

**GUIDANCE TO AGENCY OFFICERS ON THE  
PROVISION OF TECHNICALLY COMPETENT  
MANAGEMENT (MULTIPLE SITES) AT  
LICENSED  
WASTE FACILITIES**

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EA: waste Management Box 4

ENVIRONMENT AGENCY



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# **GUIDANCE TO AGENCY OFFICERS ON THE PROVISION OF TECHNICALLY COMPETENT MANAGEMENT (MULTIPLE SITES) AT LICENSED WASTE MANAGEMENT FACILITIES**

## **1.0 Introduction**

1.1 This guidance sets out the Environment Agency's proposals for the regulation of technically competent management (TCM) at licensed waste management facilities. This guidance to Environment Agency ("the Agency") staff is for the consistent and transparent assessment and enforcement of technically competent management. The guidance sets out:

- **A minimum standard for demonstration by operators of TCM ("the minimum standard")**
- **A programme for the implementation of the minimum standard by the Agency**

The "minimum standard" is set out in the form of tables in Appendix 1.

1.2 Under the Environmental Protection Act 1990 (EPA90) (as amended by Environment Act (EA95)) the Agency has a duty to determine whether the management of a licensed waste management facility is in the hands of a technically competent person. In doing so the Agency must have close regard to the provisions of Waste Management Paper No 4 The Licensing of Waste Management Facilities (WMP4). In particular paragraphs 3.36 to 3.67, which deal with technical competence, should be taken into account.

1.3 Because of the flexibility and discretion allowed under provisions of WMP4 on technical competence the Agency has prepared these proposals to ensure consistency by Agency staff in both the regulation of technically competent management and in respect of requests by holders of Waste Management Licences for clarification. They set the minimum standard for operators to achieve. This will assist operators in making plans to meet their statutory commitments.

1.4 The Agency recognises that, for historical reasons, operators have planned for the delivery of TCM in the absence of detailed regulatory guidance. As a consequence there are a range of different approaches by operators for the delivery of TCM. It is now necessary, in the interests of regulatory consistency, to harmonise these approaches to achieve a national minimum standard for the demonstration of TCM. In order to move to this standard in a progressive and equitable manner the Agency has prepared a programme for its phased introduction to be finally completed by January 2001. This will allow adequate time for the industry to ensure that there is a sufficient supply of technically competent persons (TCPs) to meet in full the requirements of the legislation and statutory guidance for the provision of TCM.

## **1.5 The guidance does not:**

- Change the prescribed means by which a technically competent person (TCP) is assessed
- Change the statutory deadlines for compliance
- Change the Waste Management Industry Training Advisory Board (WAMITAB) scheme for the award of relevant certificates

## **2.0 Minimum standard for the demonstration of TCM**

2.1 EPA90 (section 74(3)(b)) requires that management of activities authorised by the licence are in the hands of a technically competent person. WMP 4 interprets "management" in this context to mean that **the technically competent person is in a position to control the day to day activities authorised by the licence and carried on at the licensed site.**

### **2.2 In assessing whether TCM is provided there are three key considerations:**

- Are the activities in question authorised by the licence and carried out at the licensed site?
- Does the manager nominated as the technically competent person meet the requirements for technical competence set out in the legislation and WMP4?
- Is the manager nominated as the technically competent person in a position to control the day to day activities referred to?

### **2.3 Are the activities in question authorised by the licence?**

Where some of the activities on site are outside the scope of the licence they should be disregarded for the purpose of assessing technical competence.

**2.4 Does the manager nominated as TCP meet the legislative requirements for technical competence?** Waste Management Licensing Regulations 1994 (and subsequent amendments) set out how technical competence is to be demonstrated both for sites covered by WAMITAB (Appendix 1 - Table A sites) and for those covered by Agency schemes for assessment (Appendix 1 - Table B sites).

**2.5 Is the manager nominated as a technically competent person in a position to control the day to day activities in question?** Control of the day to day activities should be achieved through:

- The effective operation of the management structure as it applies to the particular site, providing the right mix of qualified and experienced staff to plan, supervise and support operations
- Application of appropriate control mechanisms in the form of quality systems and procedures

**This in turn requires the presence on site of the TCP for regular and appropriate periods of time to ensure that the management structure is operated effectively and the control mechanisms are applied.**

2.6 Technically competent management of a licensed site may be provided by more than one person (WMP4 para 3.38); each person must demonstrate technical competence by the prescribed means. This allows operators to provide control of day to day activities through a group of TCPs so that the requirement for on site presence of a TCP may be shared.

**2.7 WMP4 requires the operator to demonstrate to the Agency's satisfaction how the particular nature of their management structure and control mechanisms satisfy the**

requirements for TCM. Under normal circumstances the Agency will accept that, where an operator achieves the minimum standard for site attendance by a TCP as set out in Tables A and B in Appendix 1 they have satisfied the requirements for TCM for that particular waste management licence.

2.8 Mobile plant is regarded as treatment and will therefore be covered in Table A.

2.9 For landfill sites in post closure phase where waste input has been completed and the only licensed activities which are continuing are the management of landfill gas, water and leachate, demonstration of TCM does not require specific on-site attendance by a TCP. For other sites eg transfer, treatment operations, where operations have ceased and where no waste is being stored, on site attendance by a TCP would not be required. Consequently there is no reasonable limit to the number of such sites for which TCM can be demonstrated through a single TCP, provided that the nominated TCP is within 2 hours travelling distance of each of the sites for which the TCP has management responsibility.

2.10 For two or more separately licensed facilities where:

- They are in the hands of the same licence holder or operator
- They share a common boundary
- One facility is large (major) and one is small (minor),

then the Agency will give consideration to assimilating the site attendance requirements of the smaller facility into the requirements of the larger facility.

2.11 The need at present is for a practical and equitable method for demonstrating TCM to ensure consistency of regulation. In due course the Agency will review the operation of the method set out in this guidance and if appropriate will, in consultation with its stakeholders, develop alternative methods. These could take account of the possibility that, where there are high quality management structures and control mechanisms in place, the extent of on site attendance required by the TCP could be reduced.

### 3.0 Programme for the implementation of the "minimum standard"

3.1 The Agency will apply the "minimum standard" in accordance with the following deadlines:

- The "minimum standard" will apply to all licensed sites from 1st January 2001.
- The "minimum standard" will apply to applications for waste management licences received on or after 10th August 1999
- Existing management arrangements, as defined in para 3.2, will be accepted as demonstrating TCM until 1st January 2001
- Changes to operator's existing management arrangements made on or after 10th August 1999 will be subject to the 'minimum standard'.

3.2 Existing (historical) management arrangements must have a nominated TCP for each licensed site (probably covering a reasonable spread of sites). The nominated TCP must demonstrate technical competence by one of the prescribed means: -

- Certificate of qualifying experience (CQE)
- provisional Certificate of Technical Competence (pCOTC) (which will need to be converted to a full Certificate of Technical Competence (COTC) - ~~see para 4.3~~)
- Agency assessment of technical competence where the type of facility is not listed in WML Regulations 1994 (as amended), Regulation 4, Table 1 (Appendix 1, Table B of this document);

or by retained deemed competence (site specific).

3.3 The Agency would wish to see no reduction (detriment) to the historical management arrangements and good progression towards the new minimum standards.

3.4 The following are not in themselves regarded as changes to existing management arrangements:

- The replacement of one TCP by another TCP
- The transfer of a licence that does not involve any other changes to management arrangements

3.5 Where any part of the existing management arrangements requires the provision of TCM by a TCP who is not an employee of the operator (for example a consultant) then that TCP's contribution to the demonstration of TCM must meet the minimum standard.

## MINIMUM STANDARD FOR DEMONSTRATING TCM

### Site attendance standards for licensed facilities

Tables A and B (following) set out, by type and size of facility (taken from Fees and Charges Tables annual tonnage figures) the minimum required site attendance by a TCP during site operational hours.

Table A covers the facilities classified on the basis of WAMITAB certificates in accordance with WML Regulations 1994 (as amended), Regulation 4, Table 1.

Table B covers the facilities where competency is based on Agency assessment.

**There should always be a minimum site attendance of one hour on a weekly basis, where the percentage of operational hours (as indicated in the Tables) equates to less than one hour).**

### Notes to be read in conjunction with Tables A and B

A1. The TCP site attendance is measured as a percentage of the total weekly operational hours for that facility. In this context the working week commences Sunday midnight and concludes on the following Sunday at midnight.

A2. To ensure that they can deliver the minimum standard for site attendance, with the exception of sites in post closure phase (2.9 above), during site operational hours the TCP should be within one hour normal travel time of every site for which they are a nominated TCP.

A3. The minimum standard may be delivered by more than one TCP. If the total commitment made for any TCP for site attendance **excluding travel time to and from sites**, exceeds 80% of their normal working week, (freeing up time for TCP's off site commitments), officers should closely assess the proposal for the provision of technical competent management.

A4. A record of the site attendance of TCPs should be kept in the site diary. The detailed schedule for the provision of TCP site attendance should be provided in the licence working plan for the site. In addition, the licence holder should provide a comprehensive schedule of the total allocation of sites to TCP.

**A5. Worked example of the application of the minimum standard:**

NB: A 40 hour working week has been chosen for the purposes of the example only.

Applying Table A, a TCP has responsibility for two licensed sites and works a 40 hour week:

- in a 40 hour week, 32 hours (80%) will be available for site attendance excluding travel time.

site 1 is a large, special waste landfill with 50 operational hours per week. The minimum standard for TCP attendance is 50% or 25 hours.

site 2 is a small, inert landfill with 45 operational hours per week. The minimum standard for TCP attendance is 15% or 6.75 hours.

total attendance by a TCP for sites 1 and 2 is 31.75 hours per week which is within the 32 hours available. The remaining 8.25 hours will cover travel time and other off site managerial duties.

**APPENDIX 1**

**TABLE A – TABLE OF SITE ATTENDANCE REQUIRING A WAMITAB CoTC**

<b>TYPE OF FACILITY</b>	<b>RELEVANT CoTC</b>	<b>SIZE OF FACILITY based on annual tonnage</b>	<b>% operational hours requiring attendance on a weekly basis</b>
Landfill receiving Special Waste (other than bonded asbestos)	1. Managing landfill operations: Special Waste (level 4)	< 5 000 tonnes	35%
		5 000-25 000 tonnes	40%
		25 000-75 000 tonnes	45%
		> 75 000 tonnes	50%
Landfill where the only Special Waste received is bonded asbestos	1. Managing landfill operations: Special Waste (level 4)	< 5 000 tonnes	25%
		5 000-25 000 tonnes	30%
		25 000-75 000 tonnes	35%
		> 75 000 tonnes	40%
Landfill receiving biodegradable waste or which for some reason requires engineering works to protect the environment but does not receive Special Waste	1. Managing landfill operations: biodegradable waste (level 4); or 2. Managing landfill operations; Special Waste (level 4)	< 5 000 tonnes	15%
		5 000-25 000 tonnes	20%
		25 000-75 000 tonnes	25%
		> 75 000 tonnes	30%
Any other landfill with a total capacity exceeding 50 000 cubic metres (inert)	1. Landfill operators; inert waste (level 3); or 2. Managing landfill operations; biodegradable waste (level 4); or 3. Managing landfill operations; Special Waste (level 4)	50 000-75 000 tonnes	15%
		> 75 000 tonnes	20%

TYPE OF FACILITY	RELEVANT CoTC	SIZE OF FACILITY based on annual tonnage	% operational hours requiring attendance on a weekly basis
A site on which waste is burned in an incinerator at a rate of more than 50 kg per hour, but less than 1 tonne per hour	Managing incinerator operations; Special Waste (level 4)	*Apply figures as indicated in as Special Waste, clinical or biodegradable transfer station category	
A waste treatment plant where clinical or Special Waste is subjected to a chemical or physical process	Managing treatment operations; clinical or Special Waste (level 4)	< 5 000 tonnes	35%
		5 000-25 000 tonnes	40%
		25 000-75 000 tonnes	45%
		> 75 000 tonnes	50%
A waste treatment plant where biodegradable, but no clinical or Special Waste is subjected to a chemical or physical process	1. Managing treatment operations; biodegradable waste (level 4); or 2. Managing treatment operations; clinical or Special Waste (level 4)	< 5 000 tonnes	15%
		5 000-25 000 tonnes	20%
		25 000-75 000 tonnes	25%
		> 75 000 tonnes	30%
A waste treatment plant where waste, none of which is biodegradable, clinical or Special Waste is subjected to a chemical or physical process	1. Treatment operations; inert waste (level 3); or 2. Managing treatment operations; biodegradable waste (level 4); or 3. Managing treatment operations; clinical or Special Waste (level 4)	< 5 000 tonnes	5%
		5 000-25 000 tonnes	10%
		25 000-75 000 tonnes	15%
		> 75 000 tonnes	20%
Transfer station where a) clinical or Special Waste is dealt with; and b) the total quantity of waste at the station at any time exceeds 5 cubic metres	1. Managing transfer operations; clinical or Special Waste (level 4)	< 5 000 tonnes	35%
		5 000-25 000 tonnes	40%
		25 000-75 000 tonnes	45%
		> 75 000 tonnes	50%

<b>TYPE OF FACILITY</b>	<b>RELEVANT CoTC</b>	<b>SIZE OF FACILITY based on annual tonnage</b>	<b>% operational hours requiring attendance on a weekly basis</b>
Transfer station where a) the only Special Waste handled is bonded asbestos; and b) the total quantity of waste at the station at any time exceeds 5 cubic metres	1. Managing transfer operations; clinical or Special Waste (Level 4)	< 5 000 tonnes	25%
		5 000-25 000 tonnes	30%
		25 000-75 000 tonnes	35%
		> 75 000 tonnes	40%
Transfer station where a) biodegradable waste, but no clinical or Special Waste is dealt with; and b) the total quantity of waste at the station at any time exceeds 5 cubic metres	1. Managing transfer operations; biodegradable waste (level 4); or 2. Managing transfer operations; clinical or Special Waste (level 4)	< 5 000 tonnes	15%
		5 000-25 000 tonnes	20%
		25 000-75 000 tonnes	25%
		> 75 000 tonnes	30%
Any other type of waste transfer station where the total quantity of waste at the station at any time exceeds 50 cubic metres	1. Transfer operations; inert waste (level 3); or 2. Managing transfer operations; biodegradable waste (level 4); or 3. Managing transfer operations; clinical waste or Special Waste (level 4)	< 5 000 tonnes	5%
		5 000-25 000 tonnes	10%
		25 000-75 000 tonnes	15%
		> 75 000 tonnes	20%
Transfer station handling: waste oil only or bonded asbestos only	1. Managing transfer operations; clinical or Special Waste (level 4)	< 50 tonnes	5%
Civic amenity site	1. Civic amenity site operations (level 3); or 2. Managing transfer operations; biodegradable waste (level 4); or 3. Managing transfer operations; clinical or Special Waste (level 4)	< 5 000 tonnes	2%
		< 25 000 tonnes	5%
		> 25 000 tonnes	10%

**TABLE B – TABLE OF SITE ATTENDANCE FOR FACILITIES REQUIRING AGENCY ASSESSMENT OF TECHNICAL COMPETENCE**

Type of facility	Size of facility	% operational hours requiring attendance on a weekly basis
Metal recycling sites handling Special Waste	< 5 000 tonnes	35%
	5 000-25 000 tonnes	40%
	25 000-75 000 tonnes	45%
	> 75 000 tonnes	50%
Metal recycling handling non-Special Waste	< 5 000 tonnes	15%
	5 000-25 000 tonnes	20%
	25 000-75 000 tonnes	25%
	> 75 000 tonnes	30%
Metal recycling site where the only Special Waste handled is the contents of motor vehicle batteries; Special Waste that is part of, or is contained in a waste motor vehicle and was necessary for the normal operation of the vehicle; or bonded asbestos	< 5 000 tonnes	25%
	5 000-25 000 tonnes	30%
	25 000-75 000 tonnes	35%
	> 75 000 tonnes	40%
Landfill, inert	< 50 000 cubic metres	10%
Transfer station handling biodegradable, clinical or Special Waste where the total does not exceed 5 cubic metres	< 5 cubic metres	20%
Transfer station handling any other type of waste where the total quantity does not exceed 50 cubic metres	< 50 cubic metres	5%
A treatment plant where waste is subjected to a biological process	< 5 cubic metres	5%
	> 5 cubic metres	10%

Type of facility	Size of facility	% operational hours requiring attendance on a weekly basis
Incinerators designed to incinerate waste at a rate less than 50 kg per hour	< 50 kg per hour	5%

NB: For in-house facilities, whether Agency assessed or WAMITAB facilities, taking only their own waste, a minimum attendance of 1 hour week will be required.

## **GLOSSARY FOR THE PURPOSES OF TECHNICAL COMPETENCE ONLY – as of June 1999**

### **Technical Competent Manager/Person**

*Who should be identified as the technically competent person?*

Statutory guidance in Waste Management Paper 4 states that 'the technically competent person has to be in a position to control the day to day activities authorised by the licence and carried out at the licensed site.' From this guidance, the Agency feels that the person identified as being technically competent must be involved in the daily operation of the site in some sort of supervisory capacity. The nature of the site and the associated activities, whilst the site is operational, will dictate a periodic presence along with an ability to attend in the event of an emergency. A licence holder based several miles from the site, visiting the site occasionally would not be the ideal candidate for the technically competent person for that site.

### **Certificate of Qualifying Experience**

*To whom does this apply?*

People over 55 years of age on 10 August 1994 with at least 5 years experience as managers of a relevant facility during the previous 10 years, would be treated as technically competent for the relevant types of facility until August 2004. For those sites carrying out activities under a Section 11 resolution the relevant dates are 1 October 1998, with an expiry date of 1 October 2006.

### **Corporate Competence for WAMITAB sites**

*What is the Agency position on corporate competence?*

Waste Management Licensing Regulations 1994, Regulation 4(1) states (subject to paragraph (2) and Regulation 5) that a person is technically competent if he holds a certificate awarded by WAMITAB specified as being the relevant certificate for the type of licensed facility (indicated in Table 1).

The levels referred to in this table are those set out for the particular National Vocational Qualification (NVQ) which will be the qualifying condition for the issuing of each WAMITAB certificate of technical competence (see WMP4, para 3.48).

By the nature of NVQs they cannot be shared. Only individuals can hold a NVQ. Once a NVQ has been gained then a Certificate of Technical Competence is issued by WAMITAB. So it follows that only individuals can hold a CoTC, hence a company or a group of individuals cannot hold a certificate.

## **Deemed Competence**

*What is meant by deemed competence and when does it cease to apply?*

The Environmental Protection Act 1990 (Section 74(3)(b)) introduced the requirement of a licence holder to be a 'fit and proper person' of which one aspect is technical competence. Any person holding a licence before May 1994 will not have been subject to the test of whether or not he is a fit and proper person in relation to that licence, accordingly then the licence holder has been deemed to be technically competent. If however the management of the licensed activities falls into the hands of a different person or, if there is a subsequent significant change to the licence, then the site will cease to be in the hands of a technically competent person (WMP4 paras 3.43-3.46).

## **Significant change in the Licence in relation to technical competence**

*What is meant by a significant change?*

For the purposes of technical competence, any change in the licence which will mean that the facility will move into Table 1 Regulation 4 of the Waste Management Licensing Regulations whereas it previously did not fall into Table 1, will be classed as a significant change. If a change in the licence means that the type of facility moves into a higher level as indicated in Table 1, then the change will be considered significant. Also, if the management of the licensed activities falls into the hands of a different person, it may be determined that the licensee has ceased to be a fit and proper person (by the lack of technically competent management).

## **Agency Assessment**

The following are examples of operations that fall out of Table 1, Regulation 4 of the Waste Management Licensing Regulations.

- Metal Recycling Sites
- Composting operations
- Inert landfills where the total capacity is less than 50 000 m<sup>3</sup>
- Biological waste treatment plants
- In-house storage of waste. If the waste stored on site is produced on the site and no further waste is taken in from other sites, then the facility falls out of the table and will need Agency assessment.
- Transitional provisions for new Transfer and Treatment licences (2 years). Agency assessment of technical competence will be required to meet the requirements of Fit and Proper person.

## **Definition of Treatment for the purposes of technical competence**

*What do we mean by treatment in relation to technical competence?*

A waste management facility with the primary purpose of waste transfer, but involving an element of physical treatment (that is sorting, baling, compaction) should still be classed as a transfer station for the purposes of Table 1, Regulation 4 of the Waste Management Licensing Regulations.

Similarly, where the licence for a landfill permits ancillary physical treatment activities (that are, sorting, crushing, shredding) the appropriate COTC covering landfill activities will normally be sufficient.

The Agency recognises that the definition of a treatment activity and the treatment award are causing difficulties and are working on better guidelines.

## **Definition of Operational Hours for the purposes of Technical Competence**

*What do we mean by operational hours?*

Operational hours are fairly self-explanatory and are often prescribed in the site licence or working plan. A site would be considered operational whenever it is either accepting or removing waste, or undertaking any process involving waste or undertaking any activity involving waste that is under the day-to-day control of the TCP. Where the operational hours vary, it would be useful to log these changes together with the TCP's site attendance in the site diary/log.