

# **Act to Promote Circular Economy and Safeguard the Environmentally Sound Management of Waste**

## **Circular Economy Act – CEA)**

of 24 February 2012<sup>1</sup>

### **PART 1**

#### **GENERAL PROVISIONS**

##### **Article 1**

###### **Purpose of the Act**

The purpose of this Act is to promote circular economy in order to conserve natural resources and to ensure the protection of human health and the environment in the generation and management of waste.

##### **Article 2**

###### **Scope**

- (1) The provisions of this Act shall apply
  1. to the prevention of waste, as well as
  2. to the recovery of waste,
  3. to the disposal of waste, and
  4. to the other activities of waste management.
- (2) The provisions of this Act shall not apply to
  1. substances that are to be recovered or disposed of
    - a) in accordance with the Food and Feed Code (*Lebensmittel- und Futtermittelgesetzbuch*) in the version of the notification of 22 August 2011 (Federal Law Gazette [BGBl.] Part I p. 1770) in the respectively applicable version insofar as it applies to foods, food additives, cosmetic products, commodities and products that can be confused with foods,
    - b) in accordance with the Preliminary Act on Measures to Reduce Tobacco Smoking (*Vorläufiges Tabakgesetz*) in the version of the notification of 9 September 1997 (Federal Law Gazette Part I p. 2296), most recently amended by Article 4 of the Act of 9 December 2010 (Federal Law Gazette Part I p. 1934), in the respectively applicable version,
    - c) in accordance with the Milk and Margarine Act (*Milch- und Margarinegesetz*) of 25 July 1990 (Federal Law Gazette Part I p. 1471), most recently amended by Article 22 of the Act of 9 December 2010 (Federal Law Gazette Part I p. 1934), in the respectively applicable version,
    - d) in accordance with the Animal Disease Act (*Tierseuchengesetz*) of 22 May 2013 (Federal Law Gazette Part I p. 1324)
    - e) in accordance with the Plant Protection Act (*Pflanzenschutzgesetz*) in the version of the notification of 14 May 1998 (Federal Law Gazette Part I pp. 971, 1527 and 3512), most recently

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<sup>1</sup> Federal Law Gazette Part I p. 212 Of 29 February 2012

amended by Article 14 of the Act of 9 December 2010 (Federal Law Gazette Part I p. 1934), in the respectively applicable version, and

- f) in accordance with the statutory ordinances issued on the basis of the Acts named at letter a) to e),
2. animal by-products insofar as these are to be picked up, collected, transported, stored, treated, processed, used, disposed of or placed on the market in accordance with Regulation (EC) No. 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No. 1774/2002 (Animal by-products Regulation) (OJ L 300 of 14 November 2009, p. 1), in the respectively applicable version, in accordance with the legal acts of the European Community issued for the implementation of that regulation, in accordance with the Act on the Disposal of Animal By-Products (*Tierische Nebenprodukte-Beseitigungsgesetz*) of 25 January 2004 (Federal Law Gazette Part I p. 82), most recently amended by Article 19 of the Act of 9 December 2010 (Federal Law Gazette Part I p. 1934), in the respectively applicable version, or in accordance with the statutory ordinances issued on the basis of the Act on the Disposal of Animal By-Products, with the exception of those animal by-products which are intended for incineration, landfilling or use in a biogas or composting plant,
  3. carcasses of animals that have died other than by being slaughtered, including those animals killed to eradicate epizootic diseases, insofar as these animal carcasses are to be disposed of and processed in accordance with legal provisions designated in number 2,
  4. faecal matter insofar as it is not covered by number 2, straw and other natural, non-hazardous agricultural or forestry material used in agriculture or forestry or in the production of energy from such biomass through processes or methods which do not harm the environment or endanger human health,
  5. nuclear fuels and other radioactive substances within the meaning of the Atomic Energy Act (*Atomgesetz*),
  6. substances whose disposal is regulated by a statutory ordinance issued on the basis of the Precautionary Radiological Protection Act (*Strahlenschutzvorsorgegesetz*) of 19 December 1986 (Federal Law Gazette Part I p. 2610), most recently amended by Article 1 of the Act of 8 April 2008 (Federal Law Gazette Part I p. 686), in the respectively applicable version,
  7. waste directly occurring from prospecting, extraction, preparation and processing, as well as in the corresponding storage of mineral resources in installations subject to mining supervision, and which is recovered or disposed of under mining supervision in accordance with the Federal Mining Act (*Bundesberggesetz*) of 13 August 1980 (Federal Law Gazette Part I p. 1310), most recently amended by Article 15a of the Act of 31 July 2009 (Federal Law Gazette Part I p. 2585), in the respectively applicable version, and in accordance with the statutory ordinances issued on the basis of the Federal Mining Act,
  8. gaseous substances not in containers,
  9. substances as soon as they are discharged or dumped into waters or the sewerage system,
  10. soils at the place of origin (soils in situ), including unexcavated contaminated soils and buildings permanently connected with land and soil,
  11. uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material is used for construction purposes in its natural state on the site from which it was excavated,
  12. sediments relocated inside surface waters for the purpose of managing waters, of maintaining and expanding waterways, as well as of preventing floods or mitigating the effects of floods and droughts or land reclamation insofar as the sediments are proven to be non-hazardous,
  13. the collection and handing over of ship-generated waste and cargo residues insofar as this is regulated by Federal or Federal State Law based on international or supranational agreements,
  14. the location, recovery, transportation, storage, treatment and destruction of ordnance, and
  15. carbon dioxide, which, for the purpose of permanent storage, is captured, transported, and stored in carbon dioxide storage installations, or is stored in research storage installations.

## **Article 3**

### **Definitions**

(1) For the purposes of this Act, waste shall mean all substances or objects, which the holder discards, or intends or is required to discard. Waste for recovery shall be deemed waste that is recovered; waste that is not recovered shall be deemed waste for disposal.

(2) Discarding within the meaning of Para (1) shall be presumed when the holder presents substances or objects for recovering within the meaning of Annex 2, or for disposal within the meaning of Annex 1, or when the holder gives up actual physical control over the property and it no longer serves any purpose.

(3) A desire to discard waste within the meaning of Para (1) must be assumed for any substances or objects

1. occurring in connection with energy conversion, or with production, treatment or use of substances or products, or of services without such occurrence being the purpose of the relevant actions, or
2. whose original purpose ceases to exist, or is renounced, without being directly replaced by a new purpose.

The producer's or holder's opinion is to be used as a basis for evaluating the purpose by applying generally accepted standards.

(4) The holder must discard substances or objects within the meaning of Para (1) when these are no longer used in keeping with their original purpose, and when, due to their specific state, they could endanger, either in the present or the future, the public interest, especially the environment, and when its potential danger can be ruled out only through proper and safe recovery, or disposal that is compatible with the public interest, in accordance with the provisions of this Act and with the statutory ordinances issued on the basis of this Act.

(5) Hazardous waste within the meaning of this Act shall include waste defined by statutory ordinance in accordance with Article 48 second sentence, or based on such a statutory ordinance. All other waste shall be considered non-hazardous within the meaning of this Act.

(6) "Inert waste" within the meaning of this Act shall comprise mineral waste

1. that does not undergo any significant physical, chemical or biological transformations,
2. that does not dissolve burn or otherwise react physically or chemically,
3. that does not biodegrade,
4. that does not adversely affect other materials with which it comes into contact in a manner that could lead to detrimental impacts on human health or on the environment.

The total leachability and pollutant content of the waste, as well as the eco-toxicity of the leachate, must be insignificant, and in particular may not endanger the quality of surface or ground water.

(7) Bio-waste within the meaning of this Act shall be biodegradable plant or animal waste or biodegradable waste consisting of fungoid material, such as

1. garden and park waste,
2. landscape management waste,
3. food and kitchen waste from households, restaurants, caterers and retail premises and comparable waste from food processing plants, and
4. waste from other areas of origin comparable to the waste designated in numbers 1 to 3, by type, nature or material characteristics.

(8) A waste producer within the meaning of this Act shall be any natural or legal person

1. whose activities produce waste (original waste generator), or

2. who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of such waste (secondary waste generator).
- (9) A waste holder within the meaning of this Act shall be any natural or legal person who has physical control over such waste.
- (10) A waste collector within the meaning of this Act shall be any natural or legal person who collects waste on a commercial basis or in the context of economic enterprises that is on the occasion of another commercial or economic activity not targeted at the collection of waste.
- (11) A waste transporter within the meaning of this Act shall be any natural or legal person who transports waste on a commercial basis or in the context of economic enterprises that is on the occasion of another commercial or economic activity not targeted at the transportation of waste.
- (12) A waste broker within the meaning of this Act shall be any natural or legal person who purchases and subsequently sells waste on a commercial basis or in the context of economic enterprises, that is on the occasion of another commercial or economic activity not targeted at brokerage activities vis-à-vis waste, or public facilities on their own responsibility; it shall not be necessary for this to acquire actual physical control over waste.
- (13) A waste dealer within the meaning of this Act shall be any natural or legal person arranging the management of waste commercially or in the context of economic enterprises, that is on the occasion of another commercial or economic activity not targeted at dealing in waste, or public facilities on behalf of others; it shall not be necessary for this to acquire actual physical control over waste.
- (14) Waste management within the meaning of this Act shall be the provision of, the surrender, collection, transport, recovery and disposal of waste, including the supervision of such operations and the after-care of disposal installations, and including actions taken as a dealer or broker.
- (15) Collection within the meaning of this Act shall be the gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment installation.
- (16) Separate collection within the meaning of this Act shall be a collection where a waste stream is kept separately by type and nature of the waste to facilitate or enable a specific treatment.
- (17) A non-profit collection of waste within the meaning of this Act shall be a collection which is funded by a tax-exempt corporation, association or estate in accordance with Article 5 Para (1) number 9 of the Corporation Income Tax Act (*Körperschaftsteuergesetz*) in the version of the notification of 15 October 2002 (Federal Law Gazette Part I p. 4144), most recently amended by Article 8 of the Act of 22 June 2011 (Federal Law Gazette Part I p. 1126), in the respectively applicable version, and serves the acquisition of funds to realise its non-profit, benevolent or ecclesial purposes within the meaning of Articles 52 to 54 of the Fiscal Code (*Abgabenordnung*). A collection of waste shall also be deemed to be non-profit if the corporation, association or estate in accordance with the first sentence commissions a commercial collector with the collection and the latter pays the proceeds of the sale, after deduction of its costs and of a suitable profit, in full to the corporation, association or estate.
- (18) A commercial collection of waste within the meaning of this Act shall be a collection that is carried out with the purpose of generating income. The implementation of the collection based on contractual ties between the collector and the private household in permanent structures shall not rule out a commercial collection.
- (19) Circular economy within the meaning of this Act shall be the prevention and recovery of waste.
- (20) Prevention within the meaning of this Act shall be any measure taken before a substance, material or product has become waste and that serves to reduce the quantity of waste, the adverse impacts of waste on human health and on the environment or the content of harmful substances in materials and products. This shall include in particular the internal cycle of substances within plants, low-waste product design, the re-use of products or the extension of the life span of products, as well as a consumption pattern aimed at the acquisition of low-pollution and low-waste products, and at the use of reusable packaging.
- (21) Re-use within the meaning of this Act shall be any operation by which products or components that are not waste are used again for the same purpose for which they were originally conceived.
- (22) Waste treatment within the meaning of this Act shall be recovery and disposal operations, including preparation prior to recovery or disposal.

(23) Recovery within the meaning of this Act shall be any operation the principal result of which is waste within the plant or in the wider economy serving a useful purpose, by replacing other materials that would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function. Annex 2 contains a non-exhaustive list of recovery operations.

(24) Preparing for re-use within the meaning of this Act shall be any checking, cleaning or repairing recovery operations by which products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing for the same purpose for which they were originally conceived.

(25) Recycling within the meaning of this Act shall be any recovery operation by which waste is reprocessed into products, materials or substances, whether for the original or other purposes; it shall include the reprocessing of organic material but shall not include energy recovery and reprocessing into materials that are to be used as fuels or for backfilling operations.

(26) Disposal within the meaning of this Act shall be any operation, which does not constitute recovery, even where the operation has as a secondary consequence the reclamation of substances or energy. Annex 1 contains a non-exhaustive list of disposal operations.

(27) Landfills within the meaning of this Act shall be waste disposal installations for storage of waste above ground (above-ground landfills) or underground (underground landfills). Landfills shall also include companies' own internal waste storage facilities for waste disposal, at which a waste generator carries out waste disposal at the waste production site.

(28) The best available techniques within the meaning of this Act shall be the level of development of advanced processes, installations or modes of operation that gives a general reliable, positive indication of the practical suitability of relevant measures for limiting emissions into the air, water and soil, for protecting installation safety, for ensuring that waste management is environmentally compatible or for preventing or reducing environmental impacts in other respects, in the interest of achieving a generally high level of overall environmental protection. The criteria set forth in Annex 3 shall especially be taken into account in determination of the best available techniques.

## **Article 4**

### **By-products**

(1) If a substance or object results from a production process the primary aim of which is not the production of such substance or object, it shall be regarded as a by-product, and not as waste, if

1. further use of the substance or object is certain,
2. no pre-processing other than normal industrial practice is necessary for this,
3. the substance or object is produced as an integral part of a production process, and
4. further use is lawful; this shall be the case if the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

(2) The Federal Government shall be empowered, after consulting the parties concerned (Article 68), by means of a statutory ordinance with the consent of the Federal Council (*Bundesrat*), in accordance with the requirements stipulated in Para (1) to determine criteria according to which specific substances or objects are to be regarded as by-products, and to establish requirements for the protection of human health and the environment.

## **Article 5**

### **End-of-waste status**

(1) A substance or object shall cease to be waste when it has undergone a recovery operation and its type and nature is such that

1. it is commonly used for specific purposes,

2. a market or demand exists for it,
  3. it fulfils all technical requirements for its specific purposes as well as all existing legislation and standards applicable to products, and
  4. its use will not lead to overall adverse environmental or human health impacts.
- (2) The Federal Government shall be empowered, after consulting the parties concerned (Article 68), by means of a statutory ordinance with the consent of the Federal Council, in accordance with the requirements stipulated in Para (1) to determine the detailed conditions under which certain substances and objects take on end-of-waste status, and requirements for the protection of human health and the environment, in particular through limit values for pollutants.

## **PART 2**

### **BASIC PRINCIPLES FOR, AND OBLIGATIONS OF, WASTE GENERATORS AND HOLDERS AND THE PUBLIC BODIES RESPONSIBLE FOR WASTE MANAGEMENT**

#### **DIVISION 1**

#### **BASIC PRINCIPLES OF WASTE PREVENTION AND WASTE MANAGEMENT**

##### **Article 6**

##### **Waste hierarchy**

- (1) Activities for prevention and waste management shall be in the following order:
1. prevention,
  2. preparing for re-use,
  3. recycling,
  4. other recovery, in particular energy recovery and backfilling operations,
  5. disposal.
- (2) On the basis of the order in accordance with Para (1), in accordance with Articles 7 and 8 the measure shall take priority, which best guarantees the protection of human health and the environment in the production and management of waste, account being taken of the precautionary principle and of the sustainability principle. The entire life cycle of the waste shall be taken as a basis for the observation of the impact on human health and the environment in accordance with the first sentence. The following must especially be taken into account in this connection
1. the expected emissions,
  2. the degree of the conservation of natural resources,
  3. the energy to be consumed or yielded, as well as
  4. the accumulation of harmful substances in products, in waste for recovery or in products made from such waste.

The technical possibilities with regard to economic acceptability and the social consequences of the activity shall be taken into account.

**DIVISION 2**  
**CIRCULAR ECONOMY**  
**Article 7**

**Basic obligations of circular economy**

- (1) Obligations to prevent waste shall be in accordance with Article 13 and with the statutory ordinances issued based on Articles 24 and 25.
- (2) Waste generators or holders shall be obliged to recover their waste. The recovery of waste shall have priority vis-à-vis its disposal. The priority shall cease to apply if the disposal of the waste best ensures the protection of human health and the environment in accordance with Article 6 Para (2) second and third sentences. The priority shall not apply to waste occurring directly and normally through research and development.
- (3) The recovery of waste, especially binding of waste within products, must take place properly and safely. Recovery shall be deemed to take place properly if it is effected in compliance with the provisions of this Act and with other provisions of public law. It shall be deemed to take place safely when, given the nature of the waste, the level of contaminants that the waste contains and the type of recovery in question, no impairment of the public interest is expected, and in particular when no accumulation of harmful substances occurs within the substance cycle.
- (4) The obligation to recover waste shall be met, to the extent that this is technically possible and economically reasonable, especially when a market exists, or can be created, for an extracted substance or for extracted energy. Waste recovery shall be deemed technically possible even when it requires pre-processing. Waste recovery shall be deemed economically reasonable if the costs which recovery entails are not disproportionate to the costs that waste disposal would entail.

**Article 8**

**Ranking and high quality of recovery operations**

- (1) Priority shall be given in meeting the recovery obligation in accordance with Article 7 Para (2) first sentence to the recovery operations designated in Article 6 Para (1) numbers 2 to 4 which best guarantees the protection of human health and the environment by the type and nature of the waste, taking into consideration the criteria set forth in Article 6 Para (2) second and third sentences. Waste generators or holders shall have an option between several recovery operations that are of equal ranking. When designing the recovery operation implemented in accordance with the first or second sentence, high-quality recovery shall be encouraged which best guarantees the protection of human health and the environment. Article 7 Para (4) shall apply to the first to third sentences *mutatis mutandis*.
- (2) The Federal Government shall determine after consulting the parties concerned (Article 68), by means of a statutory ordinance with the consent of the Federal Council waste types based on the criteria set forth in Article 6 Para (2) second and third sentences
1. the priority or equal ranking of a recovery operation, and
  2. the requirements to be met as to the high quality of recovery.

It may in particular be determined by means of a statutory ordinance in accordance with the first sentence that the recovery of the waste shall take place according to its type and nature, quantity and constituents by several consecutive material and consecutive energy recovery operations (cascade use).

- (3) Where the priority or equal ranking of energy recovery is not stipulated in a statutory ordinance in accordance with Para (2), it shall be presumed that the energy recovery is to be equal in ranking to material recovery in accordance with Article 6 Para (1) numbers 2 and 3 if the calorific value of the individual waste, without mixing with other substances, is at least 11,000 kilojoules per kilogramme. The Federal Government shall examine based on the developments in the waste industry by 31 December 2016 whether, and if so to what degree, the calorific value is still required in order to implement the waste hierarchy stipulated in Article 6 Para (1) efficiently and in a manner ensuring legal certainty.

## **Article 9**

### **Separation of waste for recovery, mixing ban**

(1) Waste shall be kept and processed separately where this is necessary to meet the requirements in accordance with Article 7 Paras (2) to (4) and Article 8 Para (1).

(2) The mixing, including the dilution, of hazardous waste with other categories of hazardous waste or with other waste, substances or materials shall not be permissible. Notwithstanding the first sentence, mixing shall be permissible by way of exception if

1. it takes place in a installation authorised for this purpose in accordance with this Act or in accordance with the Federal Immission Control Act,
2. the requirements as to proper and safe recovery in accordance with Article 7 Para (3) are complied with and the adverse impact of waste management on human health and the environment is not exacerbated by means of mixing, and
3. the mixing operation complies with best available techniques.

Insofar as hazardous waste has been mixed in an unauthorised manner, it shall be separated where this is necessary in order to ensure proper and safe recovery in accordance with Article 7 Para (3), and separation is technically possible and economically reasonable.

## **Article 10**

### **Requirements of circular economy**

(1) The Federal Government shall be empowered, after consulting the parties concerned (Article 68), by means of a statutory ordinance with the consent of the Federal Council, where it is necessary to fulfil the obligations in accordance with Article 7 Paras (2) to (4) and Article 8 Para (1) and Article 9, especially those ensuring safe recovery

1. to place restrictions on or to ban certain wastes being bound in or remaining in products, depending on type, nature and constituents,
2. to mandate requirements pertaining to the separation, the permissibility of mixing, as well as the transport and storage of waste,
3. to mandate requirements pertaining to waste provision, handover, gathering and collection by collection and drop-off systems, in each case also in a standard recycling bin or by means of standard recyclable material collection in comparable quality together with related products or with products that are to be recovered in the same manner, which are in each case subject to a return obligation as stipulated in Article 25,
4. for certain waste the recovery of which is especially suitable due to its type, nature or quantity to cause adverse effects to the public interest in a specific way, above all to the interests that are listed in Article 15 Para (2) second sentence, to determine in terms of area of origin, place of occurrence or initial product,
  - a) that such waste may be put into circulation or recovered only in certain quantities or nature, or only for certain purposes,
  - b) that such waste, if of a specified nature, may not be put into circulation,
5. to determine requirements of the recovery of mineral waste in technical structures.

(2) By means of a statutory ordinance in accordance with Para (1), procedures may also be defined for review of the requirements set forth therein, in particular

1. that relevant parties are to keep and present proof documents or registers,
  - a) even if no order in accordance with Article 51 has been issued, or



- b) notwithstanding certain requirements in accordance with Articles 49 and 50, or a statutory ordinance in accordance with Article 52,
2. that waste treatment operators, upon accepting or passing on waste, shall review the waste in a certain manner and record the result of such review in proof documents or registers,
  3. that waste carriers and waste treatment operators shall keep an operational log and record in it certain types of information relative to operational procedures that is not yet included in pertinent registers,
  4. that waste generators or holders, or waste treatment operators, upon accepting or passing on waste, shall point to the requirements arising from the ordinance, or label the waste, or the containers used for transporting it, in a certain manner,
  5. the taking of samples, keeping and storage of reserved samples and use of certain specified procedures for such actions,
  6. the use of specific analysis procedures for identification of individual substances or substance groups,
  7. that parties obliged to take and analyse samples in accordance with numbers 5 and 6 must commission an expert designated by the competent Federal State authority, or an agency designated by that authority or other person having the requisite knowledge and expertise, to carry out such sample taking and analysis,
  8. which requirements are to be made in terms of the expertise and knowledge of the person taking the samples in accordance with number 7, and
  9. that proof documents, registers and operational logs in accordance with numbers 1 to 3 shall be kept electronically and that documents are to be submitted in electronic form in accordance with Article 3 a) Para (2) second and third sentences of the Administrative Procedure Act.
- (3) With regard to requirements in accordance with Para (2) numbers 5 to 7, reference may be made to publicly accessible notifications. In such cases
1. the statutory ordinance shall give the date of the notification and shall provide precise source information,
  2. the notification must be filed in the archives of the German Patent and Trademark Office for safe custody, and a reference to this fact made in the statutory ordinance.
- (4) A statutory ordinance in accordance with Para (1) number 4 may prescribe that parties putting into circulation or recovering certain waste with regard to the safe recovery of which in accordance with Article 7 Paras (2) and (3), Article 8 Para (1) and Article 9 special requirements are to be made due to their type, nature or quantity
1. must report such,
  2. shall require a licence to do so,
  3. must meet certain requirements with regard to their reliability, or
  4. must prove their necessary expertise or knowledge in a procedure to be stipulated in detail.

## **Article 11**

### **Circular economy for bio-waste and sewage sludge**

- (1) Insofar as this is necessary to meet the requirements in accordance with Article 7 Paras (2) to (4) and Article 8 Para (1), bio-waste that must be transferred to a public waste management organisation in accordance with Article 17 Para (1) shall be collected separately at the latest from 1 January 2015 onwards.
- (2) The Federal Government shall be empowered, after consulting the parties concerned (Article 68), by means of a statutory ordinance with the consent of the Federal Council, for the promotion of the recovery of bio-waste and sewage sludge, and to the extent required to fulfil the obligations in accordance with Para (1), Article 7 Paras (2) to (4) and Article 8 Para (1) to determine in particular,

1. what waste is deemed bio-waste or sewage sludge,
2. what requirements are to be made of the separate collection of bio-waste,
3. whether, and if so in what manner, bio-waste and sewage sludge are to be treated, what operations are to be applied in doing so and what other measures are to be taken thereby,
4. what requirements are to be made of the type and nature of the untreated bio-waste and sewage sludge, bio-waste and sewage sludge to be treated, and treated bio-waste and sewage sludge, and
5. that certain types of bio-waste and sewage sludge may not be put into circulation or recovered, or may only be put into circulation or recovered in certain quantities, only in a certain nature or only for certain purposes, depending on their starting substance, type, nature, origin, quantity, the type or time when the soil was treated by them, the nature of the soil, the situation at the location and kind of use.

In accordance with the first sentence numbers 3 to 5, requirements for the joint recovery of bio-waste and sewage sludge with other waste, substances or material may also be determined by means of a statutory ordinance in accordance with the first sentence. Requirements in accordance with the first sentence numbers 4 and 5 also in conjunction with the second sentence, may not be determined insofar as provisions of the law on fertilisers guarantee the proper and safe recovery of bio-waste and sewage sludge.

(3) By means of a statutory ordinance in accordance with Para (2) first sentence procedures may also be determined to review the requirements made therein of the recovery of bio-waste and sewage sludge, in particular

1. obligations to examine as to the effectiveness of the treatment, the nature of the untreated and treated bio-waste and sewage sludge, the operations to be applied or the other activities,
2. examination methods which are necessary to review the activities in accordance with number 1,
3. examinations of the soil, and
4. procedures to review the requirements in accordance with Article 10 Para (2) numbers 1 to 9 and Para (3).

A statutory ordinance in accordance with Para (2) first sentence number 1 may prescribe that parties putting into circulation or recovering certain bio-waste or sewage sludge with regard to the safe recovery of which, in accordance with Article 7 Paras (2) and (3) and Article 8 Para (1) and Article 9, special requirements are to be made due to their type, nature or quantity

1. must report such,
2. shall require a licence to do so,
3. must meet certain requirements with regard to their reliability, or
4. must prove their necessary expertise or knowledge in a procedure to be stipulated in detail.

(4) The Federal State Governments may issue statutory ordinances within the meaning of Paras (2) and (3) for the recovery of bio-waste and sewage sludge and for the application of bio-waste and sewage sludge to land unless the Federal Government avails itself of the empowerment. The Federal State Governments may transfer the empowerment in accordance with the first sentence by means of a statutory ordinance in whole or in part to other authorities.

## **Article 12**

### **Quality assurance in the field of bio-waste and sewage sludge**

(1) The quality assurance institutions and the quality seal holder may establish regular quality assurance in order to promote circular economy and ensure the protection of human health and the environment in the production and management of bio-waste and sewage sludge in accordance with the legal provisions applicable hereto.

(2) A quality seal holder shall be a natural or legal person that

1. generates, treats or recovers bio-waste or sewage sludge on a professional basis, in the context of economic enterprises or public installations, and
  2. with regard to bio-waste or sewage sludge that has been generated, treated or recovered, also in mixtures with other waste, substances or material, has a quality seal of an institution of quality assurance.
- (3) The quality seal may only be awarded if the quality seal holder
1. complies with the requirements as to the organisation and staffing as well as technical and other equipment, and to the reliability and knowledge and expertise of its staff necessary to ensure the quality of the bio-waste or sewage sludge,
  2. complies with the requirements as to quality assurance, in particular in order to reduce contaminants, to guarantee safety from disease as well as phytohygienic safety, and
  3. undertakes to demonstrate compliance with the requirements in accordance with numbers 1 and 2 in the context of ongoing supervision vis-à-vis the quality assurance institution.
- (4) The quality seal holder may only use the quality seal insofar as and to the extent that the quality assurance institution has awarded it to him/her.
- (5) quality assurance institution is a grouping of generators or waste management operators of bio-waste or sewage sludge, associations, as well as of facilities, institutions or persons with knowledge and legal capacity. The quality assurance institution shall require recognition by the competent authority. The award of the quality seal shall be effected based on a set of statutes, of a supervision contract or of another binding regulation for the quality seal holder, which in particular determines the requirements of the quality seal holder, of the bio-waste or sewage sludge generated, treated or recovered by the latter and of its supervision.
- (6) The quality assurance institution shall avail itself for the supervision of the quality seal holders of experts who have the reliability, independence, as well as the knowledge and expertise which are necessary for the implementation of the supervision.
- (7) The Federal Government shall be empowered, after consulting the parties concerned (Article 68), by means of a statutory ordinance with the consent of the Federal Council, to prescribe requirements as to the quality assurance of bio-waste and sewage sludge. The statutory ordinance may in particular
1. determine requirements as to the quality assurance activities, including their scope,
  2. determine requirements as to the organisation and staffing, as well as technical and other equipment, and the activity of a quality seal holder, as well as demanding adequate liability insurance coverage,
  3. determine requirements as to the quality seal holder and the persons employed therewith, in particular minimum requirements as to knowledge and expertise and reliability, as well as to their documentation,
  4. determine requirements as to the activity of the quality assurance institutions, in particular as to their establishment, dissolution, organisation and modus operandi, including the appointment, tasks and powers of the supervisory bodies, as well as minimum requirements as to the members of these supervisory bodies,
  5. determine minimum requirements as to the experts working for the quality assurance institutions, as well as their appointment, activities and control,
  6. determine requirements as to the quality seal, in particular as to the form and the content, as well as to its award, its withdrawal, its expiry and its deprivation,
  7. regulate the special prerequisites, the procedure, the award and the withdrawal of recognition of the quality assurance institution by the competent authority,
  8. order for the necessary declarations, proof documents, notifications or other data that documents be kept electronically and submitted in electronic form in accordance with Article 3a Para (2) second and third sentences of the Administrative Procedure Act.

## **Article 13**

### **Obligations incumbent on the installation operators**

The obligations incumbent on the operators of installations that either require licensing or do not require licensing in accordance with the Federal Immission Control Act to construct and operate such installations in such a manner that waste is prevented, recovered or disposed of, follow from the provisions of the Federal Immission Control Act.

## **Article 14**

### **Promotion of recycling and other material recovery**

(1) In the interest of proper, safe and high-quality recycling, paper, metal, plastic and glass waste shall be collected separately at the latest from 1 January 2015 onwards where this is technically possible and economically reasonable.

(2) The preparation for re-use and recycling of municipal waste should be at least overall 65 % by weight from 1 January 2020 onwards.

(3) The preparation for re-use, recycling and the other material recovery of non-hazardous construction and demolition waste, excluding naturally occurring material defined in waste code 17 05 04 in the Annex to the Waste List Ordinance (*Abfallverzeichnisverordnung*), should be a minimum of 70 % by weight at the latest from 1 January 2020 onwards. Other material recovery in accordance with the first sentence shall include backfilling operations using waste to substitute other materials. The Federal Government shall examine this objective against the background of developments in the construction industry and the framework for the recovery of construction waste by 31 December 2016.

## **DIVISION 3**

### **WASTE DISPOSAL**

## **Article 15**

### **Basic obligations of waste disposal**

(1) Generators or holders of waste that is not recovered shall be obliged to dispose of such waste unless provided otherwise in Article 17. The amount and noxiousness of waste shall be reduced through treatment. Any energy or waste occurring in connection with disposal shall be exploited to the maximum extent possible; Article 8 Para (1) third sentence shall apply *mutatis mutandis*.

(2) Waste shall be disposed of in such a manner that the public interest is not impaired. An impairment shall be deemed to have occurred in particular if

1. human health is impaired,
2. animals and plants are endangered,
3. water bodies and soil are harmfully influenced,
4. harmful influences on the environment are caused by air pollution or noise,
5. the aims, principles and other requirements of regional planning, and the interests of nature conservation, landscape management and urban development, are not considered, or
6. public safety and public order are otherwise threatened or disturbed.

(3) Insofar as this is necessary to meet the requirements in accordance with Paras (1) and (2), waste shall be kept and treated separately. Article 9 Para (2) shall apply *mutatis mutandis*.

## Article 16

### Requirements of waste disposal

The Federal Government shall be empowered, after consulting the parties concerned (Article 68), by means of a statutory ordinance with the consent of the Federal Council, to meet the obligations in accordance with Article 15 in line with the best available techniques to determine requirements of the disposal of waste by area of origin, place of occurrence, as well as by type, quantity and nature, in particular

1. requirements regarding the separation and the treatment of waste,
2. requirements regarding the provision, handover, gathering and collection, the transport, storage and deposit of waste, and
3. provisions to review the requirements in accordance with Article 10 Para (2) numbers 1 to 9 and Para (3).

A statutory ordinance in accordance with the first sentence numbers 1 and 2 may prescribe that parties putting into circulation or disposing of certain waste with regard to the treatment, collection, gathering, transport, storage and deposit of which, in accordance with Article 15, special requirements are to be made due to their type, nature or quantity

1. must report such,
2. shall require a licence to do so,
3. must meet certain requirements with regard to their reliability, or
4. must prove their necessary expertise or knowledge in a procedure to be stipulated in detail.

## DIVISION 4

### WASTE MANAGEMENT UNDER PUBLIC LAW AND COMMISSIONING OF THIRD PARTIES

#### Article 17

##### Handover obligation for hazardous waste

(1) Notwithstanding Article 7 Para (2) and Article 15 Para (1), generators or holders of waste from private households shall be obliged to make such waste available to the legal persons (public bodies responsible for waste management) which are obliged in accordance with Federal State laws to carry out waste management insofar as they are unable, or do not intend, to carry out recovery themselves on the land used by them for their private lives. The first sentence shall also apply to generators and holders of waste for disposal from other areas of origin, to the extent that they do not dispose of such waste in their own installations. The power to dispose of waste in one's own installation in accordance with the second sentence shall not exist insofar as the handing over of the waste to the public body responsible for waste management is necessary in the overriding public interest.

- (2) The obligation to hand over waste shall not apply to waste,
1. that is subject to an obligation to return waste, or to accept returned waste due to a statutory ordinance in accordance with Article 25, unless the public bodies responsible for waste management due to a provision in accordance with Article 25 Para (2) number 4 contribute to the return; for this in particular a standard recycling bin or a standard recyclables collection in comparable quality may be provided by means of which waste from private households which is of value is efficiently collected and taken to high-quality recovery,
  2. that is voluntarily accepted in fulfilment of product responsibility in accordance with Article 26 if the manufacturer or seller who accepts the waste has been issued a decision on exemption (*Freistellungsbescheid*) or declaratory decision (*Feststellungsbescheid*) in accordance with Article 26 Para (3) or Para (6),
  3. that is subjected, through non-profit collection, to proper and safe recovery,

4. that is subjected, through commercial collection, to proper and safe recovery, unless such collection conflicts with overriding public interests.

The first sentence numbers 3 and 4 shall not apply to mixed waste from private households and hazardous waste. Special provisions contained in statutory ordinances in accordance with Articles 10, 16 and 25 regarding the obligation to hand over waste shall remain unaffected thereby.

(3) Overriding public interests in accordance with Para (2) first sentence number 4 shall conflict with a commercial collection if the specific manifestation of the collection, also in conjunction with other collections, endangers the functionality of the public body responsible for waste management, of the third party commissioned by the latter or of the system for accepting returned goods established on the basis of a statutory ordinance in accordance with Article 25. A risk to the functionality of the public body responsible for waste management, or of a third party commissioned by the latter, shall be presumed to exist if the exercise of the waste management obligations under Article 20 in economically balanced conditions is prevented or the planning certainty and organisational responsibility is considerably impaired. A major adverse effect on the planning certainty and organisational responsibility of the public body responsible for waste management shall be presumed to exist in particular if, as a result of the commercial collection,

1. waste is collected for which the public body responsible for waste management or the third party commissioned by the latter implements kerbside or other high-quality separate collection and recovery of the waste,
2. the stability of the fees is placed at risk, or
3. the non-discriminatory, transparent award of contracts for waste management services in competition is considerably hindered or circumvented.

The third sentence numbers 1 and 2 shall not apply if the collection and recovery of the waste offered by the commercial collector is much more effective than the service already offered or specifically planned by the public body responsible for waste management or the third party commissioned by the latter. The evaluation of the effectiveness shall be based on both the criteria which are to be assessed as to the objectives of circular economy, namely quality and efficiency, the scope and the duration of the collection and recovery of the waste, and the appropriateness of the service level provided, with due regard to the public interest, in the view of all private households in the area covered by the public body responsible for waste management. Services over and above the direct collection and recovery service, in particular fee payments, shall not be taken into consideration when assessing the performance level.

(4) To ensure environmentally compatible disposal, the Federal States may mandate obligations to offer waste (*Andienung*) and to make waste available in connection with hazardous waste for its disposal. Obligations to offer hazardous waste for recovery that the Federal States had imposed by 7 October 1996 shall remain unaffected thereby.

## **Article 18**

### **Notification procedure for collections**

(1) Non-profit collections within the meaning of Article 17 Para (2) first sentence number 3 and commercial collections within the meaning of Article 17 Para (2) first sentence number 4 shall be notified by their institution to the competent authority at the latest three months prior to their intended commencement.

(2) The following shall be enclosed with the notification of a commercial collection

1. information regarding the size and organisation of the collector,
2. information regarding the type, extent and duration, in particular on the maximum amount and minimum duration of the collection,
3. information regarding the type and quantity of the waste to be recovered and what is to be done with it,
4. a presentation of the recovery channels provided for within the notified period, including the necessary activities to ensure their capacities, as well as

5. a presentation of how the proper and safe recovery of the collected waste is guaranteed in the context of the recovery channels in accordance with number 4.
- (3) The following shall be enclosed with the notification of a non-profit collection
1. information regarding the size and organisation of the non-profit collection institution, as well as where appropriate of the third party commissioned to carry out the collection, and
  2. information regarding the type, extent and duration of the collection.

The authority may demand that documents in accordance with Para (2) numbers 3 to 5 are to be enclosed with the notification of the non-profit collection.

(4) The competent authority shall call on the public body responsible for waste management affected by the commercial or non-profit collection to give a statement for its remit within a period of two months. If the public body responsible for waste management has not submitted a statement by the time this deadline expires, it shall be presumed that it does not intend to make a statement.

(5) The competent authority may make the notified collection dependent on conditions, may impose on it a time limit or provide for conditions to apply to it where this is necessary in order to ensure that the prerequisites are met in accordance with Article 17 Para (2) first sentence number 3 or number 4.

The competent authority shall prohibit the implementation of the notified collection if facts are known giving rise to reservations regarding the reliability of the notifying party or the persons responsible for the management and supervision of the collection, or compliance with the prerequisites stipulated in Article 17 Para (2) first sentence number 3 or number 4 cannot otherwise be guaranteed.

(6) The competent authority can determine that a commercial collection is to be implemented at least for a specific period; this period may not exceed three years. If the commercial collection is discontinued prior to expiry of the minimum period determined in accordance with the first sentence or its type and scope is considerably restricted within this period in derogation from the conditions or instructions determined by the authority in accordance with Para (5) first sentence, the institution of the commercial collection shall be obliged vis-à-vis the public body responsible for waste management concerned to provide compensation for the additional effort necessitated for the collection and recovery of the waste previously covered by the commercial collection. The competent authority may impose a security payment on the institution of the commercial collection in order to hedge the compensation claim.

(7) Where a commercial collection which was already being implemented at the time of the entry into force of this Act has previously not endangered the functionality of the public body responsible for waste management, of the third party commissioned by the latter or of the system for accepting returned goods established due to statutory ordinance in accordance with Article 25, the principle of proportionality shall be taken into account in case of orders in accordance with Para (5) or 6, in particular reliance of the institution carrying out the collection on its continued implementation where this reliance deserves protection.

## **Article 19**

### **Toleration obligations in connection with premises**

(1) The titleholders and owners of land on which waste which must be surrendered is generated shall be obliged to tolerate the installation of containers required for waste collection, as well entry on to the premises for the purposes of collection and for supervision of waste separation and recovery. The staff and agents of the competent authority may enter business and company premises, as well as land and offices, outside usual business hours, as well as residential properties, without the consent of the owner only to prevent immanent risks to public safety and order. The fundamental right to the inviolability of the home (Article 13 para. 1 of the Basic Law [*Grundgesetz*]) shall be restricted in this respect.

(2) Para (1) shall apply mutatis mutandis to return and collection systems required to fulfil obligations to accept returned goods based on a statutory ordinance in accordance with Article 25.

## **Article 20**

### **Obligations incumbent on the public bodies responsible for waste management**

(1) The public bodies responsible for waste management shall recover, in accordance with Articles 6 to 11, or dispose of, in keeping with Articles 15 to 16, waste from private households in their area that has occurred and has been made available to them, as well as waste for disposal from other areas of origin. If waste is made available to them for disposal because the recovery obligation does not have to be complied with for the reasons stated in Article 7 Para (4), the public bodies responsible for waste management shall be obliged to carry out recovery to the extent that these reasons do not apply to them.

(2) The public bodies responsible for waste management may, with the consent of the competent authority, exclude waste from waste treatment to the extent that the waste in question is subject to obligations to accept returned goods, on the basis of a statutory ordinance issued in accordance with Article 25, and that appropriate installations for accepting returned goods are actually available. The first sentence shall also apply to waste for disposal from areas of origin other than private households to the extent that the waste in question, due to its nature, quantity or state, cannot be treated together with the household waste, or that safe, environmentally compatible disposal, in harmony with the waste management plans of the Federal States, is ensured by another public body responsible for waste management or by another third party. The public bodies responsible for waste management can revoke the exclusion from waste treatment in accordance with the first and second sentences, with the consent of the competent authority, if the prerequisites for exclusion as listed in those sentences are no longer fulfilled.

(3) The obligations in accordance with Para (1) shall also apply to motor vehicles or trailers without valid official registration when

1. they are parked on public areas or outside of contiguously built-up municipal areas,
2. there are no indications that they have been stolen, or that they are being used as intended, and
3. when they have not been removed within, one month after a plainly visible request has been attached to them.

## **Article 21**

### **Waste management concepts and waste balance sheets**

The public bodies responsible for waste management within the meaning of Article 20 shall prepare waste management concepts and waste balance sheets concerning the recovery, in particular the preparation for re-use and recycling and disposal of waste that is generated in their area and that must be made available to them. The Federal States shall regulate requirements for such waste management concepts and waste balance sheets.

## **Article 22**

### **Commissioning of third parties**

Bodies responsible for waste recovery and disposal can commission third parties to fulfil their obligations. Such commissioning shall not affect their responsibility for fulfilment of the relevant obligations until the recovery or disposal is finally and properly completed. The commissioned third parties must provide the necessary reliability.



## **PART 3**

### **PRODUCT RESPONSIBILITY**

#### **Article 23**

##### **Product responsibility**

(1) Parties who develop, manufacture, process, treat or sell products shall bear product responsibility with regard to the achievement of the objectives of circular economy. Products must be so designed, if at all possible, that waste generation within their production and use is reduced, and that environmentally compatible recovery and disposal of the waste resulting from their use is ensured.

(2) In particular, product responsibility shall comprise

1. the development, production and marketing of products that can be re-used, that are technically durable and that are suitable, after use, for proper, safe and high-quality recovery and environmentally compatible disposal,
2. priority for use of recoverable waste or secondary raw materials in the production of products,
3. labelling of products containing pollutants in order to ensure environmentally compatible recovery or disposal of the waste remaining after their use,
4. provision of information concerning possibilities or obligations for return, re-use and recovery, and concerning deposit payment arrangements, through product labelling, and
5. acceptance of returned goods and of the waste remaining after their use, as well as the subsequent environmentally compatible recovery or disposal of such products and waste.

(3) As part of product responsibility in accordance with Paras (1) and (2), in addition to the proportionality of the requirements in accordance with Article 7 Para (4), account must be taken of regulations resulting from other legal provisions concerning product responsibility and protection of human health and the environment, and provisions of Community Law concerning the freedom of movement of goods.

(4) The Federal Government shall determine, by statutory ordinances based on Articles 24 and 25, which obliged parties must fulfil product responsibility in accordance with Paras (1) and (2). It shall also determine the products for which, and by what means and manner, product responsibility must be fulfilled.

#### **Article 24**

##### **Requirements with regard to prohibitions, restrictions and labelling**

In order to determine requirements in accordance with Article 23, the Federal Government is shall be empowered, after consulting the parties concerned (Article 68), to mandate by statutory ordinance and with the consent of the Federal Council that

1. certain products, especially packaging and containers with only certain characteristics or for certain uses, for which environmentally compatible recovery or disposal of generated waste is ensured, may be put into circulation,
2. certain products may not be put into circulation if, during their treatment as waste, the release of noxious substances cannot be prevented, or can be prevented only at a disproportionately high cost, or if environmentally compatible waste treatment cannot be ensured by other means,
3. certain products shall be put into circulation only in a specific form that clearly facilitates waste management, especially in a form that permits re-use or that facilitates recovery,
4. certain products shall be marked in a specified manner, especially in order to assure fulfilment of the obligations in accordance with Article 7 Paras (2) and (3) and Article 8 Para (1) and Article 9 and then to promote the acceptance of returned goods,
5. certain products, due to the content of a noxious substance in the waste expected to remain after their intended use, shall be put into circulation only if they are provided with marking which points out, in particular, the necessity of return to the manufacturer, distributor or specified third parties,

6. for certain products, attention must be called at the point of sale or of putting into circulation to the possibility of reusing the goods or to the proper waste treatment chain, or the products must be appropriately marked,
7. for certain products for which obligations to accept returned goods, or to return goods, have been mandated in accordance with Article 25, attention must be called at the point of sale or of putting into circulation to the possibility of returning the goods, or the products must be appropriately marked,
8. certain products for which levying of a deposit has been mandated in accordance with Article 25 must be appropriately marked; if necessary, such markings must include mention of the amount of the deposit.

## **Article 25**

### **Obligation to accept returned goods and obligation to return certain goods**

(1) In order to determine requirements in accordance with Article 23, the Federal Government shall be empowered, after consulting the parties concerned (Article 68), to mandate by statutory ordinance and with the consent of the Federal Council that manufacturers or distributors

1. may sell or put into circulation certain products only after providing a possibility for return,
2. shall accept certain products when returned and shall provide for return by suitable measures, especially by means of establishing or participating in systems for accepting returned goods, or by levying a deposit,
3. must accept certain products at the point of sale or where they occur,
4. shall keep records, to be presented to the Federal State, competent authority or party responsible for management within the meaning of Article 20, to a chamber of commerce and industry or, with its consent, vis-à-vis an association of chambers of commerce and industry concerning the products put into circulation and their characteristics, on the return of waste, on participation in systems for accepting returned goods and on the type, quantity, recovery and disposal of the waste accepted for return, and
5. to provide documentation in accordance with number 4, as well as to retain it, store it, present it on request, as well as to deposit it with an authority, a public body responsible for waste management within the meaning of the Article 20, a chamber of commerce and industry or, with its consent, association of chambers of commerce and industry.

(2) In order to determine requirements in accordance with Article 23, and to additionally determine obligations of waste generators and holders, and of the public bodies responsible for waste management within the framework of circular economy, the following may be mandated in a statutory ordinance in accordance with Para (1)

1. which party is responsible for paying the costs for acceptance, recovery and disposal of products that must be accepted when returned,
2. that waste holders must make waste available to manufacturers or distributors obliged in accordance with Para (1) or systems for accepting returned goods established in accordance with Para (1) number 2,
3. the means and manner by which waste shall be made available, including measures for provision, collection and transport, and including waste-bringing obligations of the owners named under number 2; it shall also be possible to provide for a standard recycling bin or a standard recyclables collection in comparable quality for the activities stipulated in the first clause,
4. that the public bodies responsible for waste management within the meaning of Article 20 shall co-operate in accepting waste, as a task entrusted to them, by collecting waste and making it available to parties obliged in accordance with Para (1).

## Article 26

### Voluntary acceptance of returned goods

(1) The Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety shall be empowered, after consulting the parties concerned (Article 68), by means of a statutory ordinance without the consent of the Federal Council to determine objectives for the voluntary acceptance of returned waste which are to be achieved within an appropriate period.

(2) Manufacturers and distributors who voluntarily accept returned products, as well as waste remaining from products following product use, must notify the competent authority thereof prior to the commencement of such acceptance where the returned products include hazardous waste.

(3) On request, the authority competent for the notification in accordance with Para (2) should exempt manufacturers or distributors that voluntarily accept products that they have manufactured or distributed, following their use, as hazardous waste in their own plants or installations, or in plants or installations of third parties that they have commissioned, from obligations to keep and furnish records of the treatment of hazardous waste in accordance with Article 50 until such time as voluntary acceptance of returned waste is completed, and should exempt them from obligations in accordance with Article 54, if

1. such voluntary acceptance of returned waste is carried out in order to fulfil product responsibility obligations within the meaning of Article 23,
2. such acceptance of returned waste promotes the aims of circular economy, and
3. the environmentally compatible recovery or disposal of the waste is assured.

Acceptance of returned waste in accordance with the first sentence shall be considered completed no later than the time at which the waste is accepted at an installation for further treatment, with the exception of installations for interim waste storage, except where the notification of exemption specifies an earlier time. An application for an exemption may be combined with the notification in accordance with Para (2).

(4) The exemption in accordance with Para (3) shall apply to the Federal Republic of Germany, except to the extent that application is made for restricted validity or such is ordered. The authority responsible for the exemption shall send a copy of the notification of exemption to each of the competent authorities in the Federal States in which the returned waste is accepted.

(5) Generators, owners, carriers or waste treatment operators of hazardous waste shall be exempted, until the completion of acceptance in accordance with Para (3), from obligations to keep and furnish records in accordance with Article 50 to the extent that they return the waste to a manufacturer or distributor or recover or dispose of it on behalf of a party who is exempted in accordance with Para (3) from obligations to keep and furnish records for such waste. The competent authority may make return or waste treatment contingent on conditions, impose a sunset clause or provide for conditions for them where this is necessary in order to ensure environmentally compatible recovery and disposal.

(6) The competent authority in accordance with Para (2) shall determine, at the application of the manufacturer or distributor that notified acceptance of returned waste is being carried out, in fulfilment of product responsibility obligations in accordance with Article 23, if the prerequisites in accordance with Para (3) first sentence are fulfilled. Para (4) shall apply mutatis mutandis.

## Article 27

### Obligations of holders after acceptance of returned goods

Manufacturers and distributors who accept returned waste based on a statutory ordinance in accordance with Article 25, or who voluntarily accept returned waste, shall be subject to the obligations of a waste holder.

**PART 4**  
**PLANNING RESPONSIBILITY**  
**DIVISION 1**  
**REGULATION AND IMPLEMENTATION OF WASTE DISPOSAL**  
**Article 28**

**Regulation of waste disposal**

(1) For purposes of disposal, waste may be treated, stored or landfilled only in the plants or installations authorised therefor (waste disposal installations). Notwithstanding the first sentence, treatment of waste for disposal shall also be permitted in installations that primarily serve a purpose other than waste disposal and that require a licence in accordance with Article 4 of the Federal Immission Control Act. Storage or treatment of waste for disposal in waste disposal installations for these purposes shall also be permitted to the extent that such installations do not require a licence in accordance with the Federal Immission Control Act because their potential to cause damage is slight, and no other provisions are made in a statutory ordinance in accordance with Article 23 of the Federal Immission Control Act, or in a statutory ordinance in accordance with Article 16. Liquid waste which is not waste water may be disposed of with waste water under the conditions specified in Article 55 Para (3) of the Federal Water Act (*Wasserhaushaltsgesetz*) of 31 July 2009 (Federal Law Gazette Part I p. 2585), most recently amended by Article 1 of the Act of 6 October 2011 (Federal Law Gazette Part I p. 1986), in the respectively applicable version.

(2) In individual cases, the competent authority may permit exceptions to Para (1) first sentence, while reserving a right of revocation, if such action does not impair the public interest.

(3) The Federal State governments may permit, through statutory ordinance, disposal of certain waste, or of certain quantities of such waste, outside installations within the meaning of Para (1) first sentence, to the extent that there is a need for such disposal and that it is not expected to impair the public interest. In such cases, they may also determine the prerequisites for such disposal, and the means and manner of such disposal, by statutory ordinance. The Federal State governments may transfer such powers to other authorities by statutory ordinance completely or in part.

**Article 29**

**Execution of waste disposal**

(1) The competent authority may require the operator of a waste disposal installation to permit a party obliged to carry out disposal in accordance with Article 15, and the public bodies responsible for waste management within the meaning of the Article 20, to also use the relevant waste disposal installation, for an appropriate fee, to the extent that such a party or parties cannot meaningfully dispose of the waste by other means, or only at a considerable additional cost, and that such shared use is not unreasonable for the operator. If no agreement can be reached concerning the fee, the competent authority on application shall determine it. On application of the party obliged in accordance with the first sentence, the party receiving the permission can be obliged to accept waste of the same type, and in the same amount, in place of payment of a suitable fee, once the reasons for the assignment have ceased to apply. The obligation to permit may only be effected if legal provisions of this Act do not conflict therewith; it must be ensured that the fundamental obligations in accordance with Article 15 are complied with. The competent authority shall require the party obliged to effect disposal that is to benefit from such permission to submit a waste management concept, and shall use this concept as the basis for its decision.

(2) The competent authority may transfer to the operator of a waste disposal installation who is able to dispose of waste more economically than the public bodies responsible for waste management, on the application of such an operator, responsibility for disposal of such waste. Such transfer can in particular be made contingent on the requirement that the applicant dispose of all waste occurring in the area covered by the public bodies responsible for waste management, in return for reimbursement of costs, if the public bodies responsible for waste management cannot dispose of the remaining waste, or only at a disproportionately high cost; this shall not apply if the applicant shows that assumption of additional responsibility for the disposal of such remaining waste is unreasonable.

(3) A party holding mining rights for, or the entrepreneur of, a mineral mining operation, as well as the titleholder or owner of land used for mineral mining, or party otherwise authorised to dispose of such land, can be obliged by the competent authority to tolerate disposal of waste in exposed tunnels in his installation, or on his land, to permit access during normal business hours and, to the extent that this is indispensable, to make available existing facility equipment or installations, or portions thereof. The party obliged to effect disposal must reimburse the party obliged in accordance with the first sentence for costs incurred. If no agreement is reached concerning the fees, the competent authority on request shall determine them. The priority of mineral extraction over waste disposal may not be affected. The party required to tolerate such use shall not be liable for damage resulting from waste disposal.

(4) Dumping of waste for disposal on the high seas and incineration of waste on the high seas is prohibited in accordance with the Act on the Prohibition of Dumping of Waste and Other Materials or Objects on the High Seas of 25 August 1998 (*Hohe-See-Einbringungsgesetz*) (Federal Law Gazette Part I p. 2455), most recently amended by Article 72 of the ordinance of 31 October 2006 (Federal Law Gazette Part I p. 2407). Dredged material may only be dumped on the high seas subject to the provision of the Act referred to in the first sentence, depending on the material's constituents.

## **DIVISION 2**

### **WASTE MANAGEMENT PLANNING AND WASTE PREVENTION PROGRAMMES**

#### **Article 30**

##### **Waste management planning**

(1) The Federal States shall prepare waste management plans for their respective areas in keeping with superregional perspectives. The waste management plans shall include descriptions of the following:

1. the aims of waste prevention and recovery, and in particular preparation for re-use and recycling, as well as waste disposal,
2. the existing situation in waste management,
3. the necessary activities to improve the recovery of waste and waste disposal, including an evaluation of their aptitude to achieve the objectives, and
4. the waste treatment installations to ensure waste disposal, as well as the recovery of mixed waste from private households including that, which is collected in other areas of origin within the national borders.

The waste management plans shall list the following:

1. authorised waste treatment installations within the meaning of the second sentence number 4, and
2. areas suitable for landfilling, for other waste disposal installations, as well as for waste treatment installations within the meaning of the second sentence number 4.

The waste management plans can also determine which bodies responsible for waste management are to be chosen and which waste treatment installations within the meaning of the second sentence number 4 the parties obliged to carry out waste treatment must use.

(2) Description of demand must take into account future developments expected within a period of at least ten years. To the extent that this is necessary for description of demand, waste management concepts and waste balance sheets must be evaluated.

(3) An area may be considered suitable within the meaning of Para (1) third sentence number 2 if its location, size and nature, with regard to the planned use, does not conflict with the waste management aims within the plan area, and if the public interest does not clearly conflict with the suitability of the area. Site determination in accordance with Para (1) third sentence number 2 shall not be used as a prerequisite for plan approval or for licensing of the waste disposal installations listed in Article 35.

(4) Lists within the meaning of Para (1) third sentence number 2 and fourth sentence can be declared binding for the parties obliged to carry out waste treatment.

(5) Waste management planning must take into account the aims, principles and other requirements of regional planning. Article 8 Para (6) of the Regional Development Act (*Raumordnungsgesetz*) shall remain unaffected.

(6) The waste management plans shall contain at least

1. information regarding the type, quantity and origin of the waste generated in the area and the waste likely to be removed from or taken into German territory, as well as an estimate of the future developments in the waste streams,
2. information on existing waste collection schemes and significant disposal and recovery installations, including special precautions for waste oils, hazardous waste or waste streams to which special provisions apply in accordance with this Act or with the statutory ordinances issued on the basis of this Act,
3. an evaluation of the need for new collection systems, the closure of existing waste treatment installations or the construction of additional ones in accordance with Para (1) third sentence number 1 and, where this is necessary, the concomitant investments,
4. sufficient information on the criteria for determining the location and on the capacity of future waste disposal installations or major recovery installations,
5. general waste management strategies, including planned waste management technologies and operations, or strategies for waste giving rise to particular management-related problems.

(7) Waste management plans may furthermore contain

1. information on organisational aspects of waste management, including a description of the breakdown of responsibilities between public and private stakeholders who execute waste management,
2. an evaluation of the benefit and aptitude of the use of economic and other instruments to overcome various waste-related problems, taking account of the need to maintain trouble-free functioning of the Single Market,
3. the use of awareness-raising campaigns, as well as information for the public or for a certain group of consumers,
4. information on closed contaminated waste disposal locations and activities for their restoration.

## **Article 31**

### **Preparation of waste management plans**

(1) The Federal States are to co-ordinate their waste management planning towards one another and inter se. If planning is required that extends beyond a Federal State boundary, the affected Federal States should reach agreement when preparing waste management plans concerning relevant requirements and measures.

(2) The local authorities and the administrative districts and their respective associations, and the public bodies responsible for waste management, shall be involved in the preparation of waste management plans.

(3) The public bodies responsible for waste management must submit the waste management concepts and waste balance sheets that they are required to prepare and update to the competent authority on request for purposes of evaluation relative to waste management planning.

(4) The Federal States shall regulate procedures for preparation of plans and for declaring them to be binding. Paras (1) to (3) and Article 32 shall remain unaffected thereby.

(5) The plans shall be evaluated at least every six years and updated where necessary.

## Article 32

### Public participation in connection with waste management plans, informing the public

- (1) The competent authority shall permit the public to participate in the preparation or modification of waste management plans in accordance with Article 30, including special chapters, or separate sub-plans, especially referring to the treatment of hazardous waste, used batteries and accumulators or packaging and packing waste. Preparation or modification of waste management plans, and information regarding the participation procedure, shall be announced in an official gazette and by other suitable means.
- (2) The drafts of the new or modified waste management plan, as well as the reasons and considerations on which the draft is based, shall be posted for inspection for a one-month period. Statements may be submitted to the competent authority in writing up to two weeks after expiry of the inspection period. The time at which such period ends shall be notified when making the announcement in accordance with Para (1) second sentence. Opinions received in good time shall be taken appropriately into account by the competent authority in its decision regarding acceptance of the plan.
- (3) The competent authority shall announce acceptance of a plan in an official gazette and on a publicly- accessible website; in doing so, a summary report shall be provided describing the course of the public participation procedure and explaining the reasons and considerations on which the decision taken is based. Once accepted, the plan shall be posted for public inspection; the public announcement in accordance with the first sentence shall call attention thereto.
- (4) Paras (1) to (3) shall not apply if the waste management plan is a plan for which a strategic environmental assessment must be carried out in accordance with the Environmental Impact Assessment Act (*Gesetz über die Umweltverträglichkeitsprüfung*).
- (5) Notwithstanding the participation of the public in accordance with Paras (1) to (4), the Federal States shall inform the public of the state of waste management planning. In compliance with the existing provisions on confidentiality, the information shall contain a summary description and evaluation of the waste management plan, a comparison to the previous one, as well as a prognosis for the following information period.

## Article 33

### Waste prevention programme

- (1) The Federation shall draw up a waste prevention programme. The Federal States may take part in the preparation of the waste prevention programme. In this case, they shall draw up contributions for their respective remit for which they shall take individual responsibility; these contributions shall be included in the waste prevention programme of the Federation.
- (2) Where the Federal States do not participate in a waste prevention programme of the Federation, they shall draw up their own waste prevention programmes.
- (3) The waste prevention programme
  1. shall define the waste prevention goals; the goals shall aim to decouple economic growth from the impact on human health and the environment caused by the generation of waste,
  2. shall describe the existing waste prevention measures and evaluate the expedience of the waste prevention activities stated in Annex 4 or other suitable ones,
  3. shall establish, where necessary, further waste prevention measures, and
  4. shall define expedient, specific, qualitative or quantitative standards for established waste prevention activities, by means of which the progress made in the activities shall be monitored and evaluated; indicators or other suitable specific qualitative or quantitative goals may be used as a standard.
- (4) Contributions from the Federal States in accordance with Para (1) or waste prevention programmes of the Federal States in accordance with Para (2) may be included in the waste management

plans in accordance with Article 30 or drawn up as a separate environmental policy programme or included in such a programme. If a contribution or a waste prevention programme is included in the waste management plan or in another programme, the waste prevention activities shall be clearly identified.

(5) The waste prevention programmes shall be drawn up for the first time as per 12 December 2013 shall be evaluated every six years and updated where necessary. When drawing up or altering waste prevention programmes, the public shall be involved by the competent authority in accordance with Article 32 Paras (1) to (4). The Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety, or an authority to be designated by the latter shall be competent for the preparation of the waste prevention programme of the Federation. The waste prevention programme of the Federation shall be drawn up in agreement with the other Federal Ministries with competence in this area.

### **DIVISION 3**

#### **AUTHORISATION OF WASTE TREATMENT INSTALLATIONS**

##### **Article 34**

###### **Exploration of suitable sites**

(1) Owners of land, and parties entitled to use land, shall permit parties commissioned by the competent authority and by the public bodies responsible for waste management to explore suitable sites for landfills and publicly accessible waste disposal installations, to enter premises, with the exception of dwellings, and to carry out surveying, soil and groundwater studies or other similar work. Landowners and parties entitled to use land shall be notified in good time of the intention to enter relevant premises and to carry out such work.

(2) After completing such work, the competent authority and the public bodies responsible for waste management must restore the relevant premises to their condition prior to the relevant work immediately. They shall be permitted to require that equipment installed in connection with the exploration be retained. The equipment shall be removed when it is no longer needed for the exploration, or if a decision concerning the exploration has not been taken within two years after installation of the equipment and the landowner or party entitled to use the land has lodged an objection with the authority to the equipment remaining there.

(3) Landowners and parties entitled to use land can require monetary compensation from the competent authority for losses of assets incurred through measures in accordance with Para (1) or Para (2).

##### **Article 35**

###### **Plan approval and permission**

(1) The construction and operation of installations in which waste treatment is implemented, and significant changes in such installations or their operation, shall be subject to permission in accordance with the provisions of the Federal Immission Control Act; further permission in accordance with this Act shall not be required.

(2) Construction and operation of landfills, and significant changes in such installations or their operation, shall require plan approval by the competent authority. An environmental impact assessment in accordance with the provisions of the Environmental Impact Assessment Act shall be carried out as part of the plan approval procedure.

(3) Article 74 Para (6) of the Administrative Procedure Act shall apply subject to the proviso that the competent authority may issue planning permission (*Plangenehmigung*), instead of a plan approval decision (*Planfeststellungsbeschluss*), upon application or ex officio, only if

1. construction and operation of an insignificant landfill are applied for, provided that such construction and operation cannot have any significant adverse effects on an interest that is eligible for protection referred to in Article 2 Para (1) second sentence of the Environmental Impact Assessment Act, or



2. significant changes in a landfill or in its operation are applied for, provided that such changes cannot have any significant adverse effects on an interest that is eligible for protection referred to in Article 2 Para (1) second sentence of the Environmental Impact Assessment Act, or
3. application is made for construction and operation of a landfill that, exclusively or predominantly, is to be used for development and testing of new operations, and permission is to be issued for a maximum period of two years following the operational start-up of the installation; where this landfill serves to store hazardous waste, such permission may be issued for a maximum period of one year following the operational start-up of the installation.

The competent authority should implement a permitting procedure if the significant change does not have any significant adverse effects on an interest that is eligible for protection referred to in Article 2 Para (1) second sentence of the Environmental Impact Assessment Act and pursues the purpose of bringing about a major improvement for these interests. Planning permission in accordance with the first sentence number 1 cannot be issued for

1. installations for the landfilling of hazardous waste,
  2. installations for the landfilling of non-hazardous waste with a landfilling capacity of ten tonnes or more per day or with a total capacity of 25,000 tonnes or more; this shall not apply to landfills for inert waste.
- (4) Article 15 Para (1) first to fourth sentences and Para (2) of the Federal Immission Control Act shall apply mutatis mutandis. The first sentence shall also apply to the landfills designated in Article 39.
- (5) The project sponsor may apply for plan approval or planning permission for changes subject to notification accordance with Para (4).

## **Article 36**

### **Issuing, security, secondary provisions**

- (1) The plan approval decision in accordance with Article 35 Para (2) may only be issued, or permission in accordance with Article 35 Para (3) may only be awarded, if
1. it is ensured that the public interest is not impaired, in particular
    - a) that dangers to the interests that are eligible for protection, as designated in Article 15 Para (2) second sentence, cannot arise,
    - b) that precautions are taken against impairment of the interests that are eligible for protection referred to in Article 15 Para (2) second sentence, especially through construction-related, operational or organisational measures in keeping with the best available techniques, and
    - c) that thrifty and efficient use is made of energy,
  2. no facts are known that justify reservations concerning the reliability of the operator or the person responsible for the construction, management or supervision of the operation, or for after-care for the landfill,
  3. such persons within the meaning of number 2, and other personnel, have the necessary knowledge and expertise for their duties,
  4. no adverse effects on a right of another person can be expected, and
  5. the contents of a waste management plan that have been declared binding do not conflict with the project.
- (2) The adverse effects on a right of another person, as described in Para (1) number 4, shall not conflict with the issuing of a plan approval or the granting of permission if they can be prevented or compensated for through restrictions or conditions or if the affected party does not object to the adverse effects on his/her right. Para (1) number 4 shall not apply if the project serves the public interest. If a plan approval is issued in such a case, the affected party must be monetarily compensated for the resulting loss in assets.

(3) The competent authority should require the operator of a landfill to provide security within the meaning of Article 232 of the Civil Code, or to provide equivalent collateral, for re-cultivation, as well as for prevention or elimination of any impairment of the public interest after closure of the installation.

(4) The plan approval decision, and the planning permission in accordance with Para (1), may be made subject to conditions or contingent on requirements and issued for limited terms where this is required to protect the public interest. The competent authority shall review, on a regular basis and when special reasons require, whether the plan approval and the permission in accordance with Para (1) are in keeping with the latest version of the requirements set forth in Para (1) numbers 1 to 3 and 5. Conditions relative to requirements pertaining to the landfill or to its operation may be added, modified or supplemented even after a plan approval or planning permission has been issued. The Federal Government shall be empowered, after consulting the parties concerned (Article 68), by statutory ordinance and with the consent of the Federal Council, to specify the times at which the competent authority must carry out reviews and issue the conditions referred to in the third sentence.

### **Article 37**

#### **Authorisation of early commencement**

(1) In a plan approval or planning permission procedure, the authority competent for plan approval or for issuing the planning permission may give authorisation, subject to revocation and for a period of six months, for construction, including measures necessary to test the proper operation of the landfill, to begin prior to plan approval or issuing of the planning permission, if

1. a decision in favour of the project sponsor can be expected,
2. such early commencement is in the public interest, and
3. the project sponsor undertakes to repair all damage caused by project execution, prior to the relevant decision, and, if the project does not receive plan approval or planning permission, to restore the relevant site to its former condition.

Upon application, this period may be extended by six months.

(2) The competent authority shall require security if this is necessary to ensure that the project sponsor fulfils his obligations in accordance with Para (1) first sentence number 3.

### **Article 38**

#### **Plan approval procedure and other administrative procedures**

(1) Articles 72 to 78 of the Administrative Procedure Act shall apply to the plan approval procedure. The Federal Government shall be empowered, through statutory ordinance and with the consent of the Federal Council, to regulate further details of the plan approval and planning permission procedure, especially

1. the type and extent of the application documents,
2. details pertaining to the notification procedure in accordance with Article 35 Para (4),
3. details pertaining to the procedure for determination of closure in accordance with Article 40 Para (3), and
4. details pertaining to the procedure for the determination of the completion of the after-care phase in accordance with Article 40 Para (5).

(2) Objections within the framework of the authorisation procedure may only be made in writing within the legally mandated period.

## **Article 39**

### **Existing waste disposal installations**

(1) The competent authority may mandate term limitations, conditions and requirements for the operation of landfills operated before 11 June 1972 or whose construction commenced before that date. It may prohibit the operation of such installations, completely or in part, if a considerable impairment of the public interest cannot be prevented through restrictions, conditions or term limitations.

(2) Within the area referred to in Article 3 of the Unification Treaty, the competent authority may ordain term limitations, conditions and requirements for the construction and operation of landfills operated before 1 July 1990 or whose construction commenced before that date. Para (1) second sentence shall apply *mutatis mutandis*.

## **Article 40**

### **Closure**

(1) The owner of a landfill intended to be closed must notify the competent authority immediately of such intended closure. Such notification must be accompanied by documents concerning type, size and operating procedures, as well as intended re-cultivation and other measures to protect the public interest.

(2) Where pertinent provisions are not yet included in the plan approval in accordance with Article 35 Para (2), in the planning permission in accordance with Article 35 Para (3), in conditions and requirements in accordance with Article 39 or in the provisions of environmental law applicable to the landfill, the competent authority shall place the operator of the landfill under an obligation

1. to re-cultivate the site used for a landfill in accordance with Para (1) at its own expense,
2. to take all other necessary precautions, including supervisory and control measures during the after-care phase, at its own expense to fulfil the requirements set forth in Article 36 Paras (1) to (3) even after closure, and
3. to report to the competent authority all findings from supervision that provide indications of significant adverse effects on human health and on the environment.

If there is reason to suspect that a landfill that has been definitively closed is the source of any harmful changes in the soil or of any other dangers to individuals or to the general public in accordance with Para (3), identification, examination, assessment and rehabilitation shall be subject to the provisions of the Federal Soil Protection Act.

(3) The competent authority shall be responsible for determining the completion of closure (final closure).

(4) The obligation in accordance with Para (1) shall also apply to operators of installations in which hazardous waste occurs.

(5) The competent authority shall determine the completion of the after-care phase upon application.

## **Article 41**

### **Emissions declaration**

(1) The operator of a landfill shall be obliged to provide to the competent authority, at a time defined in the statutory ordinance in accordance with Para (2), information regarding the nature, quantity and geographical and chronological distribution of the emissions generated by the installation within a specified period, as well as regarding the emissions conditions (emissions declaration); in keeping with the statutory ordinance in accordance with Para (2), the operator shall update the emissions declaration in line with the latest relevant status. This shall not apply to operators of landfills from which only insignificant quantities of emissions can be released. Notwithstanding the first sentence, the competent authority may set a shorter period where this is necessary in an individual case due to special circumstances.

(2) The Federal Government shall be empowered to specify by statutory ordinance and with the consent of the Federal Council to which landfills and to which emissions the obligation to provide an emissions declaration applies, as well as to specify the required contents, extent, form and time of submission of the emissions declaration, and to define the procedure to be complied with for determining the emissions. The statutory ordinance shall also specify which operators shall be exempted from obligations to submit an emissions declaration in accordance with Para (1) second sentence.

(3) Article 27 Para (1) second sentence, Paras (2) and (3) of the Federal Immission Control Act shall apply *mutatis mutandis*.

(4) The obligation to submit an emissions declaration in accordance with Para (1) shall arise with the entry into force of the statutory ordinance in accordance with Para (2).

## **Article 42**

### **Access to information**

Plan approval decisions in accordance with Article 35 Para (2), planning permission in accordance with Article 35 Para (3), orders in accordance with Article 39, all rejections and modifications of such decisions and the results that are available to the competent authority of monitoring of the emissions generated by a landfill shall be accessible to the public in accordance with the provisions of the Environmental Information Act (*Umweltinformationsgesetz*), with the exception of Article 12 of the Environmental Information Act; the relevant provisions of Federal State law shall apply to Federal State authorities.

## **Article 43**

### **Requirements for landfills**

(1) The Federal Government shall be empowered, after consulting the parties concerned (Article 68), to mandate, by statutory ordinance and with the consent of the Federal Council, that the construction, characteristics, operation, condition following closure and operator monitoring of landfills for fulfilment of Article 36 Para (1), and of Articles 39 and 40, and for implementation of legal acts of the European Union, must meet certain requirements relevant to the purpose named in Article 1; in particular, it may mandate,

1. that sites must conform to certain requirements,
2. that landfills must meet certain operational, organisational and technical requirements,
3. that the waste stored in landfills must conform to certain requirements; in so doing, it may be provided in particular that waste with certain metal contents may not be stored and what waste is regarded as inert waste,
4. that the emissions generated by landfills must not exceed certain maximum levels,
5. that operators must carry out, or have carried out, certain measurement and supervisory activities during operation and in the after-care phase,
6. that operators must have an expert carry out certain tests
  - a) during construction or otherwise prior to the start-up of landfill operations,
  - b) following the start-up of landfill operations, or following a change within the meaning of Article 35 Para (2) or Para (5),
  - c) at regular intervals, or
  - d) upon or following closure,
7. that operators may carry out the following only after acceptance by the competent authority,
  - a) put the landfill into operation,
  - b) make a significant change in the landfill's operation, or

- c) conclude the closure,
8. that, in case of certain events, operators must inform the competent authority within a specified period, take the necessary measures to prevent and limit adverse effects on public well-being, or that the competent authority must oblige the operator to take such measures.
9. that operators must report to the competent authority without delay during operations and in the after-care phase all results of monitoring that provide indications of significant adverse environmental impacts, as well as certain events that may have such impacts, and to provide the competent authority with regular reports on the results of the measurement and monitoring activities prescribed by the statutory ordinance.

When determining requirements, account must especially be taken of possible shifting of adverse impacts from one interest that is eligible for protection to another; a high level of protection for the environment overall must be ensured.

(2) The statutory ordinance in accordance with Para (1) may specify the extent to which the requirements for precaution against impairments of the interest that are eligible for protection referred to in Article 15 Para (2) second sentence must be fulfilled following the expiry of certain transition periods, where less stringent requirements have been established at the time of entry into force of the statutory ordinance, in a plan approval, in planning permission or in a provision under Federal States law. The nature, characteristics and quantity of landfilled waste, the site conditions, the nature, quantity and hazardness of the emissions released by the landfills and the usage period and special technical characteristics of the landfills shall especially be taken into account when determining the duration of transition periods, and the requirements to be fulfilled. The first and second sentences shall apply *mutatis mutandis* to the landfills mentioned in Article 39 Paras (1) and (2).

(3) The Federal Government shall be empowered to specify, after consulting the parties concerned (Article 68), by statutory ordinance and with the consent of the Federal Council, what requirements shall apply to the reliability, knowledge and expertise of persons responsible for the construction, direction or operational supervision of a landfill, as well as to the knowledge and expertise of other staff, including ongoing training of the responsible individuals and other staff.

(4) The Federal Government shall be empowered, by statutory ordinance and with the consent of the Federal Council

1. to mandate that the operators of certain landfills must provide security within the meaning of Article 232 of the Civil Code, or furnish some other equivalent collateral,
2. to issue provisions regarding the nature, extent and amount of the security required in accordance with Article 36 Para (3) within the meaning of Article 232 of the Civil Code or some other equivalent collateral, and
3. to specify for how long such security in accordance with number 1 or other equivalent collateral shall be provided.

(5) Procedures may be also determined by means of a statutory ordinance in accordance with Para (1) to review the requirements specified therein, in particular procedures in accordance with Article 10 Para (2) numbers 1 to 9 and Para (3).

## **Article 44**

### **Costs for the landfilling of waste**

(1) The charges to be billed under private law by an operator for the landfilling of waste must cover all costs for the construction and operation of the landfill, including the costs of a security that the operator is required to provide within the meaning of Article 232 of the Civil Code or equivalent collateral, as well as the estimated costs for closure and for after-care for a period of at least 30 years. Where such is ensured in accordance with the first sentence via exemptions in accordance with Article 4 Article 3 of the Environmental Framework Act of 29 June 1990 (Law Gazette [GBl.] Part I number 42 p. 649), amended by Article 12 of the Act of 22 March 1991 (Federal Law Gazette Part I pp. 766 and 1928), the costs for closure and after-care, and for the collateral, shall not be included in the calculation of charges.

(2) The operators shall determine the costs referred to in Para (1) and shall provide the competent authority, within a period to be set by the authority, with overviews of relevant costs and imposed charges.

(3) The fees of the public bodies responsible for waste management shall be in accordance with Federal State law.

(4) Paras (1) to (3) shall apply mutatis mutandis to the covering of the costs of installations requiring a permit to store waste within the meaning of the Federal Immission Control Act where waste is stored in this installation in each case over a period of more than one year prior to its disposal, or waste is stored in each case for a period of more than three years prior to its recovery.

## **PART 5**

### **PROMOTION OF SALES AND ADVICE ON WASTE**

#### **Article 45**

##### **Obligations of the public sector**

(1) The authorities of the Federation, as well as the legal persons under public law, special assets and other agencies under federal supervision, are obliged to contribute, through their conduct, to the attainment of the purpose of Article 1. In particular, they shall examine, in the design of work procedures, procurement or use of materials and consumer durables, and in construction projects and other contracts, and taking into account Articles 6 to 8 whether, and to what extent

1. products can be used,
  - a) that are particularly durable, are easy to repair, reusable or recoverable,
  - b) that result in less waste or less-polluting waste in comparison to other products, or
  - c) that are made from waste in the process of preparation for re-use or recycling, and
2. the waste occurring after the use of the products can be recovered, particular consideration being given to the priority of preparing for re-use and of recycling.

(2) The agencies named in Para (1) first sentence shall strive to ensure, within the framework of their resources, that private-law companies in which they have interests fulfil the obligations in accordance with Para (1).

(3) Within the framework of its obligations in accordance with Paras (1) and (2), the public sector shall take account of regulations for the use of products or materials, as well as for the protection of human health and the environment in accordance with other legal provisions.

#### **Article 46**

##### **Obligation to provide advice**

(1) The public bodies responsible for waste management within the meaning of Article 20 shall be obliged, within the framework of the tasks conferred on them, and through self-administration, to provide information and advice concerning possibilities for preventing, recovering and disposing of waste. The chambers of commerce and industry, chambers of trade and chambers of agriculture shall also be obliged to provide advice.

(2) The competent authority shall provide information concerning existing suitable waste disposal installations to parties obliged by this Act to carry out disposal.

**PART 6**  
**SUPERVISION**

**Article 47**

**General supervision**

(1) Waste prevention, in keeping with statutory ordinances issued based on Articles 24 and 25, as well as waste management, shall be subject to supervision by the competent authority. Article 25 Paras (1) and (3), Article 26 Paras (2) and (3), Article 27 Para (1), Article 28 Paras (1) and (2) and Para (4) first and second sentences of the Product Safety Act (*Produktsicherheitsgesetz*) of 8 November 2011, Federal Law Gazette Part I p. 2178, 2179 shall be applied mutatis mutandis to the enforcement of the statutory ordinances issued in accordance with Articles 24 and 25. The parties obliged in accordance with the second sentence shall be obliged to allow business and operational premises and offices, as well as dwellings, to be entered outside normal business hours, if this is required to avert imminent danger to public safety or order. The fundamental right to the inviolability of the home (Article 13 Para 1 of the Basic Law) shall be restricted to that extent.

(2) The competent authority shall monitor at regular intervals and to a suitable degree generators of hazardous waste, installations and enterprises that carry out waste treatment, as well as collectors, carriers, waste brokers and waste dealers. Supervision of the activities of waste collectors and waste carriers shall also encompass the source, the type, the quantity and the destination of the waste that has been collected and transported.

(3) On demand, the following parties shall provide information concerning the operation, facilities, installations and other objects subject to supervision to the employees of and agents commissioned by the competent authority:

1. waste generators and waste holders,
2. parties obliged to carry out waste treatment,
3. operators, and former operators, of companies or installations that carry out waste treatment, or have carried out waste treatment, even if the relevant installations have been closed, and
4. waste collectors, carriers, brokers and dealers.

Parties obliged to provide information in accordance with the first sentence shall allow the employees of and agents commissioned by the competent authority to check fulfilment of their obligations in accordance with Articles 7 and 15 to enter premises, including business and operational premises and offices, to inspect documents and to conduct technical investigations and tests during normal business hours. The parties obliged to provide information in accordance with the first sentence shall also be required to permit entry for these purposes of premises, as well as business and operational premises and offices, as well as into the parties' dwellings, if this is required to avert imminent danger to public safety or order. The basic right to the inviolability of the home (Article 13 Para. 1 of the Basic Law) shall be restricted to that extent.

(4) Operators of recovery and waste disposal installations, or of installations that also recover and dispose of waste, shall be required to make such installations accessible to the employees of and agents commissioned by the competent authority, to provide the manpower, tools and documents necessary for supervision and, following the relevant order of the competent authority, to permit the condition and operation of the relevant installation to be inspected, at their own expense.

(5) Article 55 of the Code of Criminal Procedure (*Strafprozessordnung*) shall apply mutatis mutandis to the parties obliged to provide information in accordance with this provision.

(6) The official supervision powers in accordance with Paras (1) to (5) shall also cover a review of whether certain substances or objects are not to be regarded as waste, or are no longer to be regarded as waste, subject to the provisos contained in Articles 4 and 5.

## **Article 48**

### **Waste designation, hazardous waste**

Special requirements, in keeping with this Act, are to be placed on the waste treatment and supervision of hazardous waste. For the transposition of legal acts of the European Union, the Federal Government shall be empowered, after consulting the parties concerned (Article 68), by statutory ordinance and with the consent of the Federal Council to specify designations for waste and hazardous waste, and in individual cases to permit the specification of hazardous waste by the competent authority.

## **Article 49**

### **Obligation to register**

(1) Operators of installations or companies that carry out waste treatment via an operation in accordance with Annex 1 or Annex 2 (waste treatment operators) shall keep a register that shows the following information with regard to operations in accordance with Annex 1 or Annex 2:

1. the quantity, type, origin, and
2. the classification, frequency of collection, the relevant means of transport and the type of recovery or disposal including preparation for recovery or disposal, where such information is significant to ensuring proper waste management.

(2) Waste treatment operators that carry out technical waste treatment or store waste shall record the information required in accordance with Para (1), especially the classification of waste having undergone technical waste treatment or stored waste, also with regard to further waste treatment, where this is necessary to ensure proper waste treatment in light of the waste treatment installation's intended purpose.

(3) Obligations in accordance with Para (1) to keep registers shall also apply to waste generators, holders, collectors, carriers, brokers and dealers of hazardous waste.

(4) such registers shall be presented, or information from such registers provided, at the request of the competent authority.

(5) Register entries, and added documents, relative to hazardous waste, shall be archived by waste generators, holders, brokers, dealers and waste treatment operators for at least three years, while waste carriers shall archive them for at least twelve months from the time when the relevant entry was made or the relevant document was added, except where a statutory ordinance in accordance with Article 52 mandates a longer period.

(6) The register obligations in accordance with Paras (1) to (3) shall not apply to private households.

## **Article 50**

### **Obligations to keep records and proof**

(1) Generators, holders, collectors, carriers and waste treatment operators of hazardous waste shall furnish proof to the competent authority and to each other of proper treatment of hazardous waste. Such proof shall be provided

1. prior to the commencement of waste treatment, in the form of a declaration of the waste generator, holder, collector or transporter relative to the planned waste treatment, of a declaration of acceptance of the waste treatment operator and of the competent authority's confirmation of the permissibility of the planned waste treatment , and
2. regarding completed waste treatment, or completed Articles of waste treatment, in the form of declarations of the parties obliged in accordance with the first sentence regarding the final destination of the waste that has been treated.

(2) The obligations to furnish proof in accordance with Para (1) shall not apply to the treatment of hazardous waste that waste generators or holders treat in their own waste treatment installations if such



installations are located in a close geographical and operational context with the installations or sites at which the waste requiring to be treated has been generated. The obligations pertaining to registers in accordance with Article 49 shall remain unaffected thereby.

(3) The obligations to furnish proof in accordance with Para (1) shall not apply until completion of acceptance or return of products, or of the hazardous waste remaining following use of products, subject to mandated acceptance or return in accordance with Article 25. Acceptance or return of products, and of waste remaining following use of products, shall be deemed complete no later than upon acceptance at an installation for further waste treatment, except for installations for interim waste storage, unless the statutory ordinance prescribing acceptance or return stipulates an earlier time.

(4) The obligations to furnish proof in accordance with Para (1) shall not apply to private households.

## **Article 51**

### **Supervision in individual cases**

(1) The competent authority may mandate that waste generators, holders, collectors, carriers, brokers, dealers or waste treatment operators, but not private households,

1. must keep and present registers or records, or provide information from the registers, where no obligations exist in accordance with Articles 49 and 50, or
2. must fulfil certain requirements in accordance with Article 10 Para (2) numbers 2 and 3, as well as 5 to 8.

It may also be provided by order in accordance with the first sentence that records and registers are kept electronically and that documents are to be presented in electronic form in accordance with Article 3a Para (2) second and third sentences of the Administrative Procedure Act.

(2) If the waste generator, holder, collector, carrier, broker, dealer or waste treatment operator is a Certified Waste Management Company within the meaning of Article 56 or an audited company site within the meaning of Article 61, the competent authority shall take this into account in orders in accordance with Para (1), especially with regard to possible restrictions on the extent or the content of obligations pertaining to records. This shall especially include consideration of documents reviewed by an environmental auditor and prepared in the framework of participation in the Community Eco-Management and Audit Scheme (EMAS).

## **Article 52**

### **Requirements for records and registers**

(1) The Federal Government shall be empowered, after consulting the parties concerned (Article 68), by statutory ordinance and with the consent of the Federal Council, for fulfilment of the obligations arising from Articles 49 to 51, to specify requirements pertaining to the form and content of records, and to the procedures for keeping and presenting records and registers, and for reporting certain information from registers, and to specify the installations or companies obliged in accordance with Article 49 Para (2). A statutory ordinance in accordance with the first sentence may also specify

1. that the proof in accordance with Article 50 Para (1) second sentence number 1 shall be deemed to have been confirmed, or no confirmation shall be necessary, upon the expiration of a certain period, as long as proper waste treatment is assured in each case,
2. that proof is to be presented at the request of the competent authority, or of a former holder, of the implementation of the waste treatment to the authority or the former holder,
3. that, for certain small quantities, which can be specified at different levels, depending on the type and nature of the waste in question, or for individual waste management operations, types of waste or waste groups, certain requirements shall not apply or different requirements shall apply, as long as proper waste treatment remains assured,

4. that the competent authority may exempt, subject to revocation, by application or ex officio, obliged parties wholly or partly from obligations to keep and furnish records or registers, as long as proper waste treatment remains assured,
  5. that registers must be kept as a topically and chronologically ordered collection of prescribed records or of documents commonly used in waste treatment practice,
  6. that records and registers must be archived until the expiration of certain periods, and
  7. that suitable information is to accompany the transportation of waste for the purpose of supervision.
- (2) The following may also be ordered by means of a statutory ordinance in accordance with Para (1):
1. that records and registers are to be kept electronically and that documents are to be presented in electronic form in accordance with Article 3 a) Para (2) second and third sentences of the Administrative Procedure Act,
  2. that the necessary basis for fulfilment of the obligations named under number 1 is to be created and maintained, and
  3. that certain information relative to the technical basis in accordance with number 2, and especially the necessary accesses for receipt and any disruptions of the facilities necessary for relevant communications, be reported to the competent authorities or to participating parties obliged to keep and furnish records.

### **Article 53**

#### **Waste collectors, carriers, brokers and dealers**

- (1) Waste collectors, carriers, brokers and dealers shall notify the activities of their operation to the competent authority prior to taking up operations unless the operation has a licence in accordance with Article 54 Para (1). The competent authority shall confirm receipt of the notification to the notifying party promptly in writing. The authority of the Federal State in which the notifying party is headquartered shall be competent therefor.
- (2) The holder of an operation within the meaning of Para (1), as well as the persons responsible for the management and supervision of operation must be reliable. The holder, where he/she is responsible for the management of the operation, the persons who are responsible for the management and supervision of the operation and the other staff must have the knowledge and expertise necessary for their work.
- (3) The competent authority may make the notified activity contingent on conditions, may time limit it or provide for conditions for it where this is necessary in the public interest. It may demand documents proving the reliability and the knowledge and expertise of the notifying party. It shall prohibit the notified activity if facts are known which give rise to reservations as to the reliability of the owner or of persons who are responsible for the management and supervision of the operation, or if the necessary knowledge or expertise has not been proven in accordance with Para (2) second sentence.
- (4) Proof documents from another Member State of the European Union or another Contracting Party of the Agreement on the European Economic Area regarding compliance with the requirements in accordance with Para (2) shall be deemed equivalent to domestic proof documents if it emerges from them that the requirements in question or the requirements of the issuing state are fulfilled that are essentially comparable in terms of their objectives. The original or a copy of equivalent proof documents in accordance with the first sentence shall be submitted at the request of the competent authority. A certification of the copy, as well as a certified German translation, may be required.
- (5) Article 36 a) Para (1) second sentence and Paras (2) and (4) fourth sentence of the of the Trade Regulation Act (*Gewerbeordnung*) shall apply mutatis mutandis to the review of the required knowledge and expertise in accordance with Para (2) second sentence of a notifying party from another Member State of the European Union or another Contracting Party of the Agreement on the European Economic Area; Article 13 a) Para (2) second to fifth sentences and Para (3) of the of the Trade Regulation Act shall apply mutatis mutandis in case of temporary, occasional activity on the part of a service-provider established in another Member State of the European Union or in another Contracting Party of the Agreement on the European Economic Area, as to the necessary knowledge and expertise.

(6) The Federal Government shall be empowered, after consulting the parties concerned (Article 68), by means of a statutory ordinance with the consent of the Federal Council, for the notification and activity of waste collectors, carriers, dealers and brokers, for waste collectors and carriers in particular taking account of the particularities of the respective mode of transport, transport routes or the respective means of transport

1. to issue provisions regarding the form, the content and the procedure for making the notification, on requirements as to reliability, knowledge and expertise and its documentation,
2. to order that the procedure for making the notification is to be carried out electronically and that documents are to be presented in electronic form in accordance with Article 3a Para (2) second and third sentences of the Administrative Procedure Act,
3. to exempt certain activities from the notification obligation in accordance with Para (1) where such notification is not required in the public interest, and
4. to determine requirements of the parties obliged to notify and their activities ensuing from legal provisions of the European Union.

## **Article 54**

### **Waste collectors, carriers, brokers and dealers of hazardous waste**

(1) Collectors, carriers, brokers and dealers of hazardous waste shall require a licence. The competent authority shall issue the licence if

1. no facts are known which give rise to reservations as to the reliability of the holder or of persons who are responsible for the management and supervision of operations, and
2. the holder, where he/she is responsible for the management of the operation, the persons who are responsible for the management and supervision of the operation and the other staff have the knowledge and expertise necessary for their work.

The authority of the Federal State in which the applicant is headquartered shall be competent therefore. The licence in accordance with the first sentence shall be valid for the Federal Republic of Germany.

(2) The competent authority may issue the licence subject to ancillary provisions if this is necessary to protect the public interest.

(3) The following shall be exempt from the obligation to obtain a licence in accordance with Para (1) first sentence

1. public bodies responsible for waste management, and
2. Certified Waste Management Companies within the meaning of Article 56 where they are certified for the activity subject to authorisation.

(4) Licences from another Member State of the European Union or another Contracting Party of the Agreement on the European Economic Area shall be considered equivalent to licences in accordance with Para (1) first sentence where they are of equal value. When reviewing an application for a licence in accordance with Para (1) first sentence, proof documents from another Member State of the European Union or another Contracting Party of the Agreement on the European Economic Area shall be deemed equivalent to domestic proof documents if it emerges from them that the applicant meets the relevant requirements of Para (1) second sentence or requirements of the issuing state which are essentially comparable in terms of their objectives. The original or a copy of documents regarding the equivalent licence in accordance with the first sentence and other proof documents in accordance with the second sentence shall be submitted to the competent authority prior to taking up the activity. A certification of the copy, as well as a certified German translation, may be required.

(5) Article 36 a) Para (1) second sentence and Paras (2) and (4) fourth sentence of the Trade Regulation Act shall apply mutatis mutandis to the review of the required knowledge and expertise in accordance with Para (1) second sentence number 2 of an applicant from another Member State of the European Union or another Contracting Party of the Agreement on the European Economic Area; Article 13 a) Para (2) second to fifth sentences and Para (3) of the Trade Regulation Act shall apply mutatis mutandis in case of temporary, occasional activity on the part of a service-provider established in

another Member State of the European Union or in another Contracting Party of the Agreement on the European Economic Area as to the necessary knowledge and expertise.

(6) Licensing procedures in accordance with Paras (1) and (4) may be processed via a standard agency. Article 42 a) of the Administrative Procedure Act shall apply to the procedure in accordance with Paras (1) and (4) where the applicant is a national of a Member State of the European Union or of another Contracting Party of the Agreement on the European Economic Area or is headquartered in one of these states as a legal person.

(7) The Federal Government shall be empowered, after consulting the parties concerned (Article 68), by means of a statutory ordinance with the consent of the Federal Council, for the obligation to obtain a licence and the activity of collectors, carriers, brokers and dealers of hazardous waste, for collectors and carriers of hazardous waste, in particular taking into account the particularities of the respective modes of transport, routes or means of transport,

1. to issue provisions on the application documents, the form, the content and the procedure to grant the licence, the requirements as to reliability, knowledge and expertise, as well as their documentation, the deadlines after which compliance with the prerequisites is once more to be reviewed,
2. to order that the licensing procedure is to be carried out electronically, and that documents are to be presented in electronic form in accordance with Article 3a Para (2) second and third sentences of the Administrative Procedure Act,
3. to exempt certain activities from the obligation to obtain a licence in accordance with Para (1) where a licence is not necessary in the public interest,
4. to determine the requirements of the party obliged to obtain a licence and their activities emerging from legal provisions of the European Union, and
5. to order that in the transport of waste suitable documents are to be taken along for the purposes of supervision.

## **Article 55**

### **Labelling of vehicles**

(1) Collectors and carriers shall fit vehicles with which they transport waste on public roads in performing their activities, before starting the journey, with two reflective, white warning panels in accordance with the third sentence (A signs). The first sentence shall not apply to collectors and carriers collecting or transporting waste in the context of economic enterprises. Article 10 of the Waste Transportation Act (*Abfallverbringungsgesetz*) of 19 July 2007 (Federal Law Gazette Part I p. 1462) shall apply mutatis mutandis in the respectively applicable version as to the requirements of the marking of vehicles.

(2) The Federal Government shall be empowered to provide in a statutory ordinance in accordance with Article 53 Para (6) or Article 54 Para (7) for exemptions to the marking obligation in accordance with Para (1) first sentence.

(3) Legal provisions enacted for reasons of safety in connection with the transportation of hazardous goods shall remain unaffected thereby.

## **PART 7**

### **CERTIFIED WASTE MANAGEMENT COMPANIES**

#### **Article 56**

##### **Certification of Certified Waste Management Companies**

(1) Certified Waste Management Companies (*Entsorgungsfachbetriebe*) shall contribute towards the promotion of circular economy and the ensuring of the protection of human health and the environment in the generation and management of waste in accordance with legal provisions applicable thereto.

(2) A Certified Waste Management Company is a company which

1. collects, transports, stores, treats, recovers, disposes of, trades or deals in waste on a commercial basis, in the context of economic enterprises or public facilities, and
2. is certified in relation to one or several of the activities named in number 1 as a Certified Waste Management Company by a technical supervisory organisation or a Community of Certified Waste Management Companies.

(3) The certificate may only be issued if the operation complies with the requirements for the proper performance of its tasks as to its organisation, its staffing, technical and other equipment, its activity, as well as the reliability and knowledge and expertise of its staff. The certificate shall precisely designate the certified activities of the operation, in particular related to its sites and installations, as well as to the types of waste. The certificate shall carry a sunset clause. The period of validity may not exceed a period of 18 months. Compliance with the prerequisites of the first sentence shall be checked at least once per year by the technical supervisory organisation or the Community of Certified Waste Management Companies.

(4) When the certificate is issued, the operation shall be issued with an entitlement by the technical supervisory organisation or the Community of Certified Waste Management Companies to affix a supervisory seal bearing the designation "Certified Waste Management Company" together with the indication of the certified activity and the technical supervisory organisation or Community of Certified Waste Management Companies issuing the supervisory seal. An operation may only use the supervisory seal if and to the extent that it is certified as a Certified Waste Management Company.

(5) A technical supervisory organisation shall be an association with legal capacity comprised of several experts whose expert activity is orientated towards long-term cooperation. The granting of the certificate and of the entitlement to affix the supervisory seal by the technical supervisory organisation shall be provided on the basis of a supervision contract which in particular determines the requirements of the operation and its supervision, as well as requirements with regard to the issuing and withdrawal of the certificate and of the entitlement to affix the supervisory seal. The supervision contract shall require the consent of the competent authority.

(6) A Community of Certified Waste Management Companies (*Entsorgergemeinschaft*) shall be an association with legal capacity of Certified Waste Management Companies within the meaning of Para (2). It shall require recognition by the competent authority. The issuance of the certificate and of the entitlement to affix the supervisory seal by the Community of Certified Waste Management Companies shall be effected on the basis of a set of statutes or other regulations which in particular determine the requirements of the operations to be certified and their supervision, as well as the issuance and the withdrawal of the certificate and of the entitlement to affix the supervisory seal.

(7) The technical supervisory organisation and the Community of Certified Waste Management Companies shall avail themselves for the supervision of the operations of the services of experts who have the reliability, independence, as well as knowledge and expertise, necessary for the implementation of supervision.

(8) If the prerequisites for the issuance of the certificate cease to apply, the technical supervisory organisation or the Community of Certified Waste Management Companies shall deprive the operation of the certificate which it issued and of the entitlement to affix the supervisory seal, and shall call on the operation to return the certificate and to desist from affixing the supervisory seal. If the operation fails to comply with this demand within a period set by the technical supervisory organisation or Community of Certified Waste Management Companies, the competent authority may deprive the operation of the certificate that has been issued and of the entitlement to affix the supervisory seal, as well as prohibiting the other further use of the designation "Certified Waste Management Company".

## **Article 57**

### **Requirements of Certified Waste Management Companies, technical supervisory organisations and Communities of Certified Waste Management Companies**

The Federal Government shall be empowered, after consulting the parties concerned (Article 68), by means of a statutory ordinance with the consent of the Federal Council to determine requirements of Certified Waste Management Companies, technical supervisory organisations and Communities of Certified Waste Management Companies. In the statutory ordinance in particular

1. requirements of the organisation, the staffing, technical and other equipment and the activity of a Certified Waste Management Company can be determined and adequate liability insurance coverage demanded,
2. requirements of the holder and of the persons employed in the Certified Waste Management Company, in particular minimum requirements as to the knowledge and expertise and reliability, as well as to their proof, can be determined,
3. requirements of the activities of the technical supervisory organisations, in particular minimum requirements as to the supervision contract, as well as its conclusion, implementation, dissolution and expiry, may be determined,
4. requirements of the activities of the Communities of Certified Waste Management Companies, in particular of their establishment, dissolution, organisation and modus operandi, including the appointment, tasks and powers of the supervisory bodies, as well as minimum requirements as to the members of these supervisory bodies, may be determined,
5. minimum requirements as to the experts working for the technical supervisory organisations or for the Communities of Certified Waste Management Companies, as well as their appointment, activities and supervision, may be determined,
6. requirements of the supervisory seal and the underlying certificate, in particular of the form and the content, as well as requirements of their issuance, their dissolution, their expiry and their deprivation, may be determined,
7. the special prerequisites, the procedure, the granting and dissolution
  - a) of consent by the competent authority to the supervision contract may be regulated, and
  - b) of recognition of the Communities of Certified Waste Management Companies by the competent authority may be regulated; in doing so, the recognition of the Communities of Certified Waste management Companies may be revoked in case of threatening restrictions of competition,
8. the detailed requirements of the withdrawal of the certificate and of the entitlement to affix the supervisory seal, as well as the prohibition of the other further use of the designation "Certified Waste Management Company" by the competent authority in accordance with Article 56 Para (8) second sentence may be determined, and
9. the electronic keeping and presentation of documents in electronic form in accordance with Article 3a Para (2) second and third sentences of the Administrative Procedure Act may be ordered for the necessary declarations, proof documents, notifications or other data.

## **PART 8**

### **COMPANY ORGANISATION, WASTE MANAGEMENT OFFICER AND FACILITATION OF REQUIREMENTS FOR AUDITED COMPANY LOCATIONS**

#### **Article 58**

##### **Obligations to provide notification of company organisation**

- (1) If the representative organ of a joint-stock company consists of several members, or if a partnership company has several partners who are authorised to represent the company, the competent authority is to be notified regarding which of these members or partners, in accordance with provisions concerning management authorisation, shall fulfil, on behalf of the company, the obligations of an operator of an installation subject to licensing within the meaning of Article 4 of the Federal Immission Control Act, or of an owner within the meaning of Article 27, to which such an operator or owner is subject in accordance with this Act and in accordance with the statutory ordinances issued on the basis of this Act. The overall responsibility of all members of such an organ, or of all partners, shall remain unaffected.
- (2) The operator of an installation subject to licensing within the meaning of Article 4 of the Federal Immission Control Act, the owner according to Article 27, or the person to be named in accordance with Para (1) first sentence within the framework of his management authorisation, shall inform the competent authority of the means by which it is ensured that the provisions and orders issued to support the

prevention, recovery and environmentally compatible disposal of waste are being complied with in operations.

## **Article 59**

### **Appointment of a Company Waste Management Officer**

(1) Operators of installations subject to licensing within the meaning of Article 4 of the Federal Immission Control Act, operators of installations in which hazardous waste is regularly generated, operators of stationary sorting, recovery or waste disposal installations, and holders within the meaning of Article 27, shall promptly appoint one or more Company Waste Management Officer(s) (Waste Management Officers) to the extent that this is necessary with regard to the type or size of the relevant installations because of the

1. waste accumulated, recovered or disposed of in the installation,
2. technical problems of prevention, recovery or disposal, or
3. the capability of products or goods to cause problems, during or following their use as intended, with regard to proper and safe recovery or environmentally compatible disposal.

The Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety shall determine, after consulting the parties concerned (Article 68), and by statutory ordinance and with the consent of the Federal Council for which facilities in accordance with the first sentence the owners must appoint Waste Management Officers.

(2) The competent authority may mandate that operators of installations, in accordance with Para (1) first sentence, for which the appointment of a Waste Management Officer is not required by statutory ordinance, must appoint one or more Waste Management Officers, if, in individual cases, the necessity of such appointment results from the reasons mentioned in Para (1) first sentence.

(3) If an Immission Control Officer must be appointed in accordance with Article 53 of the Federal Immission Control Act, or if a Water Pollution Control Officer must be appointed in accordance with Article 64 of the Federal Water Act, the latter may also perform the duties and the tasks of a Waste Management Officer in accordance with this Act.

## **Article 60**

### **Tasks of the Company Waste Management Officer**

(1) The Waste Management Officer shall advise the operator and the company's personnel on matters that could be of significance with regard to waste prevention and waste management. He/she shall be authorised and obliged

1. to supervise the stages of waste treatment from its occurrence or delivery to its recovery or disposal,
2. to supervise compliance with the provisions of this Act and of the statutory ordinances issued on the basis of this Act, as well as fulfilment of existing conditions and restrictions, especially by controlling, at regular intervals, the company installations and the type and nature of the waste which occurs in the installations or which is recovered or disposed of therein, to provide information regarding defects detected and to make proposals for measures for eliminating these defects,
3. to inform company personnel
  - a) concerning impairment of the public interest that could result from the waste which occurs, or is recovered or disposed of in the installations,
  - b) concerning facilities and measures for preventing such impairment of the public interest, taking into account the laws and statutory ordinances applying to the prevention, recovery and disposal of waste,

4. in case of installations subject to licensing within the meaning of Article 4 of the Federal Immission Control Act or installations in which hazardous waste regularly occurs to encourage the development and introduction
    - a) of environmentally compatible, low waste processes, including processes for the prevention, proper and safe recovery or environmentally compatible disposal of waste,
    - b) of environmentally compatible, low-waste-producing products, including processes for re-use, recovery and environmentally compatible disposal upon cessation of their use, and
  5. to co-operate in the development and introduction of the processes mentioned under number 4 a) and b), especially by studying the processes and products using criteria of waste management,
  6. to also encourage improvements in the process in installations in which waste is recovered or disposed of.
- (2) The Waste Management Officer shall submit an annual written report to the operator concerning the measures taken and planned in accordance with Para (1) second sentence numbers 1 to 5.
- (3) Article 55 Paras (1), (1 a)) and (2) first and second sentences and Paras (3) and (4) and Articles 56 to 58 of the Federal Immission Control Act shall apply *mutatis mutandis* to the relationship between the Waste Management Officer and the party obliged to make such an appointment. The Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety shall be empowered, after consulting the parties concerned (Article 68), by means of a statutory ordinance with the consent of the Federal Council to prescribe which requirements are to be made of the knowledge and reliability of the Waste Management Officer.

## **Article 61**

### **Facilitation of requirements for audited company locations**

- (1) The Federal Government shall be empowered, in the interest of promoting private responsibility for locations of the Community eco-management and audit scheme (EMAS) to facilitate requirements by statutory ordinance and with the consent of the Federal Council pertaining to the content of application documents in the procedure under the law on waste, and to facilitate requirements under laws pertaining to supervision, to the extent that the relevant requirements of Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342 of 22 December 2009, p. 1) are equivalent to the requirements for supervision and for application documents in accordance with this Act, or to the statutory ordinances issued on the basis of this Act, or to the extent that such equivalence is assured via the statutory ordinance in accordance with this provision.
- (2) By means of a statutory ordinance in accordance with Para (1), additional prerequisites pertaining to claiming and to the revocation of easing of restrictions, or to the complete or partial suspension of facilitated restrictions for cases in which the prerequisites for granting such facilitated restrictions are no longer in place, may also be regulated.
- (3) By means of a statutory ordinance in accordance with Para (1), regulatory facilitation, in particular with regard to
1. calibration, determinations, testing and measurements,
  2. measurement reports and other reports and notifications of measurement results,
  3. tasks of the Company Waste Management Officer,
  4. obligations to provide notification concerning company organisation, and
  5. the frequency of supervision by authorities

may only be granted if the environmental auditor or environmental audit organisation within the meaning of the Environmental Audit Act (*Umweltauditgesetz*) has verified compliance with environmental provisions, has not found any non-conformities *vis-à-vis* such provisions and has certified such compliance in the declaration of validity.



(4) Facilitations in the licensing procedure and facilitations under laws pertaining to supervision for Certified Waste Management Companies may be granted by means of a statutory ordinance in accordance with Para (1) subject to the prerequisites determined therein.

## **PART 9**

### **FINAL PROVISIONS**

#### **Article 62**

##### **Orders in individual cases**

The competent authority may in individual cases issue the necessary orders to implement this Act and the statutory ordinances issued based on this Act.

#### **Article 63**

##### **Secrecy and data protection**

The legal provisions concerning secrecy and data protection shall remain unaffected.

#### **Article 64**

##### **Electronic communication**

Where written form is ordered based on this Act or of a statutory ordinance issued based on this Act, the electronic form shall also be permitted in accordance with Article 3a of the Administrative Procedure Act.

#### **Article 65**

##### **Transposition of legal acts of the European Union**

(1) In order to transpose legal acts of the European Union, the Federal Government may issue statutory ordinances, for the purpose mentioned in Article 1, and with the consent of the Federal Council, to ensure environmentally compatible waste prevention and management, in particular for proper and safe recovery, as well as for the environmentally compatible disposal of waste. Such statutory ordinances may also regulate the means by which the public is to be informed.

(2) In order to transpose legal acts of the European Union, the Federal Government may issue statutory ordinances with the consent of the Federal Council to regulate the administrative procedures to issue licences and permissions or to provide notification in accordance with this Act or in accordance with a statutory ordinance issued based on this Act.

#### **Article 66**

##### **Enforcement within the sphere of the German Armed Forces (*Bundeswehr*)**

(1) Within the sphere of the Federal Ministry of Defence, responsibility for enforcement of this Act, and of statutory ordinances based on it for recovery and disposal of militarily owned waste, as well as of waste for which a special military security interest exists, shall lie with the Federal Ministry of Defence and the bodies designated by it.

(2) The Federal Ministry of Defence shall be empowered, for the purposes of recovery or disposal of waste, within the meaning of Para (1), from the sphere of the German Armed Forces, to permit exceptions to this Act and to the statutory ordinances based on it, to the extent that compelling reasons of defence or the fulfilment of intergovernmental obligations so require.

## **Article 67**

### **Participation of the German Parliament in the issuing of statutory ordinances**

Statutory ordinances in accordance with Article 8 Para (2), Article 10 Para (1) numbers 1 and 4, as well as Articles 24, 25 and 65, shall be submitted to the German Parliament. Such submission shall take place prior to submission to the Federal Council. Such statutory ordinances may be amended or rejected by resolution of the German Parliament. Resolutions of the German Parliament shall be submitted to the Federal Government. If the German Parliament has not dealt with it after the completion of three session weeks following arrival of a statutory ordinance, the statutory ordinance shall be forwarded unchanged to the Federal Council.

## **Article 68**

### **Consultation of parties concerned**

Where the authorisations to issue statutory ordinances and general administrative provisions prescribe the consultation of the parties concerned, a selected group of representatives from the science sector, from the parties affected, from involved sectors of industry, from the highest Federal State authorities responsible for waste management, as well as from the communities and associations of local government, shall be consulted.

## **Article 69**

### **Provisions concerning fines**

(1) An regulatory offence shall be deemed to have been committed by anyone who wilfully or negligently

1. in contravention of Article 12 Para (4) or Article 56 Para (4) second sentence uses a seal designated therein,
2. treats, stores or landfills waste for disposal in contravention of Article 28 Para (1) first sentence,
3. constructs or significantly modifies a landfill without a plan approval decision in accordance with Article 35 Para (2) first sentence, or without planning permission in accordance with Article 35 Para (3) first sentence,
4. violates an enforceable condition in accordance with Article 36 Para (4) first sentence or third sentence, Article 39 Para (1) first sentence or Para (2) first sentence, Article 53 Para (3) second sentence or Article 54 Para (2),
5. violates an enforceable restriction tied to a licence in accordance with Article 37 Para (1) first sentence,
6. violates an enforceable prohibition in accordance with Article 53 Para (3) third sentence,
7. collects or transports hazardous waste, trades in it or acts as a broker for it without permission in accordance with Article 54 Para (1) first sentence, or
8. violates a statutory ordinance in accordance with Article 4 Para (2), Article 5 Para (2), Article 10 Para (1), Article 11 Para (2) first sentence or second sentence or Para (3) number 1, 2 or number 3, Article 12 Para (7), Article 16 first sentence number 1 or number 2, Article 24, Article 25 Para (1) number 1, 2 or number 3, Para (2) number 2, 3 or number 4, Article 28 Para (3) second sentence, Article 43 Para (1) first sentence numbers 2 to 5, 7 or number 8 or Article 57 second sentence numbers 1 to 7 or number 8 or an enforceable order on the basis of such a statutory

ordinance, where the statutory ordinance refers to this provision concerning fines for a specific offence.

(2) An regulatory offence shall be deemed to have been committed by anyone who wilfully or negligently

1. fails to provide notification, correct notification, complete notification or notification on time in contravention of Article 18 Para (1) first sentence, Article 26 Para (2), Article 40 Para (1) first sentence or Article 53 Para (1) first sentence,
2. in contravention of Article 34 Para (1) first sentence fails to tolerate entry to premises or a measure referred to therein,
3. fails to submit an emissions declaration, a correct emissions declaration or a complete emissions declaration, or fails to submit an emissions declaration on time, or fails to supplement an emissions declaration, a correct emissions declaration or a complete emissions declaration, or fails to supplement an emissions declaration on time, in contravention of Article 41 Para (1) first sentence in conjunction with a statutory ordinance in accordance with Article 41 Para (2) first sentence,
4. fails to provide information correctly, completely, or on time in contravention of Article 47 Para (3) first sentence,
5. fails to permit entry on to land or residential, business or operational premises, inspection of a document or technical inspections or testing in contravention of Article 47 Para (3) second sentence or third sentence,
6. in contravention of Article 47 Para (4), fails to make an installation designated therein accessible or to provide workers, tools or documents,
7. violates an enforceable order in accordance with Article 47 Para (4) or Para (9) first sentence, Article 51 Para (1) first sentence or Article 59 Para (2),
8. fails to keep a register, a correct register or a complete register in contravention of Article 49 Para (1), also in conjunction with Article 49 Para (3), or with a statutory ordinance in accordance with Article 10 Para (2) number 1 (b) or Article 52 Para (1) first sentence or second sentence number 3 or number 5,
9. fails to record information, to record correct information, to record complete information, or to record information on time in contravention of Article 49 Para (2) in conjunction with a statutory ordinance in accordance with Article 52 Para (1) first sentence,
10. fails to submit a register, a correct register or a complete register, or fails to submit a register on time, or fails to provide notification, correct notification or complete notification, or fails to provide notification on time, in contravention of Article 49 Para (4), also in conjunction with a statutory ordinance in accordance with Article 10 Para (2) number 1 (b) or Article 52 Para (1) first sentence or second sentence number 3,
11. fails to retain information or documentation or fails to do so for the prescribed period in contravention of Article 49 Para (5), also in conjunction with a statutory ordinance in accordance with Article 52 Para (1) second sentence number 6,
12. fails to keep records, or to keep records correctly, completely, or on time in contravention of Article 50 Para (1), in conjunction with a statutory ordinance in accordance with Article 52 Para (1) first sentence, in each case also in conjunction with a statutory ordinance in accordance with Article 10 Para (2) number 1 b) or Article 52 Para (1) second sentence number 3,
13. fails to affix warning panels to a vehicle, or fails to affix them correctly, completely or on time, in contravention of Article 55 Para (1) first sentence,
14. fails to appoint a Waste Management Officer, or does not do so on time, in contravention of Article 59 Para (1) first sentence in conjunction with a statutory ordinance in accordance with Article 59 Para (1) second sentence, or
15. violates a statutory ordinance in accordance with Article 10 Para (2) number 1 a), numbers 2 to 7 or number 8, in each case also in conjunction with Article 11 Para (3) number 4, Article 16 first sentence number 3 or Article 43 Para (5), in accordance with Article 25 Para (1) number 4 or number 5, Article 43 Para (1) first sentence number 6 or number 9, Article 52 Para (2) number 2 or number 3, Article 53 Para (6) number 1, 2 or number 4, Article 54 Para (7) number 1, 2 or

number 4 or Article 57 second sentence number 9 or an enforceable order issued on the basis of such a statutory ordinance, to the extent that the statutory ordinance refers to this provision with regard to a specific violation.

(3) The regulatory offence in accordance with Para (1) may be punished by a fine of up to one hundred thousand Euros; the regulatory offence in accordance with Para (2) may be punished by a fine of up to ten thousand Euros.

(4) The administrative authority within the meaning of Article 36 Para (1) number 1 of the Regulatory Offences Act shall be the Federal Office for Goods Transport, where regulatory offences in accordance with Para (1) numbers 6 to 8, or in accordance with Para (2) numbers 1, 7, 8, 10 to 13 and 15, are concerned and the violation is committed in connection with the road transport of waste with goods vehicles by a company which has neither its registered office in Germany nor a commercial branch, and where the person in question does not have a place of residence in Germany.

## **Article 70**

### **Confiscation**

If a regulatory offence in accordance with Article 69 Para (1) numbers 2 to 7 or number 8 has been committed, objects may be confiscated

1. to which the regulatory offence relates, or
2. which have been used or intended for its commission or preparation.

Article 23 of the Act on Regulatory Offences (*Gesetz über Ordnungswidrigkeiten*) shall apply.

## **Article 71**

### **Exclusion of derogating Federal State Law**

Federal State Law may not derogate from provisions of administrative procedure contained in this Act or handed down based on this Act.

## **Article 72**

### **Interim provision**

(1) Transfers of obligations in accordance with Article 16 Para (2), Article 17 Para (3) or Article 18 Para (2) of the Act for Promoting Recycling Management and Ensuring Environmentally Sound Waste Disposal (*Kreislaufwirtschafts- und Abfallgesetz*) of 27 September 1994 (Federal Law Gazette Part I p. 2705), most recently amended by Article 5 of the Act of 6 October 2011 (Federal Law Gazette Part I p. 1986), shall continue to apply. The competent authority may extend existing transfers of obligations in accordance with Article 13 Para (2) and Articles 16 to 18 of the Act for Promoting Recycling Management and Ensuring Environmentally Sound Waste Disposal of 27 September 1994 (Federal Law Gazette Part I p. 2705), most recently amended by Article 5 of the Act of 6 October 2011 (Federal Law Gazette Part I p. 1986).

(2) For commercial and non-profit collections that are already being implemented at the time when this Act comes into force, the notification in accordance with Article 18 Para (1) shall be made within three months of the entry into force of this Act. Article 18 Paras (2) and (3) shall apply *mutatis mutandis* to the notification in accordance with the first sentence.

(3) Article 29 of the Act for Promoting Recycling Management and Ensuring Environmentally Sound Waste Disposal of 27 September 1994 (Federal Law Gazette p. 2705) in the version applicable until 1 June 2012 shall apply to procedures to prepare waste management plans which have been initiated up to 31 December 2011.

(4) Article 53 Paras (1) to (5) and Article 54 Paras (1) to (6) shall not be applied to collectors and carriers who collect or transport waste in the context of economic enterprises, until two years after entry into force of this Act on 1 June 2012.

(5) A transport licence in accordance with Article 49 Para (1) of the Act for Promoting Recycling Management and Ensuring Environmentally Sound Waste Disposal of 27 September 1994 (Federal Law Gazette Part I p. 2705), most recently amended by Article 5 of the Act of 6 October 2011 (Federal Law Gazette Part I p. 1986), also in conjunction with Article 1 of the Ordinance on Transport Licences (*Transportgenehmigungsverordnung*) of 10 September 1996 (Federal Law Gazette Part I p. 1411; 1997 I p. 2861), most recently amended by Article 5 of the Act of 19 July 2007 (Federal Law Gazette Part I p. 1462), shall continue to apply in accordance with Article 54 Para (1) until the end of its time limitation.

(6) A licence for agency transactions in accordance with Article 50 Para (1) of the Act for Promoting Recycling Management and Ensuring Environmentally Sound Waste Disposal of 27 September 1994 (Federal Law Gazette Part I p. 2705), most recently amended by Article 5 of the Act of 6 October 2011 (Federal Law Gazette Part I p. 1986), shall continue to apply as a licence in accordance with Article 54 Para (1) until the end of its time limitation.

## Annex 1

### DISPOSAL OPERATIONS

- D 1 Deposit into or on to land (e.g. landfill, etc.)
- D 2 Land treatment (e.g. biodegradation of liquid or sludge discards in soils, etc.)
- D 3 Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)
- D 4 Surface impoundment (e.g. placement of liquid or sludgy discards into pits, ponds or lagoons, etc.)
- D 5 Specially engineered landfills (e.g. placement into lined discrete cells, which are capped and isolated from one another and the environment)
- D 6 Release into a water body except seas/oceans
- D 7 Release to seas/oceans including seabed insertion
- D 8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are disposed of by means of any of the operations numbered D 1 to D 12
- D 9 Physico-chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations numbered D 1 to D 12 (e.g. evaporation, drying, calcination)
- D 10 Incineration on land
- D 11 Incineration at sea<sup>2</sup>
- D 12 Permanent storage (e.g. emplacement of containers in a mine)
- D 13 Blending or mixture prior to the application any of the operations numbered D 1 to D 12<sup>3</sup>
- D 14 Repackaging prior to the application any of the operations numbered D 1 to D 13
- D 15 Storage pending any of the operations numbered D 1 to D 14 (excluding temporary storage, pending collection, on the site where the waste is generated)<sup>4</sup>

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<sup>2</sup> This operation is prohibited by EU legislation and international conventions.

<sup>3</sup> If no other D code is suitable for categorisation, operation D 13 can also include preliminary operations prior to disposal, including pre- processing, such as, inter alia, sorting, crushing, compacting, pelletising, drying, shredding, conditioning or separating prior to submission to any of the operations numbered D 1 to D 12.

<sup>4</sup> Temporary storage means preliminary storage within the meaning of section 3 subsection (15).

## Annex 2

### RECOVERY OPERATIONS

- R 1 Use principally as a fuel or other means to generate energy<sup>5</sup>
- R 2 Solvent reclamation/regeneration
- R 3 Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes)<sup>6</sup>
- R 4 Recycling/reclamation of metals and metal compounds
- R 5 Recycling/reclamation of other inorganic materials<sup>7</sup>
- R 6 Regeneration of acids or bases
- R 7 Recovery of components used for pollution abatement
- R 8 Recovery of components from catalysts
- R 9 Oil re-refining or other re-uses of oil
- R 10 Land treatment resulting in benefit to agriculture or ecological improvement
- R 11 Use of wastes obtained from any of the operations numbered R 1 to R 10
- R 12 Exchange of waste for purposes of submission to any of the operations numbered R 1 to R 11<sup>8</sup>
- R 13 Storage of waste, for purposes of submission to any of the operations numbered R 1 to R 12 (excluding temporary storage, pending collection, on the site where the waste is generated)<sup>9</sup>

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<sup>5</sup> a) This includes incineration facilities dedicated to the processing of municipal solid waste only where their energy efficiency is equal to or above:

aa) 0.60 for installations in operation and permitted in accordance with applicable Community legislation before 1 January 2009,

bb) 0.65 for installations permitted after 31 December 2008,

b) using the following formula: Energy efficiency =  $(E_p - (E_f + E_i)) / (0.97 \times (E_w + E_f))$

c) In which:

aa)  $E_p$  means annual energy produced as heat or electricity. It is calculated with energy in the form of electricity being multiplied by 2.6 and heat produced for commercial use multiplied by 1.1 (GJ/year)

bb)  $E_f$  means annual energy input to the system from fuels contributing to the production of steam (GJ/year)

cc)  $E_w$  means annual energy contained in the treated waste calculated using the net calorific value of the waste (GJ/year)

dd)  $E_i$  means annual energy imported excluding  $E_w$  and  $E_f$  (GJ/year)

ee) 0.97 is a factor accounting for energy losses due to bottom ash and radiation.

d) This formula shall be applied in accordance with the reference document on Best Available Techniques for waste incineration.

<sup>6</sup> This includes gasification and pyrolysis using the components as chemicals.

<sup>7</sup> This includes soil cleaning resulting in recovery of the soil and recycling of inorganic construction materials.

<sup>8</sup> If there is no other R code appropriate, this can include preliminary operations prior to recovery including pre-processing such as, inter alia, dismantling, sorting, crushing, compacting, pelletising, drying, shredding, conditioning, repackaging, separating, blending or mixing prior to submission to any of the operations numbered R1 to R11

<sup>9</sup> Temporary storage means preliminary storage according to point (10) of Article 3.

### **Annex 3**

#### **CRITERIA FOR DETERMINATION OF THE BEST AVAILABLE TECHNOLOGY**

In determination of the best available technology, the following criteria are especially to be considered, taking into account the proportionality between the expense and benefits of potential measures, and the principle of precaution and prevention, and in each case with regard to installations of a specific type:

1. use of technology that generates little waste,
2. use of less-hazardous substances,
3. promotion of recovery and re-use of the substances – and where appropriate of the waste – generated and used in the individual operations,
4. comparable operations, equipment and operational methods that have been successfully tested in the company,
5. progress in technology and in scientific findings,
6. the nature, impacts and quantities of relevant emissions,
7. the times at which new or existing installations are/were commissioned,
8. the time required to introduce better available technology,
9. consumption of raw materials and the type of raw materials used in the individual processes (including water) and energy efficiency,
10. the need to prevent or reduce total impacts of emissions, and hazards for human health and the environment, to the greatest possible extent,
11. the need to prevent accidents and to reduce their consequences for human health and the environment,
12. information published by international organisations,
13. information included in Best Available Technique Reference Documents.



## Annex 4

### EXAMPLES OF WASTE PREVENTION MEASURES IN ACCORDANCE WITH ARTICLE 33

1. Measures that can affect the framework conditions related to the generation of waste:
  - a) the use of planning measures, or other economic instruments promoting the efficient use of resources,
  - b) the promotion of research and development into the area of achieving cleaner and less wasteful products and technologies and the dissemination and use of the results of such research and development,
  - c) the development of effective and meaningful indicators of the environmental pressures associated with the generation of waste aimed at contributing to the prevention of waste generation at all levels, from product comparisons at Community level through action by local authorities to national measures.
  
2. Measures that can affect the design and production and distribution phase:
  - a) the promotion of eco-design (the systematic integration of environmental aspects into product design with the aim to improve the environmental performance of the product throughout its whole life cycle),
  - b) the provision of information on waste prevention techniques with a view to facilitating the implementation of best available techniques by industry,
  - c) training of competent authorities as regards the consideration of waste prevention requirements when awarding licences on the basis of this Act, as well as of the Federal Immission Control Act and of the statutory ordinances issued on the basis of the Federal Immission Control Act,
  - d) the inclusion of measures to prevent waste production at installations not requiring a licence in accordance with Article 4 of the Federal Immission Control Act. Where appropriate, such measures could include waste prevention assessments or plans,
  - e) the use of awareness campaigns or the provision of financial or decision-making support to businesses. Such measures are likely to be particularly effective where they are aimed at, and adapted to, small and medium sized enterprises and work through established business networks,
  - f) the use of voluntary agreements, consumer/producer panels or sectoral negotiations in order that the relevant businesses or industrial sectors set their own waste prevention plans or objectives or correct wasteful products or packaging,
  - g) the promotion of creditable environmental management systems.
  
3. Measures that can affect the consumption and use phase:
  - a) economic instruments such as incentives for clean purchases or the institution of an obligatory payment by consumers for a given article or element of packaging that would otherwise be provided free of charge,
  - b) the use of awareness campaigns and information provision directed at the public or a specific set of consumers,
  - c) the promotion of eco-labels,
  - d) agreements with industry, such as the use of product panels such as those being carried out within the framework of Integrated Product Policies or with retailers on the availability of waste prevention information and products with a lower environmental impact,
  - e) in the context of public and corporate procurement, the integration of environmental and waste prevention criteria into calls for tenders and contracts, in line with the Handbook on

environmental public procurement published by the Commission on 29 October 2004 (Publications Office of the European Communities, 2005),

- f) the promotion of the reuse and repair of appropriate discarded products or of their components, notably through the use of educational, economic, logistic or other measures such as support to or establishment of accredited repair and reuse-centres and networks especially in densely populated regions.