1 All hardstanding areas shall be kept in good repair so as to maintain an impermeable pavement. Any crack or pothole is repaired within 5 working days. Inspection of the surface shall take place on a daily basis and a written record of all inspections and repairs shall be kept available at the site office for inspection by officers of the Agency.

C7 Drainage

b7/3
C7.1 Site drainage arrangements shall be constructed and maintained so that water does not accumulate at the facility. These shall include interception and collection of contaminated surface water and spillages.

C7.2 Drainage channels and silt boxes shall be inspected not less than once a week and any debris which may give rise to a blockage shall be removed.

C8 Site office

C8.1 Office facilities shall be provided in accordance with the Working Plan.

C8.2 A complete copy of the licence, Working Plan and any relevant drawings shall be kept in the site office.

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SECTION D - OPERATIONS

D1 Waste handling

e/s. D1.1 All waste shall be received and removed from the Civic Amenity Site in accordance with the procedures detailed in the working plan.

D1.2 Members of the public visiting the site shall be supervised at all times whilst on site to ensure effective that waste is deposited safely and securely in the appropriate area.

D1.3 All wastes shall be visually inspected to ensure that they conform with the waste types specified in Section A and to assess whether they are capable of being processed by the compactor.

D1.4 Wastes which are incapable of being compacted shall be placed by the site operative into a suitable container to await removal from the site.

D1.5 Unacceptable waste be moved to the secure area of non compliance waste and placed in the secure container.

D1.6 Chlorofluorocarbons (CFCs) shall only be removed from white goods or other wastes by an Appropriately Qualified Person and the procedure shall be undertaken in a manner which ensures there are no releases of CFCs to the environment.

D1.8 Batteries shall only be stored by a site operative in a covered, secure impermeable container which is designated for that purpose.

D1.7 White goods awaiting removal from the site shall be stored in the area designated "gas bottle store" unless a suitable alternative is specified in the Working Plan.

D2 Plant Equipment and Machinery

b/s D2.1 The level of plant and equipment for the purpose of waste operations and engineering shall be provided as detailed in the working plan. This level of plant and equipment shall be maintained in accordance with the manufacturer's instructions to ensure effective waste handling.

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SECTION E - POLLUTION CONTROL

- A)5 E1 Measures in accordance with the working plan should be taken to remove, mud, debris, any other materials that is deposited on any surface. All spillages of waste must be cleared away by the end of the working day in which they occur. If necessary, surfaces shall be steam cleaned.
- A)3 E2 All litter which has been caught by the perimeter fencing or gates shall be collected on a daily basis.
- A)3 E3 At least once a week, or at the request of the Agency, the site and its immediate surrounding area shall be cleaned of any loose waste which is not within specified storage areas. Collected waste, together with litter collected in accordance with Condition E2, shall be suitably stored pending its removal to a suitably licensed facility.
- A)2 E4 Any spillages of fuel or liquid shall be dealt with immediately to prevent pollution. Quantities of sand or absorbent materials shall be kept and spread on the spillage. Absorbent material which has been contaminated by such spillages must be cleaned from the surface and removed to a suitably licensed facility. If necessary the area shall be steam cleaned.
- E5 Where surfaces require cleaning, the procedure shall be undertaken in a manner which prevents contaminated washings from entering the surface drainage system.
- A)4 E6 Measures in accordance with the working plan shall be taken to deal effectively with any vermin or insects arising at the site. Inspections for infestation shall be conducted weekly and the results recorded in the site diary.
- A)3 E7 Measures in accordance with the working plan shall be taken to effectively suppress dust and malodours which may be detrimental to the amenities of the locality. On request of the Agency, additional measures shall be provided
- [A]2 E8 Measures shall be undertaken to control the noise of machinery and vehicles operating at the site which may be detrimental to the amenities of the locality.
- E9 All internal roadways shall be kept clear of obstruction to permit the effective operation of the site and access by any Emergency Service.

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SECTION F - RECORDS

F 1 Waste Returns

- 9/14. F1.1 A written record shall be made of the types and quantities (in tonnes) of waste deposited, exported and rejected in each calendar month. This record shall be forwarded to the Agency to arrive within one month of the end of the calendar month to which the record refers. The return shall be made on a standard form approved by the Agency.

F2 Site Diary

- 9/12. F2.1 A site diary for the purpose of recording site activities shall be maintained at the site and made available for inspection by officers of the Agency on request. Entries shall include a record of any inspections required by the conditions of this licence, including inspections of gates, fencing, site roads, non-compliant waste area, concrete hardstanding, bunds, tank and drainage channel inspections, surface water drainage and inspections for vermin or insects. A full record of all emergencies on the site shall be made in the site diary.

The following information shall be recorded:

- (i) The identity and signature of the inspection personnel
- (ii) The date and time of inspection or event
- (iii) The details of the type of inspection and any defects or infestations
- (iv) Any remedial action or emergency action taken
- (v) The name of the nominated deputy in the absence of the site manager

F3 Visitors Book

- F3.1 A visitors book shall be kept on site and shall be signed by all visitors except members of the public using the civic amenity area and shall include the following information:

- (i) Name
- (ii) Company/Organisation
- (iii) Reason for visit
- (iv) Date
- (v) Time of arrival
- (vi) Time of departure

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F4 Other Authorities

- F4.1 A copy of any notice or instruction received by the licence holder in respect of the site from any Authority, other than the Agency which in any way relates to the use of the site shall be given to the Agency by the Licence Holder with 3 days of receipt of such a notice or instruction.

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SECTION G - FINANCIAL PROVISION

- G1 No operations or storage of waste shall be carried out at the site if within one month of the date of provision of the Agency Deed of Guarantee to the licence holder, the agreed financial provision has not been made.

GENERAL GUIDANCE NOTES TO HOLDERS

These notes are provided for general guidance and do not constitute an authoritative statement of law. It is important that they are read and understood and for further information you are advised to contact the Waste Regulation Section of the Environment Agency (EA.).

The licence relates only to the requirements of the Environmental Protection Act 1990 for the treatment, keeping or disposal of waste and the use of specified plant and equipment subject to the conditions set out herein. The licence does not constitute a consent required by any other legislation. In particular, it is the responsibility of the licence holder to comply with requirements of, amongst others:

The Water Resources Act 1991;
The Health and Safety at Work Act 1974;
The Town and Country Planning Acts;
Building Regulations;
The Scrap Metal Dealers Act;
Relevant Environmental Health Legislation;

This is not a comprehensive list and it is recommended that the operator seek further advice regarding his/her responsibilities in this respect.

- 1.1 In the event of an accident resulting in the death or serious bodily injury of any person as a consequence of the operations on the site, the operator shall inform the Health and Safety Executive.
- 1.2 All working practices in the vicinity of electric power cables/installations should be in accordance with the latest Health and Safety Guidance Note. The applicant is advised to consult the appropriate area electric company should such installations infringe on the licensed area or any access road leading to the licensed area.
- 1.3 All discharges to sewers require the consent of the relevant sewage undertaking and those to any watercourse, soakaway or other surface feature, may require the consent of the Environment Agency.
- 1.4 The spread of various invasive plant species, in particular Japanese Knotweed (*Fallopia japonica*) but also species such as ragwort and thistle must be controlled. Advice regarding this matter should be sought from the Waste Regulation Authority (EA.), the Ministry of Agriculture Fisheries and Food or the Agricultural Development and Advisory Service.
- 1.5 Specific operations at the site may require an authorization under part 1 of the Environmental Protection Act 1990 which is concerned with Integrated Pollution Control and local authority air pollution control. Advice regarding authorization should be sought from the EA., or from the Environmental Health Department of the relevant local authority.

- 1.6 Regular inspections will be undertaken by officers of the EA. without prior notice to ensure full compliance with the licence.
- 1.7 If the licence holder ceases to occupy the land to which this licence relates, the licence holder may apply to the EA. to transfer the licence to new occupiers. A fee is now payable in respect of such applications and the EA. reserves the right to decline the transfer.
- 1.8 The conditions of a waste management licence may be modified in order to ensure compliance with the requirements of any statutory regulation or prevent pollution of the environment, harm to human health, or serious detriment to amenities. A licence may be revoked, partly revoked, or suspended if such pollution, danger or detriment cannot be avoided by modification of licence conditions. Additionally a licence may be revoked, partly revoked or suspended where the holder has ceased to be a "Fit and Proper Person" by reason of his having been convicted of a relevant offence.
- 1.9 A licence holder wishing to surrender a licence will have to apply to the EA. for a "Certificate of Completion". Before the certificate can be granted, the EA. will involve the Environment Agency, in a series of extensive checks of the site. Only when the EA. is assured the site is not likely to pollute the environment or pose a threat to human health, will a "Certificate of Completion" be granted and the surrender of the licence accepted. During the intervening period between the last deposit of waste and the surrender of the licence, the licence holder will remain liable for the site, and obliged to carry out monitoring maintenance and repairs to the site and equipment, as necessary.
- 1.10 Fees and charges are payable to the EA. for the following:
 - Applications made to modify the conditions of a Waste Management Licence.
 - Applications made to surrender a Waste Management Licence.
 - Applications made to transfer a Waste Management Licence.
 - The annual subsistence of Waste Management Licence.

There will be no charge for a modification instigated by the E.A.

The subsistence charge for a licence is effective from the date of issue. Licence holders who fail to pay their annual subsistence charge will have their licence suspended in part, so that any waste accepted into the facility during the period of suspension would be illegal and could result prosecution.

If a licence holder wishes to transfer, modify or surrender his licence, the application will only be entertained on payment of the appropriate fee.

1.11 A wide range of information in relation to the licensed site will be held on public register. In addition to the licence, the EA. will have to make available other information such as copies of enforcement notices served, details of relevant convictions, site inspections reports, copies of analysis of waste samples and any relevant consignment notes. Information may only be removed from the public register if it is deemed to be commercially confidential or a matter of national security. Licence holders who consider certain information in relation to their site confidential should contact the EA. The EA. will consider the claim and may or may not accede to the request for confidentiality.

1.12 If a licence holder is aggrieved by the decision of a waste regulation authority in respect of either;

- granting a licence subject to conditions;
- modifying licence conditions
- rejecting an application for surrender
- rejecting an application for licence transfer
- determining commercial confidentiality

He has the right to appeal to the Secretary of State for Wales.

Further details of the appeals procedures are given in Appendix 2.

Licence and Working Plan Reviews

2.0 This licence shall be reviewed from time to time in line with recommendations detailed in Waste Management Paper No 4 " The Licensing of Waste Facilities".

2.1 The review will be carried out after consultation with the licence holder and amendments (if any) to the license issued as necessary to reflect current operating practices and legislation.

2.2 An amendment shall be implemented within a given timescale and at no cost to the E.A. An appeal system is provided by the Environmental Protection Act 1990 and details are provided in Appendix 2 to the licence.

2.3 The working plan forms part of the licence and is the licence holders statement detailing how operations at the site are to be carried out without causing pollution of the environment, harm to human health or detriment to the amenities of the locality. The working plan must, by virtue of licence condition, be adhered to.

Provision is made within the conditions of the licence to allow the working plan to be regularly modified by the licence holder to reflect relevant changes at the site. No fees are payable in respect of alterations to the working plan.

Since non-compliance with the working plan constitutes an offence, operators should ensure that their working plans are regularly reviewed and updated to ensure that the plan does fulfill the requirements of the licence conditions and is a true reflection of procedures and provisions at the site. All proposed changes should be notified to the waste regulation authority for approval prior to their implementation.

2.4 Environmental Protection Act (EPA) 1990

Your attention is drawn to the provisions of the following sections of the EPA 1990. A brief summary is detailed below.

Contravention of Licence Conditions

2.5 Section 33 (1) (a) - Prohibits under penalty the deposit of controlled waste, or knowingly cause or knowingly permit controlled waste to be deposited in or on land unless a waste management licence authorising the deposit is in force and the deposit is in accordance with the licence.

2.6 Section 33 (1) (b) - Prohibits under penalty the treatment, keeping or disposal of controlled waste, or knowingly cause or knowingly permit controlled waste to be treated, kept or disposed of:

- (i) in or on any land; or
- (ii) by means of any mobile plant,

Except under and in accordance with waste management licence.

2.7 Section 33 (1) (c) - Prohibits under penalty the treatment, keeping or disposal of controlled waste in a manner likely to cause pollution of the environment or harm to human health.

2.8 Section 33 (6) - Non-compliance with any condition of a waste management licence is an offence.

Penalties under Section 33

2.9 A person who contravenes Section 33 of the Act shall, subject to subsection 33 (9), be guilty of an offence and liable:

- i) on summary conviction to a fine of an amount not exceeding £20,000; to imprisonment for a term not exceeding 6 months, or both;
- ii) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

Where a person commits an offence under Section 33 in relation to special waste that person would be liable:

- i) on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding £20,000 or both;
- ii) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine or both.

2.10 Section 34

Section 34 of the Act imposes a "Duty of Care" on any person who produces, imports, carriers, keeps, treats or disposes of controlled waste, or as a broker has control of such waste. Breach of the duty of care is an offence, with a penalty of an unlimited fine if convicted on indictment.

Those subjects to the Duty of Care must take all reasonable steps to ensure that;

- a) Other persons are prevented from committing the offences of disposing, treating or storing of controlled waste.
 - without a waste management licence; or
 - breaking the conditions of a licence; or
 - in a manner likely to cause pollution or harm to health;
- b) Waste is not allowed to escape from their control;
- c) If the waste is transferred, it goes only to an "authorised person" or to a person for "authorised transport purposes";
- d) When waste is transferred, to make sure that there is also transferred a written description of the waste, a description adequate enough to enable each person receiving it
 - to avoid committing any of the offences under (a) above; and
 - to comply with the duty at (b) to prevent the escape of waste.

Advice regarding the Duty of Care should be sought from the EA., and licence holders are advised to read "Waste Management, The Duty of Care, A Code of Practice". The code published by the Department of the Environment and is available from all HMSO Publication Centres.

2.11 Section 59

The EA. is empowered to require the removal of any controlled waste deposited in circumstances contrary to the conditions of this licence. If a person on whom a requirement imposed above fails, without reasonable excuse, to comply with the requirement he shall be liable on conviction to a fine not exceeding level 5 on the standard scale and to further fine of an amount equal to one tenth of level 5 for each day on which the failure continues after conviction.

2.12 Section 29

Section 29 of the EPA 1990 gives the following guidance:

The "environment" consists of all, or any, of the following media, namely land, water or the air.

"Pollution of the environment" means pollution of the environment due to the release or escape (into any environmental medium) from the land on which controlled waste is treated, kept or deposited of substances or articles consisting or resulting from the waste and capable (by reason of the quality or concentration involved) of causing harm to man or any other living organism supported by the environment.

"Harm" means harm to health of living organisms or other interference with the ecological system of which they form part and in the case of man includes offence to any of his senses or his property.

WASTE MANAGEMENT LICENSING AND COMMERCIAL CONFIDENTIALITY APPEALS

Introduction

- 1.1 The purpose of this Appendix is to explain the procedure for, and the provisions relating to, the submission of appeal to the Secretary of State for Wales under:
 - (a) Section 43 of the Environmental Protection Act 1990 against decisions made by the EA. on waste management licences; (Section 35(12) of the Act provides that "licence" means a waste management licence. The term "licence" is subsequently used in the rest of this Appendix.) and
 - (b) Section 66 (5) (Section(6) provides that section 43 (2) -(8) applies in relation to appeals under Section 66 (5) of the 1990 Act against decisions made by the EA. that information is not commercially confidential and may be included on Section 64 of the Act.
- 1.2 Section 35 (8) and 74 (5) of the 1990 Act place new duties on the EA.'s to have regard to any guidance issued to them by the Secretary of State with respect to the discharge of their functions in relation to licences and in making determinations of whether or not a person is a fit and proper person. The Secretary of State has issued guidance under section 35 (8) and 74 (5) in the form of Waste Management Paper No 4 which deals with the licensing of 'Waste Management facilities' and Waste Management Paper No 26A on site completion and licence surrender. EA.'s should make prospective applicants and licence holders aware of authorities' duties to have regard to this advice; and that the Secretary of State will similarly have regard to this advice in his determination of appeals made to him.
- 1.3 The Secretary of State has also made under Section 41 of the 1990 Act a charging system prescribing fees for applications for licences; fee for the modification, transfer or surrender of licences; and charges for the subsistence of licences. The effect of the Charging Scheme is to provide the EA. with the financial resources to deal with applications effectively and expeditiously. The objective of the EA.'s should be to determine applications for licences within the four month period specified in Section 36 (9) of the 1990 Act; to determine applications to modify licence conditions within the two month period specified in Section 37 (6); to determine applications to surrender site licence within the three month period specified in section 39 (10); to determine applications to transfer licences within the three month period specified in Section 40 (6); and to make determinations as to whether information is or is not commercially confidential within the fourteen days specified in section 66 (3).

Right to Appeal

- 1.4 Applicants and other persons have a right of appeal to the Secretary of State in the circumstances set out in paragraphs 1.5 below.
- 1.5 Section 43 (1) of the 1990 Act sets out the appeal which may be made to the Secretary of State and the person by whom an appeal may be made. An appeal may be against the EA.'s decision.

Section 43 (1) (a)

- (a) **by the applicant** where an application for a licence submitted under Section 36 (1) (a) or (b) is rejected by the EA. or is deemed to be rejected under Section 36 (9);
- (b) **by the licence holder** where an application to modify the conditions of a licence submitted under Section 37 (1) (b) is rejected by the EA. or is deemed to be rejected under section 37 (b);

Section 43 (1) (b)

- (c) **by the licence holder** where the EA. grants a licence under Section 36 subject to conditions;

Section 43 (1) (c)

- (d) **by the licence holder** where the EA. modifies the conditions of a licence under Section 37 (1) (a) or 37 (2);
- (e) **by the licence holder** where the EA. suspends a licence under Section 38 (6) or 42 (6) (c);

Section 43 (1) (e)

- (f) **by the former licence holder** where the EA. revokes a licence under Section 38 (3) or (4) or Section 42 (6) (a) or (b). (There is no right of appeal where it appears to the EA. that the holder of a licence has failed to pay a subsistence charge due under the Charging Scheme and the EA. exercises its discretion under Section 41 (7) to revoke the licence);

Section 43 (1) (f)

- (g) **by the licence holder** where an application to surrender a site licence submitted under Section 39 (3) is rejected by the EA. or is deemed to be rejected under Section 39 (10);

Section 43 (1) (g)

- (h) **by the proposed transferee** (Section 40 (2) of the Act provides that the "proposed transferee" is the person to whom the licence holder desires that the licence be transferred.) Where an application for the transfer of a licence submitted under Section 40 (2) is rejected by the EA. or is deemed to be rejected under Section 40 (6).

Section 66 (5)

- (i) **by the person furnishing the information** where the EA. determines under Section 66 (2) that information is not commercially confidential;

or

Section 66 (5)

- (j) **by the person whom or to whose business the information relates** where the EA. determines under Section 66 (4) that information is not commercially confidential.

Notice of Appeal

- 1.6 **Regulation 6 (1)** provides that any person who wishes to appeal to the Secretary of State under Section 43 or 66 (5) must do so by notice in writing. **Regulation 6 (2)** provides that the notice of appeal must be accompanied by the following information:

All Appeals

- (a) a statement of the grounds of appeal;
- (b) a copy of any correspondence relevant to the appeal;
- (c) a copy of any other document relevant to the appeal including, in particular, any relevant consent, determination, notice, planning permission, established use certificate of lawful use or development; and
- (d) a statement including whether the appellant wishes the appeal to be in the form of a hearing or to be determined on the basis of written Representations;

Appeals Under Section 43 (1) (a), (b), (f) or (g)

- (e) a copy of the appellants application and any supporting documents;

Appeals Under Section 43 (1) (c), (d) or (e)

- (f) a copy of the waste management licence; and

Appeals Under Section 66 (5)

- (g) a copy of the information which the EA. has determined under Section 66 (2) or (4) of the 1990 Act is not commercially confidential.

1.7 A copy of a form on which notice of appeal may be given is available from:

Welsh Office
Environment Division
Cathays Park
Cardiff
CF1 3NQ

1.8 Regulation 6 (3) require the appellant to serve a copy of his notice of appellant any documents provided under paragraph 1.5 above, on the E.A.

The Effect of Making an Appeal

1.9 Waste Management Licensing Appeals

Section 43 (4) of the 1990 Act provides that while an appeal is pending, and subject to Section (6) (see paragraph 1.11 below), the EA.'s decision is ineffective where:

Appeals Under Section 43 (1) (c)

- (a) the appeal is made by a licence holder against the EA.'s decision to modify the conditions of this licence under Section 37 (1) (a) or 37 (2); or

Appeals Under Section 43 (1) (e)

- (b) the appeal is made by a former licence holder against the EA. decision to revoke his licence under Section 38 (3) or (4) of Section 42 (6) (a) or (b).

1.10 Section 43 (4) also provides that if the appeal is dismissed or withdrawn then the EA.'s decision becomes effective from the end of the day on which the appeal referred to in paragraph 1.9 (a) or (b) above is dismissed or withdrawn.

1.11 The effect of Section 43 (6) is to provide that, while an appeal of the kind referred to in paragraph 1.9 (a) or (b) above is pending, the EA.'s decision to modify the conditions of a licence under Section 37 or to revoke a licence under Sections 38 or 42 is effective where the notice of their decision states that in their opinion it is necessary:

- (a) to prevent pollution of the environment;
- (b) to minimise pollution of the environment where it is not practicable to prevent it;
or
- (c) to prevent harm to human health.

1.12 Appeals Under Section 43 (1) (d)

Section 43 (5) provides that where the appeal is made by a licence holder against the EA's decision to suspend his licence under Section 38 (6) 42 (6) (c), the appeal has no effect on the EA's decision (ie the licence is suspended pending determination of the appeal). However, see paragraph 1.13 on the effect of Section 43 (7) of the 1990 Act.

1.13 Appeals Under Section 43 (1) (c), (d) or (e)

Section 43 (7) of the 1990 Act may be relevant where the decision under appeal falls within the terms of Section 43 (6) (c) to suspend a licence. Its effect is to enable the licence holder, or former licence holder in the case of a revocation under Section 38 (3) or (4) or Section 42 (6) (a) or (b), to apply to the Secretary of State for determination that the EA. acted unreasonably in excluding the application of Section 43 (4) (see paragraph 1.9 above) or in suspending the licence. Section 43 (7) provides that in the event of the Secretary of State's making a determination that the authority acted unreasonably then:

- (a) if the appeal is still pending at the end of the day on which the determination is made, Section 43 (4) applies from the end of that day; and
- (b) the licence holder, or former licence holder, is entitled to recover compensation from the EA. for any loss suffered by him in consequence of the exclusion of Section 43 (4) or the suspension of the licence.

1.14 Appeals Under Section 43 (1) (a), (b), (f) of (g)

The EA's decision also remains in effect pending determination of the appeal.

Section 43 (1) (a)

- (a) an application for a licence submitted under Section 36 (1) (a) or (b) is rejected by the EA. or is deemed to be rejected under Section 36 (9);
- (b) an application to modify the conditions of a licence submitted under Section 37 (1) (b) is rejected by the EA. or is deemed to be rejected under Section 37 (6);

Section 43 (1) (b)

- (c) the EA. grants a licence under Section 36 subject to conditions;

Section 43 (1) (f)

- (d) an application to surrender a site licence (Section (12) provides that a "site licence" means a licence authorising the treatment, keeping or disposal of waste in or on land.) submitted under Section 39 (3) is rejected by the EA. or is deemed to be rejected under Section 39 (10); or

Section 43 (1) (g)

- (e) an application for a transfer of a licence submitted under Section 40 (2) is rejected by the EA. or is deemed to be rejected under Section 40 (6).

1.15 Commercial Confidentiality Appeals

Section 66 (5) of the 1990 Act provides that where an appeal is made against the EA.'s determination that information is not commercially confidential, pending the final determination or withdraw of the appeal, the information is not to be entered in the register which the authority is required to maintain under Section 64 (1).

Withdraw of an Appeal

- 1.16 Regulation 6(4)** provides that if an appellant wishes to withdraw his appeal he must do so by notifying the Secretary of State in writing and send a copy of that notification to the E.A. Subject to these requirements, an appellant may withdraw his appeal at any time.

Time Limit for Making Appeal

- 1.7 Regulation 7 (1)** provides that, subject to Regulation 7 (2), notice of appeal must be given:

Appeals Under Section 43 (1) (a), (b), (c), (d), (e), (f) or (g)

- (a) before the expiry date of 6 months beginning with:
 - (i) the date of the decision which is subject to appeal; or
 - (ii) the date on which the EA. is deemed by Section 36 (9), 37(6), 39(10) or 40 (6) of the 1990 Act to have rejected the application; or

Appeals Under Section 66 (5)

- (b) before the expiry of 21 days beginning with the date on which the determination which is subject of the appeal is notified to the person concerned.

- 1.18 Regulation 7 (2) provides that the Secretary of State may, in relation to an appeal under Section 43 of the 1990 Act, at any time allow notice of appeal to be given after the expiry of 6 month period mentioned in paragraph 1.17 (a) above. In the case in which the Secretary of State receives a notice of appeal after the expiry of this 6 month period he will request from the person wishing to appeal, and before considering the exercise of his discretion under Regulation 7 (2), an explanation of the reasons for that person's not giving notice within the time limit provided by Regulation 7 (1) (a). The Secretary of State has no discretion under Regulation 7 (2) to accept an appeal under Section 66 (5) after the expiry of 21 day limit provided by Regulation 7 (1) (b).