

**ENVIRONMENTAL REGULATIONS AND
CROSS-BORDER TRADE AND BUSINESS**
Sept 2011

Contents

Acknowledgements	4	4. Consultations	40
Executive Summary	5	4.1 Consultations with Business Representatives	40
1. Introduction	8	4.2 Feedback from Business Representatives	40
1.1 Terms of Reference	9	4.3 Feedback from Waste Management Representatives	42
2. Information Review	10	4.3.1 Cré	42
2.1 Environmental Regulation in Ireland and Northern Ireland	10	4.3.2 Indaver Ireland	42
2.1.1 Irish Environmental Regulation	10	4.3.3 Fermanagh District Council	42
2.1.2 Northern Ireland Environmental Regulation	11	4.4 Consultation on the New Hazardous Waste Movements Regulations	43
2.2 Barriers to Good Regulation	11	4.5 Briefing Seminar	44
2.3 Better Regulation	11	4.6 Feedback from Briefing Seminar	44
2.3.1 Better Regulation in the European Union	12	4.6.1 Development of Case Study Examples	46
2.3.2 Better Regulation in Ireland	12	4.7 Feedback from Key Stakeholders	47
2.3.3 Better Regulation in Northern Ireland	13	5. Case Studies and Recommendations from Business	48
2.4 Measuring Administrative Burdens	14	5.1 Clearway Ltd	48
2.4.1 The Standard Cost Model (SCM)	16	5.1.1 Company Background	48
2.4.2 Action Programme for reducing administrative burdens in the European Union	17	5.1.2 Reason for Legislative Compliance	48
3. Review of the Regulations	18	5.1.3 Financial and Administrative Costs/Burdens	48
3.1 Review Methodology	18	5.1.4 Perceived Barriers to Trade	49
3.2 Outcome of Review	24	5.1.5 Recommendations for Consideration	49
3.3 Integrated Pollution Prevention and Control (IPPC)	24	5.2 Re-Gen Waste	49
3.3.1 Ireland	24	5.2.1 Company Background	49
3.3.2 Northern Ireland	25	5.2.2 Reason for Legislative Compliance	49
3.4 Shipments of Waste	26	5.2.3 Financial and Administrative Costs/Burdens	50
3.4.1 Ireland	27	5.2.4 Perceived Barriers to Trade	50
3.4.2 Northern Ireland	28	5.2.5 Recommendations for Consideration	51
3.5 Waste Electronic and Electrical Equipment (WEEE) (A producer responsibility scheme)	30	5.3 Natural World Products Ltd	51
3.5.1 Ireland	30	5.3.1 Company Background	51
3.5.2 Northern Ireland	32	5.3.2 Reason for Legislative Compliance	51
3.6 End of life Vehicles (ELV) (A producer responsibility scheme)	34	5.3.3 Financial and Administrative Costs/Burdens	52
3.6.1 Ireland	34	5.3.4 Perceived Barriers to Trade	52
3.6.2 Northern Ireland	35	5.3.5 Recommendations for Consideration	53
3.7 Seveso (Chemical Accidents (Seveso II) - Prevention, Preparedness and Response)	37	6. Conclusions and Recommendations	54
3.7.1 Ireland	37	6.1.1 General Recommendations on Environmental Regulations and Cross-Border Business	54
3.7.2 Northern Ireland	38	6.1.2 Specific Recommendations for TFS Regulations and the Waste Sector	54
		Appendix A	56

Acknowledgements

InterTradelreland commissioned SKM Enviros to carry out the research behind this report and would like to thank both the study team and the Steering Group, who provided important insights and direction.

Steering Group Members

Aidan Gough	InterTradelreland
Dara Lynott	Environmental Protection Agency
Eoin Magennis	InterTradelreland (Chair)
Mark Pinkerton	Department of Enterprise, Trade and Investment
Sara McGuckin	Northern Ireland Environment Agency

Further work was undertaken on the report delivered by SKM Enviros, by InterTradelreland staff (Jani Lopez and Eoin Magennis)

Disclaimer

InterTradelreland is confident that the information and opinions contained in this document have been compiled or arrived at by the authors from sources believed to be reliable or in good faith, but no representation or warranty, express or implied, is made to their accuracy, completeness or correctness. All opinions and estimates contained in this document constitute the authors' judgement as of the date of this document and are subject to change without notice. The publication is intended to provide general information to its readers regarding the subject matter of the publication. It is not intended to provide a comprehensive statement of the subject matter of the publication and does not necessarily reflect the views of InterTradelreland. While care has been taken in the production of the publication, no responsibility is accepted by InterTradelreland for any errors or omissions herein.

Executive Summary

The objective of this study is to identify the barriers to cross-border trade and business for small to medium sized enterprises (SMEs) caused by the different interpretation and application of environmental regulations in Ireland and Northern Ireland and to propose some actions to simplify cross-border compliance with relevant environmental regulations.

A number of studies in relation to barriers to trade and better regulation have been conducted in the past. However, none of these studies were specific to environmental regulations in Ireland and Northern Ireland. This report breaks new ground by examining a small number of environmental regulations, how these are enforced in Ireland and Northern Ireland and whether they impact upon cross-border trade and business. It also outlines current methods to measure administrative burdens, EU action programmes for reducing administrative burdens and 'better regulation' activities in the two jurisdictions.

This research was undertaken under the premise that it is widely accepted and understood in both

the business community and by the regulatory authorities that regulations are principally designed to protect businesses, consumers, employees and the environment, and that legislation and subsidiary regulations have a critical role to play in key areas of economic, environment and social life.

Therefore, this research does not address or question the benefits of each piece of legislation. Instead the study looks at the administrative activities which are undertaken to maintain ongoing compliance with the identified regulations. Only enacted legislation in Ireland and Northern Ireland was included in the research.

Furthermore, the study concentrated on businesses within the agri-food, construction and waste sectors, with specific emphasis on small to medium sized industries on the cusp of the Integrated Pollution Prevention and Control (IPPC)¹.

After reviewing previous EU research and consulting with the steering group, the research focused on the following list of regulations:

Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste

Council Directive 96/61/EC of 24 September 1996 concerning Integrated Pollution Prevention and Control (IPPC)

Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on Waste Electrical and Electronic Equipment (WEEE)

Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles (ELV)

Council Directive 96/82/EC of 9 December 1996 on the control of major accident hazards involving dangerous substances (including: Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances)

¹ It was not possible to provide detail costs relating to administrative compliance regarding IPPC as these costs vary greatly depending on the activity and requirements included as part of the permit.

The report identifies and reviews the pertinent regulations implemented in Ireland and Northern Ireland to meet the requirements of the EU Directives listed above. It presents those elements which were considered to be burdensome to businesses and potentially a barrier to cross-border trade. However, there is no evidence that either jurisdiction has 'gold plated' or imposed additional burdens on the EU directives.

The report includes findings from consultations with businesses and business representative bodies, including individual interviews and a seminar hosted by InterTradelreland. One important finding is that the business representative and agency consultees have no evidence to suggest that any environmental regulations, with one exception, influence companies undertaking cross-border trade. However, in the consultations it became clear that the Trans-Frontier Shipment of Waste (TFS) regulations affecting the waste management sector were highlighted as having a significant impact on cross-border trade and business.

The TFS regulations require EU member states to implement measures for the supervision and control of shipments of waste in order to ensure that the movement, recovery, or disposal of waste, is managed in an environmentally sound manner, for the protection of the environment and human health. Prior notification and authorisation is required before waste can be moved across borders. Some of the main concerns raised by businesses directly affected by the TFS regulations included:

- That the financial and administrative burdens associated with the shipments of waste between Ireland and Northern Ireland do not seem to be commensurate with the potential risks to the environment from the movement of specific waste materials.
- Companies believe there are significant disparities in the costs levied by the Competent Authorities.

- That there have been occasions where the Competent Authorities have interpreted the application of notification controls for the movement of waste differently.

To provide further evidence of the impact of TFS regulations three company cases studies were developed to provide examples of specific experiences and the challenges in complying with the regulations. Each case study outlines in detail how the business manages its operations to ensure that it complies with all the requirements of the regulations dealing with the shipment of waste. The case studies also offer some recommendations on how the implementation of these particular environmental regulations can be aligned with the need for the development of the important waste management sector.

In order to offer a balanced report the results from the consultations with businesses and the regulations review were discussed with the relevant competent authorities and key stakeholders. The main points that emerged from these discussions centred on:

- The need for environmental regulation to ensure economic activity is carried out in a way which does not damage our natural resources or pose a risk to human health;
- The importance of Transfrontier Shipment of Waste (TFS) regulations (covering cross-border waste movements) to prevent inappropriate exports of waste, prevent environmental damage associated with poor waste management and avoid encourage regions to become self-sufficient in dealing with their wastes;
- The requirements for importing or exporting wastes being set and agreed by the EU and all the member states to prevent environmental damage within and outside Europe; and
- The ongoing cooperation between regulators and policy makers Ireland and Northern Ireland and across the EU in areas such as waste policy and 'Better Regulation' activities.

Finally, the report concludes with two sets of recommendations: those dealing with environmental regulations in general, which support the ongoing 'Better Regulation' agenda, and those dealing with the TFS regulations in particular.

The general recommendations on environmental regulations and cross-border business include:

- Examine the requirements for and the frequency of reporting under the regulations and reduce if deemed possible;
- Look into the requirements and responsibilities for information requests and recommend procedures to eliminate overlaps;
- Consider replacing paper-based information gathering with electronic and web-based reporting;
- Consider introducing thresholds for information requirements, limiting them for small and medium sized businesses or relying on sampling.
- Look into substituting information requirements on all businesses in a sector by a risk based approach – targeting information requirements on those operators that perform the highest risk activities.
- Continue to conduct Regulatory Impact Assessments (RIA) on all future legislations and changes to any existing regulations. Where the regulations will have an impact on cross-border trade the RIA should be include discussion with the relevant regulators and policy makers on the other side of the border to minimise any additional burdens on the industry concerned.

The specific recommendations for TFS regulations and the waste sector, which are based on the mutual understanding that waste management companies operate with requirements for flexibility and that regulators operate within a prescribed regulatory framework, include:

- Establish TFS Clinics, as outlined in the National Audit Office report in 2008, to simplify the transport of waste between Ireland and Northern Ireland and streamline the associated costs.
- The regulators, such as Dublin City Council National TFS Office (NTO), NIEA and EPA, to meet to explore opportunities for streamlining the process for cross-border businesses to reduce the administrative burden whilst maintaining compliance with the regulations².
- Transparency in enforcement at a small operator level.

² 'Border Area Agreements' can be signed under Article 30 of the TFS regulations allowing for longer periods of notifications (up to seven years in some case), waiving of some fees and less regular reporting on the outcome of shipments. One such agreement was signed between Austria and Germany in 2008 after a lengthy period of cooperation on these issues, covering border region municipalities. The potential for such an agreement has been raised and discussed for the border between Ireland and Northern Ireland also, although the recent Progress Report on the implementation of the recommendations of the Report of the High Level Group on Green Enterprise (March 2011) from Forfás noted that 'the matter is unlikely to progress in the short to medium term'.

1. Introduction

In 2010 InterTradelreland awarded a contract to SKM Enviro to identify the barriers to cross-border trade and business for small to medium sized enterprises (SMEs) caused by the different interpretation and application of environmental regulation in Ireland and Northern Ireland and to propose methods to simplify cross-border compliance with relevant environmental regulations. While a number of studies have already been carried out on the regulatory barriers to businesses, few have focused on environmental regulation.

The report was undertaken in a context where the European Council recognises the legislative administrative burden on businesses and, in March 2007, set a target to reduce these burdens by 25%, by 2012. The UK has adopted the 25% reduction target, but Ireland has yet to set a target. In addition, both UK and Irish Governments recognise the need to address the differences in the regulatory environment.

It is important to note, that regulations in principle are designed to protect businesses, consumers and employees, and legislation and subsidiary regulations have a critical role to play in key areas of economic, environment and social life. The costs to business of complying with regulations can be in the form of:

- **Substantive compliance costs** (costs that businesses incur in order to comply with their obligations – for example environmental permits, licenses and monitoring); and
- **Administrative compliance costs** (costs that businesses incur in complying with the information obligations in a regulation, for example packaging or waste data returns).

The problem of the excessive administrative burden on firms is one that has been raised by a number of bodies in both Ireland and Northern Ireland, including InterTradelreland, the National Competitiveness Council, the Federation of Small Business (NI), Irish Business and Employers Confederation (IBEC) and Small Firms Association.

The main aim of the study is to identify whether differences in the interpretation, application and enforcement of environmental regulations in Ireland and Northern Ireland provide benefits or costs to SMEs in terms of cross-border trade and business cooperation opportunities; and whether they impose a burden or offer opportunities to the emerging environmental goods and services industry.

The structure of the report is as follows:

Chapter 2	Information review of relevant and related studies.
Chapter 3	Review of the regulations.
Chapter 4	Consultation with businesses, business representatives and other stakeholders.
Chapter 5	Case studies.
Chapter 6	Conclusions and recommendation.

1.1. Terms of Reference

The steering group agreed at the inception meeting to adhere to the following terms of reference in order to maintain the project focus:

1. The project would not address or question the benefits of each piece of legislation but instead focus only on the administrative activities that must be undertaken in order to comply with regulation.
2. Only enacted legislation in Ireland and Northern Ireland would be included in the project.
3. With regards to the business sectors, the study would concentrate on the agri-food, construction and waste industries, with specific emphasis on small to medium sized industries on the cusp of the IPPC.
4. A 'normally efficient business' would be defined in the report as a business within the target group that perform administrative activities required by the information obligations neither better nor worse than may reasonably be expected.

2. Information Review

This phase of the research involved reviewing relevant information on the following topics:

- Environmental regulation and how it is enforced in Ireland and Northern Ireland;
- Better regulation in Ireland, Northern Ireland and the EU; and
- Measuring administrative costs.

A complete list of the information reviewed as part of this phase is included in Appendix A and the main findings of the review are summarised in the following sections.

A critical output of the information review is the identification of the environmental regulations that are considered burdensome to businesses in Ireland and Northern Ireland. Five environmental regulations were selected for further investigation. The rationale for choosing these environmental regulations is discussed in this chapter.

2.1. Environmental Regulation in Ireland and Northern Ireland

Chapter 2 of the report published by InterTradelreland, *Regulatory barriers to cross border trade and business* (June 2009), describes the processes by which regulations in Ireland and Northern Ireland are developed, modified and enforced, and some of the recent policy decisions and initiatives in both jurisdictions regarding the respective Governments' intentions to reduce the administrative burden on businesses. That report concludes the chapter on 'the regulatory landscape' by summarising who is responsible for administering and enforcing environmental regulations in Ireland and Northern Ireland.

2.1.1. Irish Environmental Regulation

Irish environmental law and policy is influenced primarily by EU law. Much of the current environmental legislation caters for the transposing of EU Directives into Irish law.

The Environmental Protection Agency (EPA) together with local government authorities, namely the 29 County Councils and five City Councils, are the principal bodies responsible for administering and enforcing environmental legislation in Ireland. The EPA has responsibility for a wide range of licensing, enforcement, monitoring and assessment activities associated with environmental protection. The EPA works with the various government agencies and departments involved in environmental protection.

The EPA is responsible for regulating activities that have significant polluting potential. EPA responsibilities encompass: Integration Pollution Prevention Control (IPPC); Licensing Waste; Licensing Waste Water Discharge Authorisation (Licences and Certificates of Authorisation); Emissions Trading; The contained use and deliberate release of Genetically Modified Organisms (GMOs); Volatile Organic Compounds (VOC) permits; and Dumping at Sea permits. The EPA is also the competent authority in respect of the Environmental Liability Directive regime, which was transposed into Irish Law on 1 April 2009.

The EPA has a dedicated Office of Environmental Enforcement (OEE) which implements and enforces environmental legislation in Ireland. The OEE's published Environmental Policy sets out the general principles that it follows in relation to enforcement and prosecution.

The EPA works with local government authorities and other public sector bodies involved in enforcement activities, including the Fisheries Boards, the Health Services Executive, An Garda Síochána, the Criminal Assets Bureau, the Revenue Commissioners and the Office of Corporate Enforcement. The local government authorities' primary responsibility in environmental law is in decision making, administration and enforcement of law in relation to land development as well as the management of air, water, waste and biodiversity.

2.1.2. Northern Ireland Environmental Regulation

The introduction of environmental legislation in Northern Ireland has brought about significant improvements in environmental standards and quality of life. The environmental regulations have traditionally specified "end of pipe" conditions but have progressively applied controls at each stage of a process. In recent years, there has been move towards target and market-based regulation to positively influence behaviour and practices.

The Northern Ireland Environment Agency (NIEA) regulates through a process of permits, consents, licences or management agreements, inspections to check compliance and enforcement action for breaches, including prosecution for serious or repeat offenders. Other instruments used include agreements and trading schemes.

NIEA regulates a wide range of stakeholders from large multi-national companies to smaller local businesses, from farmers and other landowners to manufacturing companies. Many of the businesses in Northern Ireland are not subject to direct regulation by NIEA but are nonetheless required to comply with environmental legislation. To address the differing scales and activities covered by the regulations, the NIEA aims to adopt a smarter range of tools and approaches to suit the nature and risk of an organisation.

2.2. Barriers to Good Regulation

As outlined in the Network of European Environmental Protection Agency's report, *Barriers to good environmental regulation* (January 2007), barriers to good regulation can take three forms:

- Institutional, legal and regulatory framework barriers arising from the processes for developing legislation at EU level and its transposition and implementation into national law;
- Behavioural barriers on the part of both regulators and those they regulate; and
- Lack of scrutiny and challenge mechanisms in the legislative and regulatory process.

These three types of barriers may arise along the regulatory chain at EU and national level, and amongst the regulated community and other interested groups.

Over 70% of Irish and Northern Irish environmental legislation originates from the EU and some is not fully integrated or does not allow for "easy transition" from existing regimes. A recent report by The European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL network) on the relationship between the IPPC Directive and other directives concluded that there are a number of areas where there are inconsistencies and overlaps³.

The *Barriers to good environmental regulation report* says that when Member States execute European law the Commission needs a feedback mechanism to further improve future legislation. Reporting is the easiest way for the Commission to gain that information and nearly every new legislative act requires this reporting. As a result, the public and business have to comply with a large variety of reporting duties. Harmonising and streamlining the reporting requirements would reduce the burden of regulation significantly.

2.3. Better Regulation

While regulation is necessary to achieve social and economic goals, it also has costs. The goal of better regulation is to balance these costs and benefits. The goal of administrative burden reduction is to find ways of cutting red tape that do not undermine the policy objectives. In Europe, administrative burden reduction is seen as a key element of competitiveness policy, under the Europe 2020 agenda.

It is particularly important now to reduce business costs at a time when all sources of efficiency are at a premium and jobs are at stake in all sectors of the economy. Governments and regulators must strive to find the balance between regulation and costs, and do so without undermining the country's policy goals. It must be remembered that better regulation does not mean deregulation but ways to improve the efficiency of administration. This will benefit both business and the public sector alike, as it targets the reduction of paperwork flowing between the two.

³ IMPEL, *Review of Approaches to the Reconsideration and Updating of IPPC Permits* (2007).

2.3.1. Better Regulation in the European Union

Better regulation has been a key priority for the European Commission since 2005 when it launched its better regulation agenda to modernise and simplify the existing stock of legislation and ensure that all new initiatives are of a high quality.

In the *Strategic Review of Better Regulation in the European Union* (2006), the European Commission recognised that progress had been made in taking forward better regulation at both European and national level. The Commission reported that it had reinforced its efforts to modernise and simplify EU legislation and had developed a common (standard cost) methodology for assessing administrative costs. This methodology is applied to the Commission's own impact assessments for new legislation.

In the *Second Strategic Review of Better Regulation in the European Union* (2008), the Commission reported that the European Council had endorsed the Commission's Action Programme in March 2007. A key part of the Action Programme is measuring the administrative costs under the various information obligations which businesses have to provide as a result of EU and national legislation. Also, as part of a more general culture of change, regulatory impact assessments (RIAs) have become embedded in the working practices and decision making of the Commission. This has changed the way policy is shaped. Building on this progress, the Commission reported that further improvements in this area could be made by conducting RIAs earlier in the policy development process so that alternative courses of action could be examined before the proposal is tabled. The Commission recognised the need for stakeholder and expert input from the beginning of the policy process.

In this second review the Commission also pointed out that it attaches high priority to correct application of Community law and intends to develop and implement measures which will allow for more efficient management of infringements and to provide more

information. It remains committed to its Simplification Rolling Programme, (which aims to simplify and modernise EU legislation and covers 164 measures for 2005-2009) and to its Action Programme for reducing administrative burdens.

In the *Third Strategic Review of Better Regulation in the European Union* (2009), the Commission reported that legislation is now simpler, clearer and entails less red tape and brings tangible benefits for companies and citizens. The Commission also reported that the administrative burden for businesses is being reduced and reported that it is on track to meet the 25 per cent reduction by 2012. The exercise is benefiting from the input of external expertise and stakeholder input.

2.3.2. Better Regulation in Ireland

The lead authority in Ireland for better regulation is the Department of the Taoiseach with the Department of Jobs, Enterprise and Innovation responsible for reducing the regulatory burden on business. As part of that work the Department of Environment, Heritage and Local Government (DEHLG) summarised its approach to better regulation in the second *Report to the Minister for Enterprise, Trade and Innovation of the High Level Group on Business Regulation* (2009), as follows:

Waste Collection Permits

The new regulations came into effect on 1 June 2008 and provided operators with the option of applying for a permit for specified regions or multi regions by means of a single application to a single nominated authority thus eliminating the need for separate applications to each individual region as was the case under the old regulations.

Transfrontier Shipments (TFS) of Waste

In 2009 the consolidation of the administration of TFS rules by a single national competent authority (run through Dublin City Council) was undertaken replacing the previous system where there were 34 competent authorities.

Internal Movements of Hazardous Waste

Preparations got underway in 2009 (to be completed in 2011) to consolidate the system of control for movements of hazardous waste within Ireland into a national office within Dublin City Council and to move to an online system away from the paper based system presently in use by the current 34 competent authorities.

RIA on the WEEE Directive

The WEEE Directive is undergoing a review during which the European Commission undertakes stakeholder consultations. As part of this review an RIA will be undertaken and will include an examination of the impact on SMEs within the EU27. Any review of the transposing legislation will be based on the result of the Commission's review of the Directive.

Amendments to the WEEE Regulations in July 2008 enabled the retailer / distributor registers, which in themselves reduce the administrative and financial burden as they provide exemptions from the Waste Collection and Waste Facility Regulations, to be maintained and managed by the European Recycling Platform (ERP) and WEEE Ireland. In late 2008, DEHLG initiated discussions with ERP, WEEE Ireland, trade associations, and 'Symbol Group' franchise owners with a view to establishing an alternative register.

As a result of these discussions, a free, once-off registration system based on the transfer of membership data from trade associations, and 'Symbol Group' franchise owners, etc. was developed. Twenty-two separate entities were contacted with a view to participating in a procedure, approved by the Data Commissioner to transfer data to ERP and WEEE Ireland. Eight entities availed of the opportunity - four 'Symbol Groups' and four Trade Bodies. The entities' obligated members are now in compliance with no cost or recurring administrative burden. Indeed, many on the register are not obligated but will be in compliance if they decide to sell electrical goods. On the other hand, the remainder either did not respond or (in the case of five) notified the Department that they would not facilitate the participation of their members in the alternative free scheme. Consequently, if obligated,

they must continue to register annually and pay the appropriate fees. As only a small fraction chose to participate, it appears that retailers with obligations under the WEEE Regulations are content and do not regard the annual registration requirements as an onerous burden.

2.3.3. Better Regulation in Northern Ireland

In Northern Ireland, the Department of Enterprise, Trade and Investment (DETI) has lead responsibility for ensuring that Government departments operate good regulatory and enforcement practices and has an important role in the promotion and monitoring of better regulation activities across all Northern Ireland departments. Since 2001, the departments have been operating under the Northern Ireland Better Regulation strategy, introduced by the then Northern Ireland Executive to minimise the burden of red tape on business.

The following is a summary of the better regulation initiatives in Northern Ireland, as outlined in the Northern Ireland Agri-Food *Better Regulation and Simplification Review*, April 2009.

The Better Regulation strategy requires departments to:

- Undertake and publish a Regulatory Impact Assessment when considering new policy proposals, or amendments to existing policy which may impact on business;
- Carry out a micro business test to assess the impact on businesses with less than five employees; and
- Provide guidance to business on new legislation at least 12 weeks before legislation comes into operation.

In light of various policy developments in the UK⁴, the Better Regulation strategy was reviewed in 2007 and 2010. The reviews concluded that the strategy should continue to underpin the way forward, but that a number of steps should be taken to strengthen it.

⁴ There were four important reports/reviews in the UK between 2005 and 2008; see The Better Regulation Task Force 'Less is More' (March 2005); Hampton Review of regulatory inspections and enforcement (March 2005): www.berr.gov.uk/files/file22988.pdf; Macrory Review, Regulatory Justice: Making Sanctions Effective (November 2006): <http://www.berr.gov.uk/bre/reviewing-regulation/compliance-businesses/page44102.html>; Davidson Review, Implementation of EU Legislation (2008): <http://www.berr.gov.uk/files/file44583.pdf>

These measures were set out in an implementation plan which was published by DETI with the first Better Regulation Annual Report. This annual report is the main means by which Northern Ireland departments report on their better regulation activities. The report provides details of action taken by departments to reduce burdens on business, social enterprise organisations, charities and voluntary groups, for example legislation which has been simplified or repealed; simplification of forms; the introduction of new systems or websites. The key achievements so far include:

Regulatory Impact Assessments (RIAs)

Under the strategy, all departments must comply with the RIA process when considering any new policy proposals which impact on business, voluntary or social economy enterprises. The same applies when amending existing policy. The departments are also required to place all final RIAs on their websites so that these are readily available to interested parties.

Better Regulation Stakeholder Forum (BRSF)

DETI has set up the BRSF, consisting of representatives from the regulatory, businesses and the voluntary sectors, in order to share best practice and consult on better regulation initiatives.

Review of legislation

All departments have carried out a review of their legislation to identify opportunities to consolidate legislation and remove unnecessary legislation from the statute book.

Review of forms

All departments have completed a review of their forms to identify opportunities to remove, consolidate or amend as appropriate.

Review of enforcement arrangements

The strategy includes an Enforcement Concordat to serve as a blueprint for fair, practical and consistent enforcement based on current best practice in enforcement policy. The concordat is a non-statutory code that describes for business and others what they can expect from enforcement officers.

Review of Whitehall simplification plans

Each department is required to examine the simplification plan of its Whitehall equivalent and consider what action is necessary to replicate improvements in Northern Ireland.

As part of its contribution to the better regulation strategy the Northern Ireland Environment Agency (NIEA) published *Better Regulation for a Better Environment* (March 2008). This outlined the Agency's approach to delivering simple and effective regulation and achieving better standards for the environment through better regulation.

The NIEA programme encompasses a range of initiatives to modernise regulation to deliver more effective protection for the environment: through more accessible guidance; streamlined, risk-based permitting and inspections; and proportionate enforcement.

Better Regulation Board

This was established in May 2008 to provide a forum for ongoing liaison between the regulator and the regulated on new and existing legislation. Members have committed to work in partnership to raise awareness of environmental regulations and good practice and identify opportunities for streamlining environmental regulation to deliver real benefits for businesses and the environment.

On-line advice for business

NIEA has developed the NetRegs guidance website (www.netregs.gov.uk) in partnership with the Environment Agency for England and Wales and the Scottish Environment Protection Agency (SEPA), providing free, tailored advice on how to comply with environmental regulations.

2.4. Measuring Administrative Burdens

A key part of this research consists of measuring the administrative cost for business of meeting obligations to provide information under the relevant national implementing legislation. The detailed reports from Capgemini, Deloitte and Ramboll Management (*EU*

Project on Baseline Measurement and Reduction of Administrative Costs (July 2009 and February 2010)) and WiFo and CEPS (*Pilot Project on Administrative*

Burdens (December 2006) concluded that the following environmental Directives and Regulations in Table 1 were considered to be the most burdensome:

Table 1
Environmental Legislation considered burdensome

Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste
Council Directive 96/61/EC of 24 September 1996 concerning Integrated Pollution Prevention and Control (IPPC)
Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on Waste Electrical and Electronic Equipment (WEEE)
Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles (ELV)
Council Directive 96/82/EC of 9 December 1996 on the control of major accident hazards involving dangerous substances (including: Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances)

The main findings of the reports on the administrative burden of the above four Directives and one Regulation are outlined below:

- A total of 45 EU Information Obligations (IOs) and Possibilities Stated in the EU Legal Act were identified⁵.
- The transposition of the 45 EU IOs resulted in 1,299 national IOs across the 27 Member States.
- The total administrative cost of the 45 EU IOs is estimated at a total of €727.37 million EU-wide.
- Of the €727.37 million of administrative cost, 85.5% (€622.12 million) was classified as administrative burden.
- Of the €727.37 million of administrative costs, 92% (€669.33 million) stem from EU Requirements, whereas 8% (€58.04 million) is due to national obligations going beyond EU Requirements.
- Two IOs (from IPPC: submission of information about the results of the monitoring of releases; and from TFS: written notification of a planned shipment of waste) alone account for €308.6 million in administrative costs, representing 42.4% of the total administrative cost.

The steering group agreed that this study would also consider the above five pieces of legislation for detailed mapping and screening in the context of cross-border trade between Ireland and Northern Ireland.

2.4.1. The Standard Cost Model (SCM)

The SCM was developed by the Dutch Ministry of Finance to provide a simplified and consistent method to measure and consequently reduce the impact of legislative regulation on businesses – the so-called administrative burdens. The starting point is that regulation may impose costs – direct financial costs (taxes, fees, charges, penalties, etc.) or costs of compliance with regulatory requirements – and accordingly hampers the competitiveness of businesses.

To be able to contribute to competitiveness by reducing administrative burdens, the impact of legislation has to be measured. The SCM targets the quantitative dimension of administrative burdens. As shown in Figure 1 below, administrative burdens are considered as a part or subset of the overall administrative costs. They are the part of administrative costs which is caused by regulatory requirements. Administrative costs also include activities which would be carried out even in absence of regulation.

A basic variation of the SCM was used to map the five pieces of legislation in this project and this is further detailed in Chapter Three.

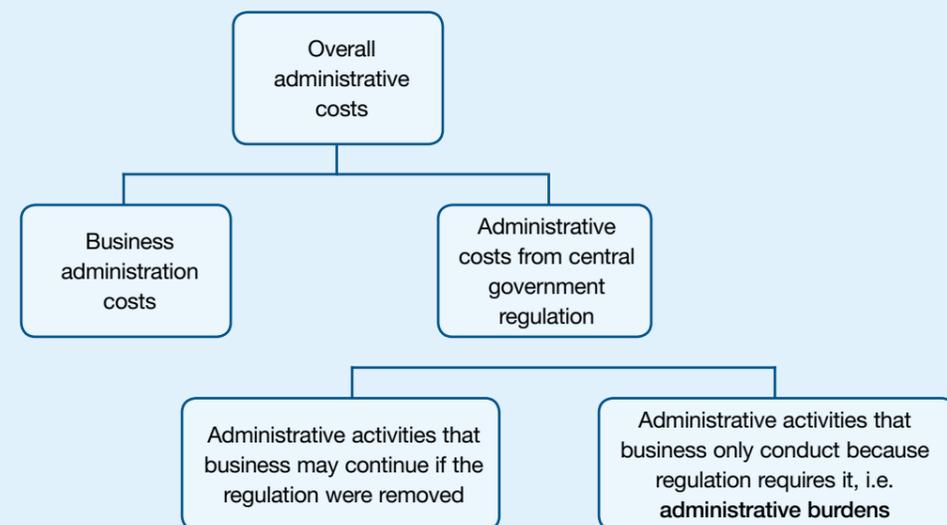
2.4.2. Action Programme for reducing administrative burdens in the European Union

In 2007, the European Commission published the *Action Programme for Reducing Administrative Burdens in the European Union*. The Commission proposed that the target for reduction in the administrative burden should be set at 25 per cent to be achieved jointly by the EU and Member States by 2012. This mirrors national targets where they have been set.

The Programme set out the Commission's proposals on how IOs should be identified, measured and reduced. The aim of the Programme was to measure administrative costs, take a judgement on the extent to which these costs constitute unnecessary burdens and, where appropriate, reduce administrative burdens without undermining the underlying objective of the legislation.

The Programme used the EU Standard Cost Model to identify the most burdensome IOs. The scope of the Programme was limited to obligations put on businesses. The Commission focused its study on the specific priority areas concerning Community legislation.

Figure 1: Administrative Burden versus Administrative Cost⁶



⁵ EU Information Obligations (IOs) are requirements imposed on Member States by the Directives; 'National Obligations going beyond EU Requirements' are created where a Directive gives the Member State explicit (Stated) discretion to introduce additional requirements above and beyond the IOs.

⁶ SCM Network, International Standard Cost Model Manual page 7.

3. Review of the Regulations

This task involved reviewing environmental regulations identified and agreed as being potentially a barrier to cross-border trade between Ireland and Northern Ireland. It was important that the review remained focussed as the main objective was to assess those regulatory requirements where compliance was considered to be burdensome for businesses and perceived to be a barrier to cross-border trade.

3.1. Review Methodology

The first task of the review process was to define industry/ business sectors where cross-border trade was impacted due to onerous obligations under the applicable pieces of environmental legislation. After discussions within the steering group, it was decided that the following were the business sectors to be considered as part of the review:

- Agri-food;
- Construction; and
- Waste Management.

Organisations operating in these business sectors have possibly felt the biggest impact from new legislation implemented to meet European Directives and ultimately designed to protect the environment. In fact waste management could be considered as a new and growing industry which emerged as a result of the legislation implemented to divert waste from landfill.

The next step in the review process was to identify and refine the list of those regulations which were considered to be the most burdensome to businesses. Following the information review it was agreed to look at regulations implemented to manage and control the following areas within businesses activities:

- Integrated Pollution Prevention and Control (IPPC)
- Shipments of waste
- Waste Electronic and Electrical Equipment (WEEE) (A producer responsibility scheme)
- End of life Vehicles (ELV) (A producer responsibility scheme)
- Seveso (Chemical Accidents (Seveso II)) - Prevention, Preparedness and Response

Where possible, comparative regulations implemented in Ireland and Northern Ireland within each of the areas listed above were reviewed. For example, with regard to IPPC, the main European source directive is European Community (EC) Directive 96/61/EC on Integrated Pollution Prevention and Control (IPPC Directive). The corresponding regulations implemented in Ireland and Northern Ireland to meet the requirements of this IPPC Directive are:

- Ireland
 - The Environmental Protection Agency Act 1992, (No. 7 of 1992); and
 - The Environmental Protection Agency Act 2003, (No. 27 of 2003).
- Northern Ireland
 - The Pollution Prevention and Control Regulations (Northern Ireland) 2003

Ultimately these regulations are designed to ensure that the objectives of the IPPC Directive are met in each jurisdiction – including the introduction of an integrated environmental approach to the control of certain industrial activities with a high pollution potential, requiring them to have a permit/licence to operate. This permit can only be issued if certain environmental conditions are met, so that the businesses themselves bear responsibility for preventing and reducing any pollution they may cause.

All relevant regulations implemented in Ireland and Northern Ireland for each of the areas were identified and included as part of the review (see table 2). Rather than reviewing the source Directives and Primary Orders, the review focused on the main regulations and appropriate amendments. However, for reference purposes the associated Directive and associated Orders or Acts are provided where relevant. Statutory rules and instruments were considered. It should also be noted that only regulations that were current and in force at the time of the review have been considered. Impending or proposed regulations have not been included as it is not possible to accurately take account of the potential impact of a specific regulation on a

business and its significance as a potential barrier to cross-border trade if it is not yet an active piece of legislation.

Once all appropriate regulations had been identified the next stage of the review process was to develop a series of tables which were designed to collate and summarise the regulations and their requirements for compliance. In addition to listing all the pertinent regulations for each of the areas identified as having a significant regulatory impact on the businesses each table included a brief summary of the overall objective(s) of the regulations, any appropriate crossover or linked regulations, operators requirements for compliance (both financial and administrative/ reporting) and any exemptions from compliance with the regulations. After completing the review tables, the elements of the regulations which were considered to be burdensome to businesses and potentially a barrier to cross-border trade were identified. A separate summary table was compiled for each area and each jurisdiction and these are included in Appendix B (web version only).

Table 2 Regulations Reviewed			
Integrated Pollution Prevention Control (IPPC)			
<p>Directive Integrated Pollution Prevention & Control Directive 2008/1/EC Council Directive 2008/1/EC of 15 January 2008 concerning integrated pollution prevention and control Directive 2004/35/EC (OJ:L143/56/2004) on environmental liability with regard to the prevention and remedying of environmental damage</p>			
Northern Ireland		Ireland	
Primary Order	Secondary Regulations	Primary Order	Secondary Regulations
Environment (Northern Ireland) Order , Part II 2002	The Pollution Prevention and Control Regulations (Northern Ireland) 2003 (SR 2003/46)	Protection of the Environment Act 2003	<p>Environmental Protection Agency (Licensing) (Amendment) Regulations 2010 S.I. No.351 of 2010</p> <p>Environmental Protection Agency (Licensing Amendment) Regulations 2008, S.I. No. 382 of 2008</p> <p>Environmental Protection Agency Act 1992 (Established Activities) Order, S.I. No. 279 of 2006</p> <p>EPA (Licensing Fees)(Amendment) Regulations 2006 S.I. No. 278 of 2006</p> <p>Environmental Protection Agency (Licensing) Regulations, S.I. No. 85 of 1994</p>
Shipments of Waste			
<p>Directive Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste</p>			
Northern Ireland		Ireland	
Primary Order	Secondary Regulations	Primary Order	Secondary Regulations
	Transfrontier Shipment of Waste Regulations SI 2007/1711		The Waste Management (Shipments of Waste) Regulations 2007, S.I. No. 419 of 2007
	Transfrontier Shipment of Waste (Amendment) Regulations SI 2008/9		

Integrated Pollution Prevention Control (IPPC)			
<p>Directive Directive on Waste 75/44/EEC, as amended by 91/692/EEC (Waste Framework Directive)</p>			
Northern Ireland		Ireland	
Primary Order	Secondary Regulations	Primary Order	Secondary Regulations
Part 2 of the Waste and Contaminated Land (Northern Ireland) Order 1997	The Controlled Waste (Duty of Care) Regulations (Northern Ireland) SR 2002/271		Waste Management (Movement of Hazardous Waste) Regulations, 1998 (S.I. No. 147 of 1998)
	The Controlled Waste (Duty of Care) (Amendment) Regulations (Northern Ireland) SR2004/277		Waste Management (Registration of Brokers and Dealers) Regulations 2008, (S.I. No.113 of 2008)
	The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999		
<p>Directive Directive on Waste 75/44/EEC, as amended by 91/692/EEC (Waste Framework Directive)</p>			
Northern Ireland		Ireland	
Primary Order	Secondary Regulations	Primary Order	Secondary Regulations
	Waste Management Licensing Regulations (Northern Ireland) SR 2003/493		Waste Management (Licensing) Regulations 2004 S.I. No. 395 of 2004
	Waste Management Regulations (Northern Ireland) SR 2006/280		Waste Management (Collection Permit) Regulations , S.I. No. 820 of 2007 and Waste Management (Collection Permit) Amendment Regulations, S.I. No. 87 of 2008
	Waste Management Licensing (Amendment) Regulations (Northern Ireland) SR 2009/76		
	Waste Management Licensing (Fees and Charges for Carriers and Exempt Activities) (Amendment) Regulations (Northern Ireland) SR 2010/84		
	Waste Management (Miscellaneous Provisions) Regulations (Northern Ireland) SR 2008/18		

Waste Electronic and Electrical Equipment (WEEE)			
<p>Directive Directive 2002/96/EC of the European Parliament and of the Council, of 27 January 2003, on waste electrical and electronic equipment (WEEE Directive)</p>			
Northern Ireland		Ireland	
Primary Order	Secondary Regulations	Primary Order	Secondary Regulations
	Waste Electrical and Electronic Equipment Regulations 2006 SI 3289		Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 S.I. No. 340 of 2005
	Waste Electrical and Electronic Equipment (Amendment) Regulations 2007 SI 3454		Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008 S.I. No. 375 of 2008 - amended the 2005 Regulations
	Waste Electrical and Electronic Equipment (Amendment) Regulations 2009 SI 2957		Waste Management (Batteries and Accumulators) Regulations 2008 S.I. No. 268 of 2008
	Waste Electrical and Electronic Equipment (Amendment)(No2) Regulations 2009 SI 3216		Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2005 S.I. No. 341 of 2005
	Waste Electrical and Electronic Equipment (Amendment)(No2) Regulations 2009 SI 3216		Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) (Amendment) Regulations 2008 (S.I. No. 376 of 2008)
	Waste Electrical and Electronic Equipment (Amendment) Regulations 2010 SI 1155		Waste Management (Batteries and Accumulators) (Amendment) Regulations 2008 S.I. 556 of 2008
	The Waste Electrical and Electronic Equipment (Waste Management Licensing) Regulations (Northern Ireland) 2006 SR 519		
	Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006 SR 509		

End of life Vehicles (ELV)			
<p>Directive Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (ELV Directive)</p>			
Northern Ireland		Ireland	
Primary Order	Secondary Regulations	Primary Order	Secondary Regulations
	End-of-Life Vehicles Regulations 2003, SI 2635		Waste Management (End-Of-Life Vehicles) Regulations 2006 (S.I. No. 282 of 2006)
	End-of-Life Vehicles (Amendment) Regulations 2010, SI 1094		Waste Management (End-Of-Life Vehicles) (Amendment) Regulations 2010 (S.I. No. 142 of 2010)
	End-of-Life Vehicles (Producer Responsibility) Regulations 2005, SI 263		
	End-of-Life Vehicles (Producer Responsibility) (Amendment) Regulations 2010, SI 1095		
Seveso (Chemical Accidents (Seveso II) - Prevention, Preparedness and Response			
<p>Directive Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances (Seveso II Directive). Extended by the Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC.</p>			
Northern Ireland		Ireland	
Primary Order	Secondary Regulations	Primary Order	Secondary Regulations
	Control of Major Accident Hazards Regulations (Northern Ireland) 2000 SR 93		European Communities (Control of Major Accident Hazards involving Dangerous Substances) Regulations 2006 SI No. 74 of 2006
	The Control of Major Accident Hazards (Amendment) Regulations (Northern Ireland) 2005 SR 305		Chemicals (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2009 S.I. No. of 2009

3.2. Outcome of Review

Once all the summary tables were completed a comparative review was undertaken for each area identified as having a significant regulatory impact on businesses. Due to the timescales and scope of this project only the cost for businesses of compliance with environmental regulations was reviewed, as opposed to how effectively specific environmental regulations had been implemented to meet the respective EU Directive requirement in Ireland and Northern Ireland.

To review and compare how effectively EU Directives have been implemented through the various regulations would be a time-consuming process of limited merit given that any conclusions and recommendations from such review would have a very limited possibility of effecting a rapid change to the regulations. Substantial changes to existing legislation involve lengthy consultation periods with potentially numerous iterations before the legislation is enacted. Therefore, it was considered that more effective improvements could be achieved by streamlining processes/ procedures within the requirements of existing legislation. For the purposes of this study the review looks at the substantive and administrative compliance costs incurred by businesses to comply with pertinent regulations.

It is widely accepted and understood in both the business community and by the regulatory authorities that regulations are in principal designed to protect businesses, consumers and employees and that legislation and subsidiary regulations have a critical role to play in key areas of economic, environment and social life. In addition it is also accepted that there can be significant costs associated with compliance of the regulations. For businesses these costs are in the form of:

- **Substantive compliance costs** – costs that businesses incur in order to comply with their obligations, for example environmental permits, licenses and monitoring; and
- **Administrative compliance costs** – costs that businesses incur in complying with the formation

obligations in a regulation, for example application or registration submissions and information returns.

The substantive costs associated with compliance are designed to cover in part the administration and enforcement costs associated with monitoring compliance of businesses to the regulations. Where appropriate this review will highlight areas where there may be the potential opportunities for more effective compliance monitoring by the regulatory authority which in turn may benefit businesses as a consequence of reduced substantive and/or administrative compliance costs. Sections 3.3 to 3.7 provide a summary of the main compliance costs associated with the regulations considered as part of the review. Full details of the reviews are included in Appendix B of this report (web version only).

3.3. Integrated Pollution Prevention and Control (IPPC)

The system of IPPC applies an integrated environmental approach to the regulation of certain industrial activities. This means that emissions to air, water (including discharges to sewer) and land, plus a range of other environmental effects, must be considered together. Those industrial operations and activities with a high pollution potential require a permit to operate. This permit can only be issued if certain environmental conditions are met, thus the businesses themselves bear responsibility for preventing and reducing any pollution they may cause.

3.3.1. Ireland

In Ireland IPPC is implemented through two main sets of regulations (see Table 2 above).

Substantive compliance costs

The charging scheme for the granting of permits is different to that employed in Northern Ireland in that the charge is dependent on the type of the activity and the whether it is classed as a 'small' or 'large' activity. Application charges range from €3,174 for Intensive Agriculture, (small activity) to €22,855 for Manufacture of Pesticides, Pharmaceutical or Veterinary Products

and their Intermediates (large activity). A large activity is one which has above 50 employees. Current annual subsistence charges are, at present, based on the activities and size of the company - together with additional charges driven by the number of EPA inspections. Licence fees range from €6,000 - for a small compliant site - to a possible €30,000 for larger non-compliant sites. Monitoring fees, typically, range from €2,000 per year - for a small printing plant - to over €20,000 per year for a large pharmaceutical plant. In addition to these charges there are other charges if an operator wishes to review/transfer/ surrender a permit. These are a combination of set charges or 'small / large' activity based charges and range from €16,506 - €100.

Administrative compliance costs

Before making an application the operator must publish a notice in a newspaper and notify the planning authority. Similar to Northern Ireland an application for a licence is made by completing a standard Application Form. If the application is not complete, as per Article 10 requirements set out in the Act, requests for further information are issued to the applicant.

The application form is a significant administrative burden and should be completed in conjunction with the available guidance. The application form is divided into a number of sections of related information the purpose of being to facilitate the applicant, the agency and third parties in its use.

It is also important to note that an application may also require a Environmental Impact Statement (EIS) if it exceeds the thresholds set down in Annex I of the European Communities Directive 85/337/EEC (as amended by Directive 97/11/EC) otherwise known as the Environmental Impact Assessment (EIA) Directive. Irish EIA legislation mirrors the mandatory requirement in the Directive to carry out EIA in respect of certain project classes. In many cases, Ireland has adopted a substantially lower threshold than that set out in the Directive. Irish EIA legislation also makes provision for sub-threshold EIA.

Once an IPPC license is granted there are specific conditions which will be listed in the licence setting out the reporting requirements to the EPA. These include but are not limited to:

- Notification to the agency of any release of environmental significance or an emission that does not comply with the requirements of the licence;
- Recording and reporting to the agency details of all sampling, analyses, measurements, examinations, calibrations in accordance with the licence;
- Maintenance of documents on site to include: licences, an Environmental Management System (if required), the previous year's Annual Environmental Report (AER), correspondence with the Agency, drawings/plans for the facility; and
- Submission, by 31st March of each year, an Annual Environmental Report (AER) covering the previous calendar year compiled in accordance with the relevant guidelines issued by the Agency.

It is not possible to provide detail costs relating to administrative compliance as these costs vary greatly depending on the activity and requirements included as part of the licence.

3.3.2. Northern Ireland

In Northern Ireland IPPC is implemented through one main set of regulations (see Table 2 above).

Substantive compliance costs

There is a charging scheme in respect of permits granted. Fees and charges are primarily based upon a component charging scheme, with costs increasing in accordance with the number of components attributed to that specific activity, and whether the activity is considered to be a Part A or Part B activity. In addition there are fees and charges associated with annual subsistence, variation of a permit, transfer of a permit, etc. For example current application charge for a Part A activity is £4,483 multiplied by the total number of components and for a Part B activity is £1,564.

Current annual subsistence charge for a Part A activity is £1,591 or £1,533 for a specified waste management activity or £1,073 for an APC activity, multiplied by the total number of components. The annual subsistence charge for a Part B activity is £976. In addition, if an operator wishes to vary/ transfer/ surrender a permit there is a charge for doing so. For a Part A activity it is a charge (specific for the request) multiplied by the number of components. For a Part B activity it is a single charge or no charge depending on the request.

Administrative compliance costs

An application for a permit is made by completing the standard Application Form which can be obtained from the NIEA website or by contacting NIEA directly. The level of detail included within the application must reflect the scale of the operations required to be permitted and the effects to the environment. If more than one activity is carried out at a site the operator can submit a single application that covers all activities. However, the operator must complete separate application forms for each activity/ installation, with appropriate cross referencing on common elements (e.g. site management, site condition, etc.). In some cases NIEA may need to request further information from the operator before determining an application. Once a permit has been granted the operator is required to comply with reporting conditions included as part of the permit. The main ones include the following:

- Where site management systems and procedures are not sufficient to meet the requirements of the PPC permit the Regulator will include conditions within the permit to ensure that more robust systems and procedures are implemented to manage and minimise the impact to the environment, for example development of an Environmental Management System (EMS) to meet the requirements of ISO 14001;
- Development of a Site Protection and Monitoring Programme (SPMP);
- Reporting on monitoring parameters (emissions to air, water, land, odour, noise and vibration) to the Regulator as detailed within the PPC permit. These

can be a combination of quarterly/ bi-annual/ annual; and

- Complete a Pollution Inventory form annually.

It is not possible to provide detail costs relating to administrative compliance as these costs vary greatly depending on the activity and requirements included as part of the permit.

3.4. Shipments of Waste

Legislation has been introduced to set out rules for the collection movement and handling of waste. The Transfrontier Shipment of Waste (TFS) regulations set out rules for shipping waste, including within the EC and importing and exporting to and from countries outside the EC.

The overall objective of the TFS Regulations is to implement measures for the supervision and control of shipments of waste in order to ensure that the movement, recovery, or disposal of waste, is managed in an environmentally sound manner, for the protection of the environment and human health.

To move waste across the border between Ireland and Northern Ireland requires notification and payment to be made to the Competent Authorities in both jurisdictions. The respective Competent Authority for Ireland is Dublin City Council, National TFS Office, and for Northern Ireland it is the NIEA, TFS Section. All fees and charges applied as part of the TFS process are applied on cost recovery basis to enable the Competent Authorities to comply with the requirements set out in the regulations.

Notification has to be provided to both Competent Authorities prior to the movement of waste across the border; however the level of notification and tracking procedures is very dependent on the type of waste being moved. In its simplest terms green list waste controls tracking procedures are less onerous than those in place for notifiable (Amber list) waste. Wastes considered as green list is typically non-hazardous waste shipments for recovery. Wastes considered as Amber list waste include both hazardous and non-

hazardous waste shipments for recovery or disposal. Before waste is shipped it is important that it is moved under the correct controls by confirming this with the Competent Authorities. It should be noted that different Competent Authorities may have different assignments for the same waste materials.

3.4.1. Ireland

In Ireland TFS is implemented through one main set of regulations. To move waste across the border requires notification and payment to be made to both Competent Authorities. Fees and charges applicable to Ireland are summarised below.

Substantive compliance costs

Green List

Unlike in Northern Ireland there is a fee associated with the shipment of waste covered under the green list controls. Operators must pay an annual administration fixed fee of €250 to export green list waste from Ireland and an annual administration fixed fee of €500 to import green list waste to Ireland. In addition the operator must pay a shipment fee of €0.60 per tonne of waste exported from Ireland (€0.30 per tonne for soil). There are no tonnage or shipment fees associated with the import of green list waste. Note that all fees relate to a single notification.

Notification Controls (Amber List)

For waste requiring notification (also known as Amber List wastes) prior to movement the following charges are levied by the Competent Authority in Ireland. Operators must pay an annual administration fixed fee of €500 plus a shipment cost of €2.50 per tonne of notifiable waste exported from Ireland. To import notifiable waste an operator is required to pay an annual administration fixed fee of €500 plus a shipment cost of €25 on each notification, regardless of tonnage.

Again note that all fees relate to a single notification, although operators can choose to pay a combined annual administration fixed fee of €600 to cover the export of both green list wastes and notifiable wastes from Ireland.

For the export of bulk shipments of green list or notifiable waste from Ireland the operator pays a lower charge of €0.30 per tonne. Bulk shipment is defined as a single shipment of waste greater than or equal to 1,000 tonnes.

Similar to Northern Ireland an operator is required to have a bond in place in the event of a “worst case scenario” where an operator has to return a rejected waste load to the point of origin. In addition there is a repatriation fee of €750 for each shipment of waste which is returned to Ireland.

An application for a refund can be made if full quota of shipments is not taken up within a specified timeframe.

Administrative compliance costs

Green List

The Competent Authority operates a pre-notification system for the export of Green listed waste from Ireland. The person who arranges the shipment is required to enter information on the Green Pre-Movement Form in relation to waste shipments forecasted/ proposed for the following business month. Information to be included in the Green Pre-Movement Form includes the following:

- Person who arranges the shipment;
- Estimated quantity of the waste;
- Waste description;
- Waste identification codes, including Basel, OECD, EC, where applicable;
- Port(s) of export(s);
- Transit and destination countries; and
- Month of shipment.

The completed Green Pre-Movement Form is required to be emailed at the end of each month to the Competent Authority.

In addition to this pre-notification process, as summarised above, a Reconciliation Report must be prepared for all the shipments of green list waste. Waste exporters and importers are required to submit these Reconciliation Reports at the end of each

calendar quarter. These reports are required for fees and statistical purposes as they provide actual details of shipments made and completed in the previous three months which can be reconciled with the information forecast furnished in the pre-notifications. Information to be included in these Reconciliation Reports includes:

- Person who arranges the shipment;
- Month of shipment;
- Actual quantity of the waste;
- Waste description;
- Waste identification codes;
- Port(s) of export(s), and
- Transit and destination countries.

The completed Reconciliation Report must be emailed at the end of every calendar quarter to the Competent Authority.

In addition to notifying the Competent Authority in Ireland the operator is also required to notify the Competent Authority in Northern Ireland prior to the movement of any waste. See Section 3.4.2 for details on these administrative requirements.

Notification Controls (Amber List)

Shipments of Amber listed waste destined for recovery, and all shipments of waste destined for disposal are subject to prior written notification, consent and tracking procedures. The administrative requirements associated with moving waste under notification controls can be onerous and complicated. The main administrative activities associated with the movement of notifiable waste are summarised below.

- Notifier should apply in writing to the Competent Authority for a requisition number.
- Submit the Application/ Notification along with the appropriate notification fee and the following accompanying documents:
 - copy of contract between notifier and consignee;
 - financial guarantee and calculations;
 - list of carriers/ hauliers;
 - detailed waste description and appropriate codes;

- transport itinerary; and
- contact details for the competent authority of destination.

- Once the waste exporter has: obtained the necessary consent from all the Competent Authorities involved, received a certificate for the guarantee and obtained appropriate third party liability insurance they can begin to move the waste, ensuring that the waste is moved in accordance with the information provided in the notification.
- The consignee facility must provide written confirmation for receipt of the waste and a certificate for recovery or disposal by that facility.

3.4.2. Northern Ireland

In Northern Ireland TFS is implemented through one main set of amended regulations. Fees and charges applicable to Northern Ireland are summarised below.

Substantive compliance costs

Green List

There is no charge to be paid to the Competent Authority in Northern Ireland for waste covered under green list controls. Once the Annex VII form has been completed and the appropriate due process followed the waste is permitted to be moved. However, it is worth noting that green list waste movements into or from Ireland do require charges to be paid to the Competent Authority for that jurisdiction. See Section 3.4.1 for details on these charges.

Notification Controls (Amber List)

For waste requiring notification prior to movement the following charges are levied by the Competent Authority in Northern Ireland. A notification fee of £450 must be paid for each TFS submitted for any shipment into or from Northern Ireland. In addition a shipment fee of £25 must be paid for each shipment of waste to which that notification relates, regardless of its tonnage. For example if 100 shipments are required/made under a single TFS notification a shipment fee of £2,500 (£25 x 100) will be required to be paid.

In addition there will also be charges to be paid to the Competent Authority in Ireland for the movement of the same load(s) of waste to and from Ireland as is the case for waste moved under green list controls. See Section 3.4.1 for details on these charges.

In addition to the charges outlined above an operator is also required to have in place a financial guarantee/ bond before they will be permitted to move waste across the border. The purpose of the financial guarantee is to cover the cost of sending the waste back to the country of origin and ensuring that it is appropriately disposed of in the event of refusal of the waste by the recipient. Guidance is provided by the Competent Authority as to how the value of the bond that has to be put in place is calculated. This is based on a number of costs for a standard load including:

- Cost of shipment from the point of dispatch to the final destination;
- Maximum cost of reshipment from the final destination back to origin;
- Cost of disposal in area of origin, based on the weight of the load, and cost per tonne of disposal to licensed facility; and
- 50% of the total costs for shipment, re-shipment and disposal to allow for contingency.

The value of the financial guarantee is a sum total of all of the values above. Consultation with a waste contractor based in Northern Ireland that imports a significant volume of waste stated that they are required to have a bond in place to the value of £425,000 and unless these funds can be provided by the operator annual charges will be incurred to secure these funds from a financial institution such as a bank.

Administrative compliance costs

Transboundary (i.e. cross-border) waste shipments into or from Northern Ireland can be subject to green list controls, notification controls or the waste may be

prohibited from being shipped. Whichever controls apply, anyone involved with the shipment of waste must make sure that they take all necessary steps to ensure the waste is managed in an environmentally sound manner while it is being moved, recovered or disposed of.

Green List

Green list controls are the lowest level of control that can apply to waste imports and exports and are managed through Annex VII forms, which must be completed and sent to the Competent Authority prior to moving the waste. The waste can be moved legally without getting permission from the Competent Authority, however an Annex VII form must be completed and signed and accompany the shipment. If the operator is the recipient of the waste they have a requirement to retain the Annex VII form for a period of three years. Green list controls only ever apply to some (but not all) imports or exports of non-hazardous wastes for recovery.

In addition to notifying the Competent Authority in Northern Ireland the operator is also required to notify the Competent Authority in Ireland prior to the movement of any waste. See Section 3.4.1 for details on these administrative requirements.

Notification Controls (Amber List)

The administrative requirements associated with moving waste under notification controls can be onerous and complicated. Summarised below are the main administrative activities associated with the shipment of notifiable waste.

- Complete initial TFS application form in triplicate and submit one copy to the Competent Authority of Dispatch. The appropriate and correct fees are submitted with the application (i.e. notification (administration) and shipment costs). Failure to do so will result in the application being rejected and the potential loss of the notification fee (£450).
- The Competent Authority in Northern Ireland has 30 days from the date the application is acknowledged to provide an authorisation to move the waste. However, in most cases the application

is progressed in significantly less time. Movement of waste cannot take place until authorisation has been granted by both Competent Authorities.

- The Competent Authorities in Ireland and Northern Ireland require notification of the intention to move the waste three working days prior to its actual movement. This can be done by posting/ faxing the completed Annex 1B form to each Competent Authority. Once this formal notification has been provided the waste cannot be moved before or after this date. To do so is a breach of the regulations. Consequently it is important that this task is co-ordinated with the transport and logistics departments to ensure waste is moved on the specified date.
- The following documents must accompany each waste shipment/ load - certificate of TFS authorisation, waste transfer note, Annex 1A and 1B TFS form, waste collection permits, and a copy of financial guarantee/ bond and Statutory Conditions issued by both Competent Authorities.
- Upon receipt of the waste a 'movement of completion form' is completed and sent to both Competent Authorities to confirm the waste has been received at the specified destination.
- Once the waste has been processed at the facility, a 'certificate of recovery form' is completed and sent to both Competent Authorities.

It is important that accurate copies of all paperwork, notifications, movement, receipt and processing of waste records are retained.

TFS approvals may be set up for a one year period (if approved by the Competent Authority) and are always paid in advance. It is therefore important that the operator tracks each load to ensure that adequate advance notifications have been made and paid for. If at the end of the year an operator has excess TFS approvals (for example as a result over calculating the number of loads, cancellation of a contract, etc.) the operator can claim back advance shipment fees made.

Such claims must be submitted to the Competent Authority within the specified timeframe.

3.5. Waste Electronic and Electrical Equipment (WEEE) (A producer responsibility scheme)

The purpose of the Waste Electronic and Electrical Equipment (WEEE) Directive is that as a first priority the prevention of waste electrical and electronic equipment and in addition the reuse, recycling and other forms of recovery of such wastes so as to reduce the disposal of waste. It also seeks to improve the environmental performance of all operators involved in the life cycle of electrical and electronic equipment, for example producers, distributors and consumers and in particular those operators directly involved in the treatment of waste electrical and electronic equipment. It is intended that regulations enacted to implement this Directive will combat the rapid growth of WEEE and its impact on the environment due to its hazardous content, through measures established for its treatment, reuse, recovery and recycling. Exporting any waste for disposal is prohibited. The export of WEEE for recovery is permitted but is controlled by the Transfrontier Shipment of Waste Regulations.

3.5.1. Ireland

In Ireland WEEE is controlled through two main regulations. A producer under these regulations refers to someone who:

- Manufactures and sells EEE under his or her own brand,
- Resells EEE produced by other suppliers under his or her own brand,
- Imports EEE on a professional basis into the State,
- Exports EEE on a professional basis from the State to another Member State of the European Union, or
- Distributes EEE from a producer (deemed not to be registered under the Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005).

Substantive compliance costs

All producers are required to be registered with WEEE Register Society Ltd. Registration is annual and must be completed by the end of January for each new calendar year. The costs for registration are detailed below.

Registration Fees - WEEE and Batteries

- €150 - if the turnover of EEE & Battery products is < €150,000
- €250 - if the turnover of EEE & Battery products is ≥ €150,000 but < €250,000
- €500 - if the turnover of EEE & Battery products is ≥ €250,000 but < €500,000
- €1,000 - if the turnover of EEE & Battery products is ≥ €500,000 but < €1 million
- €2,000 - if the turnover of EEE & Battery products is ≥ €1 million.

In addition to being registered with WEEE Register Society Ltd a producer must join an approved compliance scheme to undertake their WEEE obligations or become self compliant. There are currently two compliance schemes operating in Ireland – WEEE Ireland and European Recycling Platform (ERP) Ireland. A compliance scheme is a non-profit organisation that will take care of the collection, treatment and recycling of WEEE in Ireland on behalf of its producer members. The compliance scheme will then invoice the producer for his/ her proportion of the WEEE collected in Ireland. The charge for a producer becoming a member of a compliance scheme varies depending on the type of product(s) which that producer provides. Producers are required to declare the product categories along with quantities of products they provide to the compliance scheme. It should be noted however that some producers are not required to join a compliance scheme if they only provide product(s) from specific product categories.

The annual charges for being a member of the compliance scheme are detailed below.

WEEE Ireland

At present to register with WEEE Ireland there is a once-off registration fee of €600 followed by an annual subscription of:

- €600 for companies with an annual turnover is > €250,000
- €400 for companies with an annual turnover is < €250,000

ERP Ireland

The annual cost to join ERP Ireland is €500. Any national producer, retailer, importer, distributor or any company that has a take-back obligation for WEEE or waste batteries can join ERP Ireland as a national user. Doing so provides them with access to a cost-effective compliance scheme.

Self Compliance

Producers of non-household EEE can self-comply with the Regulations as detailed in the EPA guidance note. WEEE Ireland focuses on Business to Consumer compliance and does not currently offer compliance for Business to Business Producers of EEE.

Specifically Producers must:

- Register with the Registration Body.
- Finance the take back of WEEE from private households.
- Finance the take back of WEEE from users other than private households unless otherwise agreed with the end user.
- Collect or provide for collection of his/her proportion of WEEE arising from WEEE placed onto the market prior to 13th August 2005, depending on his/her current market share.

- Collect or provide for collection of all WEEE arising from private households from EEE placed onto the market post 13th August 2005.
- Finance the environmentally sound management of WEEE.
- Attain specified recovery rates depending upon the category and type of the WEEE arising.
- Maintain and keep records of all treatment and recovery data, including specific weights in and out of treatment facilities, for a period of at least six years.
- Prepare a WEEE waste management plan and provide it to the relevant authority, at least once every three years. This report should detail the steps taken by the producer to comply with the regulations and must be made available free of charge to any person requesting it within ten working days.
- Register with one of the approved compliance schemes - ERP Ireland or WEEE Ireland or as a self-compliant producer. Producers participating satisfactorily in an approved compliance scheme are exempt from the provisions of the following articles the following articles 16, 17, 19, 21, 22, 23, and 24 of S.I. 340 of 2005.
- Additional reporting obligations for self-compliance producers include the following:
 - All self-compliance producers (including those who export 100 per cent of their EEE) must prepare an annual Waste Management Report and submit this before 31st January of each year.
 - All self-compliance producers (including those who export 100 per cent of their EEE products) must prepare a Waste Management Plan to cover a period of three years. Producers are required to prepare annual reports on this plan which must be submitted to the Environmental Protection Agency before 31st January of each year, as part of the plan referenced above and prior to re-registration with the WEEE Register Society Ltd.

Administrative compliance costs

The following steps must be completed by all producers in order to achieve full WEEE compliance and in turn receive certification from the WEEE Register Society:

- Register annually with WEEE Register Society Ltd. Operator will be given a unique registration number. This number must be shown on all invoices, credit notes, dispatches and delivery dockets issued.
- Provide the WEEE Blackbox⁷ with the data requested including:
 - Historical sales data for the period 01 January 2004 - 31 December 2005 (this is a once-off request); and
 - Monthly sales data/ turnover – data is submitted each month for the previous month of any EEE placed on the Irish market. The data required is the exact quantity and weight of EEE products, per category and subcategory brought on to the State Market. This data must be submitted before or on 19th of each month.

At present the two approved compliance schemes are not authorised to provide compliance exemptions for Business to Business (B2B) members, therefore B2B producers are required to register as a self-compliance producer and fulfil all the mandatory reporting requirements which that entails.

3.5.2. Northern Ireland

In Northern Ireland WEEE is controlled through a number of different regulations. Every company in Northern Ireland that manufactures imports or re-brands electrical and electronic equipment is called a producer. In order for a producer to carry out their WEEE obligations, they must join an approved compliance scheme. In doing so the operator of the approved compliance scheme takes on the responsibility of registering that producer and becoming responsible for financing their WEEE obligations.

Substantive compliance costs

For a producer to register and join a compliance scheme they are required to fill out a form and pay a fee. The costs for being a member of a compliance scheme are as follows:

- £30 for each scheme member who is not required to be registered under the VAT Act 1994;
- £220 for each scheme member who is required to be registered under the VAT Act 1994, and who has an annual turnover of less than £1 million;
- £445 for each scheme member who has an annual turnover of more than £1 million.

Membership is required to be renewed on an annual basis. In addition to the registration fee, producers are required to finance the costs associated with the treatment and recycling of separately collected WEEE.

A producer can opt to run their own compliance scheme if they so wish. The cost to set up and operate a compliance scheme is £12,174.

Administrative compliance costs

If not already registered, a producer must register and join a compliance scheme within 28 days of first intending to put Electronic and Electrical Equipment (EEE) on the market. Any compliance scheme has to be approved by NIEA in order for it to operate. Once registered, producers are required to supply quarterly data on EEE placed on the market by them. At the end of each compliance period, producer compliance schemes will need to provide evidence to NIEA to show that they have met their treatment and recycling obligations. This evidence will come from Approved Authorised Treatment Facilities (AATFs) and Approved Exporters (AEs) of WEEE. Where the producer is the member of a compliance scheme, the scheme operator will provide this declaration on their behalf.

Once registered a producer receives a WEEE producer registration number that they will be required to give to anyone who distributes or sells their equipment. All producers are required to mark all new electrical products they place on the market with the crossed out wheeled bin symbol and a producer identification mark.

There are other specific requirements related to Distributors Responsibilities and WEEE Waste Treatment Responsibilities whose requirements are summarised below for completeness.

Distributors Responsibilities

If distributors are selling EEE to the public, they will have to ensure that their customers can return their WEEE free of charge. Retailers will be able to set up alternative collection systems as long as they are still convenient for customers. Distributors are required to ask producers for their unique producer number if they supply EEE. This number will prove that the producer has joined an approved compliance scheme and is helping fund the treatment and recycling of separately collected household WEEE.

WEEE Treatment Facilities Responsibilities

A site that is appropriately licensed to treat WEEE (i.e. has in place the necessary equipment, processes and permits/ authorisations, planning, etc.) is known as an Authorised Treatment Facilities (ATF) for WEEE. An operator of a treatment facility that has the necessary ATF licence can apply to be approved. Only Approved Authorised Treatment Facilities (AATFs) or Approved Exporters (AEs) can issue evidence of reuse of whole appliances, treatment, recovery and recycling of WEEE to the producer compliance schemes. Quarterly returns are required to be submitted by both AATFs and AEs to NIEA.

The charge for an application to NIEA to become an AATF or an AE is:

- £500, for up to 400 tonnes of WEEE; and
- £2,590, in any other case.

The charge for an application to extend approval is £110.

⁷ WEEE Register Society Ltd has appointed Deloitte to manage and operate the WEEE Blackbox function on its behalf. The information gathered will be used to establish producers' financial liabilities associated with the management of a proportion of the WEEE arising in Ireland. The proportion of WEEE management for which individual producers are responsible, will then be reported on a confidential basis to each producer, whether they are participating as part of collective compliance scheme or have opted to self-comply.

3.6. End of Life Vehicles (ELV) (A producer responsibility scheme)

End of life vehicles are classed as hazardous waste until they have been fully treated and de-polluted. As a result of concerns about the environmental and economic impacts of waste vehicles, the European Union adopted the ELV Directive (2000/52/EC) in October 2000.

3.6.1. Ireland

In Ireland the Directive is implemented through a one main set of amended regulations.

The Regulations place obligations on producers (vehicle manufacturers and professional importers) to establish national collection systems for the recovery and treatment of ELVs.

Substantive compliance costs

A producer is required to renew their registration with each local authority before 31st January each year. Costs for renewal vary and are primarily based upon the annual turnover of a producer in the 12 months preceding renewal. An outline of costs is provided below.

- €1,000 for producers with annual turnover ≤€50 million.
- €2,500 for producers with annual turnover ≥€50 and ≤€100 million.
- €6,000 for producers with annual turnover ≥€100 million.
- €1,000 for producers with annual turnover ≤€1 million and placed less than ten specified cars on the market.

Administrative compliance costs

A producer must be registered with each local authority in Ireland, however if they have a turnover of less than €1 million and placed less than ten specified vehicles on the market then they are only required to register with

the local authority where the producer's principle place of business/ registered office is located. If the business is transferred to another person then that person is treated as the producer and must register with the local authority.

Producer Responsibilities

A producer is required to renew their registration with each local authority by 31st January each year. Each application is to be made in writing and must include the following:

- A signed declaration to confirm that the materials and components of specified vehicles put on the market do not contain lead, mercury, cadmium, or hexavalent chromium;
- A three year implementation plan specifying the measures to which that producer intends to take to ensure the appropriate treatment and recovery of ELVs;
- A signed declaration by the producer concerned undertaking that the producer will not enter into an agreement contrary to the Competition Act (Section 4(1)& 5(1)) /Treaty of Rome (Articles 81 & 82); and
- A certificate from an independent qualified auditor confirming the turnover in the preceding 12 month period of the projected turnover in a new company.

Every year when the company has to renew its registration the company must provide additional information to the information specified for the initial application. This includes:

- A revised three year implementation plan, having regard to the experience gained in the preceding registration period; and
- A report specifying the measures taken by the producer to comply with the regulations in the preceding registration period.

Each producer must compile and maintain records on the following:

- The number, and aggregate unladen weight, of specified vehicles, of that producer's brand or for which that producer has responsibility, put on the market in the State in the functional area of each local authority;
- The number, and aggregate unladen weight, of ELVs, of that producer's brand or for which that producer has responsibility, that have been deposited for appropriate treatment and recovery at Authorised Treatment Facilities, which comprise a part of that producer's national collection system, in the functional area of each local authority;
- The aggregate weight of materials for reuse, recycling, recovery and disposal arising from ELVs, of that producer's brand or for which that producer has responsibility, that have been deposited for appropriate treatment and recovery at ATFs, which comprise a part of that producer's national collection system, in the functional area of each local authority.

ATF Responsibilities

Upon deposit of an ELV at an ATF for appropriate treatment and recovery, the owner or operator of that facility shall issue a certificate of destruction to the registered owner, an authorised person of a local authority or a member of An Garda Síochana. The operator of the facility must compile and maintain records on the following:

- The number, and aggregate unladen weight, of ELVs that have been deposited at that ATF for appropriate treatment and recovery;
- The aggregate weight of materials for reuse, arising from ELVs that have been deposited at that ATF for appropriate treatment and recovery;
- The aggregate weight of materials for recycling, arising from ELVs that have been deposited at that ATF for appropriate treatment and recovery;
- The aggregate weight of materials for recovery, arising from ELVs that have been deposited at that ATF for appropriate treatment and recovery; and

- The aggregate weight of materials for disposal, arising from ELVs that have been deposited at that ATF for appropriate treatment and recovery.

The above records must be submitted to each local authority before the 31st January each year by:

- The producer in respect of ELVs accepted for treatment/ recovery at an ATF as part of their national collection system; and
- The operator of an ATF which does not form part of a producers national collection system.

Records must be retained for a period of seven years from the date they were drawn up.

3.6.2. Northern Ireland

In Northern Ireland the directive is implemented through a number of different regulations. An estimated 50,000 vehicles come to the end of their life every year in Northern Ireland. ELVs have the potential to release harmful substances into the environment if they are not stored, treated and disposed of properly. Every company in Northern Ireland that manufactures or imports vehicles is called a producer.

Substantive compliance costs

- Application fee for an ATF for the depollution of ELVs - £568.
- Annual subsistence fee for an ATF - £236.
- An ATF will not impose any charge on the last owner of an ELV for the issue of a certificate of destruction.

Administrative compliance costs

These regulations place requirements upon manufacturers, owners and operators of vehicles. Consideration of producers has only been considered for the purposes of this review. Information on the requirements and obligations relating to vehicle owners, ATFs and sites that accept waste motor vehicles

has also been summarised and presented below for completeness of this review. Further details on their requirements are presented in the appropriate review table included in Appendix B.

Producers Responsibilities

If a business produces fewer than 500 vehicles a year in each EU member state, they only need to comply with the heavy metal restrictions and have technical documents to prove this.

Businesses which manufacture or import certain motor vehicles, (essentially cars, and vans below 3.5 tonnes) have a number of responsibilities. They are required to register with the Department for Business, Innovation and Skills (BIS) and declare responsibility for the vehicles that they produce. These manufacturers/ importers must have a free take-back system for the ELVs which they are responsible for.

BIS must approve the system and, to get approval, the manufacturer/ importer must submit an application describing the system to BIS. The system must be reasonably accessible to anyone who wants to deliver a vehicle to it. One of two service providers, Autogreen and Cartakeback, can usually provide free take back on behalf of almost all of the major motor vehicle manufacturers/ importers.

If a registered vehicle manufacturer/ importer business sells or transfers their business to someone else they can still be legally responsible for their ELVs. The business therefore should ensure that either they include in the transfer, any ELVs for which they are responsible, or arrange for their appropriate disposal.

Vehicle manufacturers/ importers must give plastic and rubber components and materials a code so that they can be dismantled and recovered separately. They do not have to mark tyres. They must keep technical documents for four years from the date they put the vehicles, materials and components on the market. The enforcement authority, the Vehicle Certification Agency (VCA), can ask to see these documents to prove a business's compliance.

To summarise, a producer is required to publish information on the:

- design of the vehicles and their components, with a view to their recoverability and recyclability;
- how they are treating ELVs in an environmentally sound manner;
- development and optimisation of the methods used to reuse, recycle and recover ELVs and their components;
- progress achieved with regard to recovery and recycling, in order to reduce the waste to be disposed of and increase recovery and recycling rates.

This information is made available to prospective buyers of vehicles and be included in promotional literature used in the marketing of new vehicles.

Authorised Treatment Facility (ATF) Responsibilities

When a person sends an ELV for dismantling or disposal, they must ensure that the site they are sending it to has a waste management licence and is an ATF. In addition if a person sends their ELV to a storage site before it is taken to an ATF, they must make sure that the storage site has a waste management licence.

ELVs are classified as hazardous waste until they have been treated to remove fluids and other hazardous substances and components. Vehicles intended for treatment and destruction must be consigned as hazardous waste when they move between sites. If an operator treats ELVs that have not been depolluted they are considered as a hazardous waste producer and consequently they must comply with the requirements of all hazardous waste legislation including:

- use consignment notes to accompany any hazardous wastes, and keep a copy of these for three years; and
- notify NIEA at least three days before the waste is moved.

An ATF is required to issue the owner of a vehicle (i.e. a car or van) with a certificate of destruction (CoD) if it is left at that their facility. The CoD demonstrates that the vehicle has been left/ taken to an approved treatment site and allows the Driver and Vehicle Licensing Agency (DVLA) to deregister the vehicle.

3.7. Seveso (Chemical Accidents (Seveso II) - Prevention, Preparedness and Response

The Seveso Directive was introduced following a disaster in the Italian town of Seveso in 1976. It aims to prevent major accidents involving dangerous substances and to limit consequences of such accidents for people and the environment. It was subsequently broadened as Seveso II.

3.7.1. Ireland

In Ireland the directive is implemented through one set of regulations. However, new draft regulations were prepared in 2009 under the Chemicals Act 2008 which are proposed to lead to a clearer enforcement framework and higher penalties in addition to clarifying roles of the various duty holders. DETI confirmed that the regulations were still in draft, but the directive is covered by the 2006 regulations. It is unknown what will happen until new administration is in place. However for the purposes of this review we have only considered the existing regulations.

Substantive compliance costs

The cost for initial notification/registration with the Health & Safety Authority (HSA) as per the 2006 regulations is €380.92. There are a range of costs associated with the submission of the initial safety report which range from €1,396.71 for a closed system to €18,157.25 for a manufacturing plant. Reduced rates are applied for the five year update of the report.

Administrative compliance costs

The current regulations in practice provide for three levels of proportionate controls, where larger quantities mean more controls:

- A company who holds a quantity of dangerous substance less than the lower threshold levels given in the directive is not covered by this legislation but will be controlled by general provisions on health, safety and the environment provided by other legislation which is not specific to major-accident hazards.
- Companies that hold a larger quantity of dangerous substance, which is above the lower threshold contained in the directive, will be covered by the lower tier requirements.
- Companies that hold even larger quantities of dangerous substance (upper tier establishments), which is above the upper threshold contained in the directive, will be covered by all the requirements contained within the directive.

Operators of all establishments must:

- Notify the HSA and the local planning authority, at least six months before construction begins and also six months prior to operation;
- Discharge certain general duties, upon commencement of activities;
- Prepare and implement a major accident prevention policy (MAPP). Operators of new establishments must prepare a MAPP document without delay and in any event within three months;
- Take action in the event of a major accident, and immediately inform the HSA of that occurrence;
- Provide the HSA with the following information as soon as it becomes available –
 - The circumstances of the accident,;
 - The dangerous substances involved;
 - The data available for assessing the effects of the accident on man and the environment; and
 - The emergency measures taken.

- Maintain a register of notifiable incidents (of the type listed in the seventh and eighth schedules) with entries to be kept for a minimum period of ten years.

Operators of upper-tier establishments have additional duties that include:

- Production of a safety report;
- Preparation of an internal emergency plan;
- Provision of information to those responsible for off-site emergency plans; and
- Provision of information for the safety of the public.

Please note that operators of new establishments must issue notification to the HSA at least six months prior to the construction and the operation of a new upper-tier establishment, and neither construction nor operation may begin until the operator has received the conclusions of the HSA.

3.7.2. Northern Ireland

In Northern Ireland the directive is implemented through one set of amended regulations, by a joint Competent Authority, made up of the Health and Safety Executive for Northern Ireland (HSENI) and the NIEA. The regulations are commonly referred to as the COMAH regulations. The main aim of the regulations is to prevent major accidents and limit their consequences to people and the environment. They do this by requiring the preparation of an accident prevention policy, safety reports and emergency plans.

Substantive compliance costs

The operator has to pay for any work the Competent Authority does for them, such as inspection of major accident hazards and investigation of major accidents, time spent on site, preparation of safety report, etc. The Competent Authority currently charges £100/hr for work it has to undertake and directly bills the operator for costs accrued. There are no other charges associated with registration or annual subsistence charges.

Administrative compliance costs

COMAH applies when a site has more than a threshold quantity of dangerous substances present (Lower Tier). Sites are subject to more stringent controls if the quantities of substances present are above a higher threshold (Top Tier). Lower Tier sites are required to prepare a Major Accident Prevention Policy (MAPP) and Top Tier sites prepare the more detailed safety report. Regular inspections and ongoing advice are provided by the Competent Authority.

If the COMAH regulations apply to a site the operator must notify the Competent Authority and do so before they begin storing any dangerous substances. The notification must give details about the operator, the site, the processes carried out and an inventory of dangerous substances present.

Lower Tier Sites

A MAPP must be prepared which includes sufficient details to demonstrate that the operator has a suitable safety management system in place. In addition the operator must also prepare a safety management system document showing the organisational structure, responsibilities, procedures and resources for implementing the MAPP as well as documented evidence to demonstrate that they have taken precautions to prevent major accidents. This should include plans, systems and procedures.

Top Tier Sites

In addition to the preparation of a MAPP a safety report must be compiled and sent to the Competent Authority (and prior to construction on site if appropriate for that site). The safety report has to be reviewed at least every five years with notification sent to the Competent Authority that this has occurred and what changes have been made, if any. In addition to the safety report an on-site emergency plan providing details of what an operator will do in the event of an accident. This emergency plan must be tested and revised every three years.

The operator must inform local residents, workers at other premises and every school, hospital or other establishment serving the public, which may be affected by a major accident at their site, of its activities. They must be informed of safety measures at the establishment, including details of what to do in case of a major accident.

4. Consultations

The comparative review of regulations identified potentially as being a barrier to cross-border trade between Ireland and Northern Ireland was followed by the presentation of these findings to appropriate businesses and business representatives. This happened both through face to face meeting with business representatives and through a breakfast seminar hosted by InterTradeIreland. The main objective of the breakfast seminar was to corroborate the findings of our review with the experiences of businesses directly affected by the regulations and who are on a continual basis required to comply with the requirements of the regulations or face enforcement action by the regulating authority for non-compliance.

4.1. Consultations with Business Representatives

Consultations took place with the the following business representative organisations⁸.

- Irish Business and Employers Confederation (IBEC) and Food and Drink Industry Ireland
- Construction Industry Federation (CIF)
- Irish Waste Management Association (IWMA)
- Chartered Institution of Wastes Management (CIWM)
- Confederation of British Industry (CBI)
- Construction Employers' Federation NI (CEF)

The consultations involved a discussion on the regulations and Information Obligations (IOs) relevance to the consultee's member companies; the extent to which businesses experience IOs irritating and the regulations they consider burdensome. The consultees were asked to attempt to assign costs to the IOs, provide case studies and/or additional information related to their experience with environmental regulations. Finally they were asked for simplification suggestions and recommendations on the way forward in this area.

4.2. Feedback from Business Representatives

IBEC reported that they had received no feedback from members in relation to environmental regulations being a barrier to cross-border trade and that the issues were more competition based and they had no concrete evidence that a business did not trade on the basis of the environmental regulations. However, both consultees noted that environmental regulations had been cited as being a nuisance, and that IPPC comes up for regular criticism with members looking for more practical application and a feeling that there is a competitive disadvantage.

CIF stated that there are significant costs for their members associated with compliance with IPPC and TFS regulations, especially in relation to contaminated land. This view was echoed by the CEF. Both representative organisations also noted that, due to the range of plant and machinery, there are costs associated with end of life vehicle regulations. According to these organisations, the main burden is the level of documentation and paperwork and the resources it uses. The view from CIF was that if this could be streamlined to avoid duplication it could significantly reduce the financial burden to its members.

In relation to the construction industry in Ireland, the Health and Safety Authority (HSA) is responsible for health and safety enforcement and the EPA is responsible for environmental enforcement. According to CIF, HSA staff is a regular occurrence on site but the EPA have less of a presence on site and their perception is that they only arrive when there is a crisis.

This perceived lack of environmental enforcement is considered a critical issue by CIF. However, it is important to note that federation mostly represents contractors that are not regulated by the EPA but the Local Authorities. According to EPA, there are over 2,000 site visits on approximately 700 sites regulated on a risk basis, which are documented in their enforcement reports.

The IWMA said they were not aware of any barriers to cross-border trade caused by regulations specific to waste movement and commented that the regulations are very similar in Ireland and Northern Ireland. The IWMA hopes the Waste Framework Directive 2008 when transposed in Ireland will bring about a harmonisation of the regulations in both jurisdictions.

An alternative view came from CIWM NI member, ARC 21⁹. They stated that there are major barriers to a holistic approach to waste management across the island including, inter alia, the TFS regulations, the UK import and export plan, and the lack of integrated waste management planning.

CBI reported that they have been working closely with the better regulation teams, including those in the NIEA. Feedback from CBI members, which was discussed in June 2010 with the NIEA Senior Management team, includes the following observations relating to environmental regulations:

- There is a view that NIEA remains risk averse in their application of regulations with a desire to avoid any criticism or risk of challenge.
- Recognition that most environment legislation is framed from EU directives and NIEA has limited flexibility. However food sector seems to experience a bigger administrative burden – some companies face 2 yearly reports, 4 site visits per annum.
- The biggest burden is the cost of implementing the legislation i.e. Best Available Techniques (BAT), requiring significant capital investment while many other regulations in their own right are adding significant administrative costs to businesses.

- There is a view that a significant portion of the administration is down to the way the legislation has been implemented e.g. PPC licences and the associated requirements for detailed submission and associated training requirements.

Other feedback from members is that there is the need for a more clear guidance on the 'definition of waste' and 'it would be useful to have one NIEA inspection/ site visit for various compliance issues.' CBI stated that they were aware that NIEA are about to conduct a customer survey in 2011.

CBI members did not have any specific issues with differences in environmental legislation in the two jurisdictions. Most members that have operations in Northern Ireland and Ireland operate autonomously in each jurisdiction, and comply with the relevant legislation applicable to each.

However, CBI suggested it would be useful to set up a forum for the environmental industry similar to the North/South Freight Forum¹⁰. Similarly the IBEC-CBI Joint Business Council is looking at the all-island energy market and solutions to the energy problem. These North/South forums come together when EU Directives are issued and try to agree and implement standard policy and regulations. This allows for integration and consistency in national legislation.

⁸ The Northern Ireland Food and Drink Association and Northern Ireland Federation of Small Businesses were unable to arrange a consultation meeting within the timescale of the report.

⁹ Arc21 is the umbrella waste management group for 11 councils in the east of Northern Ireland (Antrim, Ards, Ballymena, Belfast, Carrickfergus, Castlereagh, Down, Larne, Lisburn, Newtownabbey and North Down councils).

¹⁰ This forum includes representatives from the government agencies in Ireland and Northern Ireland, as well as industry, and, as part of its remit, seeks to ensure there is harmonisation of freight regulations.

4.3. Feedback from Waste Management Representatives

Cré (the Composting and Anaerobic Digestion Association of Ireland), Indaver and Fermanagh District Council contacted the project team as they heard about the project indirectly via third party sources and were eager to provide input on the issue of regulations dealing with the cross-border movement of waste materials. They made the following submissions.

4.3.1. Cré

Cré have been working with the Department of Environment, Heritage and Local Government (DEHLG) and Department of Environment, Northern Ireland (DOENI) since 2009 in relation to cross-border movements of food waste and garden waste. At the moment garden waste is not listed on the TFS regulations and, as such, it is treated as an amber listed material which causes an issue for composting sites located near the border. Border region-based companies are required to have bonds in place and must notify the relevant Competent Authorities prior to each waste movement. Such mandatory requirements are considered a financial burden in terms of costs and resources. At present, the DEHLG have submitted an application to the EU to have garden waste specifically listed and included within the TFS regulations. Although there was no meeting scheduled between the Member states in 2010 to discuss this issue, Cré is hopeful that the matter will be addressed shortly and be approved in 2011.

4.3.2. Indaver Ireland

Indaver Ireland, a waste management company, has prepared and submitted to DOENI a communication regarding cross-border movement of Municipal Solid Waste (MSW) to their facility in Meath, albeit for an interim period. Indaver understands that DOENI are currently preparing a paper for the UK Department of Environment, Food and Rural Affairs (DEFRA) on whether or not MSW could be transported for recovery to Ireland. Indaver are keen to progress this issue as they believe that an interim solution could be provided

to Northern Ireland while that jurisdiction's infrastructure is being developed.

4.3.3. Fermanagh District Council

After attending the breakfast briefing Fermanagh District Council (FDC) submitted the following points with relation to the TFS regulations:

- NIEA TFS Section determined that because garden and food (green) waste was not listed on the Green List in the TFS regulations it automatically is considered as an Amber List waste and consequently must be managed under these more rigorous controls. The Council believe that the National TFS Office (Dublin City Council) were prepared to take a less onerous view and accept green waste as a Green List waste but the country where the waste originates has the overarching determination as to the category in which the waste should be classified.
 - In Northern Ireland, a notification fee of £450 has to be paid for Amber List waste, plus a £25 fee for each load of waste to which that notification relates. FDC are allowed three loads per week under their notification, which equates to an annual cost of £4,350.
 - To move Amber List waste in Ireland an operator was historically only required to pay an annual administration fee of €500 to the National TFS Office. However, as of 1st July 2010, waste classified as Amber List required the person shipping the waste to pay a shipment fee of €2.50 per tonne of waste exported from Ireland or €25.00 on each shipment of waste imported into Ireland, regardless of the tonnage.
 - The application fee for Green List waste in Ireland is €250.00.
- Upon securing a bond to the value of £7,500, FDC is allowed to move no more than three loads per week of green waste over a six week period (the length of time agreed to compost this waste). In operational terms this proves restrictive for the Council, particularly during the the summer months, when

the volume of green waste collected increases. Then there is a requirement to increase movements to four or five loads a week, while the number of loads could be reduced during the winter months when the volume of green waste produced is much less. However, deviation from the conditions of the bond (i.e. no more than three movements per week) is not permitted.

- The stringent requirement to provide three days prior notification before moving a load can cause issues with annual leave, meetings and other situations which subsequently can lead to logistical errors when booking and confirming loads.
- In addition, the notification fee (£450) is specific to one site and cannot be applied to a multi-site application or situation. This causes a logistical headache for FDC because, in order to comply with the TFS regulations, green waste from each of FDCs collection points must be brought to one site and then bulked up before being transported to the composting site. This involves additional mileage of 20-50 miles per site and is considered to be financially and environmentally unsustainable.

Furthermore, the Council is in the process of establishing a commercial food waste trial with a composting facility located across the border in County Donegal. The trial would involve collecting food waste from 40-50 businesses all located in County Fermanagh using a special sealed refuse collection vehicle. When this vehicle is full it would then drive directly to the composting site in County Donegal to eject, process and treat the food waste it has collected. The collection route will be planned in such a manner that it finishes close to the composting facility. This planned trial does not comply with the requirements of the TFS regulations as waste cannot be collected from various businesses and transported directly across the border without first being taken to a licensed waste facility within Northern Ireland. Currently, there are no licensed waste facilities capable of accepting food waste located in County Fermanagh. However, even if there was a licensed facility in County Fermanagh the Council believe that it would be highly illogical for a collection vehicle eject

its contents and reload them to transport them a few miles across the border to a facility in County Donegal for processing. A simpler more pragmatic option would be to 'weigh and go'. Therefore FDC recommends that there needs to be a means by which 'milk rounds' can be operated under TFS without the requirement of having to off-load and reload before crossing the border.

4.4. Consultation on the New Hazardous Waste Movements regulations

Members of the project team were invited by Dublin City Council to attend a meeting to discuss the New Hazardous Waste Movements regulations in December 2010. The objective of the meeting was to consult with regulators and the waste industry regarding new hazardous waste regulations to replace the current C1 regulatory system.

A presentation was delivered by DEHLG on the draft Waste Management (Shipments of Hazardous Waste Exclusively within Ireland) Regulations 2010. They are being introduced to streamline the administration of the legislation on the movement of shipments of hazardous waste exclusively in Ireland. Dublin City Council would be the designated authority for the implementation of the regulations, similar to the National TFS Office, therefore all local authorities will no longer be issuing C1 forms for movements of waste within their local authority areas.

The regulations are also being introduced to transpose certain articles of the 2008 Waste Framework Directive (WFD). An area of concern that was raised at the meeting was related to Article 19 of the WFD which deals with labelling of hazardous waste when either being collected, transported or stored. The meeting concluded that the further investigation into the operations of the new regulations was required before they were enacted.

4.5. Briefing Seminar

As part of the study businesses from the selected sectors (agri-food, construction and waste management) were directly consulted through a seminar hosted by InterTradelreland. Important to note was the interest in attending the seminar from waste management businesses and organisations.

This reflects the overall trend in the research, that TFS is the one environmental regulation which was seen to be significantly impacting on cross-border trade and business.

Ten individual businesses attended the breakfast briefing seminar (held 24th November 2010 at InterTradelreland' offices in Newry) along with members of the project team and the steering group. There was a mix of companies from Ireland and Northern Ireland with some having premises in both jurisdictions. Some of the companies represented had premises located in the border region and consequently were uniquely placed to provide an insight to the cross-border regulatory difficulties facing businesses.

4.6. Feedback from Briefing Seminar

Following a brief introduction by InterTradelreland, the project team presented a brief summary of the research to date and the main objectives for the seminar. Delegates were presented with a summary of the outcomes of the review before they were given an opportunity to make comment on the review and put forward experiences and difficulties they have encountered trying to ensure their operations are compliant with pertinent regulations. Unusual for these types of open seminars, attended by business peers from one industrial sector, delegates were very open and frank in detailing their experiences of trying to be

compliant with pertinent environmental regulations. All delegates put forward their experiences of working within the bounds of the regulatory framework in both Ireland and Northern Ireland as well as proposing possible ways to make these regulations less burdensome and to make the process of transferring waste cross-border more efficient. Much of the discussion and debate focused around those regulations which have been implemented to manage and control the shipments of waste in Ireland and Northern Ireland, i.e.:

- Transfrontier Shipment of Waste Regulations 2007; and
- The Waste Management (Shipments of Waste) Regulations 2007.

For the purposes of this section of the report both these sets of regulations will be considered as the TFS regulations. The main points raised at the breakfast briefing seminar are summarised below:

- Business operators consider that the financial and administrative burdens associated with the shipments of waste between Ireland and Northern Ireland are not commensurate with the potential risks to the environment from the movement of specific waste materials. Examples of this related to the movement of certain organic type wastes (e.g. tree cuttings, wood wastes) or for the movement of certain WEEE.
- There is a lack of understanding by companies as to the rationale that garden/food waste is considered as notifiable (Amber List) waste and potentially a prohibited waste – just because it's not specifically listed within the TFS regulations. For example, green waste (which is not a hazardous waste) has the same financial and administrative burdens as

a typical hazardous waste (e.g. acids, chemicals, etc.). Seminar participants argued that the costs and administrative burdens being placed upon legitimate businesses, who want to operate in compliance with the regulations, could encourage a black market economy.

- Companies have encountered experiences where Competent Authorities have not been consistent in the application of notification controls for the movement of waste. An example provided by an operator was of a case where one Competent Authority permitted them to ship waste under the less onerous Annex VII notification process and the counterpart Competent Authority did not concur with this notification controls and insisted that the waste could only be shipped under the more stringent controls, (i.e. as an Amber List waste).
- There are significant disparities between Ireland and Northern Ireland in the costs associated with complying with these regulations. For example, under the Waste Management (Collection Permit) Regulations, 2007 (as amended) in Ireland, an operator is required to be registered in each region where they wish to transport waste. Ireland is divided into ten specific waste management regions with a cost of €1,000 for an application for a single region waste permit and the cost for a multi-region permit being €1,000 per region, up to a maximum of €5,000. It is an offence for a person to transport waste unless they are registered as a carrier under the appropriate regulations for that jurisdiction. Conversely, under the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999, an operator is required to be registered with NIEA and have waste carriers licence if they want to transport waste. The cost for an application to register as a waste carrier is

currently £120. In addition an operator's registration is required to be renewed every three years and the cost for renewal of a registration is £60.

- Companies consulted considered that the profit margins associated with the movement of waste materials under the TFS regulations have been significantly reduced as a consequence of the:
 - direct costs levied by the Competent Authorities (i.e. notification fees and shipment charges); and
 - Administrative costs associated with completing all the application forms and the ongoing management of the documentation, once approval to ship the waste has been granted until the waste has reached its final destination.
- A delegate at the seminar, who operates an all-island waste management business, stated that he calculated that the overall additional cost to his business as a consequence of complying with the TFS regulations was in the regions of €5-6 per tonne of waste moved cross-border. As a consequence waste management businesses said they were resigning themselves to employing a business model which is designed to break even financially as opposed to trying to make a profit. Companies consider the total costs associated with the TFS regulations are so excessive that businesses struggle to make a profit – this includes the financial guarantees/ bonds which have to be in place before you can commence, and the fact that all costs are required to be paid in advance before a vehicle is allowed to move.
- Delegates were of the opinion that the Competent Authorities lack of sufficient commercial understanding of how a businesses operate and

of the financial stresses being placed on their businesses due to onerous regulations. One operator was quoted as saying "...the stroke of pen from an inexperienced enforcement officer has significant financial repercussions to our business". There is the need for more a pragmatic decision making approach regarding the shipments of waste.

- Companies consulted considered that the Competent Authorities are not forthcoming with advice and guidance when operators request them to do so. Ultimately companies accept and understand that regulations are in principle designed to protect the environment, consumers and employees. However, when operators have asked for guidance on the best way for their business to comply with the regulations the Competent Authorities are deemed to be "very unhelpful".
- One delegate considered that the regulations implemented to manage and control IPPC were an example of excessive/ over-regulation. For example, the need to have a PPC permit to operate a composting facility in Northern Ireland was excessive considering the fact that similar type facilities were able to operate in other EU member states without a similar type of permit.

4.6.1 Development of Case Study Examples

As a result of the breakfast briefing seminar and given the response from waste management operators it was agreed to arrange a number of follow-up meetings with a select number of the delegates to develop case study examples of their experiences and difficulties of complying with the TFS regulations. These case studies are included in Chapter 5 of this report. Each case study outlines in detail how the business manages its operations to ensure that it complies with all the requirements of the regulations implemented for the shipments of waste as well as concrete example of how these regulations have potentially affected the development of business.

4.7 Feedback from Key Stakeholders

These discussions, with NIEA, DOENI and Dublin City Council NTO centred on the areas of: the need for environmental regulations, the current level of North/South cooperation in the environmental area and the progress that has been made in the area of better regulation.

The discussions identified the need for any discussion of environmental regulations and cross-border business to take place in the context of remediation of past damage. In the recent past this has focused on the controversial area of illegal cross-border movement of waste. The NIEA estimates that this amounted to at least 250,000 tonnes of municipal and commercial waste, transported from Ireland and illegally deposited at 20 sites in Northern Ireland between October 2002 and the end of 2004. The cost of repatriation is expected to come to £30 million with an 80:20 sharing of this between Ireland and Northern Ireland. In 2005 the EPA's annual report noted that its Office of Environmental Enforcement had not only reduced large-scale illegal dumping of waste within Ireland but also had closed down many of the avenues for cross-border movements too.

The point made in the EPA report was that cross-border cooperation with the DOENI had been critical to successful enforcement. And certainly the repatriation of waste issue has also been resolved through cooperation and agreements between the two governments¹¹. The discussions with stakeholders identified that work under the environment sector of the North/South Ministerial Council offered scope for collaboration in different areas¹². Examples cited included the North/South scheme for collecting fridges and freezers which preceded the implementation of the WEEE Directives in August 2005 and the ongoing work of the North/South Market Development Group on exploring cooperative opportunities for recyclates.

Other cooperation occurs outside the auspices of the NSMC. Firstly, DOENI and DEHLG meet regularly to discuss the better regulation agenda. One outcome of this was the 2007 agreed protocol on cross-border collections of WEEE from retailers located within a twenty-mile radius of the border. This was reached in order to minimise the transport and cost burden on retailers adhering to a producer responsibility scheme. Second, and of direct relevance to the TFS regulations, the competent authorities and policy-makers in Ireland and Northern Ireland have been involved in the IMPEL-TFS cluster¹³. This provides an opportunity to discuss ways of reducing the regulatory burden, the nature of classifying different waste streams as 'Amber List' or 'Green List', and involvement in enforcement and inspection projects within the EU.

¹¹ Two separate agreements in 2007 and 2009 between the two governments dealt with the processes to be followed in clearing up sites and the issue of cost sharing, respectively.

¹² The Council meets in the environment sector with an agreed work programme covering common policies and approaches in areas such as environmental protection, pollution, water quality management and waste management in a cross-border context.

¹³ The TFS Cluster was established in 1992 and states its vision is 'to ensure that all those involved in the international trade in waste are aware of and comply with their international obligations under international law. IMPEL TFS will maximise this by employing the combined resources of the Waste Shipment Regulation Competent authorities to maximise the effectiveness and efficiency of regulation and enforcement to protect the environment.'

5. Case Studies and Recommendations from Business

One of the follow on actions after the breakfast briefing seminar was to develop several case studies from among those businesses that had attended. The aim was to provide further evidence with regard to the experiences of complying with the TFS regulations on a cross-border basis.

Three case studies were put together – one with locations in both jurisdictions and the other two with significant cross-border movements of waste:

- Clearway Ltd;
- Re-Gen Waste; and
- Natural World Products Ltd.

All information contained within the case studies was reviewed by the businesses and all information provided by them is considered as de facto and accurate at the time of writing.

A summary of the case study for each business is provided below.

5.1. Clearway Ltd

5.1.1. Company Background

Clearway Ltd operates five fully licensed metal recycling facilities located in Belfast and Portadown in Northern Ireland, and Athlone, Cork and Dublin in Ireland. The sites located in Ireland trade under the name Hammond Lane Metal Recycling. Appropriate plant and processing equipment is in place at each of the sites to accept and process both ferrous and non-ferrous scrap metal. The company handles approximately 500,000 tonnes of scrap per annum. Ferrous metal is processed and exported from the company's three port locations in Northern Ireland and Ireland to steel mills based in Spain and Portugal. Non-ferrous metal is exported to secondary processors in Britain.

5.1.2. Reason for Legislative Compliance

Clearway Ltd accepts approximately 40-45,000 tonnes per annum of imported Green List scrap metal from a number of suppliers based in Ireland. They also transport approximately 30-35,000 tonnes per annum of Amber List mixed scrap metal from their Cork facility to Belfast for processing in their fragmentise plant.

5.1.3. Financial and Administrative Costs/ Burdens

Individual loads classified as Green List waste are not required to follow the TFS regulations pre-notification process, but are alternatively managed and tracked using an Annex VII form which is completed and accompanies each load. The exporter of the waste has to pay a shipment charge of €0.60 per tonne. In addition they are also required to pay an annual administration fee of €250, making an approximate total of €2,600 for 40,000 tonnes.

The Amber List waste transported from Cork to Belfast for processing is bulked up and typically shipped in 2,000 to 3,000 tonne loads by boat. As the weights of these loads are in excess of 1,000 tonne the lower export rate of €0.30 per tonne is applied to these loads. Clearway Ltd is also required to pay an annual administration fee to Dublin City Council National TFS Office (NTO) of €600 for these waste movements. The company typically ships 30-35,000 tonnes of mixed metal annually by boat which equates to approximately €11,000 per annum in shipment charges.

In addition to the direct charges levied by the Competent Authority in Ireland and Northern Ireland Clearway Ltd has calculated that the time and resources invested internally to administer all documentation associated with the TFS regulation costs the company £4,000 per annum. Ultimately all these rolled substantive and administrative costs reduce the profit margins per tonne of scrap metal recycled.

5.1.4. Perceived Barriers to Trade

Clearway Ltd stated that based on their experience to date it can potentially take up to three months to set up a TFS agreement for a new waste load. They consider this timeframe to be burdensome and on some occasions it has made more difficult the development and growth of their business, particularly when competing with a more locally based company.

5.1.5. Recommendations for Consideration

Clearway Ltd is of the opinion that the costs associated with the movement of Green List waste can be prohibitive to trade, particularly for businesses with a small turnover and profit margins. Clearway Ltd believes if costs associated with shipments of this kind were removed or reduced particularly for small loads, businesses involved with the movement of small volumes of these materials would be more inclined to report their actual waste movements and less inclined to not declare them. Ultimately this would lead to more accurate data reporting, better transparency and increased regulatory compliance.

Clearway Ltd also considers the time taken by the Competent Authority to approve the shipment documentation paperwork could be expedited. Amber List waste, particularly mixed scrap metal, should be considered low risk in the majority of cases as it had been by Competent Authorities in the past. It may therefore be appropriate for a standard risk assessment to be set up for these waste streams and perhaps a system introduced whereby they were fast-tracked upon receipt of an application to move this waste material.

Furthermore, Clearway Ltd suggested that the interpretation of EU regulations should be streamlined between Northern Ireland and Ireland to allow for a consistency of approach. For example, Clearway

Ltd produce a shredder residue as a by-product of the fragmentiser process. This waste is classified throughout the United Kingdom as non-hazardous waste and sent to local landfill for disposal. However, it has taken several years to demonstrate to the EPA that this material is non-hazardous. This disparity between these jurisdictions has resulted in an estimated cost to the company of several million Euros (due to hazardous waste disposal costs). In addition, this waste has had to be exported out of Ireland, resulting in lost business to an Irish waste disposal company. The company considers that this situation remains tenuous in Ireland, which makes investment decisions in recycling difficult in the country. In contrast there is greater certainty that this waste material will continue to be classified as non-hazardous in Northern Ireland.

5.2. Re-Gen Waste

5.2.1. Company Background

Re-Gen Waste is located in Newry in Northern Ireland, only five miles from the border between Northern Ireland and Ireland. The company operates a licensed materials recycling facility which is capable of processing in excess of 120,000 tonnes of co-mingled dry recyclable waste annually. Waste is segregated and sorted via an automated and manual picking line, which removes the various fractions for recycling.

5.2.2. Reason for Legislative Compliance

Re-Gen Waste services a number of public and private sector waste contracts in Northern Ireland and Ireland. The company makes Amber List notifications for approximately 35-40,000 tonnes of mixed dry recyclable (MDR) waste which is annually exported from Ireland to their materials recovery facility in Newry for processing.

5.2.3. Financial and Administrative Costs/ Burdens

Re-Gen Waste has identified the following financial and administrative burdens as a result of complying with the TFS regulations.

Financial Guarantee/ Bond: The purpose of the financial guarantee is to cover the cost of repatriation in the event that waste has to be returned to the point of origin in Ireland. Guidance is provided by the authorities as to how the value of the bond that has to be put in place is calculated. The size of bond to be secured for a single live load of mixed dry recyclables by Re-Gen Waste has been calculated to be €5,000. A live load is anything that has been notified and is live until a certificate of recovery is sent to both Competent Authorities. Re-Gen Waste typically would have an average of 100 loads live at any one time; therefore the total value of the bond secured is €500,000. The interest rate to secure a bond of this size is €20,000 per annum.

Notification Costs: Re-Gen Waste currently pay the following notification charges to Dublin City Council NTO and NIEA TFS Section respectively:

- Annual administration fee of €600 and a shipment charge of €2.50 per tonne of waste moved; and
- Notification fee of £450 per notification raised and a shipment charge of £25 per load (regardless of tonnage).

All notification costs are paid up front. Consequently, the company has to estimate the number of loads of waste it has to move under one notification and keep a track of this. A claim for a refund must be made within one month of the last notification; otherwise these upfront shipment charges may not be recoverable. All administration and notification fees are non-refundable.

Administration: Re-Gen Waste has a dedicated member of staff that spends half of their working time administering all documentation associated with the TFS regulations. They have estimated that approximately one month per year of that person's time is utilised setting up the notification and tracking the system and facilitating queries and audits by both Competent Authorities.

5.2.4. Perceived Barriers to Trade

Re-Gen Waste estimates that all substantive and administrative costs (as summarised above) contribute to approximately €5-6 in additional costs for every tonne of waste which has to be moved across the border for processing. The company has to build this cost into any contracts they bid for and consequently it puts the company at a competitive disadvantage when bidding for work against a company based in Ireland who does not need to move the waste across the border to process it in their facility.

The commercial reality of winning contracts and setting up the appropriate notifications means that Re-Gen Waste are typically four weeks behind competitive businesses in Ireland bidding for the same contract. In addition the three-day advanced notification prohibits Re-Gen Waste from offering their customers a quality service because of this inherent time delay. Re-Gen considers that the notification process is very rigid with minimal opportunity for flexibility within it, for example waste must only be collected for movement on the pre-notified date and refund applications have to be made within one month of them not being used. Adhering to such stringent timeframes is difficult and is not always practical from a commercial and transport logistics perspective. They also put increased pressure on the administrative and financial resources of the company.

Re-Gen Waste have to absorb non-refundable administration costs paid to the Competent Authority as part of the early bid stage for contracts they are looking to tender for. If bids which the company submits are unsuccessful then this money is lost and cannot be refunded.

5.2.5. Recommendations for Consideration

Re-Gen Waste fails to see the importance of the requirement to collect waste without providing a three-day advanced notification. Following approval of the notification to move waste it would be advantageous for company to be permitted to collect and move waste without such a stringent time restriction.

Securing the bond incurs a significant cost on the company. Re-Gen Waste query how often the bond has been required to be used either by the Competent Authority or by a waste company. The company understands the need for a bond system however they consider that the current system is designed specifically to protect the inherent risks associated with a small percentage of waste loads. They believe that an approach to these bonds that is more risk-based would reduce both the size of bond required and the costs associated with securing this.

Re-Gen Waste considers that the Competent Authorities should agree and set up "cross-border agreements" for certain wastes permitting them to be moved more easily under Green List controls.

5.3. Natural World Products Ltd

5.3.1. Company Background

Natural World Products Ltd (NWP) is a family run business, which has been operating since 1982. The company employs 102 staff, operating out of three licensed waste management facilities in Northern Ireland which include:

- In-vessel composting facility for organic food and garden waste in Belfast;
- Municipal and commercial and industrial waste transfer station in Portadown; and
- In-vessel composting facility for organic waste and WEEE recovery facility in Keady.

Between all of the facilities the company handles approximately 250,000 tonnes of waste per annum.

5.3.2. Reason for Legislative Compliance

NWP collect and move waste from Ireland for processing at one of their recycling facilities in Northern Ireland.

5.3.3. Financial and Administrative Costs/ Burdens

NWP currently pay the following notification charges to Dublin City Council NTO and NIEA TFS Section respectively:

- Annual administration fee of €60 and shipment charge of €2.50 per tonne of waste moved; and
- Notification fee of £450 per notification raised and a shipment charge of £25 per load (regardless of tonnage).

5.3.4. Perceived Barriers to Trade

NWP make the point that differences in the classifications (used in Ireland and Northern Ireland) of what is 'Green List' and 'Amber List' waste creates difficulty for them as an operator of a specialised recycling facility in Keady, which is located close to the border. They give the example of importing WEEE (e.g. televisions, computer monitors and fridges) from Ireland to their facility. Much of this type of WEEE is classified as 'Amber List' waste due to hazardous components present within. However, non-hazardous WEEE, such as washing machines and microwaves, is classified as 'Green List' waste in Ireland but 'Amber List' in Northern Ireland which carries the higher notification cost and more onerous administration. Imported WEEE from Ireland constitutes a large portion of the waste processed at the Keady facility, particularly due to its border location and therefore commercially it was necessary to continue to accept this waste. However, the differing classifications of this waste by NIEA TFS Section and Dublin City Council NTO mean that there is an impact on the company's profit margins, increasing the cost per tonne to process the waste and ultimately reducing the bottom line.

Similarly, in the past, NWP moved organic waste (brown bin food waste and green waste) from a number of large food manufacturers and waste companies in Ireland to their in-vessel composting facility in Keady. At that time this waste was classified by the lead authority in Ireland as 'Green list' waste and subsequently managed and tracked using an Annex VII form as opposed to the more stringent requirements for notifiable wastes. NWP, as the exporter paid a shipment charge of €0.60 per tonne for this waste in addition to an annual administration fee of €250. However, following the transfer and centralisation of administrative duties from each local authority to the Dublin City Council NTO these wastes were reclassified as 'Amber List.' This re-classification had a significant cost implication for NWP, with the shipment charges increasing to €2.50 per tonne and the annual notification fee to €600. In addition the administrative burden associated with 'Amber List' wastes increased and required additional internal resources to manage this. NWP ultimately decided that this work was no longer financially viable and the company took the decision to cease the movement of organic waste from Ireland and cancelled all relevant contracts.

5.3.5. Recommendations for Consideration

NWP are of the opinion that there needs to be a consistent approach to the TFS regulations in Northern Ireland and Ireland. Although the TFS regulations are transposed from EU Directives, both jurisdictions interpret and administer them very differently. The company believes that classifications are not based on proper realistic risk assessments. Certain 'Amber List' waste, particularly organic waste, non-hazardous WEEE and mixed scrap metal which were all at one time classified as 'Green List', should be considered low risk in the majority of cases.

It is also important to consider in the risk assessment that waste in some cases may move very short distances across the border. In addition they will be transferred to state of the art, advanced facilities which have all of the required permits and approvals in place to treat that waste type. NWP considers the TFS regulations are restrictive to cross-border trade and movement of waste and can result moving waste further to a facility located with the jurisdiction of the origin of the waste, when an acceptable fully licensed authorised facility is located only a few miles away, but it cannot accept the waste as a result of excessive regulation.

In Northern Ireland, NWP are regulated by several departments within NIEA, such as waste licensing, WEEE authorised treatment facility, hazardous waste and the TFS Section. In Ireland they are regulated by the EPA, and Dublin City Council NTO. They believe that it would be beneficial if these internal departments could join forces, avoiding duplication of regulation and ultimately reducing the administrative burden for the waste company and regulator.

6. Conclusions and Recommendations

The conclusions and recommendations resulted from the information review, the meetings with business representatives, the briefing seminar and the case studies.

The study focused on the potential barriers to businesses therefore range of companies and business representatives were consulted. Their opinions and views were reported and considered in the recommendations. In addition, feedback from the relevant competent authorities and key stakeholders was also taken in account in order to provide a balanced report.

A key finding from the research is that the selected environmental regulations, with one exception, have a very limited impact on companies involved in cross-border trade. The consultations revealed that only the Trans-Frontier Shipment of Waste (TFS) regulations affecting the waste management sector were highlighted as having a significant impact on cross-border trade and business. Therefore there are specific recommendations in relation to these regulations and the industry.

6.1.1. General recommendations on environmental regulations and cross-border business

The discussions with businesses and stakeholders led to the following general recommendations on environmental regulations which are in line with the 'Better Regulation' agenda:

- Examine the requirements for and the frequency of reporting under the regulations and reduce if deemed possible;
- Look into the requirements and responsibilities for information requests and recommend procedures to eliminate overlaps;

- Consider replacing paper-based information gathering with electronic and web-based reporting;
- Consider introducing thresholds for information requirements, limiting them for small and medium sized businesses or relying on sampling.
- Look into substituting information requirements on all businesses in a sector by a risk based approach – targeting information requirements on those operators that perform the highest risk activities.
- Continue to conduct Regulatory Impact Assessments (RIA) on all future legislations and changes to any existing regulations. Where the regulations will have an impact on cross-border trade the RIA should be include discussion with the relevant regulators and policy makers on the other side of the border to minimise any additional burdens on the industry concerned.

6.1.2. Specific recommendations for TFS regulations and the waste sector

There is currently, as noted above, a lot of negative publicity surrounding the waste industry and the repatriation of illegally dumped waste, as a result of the activity of a small number of companies. However, this does not reflect the activities and regulatory compliance of the waste sector in general. The industry and regulators need to work with the media to raise the profile of the sector and outline the economic and environmental opportunities. The following recommendations were reached for the TFS regulations and the waste sector after some discussion with the waste management industry, other businesses and the relevant stakeholders. They are based on balancing the need of operators for regulatory flexibility and the prescribed framework within which the regulators operate:

- Establish TFS Clinics, as outlined in the National Audit Office report in 2008, to simplify the transport of waste between Ireland and Northern Ireland and streamline the associated costs.
- The regulators, such as Dublin City Council National TFS Office (NTO), NIEA and EPA, to meet to explore opportunities for streamlining the process for cross-border businesses to reduce the administrative burden whilst maintaining compliance with the regulations.¹⁴
- Transparency in enforcement at a small operator level.

¹⁴ One suggested area for discussion is the potential for developing a 'Border Area Agreement', which can be signed under Article 30 of the TFS regulations allowing for longer periods of notifications (up to seven years in some case), waiving of some fees and less regular reporting on the outcome of shipments. One such agreement was signed between Austria and Germany in 2008 after a lengthy period of cooperation on these issues, covering border region municipalities. The potential for such an agreement has been raised and discussed for the border between Ireland and Northern Ireland also, although the recent Progress Report on the implementation of the recommendations of the Report of the High Level Group on Green Enterprise (March 2011) from Forfás noted that 'the matter is unlikely to progress in the short to medium term'.

Appendix A

Information Review

General Reference and Information	Date	Author/Produced by
An Assessment of Enterprise Opportunities in Environmental Goods and Services	Aug 2008	A report to Forfas and InterTradelreland
Regulatory Barriers to Cross Border Trade and Business	Jun 2009	PwC on behalf of InterTradelreland
Developing the Green Economy in Ireland	Nov 2009	Report of the High Level Group on Green Enterprise
The links between environmental regulation and competitiveness in the building and construction industrys	Jul 2009	CESISP Center for the Development of Product Sustainability
The International comparative Legal Guide to: Environment Law 2010: A practical cross border insight into environmental law. Chapter 25 - Ireland	2010	Aoife Shields and Finola McCarthy, Ronan Daly Jermyn Solicitors
Report to the Minister for Enterprise, Trade and Innovation: Second Report of the High Level Group on Business Regulation	2009	Irish Department of Enterprise, Trade and Innovation
Non-technical barriers to wave energy development, comparing progress in Ireland and Europe	2009	G. Dalton, N. Rousseau, F. Neumann, B. Holmes. Hydraulics and Maritime Research Centre, UCC, Cork
EPA STRIVE Innovation for a green economy. Environment and Technology: A win win story	2009	EPA
Update on Cross Border Trade Data, Quarter 1 2010 (January-March)	2010	InterTradelreland
All-Island Agri Food Study	Aug 2010	MDR Consulting on behalf of InterTradelreland
Business Regulation Survey	Mar 2007	ESRI, Department of an Taoiseach
Better Environmental Regulation: SEPA's Change Proposals	Feb 2011	Scottish Environmental Protection Agency (SEPA)
Better Regulation for a Better Environment EHS Better Regulation Programme	Mar 2008	Environment and Heritage Service (UK)

General Reference and Information	Date	Author/Produced by
Waste Management Forum Presentation	2007	Transfrontier Shipment of Waste Office, Dublin City Council
End of Waste Criteria Plastics Working Group	Sept 2010	Environmental Inspectorate, Dept. Of Environment, Heritage and Local Government
The International comparative Legal Guide to: Environment Law 2010: A practical cross border insight into environmental law. Chapter 16 – England & Wales	2010	Daniel Lawrence & Jonathan Isted
Pilot Project on Administrative Burdens	Dec 2006	Prepared by WiFo and CEPS for the European Commission
Waste Management in Ireland - Benchmarking Analysis and Policy Priorities: Update 2010	Oct 2010	Forfás
Cross-Border Waste Management Study	Feb 2005	Interreg
International Standard Cost Model Manual – Measuring and reducing administrative burdens for businesses		SCM Network
Improving the co-ordination of European research to support the evidence-base for better regulation'	2009	SKEP Network
Policy and regulation as drivers for the Green Economy	May 2010	McCann Fitzgerald
Barriers to Good Environmental Regulation	Jan 2007	Network of European Environment Protection Agencies
Northern Ireland Agri-Food Better Regulation and Simplification Review	Apr 2009	Northern Ireland Agri-Food Better Regulation and Simplification Review Panel
Regulatory Barriers to Cross-Border Trade And Business	Jun 2009	InterTradelreland
Response to the Northern Ireland Agri-Food Better Regulation and Simplification Review	May 2010	Department of the Environment Northern Ireland

European Commission	Date	Author/Produced by
Action Programme for Reducing Administration Burdens in the EU Sectoral Reduction Plans and 2009 Actions	Oct 2009	Commission of European Communities
Reducing Administrative Burdens in the EU. Annex to the 3rd Strategic Review on Better Regulation	Jan 2009	Commission of European Communities
EU Project on Baseline Measurement and Reduction of Administration Costs: Final Report, incorporating report on Module 5.2 – Development of Reduction Recommendations	Feb 2010	Capgemini, Deloitte and Ramboll Management on behalf of the European Commission
EU Project on Baseline Measurement and Reduction of Administration Costs – Measurement data and analysis as specified in the specific contracts 5 & 6 on Modules 3 & 4 under the Framework Contract n ENTR/06/61. Report on the Environment Priority Area	Jul 2009	Capgemini, Deloitte and Ramboll Management on behalf of the European Commission
EU Project on Baseline Measurement and Reduction of Administration Costs – Recommendation on the Environment Priority Area <i>Encourage Member States to consider the Administrative Burden implications of reconsidering and updating of permits (02)</i>	Jun 2009	Capgemini, Deloitte and Ramboll Management on behalf of the European Commission
EU Project on Baseline Measurement and Reduction of Administration Costs – Detailed Recommendation on the Environment Priority Area <i>Using electronic notification systems in all Member States (05)</i>	Jun 2009	Capgemini, Deloitte and Ramboll Management on behalf of the European Commission
EU Project on Baseline Measurement and Reduction of Administration Costs – Recommendation on the Environment Priority Area <i>General notifications (10)</i>	Jun 2009	Capgemini, Deloitte and Ramboll Management on behalf of the European Commission
EU Project on Baseline Measurement and Reduction of Administration Costs – Recommendation on the Environment Priority Area <i>Integrate WEEE reporting (7)</i>	Jun 2009	Capgemini, Deloitte and Ramboll Management on behalf of the European Commission
EU Project on Baseline Measurement and Reduction of Administration Costs – Recommendation on the Environment Priority Area <i>Introduce online system for issuing vehicle destruction certificates in Member States that do not have such systems (12)</i>	Jun 2009	Capgemini, Deloitte and Ramboll Management on behalf of the European Commission

European Commission	Date	Author/Produced by
EU Project on Baseline Measurement and Reduction of Administration Costs – Recommendation on the Environment Priority Area <i>Set up a website for submitting and changing notifications (4)</i>	Jun 2009	Capgemini, Deloitte and Ramboll Management on behalf of the European Commission
2008 Fast Track Actions to reduce administrative burdens in the European Union	Mar 2008	Commission of European Communities
Third progress report on the strategy for simplifying the regulatory environment	Jan 2009	Commission of European Communities
Action Programme for Reducing Administrative Burdens in the European Union	Jan 2007	Commission of European Communities
Environmental, Social and Economic Impact Assessment of possible requirements and Criteria for Waste Shipment Inspections, Controls and On-The-Spot Checks	Jun 2010	Commission of European Communities
Putting the ‘Smart’ in the Green Economy A perspective from the European Commission		Information Society and Media Directorate-General, European Commission
Update On Cross-Border Trade Data, Quarter 1, 2010 (January-March)		InterTradeIreland
Victorian Regulatory Change Measurement (RCM)		Australian Department of Treasury & Finance

Websites	Web Address
European Commission – Enterprise and Industry – Better Regulation	http://ec.europa.eu/enterprise/policies/better-regulation/index_en.htm
SKEP Network	http://www.skep-network.eu/Home.aspx
Better Regulation (UK)	http://www.businesslink.gov.uk/bdotg/action/detail?type=RESOURCE&itemId=1084828350
Department for Business Innovation and Skills – Better Regulation	http://www.berr.gov.uk/bre/
Better Regulation	http://www.betterregulation.ie/eng/
British Chamber of Commerce	http://www.britishchambers.org.uk/topics/regulation
SITPRO Simplifying International Trade	http://www.sitpro.org.uk/index.html
Office of the Directorate of Corporate Enforcement	http://www.odce.ie/
Implementation of the waste shipment regulation	http://forums.ec.europa.eu/waste-shipment/
International comparative legal guide series	http://www.iclg.co.uk/index.php?area=4&kh_publications_id=141
Study of the Effectiveness of the Seveso II Directive	http://ec.europa.eu/environment/seveso/pdf/study_tors.pdf
Victorian Regulatory Change Measurement (RCM)	www.dtf.vic.gov.au/betterregulation



The Trade and Business Development Body
The Old Gasworks Business Park
Kilmorey Street
Newry
Co Down
BT34 2DE

Telephone: 028 3083 4100 (048 from Ireland)

Fax: 028 3083 4155 (048 from Ireland)

Textphone: 028 3083 4169 (048 from Ireland)

Email: info@intertradeireland.com

Web: www.intertradeireland.com

Appendix B

Environmental Regulations and Cross Border Trade and Business: PPC Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Refined Regulation Selection Criteria																											
Regulations	Cross-sectoral	Date Enacted/ Came into Force	Potential Cost																								
<p>The Pollution Prevention and Control Regulations (Northern Ireland) 2003 (SR 2003/46)</p> <p>Includes all industry sectors as listed in Schedule 1 to the Regulations. Industry sectors include:</p> <ul style="list-style-type: none"> • Energy Industries • Production and Processing of Metals • Mineral Industries • The Chemical Industry • Waste Management • Other Activities <p>A detailed breakdown of the manufacturing activities included within each of these industry</p>		2003	<p>There is a charging scheme made under Regulation 22 of the PPC Regulations in respect of permits granted. Fees and charges are primarily based upon a component charging scheme, with costs increasing in accordance with the number of components attributed to that specific activity, and whether the activity is considered to be a Part A or part B activity. In addition there are fees and charges associated with annual subsistence, variation of a permit, transfer of a permit, etc. Charges for farming activities are different to those of all the other industries listed. Please note that when calculating the charges it is advised that this is done so in accordance with The Pollution Prevention and Control (Industrial Pollution and Radiochemical Inspectorate) Charging Scheme (Northern Ireland) 2010. A summary of the main charges are listed in the table below.</p> <table border="1"> <thead> <tr> <th>Charge Category</th> <th>Part A</th> <th>Part B (per installation)</th> </tr> </thead> <tbody> <tr> <td>Permit application</td> <td>£4483 per component</td> <td>£1564</td> </tr> <tr> <td>Annual Subsistence</td> <td>£1591 per component</td> <td>£976</td> </tr> <tr> <td>Variation (standard)</td> <td>£1311 per component</td> <td>No Charge</td> </tr> <tr> <td>Variation (substantial)</td> <td>£2326 per component</td> <td>£1022</td> </tr> <tr> <td>Transfer (part)</td> <td>£1523 (plus supplement of £1126 for specified waste management activities)</td> <td>£467</td> </tr> <tr> <td>Transfer (whole)</td> <td>£294 (plus supplement of £1126 for specified waste management activities)</td> <td>£158</td> </tr> <tr> <td>Surrender</td> <td>£2445 (plus supplement of £1907 for landfills)</td> <td>No Charge</td> </tr> </tbody> </table>	Charge Category	Part A	Part B (per installation)	Permit application	£4483 per component	£1564	Annual Subsistence	£1591 per component	£976	Variation (standard)	£1311 per component	No Charge	Variation (substantial)	£2326 per component	£1022	Transfer (part)	£1523 (plus supplement of £1126 for specified waste management activities)	£467	Transfer (whole)	£294 (plus supplement of £1126 for specified waste management activities)	£158	Surrender	£2445 (plus supplement of £1907 for landfills)	No Charge
			Charge Category	Part A	Part B (per installation)																						
			Permit application	£4483 per component	£1564																						
			Annual Subsistence	£1591 per component	£976																						
			Variation (standard)	£1311 per component	No Charge																						
			Variation (substantial)	£2326 per component	£1022																						
			Transfer (part)	£1523 (plus supplement of £1126 for specified waste management activities)	£467																						
			Transfer (whole)	£294 (plus supplement of £1126 for specified waste management activities)	£158																						
			Surrender	£2445 (plus supplement of £1907 for landfills)	No Charge																						
Overall Objective of Regulation																											
<p>These Regulations were made under the Environment (Northern Ireland) Order Part II 2002, and will eventually replace the Industrial Pollution Control (Northern Ireland) Order 1997. The Regulations implement the European Community (EC) Directive 96/61/EC on Integrated Pollution Prevention and Control (“the IPPC Directive”), in so far as it relates to installations in Northern Ireland.</p> <p>The PPC Regulations create a coherent new framework to prevent and control pollution, with a system similar to the old regime of Industrial Pollution Control (Northern Ireland) Order 1997. The main provisions of IPPC apply equally to the ex-IPC processes and the other sectors new to integrated permitting. There are also some further requirements that apply solely to waste management activities under IPPC.</p> <p>The system of Integrated Pollution Prevention and Control (IPPC) applies an integrated environmental approach to the regulation of certain industrial activities. This means that emissions to air, water (including discharges to sewer) and land, plus a range of other environmental effects, must be considered together. Pollution Prevention and Control (PPC) was established in Northern Ireland by The Pollution Prevention and Control Regulations (Northern Ireland) 2003. These Regulations have three tiers of control.</p> <p>Part A of the Regulations requires an integrated approach to controlling a wide range of environmental issues, such as noise, energy efficiency, site condition, raw material usage.</p> <p>Part B and Part C control emissions to air only. All industrial activities controlled under the PPC Regulations are required to have a permit to operate. The activities requiring a permit are set out in Schedule 1 to the Regulations (see column opposite).</p>		<p>Part A and Part B activities permits are issued and enforced by the Industrial Pollution and Radiochemical Inspectorate (IPRI) of NIEA. The Part C activities permits are issued and enforced by district councils.</p> <p>To gain a PPC permit operators have to show that they have systematically developed proposals to apply the Best Available Techniques (BAT) and meet certain other requirements, taking account of relevant local factors. The essence of BAT is that the selection of techniques to protect the environment should achieve an appropriate balance between realising environmental benefits and the costs incurred by operators. The main objectives of the implementation of the PPC Regulations include:</p> <ul style="list-style-type: none"> • Protect the environment as a whole; • Promote the use of “clean technology” to minimise waste at source; • Encourage innovation, by leaving significant responsibility for developing satisfactory solutions to environmental issues with industrial operators; • Provide a “one-stop-shop” for administering applications for permits to operate. <p>Once a permit has been issued, other parts of IPPC come into play. These include compliance monitoring, periodic permit reviews, potential variations of permit conditions and transfer of permits between operators. IPPC also requires the restoration of sites to the condition in which they were in at the time of the issue of the permit, as a minimum, once the permitted activities cease to operate.</p>																									

Environmental Regulations and Cross Border Trade and Business: PPC Northern Ireland

Scoping and Mapping. Objective - to consider ways in which the regulations might create a burden on trade.

Regulation Details

Definitions N/A

Obligations

Work Areas Covered

- Combustion Activities
- Gasification, Liquefaction and Refining Activities
- Ferrous Metals
- Non-Ferrous Metals
- Surface Treating Metals and Plastic Materials
- Production of Cement and Lime
- Activities Involving Asbestos
- Manufacturing Glass and Glass Fibre
- Production of Other Mineral Fibres
- Other Mineral Activities
- Ceramic Production

- Inorganic Chemicals
- Chemical Fertiliser Production
- Plant Health Products and Biocides
- Pharmaceutical Production
- Explosives Production
- Manufacturing Activities Involving Carbon Disulphide or Ammonia
- The Storage of Chemicals in Bulk
- Disposal of Waste by Incineration
- Disposal of Waste by Landfill
- Disposal of Waste Other than by Incineration or Landfill

- Recovery of Waste
- The Production of Fuel from Waste
- Paper, Pulp and Board Manufacturing Activities
- Carbon Activities
- Tar and Bitumen Activities
- Coating Activities, Printing and Textile Treatments
- The Manufacture of Dyestuffs, Printing Ink and Coating Materials
- Timber Activities
- Activities Involving Rubber
- The Treatment of Animal and Vegetable Matter and Food Industries
- Intensive Farming

Legislation in a number of other areas has amended PPC legislation. This includes landfill, solvent emissions and waste incineration legislation.

Registration/or Application or Thresholds

The activities requiring a permit are set out in Schedule 1 to the Regulations. Application for Part A, Part B or Part C activities depend on the corresponding threshold for the specific activity. Each industrial activity has its own specified threshold limit which are detailed in Schedule 1. Part A and Part B activities permits are issued and enforced by the Industrial Pollution and Radiochemical Inspectorate (IPRI) of NIEA and Part C activities permits are issued and enforced by the appropriate district councils.

Some industrial activities may fall under more than one heading In this case an activity should be allocate to the most apt activity as listed in Schedule 1 to the PPC Regulations.

Exemptions

An operator is exempted from obtaining a permit for an activity only if it is not listed in Part 1 of Schedule 1 to the PPC Regulations.

Requirements for Application

A new installation cannot be brought into operation until a PPC permit has been granted. An installation is defined as:

- A stationary technical unit where one or more activities (as listed in Part 1 of Schedule 1 of the PPC Regulations) are carried out; and
- Any other location on the same site where any other directly associated activities are carried out which have a technical connection with the activities carried out in the stationary technical unit and which could have effect on pollution. It is also worth noting that if a site is covered by a PPC permit, it is possible that activities that wouldn't usually require a PPC permit will be covered by conditions in the permit (i.e. directly associated activities). An activity can be directly associated if it could cause pollution and there is a technical connection with the activity directly licensed by the permit. When you are applying for a PPC permit, your environmental regulator will identify any directly associated activities as part of determining the permit. It is the responsibility of the operator to advise the regulator of any later, significant changes.

An application for a permit is made by completing the standard Application Form which can be obtained from the NIEA website or by contacting NIEA directly. The form has been designed to reflect the requirements for applications in the PPC Regulations. The level of detail included within the application must reflect the scale of the operations required to be permitted and the effects to the environment. If more than one activity is carried out at a site the operator can submit a single application that covers all activities. However, the operator must complete separate application forms for each activity/ installation, with appropriate cross referencing on common elements (e.g. site management, site condition, etc.). It is recommended that prior to making an application the operator discusses the application the Regulatory Inspector (NIEA/ district council).

Once an application has been made the Inspector will check that an application is duly made in accordance with the PPC Regulations. This depends on whether the application as initially submitted is complete in a legal sense, such that NIEA/ district council is able to process it. For an application to be considered as duly made, the main requirements are that it should:

- be prepared making proper use of the standard Application Form;
- relate to a Part A, Part B or Part C installation under IPPC;
- be accompanied by the necessary fee; and
- address all of the necessary points.

If it is considered that an application is not duly made, it may be returned to the operator with an explanatory note. If separate applications are made for permits for different parts of one installation (new or existing) the PPC Regulations provide that each individual application can only be treated as having been duly made if all of the applications are duly made. This cannot occur until all of the applications have been received.

If the Inspector is satisfied that the application is duly made they will acknowledge it and send a receipt for the fee. The Inspector will also give the operator a name and telephone number for someone whom they may contact with questions relating to the application. However, in some cases the Inspector may need to request further information from the operator before determining an application. Where this is the case, the Inspector will send the operator a notice specifying the information required and the period allowed for its submission. If the operator considers that they will not be able to provide the information or respond by the date specified, they should inform the Inspector as soon as possible. Failure to provide an adequate or timely response may lead the Inspector to judge that the application has been withdrawn.

It may be possible to time the PPC application alongside other submissions required under other regimes (e.g. the **Control of Major Accident Hazards Regulations (Northern Ireland) 2000** if you are a "top tier" COMAH site). If planning permission is also required, the PPC and planning applications should be submitted in parallel whenever possible. However, if the operator is applying to operate any "specified waste management activities" (defined in the PPC Regulations), the Inspector cannot issue a PPC permit unless any required planning permission is in place.

Environmental Regulations and Cross Border Trade and Business: PPC Northern Ireland

Scoping and Mapping. Objective - to consider ways in which the regulations might create a burden on trade.

Timeframes

The PPC Regulations set statutory periods following receipt of a duly made application within which NIEA/ district council should normally reach a decision. In most cases these will be as follows:

- for a permit application; 6 months for a new installation (9 months for an existing installation);
- for an application for a variation, 6 months if consultation is undertaken under the terms of the PPC Regulations and 3 months in other cases;
- for an application for a transfer, 2 months; and
- for an application for surrender, 3 months.

These periods do not include the time taken for the Operator to respond to any additional requests for information after the application has been submitted. In complex cases, the Inspector and the Operator may agree that a longer period for determination is appropriate. However, the Operator does not have to agree to this and may appeal to the Planning Appeals Commission against “deemed refusal” if NIEA/ district council does not complete their determination in the period specified by the Regulations. In some special cases the determination period is longer.

Where there is a case where the Inspector sends the operator a notice specifying additional information required to determine a PPC application/ variation/ transfer/ surrender it will typically include a time period for the appropriate response(s) to be made. If the operator considers that they will not be able to provide the information or respond by the date specified, they should inform the Inspector as soon as possible. Failure to provide an adequate or timely response may lead the Inspector to judge that an application has been withdrawn.

Regulatory Authorities

Part A and Part B activities permits are issued and enforced by the Industrial Pollution and Radiochemical Inspectorate (IPRI) of NIEA. The Part C activities permits are issued and enforced by district councils.

Administration/Reporting

NIEA is required to place various items related to installations on the public register. These include the permit, monitoring data, details of enforcement actions and all transactions of any variation, transfer or surrender as well as the original applications. There are exceptions for commercial confidentiality and national security.

The law requires that the Regulator considers comments from the public and statutory consultees before an application is determined. Subsequently the operator is required to advertise their application in one or more local newspapers and the Belfast Gazette providing certain information.

Once an operator has been granted with a PPC permit they will be required to comply with any conditions included within the permit in addition to completing the requirements detailed in the improvement programme within the specified time period.

The specific conditions the operator is required to comply within the PPC permit varies depending on the activities undertaken and the systems and procedures already implemented at the site to manage and minimise the environmental effects from the permitted activities. As part of the PPC application the operator will have referenced appropriate systems and procedures already in place. Where the Regulator considers these are not sufficient to meet the requirements of the PPC permit the Regulator will include conditions within the permit to ensure that more robust systems and procedures are implemented to manage and minimise the impact to the environment. For example the operator is required to have a general management plan implemented with operational procedures in place to manage activities such as waste acceptance, emergency situations, environmental monitoring, noise and vibration, etc., they will also be required to have an environmental management plan in place. Apart from specific conditions which are unique to each PPC permit there are a number of generic reporting conditions that all operators must comply with. These include:

- Development of a Site Protection and Monitoring Programme (SPMP).
- Reporting on monitoring parameters (emissions to air, water, land, odour, noise and vibration) to the Regulator as detailed within the PPC permit. These can be a combination of quarterly/ bi-annual/ annual.

Pollutant Release and Transfer Register

Member States are obliged to make returns to the European Commission covering releases of key substances listed in the Pollutant Release and Transfer Register (PRTR) from installations described in Annex 1 of the Integrated Pollution Prevention and Control (IPPC) Directive.

Subsequently, PPC permitted installations are required to complete a Pollution Inventory form annually. Certain other installations prescribed under the European Pollutant Release and Transfer Register (E-PRTR) Regulations must complete and submit a shorter version of the Pollution Inventory Form. The main objectives of the Pollution Inventory are to help:

- provide the public with easy access to information about substances and wastes released and/ or transferred from industry in their locality;
- the Regulator protect the environment by providing information to assist in policy development;
- Government meet its national and international environmental reporting commitments, such as the Kyoto protocol on climate change.

The form consists of six parts:

- Part 1 About the operator and site Includes confidentiality and declaration sections
- Part 2 Releases to air
- Part 3 Releases to land
- Part 4 Releases to waters
- Part 5 Off-site transfers in wastewater
- Part 6 Off-site waste transfers.

The operator send the completed Pollution Inventory form to the Regulator who then publish the processed release and transfer data on their website.

Enforcement

Part A and Part B activities permits are issued and enforced by the Industrial Pollution and Radiochemical Inspectorate (IPRI) of NIEA. The Part C activities permits are issued and enforced by district councils. An individual or a business found guilty on summary conviction can be fined up to £30,000 and/ or imprisoned for up to six months, or if convicted on indictment can be fined an unlimited amount and/ or be imprisoned for up to five years.

Available Guidance

NIEA website: <http://www.ni-environment.gov.uk/pollution-home/ippc.htm>
Pollutant Release and Transfer Register: <http://www.ni-environment.gov.uk/pollution-home/pol-emission-reg.htm>
NetRegs website: <http://www.netregs.gov.uk/netregs/legislation/current/107238.aspx>

Environmental Regulations and Cross Border Trade and Business: IPPC Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Ireland																						
Legislation	Cross-sectoral	Date Enacted/ Came into Force	Potential Cost																			
			<p>(iii) The fee payable to the EPA in respect of a licence or revised licence or permit or revised permit that is transferred to the EPA under Section 99G(4) of the EPA Acts 1992 and 2003 will be that indicated at (i) above less the fee paid to the local authority, sanitary authority or Minister for Communications, Marine and Natural Resources.</p> <table border="1"> <tr> <td>(iv)</td> <td>(i) Fees for an application for an IPPC licence</td> <td>€126</td> </tr> <tr> <td rowspan="3">(v)</td> <td>(a) Objection by the applicant or licensee</td> <td>€253</td> </tr> <tr> <td>(b) Objection by any other person other than a person mentioned in Article 8(3) of Regulations.</td> <td>€126</td> </tr> <tr> <td>(c) Reduced fee for an objection made by certain specified authorities bodies or organisations listed in Article 8(3) of Regulations</td> <td>€ 63</td> </tr> <tr> <td>(vi)</td> <td>Oral hearing request</td> <td>€100</td> </tr> <tr> <td>(vii)</td> <td>Application for the transfer of a licence or revised licence</td> <td>€2,000</td> </tr> <tr> <td>(viii)</td> <td colspan="2">The fee payable to the EPA respect of an application for the surrender of a licence or revised licence will be that indicated at in (ii) above.</td> </tr> </table> <p>Fees and charges are based on the type of activity to be licensed (as per IPPC Scheule of the PoE Act 2003), and whether the activity is determined to be a small or large activity. A large activity is mainly defined as having above 50 employees.</p> <p>In addition there are fees for the application of transfer of a license (€2000), and fees for requesting oral Hearings (€ 100.-). Annual charges are also calculated by the EPA regarding annual monitoring and enforcement by the EPA. A licensee can request refund of charges in certain circumstances.</p>	(iv)	(i) Fees for an application for an IPPC licence	€126	(v)	(a) Objection by the applicant or licensee	€253	(b) Objection by any other person other than a person mentioned in Article 8(3) of Regulations.	€126	(c) Reduced fee for an objection made by certain specified authorities bodies or organisations listed in Article 8(3) of Regulations	€ 63	(vi)	Oral hearing request	€100	(vii)	Application for the transfer of a licence or revised licence	€2,000	(viii)	The fee payable to the EPA respect of an application for the surrender of a licence or revised licence will be that indicated at in (ii) above.	
(iv)	(i) Fees for an application for an IPPC licence	€126																				
(v)	(a) Objection by the applicant or licensee	€253																				
	(b) Objection by any other person other than a person mentioned in Article 8(3) of Regulations.	€126																				
	(c) Reduced fee for an objection made by certain specified authorities bodies or organisations listed in Article 8(3) of Regulations	€ 63																				
(vi)	Oral hearing request	€100																				
(vii)	Application for the transfer of a licence or revised licence	€2,000																				
(viii)	The fee payable to the EPA respect of an application for the surrender of a licence or revised licence will be that indicated at in (ii) above.																					
Overall Objective of Legislation																						
<p>While the EPA Act 1992 (No. 7 of 1992) anticipated and implemented most of the requirements of the European Community (EC) Directive 96/61/EC on Integrated Pollution Prevention and Control ("the IPPC Directive"), the POE Act 2003 (No. 27 of 2003) made legislative provision for the remaining elements. Some of these changes were technical or procedural in nature, nevertheless, they all contribute to a significantly strengthened regulatory framework for environmental protection in the Republic of Ireland. The EPA Act 1992 and Part 2 of the POE Act 2003 are now collectively referred to as the Environmental Protection Agency Acts 1992 to 2003.</p> <p>(Similarly, the Waste Management Act 1996 and Part 3 of the POE Act 2003 are collectively referred to as the Waste Management Acts 1996 and 2003, and the Litter Pollution Act 1997 and Part 4 of the POE Act are referred to as the Litter Pollution Act 1997-2003.)</p> <p>In order to provide detailed procedures for the licensing and enforcement of IPPC licenses, the following regulations have been issued under Article 85 of the Act:</p> <p>Pertinent Regulations under above Acts: The Environmental Protection Agency (Licensing) Regulations, S.I. No. 85 1994 -2010 set out the details of the IPC/ IPPC licensing process in Ireland. The regulations have been amended several times (SI 76 of 1995, SI 240 of 1996, 394 of 2004, SI 382 of 2008 and S.I. 351 2010)</p> <p>Established Activities Orders or a Commencement Order of the EPA. - Any premise that carries out an operation listed in Schedule 1 of the Act must make an application for a licence to the EPA after the relevant date given in an Established Activities Order (for existing activities) or Commencement order (for new activities).</p>		<p>The last Established Activities) Order was issued in 2006, Environmental Protection Agency Act 1992 (Established Activities) Order , S.I. No. 279 of 2006.</p> <p>This Order provides for the licensing by the EPA of certain activities not included in the previous Established Activities Orders, and ensures that all activities listed in the IPPC Directive have been included in the EPA. This primarily applies to activities which would have previously fallen below the EPA licensing thresholds (processing of milk greater than 200 tonnes per day , rearing of poultry in installations where the capacity exceeds 80,000 places, etc).</p> <p>Previous Established Activities Orders were issued in 1994,1995, 1996,1997 and 1998.</p> <p>Environmental Protection Agency (Licensing Amendment) Regulations 2008, S.I. No. 382 of 2008</p> <p>These Regulations are for the purpose of giving full effect to Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and to the amendments arising in relation to Council Directive 96/61/EC concerning integrated pollution prevention and control.</p> <p>Environmental Protection Agency (Licensing) (Amendment) Regulations 2010 S.I. 351</p>																				

Environmental Regulations and Cross Border Trade and Business: IPPC Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Ireland			
Legislation	Cross-sectoral	Date Enacted/ Came into Force	Potential Cost
<p>These Regulations are a further amendment of the Licensing Amendment) Regulations 2008, S.I. No. 382 of 2008, (below) for the purpose of giving full effect to Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and to the amendments arising in relation to Council Directive 96/61/EC concerning integrated pollution prevention and control.</p> <p>The system of Integrated Pollution Prevention and Control (IPPC) applies to all Industrial Licences issued by the EPA This means that emissions to air, water (including discharges to sewer) and land, must be considered in an integrated manner including consideration of associated environmental issues, such as noise, energy efficiency, site condition, raw material usage and waste management. The licensing and enforcement of industrial activities included in Schedule 1 of the Act is the responsibility of the EPA.</p> <p>The main objectives of the implementation of the IPPC Legislation include:</p> <ul style="list-style-type: none"> • Protect the environment as a whole; • Promote the use of "clean technology" to minimise waste at source; • Encourage innovation, by leaving significant responsibility for developing satisfactory solutions to environmental issues with industrial operators; • Provide a "one-stop-shop" for administering applications for permits to operate. <p>Once a licence has been issued, strict licence conditions must be complied with. These include the establishment of an Environmental Management System, compliance monitoring, periodic reviews as necessary, potential amendments of licence conditions and transfer of licences between operators. IPPC also requires the assessment of environmental liability and financial provisions to cover cost of pollution remediation after environmental incidents, as well as funds for the restoration of sites once activities have ceased.</p>			
Regulation Details			
Ireland			
Definitions N/A			
Obligations			
Work Areas Covered			
<p>Schedule 1 IPPC sectors include:</p>			
<p>1. Mineral Industries</p> <ul style="list-style-type: none"> • Production of Asbestos • Extraction of Aluminium Oxide from Ore • Extraction and Processing of Minerals (Min Dev Act 1940-1999) • Extraction of Peat <p>2. Energy Industries</p> <p>3. Metals</p> <ul style="list-style-type: none"> • Ferrous Metals • Non-Ferrous Metals • Reaction of Aluminium or its alloys • Metal ores • Swaging of Explosives • Pressing or drawing of large castings • Boilermaking <p>4. Mineral Fibres and Glass</p> <ul style="list-style-type: none"> • Processing of Asbestos • Mineral fibres • Glass and Glass fibre • Production of Industrial Diamonds 	<p>5. The Chemical Industry</p> <ul style="list-style-type: none"> • Organic Chemicals • Olefins, polymers, styrene, vinyl chloride • Organo-metallic chemical products • Inorganic Chemicals • Artificial Fertiliser • Pesticides & Pharmaceutical Products • Manufacture of paints, varnishes, resins <p>6. Intensive Agriculture</p> <ul style="list-style-type: none"> • Poultry rearing • Pig Rearing <p>7. Food and Drink industry</p> <ul style="list-style-type: none"> • Vegetable and Animal Oils • Processing of Milk Products • Brewing, Distilling and Malting • Slaughterhouses • Fishmeal Manufacture • Sugar Manufacture • Recycling of Animal Carcasses • Processing Animal and/or Vegetable raw materials 	<p>8. Wood, Paper, Textiles and Leather</p> <ul style="list-style-type: none"> • Protection of Wood • Pulp and Paper Production • Textiles Production • Leather Production (tanning of hides & felling mongering) <p>9. Fossil Fuels</p> <p>10. Cement</p> <p>11. Waste Management associated with other licensed IPPC activities</p> <p>12. Surface coatings</p> <ul style="list-style-type: none"> • Surface coating with Organo tin compounds • Surface coating with Organic Solvent compounds • Electroplating <p>13. Other Activities</p> <ul style="list-style-type: none"> • Engine testing, • Integrated circuit boards, • production of lime, • manufacture of ceramic by firing; • manufacture of coarse ceramics <p>Furthermore the PoE Act 2003 provides for the licensing of Waste Disposal Activities and Waste Recovery Activities as listed in Schedule 3 and Schedule 4 of the Act.</p>	

Environmental Regulations and Cross Border Trade and Business: IPPC Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Registration/or Application or Thresholds

The activities requiring a license are set out in Schedule 1 to the Act. Each industrial activity has its own specified threshold limit which are detailed in Schedule 1. Some industrial activities may fall under more than one heading In this case an activity should be allocated to the most appropriate activity, with the agreement of the EPA.

Exemptions

An operator is exempted from obtaining a IPPC licence for an activity only if it is not listed in Part 1 of Schedule 1 to these Regulations. Nevertheless, all operators must comply with the pertinent environmental legislation enacted in Ireland.

Requirements for Application

Any premise that carries out operations listed in any of the established activities orders or commencement orders of the EPA must apply for a IPPC license to the EPA. The process involves:

Stage 1: Pre-application

Before making an application the operation must publish a notice in a newspaper and notify the planning authority.

Stage 2: Making an application

This stage includes EPA assessment of the application and submissions on the application.

The EPA have eight weeks to assess the application before making a "proposed determination".

Before making a proposed determination the EPA must take into account any written submissions received.

Stage 3: EPA proposed determination

The EPA is required to indicate how we propose to determine an application, and will issue a copy of the proposed decision to the applicant.

Stage 4: Any objections on the proposed determination (including submissions on objections)

Any person or body (including the applicant for a licence or a licensee) can make an objection within 28 days of the proposed determination being issued.

The applicant and those submitting a valid objection will be issued with a copy of all valid objections. Submissions in relation to an objection can be made within one month of copies of the objection being circulated.

Where no valid objection is made within the prescribed period, the EPA will issue their decision as per the Proposed Determination.

Stage 5: Oral hearing

A person making a valid objection may request an oral hearing.

Stage 6: EPA Final determination

In arriving at their decision, the EPA will consider the application and all objections, submissions received and, where an oral hearing has been held, the report and recommendation of the person/s who conducted the hearing.

When a final determination (decision) has been made, the applicant, and all interested parties are notified.

Once a Decision has issued, a person can apply to the High Court and seek a judicial review of the validity of the Decision. This may take the form of a Judicial Review.

In addition, requests from Licensees to carry out alterations or reconstruction works that effect emissions may require a Licence Review or a Technical Amendment to the Licence.

If a review is necessary, a formal request by the Licensee for a review of a Licence must be made in writing to the EPA.

If planning permission is also required, the IPPC and planning applications should be submitted in parallel whenever possible. An activity cannot commence until both permissions are in place.

Timeframes

The IPPC Regulations set statutory periods following receipt of a application within which the EPA should normally reach a decision. In most cases these will be as follows:

- The EPA has 8 weeks to determine whether the application is complete before making a proposed determination. If the application is not complete, as per Article 10 requirements set out in the Act, requests for further information are issued to the applicant.
- If requests for further Information are issued by the EPA, the eight week period commences once the requested information has been received.

Once a proposed determination for a licence is issued, any person or body (including the applicant for a licence or a licensee) can make an objection within 28 days.

Where the Inspector sends the operator a notice specifying additional information required to determine a IPPC application/ variation/ transfer/ surrender it will typically include a time period for the appropriate response(s) to be made. If the operator considers that they will not be able to provide the information or respond by the date specified, they should inform the Inspector as soon as possible. Failure to provide an adequate or timely response may lead the Inspector to judge that an application has been withdrawn.

Regulatory Authorities

The licensing and enforcement of industrial activities included in Schedule 1 of the Act is the responsibility of the EPA.

Industrial activities that fall below the thresholds set in Schedule 1 of the Act are controlled by local authorities and comply with the provisions of the Air Pollution Act 1987 and the Water Pollution Act 1977 (& Water Services Act, etc) . Where they processes give rise to air or effluent emissions, they must apply for discharge permits from the local authority.

Environmental Regulations and Cross Border Trade and Business: IPPC Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Administration/Reporting

The application form is a significant administrative burden and should be completed in conjunction with the available guidance. The application form is divided into a number of sections of related information the purpose of being to facilitate the applicant, the agency and third parties in its use.

It is also important to note that an application may also require a Environmental Impact Statement (EIS) if it exceeds the thresholds set down in Annex I of the European Communities Directive 85/337/EEC (as amended by Directive 97/11/EC) otherwise known as the Environmental Impact Assessment (EIA) Directive. Irish EIA legislation mirrors the mandatory requirement in the Directive to carry out EIA in respect of certain project classes. In many cases, Ireland has adopted a substantially lower threshold than that set out in the Directive. Irish EIA legislation also makes provision for sub-threshold EIA.

Once an IPPC licence is granted there are specific conditions which will be listed in the licence setting out the reporting requirements to the EPA; these include but are not limited to:

- Notification to the agency of any release of environmental significance or an emission that does not comply with the requirements of the licence
- Recording and reporting to the agency details of all sampling, analyses, measurements, examinations, calibrations in accordance with the licence
- Maintenance of documents on site to include: licences, an Environmental Management System (if required), the previous years Annual Environmental Report (AER), correspondence with the Agency, drawings/plans for the facility
- Submission by 31st March of each year an Annual Environmental Report (AER) covering the previous calendar year compiled in accordance with the relevant guidelines issued by the Agency.

Enforcement

The licensing and enforcement of industrial activities included in Schedule 1 of the Act is the responsibility of the EPA.

Industrial activities that fall below the thresholds set in Schedule 1 of the Act are controlled by local authorities and comply with the provisions of the Air Pollution Act 1987 and the Water Pollution Act 1977 (& Water Services Act, etc) . Where they processes give rise to air or effluent emissions, they must apply for discharge permits from the local authority.

Available Guidance

- EPA Integrated Pollution Prevention and Control (IPPC) Licensing Application Guidance Notes 2007;
- Note on IPPC application requirements structure, format and copies
- IPPC Application Form 2007(<http://www.epa.ie/downloads/forms/lic/ippc/#d.en.13153>)
- AER/PRTR Reporting requirements (<http://www.epa.ie/downloads/advice/aerprtr/reportingrequirements/#d.en.30353>)
- Guidelines on information to be contained in Environmental Impact Statements (EIS) (<http://www.epa.ie/downloads/advice/ea/guidelines/>)

Environmental Regulations and Cross Border Trade and Business: TFS Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Refined Regulation Selection Criteria

Northern Ireland

Regulations	Cross-sectoral	Date Enacted/ Came into Force	Potential Cost
<p>Transfrontier Shipment of Waste Regulations SI 2007/1711</p> <p>Transfrontier Shipment of Waste (Amendment) Regulations SI 2008/9</p>	<p>There are specific regulatory requirements relating to the shipment of wastes to non-OECD countries.</p> <p>These have not been considered as part of this assessment as both Northern Ireland and Ireland are OECD countries.</p>	<p>These Regulations came into force on 12 July 2007 and apply to Northern Ireland, (England, Scotland and Wales).</p>	<p>Transfrontier Shipment of Waste Fees</p> <p>In Northern Ireland the following fees will apply:</p> <ul style="list-style-type: none"> • A notification fee of £450 must be paid for each notification submitted in relation to any shipment into or from Northern Ireland; • A shipment fee of £25 must be paid for each shipment of waste to which that notification relates. <p>A competent authority can charge fees to meet any costs that may arise from the:</p> <ul style="list-style-type: none"> • return of waste from a shipment that cannot be completed; and • take-back, recovery or disposal of waste from an illegal shipment. <p>All fees are subject to review by NIEA.</p>

Overall Objective of Regulation

These Regulations are made in accordance with and deal with the enforcement of **Regulation (EC) 1013/2006, on shipments of waste**. They set out the rules for shipping waste, including within the European Community and importing and exporting to and from countries outside the EC. They revoke the previous transfrontier shipment Regulations:

- **Transfrontier Shipment of Waste Regulations SI 1994/1137; and**
- **Transfrontier Shipment of Waste (Fees) Regulations (Northern Ireland) SR 2005/90.**

Regulation Details

Crossover/Linked Legislation

- **Waste Management Licensing Regulations (Northern Ireland) 2003**
- **Pollution Prevention and Control Regulations (Northern Ireland) 2003 (as amended)**
- **Landfill Regulations (Northern Ireland) 2003 (as amended)**

Obligations

Work Areas Covered **N/A**

Registration or Application or Thresholds

Shipments of waste are subject to a range of regulatory controls. The controls an operator will be required to comply with will depend on:

- whether the waste is being sent for recovery or disposal - most shipments for disposal are prohibited, however if they are permitted they are subject to notification controls.
- the type of waste, if being moved for recovery - European legislation contains several annexes specifying the different types of hazardous and non-hazardous waste - http://www.environment-agency.gov.uk/static/documents/Business/Consolidated_waste_list_version_2.0.pdf.
- the 'status' of the countries of dispatch and destination. If waste is being moved within the EU, the procedures are different from those that apply if you are moving waste out of or into the EU or to and from OECD countries.

Whichever controls apply, anyone involved must make sure that they take all necessary steps to ensure the waste is managed in an environmentally sound manner while it is being moved, recovered or disposed of. Green list controls are the lowest level of control that can apply to waste imports and exports. Green list controls only ever apply to some (but not all) imports or exports of non-hazardous wastes for recovery. All other imports or exports of waste are either subject to notification controls or are prohibited.

Environmental Regulations and Cross Border Trade and Business: TFS Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Exemptions

Only certain specified non-hazardous waste can be exported to certain non-OECD countries under green list controls. All other exports are prohibited or subject to notification controls.

Shipments of waste to and from the UK for disposal are, save for a few exceptions, prohibited. Shipments of hazardous waste for disposal are allowed between Northern Ireland and Ireland. Such shipments will be allowed in either direction provided that such waste is both generated and disposed of within Northern Ireland or Ireland. Shipments made under this exception are restricted to those destined for the following disposal operations:

- D5 - Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc);
- D10 - Incineration on land;
- D9 - Physico-chemical treatment which results in final compounds or mixtures which are discarded by means of any of the operations above.

Shipments for trial runs to the UK are allowed from any country in order to assess the suitability of a specific specialised treatment technology which results in the disposal of waste. The amount of waste allowed for a trial run shall be no more than is needed to assess the technology under trial. This exception does not apply if the technology to be tested is available in the country of dispatch.

Shipments for trial runs from the UK to other Member States or EFTA countries are allowed in order to assess the suitability of a specific specialised treatment technology which results in the disposal of waste. The amount of waste allowed for a trial run shall be no more than the minimum needed to assess the disposal technology under trial. This exception does not apply if the technology to be tested is available in the UK.

Import or export of waste for disposal, including export of hazardous waste to developing countries (even if this waste is to be recovered) is prohibited, save for a few restricted exceptions.

Requirements for Application

Within the EU, waste must only be recovered or disposed of at an appropriately permitted facility. Within the UK, this normally means the facility receiving the waste must have a waste management licence, an exemption from the waste management licensing regime or a pollution prevention and control permit.

If a person is involved in sending waste to places outside the EU, the recovery facility must be operated according to human health and environmental protection standards that are broadly equivalent to those within the EU. If the Regulators believe that the waste will not be dealt with in an environmentally sound manner, they will not allow it to be exported.

Notification Controls

The rules restrict who can make a notification. For waste starting its journey in the UK or moving to the UK from another EU Member State the person making the notification must be under the jurisdiction of the country where the waste is moving from and be intending to have the waste moved. This person must also be:

- the original waste producer; or
- the licensed new producer; or
- a licensed collector, who gathers the waste from various sources to start its international journey from a single point; or
- a registered dealer or broker who has been authorised in writing by the original waste producer or licensed collector; or
- where all the above are unknown or insolvent,
- the person currently holding the waste.

If you are moving waste to the UK from a country outside the European Union you should check with regulatory authorities in that country to find out if you are entitled to submit the notification.

Timeframes

Notification Controls

The application process to obtain the necessary permissions for the Export/ Import of waste requiring notification controls will take at least a month to complete and in some cases much longer.

For wastes shipped between EU countries under notification controls all the competent authorities involved have 30 days to consider the notification package. Competent authorities of dispatch and destination within the EU must either agree with or without conditions or object to the notification within the given time. If no objection is made within the 30 day limit, it is assumed that the competent authority agrees to the waste being moved.

Provided all the necessary consents are obtained the notifier must complete missing information on the movement document and send copies at least three days before actually starting to move the waste to all concerned competent authorities and the consignee to make them aware of intended movement.

The facility that receives the waste must send signed copies of the movement document to notifier and all competent authorities concerned within three working days.

The processing facility must recover or dispose of the waste using the process described in the notification document. They must complete this within one year of receiving the waste or sooner as specified by the competent authorities concerned. Once this has taken place the facility must issue a certificate of recovery or disposal as soon as possible by signing and dating the movement document. They must send copies of the movement document and the certificate to the notifier and all competent authorities concerned.

Regulatory Authorities

The competent authority in Northern Ireland is NIEA.

Environmental Regulations and Cross Border Trade and Business: TFS Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Administration/Reporting

Transboundary waste shipments from the UK can be subject to “green list controls”, “notification controls” or be the waste may be prohibited from being shipped.

Prohibited

Where a waste is permitted from being shipped, movement of the waste(s) are not allowed under any circumstances including almost all:

- imports and exports for disposal;
- exports of hazardous waste to developing countries, even if moving for recovery.

Notification controls

Notification controls apply to all allowed imports and exports of:

- hazardous waste moving for recovery;
- any type of waste moving for disposal;
- some shipments of non-hazardous wastes to non-OECD countries.

In addition notification controls also apply to some imports and exports of non-hazardous wastes moving for recovery. Where notification controls apply a person needs written permission from NIEA before moving the waste and they must comply with the following Export/ Import procedural requirements.

Exports

If a person is exporting wastes (which require notification controls), from Northern Ireland they must:

- apply to NIEA for a unique numbered Notification Form and Movement Form. Once completed these forms and any other necessary supporting information (the notification package) should be submitted for assessment to NIEA (together with enough copies for all other competent authorities concerned) along with the correct fee, otherwise they will not be processed.
- put a financial guarantee in place to make sure enough money is available to deal with the waste if things go wrong, including the cost of returning the waste to the UK.
- draw up a contract for the recovery of the waste, including specific terms, with the business that will be receiving and recovering the waste.
- ensure they have insurance against liability for damage to third parties.
- obtain all necessary permissions from the competent authorities in all countries concerned before moving the waste.

A person wishing to ship waste must apply to the competent authority in the country where the waste is starting its journey. The application will be sent to the relevant competent authorities in all the countries concerned. The competent authorities in the UK are NIEA, Environment Agency (EA) and Scottish Environment Protection Agency (SEPA).

Imports

Overseas businesses sending waste to the UK will need to apply to the relevant competent authorities in the country of dispatch and make sure the measures as listed above for Exports are in place before the waste is imported.

The notification document is used to provide information about the proposed international waste movement in a standard format. You can complete a single notification document for one or several planned movements of waste scheduled to take place over a year (or in some limited cases three years) provided, in the case of several movements, that:

- the waste being moved each time has similar physical and chemical characteristics;
- the waste is being shipped to the same consignee and facility;
- each separate waste movement will be sent by the same route.

Each notification document can only specify a single type or category of waste. If you want to move more than one type of waste, you will need to complete separate notification documents for each type of waste you want to move. The movement document is designed to accompany each consignment of waste when it moves. Most of the information you have to enter on the movement document is merely a repeat of the information that must appear on the notification document. Where the same information is required, the information should be exactly the same as that on the notification document.

Green list controls

These are the lowest level of control and only ever apply to some (but not all) imports or exports of non-hazardous waste for recovery. Where these controls apply a person does not need permission from NIEA before moving the waste, however they are required to comply with a range of other requirements which are outlined below.

- An Annex VII form must be completed and ensure that it accompanies the waste.
- A copy of this form must be sent to the NIEA prior to shipping the waste.
- A contract for the recovery of the waste between the person sending the waste and the person receiving the waste must be completed.
- The person receiving the waste must sign the document that accompanies the waste on receipt and retain it for 3 years.
- The waste must be dealt with in an environmentally sound manner while it is being moved and recovered.

Only certain specified non-hazardous waste can be exported to certain non-OECD countries under green list controls.

All other exports are prohibited or subject to notification controls.

Enforcement

Relative competent authority – NIEA for Northern Ireland.

Available Guidance

Notification controls – http://www.ni-environment.gov.uk/moving_notified_waste_between_countries_1_a_guide.pdf & http://www.ni-environment.gov.uk/waste-home/regulation/transfrontier_shipment_of_waste/notification_controls.htm

Green list controls - http://www.ni-environment.gov.uk/waste-home/regulation/transfrontier_shipment_of_waste/green_list_controls.htm

UK Plan for Shipment of Wastes - <http://www.ni-environment.gov.uk/waste-shipments.pdf>

Environmental Regulations and Cross Border Trade and Business: Duty of Care Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Refined Regulation Selection Criteria

Northern Ireland

Regulations	Cross-sectoral	Date Enacted/ Came into Force	Potential Cost
<p>The Controlled Waste (Duty of Care) Regulations (Northern Ireland) SR 2002/271</p> <p>The Controlled Waste (Duty of Care) (Amendment) Regulations (Northern Ireland) SR2004/277</p> <p>The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations (Northern Ireland) 1999</p>	<p>These regulations apply to anyone who imports, produces, carries, keeps, treats or disposes of controlled waste.</p>	<p>The Duty of Care Regulations came into force in October 2002 and were amended in 2004.</p> <p>The Registration of Carrier Regulations came into force in 1999.</p>	<p>The fees in respect of a waste carrier application and a carrier renewal application is currently £120 and £60 respectively. All registrations last for 3 years.</p> <p>Waste transfer notes are usually provided by the waste management contractor and do not incur a cost.</p> <p>Hazardous waste consignment notes cost £24 per waste movement. Consignment notes for the movement of lead acid batteries cost £10 per waste movement. This are purchased from NIEA.</p>

Overall Objective of Regulation

The **Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002** bring into force the provisions contained in **Part 2** of the **Waste and Contaminated Land (Northern Ireland) Order 1997**. It is the duty of anyone who imports, produces, carries, keeps, treats or disposes of controlled waste, or as a broker, has control of such waste, must take all measures applicable to him/her in that capacity as are reasonable to:

- Prevent the deposit of controlled waste on land except under the terms of a waste management authorisation;
- Prevent the escape of waste from his/her control, or that of any other person;
- Secure that any transfer of waste is only to an authorised person; and
- Be accompanied by a description adequate to help any subsequent holder avoid breaching the duty.

In practice the legislation requires all producers, carriers and managers of waste to put in place a system of transfer notes in order to document waste movements.

The aim of the **Registration of Carriers Regulations** is to establish a system for registering carriers of controlled waste, and to make provision for the seizure and disposal of vehicles used for illegal waste disposal. It is an offence to transport waste, unless the person in question is registered as a carrier.

Regulation Details

Crossover/Linked Legislation

- **Waste and Contaminated Land (Northern Ireland) Order 1997** - Sets out the waste management regime covering duty of care.
- **Waste Management Licensing Regulations (Northern Ireland) 2003** - Waste Management Licence is required to authorise the deposit, treating, keeping or disposal of controlled waste on any land, or by means of mobile plant
- **Pollution Control and Local Government (Northern Ireland) Order 1978** - Regulates waste on land, abandoned vehicles, noise nuisance, noise abatement zones, sulphur content of oil fuel used in furnaces and engines, cable burning, and pollution of the atmosphere and water. Other aspects have been revoked.
- **Hazardous Waste Regulations (Northern Ireland) 2005**

Environmental Regulations and Cross Border Trade and Business: Duty of Care Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Obligations

Work Areas Covered

Duty of care applies to anyone who, with regard to controlled waste:

- imports;
- produces;
- carries;
- keeps;

- treats;
- disposes;
- controls as a broker.

It does not however, apply to an occupier of a domestic property as respects household waste produced on the property.

Registration or Application or Thresholds

Duty of Care applies to all producers of controlled waste. It does not apply to household waste.

Exemptions

Controlled waste is from households (although households are exempt from Duty of Care), commerce or industry. At present, the main kinds of waste that are not controlled waste are waste from agricultural premises, waste from mines and quarries, explosives and most radioactive waste. Other wastes which are presently subject to other control regimes (for example, mines, quarry and certain agricultural wastes) will in future (and after due consultation with interested bodies/persons) be brought into the controlled waste category by means of Article 2(3) of the Waste and Contaminated Land Order.

The provisions relating to the transfer note do not apply to hazardous waste, as classified under the **Hazardous Waste Regulations (Northern Ireland) 2005**.

The following do not have to register as a carrier of controlled waste:

- a Government Department and district council;
- the producer of the controlled waste, with the exception of building or demolition waste;

- any wholly owned subsidiary of the Northern Ireland Railways Company Limited who have applied for registration as a carrier of controlled waste and are registered under the Waste Management Licensing Regulations (Northern Ireland) SR 2003/493, or have an application pending;
- a ferry operator or the operator of a vessel, aircraft, hovercraft, floating container or vehicle loaded with waste under in accordance with Part 2 of the Food and Environmental Protection Act 1985;
- a charity defined under section 35 of the Charities Act (Northern Ireland) 1964;
- a voluntary body under section 148 of the Local Government Act (Northern Ireland) 1972;
- anyone who has registered as a carrier before 11 March 2000 and is awaiting confirmation of their application;
- anyone transporting controlled waste which comprises only animal by-products;
- anyone removing animal protein, in accordance with the Diseases of Animals (Animal Protein) (No. 2) Order (Northern Ireland) SR 1989/347;
- anyone transporting controlled waste which comprises only mines and quarries waste or agricultural waste.

Environmental Regulations and Cross Border Trade and Business: Duty of Care Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Requirements for Application/ Compliance

The duty of care requires waste holders to take all such measures applicable to him in that capacity as are reasonable to:

1) Prevent the deposit of controlled waste on land except under the terms of a waste management authorisation;

Waste may be handed on only to authorised persons or to persons for authorised transport purposes (see item 3 below). All waste holders must prevent the escape of waste from his/her control (see item 2 below).

2) Prevent the escape of waste from his/her control, or that of any other person;

All waste holders must act to keep waste safe against corrosion or wear of waste containers; accidental spilling or leaking or inadvertent leaching from waste; unprotected from rainfall; accident or weather breaking contained waste open and allowing it to escape; waste blowing away or falling while stored or transported; odour emissions through correct storage provisions and maximum storage durations of organic waste, which is subject to biological decay; and scavenging of waste by animals or humans. Holders should protect waste against these risks while it is in their possession. They should also protect it for its future handling requirements. Waste should reach not only its next holder but also a licensed facility or other appropriate destination without escape. Security precautions at sites where waste is stored should prevent theft, vandalism or scavenging of waste. Holders should take particular care to secure waste material attractive to scavengers, for example, scrap metal. Special care should also be taken to secure waste which has a serious risk attached to it, for example certain types of clinical waste.

3) Secure that any transfer of waste is only to an authorised person;

Waste may be handed on only to authorised persons or to persons for authorised transport purposes. Article 5(3) of the 1997 Order, as amended, sets out those who are authorised persons;

- any district council;
- any person who is the holder of a waste management licence under Article 6 of the 1997 Order; or of a disposal licence under Article 7 of the Pollution Control and Local Government (Northern Ireland) Order 1978 (The 1978 Order);
- any person to whom Article 4(1) of the 1997 Order does not apply by virtue of regulations made under paragraph(3) of that Article;

- any person who is the holder of an authorisation under Article 6 of the Industrial Pollution Control (Northern Ireland) Order 1997 which enables him to accept waste;
- any person who is the holder of a permit granted under regulation 10 of the Pollution Prevention and Control Regulations (Northern Ireland) 200312 which authorises the carrying out of a specified waste management activity within the meaning of those Regulations.

4) Ensure waste is accompanied by a description adequate to help any subsequent holder avoid breaching the duty.

It is the responsibility of the transferor and transferee of waste to make sure a transfer note is completed and signed, at the same time as the written description of waste is transferred. The transfer note must:

- identify the waste in question, with regard to the appropriate category in the List of Wastes Regulations (Northern Ireland) SR 2005/301, which establishes a list of wastes and hazardous wastes and state the quantity,
- type of container, if there is one,
- time and place of transfer;
- give the name and address of the transferor and transferee;
- state whether the transferor is the producer or importer of the waste;
- state any authorised transport purposes;
- state which of the categories (if any) the transferor or transferee fall under and provide any additional information.

The transferor and transferee of waste must keep the written description of the waste and the transfer note for two years after the transfer of the controlled waste.

Certain particularly difficult or dangerous wastes (hazardous wastes) are subject to additional requirements in the Hazardous Waste Regulations (Northern Ireland) 2005. Hazardous waste is subject to the duty of care, including the guidance in the code of practice and the requirements of the 2002 Regulations, in the same way as other controlled waste. Compliance with the duty of care does not in any way discharge the need also to comply with the Hazardous Waste Regulations. The consignment note (obtained from NIEA) for hazardous waste can be properly completed so as to fulfill the duty of care requirements; a separate transfer note is not then required.

Timeframes

The duty of care has no time limit. Waste producers are specifically responsible for their waste from when it is produced until it is transferred to an authorised person.

Regulatory Authorities

NIEA

Administration/Reporting

It is the responsibility of the transferor and transferee of waste to ensure that the appropriate systems, procedures and facilities are in place to comply with the Duty of Care requirements set out above. All those subject to the duty are to make records of waste they receive and consign, to keep the records for at least 2 years and to make them available to the Department.

NIEA are responsible for granting licences, setting conditions on licensing activities and monitoring waste producers, carriers and waste storage, treatment and disposal operations to ensure compliance with the Duty of Care regulations.

Enforcement

NIEA

Available Guidance

Waste Management – The Duty of Care A Code of Practice - http://www.ni-environment.gov.uk/waste_management_the_duty_of_care_-_a_code_of_practice.pdf

NetRegs - <http://www.netregs.gov.uk/netregs/63197.aspx>

NIEA Registration of Waste Carriers and application form - http://www.ni-environment.gov.uk/waste-home/authorisation/regulations_carrier.htm

Environmental Regulations and Cross Border Trade and Business: Waste permitting Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Refined Regulation Selection Criteria

Northern Ireland

Regulations	Cross-sectoral	Date Enacted/ Came into Force	Potential Cost
<p>Waste Management Licensing Regulations (Northern Ireland) SR 2003/493</p> <p>Waste Management Regulations (Northern Ireland) SR 2006/280</p> <p>Waste Management Licensing (Amendment) Regulations (Northern Ireland) SR 2009/76</p> <p>Waste Management Licensing (Fees and Charges for Carriers and Exempt Activities) (Amendment) Regulations (Northern Ireland) SR 2010/84</p> <p>Waste Management (Miscellaneous Provisions) Regulations (Northern Ireland) SR 2008/18</p>	<p>Within the EU, waste must only be recovered or disposed of at an appropriately permitted facility.</p> <p>Within the UK, this normally means the facility receiving the waste must have a waste management licence, an exemption from the waste management licensing regime or a pollution prevention and control permit.</p>	<p>These Regulations came into force December 2003.</p>	<p>There is a charging scheme made under the Waste and Contaminated Land (Northern Ireland) Order 1997 – Waste Management Charging (Northern Ireland) Scheme 2010. This scheme details the various charges relating to Application Fee, Subsistence Charge, Modification Fee, Surrender Fee and Transfer Fee for a range of waste management activities as regulated under the Waste Management Licensing Regulations (Northern Ireland) 2003. It is recommended that NIEA is consulted in conjunction with this charging scheme to determine the applicable charges connected with a specific site and its activities.</p>

Overall Objective of Regulation

The **Waste Management Licensing Regulations (Northern Ireland) 2003** bring into force the provisions contained in **Part 2** of the **Waste and Contaminated Land (Northern Ireland) Order 1997**. They deal with the application for waste management licences, which authorise the:

- deposit of controlled waste;
- disposal and treatment of controlled waste;
- use of certain mobile plant to dispose of, or treat, controlled waste.

Under the **Waste and Contaminated Land (Northern Ireland) Order 1997** and the **Waste Management Licensing Regulations (Northern Ireland) 2003**, all activities involving the treatment, keeping or disposal of waste must be authorised by NIEA and must be carried out in accordance with that authorisation.

Regulation Details

Crossover/Linked Legislation

- **Pollution Control and Local Government (Northern Ireland) Order 1978** - Regulates waste on land, abandoned vehicles, noise nuisance, noise abatement zones, sulphur content of oil fuel used in furnaces and engines, cable burning, and pollution of the atmosphere and water. Other aspects have been revoked.
- **Waste and Contaminated Land (Northern Ireland) Order 1997** - Sets out the waste management regime covering waste carrier registration and identifying and remedying contaminated land.

Environmental Regulations and Cross Border Trade and Business: Waste permitting Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Obligations

Work Areas Covered

A person may need a waste management licence if they:

- operate a landfill;
- store other people's waste;
- treat waste, carry out recycling or use mobile plant;
- carry out final disposal of waste.

A person may need a waste management licence if they carry out these activities on their land or use a vehicle or mobile plant such as a mobile incinerator.

It is unlikely to need a waste management licence if a person only stores waste that they produce and an authorised waste carrier removes it from the site regularly. Everyone has a responsibility to check that anyone who handles their waste has the correct permit, licence or exemption.

Individuals, companies or organisations that are operating an agricultural business, are required to register any activities that are exempt from the need to have a waste management licence. The Department retains a record of these registrations.

Registration or Application or Thresholds

To apply for a waste management (site) licence the operator must complete and submit the standard application form which can be downloaded from the NIEA website. All applications for a waste management licence, or for its surrender or transfer, must be made in writing to the NIEA. They set the necessary qualifications for people who must be technically competent, in order to carry out various waste management activities. The Regulations prescribe the necessary qualifications of a person required to be technically competent in relation to a waste management facility as detailed in the Regulations. There are two types of waste management licence:

- licences for site plant for facilities; or
- licences for mobile plant.

Information which must be included with the application includes:

- site and operator details, demonstrating that you have the right technical competence, experience and money;
- the type and quantities of waste to be handled at the site;
- responsible staff members' details;
- a site-specific risk assessment;
- an odour risk assessment;
- information on whether planning permission is required. If a site requires planning approval this must be obtained before application for a waste management licence is submitted.

The waste management licence issued by the regulator will include conditions which are required to be complied with, which are aimed at preventing the licenced activity causing harm to the environment or human health. Conditions are likely to cover:

- types and quantities of waste which can be stored or treated;
- treatment methods;
- storage times;
- operation and management;
- hours of operation;
- record keeping;
- security levels at the site.

If the site closes, the operator is required to continue to comply with the licence conditions until the regulator issues the operator with a certificate of completion.

A licenced waste management facility must be managed by a competent person, who must also be involved in the day to day running of that site. A person may demonstrate competency if they hold a Waste Management Industry Training and Advisory Board (WAMITAB) Certificate of Technical Competence (CoTC). The level of certificate needed depends on your activities.

Exemptions

An activity may qualify for an exemption from waste management licensing. Whether there is a need for a licence or a need to register an exemption will depend on:

- how long a person is planning to store waste;
- the types and quantities of wastes to be handled, and
- the activities to be carried out on the site.

Essentially a waste management licence is required for any deposit of waste, unless it is listed as an exempt activity in Schedule 2. Various activities which are controlled under other regimes are also exempt from the requirements of a waste management licence (e.g. waste batteries, PPC permitted facilities). Although an activity may be exempt from waste management licensing, it is still subject to statutory controls to prevent environmental pollution and harm to human health by:

- Presenting a risk to water, air, soil, plants or animals;
- Causing nuisance through noise or odours;
- Adversely affecting the countryside or places of special interest.

It is an offence for anyone to carry out an exempt activity, unless they are registered with the NIEA. Exempt activities have been outlined below.

There are 49 exempted activities detailed in Schedule 2 Part 2 of the 2003 Regulations.

In Schedule 2, Paragraphs 2, 4, 5, 6, 7, 12, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 29, 30, 31, 34, 36, 40, 44, 46 and 47 are relatively low risk activities and are termed 'Simple Exemptions'. These activities must be registered with NIEA before they commence.

Activities carried out under Paragraphs 9, 10(a), 10(b), 11, 13, 14, 15, 19, 45, 49, 50, 51 and 52 carry a higher risk to the environment and human health and are termed 'Complex Exemptions'. These activities must also be registered with NIEA before they commence.

There are certain exemptions which are not required to be registered. They are Paragraphs 27, 32, 33, 35, 37, 38, 39, 41, 42, and 43.

The Waste and Contaminated Land (Northern Ireland) Order 1997 does not apply to the carrying out of an exempt activity set out in Schedule 2 to the Waste Management Licensing Regulations (Northern Ireland) 2003.

The Waste and Contaminated Land (Northern Ireland) Order 1997 does not apply to the storage of waste portable batteries or accumulators at a collection point which is a place where end-users are able to deposit waste portable batteries or accumulators at the premises of a distributor fulfilling its duty to take back such waste under Directive 2006/66/EC, on batteries and accumulators and waste batteries and accumulators.

The Waste and Contaminated Land (Northern Ireland) Order 1997 does not apply to any of the following activities:

- deposit, recovery or disposal of waste under an authorisation granted under the Industrial Pollution Control (Northern Ireland) Order 1997;
- disposal of waste under an authorisation granted under the Industrial Pollution Control (Northern Ireland) Order 1997;
- deposit, recovery or disposal of waste under a permit granted under the Pollution Prevention and Control Regulations (Northern Ireland) Order 2003;
- disposal of waste under a permit granted under the Pollution Prevention and Control Regulations (Northern Ireland) Order 2003;
- discharge of liquid waste under a consent under the Water (Northern Ireland) Order 1999, or the Water and Sewerage Services (Northern Ireland) Order 1973;
- recovery or disposal of waste where the activity forms part of an operation subject to Part 2 of the Food and Environment Protection Act 1985;
- disposal of agricultural waste in accordance with an authorisation under the Groundwater Regulations (Northern Ireland) 1998.

Environmental Regulations and Cross Border Trade and Business: Waste permitting Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Requirements for Application/ Compliance

Before applying for a waste management licence an operator is required to have attained a number of other authorisations/ consents/ provisions as outlined below:

- Planning Permission - Article 8 of the Order states that a licence shall not be granted for a use of land, plant or equipment for which Planning Permission is required under the **Planning (Northern Ireland) Order 1991**, unless such planning permission is in force in relation to that use of land.
- Water Discharge Consent - Article 8 of the Order states that a licence shall not be granted for a use of land, plant or equipment for which consent under the **Water Act (Northern Ireland) 1972** is required unless such consent has been granted in relation to that use of land.
- Fit and Proper Person Criteria - Article 3 of the Order states that a person shall be treated as not being a fit and proper person if it appears to the Department.
- Relevant Offences - The licence holder or another relevant person must not have been convicted of a prescribed offence.
- Technical Competence - The management of the licensed activities must be in the hands of technically competent person.
- Financial Provision - The licence holder must be in a position to make financial provision to discharge any obligations for the site, e.g. in the event of site closure.

Timeframes

When NIEA receive a complete registration application, they will determine whether or not the activity can be registered. Within 28 days the applicant will receive either confirmation of the registration or notice that the registration has been refused.

Regulatory Authorities

NIEA

Administration/Reporting

NIEA are responsible for granting licences, setting conditions on licensing activities and monitoring site to ensure compliance with the licence conditions. Any person holding a waste management licence must:

- comply with all the conditions of the licence;
- comply with any formal notices issued by the environmental regulator;
- pay the annual subsistence charge;
- renew the licence when it expires if they wish to continue a particular waste activity.

If a waste management licence requires an operator to submit a waste return they will need to complete the relevant form. Typically this involves the completion and submission of a Quarterly Controlled Waste Returns Sheet.

Enforcement

NIEA

Available Guidance

Waste Management Charging (Northern Ireland) Scheme 2010 - http://www.ni-environment.gov.uk/waste_mangagement_charging_2010.pdf
Process for applying for a Waste Management Licence - <http://www.ni-environment.gov.uk/waste-home/authorisation/license.htm>
NetRegs - <http://www.netregs.gov.uk/netregs/63480.aspx>
Waste Management Licence application forms - <http://www.ni-environment.gov.uk/waste-home/waste-guidance.htm>

Environmental Regulations and Cross Border Trade and Business: WEEE Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Refined Regulation Selection Criteria

Northern Ireland

Regulations	Cross-sectoral	Date Enacted/ Came into Force	Potential Cost
<p>Waste Electrical and Electronic Equipment Regulations 2006 SI 3289</p> <p>Waste Electrical and Electronic Equipment (Amendment) Regulations 2007 SI 3454</p> <p>Waste Electrical and Electronic Equipment (Amendment) Regulations 2009 SI 2957</p> <p>Waste Electrical and Electronic Equipment (Amendment)(No2) Regulations 2009 SI 3216</p> <p>Waste Electrical and Electronic Equipment (Amendment)(No2) Regulations 2009 SI 3216</p> <p>Waste Electrical and Electronic Equipment (Amendment) Regulations 2010 SI 1155</p> <p>The Waste Electrical and Electronic Equipment (Waste Management Licensing) Regulations (Northern Ireland) 2006 SR 519</p> <p>Waste Electrical and Electronic Equipment (Charges) Regulations (Northern Ireland) 2006 SR 509</p>	<p>The WEEE Directive has implications for:</p> <ul style="list-style-type: none"> Producers (any business that manufactures, imports or re-brands electrical and electronic products); Retailers and Distributors (any business that sells electrical and electronic equipment to end users); Local Authorities; Waste management industry, (treatment facilities and reprocessors and exporters); and Businesses and other non-household users of Electrical and Electronic Equipment (EEE), (i.e. consumers). <p>Directive 2002/96/EC of the European Parliament and of the Council, of 27 January 2003, on waste electrical and electronic equipment (WEEE).</p>	<p>Originally came into force on 2nd January 2007.</p>	<p>Charges for approval of schemes</p> <p>The charge for an application for approval of a proposed compliance scheme under these Regulations is £12,174, per scheme. There is also an annual producer charge, of:</p> <ul style="list-style-type: none"> £30 for each scheme member who is not required to be registered under the Value Added Tax Act 1994; £220 for each scheme member who is required to be registered under the Value Added Tax Act 1994, and who has an annual turnover of less than £1 million; £445 for each scheme member who has an annual turnover of more than £1 million. <p>Charges for approval of authorised treatment facilities</p> <p>The charge for an application for approval of an Authorised Treatment Facility or an Exporter is:</p> <ul style="list-style-type: none"> £500, for up to 400 tonnes of WEEE; and £2,590, in any other case. <p>The charge for an application to extend approval is £110.</p>

Overall Objective of Regulation

The WEEE Directive has been implemented in the UK through a number of different regulations:

The **Waste Electrical and Electronic Equipment (WEEE) Regulations 2006** implement most aspects of the WEEE Directive in the UK since they came into force on 2 January 2007. These WEEE Regulations place an obligation on producers of EEE who put EEE onto the UK market to ensure that a proportion of waste EEE is reused or treated and recovered at the end of its life, in line with the Regulations. Producers have to join a producer compliance scheme (PCS) and the PCS must meet targets on behalf of their members by obtaining evidence of reuse of whole appliances, treatment, recovery and recycling of WEEE. The WEEE Regulations were subsequently amended by the **Waste Electrical and Electronic Equipment (Amendment) Regulations 2007**, the **Waste Electrical and Electronic Equipment (Amendment) Regulations 2009**, the **Waste Electrical and Electronic Equipment (Amendment) (No2) Regulations 2009**, the **Waste Electrical and Electronic Equipment (Amendment)(No2) Regulations 2009** and most recently by the **Waste Electrical and Electronic Equipment (Amendment) Regulations 2010**.

The WEEE (Amendment) Regulations 2007 clarify how reuse of equipment can be counted as evidence of compliance and provide further information on the recording of WEEE arisings.

In 2009 there were several amendments made to the WEEE Regulations which mainly affect Producer Compliance Schemes, Approved Authorised Treatment Facilities (AATFs) and Approved Exporters (AEs). The Regulations are now required to:

- Produce an overall reduction in the amount of data to be submitted to the regulator; allow evidence to be issued on the receipt of separately collected waste electrical and electronic equipment at treatment facilities;
- Remove the need for Producer Compliance Schemes' to apply for approval every three compliance periods, although they will be required to submit 'rolling' three year operational plans annually; and
- Ensure all treatment facilities approved under the Regulations are able to meet the minimum standards of recycling and recovery required by the Directive.

The 2010 amendment provides minor changes to the Regulations, including the replacement of some wording and the realignment of two dates in Regulation 20 (regarding application to register producers) of the 2006 Regulations.

Two further sets of Regulations apply to Northern Ireland:

The **Waste Electrical and Electronic Equipment (Waste Management Licensing) Regulations (NI) 2006** which came into force on 5 January 2007; these Regulations deal with the site licencing requirements and WEEE treatment requirements of the WEEE Directive, and the **Waste Electrical and Electronic Equipment (Charges) Regulations (NI) 2006** which came into force on 2 January 2007; these Regulations prescribe the charges to be paid to the Department of Environment under the WEEE Regulations 2006.

The overall aim of the WEEE Directive and these Regulations is to:

- reduce waste from Electric and Electronic Equipment (EEE)
- increase recovery and recycling rates of WEEE
- encourage the separate collection of WEEE and minimise the disposal of it as unsorted municipal waste
- improve the environmental performance of all operators involved throughout the lifecycle of EEE
- implement producer responsibility for WEEE

In addition the Regulations require producers of electrical and electronic equipment to register and cover the costs of collecting, treating, recovering and disposing of equipment when it reaches the end of its life. By 31 December 2006, the UK was to achieve a rate of separate WEEE collection of four kilograms per person per year from private households. The European Commission is currently consulting on a new WEEE collection target.

Environmental Regulations and Cross Border Trade and Business: WEEE Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Regulation Details

Crossover/Linked Legislation

In addition to the WEEE Directive, there are various other pieces of legislation that are relevant to the treatment, recovery and recycling of WEEE. (http://www.ni-environment.gov.uk/waste-home/regulation/regulations_weee/weee_treatment_facilities.htm)

Directive 2006/12/EC on Waste (the Waste Framework Directive or WFD) – anyone carrying out waste recovery or disposal activities needs to obtain a permit or exemption from permitting.

Directive 91/689/EEC on Hazardous Waste (as amended) (the Hazardous Waste Directive) – certain items of WEEE or components of WEEE may be hazardous waste, for example televisions and monitors with cathode ray tubes are examples of WEEE classified as hazardous waste.

Landfill Directive (1999/31/EC) - has banned the co-disposal of hazardous wastes with other types of waste. The revised European Waste Catalogue includes a number of waste streams not previously considered to be hazardous, including fluorescent tubes, television sets, computer monitors.

Regulation (EEC) No 259/93 on the Supervision and Control of Shipments of Waste (as amended) (the Waste Shipment Regulation) – the Shipment of Waste Regulations regulates all shipments of waste including transfrontier shipments of WEEE.

Regulation (EC) No. 2037/2000 on substances that deplete the ozone layer (as amended) (the ODS Regulation) - certain items of WEEE may contain ODS and will be subject to the requirements of this Regulation.

Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2005, which implement Directive 2002/95/EC on the restriction of the use of certain hazardous substances in electrical and electronic equipment (as amended) (the RoHS Directive) - this Directive restricts the amount of certain heavy metals and certain flame retardants that can be used in the manufacture of electrical and electronic equipment.

Pollution Prevention and Control Regulations (Northern Ireland) 2003 (the PPC Regulations). These Regulations, which implement Directive 96/61/EC on integrated pollution prevention and control (as amended) (the IPPC Directive), apply an integrated approach to the regulation of certain industrial activities including those concerned with waste disposal. The WEEE Directive requires systems for the treatment of WEEE to use best available treatment, recovery and recycling techniques (BATRRRT), which is an extension of the principles of BAT under the PPC Regulations.

Obligations

Work Areas Covered

The WEEE Directive covers all electrical and electronic equipment used by consumers and electrical and electronic equipment intended for professional use. The Directive sorts EEE into 10 categories:

- Large household appliances
- Small household appliances
- IT and telecommunications equipment
- Consumer equipment
- Lighting equipment

- Electrical and electronic tools
- Toys, leisure and sports equipment
- Medical devices
- Monitoring and control instruments
- Automatic dispensers

Annex 1B of the WEEE Directive provides a list of products that fall under each category. The list is not exhaustive but shows examples of the type of products included in the broader categories.

Registration or Application or Thresholds

The regulations apply to all producers whatever their turnover, market share or number of employees. Businesses that only place non-household EEE on the UK market must still join a Compliance Scheme.

Key Dates

Producers were required to join a compliance scheme by 15 March 2007.

Producers were required to mark electrical and electronic equipment (EEE) from 1 April 2007 onwards.

Full responsibility for treating and recycling household WEEE began on 1 July 2007.

Exemptions

These Regulations apply to England, Scotland, Wales and Northern Ireland however, the provisions relating to charges do not apply to Northern Ireland. Northern Ireland has enacted its own specific legislation outlining its provisions for charging.

Environmental Regulations and Cross Border Trade and Business: WEEE Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Requirements for Application

The WEEE Regulations detail the way in which WEEE should be handled and how the system should be funded. Producers and retailers must meet certain obligations, (including the introduction of take-back systems). WEEE must only be:

- treated at an approved and authorised treatment facility;
- recovered or recycled by a re-processor; or
- exported by an approved exporter, for treatment, recovery or recycling outside the UK.

Producers Responsibilities

Every company in Northern Ireland (and the UK) that manufactures, imports or re-brands electrical and electronic equipment is called a producer. In order to carry out their WEEE obligations, producers must pay a charge and join an approved compliance scheme. In such cases, the operator of the scheme will register the producer and will become responsible for financing their WEEE obligations. Producers are required to join a compliance scheme on or before 15 October in the year previous to the next compliance period. The compliance scheme must be approved by NIEA. The annual compliance period for WEEE is 1 January to 31 December each year. Where a producer puts EEE on the market after this date, the Producer must join a scheme within 28 days of first intending to put EEE on the market within the UK. To register, producers need to fill out a form and pay a fee. Once registered producers are required to supply quarterly data on EEE placed on the market by them. At the end of each compliance period, Producer Compliance Schemes will need to provide evidence to NIEA to show that they have met their treatment and recycling obligations. The evidence will come from Approved Authorised Treatment Facilities (AATFs) and Approved Exporters (AEs) of WEEE. Where the producer is the member of a compliance scheme, the scheme operator will provide the declaration.

A producer can opt to run their own compliance scheme if they so wish. Producer compliance schemes have been able to apply for approval since 2 January 2007. Some scheme operators only want to cover non-household EEE and others may seek producers from a particular sector, and there are likely to be several that will be open to any producer. Once registered a producer receives a WEEE producer registration number that they will be required to give to anyone who distributes or sells their equipment. All producers are required to mark all new electrical products they place on the market with the crossed out wheeled bin symbol and a producer identification mark. As well as a registration fee, producers are required to finance the costs associated with the treatment and recycling of separately collected WEEE. This can be accomplished through the compliance scheme. There are separate requirements for producers who supply non-household electronic and electrical equipment, for example to businesses.

Distributors Responsibilities

Under the Directive a person/ business is considered a distributor if they sell EEE irrespective of whether they consider themselves to be a retailer or a wholesaler.

If distributors are selling EEE to the public, they will have to ensure that their customers can return their WEEE free of charge. This will be on a one-for-one basis, as long as the new equipment is of similar type and has the same function as the old equipment.

Private householders will be able to return their WEEE to retailers who offer in-store take-back. Retailers will be able to set up alternative collection systems as long as they are still convenient for customers.

The WEEE Regulations allow a Distributor Takeback Scheme (DTS) to be created. This is an alternative to in-store take-back for distributors who join. It is largely based on the existing network of local authority civic amenity sites known as Designated Collection Facilities (DCFs). Valpak Retail WEEE Services have been appointed by the Department for Business Innovation and Skills (BIS) to operate the DTS. Distributors that join are required to contribute to a fund that will pay for a network of DCFs. These distributors will not have to offer in-store take-back of WEEE but will direct consumers to the nearest DCF.

Distributors will also have to ask producers for their unique producer number when they supply EEE. This number will prove that the producer has joined an approved compliance scheme and is helping fund the treatment and recycling of separately collected household WEEE.

WEEE Treatment Facilities Responsibilities

The WEEE legislation will affect businesses in the waste management industry that operate WEEE treatment facilities. The Waste Electrical and Electronic Equipment (Waste Management Licensing) Regulations (Northern Ireland) 2006 include three additional exemptions from waste management licensing. These cover:

- Storage of WEEE
- Repair/refurbishment of WEEE
- Lamp crushing prior to recovery

Consequently, establishments or undertakings carrying out treatment operations must obtain an appropriate licence or register an exemption from the waste management licensing regime from the NIEA. In addition an operator must also ensure that the site has appropriate planning permission for the activities undertaken. A site that is appropriately licensed to treat WEEE (i.e. has in place the necessary equipment, processes and permits/ authorisations) is known as an Authorised Treatment Facility (ATF) for WEEE. An operator of a treatment facility that has the necessary ATF licence can apply to be approved. Only Approved Authorised Treatment Facilities (AATFs) or Approved Exporters (AEs) can issue evidence of reuse of whole appliances, treatment, recovery and recycling of WEEE to the producer compliance schemes. As stated above producers have to join a producer compliance scheme which have a requirement, on behalf of their members, to meet their specific targets and obligations under the WEEE Regulations. Quarterly returns are required to be submitted by both AATFs and AEs.

Exporting any waste for disposal is prohibited. The export of WEEE for recovery is permitted but is controlled by the **Transfrontier Shipment of Waste Regulations (2007)**. These controls depend on the classification of the waste and the destination country. Many waste types require formal notification before the waste is allowed to leave the UK. NIEA produces a public register with details of AATFs and AEs. This is periodically updated to reflect any changes to the status of AATFs or AEs. It still remains the responsibility of all producer compliance schemes to exercise due diligence in ensuring that the evidence they obtain is valid and that it has been issued by an ATF or exporter who is approved. An AATF or AE that handles 400 tonnes or less is defined as "Small" and over 400 tonnes as "Large".

Timeframes

NIEA has up to 28 days from receipt of an application, from a producer to operate a compliance scheme, to determine it.

Regulatory Authorities

It is the responsibility of the Secretary of State to enforce these Regulations. However, NIEA will enforce specific provisions relating to these Regulations (as detailed in the Enforcement section below).

Administration/Reporting

Producers: Once registered producers are required to supply quarterly data on EEE placed on the market by them. At the end of each compliance period, Producer Compliance Schemes will need to provide evidence to NIEA to show that they have met their treatment and recycling obligations. The evidence will come from Approved Authorised Treatment Facilities (AATFs) and Approved Exporters (AEs) of WEEE.

Environmental Regulations and Cross Border Trade and Business: WEEE Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Enforcement

It is the responsibility of the Secretary of State to enforce these Regulations. However, NIEA will enforce the provisions relating to:

- approving producer compliance schemes
- registering producers of EEE and maintaining a public register
- identifying unregistered producers and bringing them into compliance

- regulating sites that store and treat WEEE
 - approving treatment facilities and exporters of WEEE so that they are able to issue evidence of treatment and recovery
 - monitoring and enforcing compliance with the treatment and recovery requirements.
- The Vehicle Certification Agency (VCA) carries out the enforcement activities in relation to in-store takeback and the Distributor Takeback Scheme (DTS).

Available Guidance

http://www.ni-environment.gov.uk/waste-home/regulation/regulations_weee/weee_regulations.htm
<http://www.netregs.gov.uk/netregs/legislation/current/63554.aspx>

Refined Regulation Selection Criteria

Republic of Ireland

Regulations	Cross-sectoral	Date Enacted/ Came into Force	Potential Cost
<p>Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 S.I. No. 340 of 2005 - came into effect on the 13th of August 2005</p> <p>Waste Management (Waste Electrical and Electronic Equipment) (Amendment) Regulations 2008 S.I. No. 375 of 2008 - amended the 2005 Regulations</p> <p>Waste Management (Batteries and Accumulators) Regulations 2008 S.I. No. 268 of 2008 - came into effect 26th September 2008</p> <p>Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 341 of 2005)</p> <p>Waste Management (Batteries and Accumulators) (Amendment) Regulations 2008 S.I. 556 of 2008</p> <p>Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) (Amendment) Regulations 2008 (S.I. No. 376 of 2008)</p>		2005/2008	<p>1. Registration with WEEE Register Society: Registration Fees -WEEE and Batteries For 2011:</p> <ul style="list-style-type: none"> • €150 - if the turnover of EEE & Battery products is < €150,000 • €250 - if the turnover of EEE & Battery products is ≥ €150,000 but < €250,000 • €500 - if the turnover of EEE & Battery products is ≥ €250,000 but < €500,000 • €1,000 - if the turnover of EEE & Battery products is ≥ €500,000 but < €1,000,000 • €2,000 - if the turnover of EEE & Battery products is ≥ €1,000,000 <p>2. Charges for Compliance Schemes? The actual costs for each sector's recovery and special services will be recorded. Fees from a specific sector/category shall be used exclusively to cover the costs of that sector. No sector shall subsidise any other sector, neither short-term nor long-term.</p> <p>The compliance scheme will charge the producer differently depending on the product category.</p> <p>If you are a producer of products in categories 1, 4 and 5, a vEMC (viable Environmental Management Cost) is charged. The producer must declare (via the WEEE Blackbox) how many of these units have been sold on a regular basis and the scheme will invoice the producer for the sum of vEMC's associated with those products.</p> <p>If you are a producer of products in categories 2, 3 and 6, compliance schemes will invoice the producer based on the weight submitted to the WEEE Blackbox of EEE placed onto the market.</p> <p>Each compliance scheme decides on it's costs per kilo.</p> <p>If you are a producer of products in Categories 8, 9 and 10, there is no vEMC charged and your products are considered to be B2B, unless shown otherwise, and you do not need to join a compliance scheme.</p> <p>WEEE Ireland Registrtrtion Fees - Annual fees will are charged based on EEE turnover (turnover > €250,000 = €600, turnover < €250,000 = €400) and a discount allowed (-€300) for Producers signing up to direct debit payment.</p> <ul style="list-style-type: none"> - Producers not placing EEE onto the market prior to 31st December 2006 will be charged €600 registration fee plus the relevant annual fee. - Producers will be invoiced for all EMCs owed to date based on Black Box reporting once they are fully registered with the scheme. - For Producers of Portable Batteries and Accumulators there is a €600 Registration fee and annual fees based on Battery turnover (Turnover > €250,000 = €600, Turnover < €250,000 = €400) with €300 discount for Producers signing up to direct debit - Existing members of WEEE Ireland receive free membership for Portable battery compliance until 31st December 2008. <p>ERP Ireland Registration Fees</p> <ul style="list-style-type: none"> - A producer, retailer, importer, distributor or any company that has a take-back obligation for WEEE or waste batteries can join ERP Ireland as a national user. This provides them with access to a cost-effective compliance scheme. The fee in Ireland is €500 plus VAT per year.

Environmental Regulations and Cross Border Trade and Business: WEEE Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Overall Objective of Regulation

A. The WEEE Directive is based on the premise of Producer Responsibility and that improved product design can better facilitate environmentally sound treatment of WEEE. The key aims of the Directive are:

- Divert WEEE from landfill,
- Provide for a free producer take back scheme for consumers of end of life equipment from 13th August, 2005,
- Improve product design with a view to increasing recoverability,
- Achieve specific recovery targets,
- Provide for establishment of collection facilities and systems,
- Provide for the establishment and financing by producers of WEEE recovery and treatment systems.

The WEEE Directive has been implemented in the republic of Ireland through a number of different regulations:

1. **The Waste Management (Waste Electrical and Electronic Equipment) Regulations (S.I. No. 340 of 2005, as amended by S.I. No. 375 of 2008)**, referred to as the WEEE Regulations. It came into force on 13 August 2005.

Objectives:

- Producers have to fund the recycling of WEEE arising from goods they place on the market after 13 August 2005, and also the recycling of all WEEE arising from all goods placed on the market prior to this. Producers must fund the management of this 'historic waste' on the basis of their current market share. The WEEE Directive requires Member States to ensure that for a transitional period of eight years (10 years for large household appliances) producers are allowed to show consumers, at the time of sale of new products, the costs of collection, treatment and disposal of historic WEEE in an environmentally sound way. All producers are obliged to mark their electrical and electronic equipment with a crossed out wheeled bin symbol. This symbolises that the equipment should not be put in a bin destined for landfill when it has reached the end of its life.
- Visible Environmental Management Costs (vEMCs) show the costs of recycling as approved by the WEEE Register Society Limited, an industry-based national WEEE registration body, which has an independent Committee of Management. These costs will fund the two collective compliance schemes operating in Ireland, WEEE Ireland and the European Recycling Platform, to enable them to pay for the environmentally sound management of all household WEEE taken back by retailers or deposited by members of the public at local authority civic amenity sites.

- Prices quoted and displayed to purchasers for any electrical or electronic equipment must include the vEMCs. The price of the product including VAT (exclusive of the EMC) and the EMC must be displayed separately on the shelf edge label or on the item itself.

- Retailers are obliged to provide information to the consumer on how they can dispose of the electrical and electronic equipment when it comes to the end of that equipment's life. Retailers may do this by providing leaflets or signage at the point of sale.

2. **The Waste Management (Batteries and Accumulators) Regulations (S.I. No 268 of 2008)**, referred to as the Batteries Regulations came into effect on 26 September 2008. The WEEE and Batteries Regulations set up a framework whereby WEEE and waste batteries and accumulators can be managed in an environmentally sound manner.

- The regulations place significant obligations on Producers placing electrical and electronic equipment (EEE) or batteries (including portable, automotive and industrial batteries and batteries incorporated into appliances) on the market in the Republic of Ireland or Distributors of those products once they are in the country.

3. **The Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 341 of 2005)**. It gave implementation arrangements for the RoHS Directive. Importantly, this Directive does not apply to the reuse of electrical and electronic equipment put on the market before 1 July 2006 or to spare parts used to repair this equipment.

- The purpose of the RoHS Directive is to approximate the laws of the Member States on the restriction of the use of certain hazardous substances in EEE. Under the terms of the Directive, Member States must ensure that from 1 July 2006, new EEE put on the market does not contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) or polybrominated diphenyl ethers (PBDE).

Environmental Regulations and Cross Border Trade and Business: WEEE Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Regulation Details

Crossover/Linked Legislation

Waste Management (Collection Permit) Regulations, 2001

Waste Management (Movement of Hazardous Waste) Regulations, 1998

Waste Management (Transfrontier Shipment of Waste) Regulations, 1998

Litter Pollution Act, 1997

Waste Management Acts 1996 and 2001

Protection of the Environment Act, 2003.

Waste legislation - Chamber Smoke Detectors (Licensing by RPII)

At present, companies in Ireland who supply Ionising Chamber Smoke Detectors (ICSDs) and / or hold more than 500 in stock are required to be licensed by the RPII. Distribution of ICSD units is restricted to those activities not exceeding 37 kBq of americium-241 per unit. Such companies may be considered producers (e.g. importers) or distributors (e.g. retailers), or both, under the WEEE Regulations and must therefore fulfil the relevant obligations outlined above in relation to producers and distributors. The licensing requirement also applies where any stockpile of more than 500 waste ICSDs are held. This can include an authorised waste treatment facility, civic amenity site, waste recovery operator or producers and distributors accepting back waste ICSDs in accordance with the WEEE Regulations. Included in the conditions of the RPII licence, is the requirement to provide take-back for the ICSDs at the end of their useful life, to facilitate their environmentally sound management. Companies licensed by the RPII returning ICSDs directly to suppliers in other EU Member States must ensure that the relevant 1493/939 shipment documents are completed and stamped as appropriate by the Competent Authority for radiation protection within that country. The same applies for any ICSDs imported into Ireland.

X-ray Units (Licensing of X-ray units by RPII)

X-ray units are included in the scope of legislation: Waste Management (Waste Electrical and Electronic Equipment) Regulations 2005 (S.I. No. 340 of 2005, as amended by S. I. No 375 of 2008). In addition, the custody and use of X-ray units are subject to licensing by the Radiological Protection Institute of Ireland (RPII). In accordance with S.I. 125 of 2000 all users of sources of ionising radiation are required to hold a valid licence from the RPII for the custody and use of sources of ionising radiation such as X-ray units and radioactive sources. Although this licensing requirement applies only to those X-ray units that have a kV greater than 30kV, the advice outlined in this guidance document should be followed for all X-ray units, even if not licensable by the RPII. If an X-ray unit is rendered permanently incapable of producing X-rays it is no longer deemed to be source of ionising radiation and not subject to licensing requirements.

Obligations

Work Areas Covered

The following 10 categories have been identified in the WEEE Directive as belonging to EEE:

- Large household appliances
- Small household appliances
- IT and telecommunications equipment
- Consumer equipment
- Lighting equipment

- Electrical and electronic tools
- Toys, leisure and sports equipment
- Medical devices
- Monitoring and control instruments
- Automatic dispensers

Environmental Regulations and Cross Border Trade and Business: WEEE Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Registration or Application or Thresholds

A "producer" means any person who, irrespective of the selling technique used, including by means of distance communication –

- (i) manufactures and sells electrical and electronic equipment under his or her own brand,
- (ii) resells electrical and electronic equipment produced by other suppliers under his or her own brand,
- (iii) imports electrical and electronic equipment on a professional basis into the State,
- (iv) exports electrical and electronic equipment on a professional basis from the State to another Member State of the European Union, or
- (v) distributes electrical and electronic equipment from a producer who is deemed not to be registered under the provisions of article 12(2),

The following steps must be completed in order to achieve full WEEE compliance and in turn receive certification from the WEEE Register Society:

- Registration with WEEE Register Society Ltd. to obtain a unique registration number. This number must be shown on all invoices, credit notes, dispatches and delivery dockets issued from the 13th of August 2005.
- Provide the WEEE Blackbox with the requested data input. This includes historical sales data for the period 01 January 2004 - 31 December 2005 and monthly sales data for the period 13th August 2005 - Current Reporting Month.
- Producers will need to apply for renewal of registration with WEEE Register Society Ltd. by the 31st of January each year as in Articles 10 and 11.

Registration with an approved compliance scheme ERP Ireland or WEEE Ireland or a Self-Compliant Producer.

Producers participating satisfactorily in an approved compliance scheme are exempt from the provisions of the following articles 16, 17, 19, 21, 22, 23, and 24 of S.I. 340 of 2005.

The following steps must be completed in order to achieve full Battery compliance and in turn receive certification from WEEE Register Society Ltd.:

Registration with WEEE Register Society Ltd. to obtain a unique registration number. This number must be shown on all invoice, credit note, dispatch and delivery dockets issued from 26th September 2008.

Provide WEEE Blackbox with the requested data input.

Registration with an approved compliance scheme (ERP Ireland or WEEE Ireland) or be self compliant. Producers participating satisfactorily in an approved compliance scheme are exempted from the provisions of the following articles 23(1), 23(3), 23(4), 23(5), 23(6), 23(7), 23(8), 23(9), 25(b), 27, 28 and 30 of S.I. No. 268 of 2008 some of the articles listed below

Exemptions

WEEE Exemptions (by category):

Lighting Equipment: Household lighting fixtures , Filament light bulbs, including halogens

Electrical and Electronic Tools: Some Large-scale stationary industrial tools. You should contact WEEE Register Society Ltd. to determine if EEE is exempt.

Medical Devices: Implanted or infected products

Other exemptions:

Equipment solely for Military and National Security purposes - Product must be specific to this market.

Equipment covered by other existing waste directives such as the End of Life Vehicle (ELV) - Automotive Products.

Something that is part of equipment outside the scope of the WEEE directive such as equipment which is integral to:

- Aerospace/Aircraft Products
- Surface Transportation Products (aircraft, trains, boats, etc.)

Battery Exemptions:

Article 6 states;

(1) The prohibition in-

- (a) article 5(a) shall not apply in respect of button cells with a mercury content of no more than 2% by weight
- (b) article 5(a)(i) shall not apply to portable batteries intended for use in;
 - (a) emergency & alarm systems, incl. emergency lighting,
 - (b) medical equipment or
 - (c) cordless power tools

Also, prohibitions shall not apply in respect of batteries and/or accumulators placed on the market prior 26th September 2008 in compliance with previous Battery Directive 91/ 157/EEC of 18th March 1991

(2) The provisions of this Part shall not apply to batteries placed on the market prior to 26 September 2008 in compliance with Council Directive 91/157/EEC of 18 March 1991 on batteries and accumulators containing certain dangerous substances.

Article 34 outlines further exemptions from certain requirements.

Articles 23(1), 23(3), 23(4), 23(5), 23(6), 23(7), 23(8), 25(b), 27, 28 and 30 provided producer is participating satisfactorily in an approved collective compliance scheme and holds a valid certificate from an approved body.

Environmental Regulations and Cross Border Trade and Business: WEEE Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Requirements for Application

Steps to follow to register with WEEE Register Society:

For application for registration or renewal of registration, as a producer you:

- (a) were required to register by 20th July 2005 or the date of commencement of business, whichever is the later, AND
- (b) need to apply for renewal of registration to the registration body no later than 31st January in each year following initial registration for the relevant calendar year!

Registration with WEEE Register Society Ltd. is annual and needs to be renewed by the 31st of January of each new year.

Committee of Management of WEEE Register Society Ltd. will set the registration fees for producers of EEE and these may be reviewed from time to time.

Compliance Schemes:

A compliance scheme is a non profit organisation that will take care of the collection, treatment and recycling of waste electrical and electronic equipment (WEEE) in Ireland on behalf of its producer members. The compliance scheme will then invoice the producer for his/her proportion of the WEEE collected in Ireland.

At present, there are two approved compliance schemes in Ireland: ERP Ireland (European Recycling Platform) and WEEE Ireland.

Steps for Joining WEEE Ireland:

1. Complete the application form on this website
2. WEEE Ireland will issue you with a joining pack. The pack will contain:
 - A covering letter explaining the procedure
 - 2 copies of the terms and conditions agreement
 - A direct debit mandate form
 - The joining fee details
 - Invoice for joining fee

Once WEEE Ireland has received:

1. 2 signed copies of the terms and conditions agreement
2. A signed direct debit mandate form
3. A cheque for joining/annual Fee

WEEE Ireland will issue a signed copy of the terms and conditions agreement with your WEEE Ireland reference number.

Steps for Joining ERP Ireland

1. Complete the application form on this website

Timeframes

Waste Management (Waste Electrical and Electronic Equipment) Regulations (as amended)

All producers must provide, by the tenth working day of the month following its placement on the market, a financial guarantee showing that the full cost of the environmentally sound management of waste electrical and electronic equipment will be financed when it is discarded by the final user.

All producers must be registered with the registration body. New producers entering the market producers need to apply annually by the 31st January.

Producers shall undertake to endeavor to achieve interim collection targets of: -

- (a) 15% of waste portable batteries by **26th September 2010**
(b) 30% of waste portable batteries by **26th September 2014**

Based on the quantity by weight of portable batteries placed on the market in the State.

Waste Management (Batteries and Accumulators) Regulations

On and from **19th September 2008**, each producer that has placed or is about to place batteries on the market shall be obliged to: -

- (a) Be registered with the registration body and declare to it or a third party acting on its behalf that any battery placed or will be placed on the market is marked in accordance with the provisions of article 31
(b) Pay the fees as may be determined by the registration body or as appropriate a third party acting on its behalf.

Each producer of portable batteries shall achieve as a minimum the following targets for the collection of portable batteries: -

- (a) 25% by **26th September 2012** and
(b) 45% by **26th September 2016**

of the quantity by weight of portable batteries placed on the market in the State excluding any portable batteries that left the State prior to being sold to end-users.

Waste Management (Restriction of Certain Hazardous Substances in Electrical and Electronic Equipment) Regulations

On and from 1 July 2006, — (a) producers, shall be prohibited from placing on the market, or, as appropriate, (b) distributors shall be prohibited from distributing, electrical and electronic equipment listed in categories 1, 2, 3, 4, 5, 6, 7 and 10 of the First Schedule together with electric light bulbs and luminaires in private households which contain lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) or polybrominated biphenyl ethers (PBDE)

Environmental Regulations and Cross Border Trade and Business: WEEE Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Regulatory Authorities

The National registration body is WEEE Register Society (<http://www.weeeregister.ie>)

Enforcement is carried out by the Environmental Protection Agency (www.epa.ie)

Administration/Reporting

1. Waste Automotive or Industrial Battery Report. Annual report for Retailers (does not apply to small appliance batteries, the so called portable batteries). It has to be submitted to the EPA by 28th of February of each year.
2. Waste battery Management Report. Annual report for Producers of batteries and accumulators have the option to either join a compliancescheme or self-comply under the regulations. If self-comply, one requirement is to submit a Waste Management Plan and applicable administration fees to the EPA (Batteries Reg's 2008)
3. Batteries Waste management Plan - compulsory for Producers of batteries and accumulators (rechargeable batteries). The plan is for a period of three years and annual reports on the plan must be submitted to the EPA by 31st January each year, (before renewal of producer registration with the WEEE Register Society Ltd).
4. Waste Management Report - 100% Export. Annual report for self-complying producers who export 100% of their EEE. Report has to be submitted by the 31st of January each year.
5. Waste Management Plan - 100% Export. Compulsory for self-complying producers of electrical and electronic equipment (EEE) that export 100% of their EEE products. The plan is for a period of three years, and annual reports on the plan must be submitted to the EPA by 31st January as part of the report required under point 4 above, before re-registration with the WEEE Register Society Ltd.
6. Waste Management Report. Annual report for self-complying producers of EEE registered in the given year. It has to be submitted by the 31st of January each year.
7. Waste Management Plan -compulsoryfor self-complying producers of electrical and electronic equipment (EEE). The plan is for a period of three years, and annual reports on the plan must be submitted to the EPA by 31st January, before re-registration with the WEEE Register Society Ltd.

Note on 'self-complying' - At present, the two approved compliance schemes (ERP and WEEE Ireland) are not authorised to provide compliance exemptions for B2B members, therefore all B2B producers are required to self-comply.

8. WEEE BlackBox Submission

All EEE producers must submit the following details:

- Historical data: this consists of all EEE placed on the Irish market in the calendar year 2004 and is a once off requirement;
- Monthly Turnover: input of any EEE placed on the Irish market thereafter. The data required is exact quantity and weight of EEE products, per category and subcategory brought on to the State Market

The latter will be submitted on a monthly basis, beginning in September, to collect the period August 13th 2005 up to and including August 31st 2005, and each calendar month thereafter.

Information is submitted through a specifically designed website managed by the WEEE Blackbox. Webaddress: <https://www.weeeblackbox.ie>. All producers will on completing the registration process receive a username and password by email and/or post to access a personal data input form. All monthly data must be submitted before or on the 19th of each month. A highly secure approach to computer and network security is employed. The purpose of the data input is to determine the financial liability by market share of individual Producers.

The Historical data is being collected in order to calculate market share of individual producers for EEE placed on the market before 13th August 2005. The financing system to be applied on 13th August for the collection, treatment, recovery and environmentally sound management of WEEE will be based on this calculation.

Enforcement

The Department of the Environment, Heritage and Local Government is the government department with responsibility for environmental matters. Enforcement of the Regulations is overseen by the Office of Environmental Enforcement at the EPA and by Local Authority Officers. The Environmental Protection Agency (EPA) is an independent public body established in 1993 under the Environmental Protection Agency Act, 1992. The EPA has responsibilities for a wide range of licensing, enforcement, monitoring, assessment, guidance, reporting and research activities associated with environmental quality and protection. In the context of these responsibilities it should be noted that the Waste Management Act, as amended, does not apply to a radioactive substance within the meaning of the Radiological Protection Act, 1991. However, the WEEE Regulations referred to above explicitly require the removal of components containing radioactive substances from separately collected WEEE. EPA enforcement: Where specific instances of transgression have been identified, Notifications of Non-Compliance have been issued. Where the EPA receives no response or the company continues in non-compliance, a Final Warning Letter is issued to the company advising that any non-compliance identified may be followed by legal action.

Available Guidance

<http://www.epa.ie/downloads/advice/waste/weee/>

<http://www.environ.ie/en/Publications/Environment/Waste/WEEE/FileDownload,1346,en.pdf>

<http://www.environ.ie/en/Environment/Waste/WEEE/>

<http://www.epa.ie/downloads/advice/waste/weee/Batteries%20Self%20Complier%20Requirements.pdf>

http://www.weeeregister.ie/faqs.html?faq_id=28

Environmental Regulations and Cross Border Trade and Business: ELV Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Refined Regulation Selection Criteria

Northern Ireland

Regulations	Cross-sectoral	Date Enacted/ Came into Force	Potential Cost
<p>End-of-Life Vehicles Regulations 2003, SI 2635</p> <p>End-of-Life Vehicles (Amendment) Regulations 2010, SI 1094</p> <p>End-of-Life Vehicles (Producer Responsibility) Regulations 2005, SI 263</p> <p>End-of-Life Vehicles (Producer Responsibility) (Amendment) Regulations 2010, SI 1095</p>	<p>There is no definitive list of what is waste. Waste is any substance or object ‘...which the holder discards or intends or is required to discard’. Whether something is waste depends on the circumstances. With vehicles, this includes the condition of the vehicles, where they came from, the holder’s intention, and the way the vehicles are stored and handled. End-of-Life Vehicles (ELVs) are motor vehicles that are waste. Whilst the status of most vehicles is clear in most circumstances, confusion can arise for specific circumstances – e.g. for severely accident damaged vehicles at the highway and during subsequent storage. For a guide as to when a motor vehicle is considered waste and what controls apply it is advised to get advice on from NIEA on the approach they are taking.</p>	<p>Parts I – IV came into force on 3 November 2003, and Parts V and VI on 31 December 2003. Equivalent legislation covering Part VII of these Regulations is in place for Northern Ireland (Waste Management Licensing Regulations (Northern Ireland) 2003), which came into operation in December 2003.</p>	<p>An authorised treatment facility will not impose any charge on the last owner of an end-of-life vehicle for the issue of a certificate of destruction.</p> <p>The vehicle manufacturer/ importer (i.e. the ‘producer’) is not liable to meet the costs of treatment of a vehicle which they have marketed and which has become an end-of-life vehicle, where it has been accepted by an authorised treatment facility which is not part of their system for the collection of vehicles.</p>

Overall Objective of Regulation

In Northern Ireland, an estimated 50,000 vehicles come to the end of their life every year. End of life vehicles have the potential to release harmful substances into the environment if they are not stored, treated and disposed of properly. End of life vehicles are classed as hazardous waste until they have been fully treated and de-polluted. As a result of concerns about the environmental and economic impacts of waste vehicles, the European Union adopted the **End of Life Vehicles (ELV) Directive (2000/52/EC)** in October 2000. The ELV Directive includes the following provisions:

- ELVs must only be treated at permitted treatment facilities which meet strict environmental standards.
- Producers (vehicle manufacturers and importers) are to be responsible for the costs of ELV take-back and treatment.
- Producers and other economic operators (such as car dismantlers and shredders) are to establish adequate systems for the take-back and collection of ELVs.
- The last owner of a vehicle must be able to return their vehicle into collection systems free of charge.
- The last owner of a vehicle must be issued with a Certificate of Destruction for their vehicle.
- Recycling and recovery targets must be met from 2006 (85% recovery with a minimum of 80% recycling) with higher targets from 2015 (95% recovery with a minimum of 85% recycling).

The main objective of the legislation is environmental protection.

The **End of Life Vehicles Regulations 2003** transpose into UK law a number of provisions of the **EC ELV Directive (2000/53/EC)**, namely:

- Restrictions on the use of certain heavy metals in vehicle and component manufacture;
- Marking of certain rubber and plastic vehicle components, and publication of design and dismantling information;
- The introduction of a Certificate of Destruction;
- “Free take-back” of vehicles put on the market from 1 July 2002;
- Licensing of authorised treatment facilities, and the site and operating standards with which they must comply.

The **End-of-Life Vehicles (Producer Responsibility) Regulations 2005** transpose into UK law the remaining provisions of the **ELV Directive (2000/53/EC)**, and cover, among other things:

- “Free take-back” of end of life vehicles (ELVs) from 1 January 2007;
- Producer obligations for providing take-back of ELVs through accessible networks of authorised treatment facilities (ATFs) and collection points;
- Producer and authorised treatment facility obligations in respect of achieving recovery and recycling targets for ELVs from 2006 onwards.

The **End-of-Life Vehicles (Amendment) Regulations 2010** and **End-of-Life Vehicles (Producer Responsibility) (Amendment) Regulations 2010** amend certain aspects of the above two sets of Regulations.

Environmental Regulations and Cross Border Trade and Business: WEEE Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Regulation Details

Crossover/Linked Legislation

Waste Management Licensing Regulations (Northern Ireland) 2003, Schedule 5 Part II

Hazardous Waste Regulations (Northern Ireland) 2005

Duty of Care

Obligations

Work Areas Covered

ELVs are motor vehicles that are categorised as waste. Their components and materials are also classed as waste. Waste is anything that a person discards, intends to discard or is required to be discard. This includes material being sent for recycling or reuse. ELVs are classified as hazardous waste until they have been treated to remove fluids and other hazardous substances and components. Vehicles intended for treatment and destruction must be consigned as hazardous waste when they move between sites.

Registration or Application or Thresholds

Vehicle Manufacturers/ Importers

If a business produces fewer than 500 vehicles a year in each EU member state, they only need to comply with the heavy metal restrictions and have technical documents to prove this.

Sites that Accept Waste Motor Vehicles

An application form to be an authorised treatment facility can be obtained by contacting NIEA. Complementary to the ELV Regulations, the licensing of authorised treatment facilities and the site and operating standards with which they must comply is contained in the **Waste Management Licensing Regulations (Northern Ireland) 2003**. An operator of a site that dismantles or stores waste motor vehicles that have been depolluted may require an exemption from waste management licensing (i.e. a paragraph 45 exemption under Schedule 2 Part 1 of these licensing regulations - the Recovery of Scrap Metal or the Dismantling of Depolluted End-of-Life Vehicles).

Exemptions

All provisions of the end-of-life vehicle legislation apply to cars and vans. However, only the depollution requirements apply to the following waste motor vehicles:
three-wheeled motor vehicles;

- coaches;
- buses;
- motor cycles;
- goods vehicles.

Special-purpose vehicles and three-wheeled motor vehicles are excluded from specific parts of the End-of-Life Vehicles (Producer Responsibility) Regulations 2005 (as amended). The recovery and recycling targets described in Regulation 18 do not need to be attained in respect of special-purpose vehicles (e.g. motor-caravans, ambulances, hearses, etc). In addition producers have neither an obligation to provide free take-back for three-wheeled vehicles when they reach end-of-life, nor to achieve the recovery and recycling targets in respect of their weight.

Vintage vehicles do not fall within the scope of the legislation. Vintage vehicles include historic vehicles or vehicles of value to collectors or intended for museums, kept in a proper and environmentally sound manner, either ready for use or stripped into parts. The legislation also does not cover ships, trains or planes.

Environmental Regulations and Cross Border Trade and Business: WEEE Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Requirements for Application

These Regulations place requirements upon manufacturers, owners and operators of vehicles.

Vehicle Manufacturers/ Importers

Businesses which manufacture or import certain motor vehicles (essentially cars, and vans below 3.5 tonnes), have a number of responsibilities. They are required to register with the Department for Business, Innovation and Skills (BIS) and declare responsibility for the vehicles that they produce. These manufacturers/ importers must have a free take-back system for the end-of-life vehicles which they are responsible for. BIS must approve the system. To get approval the manufacturer/ importer must submit an application describing the system to BIS. The system must be reasonably accessible to anyone who wants to deliver a vehicle to it.

If a registered vehicle manufacturer/ importer business sells or transfers their business to someone else they can still be legally responsible for their end-of-life vehicles. The business therefore should ensure that either they include in the transfer, any end-of-life vehicles for which they are responsible, or arrange for their appropriate disposal. One of two service providers, Autogreen and Cartakeback, can usually provide free take back on behalf of almost all of the major motor vehicle manufacturers/ importers.

The vehicles a business manufactures/ imports must comply with certain design requirements. These include a restriction on the use of the following heavy metals in vehicle materials and components:

- cadmium
- lead
- mercury
- hexavalent chromium.

Vehicle manufacturers/ importers must give plastic and rubber components and materials a code so that they can be dismantled and recovered separately. They do not have to mark tyres. They must keep technical documents for four years from the date they put the vehicles, materials and components on the market. The enforcement authority, the Vehicle Certification Agency (VCA), can ask to see these documents to prove a businesses compliance. If a business produces fewer than 500 vehicles a year in each EU member state, they only need to comply with the heavy metal restrictions and have technical documents to prove this.

To summarise, a vehicle manufacturer/ importer (i.e. a producer) must publish information on the:

- design of the vehicles and their components, with a view to their recoverability and recyclability;
- environmentally sound treatment of end-of-life vehicles;
- development and optimisation of ways to reuse, recycle and recover end-of-life vehicles and their components;
- progress achieved with regard to recovery and recycling, in order to reduce the waste to be disposed of and increase recovery and recycling rates.

This information should be made available to prospective buyers of vehicles and be included in promotional literature used in the marketing of new vehicles. For further details about design and information requirements guidance notes have been produced to accompany the legislation.

Vehicle Owners/ Authorised Treatment Facility Operators

When a person sends an ELV for dismantling or disposal, they must ensure that the site they are sending it to has a waste management licence and is an authorised treatment facility. In addition if a person sends their ELV to a storage site before it is taken to an authorised treatment facility, they must make sure that the storage site has a waste management licence.

A vehicle owner can take their car or van to an authorised treatment facility free of charge providing it has the essential components of a vehicle – such as the engine, transmission, coachwork and wheels – and it is part of the appropriate manufacturer's network. A vehicle owner can contact Autogreen and Cartakeback, the free take-back service providers, for information on network arrangements. Vehicles over 3.5 tonnes must also be depolluted at an authorised treatment facility however they are not covered by the free take-back arrangements.

Sites that Accept Waste Motor Vehicles

A facility which stores and treats ELVs must operate to certain environmental standards to be classed as an authorised treatment facility. These conditions include:

- storing and treating ELVs so they don't harm the environment;
- removing all hazardous liquids and components (depolluting);
- recycling, storing and disposing of the parts appropriately.

Waste Management Licensing Regulations (Northern Ireland) 2003, Schedule 5 Part II details the minimum technical requirements needed to comply with if a site stores and treats waste motor vehicles.

ELVs are classified as hazardous waste until they have been treated to remove fluids and other hazardous substances and components. Vehicles intended for treatment and destruction must be consigned as hazardous waste when they move between sites. If an operator treats ELVs that have not been depolluted they are considered as a hazardous waste producer and consequently they must comply with the requirements of all hazardous waste legislation including:

- use consignment notes to accompany any hazardous wastes, and keep a copy of these for three years; and
- notify NIEA at least three days before the waste is moved.

Operators must also follow their requirements under the duty of care.

An operator of a site that dismantles or stores waste motor vehicles that have been depolluted may require an exemption from waste management licensing (i.e. a paragraph 45 exemption under Schedule 2 Part 1 of these licensing regulations - the Recovery of Scrap Metal or the Dismantling of Depolluted End-of-Life Vehicles).

Timeframes

No information available.

Regulatory Authorities

In Northern Ireland, authorised treatment facilities are approved and regulated by the NIEA. See Enforcement section below for further responsibilities.

Environmental Regulations and Cross Border Trade and Business: WEEE Northern Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Administration/Reporting

These Regulations place requirements upon manufacturers, owners and operators of vehicles.

Vehicle Manufacturers/ Importers

Vehicle manufacturers/ importers must give plastic and rubber components and materials a code so that they can be dismantled and recovered separately. They do not have to mark tyres. They must keep technical documents for four years from the date they put the vehicles, materials and components on the market. The enforcement authority, the Vehicle Certification Agency (VCA), can ask to see these documents to prove a businesses compliance. If a business produces fewer than 500 vehicles a year in each EU member state, they only need to comply with the heavy metal restrictions and have technical documents to prove this.

Vehicle Owners/ Authorised Treatment Facility Operators

An authorised treatment facility is required to issue the owner of a vehicle (i.e. a car or van) with a certificate of destruction (CoD) if it is left at that thier facility. The CoD demonstrates that the vehicle has been left/ taken to an approved treatment site and allows the Driver and Vehicle Licensing Agency (DVLA) to deregister the vehicle. If the authorised treatment facility is capable of automatically updating the DVLA that a vehicle has been destroyed, the owner (last owner) does not need to send the certificate of destruction to anyone. However, it is good practice to keep the certificate for thier own records. A certificate of destruction must contain:

- detailed information describing the vehicle;
- details of the authorised treatment facility;
- details of the competent issuing authority.

Sites that Accept Waste Motor Vehicles

If a person dismantles or stores waste motor vehicles on their site, that have not been depolluted, they must have a waste management licence and comply with its conditions. Vehicles are considered to have been depolluted when they have been treated to the approved standard to remove fluids and other hazardous substances or components. A facility which stores and treats ELVs must operate to certain environmental standards to be classed as an authorised treatment facility. These conditions include:

- storing and treating ELVs so they don't harm the environment;
- removing all hazardous liquids and components (depolluting);
- recycling, storing and disposing of the parts appropriately.

NIEA has prepared a generic toolkit for ELV ATFs that will help them comply with their Waste Management Licence and manage their environmental performance. The generic toolkit is designed to help an operator structure a management plan to control the business' environmental impacts.

Enforcement

A number of enforcement authorities are responsible for distinct requirements of the Regulations.

- NIEA enforce the majority of the requirements relating to ATFs, where ELVs are de-polluted and dismantled. NIEA monitor the licensed authorised treatment facilities to ensure that they are treating ELVs correctly. They also investigate and take enforcement action against operators of illegal sites. It is imperative that the motor trade and members of the public do not provide ELVs to illegal operators. Check the ATF public register to ensure that you only give your waste vehicles to legal operators.
- The Vehicle Certification Agency (VCA) enforces the technical requirements affecting the design of new vehicles and components.
- Department for Business, Innovation and Skills (BIS) enforces the requirements for vehicle producers to have in place convenient networks of ATFs offering free take back for their brands of vehicles and the requirements for vehicle producers and ATFs to meet recovery/ recycling targets.
- The Driver and Vehicle Licensing Agency (DVLA) enforces those requirements which relate to the issuing of Certificates of Destruction.

Available Guidance

Department for Business, Innovation and Skills, The end of Life Vehicles Regulations 2003, 2005 and 2010, Government Guidance Notes - <http://www.bis.gov.uk/assets/biscore/business-sectors/docs/e/10-897-elv-regulations-guidance-june-2010.pdf>

NetRegs - <http://www.netregs.gov.uk/netregs/63015.aspx>

Management Toolkit for Small and Medium Sized Businesses - http://www.netregs.gov.uk/static/documents/NetRegs/Management_toolkit_for_businesses_-_Authorised_Treatment_Facility_for_ELV_site.pdf

Environmental Regulations and Cross Border Trade and Business: SEVESO

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Refined Regulation Selection Criteria

Northern Ireland

Regulations	Cross-sectoral	Date Enacted/ Came into Force	Potential Cost
<p>Control of Major Accident Hazards Regulations (Northern Ireland) 2000 SR 93</p> <p>(as amended The Control of Major Accident Hazards (Amendment) Regulations (Northern Ireland) 2005 SR 305</p>	<p>These regulations apply to any business which manufactures, stores or uses any dangerous substances in amounts that exceed defined threshold quantities.</p>	<p>2000</p>	<p>The operator has to pay for any work the Competent Authority does for them, for example inspection of major accident hazards and investigation of major accidents</p>

Overall Objective of Regulation

The Seveso II Directive (96/83/EC) was introduced following a disaster in the Italian town of Seveso in 1976. It aims to prevent major accidents involving dangerous substances and to limit consequences of such accidents for people and the environment. It was subsequently broadened to be known now as The Seveso II Directive. The Directive requires that operators of prescribed major hazard sites 'take all measures necessary to prevent major accidents and to limit their consequences for man and the environment'. The Directive is implemented in Northern Ireland by the Control of Major Accident Hazards Regulations (Northern Ireland) 2000, (COMAH Regulations).

The COMAH Competent Authority (comprising of the Health and Safety Executive Northern Ireland (HSENI) and the Northern Ireland Environment Agency (NIEA)) has recently concluded that the on-shore storage of natural gas in underground natural strata, such as depleted reservoirs, is subject to the COMAH Regulations. This decision was effected from 26 February 2009.

Environmental Regulations and Cross Border Trade and Business: SEVESO

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Regulation Details

Definitions

N/A

Obligations

Registration/or Application or Thresholds

There are two threshold limits for both dangerous substances and/ or certain classes of substances under the COMAH Regulations. These limits vary depending on the substances involved.

If a site stores or uses more than the lower threshold limit for a substance the site is classed as a **lower tier site**. However, if a site stores or uses more than the higher threshold limit the site is considered a top tier site. Top tier sites are subject to more stringent controls than lower tier sites.

In addition to the above definitions an operator must also check their responsibility if they store more than one type of dangerous substance. Even if the site doesn't exceed the threshold amounts for individual substances, when these are added together there may be a requirement to comply with the Regulations.

Named dangerous substances in the COMAH Regulations include:

- ammonium nitrate
- oxygen
- hydrogen
- formaldehyde
- halogens
- petroleum products

Classes of substances in the COMAH Regulations include:

- toxic
- explosive
- flammable
- dangerous for the environment

Schedule 1 of the COMAH Regulations contains a full list of named dangerous substances and classes of substances which are included under the COMAH Regulations. Schedule 1 contains a extensive amount of specific detail relating to volumes and quantities of dangerous substances and it is recommended that an operator consults this Schedule to determine if their site is applicable to comply with these Regulations and if so which category a particular site may fall into.

Mixtures and preparations shall be treated in the same way as pure substances provided they remain within the concentration limits set according to their properties under the **Chemicals (Hazard Information and Packaging for Supply) Regulations (Northern Ireland) 2002**, unless a percentage composition or other description is specifically given.

The quantities to be considered for the application of the relevant Regulations are the maximum quantities which are present at any one time. Dangerous substances present at a site only in quantities equal to or less than 2% of the relevant qualifying quantity shall be ignored for the purposes of calculating the total quantity present if their location within a site is such that it cannot act as an initiator of a major accident elsewhere on site.

PART II of Schedule 1 names substances. Where a substance or group of substances listed in Part II also falls within a category of Part III, the qualifying quantities set out in Part II must be used.

PART III lists categories of substances and preparations not specifically named in Part II.

Underground storage sites will come within the scope of COMAH if the quantity of natural gas stored meets or exceeds the thresholds in Schedule 1, Part 2 of the Regulations i.e. 50 tonnes (lower tier) and 200 tonnes (top tier). In practice, all sites are likely to be top tier sites. The decision means that the same regulatory regime applies to storage in man-made (salt) caverns and natural strata.

Exemptions

An operator is exempted from complying with these Regulations if their site does not store or use more than the lower threshold limit for a dangerous substance/ class of substance as listed in Schedule 1 to the COMAH Regulations. However, the operator should be aware that even if the site doesn't exceed the threshold amounts for individual substances, when these are added together there may be a requirement to comply with the Regulations.

Environmental Regulations and Cross Border Trade and Business: SEVESO

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Requirements for Application

Lower Tier Sites are required to prepare a Major Accident Prevention Policy (MAPP) and Top Tier Sites prepare the more detailed Safety Report. Regular inspections and ongoing advice are provided by the Competent Authority.

Top Tier Sites

For establishments with larger amounts of dangerous substances (i.e top-tier sites) the requirements include the notification of their activities to the Competent Authority, preparation of Safety Reports, public access to Safety Reports, preparation and testing of onsite emergency plans, providing HSENI with sufficient information to enable them to arrange for the preparation of off-site emergency plans and providing information to the public likely to be affected by a major accident.

Lower Tier Sites

Lower tier sites are also required to notify the Competent Authority of the presence of dangerous substances and to have in place major-accident prevention policies.

The operator must inform the HSENI, immediately if there are any significant changes to the information which was provided to them in their original notification. They must also inform them if the site closes, or if any part of the site where dangerous substances are handled, produced, used or stored closes.

See information in following section, Administration/ Reporting, for further detail on the ongoing administrative and reporting requirements of the COMAH Regulations.

The COMAH Directive also requires land-use planning controls to apply to all establishments - whether top-tier or lower-tier - within the scope of the Directive. If the COMAH Regulations apply to a site, that site may also be regulated under planning legislation. New development in the vicinity of COMAH sites is considered as part of planning approval processes. HSENI advise Planning Services by applying the Planning Advice for Developments near Hazardous Installations (PADHI) guidelines. A summary of applicable planning legislation to which an operator of a COMAH site may subsequently need to comply with is included adjacent.

Planning Legislation

Amendments to the hazardous substances provisions of the **Planning (Hazardous Substances) Regulations (Northern Ireland) 1993** have been made to give effect to the land-use planning requirements of the COMAH Directive. Minor amendments have also been made to the **Planning (General Development) Order (Northern Ireland) 1993** and the **Planning (Development Plans) Regulations (Northern Ireland) 1991**. These amendments are promulgated in the **Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000**.

Article 53 of the **Planning (Northern Ireland) Order 1991** requires a hazardous substances consent (hsc) to be obtained for the presence on, over or under land of a hazardous substance in an amount at or above a specified controlled quantity. The controls give the Planning Service the opportunity to consider whether the proposed storage or use of a significant quantity of a hazardous substance is appropriate in a particular location, having regard to the risks arising to persons in the surrounding area and to the environment.

The **Planning (Hazardous Substances) Regulations (Northern Ireland) 1993** as amended by the **Planning (Control of Major- Accident Hazards) Regulations (Northern Ireland) 2000** specify the hazardous substances and controlled quantities for which a consent is required; set out the procedures for obtaining consent; provide for certain exceptions; and make procedures for enforcement. The procedures provide for statutory consultation with specified bodies, including HSENI and the NIEA prior to the Planning Service making a decision on any application for consent. If consent is agreed, a consultation zone may be established within which proposals for future development will also be referred to consultees to consider the possible effects on public safety.

The **Planning (Hazardous Substances) (Amendment) Regulations (Northern Ireland) 2005** amend Schedule 4 of the **Planning (Hazardous Substances) Regulations (Northern Ireland) 1993** to reflect the amended modifications of the enforcement provisions of the **Planning (Northern Ireland) Order 1991** introduced by the **Planning (Amendment) (Northern Ireland) Order 2003**.

The **Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2009** increases the range of dangerous substances for which consent must be obtained for storage or processing; puts tighter controls on the amounts allowed before consent must be obtained.)

The **Planning (Hazardous Substances) (Amendment) Regulations (Northern Ireland) 2010** amend the **Planning (Hazardous Substances) Regulations (Northern Ireland) 1993**. The amendment is necessary because of an error in the Table in Schedule 3 as substituted by the **Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2009**. Schedule 3 lists substances and quantities to which hazardous substances requirements apply. Part A of the Schedule contains named substances and qualifying thresholds.

Timeframes

Regulatory Authorities

In Northern Ireland the **Seveso II Directive (96/83/EC)** is implemented through the Control of Major Accident Hazards Regulations (COMAH), by a joint Competent Authority, made up of the HSENI and the NIEA. NIEA are responsible for assessing measures to protect the environment under the Regulations. This includes examining operators' safety reports and carrying out inspections on establishments covered by the Regulations.

Environmental Regulations and Cross Border Trade and Business: SEVESO

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Administration/Reporting

Requirements for all COMAH Regulated Sites

If the COMAH Regulations apply, the operator must notify the HSENI. The operator must send the notification before they use or store dangerous substances. They must also inform the HSENI, before starting any new operation, and send them any additional information they require. The notification must give details about the operator, the site, the processes carried out and an inventory of dangerous substances present. The HSENI has provided guidance on this. There is no official notification form, but the HSE has developed a template form to help operators provide the correct information.

Assess Risks for the Site

The operator must take all necessary measures to prevent major accidents at the site.

The operator must carry out a risk analysis to understand and predict the following:

- how a major accident could happen at their site;
- the possible consequences of a major accident.

Examples of situations to consider for this risk analysis include:

- spills due to vessel or pipework failures
- explosions e.g. caused by mixing incompatible chemicals in reactors
- major fires e.g. warehouse or pool fires

The operator must prepare a Major Accident Prevention Policy (MAPP) document. This should include details of measures used to control major accident hazards at the site.

The operator must also prepare a safety management system document showing the organisational structure, responsibilities, procedures and resources for implementing the MAPP.

In addition the operator must provide documented evidence to the HSENI that they have taken precautions to prevent major accidents. This should include plans, systems and procedures. It is recommended that all operators contact the HSENI, or their environmental regulator, or check the Regulations for exact details of the information required to be provided

Additional Requirements for all Top Tier COMAH Regulated Sites

Operators of sites where the quantities of dangerous substances exceed the higher thresholds in the COMAH Regulations are required to meet some additional requirements.

Safety Reports

The operator must submit a Safety Report to the HSENI. The Safety Report must demonstrate that a MAPP and a safety management system for implementing it have been put into effect. The operator is required to review this Safety Report:

- at least every five years;
- to account for new facts or new technical knowledge;
- if they make any changes to the safety management system.

The operator must inform the HSENI of these reviews, even if no changes are required to be made to the Safety Report.

For new top tier installations the operator must submit a Safety Report prior to construction and before operating with dangerous substances. The operator must inform the HSENI immediately if they make any changes to their Safety Report.

On-site Emergency Plans

The operator must prepare an on-site emergency plan before their business starts operations. The on-site emergency plan must give details of what an operator will do in the event of an accident. It should include:

- the names or positions of people who will put emergency procedures into action
- the names or positions of people who liaise with the local council for the off-site emergency plan
- details of events that may cause a major accident and actions that will be taken to avoid them
- a description of the safety equipment and resources available to deal with an incident
- details of how the risk to people on-site is minimised
- instructions of actions to be taken if an incident warning is issued
- arrangements to inform the local council of an incident, so that the off-site emergency plan can be put into action
- details on how staff are trained to deal with emergency situations
- arrangements for helping to minimise off-site impacts of an incident

The on-site emergency plan is required to be tested and reviewed at least every three years, and revised as necessary.

Informing Local People

The operator must inform local residents, workers at other premises and every school, hospital or other establishment serving the public, which may be affected by a major accident at their site, of its activities. This information should include:

- the name and address of the site
- the position of the person responsible for keeping local residents and businesses informed
- confirmation that the site needs to comply with the COMAH Regulations, and that the operator has notified and submitted a Safety Report to the HSENI
- a brief explanation of the activities undertaken at the site
- details of the dangerous substances on site, using common names where they exist, and their dangerous properties, e.g. explosive, flammable
- information on the hazard posed by these dangerous substances to people and the environment, and the safety measures in place to control the risk of an accident
- details of how people will be informed and the actions to take if a major accident occurs
- confirmation that the site is required by law to be prepared for major accidents, and to liaise with the local council and emergency services to produce emergency plans
- advice to people to co-operate with instructions from the emergency services in the event of an incident.

In addition to the requirements of the COMAH Regulations to which an operator must comply there are other pieces of legislation which require the operator of the site to be compliant with. These include:

Chemicals (Hazard Information and Packaging for Supply) Regulations 2002

These Regulations, also known as the CHIP Regulations, sets out rules on the classification, packaging, labelling and advertising of dangerous chemicals and preparations. Substances which have been identified as 'dangerous substances' also include those that fall into categories defined in these Regulations. If a substance does not already have a standard CHIP classification a self-assessment following the CHIP rules must be undertaken and completed. The Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations (Northern Ireland) 2005 amends the 2002 CHIP Regulations to introduce a new approved supply list. The Chemicals (Hazard Information and Packaging for Supply) (Amendment) Regulations (Northern Ireland) 2008 amends the 2002 CHIP Regulations by updating how certain dangerous chemicals are classified, labelled and how information is provided on safety datasheets.

Dangerous Substances (Notification and Marking of Sites) Regulations (Northern Ireland) 1992

These Regulations require businesses to mark their site and notify the fire authority and the HSENI of any site containing over 25 tonnes of dangerous substances.

Environmental Regulations and Cross Border Trade and Business: SEVESO

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Enforcement

The COMAH Regulations are enforced by a Competent Authority comprising the HSENI and NIEA.

Available Guidance

NIEA website: <http://www.ni-environment.gov.uk/pollution-home/comah.htm>

HSENI website: <http://www.hseni.gov.uk/guidance/guidance/topics/comah-3-column.htm>

NetRegs: <http://www.netregs.gov.uk/netregs/63157.aspx>

The HSE has published guidance on the COMAH Regulations:

- L111: A guide to the Control of Major Accident Hazards Regulations 1999 (as amended) ISBN 071766175X
- HSG190: Preparing safety reports ISBN 0717616878
- HSG191: Emergency planning for major accidents ISBN 0717616959

Planning Service DECAN12 Planning Control of Dangerous Substances: http://www.planningni.gov.uk/index/policy/supplementary_guidance/dcans/dcan12.htm

Environmental Regulations and Cross Border Trade and Business: COMAH Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Refined Regulation Selection Criteria

COMAH – Control of Major Accident Hazards involving Dangerous Substances

Legislation	Cross-sectoral	Date Enacted/ Came into Force	Potential Cost	
<p>Current:</p> <p>European Communities (Control of Major Accident Hazards involving Dangerous Substances) Regulations 2006 SI No. 74 of 2006 –</p> <p>Current transcribing of EU Regulation into Irish Statutes.</p> <p>DRAFT</p> <p>STATUTORY INSTRUMENTS</p> <p>S.I. No. of 2009</p> <p>Chemicals (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2009</p> <p>These Regulations replace the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2006 (S.I. No. 74 of 2006) and</p> <p>re-transpose Directive 96/82/EC, as amended by Directive 2003/105/EC – the so-called “Seveso Directives”.</p> <p>Re-making the Regulations under the Chemicals Act 2008 (No. 13 of 2008) will lead to a clearer enforcement framework and higher penalties and clarify the roles of the various duty-holders, all of which should improve compliance.</p>	<p>The COMAH Regulations apply to establishments where dangerous substances are present in amounts equal to or exceeding the application thresholds. (Detailed in table below)</p> <p>They apply to any installation in which dangerous substances are, or are intended to be, produced, used handled or stored and include</p> <p>(a) equipment, structures, pipework, machinery and tools,</p> <p>(b) private railway sidings, docks and unloading quays serving the installation,</p> <p>and</p> <p>(c) jetties, warehouses or similar structures, whether floating or not, which are necessary for the operation of the installation;</p> <p>Approximately 90 establishments are registered in Ireland with the HSA, the names of which can be viewed on the HSA website http://www.hsa.ie/eng/Your_Industry/Chemicals/Control_of_Major_Accident_Hazards/List_of_Establishments/List_of_Establishments_.html</p>	<p>2006</p> <p>Still Draft 2011</p>	Scale of Charges under S.I. No. 74 of 2006	
			Registration	380.92
			Safety Report	
			Manufacturing	18,157.25
			Storage	8,380.27
			Inventory < 5 tonnes	2,095.07
			Closed Systems	1,396.71
			Licensed Explosive Stores	2,514.08
			% of above charges to apply to first Safety Report based on Notification under S.I. No. 476 of 2000, as amended	
			25% of above charges to apply to a safety report for second top tier site in same company	
			Five Year Update	
			Manufacturing	4,609.15
			Storage	2,095.07
			Closed Systems	419.01
			Licensed Explosive Stores	1,117.37
25% of above charges to apply to a safety report for second top tier site in same company				

Environmental Regulations and Cross Border Trade and Business: COMAH Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Overall Objective of Legislation

The aim of the Seveso II Directive, and in its enactment, the COMAH Regulations, is two-fold. Firstly, it aims at the prevention of major-accident hazards involving dangerous substances. Secondly, as accidents do continue to happen, the Regulations aim at the limitation of the consequences of such accidents not only for man (safety and health aspects) but also for the environment (environmental aspect).

The scope of the COMAH Regulations and the Seveso II Directive focuses on the presence of dangerous substances in establishments. It covers both, industrial “activities” as well as the storage of dangerous chemicals. It provides for three levels of proportionate controls in practice, where larger quantities mean more controls. A company who holds a quantity of dangerous substance less than the lower threshold levels given in the Directive is not covered by this legislation but will be controlled by general provisions on health, safety and the environment provided by other legislation which is not specific to major-accident hazards. Companies that hold a larger quantity of dangerous substance, which is above the lower threshold contained in the directive, will be covered by the lower tier requirements. Companies that hold even larger quantities of dangerous substance (upper tier establishments), which is above the upper threshold contained in the directive, will be covered by all the requirements contained within the Directive.

Duties of Operators

In respect of every establishment covered by the Regulations, it shall be the duty of the operator concerned to take all necessary measures:

- to prevent major accidents occurring, and
- to limit the consequences of any such major accidents for man and the environment. – (See more details on the Duty of the Operator in the table below)

Advice on Land Use Planning.

The Regulations include a requirement to consider landuse planning when permitting the siting of installations which fall under the requirements of the SEVESO II Directive. The Regulations therefore specify that technical advice from the HSA must be available to a planning authority or An Bord Pleanála when considering a planning application from installation which could fall under the SEVESO II requirements relating to—

- (a) the siting of new establishments,
- (b) the modification of an existing establishment to which Article 10 of the

Directive applies, or

- (c) proposed development in the vicinity of an existing establishment the Authority may, and shall if requested to do so by a planning authority or An Bord Pleanala and within the time frame requested, which shall at least be a period of 6 weeks after receipt by the Authority of all necessary information, provide advice on land use planning to a planning authority or to An Bord Pleanala, which advice shall be taken into account as appropriate, by that planning authority or An Bord Pleanala.

Regulation Details

Ireland

e.g IPPC/Bat etc

Environmental Regulations and Cross Border Trade and Business: COMAH Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Obligations

Work Areas Covered

PART 1			PART 2		
Named substances			Part 2 further lists thresholds for categories of chemicals not specifically named in Part I, such as		
Where a substance or group of substances listed in Part 1 also falls within a category of Part 2, the qualifying quantities set out in Part 1 must be used.			<ul style="list-style-type: none"> • Very Toxic, • Toxic, • Explosive, • Highly Flammable and • Dangerous to the Environment (R50/R51/R14 and R29) http://www.hsa.ie/eng/Your_Industry/Chemicals/Control_of_Major_Accident_Hazards/Schedule_1_of_Comah_Regs.pdf		
Column 1	Column 2	Column 3			
Dangerous substances	Qualifying quantity (tonnes) for the application of				
	Articles 6 and 7	Article 9			
Ammonium nitrate (see note 1)	5000	10000	Methanol	500	5000
Ammonium nitrate (see note 2)	1250	5000	4, 4-Methylenebis (2-chloraniline) and/or salts, in powder form		0.01
Ammonium nitrate (see note 3)	350	2500	Methylisocyanate		0.15
Ammonium nitrate (see note 4)	10	50	Oxygen	200	2000
Potassium nitrate (see note 5)	5000	10000	Toluene diisocyanate	10	100
Potassium nitrate (see note 6)	1250	5000	Carbonyl dichloride (phosgene)	0.3	0.75
Arsenic pentoxide, arsenic (V) acid and/or salts	1	2	Arsenic trihydride (arsine)	0.2	1
Arsenic trioxide, arsenious (III) acid and/or salts		0.1	Phosphorus trihydride (phosphine)	0.2	1
Bromine	20	100	Sulphur dichloride	1	1
Chlorine	10	25	Sulphur trioxide	15	75
Nickel compounds in inhalable powder form (nickel monoxide, nickel dioxide, nickel sulphide, trinickel disulphide, dinickel trioxide)		1	Polychlorodibenzofurans and polychlorodibenzodioxins (including TCDD), calculated in TCDD equivalent		0.001
Ethyleneimine	10	20	The following CARCINOGENS at concentrations above 5% by weight: 4-Aminobiphenyl and/or its salts, Benzotrchloride, Benzidine and/or salts, Bis (chloromethyl) ether, Chloromethyl methyl ether, 1,2-Dibromoethane, Diethyl sulphate, Dimethyl sulphate, Dimethylcarbamoyl chloride, 1,2-Dibromo-3-chloropropane, 1,2-Dimethylhydrazine, Dimethylnitrosamine, Hexamethylphosphoric triamide, Hydrazine, 2-Naphthylamine and/or salts, 4-Nitrodiphenyl, and 1,3 Propanesultone	0.5	2
Fluorine	10	20	Petroleum products:	2500	25000
Formaldehyde (concentration ≥ 90 %)	5	50	(a) Gasolines and naphthas,		
Hydrogen	5	50	(b) Kerosenes (including jet fuels)		
Hydrogen chloride (liquefied gas)	25	250	(c) Gas oils (including diesel fuels, home heating oils and gas oil blending streams)		
Lead alkyls	5	50			
Liquefied extremely flammable gases (including LPG) and natural gas	50	200			
Acetylene	5	50			
Ethylene oxide	5	50			
Propylene oxide	5	50			
Clarifications and calculation methodologies are supplied for the various categories of chemicals.					

Environmental Regulations and Cross Border Trade and Business: COMAH Ireland

Scoping and Mapping

Objective - to consider ways in which the regulations might create a burden on trade.

Registration/or Application or Thresholds

The requirements only apply to installations that exceed the Tier 1 or Tier 2 thresholds.

Exemptions

Important areas excluded from the scope of the Seveso II Directive include nuclear safety, the transport of dangerous substances and intermediate temporary storage outside establishments and the transport of dangerous substances by pipelines.

Requirements for Operators

Operators of all establishments must:

Notify the Health and Safety Authority and the local planning authority,	at least 6 months before construction begins and also 6 months prior to operation
Discharge certain general duties,	Upon commencement of activities
Prepare and implement a major accident prevention policy,	Operators of new establishments must prepare a MAPP document without delay and in any event within three months
Take action in the event of a major accident, and	Immediately inform the HSA of that occurrence, - Provide the HSA with the following information as soon as it becomes available - • The circumstances of the accident, • The dangerous substances involved, • The data available for assessing the effects of the accident on man and the environment, and • The emergency measures taken
Maintain a register of notifiable incidents.	The operator must maintain a register of notifiable incidents (of type listed in the seventh and eight schedules) with entries to be kept for a minimum period of 10 years
Operators of upper-tier establishments have additional duties that include	
Production of a Safety Report	Operators of new establishments must at least 6 months prior to the construction and the operation of a new upper-tier establishment, and neither construction nor operation may begin until the operator has received the conclusions of the HSA (in such situations a more limited report is required).
Preparation of an internal emergency plan,	
Provision of information to those responsible for off-site emergency plans, and	
Provision of information for the safety of the public.	

Regulatory Authorities

Competent authorities.

The COMAH Regulations assigns competence and enforcement powers to the following authorities for specific sections of the Regulations :

- (a) the Health and Safety Authority, except for the purposes of Regulations 5, 17 (2), (3), (5), 18, 19 and 20 (1)
- (b) a local authority for the purposes of Regulations 5, 17 (2), (3), (5), 18, 19 and 20 (1)
- (c) an Garda Síochána, for the purposes of Regulations 5, 17 (2), (3), (5), 18, 19 and 20 (1)
- (d) the Health Service Executive, for the purposes of Regulations 5, 17 (2), (3), (5) 18, 19 and 20 (1), and
- (e) a Harbour Authority, for the purposes of Regulations 5,17 (2), (3), (5), 18, 19 and 20 (1).

Environmental Regulations and Cross Border Trade and Business: COMAH Ireland**Scoping and Mapping****Objective - to consider ways in which the regulations might create a burden on trade.**

Administration/Reporting

Installations to notify the Health and Safety Authority and the local planning authority,

Enforcement

As Above.

Available Guidance

- A Short Guide To the European Communities (Control Of Major Accident Hazards Involving Dangerous Substances) Regulations, 2006. HSA
 - Health and Safety Authority Guidance Document Safety Report Assessment, HSA, July 2006
- http://www.hsa.ie/eng/Your_Industry/Chemicals/Control_of_Major_Accident_Hazards/