



STATUTORY INSTRUMENTS.

S.I. No. 148 of 2013

EUROPEAN UNION (WASTE INCINERATION PLANTS AND WASTE
CO-INCINERATION PLANTS) REGULATIONS 2013

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I, PHIL HOGAN, Minister for the Environment, Community and Local Government in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972) and for the purpose of giving effect to Chapter IV and further effect to Chapters I and VII of Directive 2010/75/EU of the European Parliament and the Council of 24 November 2010¹, hereby make the following Regulations:

Citation.

1. These Regulations may be cited as the European Union (Waste Incineration Plants and Waste Co-Incineration Plants) Regulations 2013.

Definitions.

2. (1) A word or expression which is used in these Regulations and which is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

(2) In these Regulations—

“Act of 1992” means the Environmental Protection Agency Act 1992 (No. 7 of 1992);

“Act of 1996” means the Waste Management Act 1996 (No. 10 of 1996);

“Agency” means the Environmental Protection Agency established under section 19 of the Environmental Protection Agency Act 1992 (No. 7 of 1992);

“Commission” means the European Commission;

“Directive” means Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions;

“existing waste incineration plants and waste co-incineration plants” means waste incineration plants and waste co-incineration plants for which a licence or waste licence is in force before the signing of these Regulations;

“licence” means a licence including a revised licence within the meaning of Part IV of the Act of 1992;

“Minister” means the Minister for the Environment, Community and Local Government;

¹ OJ No. L 334, 17 December, 2010, p.17

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 7th May, 2013.

“new waste incineration plants and waste co-incineration plants” means waste incineration plants and waste co-incineration plants for which a licence or waste licence is not in force on or before the signing of these Regulations;

“residue” shall mean any liquid or solid waste which is generated by a waste incineration plant or waste co-incineration plant;

“waste licence” means a licence including a revised licence within the meaning of Part V of the Act of 1996.

Scope.

3. (1) These Regulations apply to waste incineration plants and waste co-incineration plants which incinerate or co-incinerate solid or liquid waste.

(2) For the purposes of these Regulations, waste incineration plants and waste co-incineration plants shall include all incineration lines or co-incineration lines, waste reception, storage, on site pretreatment facilities, waste-, fuel- and air-supply systems, boilers, facilities for the treatment of waste gases, on-site facilities for treatment or storage of residues and waste water, stacks, devices and systems for controlling incineration or co-incineration operations, recording and monitoring incineration or co-incineration conditions.

(3) If processes other than oxidation, such as pyrolysis, gasification or plasma process, are applied for the thermal treatment of waste, the waste incineration plant or waste co-incineration plant shall include both the thermal treatment process and the subsequent incineration process.

(4) If waste co-incineration takes place in such a way that the main purpose of the plant is not the generation of energy or production of material products but rather the thermal treatment of waste, the plant shall be regarded as a waste incineration plant for the purposes of these Regulations.

(5) These Regulations shall not apply to the following plants:

(a) plants treating only the following wastes:

(i) waste listed as follows:

(I) vegetable waste from agriculture and forestry;

(II) vegetable waste from the food processing industry, if the heat generated is recovered;

(III) fibrous vegetable waste from virgin pulp production and from production of paper from pulp, if it is co-incinerated at the place of production and the heat generated is recovered;

(IV) cork waste;

(V) wood waste with the exception of wood waste which may contain halogenated organic compounds or heavy metals as a

result of treatment with wood preservatives or coating and which includes, in particular, such wood waste originating from construction and demolition waste;

- (ii) radioactive waste;
 - (iii) animal carcasses as regulated by Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption³;
 - (iv) waste resulting from the exploration for, and the exploitation of, oil and gas resources from off-shore installations and incinerated on board the installations;
- (b) experimental plants used for research, development and testing in order to improve the incineration process and which treat less than 50 tonnes of waste per year.
- (c) gasification or pyrolysis plants, if the gases resulting from this thermal treatment of waste are purified to such an extent that they are no longer a waste prior to their incineration and they can cause emissions no higher than those resulting from the burning of natural gas.

Designation of Competent Authority.

4. The Agency shall be the competent authority for the purposes of Chapter IV of the Directive and for the purposes of these Regulations.

Application.

5. (1) These Regulations shall apply to new waste incineration plants and waste co-incineration plants on or after the signing of these Regulations.

(2) These Regulations shall apply to existing waste incineration plants and waste co-incineration plants on or after 7 January, 2014.

Conditions necessary to give effect to these Regulations.

6. Without prejudice to Sections 83(1) and 84 of the Act of 1992 and Sections 40(1) and 41 of the Act of 1996, if the activity concerned is a waste incineration plant or a waste co-incineration plant the Agency shall attach to any licence or waste licence (as the case may be) that may be granted by it such conditions as are necessary to give effect to these Regulations.

Matters on which the Agency must be satisfied.

7. (1) Without prejudice to Section 83(3) of the Act of 1992 or Section 40(4) of the Act of 1996, if the activity concerned is a waste incineration plant or a waste co-incineration plant, the Agency shall not grant a licence or a waste licence unless it is satisfied that the waste incineration plant or waste co-incineration plant complies with the requirements of these Regulations.

³ OJ L 273, 10.10.2002, p.1.

(2) The Agency shall, not later than 7 January 2014, have examined the terms of every licence and waste licence of existing waste incineration plants and waste co-incineration plants and having regard to the provisions of these Regulations, determined whether, the licence or waste licence is to be amended to bring it into conformity with these Regulations, and if—

- (a) it has determined that the licence or revised licence requires to be so amended, completed the amendment in accordance with Regulation 7(3); or
- (b) it has determined that the licence or revised licence does not require to be so amended and accordingly, that no further action is required, declared in writing that it is of that opinion.

(3) If the bringing into conformity with these Regulations of a licence or waste licence can, in the opinion of the Agency, be achieved by amending one or more conditions of the licence or waste licence or schedules to the licence or waste licence then, the Agency shall pursuant to this Regulation have made, not later than 7 January 2014, those amendments of the conditions of the licence or waste licence (which, by virtue of this paragraph, it has power to do).

(4) Where the Agency considers that it is necessary for the purpose of the performance of the functions conferred on the Agency under Regulation 7(2), it may give notice to the licensee or waste licensee to furnish to the Agency, within the period specified in the notice, information, documents or other particulars specified in the notice.

Incidents and Accidents.

8. (1) Without prejudice to the European Communities (Environmental Liability) Regulations 2008 (S.I. No. 547 of 2008), in the event of any incident or accident occurring which could significantly affect the environment, the operator shall—

- (a) inform the Agency immediately; and
- (b) immediately take any measures necessary to limit the environmental consequences and to prevent further possible incidents.

(2) The Agency shall require the operator to take any appropriate complementary measures that it considers necessary to limit the environmental consequences and to prevent further possible incidents or accidents.

Instances of Non-Compliance.

9. (1) The Agency shall put in place measures to ensure that these Regulations are complied with.

(2) Where the operator of a waste incineration plant or waste co-incineration plant becomes aware that a requirement of these Regulations has been breached or is being breached, as the case may be, the said operator shall—

- (a) inform the Agency immediately; and

(b) immediately take the measures necessary to ensure compliance is restored within the shortest possible time.

(3) The Agency shall require the operator to take any appropriate complementary measures that it considers necessary to restore compliance.

(4) Where a breach of these Regulations which poses an immediate danger to human health, or threatens to cause an immediate significant adverse effect upon the environment, the operation of the waste incineration plant or waste co-incineration plant or relevant part thereof shall be suspended until compliance is restored to the satisfaction of the Agency.

Emissions of Greenhouse Gases.

10. (1) For activities listed in Annex I to Directive 2003/87/EC, the Agency may choose not to impose requirements relating to energy efficiency in respect of combustion units or other units emitting carbon dioxide on the site.

(2) Where necessary, the Agency shall amend a licence or waste licence as appropriate to give effect to Regulation 10(1).

Applications for licences or waste licences for Waste Incineration Plants and Waste Co-Incineration Plants.

11. An application for a licence or waste licence for a waste incineration plant or waste co-incineration plant shall include a description of the measures which are envisaged to guarantee that the following requirements are met:

- (a) the plant is designed, equipped and will be maintained and operated in such a manner that the requirements of these Regulations are met taking into account the categories of waste to be incinerated or co-incinerated;
- (b) the heat generated during the incineration and co-incineration process is recovered as far as practicable through the generation of heat, steam or power;
- (c) the residues will be minimised in their amount and harmfulness and recycled where appropriate; and
- (d) the disposal of the residues which cannot be prevented, reduced or recycled will be carried out in conformity with national and European Union law.

Conditions attached to licences or waste licences for waste incineration plants or waste co-incineration plants.

12. (1) A licence or waste licence for a waste incineration plant or waste co-incineration plant shall include the following:

- (a) a list of all types of waste which may be treated using at least the types of waste set out in the European Waste List established by Decision 2000/532/EC, if possible, and containing information on the quantity of each type of waste, where appropriate;

- (b) the total waste incinerating or co-incinerating capacity of the plant;
- (c) the limit values for emissions into air and water;
- (d) the requirements for the pH, temperature and flow of waste water discharges;
- (e) the sampling and measurement procedures and frequencies to be used to comply with the conditions set for emission monitoring; and
- (f) the maximum permissible period of any technically unavoidable stoppages, disturbances, or failures of the purification devices or the measurement devices, during which the emissions into the air and the discharges of waste water may exceed the prescribed emission limit values.

(2) In addition to the requirements set out in Regulation 12(1), the licence or waste licence granted to a waste incineration plant or waste co-incineration plant using hazardous waste shall include the following:

- (a) a list of the quantities of the different categories of hazardous waste which may be treated; and
- (b) the minimum and maximum mass flows of those hazardous wastes, their lowest and maximum calorific values and their maximum contents of polychlorinated biphenyls, pentachlorophenol, chlorine, fluorine, sulphur, heavy metals and other polluting substances.

(3) The Agency shall periodically reconsider and, where necessary, update licence or waste licence conditions which give effect to these Regulations.

Control of emissions.

13. (1) Waste gases from waste incineration plants and waste co-incineration plants shall be discharged in a controlled way by means of a stack the height of which is calculated in such a way as to safeguard human health and the environment.

- (2) (a) Emissions into air from waste incineration plants and waste co-incineration plants shall not exceed the emission limit values set out in Parts 3 and 4 of Annex VI to the Directive or determined in accordance with Part 4 of that Annex to the Directive.
- (b) If in a waste co-incineration plant more than 40 % of the resulting heat release comes from hazardous waste, or the plant co-incinerates untreated mixed municipal waste, the emission limit values set out in Part 3 of Annex VI to the Directive shall apply.

(3) Discharges to the aquatic environment of waste water resulting from the cleaning of waste gases shall be limited as far as practicable and the concentrations of polluting substances shall not exceed the emission limit values set out in Part 5 of Annex VI to the Directive.

- (4) (a) The emission limit values shall apply at the point where waste waters from the cleaning of waste gases are discharged from the waste incineration plant or waste co-incineration plant.
- (b) When waste waters from the cleaning of waste gases are treated outside the waste incineration plant or waste co-incineration plant at a treatment plant intended only for the treatment of this sort of waste water, the emission limit values set out in Part 5 of Annex VI to the Directive shall be applied at the point where the waste waters leave the treatment plant. Where the waste water from the cleaning of waste gases is treated collectively with other sources of waste water, either on site or off site, the operator shall make the appropriate mass balance calculations, using the results of the measurements set out in point 3 of Part 6 of Annex VI to the Directive in order to determine the emission levels in the final waste water discharge that can be attributed to the waste water arising from the cleaning of waste gases.
- (c) Under no circumstances shall dilution of waste water take place for the purpose of complying with the emission limit values set out in Part 5 of Annex VI to the Directive.
- (5) (a) Waste incineration plant sites and waste co-incineration plant sites, including associated storage areas for waste, shall be designed and operated in such a way as to prevent the unauthorised and accidental release of any polluting substances into soil, surface water and groundwater.
- (b) Storage capacity shall be provided for contaminated rain water runoff from the waste incineration plant site or waste co-incineration plant site or for contaminated water arising from spillage or fire-fighting operations. The storage capacity shall be adequate to ensure that such waters can be tested and treated before discharge where necessary.
- (6) (a) Without prejudice to Regulation 17(4)(c), the waste incineration plant or waste co-incineration plant or individual furnaces being part of a waste incineration plant or waste co-incineration plant shall under no circumstances continue to incinerate waste for a period of more than 4 hours uninterrupted where emission limit values are exceeded.
- (b) The cumulative duration of operation in such conditions over one year shall not exceed 60 hours.
- (c) The time limit set out Regulation 13(6)(b) shall apply to those furnaces which are linked to one single waste gas cleaning device.

Breakdown.

14. In the case of a breakdown, the operator shall reduce or close down operations as soon as practicable until normal operations can be restored.

Monitoring of Emissions.

15. (1) The Agency shall ensure that the monitoring of emissions is carried out in accordance with Parts 6 and 7 of Annex VI to the Directive.

(2) The installation and functioning of the automated measuring systems shall be subject to control and to annual surveillance tests as set out in point 1 of Part 6 of Annex VI to the Directive.

(3) The Agency shall determine the location of the sampling or measurement points to be used for monitoring of emissions.

(4) All monitoring results shall be recorded, processed and presented in such a way as to enable the Agency to verify compliance with the operating conditions and emission limit values which are included in the licence or waste licence.

Compliance with emission limit values.

16. The emission limit values for air and water shall be regarded as being complied with if the conditions described in Part 8 of Annex VI to the Directive are fulfilled.

Operating conditions.

17. (1) Waste incineration plants shall be operated in such a way as to achieve a level of incineration such that the total organic carbon content of slag and bottom ashes is less than 3 % or their loss on ignition is less than 5 % of the dry weight of the material. If necessary, waste pre-treatment techniques shall be used.

(2) (a) Waste incineration plants shall be designed, equipped, built and operated in such a way that the gas resulting from the incineration of waste is raised, after the last injection of combustion air, in a controlled and homogeneous fashion and even under the most unfavourable conditions, to a temperature of at least 850 °C for at least two seconds.

(b) Waste co-incineration plants shall be designed, equipped, built and operated in such a way that the gas resulting from the co-incineration of waste is raised in a controlled and homogeneous fashion and even under the most unfavourable conditions, to a temperature of at least 850 °C for at least two seconds.

(c) If hazardous waste with a content of more than 1 % of halogenated organic substances, expressed as chlorine, is incinerated or co-incinerated, the temperature required to comply with Regulations 17(2)(a) and 17(2)(b) shall be at least 1,100 °C.

(d) In waste incineration plants, the temperatures set out in Regulations 17(2)(a) and 17(2)(c) shall be measured near the inner wall of the combustion chamber. The Agency may authorise the measurements at another representative point of the combustion chamber.

- (3) (a) Each combustion chamber of a waste incineration plant shall be equipped with at least one auxiliary burner. This burner shall be switched on automatically when the temperature of the combustion gases after the last injection of combustion air falls below the temperatures set out in Regulation 17(2). It shall also be used during plant start-up and shut-down operations in order to ensure that those temperatures are maintained at all times during these operations and as long as unburned waste is in the combustion chamber.
- (b) The auxiliary burner shall not be fed with fuels which can cause higher emissions than those resulting from the burning of gas oil as defined in Article 2(2) of Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels⁴, liquefied gas or natural gas.
- (4) Waste incineration plants and waste co-incineration plants shall operate an automatic system to prevent waste feed in the following situations:
- (a) at start-up, until the temperature set out Regulation 17(2) or the temperature specified in accordance with Regulation 18(1) has been reached;
- (b) whenever the temperature set out Regulation 17(2) or the temperature specified in accordance with Regulation 18(1) is not maintained; and
- (c) whenever the continuous measurements show that any emission limit value is exceeded due to disturbances or failures of the waste gas cleaning devices.
- (5) Any heat generated by waste incineration plants or waste co-incineration plants shall be recovered as far as practicable.
- (6) Infectious clinical waste shall be placed straight in the furnace, without first being mixed with other categories of waste and without direct handling.
- (7) The Agency shall ensure that the waste incineration plant or waste co-incineration plant is operated and controlled by a natural person who is competent to manage the plant.

Authorisation to change operating conditions.

18. (1) Conditions different from those laid down in Regulations 17(1), (2) and (3) and, as regards the temperature, Regulation 17(4) and specified in the licence or waste licence for certain categories of waste or for certain thermal processes, may be authorised by the Agency provided the other requirements of these Regulations are met.

(2) For waste incineration plants, the change of the operating conditions shall not cause more residues or residues with a higher content of organic polluting

⁴ OJ L 121, 11.5.1999, p. 13

substances compared to those residues which could be expected under the conditions laid down in Regulations 17(1), (2) and (3).

(3) (a) Emissions of total organic carbon and carbon monoxide from waste co-incineration plants, authorised to change operating conditions according to Regulation 18(1) shall also comply with the emission limit values set out in Part 3 of Annex VI to the Directive.

(b) Emissions of total organic carbon from bark boilers within the pulp and paper industry co-incinerating waste at the place of its production which were in operation and had a licence or waste licence before 28 December 2002 and which are authorised to change operating conditions according to Regulation 18(1) shall also comply with the emission limit values set out in Part 3 of Annex VI to the Directive.

(4) The Agency shall communicate to the Commission all operating conditions authorised under Regulations 18(1), (2) and (3) and the results of verifications made as part of the information provided in accordance with the reporting requirements under Regulation 23.

Delivery and reception of waste.

19. (1) The operator of the waste incineration plant or waste co-incineration plant shall take all necessary precautions concerning the delivery and reception of waste in order to prevent or to limit as far as practicable the pollution of air, soil, surface water and groundwater as well as other negative effects on the environment, odours and noise, and direct risks to human health.

(2) The operator shall determine the mass of each type of waste, if possible according to the European Waste List established by Decision 2000/532/EC, prior to accepting the waste at the waste incineration plant or waste co-incineration plant.

(3) Prior to accepting hazardous waste at the waste incineration plant or waste co-incineration plant, the operator shall collect available information about the waste for the purpose of verifying compliance with the licence or waste licence requirements specified in Regulation 12(2). That information shall cover the following:

- (a) all the administrative information on the generating process contained in the documents mentioned in Regulation 19(4)(a);
- (b) the physical, and as far as practicable, chemical composition of the waste and all other information necessary to evaluate its suitability for the intended incineration process; and
- (c) the hazardous characteristics of the waste, the substances with which it cannot be mixed, and the precautions to be taken in handling the waste.

(4) Prior to accepting hazardous waste at the waste incineration plant or waste co-incineration plant, at least the following procedures shall be carried out by the operator:

- (a) the checking of the documents required by Directive 2008/98/EC and, where applicable, those required by Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste⁵ and by legislation on transport of dangerous goods; and
- (b) the taking of representative samples, unless inappropriate as far as possible before unloading, to verify conformity with the information provided for in Regulation 19(3) by carrying out controls and to enable the Agency to identify the nature of the wastes treated.

(5) The samples referred to in Regulation 19(4)(b) shall be kept for at least one month after the incineration or co-incineration of the waste concerned.

(6) The Agency may grant exemptions from Regulations 19(2), (3) and (4) to waste incineration plants or waste co-incineration plants which are a part of an installation covered by Chapter II of the Directive and only incinerate or co-incinerate waste generated within that installation.

Residues.

20. (1) Residues shall be minimised in their amount and harmfulness. Residues shall be recycled, where appropriate, directly in the plant or outside.

(2) Transport and intermediate storage of dry residues in the form of dust shall take place in such a way as to prevent dispersal of those residues in the environment.

(3) Prior to determining the routes for the disposal or recycling of the residues, appropriate tests shall be carried out to establish the physical and chemical characteristics and the polluting potential of the residues. Those tests shall concern the total soluble fraction and heavy metals soluble fraction.

Substantial change.

21. A change of operation of a waste incineration plant or a waste co-incineration plant treating only non-hazardous waste in an installation covered by Chapter II of the Directive which involves the incineration or co-incineration of hazardous waste shall be regarded as a substantial change.

Reporting and public information on waste incineration plants and waste co-incineration plants.

22. (1) Applications for licences or waste licences in relation to waste incineration plants and waste co-incineration plants shall be made available to the public to view and download from Agency's website for an appropriate period to enable the public to comment on the applications before the Agency reaches a decision. That decision, including at least a copy of the licence or waste licence,

⁵ OJ L 190, 12.7.2006, p. 1

and any subsequent updates, shall also be made available to the public to view and download from Agency's website.

(2) For waste incineration plants or waste co-incineration plants with a nominal capacity of 2 tonnes or more per hour, the report referred to in Regulation 23 shall include information on the functioning and monitoring of the plant and give account of the running of the incineration or co-incineration process and the level of emissions into air and water in comparison with the emission limit values. That information shall be made available to the public to view and download from Agency's website.

(3) A list of waste incineration plants or waste co-incineration plants with a nominal capacity of less than 2 tonnes per hour shall be drawn up by the Agency and shall be made available to the public to view and download from Agency's website.

Reporting.

23. With regard to waste incineration plants and waste co-incineration plants, the Agency shall maintain such data and information, provide for the supply of data to the Commission and undertake such reporting as may be necessary for the proper implementation of the requirements of Article 72 of the Directive.

Amendment of Waste Management (Licensing Regulations) 2004.

24. The Waste Management (Licensing) Regulations 2004 (S.I. No. 395 of 2004) are amended by deleting "in the opinion of the Agency" in article 35 (1).

Revocation.

25. The following are revoked:

- (a) Air Pollution Act, 1987 (Municipal Waste Incineration) Regulations, 1993 (S.I. No. 347 of 1993); and
- (b) From 7 January, 2014, European Communities (Incineration of Waste) Regulations 2003 (S.I. 275 of 2003).



GIVEN under my Official Seal,
2 May 2013.

PHIL HOGAN,
Minister for the Environment, Community and Local
Government.

EXPLANATORY NOTE

(This note is not part of the Regulation and does not purport to be a legal interpretation)

These Regulations transpose Chapter IV of Directive 2010/75/EU of the European Parliament and the Council of 24 November, 2010 on industrial emissions (integrated pollution prevention and control) (Recast). The Regulations apply to Waste incineration Plants and Waste Co-incineration plants as set out in the Regulations.

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