



Office of Environmental Enforcement,
Environmental Protection Agency,

Sent by email only to: soilrecoverywac@epa.ie

16th March 2018

**Re: WASTE ACCEPTANCE CRITERIA AND DEVELOPMENT OF SOIL TRIGGER VALUES FOR
EPA-LICENSED SOIL RECOVERY FACILITIES**

Dear Sir/Madam,

In response to your Draft Guidance document on the above-referenced subject, I offer the following comments on behalf of the IWMA. The IWMA is comprised of 40 member companies that operate in the waste sector in Ireland. Our website, www.iwma.ie, provides details of our members.

We support the Agency's efforts to raise standards with the new guidelines and we recognise that this is designed to provide greater protection for the water environment. However, we have a few general concerns, as follows.

Proposed Trigger Levels

we are concerned that the levels proposed in the draft guidelines may be too strict for many naturally occurring subsoils and topsoils and we ask that the Agency sets the trigger levels at a level that virtually all naturally occurring subsoils and topsoils will meet. This could be achieved by using the 99th percentile rather than the 90th percentile concentrations quoted in the National Soils Database.

As the Agency is aware, we currently have an issue with a lack of outlets for non-hazardous non-inert C&D materials and we fear that the rejection of soils from soil recovery sites could exacerbate that problem, so they should only be rejected if they pose a risk of causing groundwater contamination.

Contamination Limit

We suggest that the 2% limit for non-natural materials in acceptable soils should be increased to 5%, so long as those materials are inert.

C&D Recovery Targets

We suggest that this proposed move by the Agency appears to be in isolation and we would prefer a more holistic approach to the management of soils, subsoils and C&D wastes in Ireland, to ensure

that these wastes are recovered in compliance with the existing and emerging waste framework¹ and Directive.

Article 11(2)(b) of the Waste Framework Directive requires that:

“2. In order to comply with the objectives of this Directive, and move towards a European recycling society with a high level of resource efficiency, Member States shall take the necessary measures designed to achieve the following targets:

(b) by 2020, the preparing for re-use, recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous construction and demolition waste excluding naturally occurring material defined in category 17 05 04 in the list of waste shall be increased to a minimum of 70 % by weight.”

The approach now suggested by the EPA is likely to impact on the use of inert C&D materials in backfill operations. Naturally occurring materials are specifically excluded from the recycling/recovery requirement in the Directive so the use of those materials in soil recovery sites will not assist with the 2020 target. This will make it difficult for Ireland to achieve the 2020 C&D waste target.

It is clear that Article 11(b)(2) of the Waste Framework Directive expects that inert C&D wastes that are not naturally occurring materials will be used in backfilling operations to substitute other materials and that will count towards the 2020 target.

Ireland must plan to achieve the waste framework targets for C&D waste by 2020 and backfilling operations should be part of that plan, albeit with adequate environmental consideration and protection. There are many worked-out quarries in Ireland that need to be backfilled, mostly for reasons of safety and visual impacts. We suggest that more detailed analyses is required to assess the risks associated with backfilling these quarries with inert C&D materials that pose no significant risk to groundwater.

It is in Ireland’s best interests to recover soils, subsoils and inert C&D wastes at worked-out quarries and we believe that this can be done in a manner that protects the water environment. Imposing new restrictions soil recovery sites must strike the balance between environmental protection, the need to restore those sites and the need to meet the 2020 C&D waste recovery targets. We suggest that the current draft is overly restrictive in some aspects and should be reviewed in that context.

We suggest that imposing new restrictions should only occur after a full appraisal of the consequences has been undertaken, perhaps through a regulatory impact assessment. Whilst the guidelines are not legislation, they will be used to formulate conditions that regulate facilities and will become de-facto regulations as any non-compliance with licences is an offence under waste legislation.

Licensed versus Permitted Sites

As a final and very important point, we suggest that soil recovery sites must be required to abide by the same rules, whether they are licensed by the EPA or permitted by local authorities. Otherwise, soils rejected at licensed sites could be sent to permitted sites with lower environmental control and lower standards of operation and that would clearly be a retrograde step.

¹ DIRECTIVE 2008/98/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008 on waste and repealing certain Directives

We hope that our submission is helpful and we look forward to further engagement in this process. We believe that this consultation is a useful first step, but we respectfully suggest that further analysis is needed to ensure that any changes from the status quo achieve the right balance between responsible waste management and environmental protection.

Yours Sincerely,

A handwritten signature in black ink that reads "Conor Walsh". The signature is written in a cursive, flowing style.

Conor Walsh
IWMA Secretary

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