



JMWMS Supplementary Report Two: Legislation and Policy

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This Appendix provides a summary of key current and forthcoming legislation and regulations to ensure that statutory obligations are highlighted and that impending regulatory changes are taken into consideration in the development of the waste strategy document.

A prime aim of this Report is to highlight relevant legislation and policy. It is not intended to cover every aspect of relevant legislation / policy, or all areas of legislation (for example the Report only contains selected secondary legislation, such as some Statutory Instruments), or indeed contain legal interpretation as this will vary in the light of case law. It is important that legislation and policy issues are kept under review as the environmental agenda is rapidly evolving.

Most UK legislation relating to the Environment is now a result of European Directives and therefore some perspective of impending legislative changes can be gained by looking at proposed EU Directives and keeping track of these texts at an EU level.

Some policy is also derived from a European level (for example through the Thematic Strategies), although clearly there are also important national, regional and local policies that impact on the local delivery of the waste management service. Key regional policies are included within this document; however local (i.e. individual partner level) policies are not included. Where local policies impact on the Joint Municipal Waste Management Strategy (JMWS) then these have been considered in the Headline Strategy content.

2.1 European Policy & Legislation

Waste Framework Directive 1975 (& proposed replacement Directive on Waste)

The European legislative framework document for waste management is the Waste Framework Directive (75/442/EEC). This Directive requires national competent authorities to draw up a waste management plan. This is currently Waste Strategy 2007 in England. Member States must encourage prevention and recovery of waste and provide suitable infrastructure for recovery and disposal and the appropriate regulatory framework to protect the environment and public health. This sets out basic requirements for waste management licensing control and planning. It also includes the definition of waste and associated waste management terms.

The Directive has been extensively amended over the last thirty years and a consolidated and updated version (the 'Waste Directive') is currently under development. It is anticipated that the updated version will include the need for member states to define benchmarks and measures on waste prevention, makes a definition of reuse and will promote recycling of specific materials. Guidance on when recyclate becomes non waste (i.e. a product) will also be included. The Directive is being debated in the European Parliament at the time of writing and will include an updated interpretation of recycling and recovery and incorporate hazardous waste and other Directives within its scope. It is intended to adopt a Life Cycle Approach for decision making within the framework. This means that all phases of the life cycle of a process / product (e.g. raw material extraction, design, manufacture, use / operation, repair / maintenance, recovery / disposal) should be considered as different options are evaluated.

Landfill Directive 1999

The Directive on the Landfilling of Wastes (99/31/EC), commonly termed the 'Landfill Directive' is a major driver for change in municipal waste management in the UK. The key provisions of the Directive are summarised below:

- Requirement to reduce the quantity of biodegradable municipal waste (BMW) sent to landfill;
- Prohibition of the co-disposal of hazardous and non-hazardous waste in the same landfill site;
- Categorisation of landfill sites to accept 'inert', 'non hazardous' or 'hazardous' wastes only;
- Ban on landfilling of tyres, hazardous liquids and flammable, corrosive, explosive, oxidising and infectious wastes;
- Requirement for pre-treatment of landfilled waste.

The major impact in terms of municipal waste management is the requirement to reduce the quantities of BMW to landfill by the following targets (using the UK derogation timetable):-

- Reduction in tonnage of BMW to landfill by 25% on 1995 levels by 2009/10;
- Reduction in tonnage of BMW to landfill by 50% on 1995 levels by 2012/13;
- Reduction in tonnage of BMW to landfill by 65% on 1995 levels by 2019/20.

These targets are made more challenging as MSW arisings increase.

Waste Electronic & Electrical Equipment Directive 2003

In February 2003, the European Waste Electrical and Electronic Equipment (WEEE) Directive became European law. The Directive includes:

- Setting collection targets for all types of electrical products
- Setting recycling and recovery targets for all types of electrical products.

The categories of WEEE included in the Directive are in Table 2.1.

Table 2.1: WEEE Directive Categories

Category	Main Heading	Includes
1	Large Household appliances	Cookers, microwaves, machines, fridges, washing
2	Small Household Appliances	Vacuum cleaners, irons, toasters
3	IT & Telecommunications	Computers, printers, faxes, telephones
4	Consumer Equipment	Radios, TVs, videos
5	Lighting Equipment	Lamps
6	Electrical and Electronic	Drills, saws

	Tools	
7	Toys, leisure / sports equipment	Trains or car sets, video games
8	Medical Devices	Radiotherapy and dialysis equipment
9	Monitoring and control instruments	Smoke devices, heating regulators
10	Automatic Dispensers	Automatic dispensers for drinks, money

Key requirements of the WEEE Directive include:

- A compulsory household collection by the end of 2006 – a target of 4 kg per household is set and a new target will be set in 2008;
- A compulsory producer responsibility – this ensures that the producers finance the management of consumer electronic and electrical waste;
- Financing - producers are able to use collective or individual financing schemes;
- Measures to decrease the disposal of WEEE by consumers as unsorted municipal waste by the Member States;
- The banning of producers from preventing re-use or recycling of products with "clever chips";
- Treatment costs – the cost of treating historical waste to be shared proportionately between producers in the market when and where the costs arise;
- Financial guarantees - made by producers (up front) to guard against costs arising from orphan WEEE.

There have been a series of delays in the implementation of this Directive at a national level and regulations were over two years late.

One collection method encouraged for implementation by the Regulations is the use of Household Waste Recycling Centres (HWRCs) as collection points for household WEEE.

IPPC Directive 1991 & Pollution Prevention and Control Regulations 2000

Pollution Prevention and Control is derived from the EC Directive 96/61/EC Integrated Pollution Prevention & Control, as amended. It is a regime for controlling pollution from certain industrial activities. It introduces the concept of Best Available Techniques ("BAT") to environmental regulations.

Operators must use the BAT to control pollution from their industrial activities. The aim of the Best Available Techniques is to prevent, and where that is not practicable, to reduce to acceptable levels, pollution to air, land and water from industrial activities. The Best Available Techniques also aim to balance the cost to the operator against benefits to the environment. There are EC reference documents and

guidance from the Environment Agency as to what constitutes BAT for different technologies and processes.

The PPC Regulations introduce three separate, but linked, systems of pollution control:

- Integrated Pollution Prevention and Control (IPPC), which covers installations known as A(1) installations, which are regulated by the Environment Agency;
- Local authority Integrated Pollution Prevention and Control (LA-IPPC) which covers installations known as A(2) installations, which are regulated by local authorities; and
- Local authority Pollution Prevention and Control (LAPPC), which covers installations known as Part B installations, also regulated by local authorities.

All three systems require the operators of certain industrial and other installations to obtain a permit to operate. Once an operator has submitted a permit application, the regulator then decides whether to issue a permit. If one is issued, it will include conditions aimed at reducing and preventing pollution to acceptable levels.

Part A(1) and A(2) installations

The IPPC and LA-IPPC systems apply an integrated environmental approach to the regulation of certain industrial activities and are the means by which the Government has implemented the European Community Directive on Integrated Pollution Prevention and Control (96/61/EC) (IPPC Directive).

Part B installations

Part B installations regulated under LAPPC, do not come under the scope of the IPPC directive. As with A(1) and A(2) installations, however, Regulators must set permit conditions which are based on the use of 'Best Available Techniques' (BAT). These conditions will only extend in this context to emissions to air.

End of Life Vehicles Directive 2000

The End of Life Vehicles (ELV) Directive came into force in the EU on 21st October 2000. It has been implemented in England primarily through the End of Life Vehicles Regulations 2003 and the End of Life Vehicles (Producer Responsibility) Regulations 2005, explained below. The Directive sets out measures aimed at the prevention of waste from vehicles and, in addition, at the re-use, recycling and other forms of recovery of end-of-life vehicles and their components so as to reduce the disposal of waste. In addition another aim of the Directive is the improvement in the environmental performance of all the economic operators involved in the life cycle of vehicles including the operators directly involved in the treatment of end of life vehicles (e.g. dismantlers).

Owners must be able to have their ELVs accepted by collection systems free of charge, even when they have a negative value, from 1st January 2007 at the latest (earlier in respect of vehicles put on the market on or after 1st July 2002). This has implications for the ELV recovery network which will need to have the capacity to accept, store and treat the ELVs. The legislation also contains targets for the recycling of certain materials from End of Life Vehicles and bans other substances from the use in manufacture of vehicles due to their environmental impact.

Ozone Depleting Substances Regulations 2000

European Council Regulation No. 2037/2000 on substances that deplete the ozone layer, which came into effect in October 2001, requires Member States to remove ozone depleting substances (ODS, including CFCs and HCFCs) from refrigeration equipment prior to disposal. This recovery includes refrigerant foam in addition to the 'degassing' of cooling circuits that local authorities had carried out prior to this Regulation coming into force.

The introduction of these regulations resulted in significant treatment capacity being developed to remove ozone depleting substances from redundant refrigeration equipment.

Directive on Batteries and Accumulators 2006

This Directive applies to batteries containing lead, mercury or cadmium, and the primary focus is controlling the disposal of spent batteries and accumulators (energy storage devices) containing potentially dangerous materials.

The Directive requires Member States to ensure that appropriate systems are in place for consumers to return used batteries. The Directive will also require the re-design of appliances to allow for the easy removal of spent batteries and ban the use of NiCad batteries from 2008. The Directive was adopted in July 2006 which requires the labelling of batteries with environmental consumer information and also sets targets for the collection and recovery of consumer batteries, most of which are currently disposed of as waste. The UK is required to implement the Directive through these regulations by 2008.

Thematic Strategy on Waste Prevention and Recycling

The European Commission proposed in December 2005 a strategy on the prevention and recycling of waste. This strategy is one of the [seven thematic strategies](#) programmed by the [6th Environmental Action Plan](#).

This long-term strategy aims to help Europe become a recycling society that seeks to avoid waste and uses waste as a resource. It will draw on the knowledge that the [thematic strategy on resources](#), also adopted on 21 December 2005, will generate.

As an initial step, the Commission proposed revising the 1975 Waste Framework Directive (as described previously) to set recycling standards and to include an obligation for EU Member States to develop national waste prevention programmes. This revision will also merge, streamline and clarify legislation, contributing to better regulation.

The main actions of the Thematic Strategy are:

- A renewed emphasis on full implementation of existing legislation;
- Simplification and modernisation of existing legislation;
- Introduction of life-cycle thinking into waste policy;
- Promotion of more ambitious waste prevention policies by clarifying Member States' obligations to develop publicly available waste prevention programmes;
- Better knowledge and information which will underpin the continued development of waste prevention policy;

- Development of common reference standards for recycling.

Thematic Strategy on Soil Protection

The European Union has decided to adopt a Thematic Strategy on Soil Protection as part of its aim of protection and preservation of natural resources. In this context the Commission finalised Thematic Strategy on Soil Protection in 2006, which includes a ten year work programme for the Commission on this issue.

The Strategy comprises three elements:

- a Communication laying down the principles of Community Soil Protection Policy;
- a Legislative proposal for the protection of soil - A Soil Framework Directive that would aim to strike the right balance between EU action and subsidiarity;
- an analysis of the environmental, economic and social impacts of the proposals.

2.2 National Policy & Legislation

Waste Strategy for England 2007

The Waste Strategy 2007 aims to break the link between economic growth and waste growth and better coordinate the management of different waste streams. A central theme of the strategy is to improve resource management, both in terms of energy and materials within waste, and to reduce environmental impact (principally greenhouse gas emissions).

The Strategy's vision is for responsibility to be shared by all parts of society with a greater focus on waste prevention. Products have more recycled content and less environmental impact through their life cycle. Consumers have the opportunity to reduce their waste and can separate the waste they do produce for recycling. Local authorities (LA's) provide convenient recycling services for both their residents and commercial customers together with advice on reducing waste. LA's work with their communities in planning new collection services and facilities. The waste industry invests in facilities to recycle and recover waste.

Waste Strategy 2007 includes enhanced national household waste recycling and composting targets of:

- 40% by 2010;
- 45% by 2015;
- 50% by 2020.

The National Strategy, for the first time, brings in targets for a reduction in the quantity of residual household waste (that which is not recycled, re-used or composted), reducing by 29% by 2010.

National targets for *Recovery* are also included within the National Waste Strategy and are:

- To recover value from 53% of municipal waste by 2010;
- To recover value from 67% of municipal waste by 2015;
- To recover value from 75% of municipal waste by 2020.

Where targets are adopted at a national level, these are national averages and may be translated into different targets at a local level that reflect an improvement on current performance which may be below or above the national target. It should also be noted that urban authorities are often lower performing than rural authorities with regard to recycling and composting targets, primarily due to the impact of additional green waste available in rural authorities.

The Strategy announced a consultation on removing the ban on local authorities introducing incentive schemes for reduction and recycling, and further consultations are announced on banning biodegradable and / or recyclable materials from landfill. The Government is also considering measures to encourage the diversion of non municipal waste streams away from landfill.

Combined Heat and Power schemes are encouraged through a variety of government mechanisms (enhanced capital allowances, Renewables Obligation Certificates) and there is also encouragement for Anaerobic Digestion and other energy recovery processes.

A successfully delivered Strategy will lead to an annual net reduction in greenhouse gas emissions from waste management of at least 9.3 million tonnes CO₂ equivalent per annum compared with 2006 (equivalent to the annual use of 3 million cars).

Landfill Allowance Trading Scheme (England) Regulations 2004, and amended 2005

The Landfill Allowance Trading Regulations came into effect on the 1st April 2005. These regulations set out the detail for the operation of the Landfill Allowance Trading Scheme (LATS) and sets out allowances for English authorities up to the period 2020 to allow for long term planning.

LATS is a scheme allowing authorities that perform well by diverting more biodegradable waste from landfill than set out in their allowance can trade their excess allowances with authorities that would otherwise miss their targets. WDAs are able to bank unused allowances to a future year with the exception of the EU target years of 2009/10, 2012/13 and 2019/20.

The penalty for non-compliance with the LATS allowance was set at £150/tonne by the Landfill Allowances and Trading Scheme (England) (Amendment) Regulations 2005 that came into force in May 2005. The government has also reserved the right to pass on any European fine imposed by the European Court of Justice on the UK for missing the Landfill Directive targets onto the local authorities who have exceeded allowable levels.

Waste & Emissions Trading Act 2003

In order for the UK to meet its national targets for the diversion of Biodegradable Municipal Waste (BMW) from landfill as set out in the Landfill Directive, the Government has set targets for each Waste Disposal Authority (WDA). Through the Waste and Emissions Trading Act (WET Act), each WDA has been allocated a maximum allowance of BMW that it is permitted to dispose of to landfill in each year between 1st April 2005 and 2020. Failure to achieve these targets, either through

landfilling within the allowance limit or through trading (and some banking / borrowing) mechanisms will lead to punitive financial penalties. The rate of financial penalty is currently set at £150 per tonne.

The quantity of BMW within municipal waste has been set as 68% in England. This figure is used to calculate the tonnages going to landfill, as determined through the Environment Agency mass balance approach.

Landfill Tax Regulations 1996

The landfill tax came into effect on the 1st October 1996. It is a specifically targeted levy on the disposal of waste to landfill, introduced by the government to prompt change in UK waste management. The main objectives of the tax are:

To ensure that the cost of landfill properly reflects its environmental impact

To help ensure that the UK national targets for more sustainable waste management are achieved

There are two rates of landfill tax:

- A lower rate of £2.50/tonne for specified inactive or inert wastes. These are wastes which do not give off methane or other gases after disposal and that do not have a potential to pollute groundwater.
- A standard rate of £32/tonne is currently (from April 2008) applied to all other wastes. In the 2007 budget the Chancellor announced that from 2008 the landfill tax will rise by £8/tonne per year until at least 2010/11, when it will reach £48 / tonne.

Household Waste Recycling Act 2003

The Household Waste Recycling Act (previously known as the Municipal Waste Recycling Bill) was a Private Members Bill introduced by Joan Ruddock MP. The Act makes provision regarding the collection, composting and recycling of household waste. The key impact is the development of the first legislative requirement for local authorities to collect two streams of recyclable materials from the kerbside.

The Act requires Waste Collection Authorities in England to collect at least two recyclable materials from households separate from residual waste by 2010. Councils with particular difficulties in meeting the demands of the legislation could be granted derogation. The provision of 'comparable' recycling facilities, such as nearby bring bank or civic amenity sites, potentially could satisfy the Act's requirements.

Waste Minimisation Act 1998

The Waste Minimisation Act 1998 enables local authorities throughout the UK (except Northern Ireland) to take steps to minimise the generation of household, commercial or industrial waste. The Act gives recognition to the fact that local authorities also have responsibilities to promote waste minimisation.

The Act was inserted after section 63 of the Environmental Protection Act 1990 and it allows a local authority to "do or arrange for the doing of, anything which in its opinion is necessary or expedient for the purpose of minimising the quantities of controlled waste, or controlled waste of any description, generated in its area".

The Act does not place any obligation on authorities to carry out such initiatives or set targets, nor does it allow councils to impose any requirements on businesses or householders in their area.

Local Government Act (Best Value) 1999

The 'Best value' regime was introduced under the Local Government Act 1999 and became compulsory for all waste collection and disposal authorities from April 2000. The former Department of Environment, Transport and the Regions (DETR) defined 'Best Value' as:

'A duty to deliver services to clear standards – covering both cost and quality – by the most effective, economic and efficient means available' (DETR, 1998).

The Act obliges local authorities to secure continuous improvement in the way that they exercise all their functions "having regard to a combination of economy, efficiency and effectiveness".

Local Government and Public Involvement in Health Act 2007

This Act helped to introduce a new performance management system for local authorities, based on fewer targets and greater local flexibility. The principles of Best Value were maintained, but the number of targets were significantly reduced and the need to conduct Best Value Reviews was removed. The Act also introduced powers for waste collection and disposal authorities to propose new Joint Waste Authorities. The Act also makes Merseyside Waste Disposal Authority a statutory partner authority for the preparation, consultation and agreement of the Local Area Agreement and Sustainable Community Strategy of the six Councils in the Merseyside Waste Partnership.

Performance Indicators for Local Government

Following the introduction of Best Value a set of Best Value Performance Indicators (BVPIs) was devised in 2000/01. These have been amended over time and were replaced in April 2008 by a new set of National Indicators (NI's). These will be implemented through Local Area Agreements (LAAs) and will include some core indicators and others which may be included depending on the priorities and targets for individual areas. A selection of NI's relevant to waste are listed below:

National Indicators (from April 2008)

NI 191 Residual household waste per head

- NI 192 Household waste recycled and composted
- NI 193 Municipal waste landfilled
- NI 195 Improved street and environmental cleanliness (levels of graffiti, litter, detritus and fly posting)
- NI 196 Improved street and environmental cleanliness – fly tipping
- NI 185 CO₂ reduction from Local Authority operations
- NI 186 Per capita CO₂ emissions in the LA area

- NI 188 Adapting to climate change

Landfill (England and Wales) Regulations 2002

The Landfill Directive is implemented in England through the Landfill (England and Wales) Regulations 2002 (SI 1559). Other forms of treatment and disposal will be required for waste types which are banned from landfilling and it is likely that the costs of disposal and treatment will increase.

The Waste Acceptance Criteria (WAC) determines the properties of a waste which are acceptable for landfilling. The criteria are applied to inert and hazardous wastes. In order to fulfil the Waste Acceptance Criteria, a waste must demonstrate that it does not contain substances which leach from the waste in breach of the leaching limit values. If the waste does breach the thresholds, it will require treatment prior to landfilling.

Clean Neighbourhoods and Environment Act (CNEA) 2005

This Act covers a range of neighbourhood and environmental elements and issues which include:

- Transport of Waste;
- Offences of unlawful deposits of waste and the power of seizure and local authority;
- Abandoned Vehicles;
- Site waste management plans;
- Noise – including alarms, noise nuisances etc;
- The built environment.

Miscellaneous issues including enforcement controls (fixed penalties), receipts, shopping and luggage trolleys, statutory nuisances and pollution issues

Two of the main impacts of the legislation for waste management operations are that the Act repeals the requirement to divest waste disposal functions to private companies and also amends the guidance on payment of recycling credits. The Act also extends the enforcement powers of Waste Collection Authorities (WCAs) in relation to illegal waste activities.

End of Life Vehicles Regulations 2003

The first stage of implementing the ELV Directive occurred through the End of Life Vehicles Regulations 2003 which set out:

- The vehicles that are covered by the regulations;
- The design requirements of vehicles put on the market after the regulations came into force;
- Requires authorised treatment facilities to issue certificates of Destruction;
- Sets standards for keeping, treating and de-pollution of motor vehicles;

- Requires producers to use codes for materials and components to help identify components that can easily be recovered or re-used. Hazardous components must also be identified.

End of Life Vehicles (Producer Responsibility) Regulations 2005

The End of Life Vehicles (Producer Responsibility) Regulations 2005 came into force in March 2005. These regulations implement the Directive requirements making manufacturers and importers responsible for the collection and recycling of vehicles that they place on the market:

- Producers were required to declare responsibility for their vehicles;
- Producers were required to submit proposals for their contracted system of Authorised Treatment Facilities (ATFs);
- Vehicle owners must be able to have vehicles accepted by collection systems free of charge from the 1st January 2007;
- The first targets for ELV recycling and re-use were to be met by 2006, namely, to reuse or recycle at least 80% and recover at least 85% of ELVs.

The Waste Electrical Electronic Equipment Regulations 2006

The regulations implementing the WEEE Directive came into force in January 2007, and applies the aspects of producer responsibility of the Directive as described above.

Local Authorities are encouraged by Government to register their Civic Amenity or Household Waste Recycling Centres as Designated Collection Facilities (DCFs), to allow for the receipt of waste electrical equipment. The collection network will be supported by the Distributor Take-back Scheme (DTS). The funding of the separate collection activity at the HWRCs will be from the DTS and the costs of transporting, recycling and recovering the WEEE will be borne by the producers.

Environmental Protection Act 1990

The EPA 1990 sets out a wide range of environmental legislation and is the primary Act that controls the management of waste. Part II of the Act deals with waste management, in particular

The key duties and powers of local authorities are set out in:

- Section 33 – makes it an offence to treat, keep or dispose of controlled waste without a waste management licence;
- Section 34 – relates to a statutory Duty of Care for all those who handle and produce waste to ensure that it is managed, recovered and disposed of safely and in accordance with the Duty of Care regulations;
- Section 35-44 – details specific requirements in relation to the Waste Management Licensing system for waste treatment and disposal facilities;
- Sections 45-61 – relates to the responsibilities of waste collection and disposal authorities. A duty for WCAs to collect household waste free of charge, and WDAs to provide for one or more places where residents can deposit their household waste free of charge (Household Waste Recycling Centres or Civic Amenity Sites).

Environmental Protection (Duty of Care) Regulations 1991 (SI 2839) (England and Wales & Scotland) (as amended)

There is a Duty of Care in respect of waste, placing responsibility for that waste on any person who produces, imports, carries, keeps, treats or disposes of controlled waste, or as a broker has control of such waste. This includes Waste Collection and Waste Disposal Authorities and Unitary Authorities.

The Duty of Care is designed to be a largely self-regulating system that is based on good business practice. It places a duty on anyone who in any way has a responsibility for controlled waste to ensure that it is managed properly and recovered or disposed of safely. This is recorded through a mandatory system of transfer notes, which must be completed when waste is transferred. A Code of Practice recommends the following series of steps for holders (including producers) of waste, which should normally be enough to meet the duty:

- Prevent the escape of waste in their control;
- Transfer it only to someone who is authorised to accept it;
- Ensure that it is handled lawfully by others;
- Upon transfer provide details of the waste including a written description.

The Landfill Regulations in England and Scotland amended the Duty of Care regulations to require the transfer note to include a European Waste Catalogue code.

Controlled Waste Regulations 1992

These regulations provide legal definitions of Controlled waste which encompasses household, industrial and commercial waste. Controlled wastes are so called because they are controlled by legislation and the storage, handling, transport and disposal must meet certain legal requirements. Other wastes including dredgings, mining and quarrying wastes, although not designated as controlled waste, do have their own restrictions. Some controlled wastes are further classified and subject to additional regulation because of the nature of the waste (e.g. if classified as hazardous) and the need to handle them differently.

Waste Management Licensing Regulations 1994

These Regulations (SI 1056) set out all the requirements for obtaining a waste licence including details on exemptions, revocations, suspensions, appeals etc. A licence granted under the Regulations will specify the type and quantity of waste that can be received by the licence owner and may contain special control conditions.

The Regulations also amend the definition of waste from the definition within Section 75 of the EPA 1990. Under this new regime waste is defined as 'any substance or object which the producer or the person in possession of it, discards or intends or is required to discard but with exception of anything excluded from the scope of the Waste Directive.'

Certain waste management activities have been transferred from the Waste Management Licensing regime to the Integrated Pollution Prevention and Control (IPPC) regime (see below), these include:

- *All landfill sites (except those closed before 31st October 1999);*

- *Waste treatment plants* (excluding landfills and incinerators) disposing of hazardous waste or waste oils with a capacity exceeding 10 tonnes per day;
- *Biological or physico-chemical treatment plants* disposing of non-hazardous waste with capacity of more than 50 tonnes per day; and
- *Plants with a capacity exceeding 10 tonnes per day* recovering hazardous waste by means of use as fuel, oil refining, reclamation of inorganic materials or recovering components used for pollution abatement.

The Environment Agency will regulate these installations and are responsible for issuing both waste management licences and PPC permits (delivered under the IPPC regime).

Waste Incineration (England and Wales) Regulations 2002 (SI 2980)

The Waste Incineration Regulations transpose the Waste Incineration Directive, 2000/76/EC (WID).

The Regulations apply to incineration, advanced thermal treatment and co-incineration (or co-combustion) plants. Co-incineration includes facilities where waste is used as a fuel or is disposed of at a plant where energy generation or production is the main purpose. A plant will only be classed as an incineration or co-incineration plant if it burns waste as defined in the Waste Framework Directive. Such wastes will include municipal waste, clinical waste, hazardous waste, and general waste and waste-derived fuels.

There are some exclusions from the scope of the Directive, including plants burning only animal carcasses and in many circumstances, biomass waste.

Hazardous Waste Regulations 2005

In July 2005, new controls on Hazardous Waste came into force in England, Northern Ireland and Wales. This change in UK legislation brought into force the revised European Waste Catalogue (EWC). The EWC has been combined with the Hazardous Waste List (HWL) to provide an extended list of wastes. The list indicates which wastes are classified as hazardous. A waste may be classified as hazardous if it has an 'absolute' entry on the EWC, or if it has an asterisked entry or 'mirror' entry, meaning the waste is only hazardous if it meets certain threshold criteria relating to the nature of the waste.

The key impacts of the regulations include the likelihood of increased hazardous waste arisings, given that more waste is classified as 'hazardous' than was previously classified as 'special' (under the previous regime).

Animal By-Products Regulations (ABPR) 2005

The Animal By-Products Regulations (ABPR) originally came into force in England on 1 July 2003 and implements EU Regulation 1774/2002, there have been amendments and the 2005 Regulations have since been published.

The ABPR divides animal by-products into three categories and sets rules for the collection, handling, transport and disposal of animal by-products which include catering waste, former foodstuffs and other animal waste, such as fallen stock.

Category 1 is the highest risk category - including carcasses and materials infected or suspected of being infected with diseases such as scrapie in sheep or BSE in

cattle, the carcasses of zoo and pet animals, Specified Risk Material (SRM) and catering waste from means of international transport.

Category 2 is also high-risk material, and includes diseased animals, animals that die on farms and which do not contain SRM at the point of disposal and animals which are not slaughtered for human consumption.

Category 3 is essentially material which is fit (but not intended) for human consumption and as such includes parts of slaughtered animals, blood, raw milk, fish caught in the open sea, and shells. Permitted disposal methods include treatment in authorised biogas or composting plant.

Renewable Obligations Order 2002, Amended in 2006

This order is to incentivise the market for Renewable Energy and sets out which forms of energy generation qualify for Renewable Obligation Certificates (ROCs).

The Obligation is enforced by an Order (Statutory Instrument) made under the terms of the Utilities Act 2000. The Order was introduced in April 2002.

The Obligation requires suppliers to source an annually increasing percentage of their sales from renewables. For each megawatt hour of renewable energy generated, a tradable certificate called a Renewables Obligation Certificate (ROC) is issued.

Anaerobic Digestion and Advanced Thermal Treatment do qualify for ROCs under this scheme. Recent revisions (2006) to the scheme have incorporated energy recovery operations combusting over 90% biomass (derived from waste) and Energy from Waste plant combusting waste with 'good quality' Combined Heat and Power (CHP) schemes. Further amendments to the legislation are expected in 2009, in order to band support for different forms of renewable energy.

The Joint Waste Disposal Authorities (Levies) England Regulations 2006

These Regulations provide a framework for apportioning levies for the activities of the Joint WDA (e.g. Merseyside WDA) taken on behalf of the constituent collection authorities. These were developed following a Defra consultation in 2005.

Agricultural Waste Regulations 2006

The Government extended existing waste management controls to cover agriculture in 2006 under The Waste Management (England and Wales) Regulations 2006 (SI 937), The Agricultural Waste Regulations. These new regulations implement EU legislation, in particular the Waste Framework Directive and Landfill Directive and will ensure that farming is under the same controls that have applied to other sectors for many years.

Agricultural waste has been defined as "waste from premises used for agriculture within the meaning of the Agriculture Act 1947."

The changes will mean that farmers will no longer be able to burn or bury many types of waste on farms, instead they will have to:

- Send or take their waste for disposal off-farm at licensed sites;
- Register a licensing exemption with the Environment Agency to recycle waste on-farm;

- Apply to the Environment Agency for a Licence to continue on-farm disposal.

The main impact of these regulations is likely to be on the 'non-natural' waste streams from farms such as plastic and cardboard packaging materials, tyres, oils, metals.

Producer Responsibility (Packaging Waste) Regulations 2005

The Packaging Waste regulations originally came into effect in March 1997 and implement recovery and recycling targets in the EC Directive on Packaging and Packaging Waste 94/62/EC. A consolidated and updated version of the regulations was published in 2005 and a consultation on proposed amendments to the regulations concluded in November 2006. Targets set by the Regulations were further amended in 2008. The Regulations are primarily enforced by the Environment Agency for England and Wales and the Scottish Environmental Protection Agency (SEPA) in Scotland. Their main aim is to increase re-use (where possible), recovery and recycling of packaging waste in the UK.

The Regulations are an example of 'Producer Responsibility' which is an extension of the polluter pays principle, and is aimed at ensuring that businesses take responsibility for the products they have placed on the market once those products have reached the end of their life. The packaging waste regulations directly affect most UK companies or groups of companies who have a turnover exceeding £2 million and who handle more than 50 tonnes of packaging. These companies must either register with the relevant agency or join a compliance scheme. Once a company has registered or joined a compliance scheme they must recycle or reuse the required percentage of their packaging and provide evidence of compliance to the appropriate authority. Businesses whose main activity is "selling" must also carry out consumer information obligations.

Packaging (Essential Requirements) Regulations 2003

An allied set of regulations to the Producer Responsibility regulations for Packaging is the Packaging (Essential Requirements) Regulations, revised in 2003, which require producers of packaging to adhere to 'essential requirements' guidance, for example not over-packaging products beyond the needs of product transport, protection, health & safety etc. These regulations are enforced by the 'Weights and Measures' authorities in England employed by Trading Standards in local authorities.

Control of Pollution (Amendment) Act 1989 & Controlled Waste (Registration of Carriers & Seizure of Vehicles) Regulations 1991

This legislation sets out the rules regarding waste carriers, and the powers of WCAs to investigate and take enforcement action against offenders.

Planning Policy Statement 10

The Planning Policy Statement (PPS) 10 provides a set of strategic decision-making principles that should be adhered to in the preparation of planning strategies. These principles are important for the delivery of the Key Planning Objectives for sustainable waste management set out in PPS10.

The principles require the following:

- Regional Planning Bodies (RPB) should prepare Regional Spatial Strategies (RSS), which aim to provide sufficient opportunities to meet the identified needs of their area for waste management for all waste streams;

- Planning authorities should prepare Local Development Documents (LDD) that reflect their contribution to delivering the RSS;
- Waste management should be considered alongside other spatial planning concerns, such as transport, housing, economic growth, natural resources and regeneration, recognising the positive contribution that waste management can make to the development of sustainable communities, and should be integrated effectively with other strategies including Municipal Waste Management Strategies (MWMS);
- The planned provision of new capacity and its spatial distribution should be based on clear policy objectives, robust analysis of data and information, and an appraisal of options. Policy objectives should be in line with the planning policies set out in the PPS and be linked to measurable indicators of change;
- Sustainability Appraisal (incorporating strategic environmental assessment) should be applied so as to shape planning strategies that support the Government's key planning objectives for waste management set out in the PPS.

Indicators should be monitored and reported on in the RPB's and the Waste Planning Authority's (WPA's) annual monitoring reports. Such monitoring should be the basis on which the RPB and the WPA periodically review and roll forward their waste planning strategies. Reviews should reflect any changes to the national waste strategy and occur at least every five years, or sooner if there are signs of under-provision of waste management capacity or over-provision of disposal options where these would undermine movement up the waste hierarchy.

Environment Agency Guidance on Monitoring Mechanical Biological Treatment (MBT)

The Environment Agency (EA) is responsible for monitoring the Landfill Allowances and Trading Scheme (LATS) and is required to assess the performance of Waste Disposal Authorities (WDA) in diverting biodegradable municipal waste (BMW) from landfill.

Any treatment of municipal waste to reduce its biodegradability needs to be taken into account when calculating how much BMW is landfilled. The EA puts a requirement on the WDA to produce a monitoring plan for their MBT plant/s. Implementation of the monitoring plan will provide evidence of the reduction in biodegradability achieved by the plant/s.

The reports are compiled by the Waste Disposal Authorities with assistance from the operators of the plant; the resulting reduction in BMW from the pre-treated MSW is calculated by the Environment Agency using a Mass Balance Approach. The guidance given by the EA covers the monitoring plan for the initial assessment and ongoing monitoring phases and sets out the reporting requirements.

It includes 3 main sections:

- A suite of tests - with guidance on the numbers and types of tests required, and in certain cases, how to conduct the analysis;
- The frequency of testing required – where the detail and frequency of reporting requirements is set out. MBT operators are advised to carry out the tests on a quarterly basis. This timing is linked with Waste Disposal

Authorities reporting for LATS and is frequent enough to take some account of seasonal changes; and,

- A sampling plan – The direction given with respect to sampling plans are based on the European Standard on waste characterisation PrEN14899. They include guidance on how to show that samples taken are statistically representative of the MBT process.

2.3 Regional Policy

Regional Waste Strategy for the North West 2004

The Regional Waste Strategy for the North West was published in September 2004 and is currently undergoing a review (2008).

Key targets within the Strategy include:

- Reduce growth in MSW to 2% by end 2003, to 1% by 2010 and 0% before 2014 across the Region;
- Recycle or compost 25% of household waste by 2005, 35% by 2010, 45% by 2015 and 55% by 2020; and,
- Recover value from 40% of MSW by 2005, 45% by 2010 and 67% by 2015.

Regional Spatial Strategy (DRAFT 2006)

The Regional Spatial Strategy (RSS) is currently available in draft form (March 2006), and contains a number of relevant policies and targets relating to waste management activities across the region. In some instances these are broken down to a sub-regional level (i.e. for Merseyside).

The draft strategy promotes Sustainable Waste Management, adhering to the principles of the National Waste Strategy, Planning Policy Statement (PPS) 10 and the Regional Waste Strategy. Broad principles of encouraging progress up the waste hierarchy, self sufficiency and the proximity principle are supported. The Draft RSS encourages the following:

- That in development, redevelopment and regeneration projects, the consideration of waste minimisation, re-use and capacity issues for adequate storage of recycling / compost containers;
- consideration of innovation in waste treatment technologies;
- co-location of waste handling, reprocessing and disposal facilities where practicable;
- convenient and accessible 'bring' facilities for the public to deposit waste;
- consideration of economies of scale in waste facilities receiving wastes from a variety of sources (i.e. 'municipal' facilities also receiving wastes from commercial / industrial sources).

The RSS also includes indicative capacity requirements for municipal waste facilities up to 2020. These are a statutory consideration in the development of the Merseyside Waste Development Documents.

The targets within the NW Sustainable Energy Strategy are also presently reiterated in the RSS, namely that by 2010 10%,(rising to 15% in 2015, and 20% by 2020) of the electricity supplied in the NW should be provided from Renewable Energy sources. The Strategy considers that, in broad terms the Merseyside sub-region may generate an indicative 40MW of electricity via thermal treatment of municipal / industrial waste by 2020. The RSS also encourages the application of combined Heat & Power (CHP) schemes in developments.

Regional Economic Strategy 2006

The Regional Economic Strategy (RES), supported by a Sustainability Appraisal, was published in March 2006 by the NW Development Agency. It includes a variety of objectives for developing sustainable economic growth across the region. Key relevant targets include:

- To achieve a regional employment rate of 80% by 2020, and eliminate major sub-regional variations and variations between key groups;
- Reduce CO₂ emissions per unit of (£) of GVA;
- To meet Kyoto targets by 2012, to reduce CO₂ emissions to 12.5% below 1990 levels.