



**Transposing
the Mining Waste Directive (2006/21/EC)
in Northern Ireland**

Answer booklet

February 2009



Introduction

This answer booklet accompanies the Department's consultation paper seeking views on the proposals to transpose EU Directive 2006/21/ EC on the management of waste from the extractive industries, the Mining Waste Directive (MWD), into Northern Ireland law.

How to Respond

Completed answer booklets should be returned to the Planning Service, an Executive Agency of the Department, no later than **11th May 2009** in one of the following ways:

1. **By post** to:

Stephen Acheson
Mining Waste Directive Consultation
Planning Service
3rd Floor
Millennium House
17-25 Great Victoria Street
Belfast
BT2 7BN

2. **By e-mail** to: mining.waste@doeni.gov.uk

3. **By fax** (marked 'Mining Waste Directive Consultation Response') to: **028 9041 6960**

This answer booklet replicates the questions set out in the Department's consultation paper in relation to the proposals for transposition of Directive 2006/21/EC in to Northern Ireland legislation. These are intended to guide your response although you do not need to answer every question and you may comment on any aspect of the proposals even if a question has not been included. We look forward to receiving responses to the proposals contained within the consultation document.

Respondents do not have to use this answer booklet (although this is the preferred format) but should make any return to the Planning Service in one of the ways noted above.

Additional copies of the consultation document can be downloaded from the Planning Service website at www.planningni.gov.uk. Additional hard copies of the consultation document and copies in alternative formats (e.g. answer booklet in Microsoft Word™) are also available on request from the postal, e-mail or fax numbers above or by telephone on 028 90416940.

If you have any comments or complaints about the consultation process itself (rather than the content of this document) these should be directed to the postal or e-mail addresses above and clearly identified as a comment or complaint.

Question 1: Do you agree that Northern Ireland should take advantage of all derogations in MWD?

Answer:

Yes, it is absolutely essential that the advantage is taken of all available derogations since virtually all of the requirements of the MWD are already covered by existing legislation and regulations. Failure to do so will be in conflict with the NI Executives desire for Better Regulation which the industry supports and will result in additional time consuming and costly burdens for all involved, including regulators, yielding no tangible benefit to the environment and the economy.

Question 2: Do you agree with the proposal to extend the meaning of development in the 1991 Order by amending the definition of “mining operations” to include “*the management of waste resulting from the prospecting, extraction, treatment and storage of mineral resources*”?

Answer:

Yes

Question 3: Do you agree that a waste management plan is an appropriate method through which an operator should demonstrate compliance with the requirements set out in Articles 4, 5 and 10?

In principle, yes, with a number of issues requiring clarification. A fundamental point with respect to waste management plans needs to be clearly established. A planning approval or ROMP review could give a valid consent and therefore an asset value for the minerals over a number of years and yet within the MWD there is a requirement for a 5 year review of the waste management plan. QPANI would propose that this review

is carried out as part of the audit process within the Aggregates Levy Credit Scheme and that DOENI report back to Planning Service regarding the status and effectiveness of a particular sites waste management plan.

Question 4: Do you agree that the planning application process is a suitable mechanism through which to consider the appropriateness of the waste management plan?

Answer:

Yes, using the existing regulatory system will help to reduce the burden on business and the regulator. Compliance with the Directive can be monitored and driven through the setting of planning conditions relating to the MWD.

Question 5: Do you agree with the Department's proposal to modify the current consultation arrangements with NIEA and HSENI to ensure compliance with the MWD?

Answer:

Yes. The appropriate authorities who need to be consulted are already members of the Better Regulation group therefore it should be relatively simple to put an effective communication process in place to ensure each sites compliance with the MWD.

Question 6: Do you agree that ROMPs is the most appropriate mechanism for bringing planning permissions into line with waste management plans?

Answer:

Yes,

Question 7: Do you agree that planning permission should be withheld for new operations and enforced for existing operations where a suitable financial guarantee is not put in place?

Answer:

We believe that this should only apply to Category A waste facilities.

Question 8: Do you agree that the principles of Best Available Techniques should be demonstrated through waste management plans as an element of a planning application or by some other means, and if so what?

Answer:

We believe that there should be a general requirement for mining waste to be subject to the principles of Best Available Techniques Not Exceeding Excessive Costs and this should be demonstrated through the Waste Management Plans.

Question 9: Do you agree that the proposed requirements as an element of the planning application process are adequate in addressing the requirements of Article 6?

Answer:

We do not believe that this is relevant to our industry and have therefore no comment to make.

Question 10: Do you agree that the proposals to satisfy the requirements of the MWD in relation to inspections are consistent with Better Regulation principles?

Answer:

Yes, please see answers to questions 1, 4 and 5.

Question 11: Do you agree that placing a general requirement on operators is an appropriate means of securing the competency requirements of Article 11?

Answer:

Yes

Question 12: Should the proposed Regulations introduce specific fees for the consideration of waste management plans and inspections?

Answer:

No, In the spirit of Better Regulation and the very reason the Transposition of the Directive has been given through the Planning process compliance and monitoring can be carried out through existing regulation, including the Aggregates Levy Credit Scheme, thereby not incurring any additional monitoring costs for the Regulator. There could be a system of charging those who do not comply or fail to meet the general requirements. This would act as an additional compliance incentive.

Other Comments:

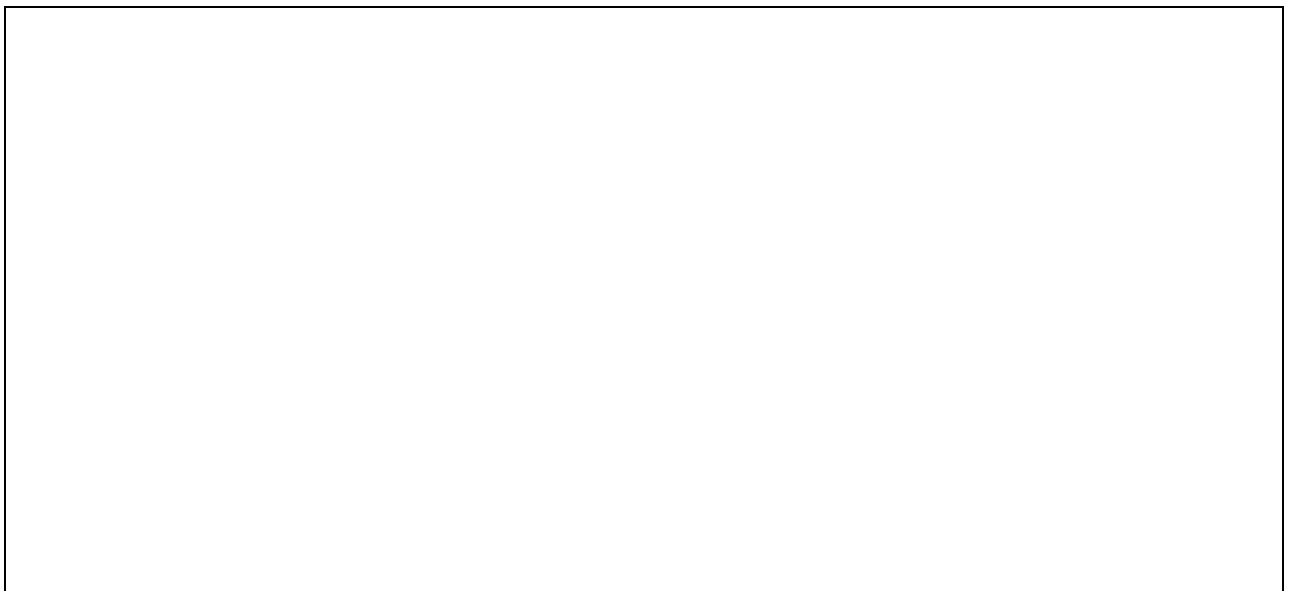
It is the QPANI view, and that of the industry, that the vast bulk of materials involved in the extraction of hard rock and sand and gravel quarries in Northern Ireland should be classed as “non waste by products”. In almost all cases these are likely to be unpolluted soils and overburden and indeed there is a strong argument that silt contained in lagoons should be similarly categorised. None of these leave the site and are used in the restoration process in accordance with the planning permission and approved restoration plan. The handling and control of these materials and their potential impact will have been detailed within the Environmental Impact Assessment and planning application or for older sites as part of the ROMPS review. It will also be subject to the Quarries Regulations.

There must be clear and comprehensive guidance from NIEA and Planning Service for use in determining whether materials meet non-waste by product status.

QPANI look forward to working with NIEA and Planning Service on communicating such guidance to the industry.

QPANI also look forward to developing, with NIEA support, a Waste Management Plan template that can be used by the Industry to ensure compliance.

QPANI are confident that given the unprecedented communication and partnership between the industry and various Government agencies on the transposition of the MWD into Northern Ireland we can give confidence to the EU Commission that NI PLC is meeting all the requirements of the Directive.



Personal details

Title : Mr

Name : Gordon Best

Address : Regional Director QPANI
Unit 10, Nutts Corner Business Park
Dundrod Road, Crumlin
Co. Antrim

Postcode : BT 29 4SR

Email : gbest@qpani.org