Act
Reorganising the Law on Closed Cycle Management and Waste
(*Gesetz zur Neuordnung des Kreislaufwirtschafts- und Abfallrechts*) *)
of 24 February 2012

The *Bundestag* has adopted the following Act with the consent of the *Bundesrat*:

Article 1
Act
to Promote
Circular Economy and
Safeguard the Environmentally-Compatible
Management of Waste
(*Gesetz zur Förderung der Kreislaufwirtschaft und Sicherung der umweltverträglichen Bewirtschaftung von Abfällen*)

Circular Economy Act – (*Kreislaufwirtschaftsgesetz – KrWG*) *

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*) The present Act serves to transpose Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312 of 22 November 2008, p. 3, L 127 of 26.5.2009, p. 24). The obligation emerging from Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 204 of 21 July 1998, p. 37), most recently amended by Directive 2006/96/EC of 20 November 2006 (OJ L 363 of 20 December 2006, p. 81), has been complied with.

Part 1

General provisions

Section 1

Purpose of the Act

(1) The purpose of the 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.

(2) The Act is furthermore intended to promote the achievement of the targets under European law enshrined in Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312 of 22 November 2008, p. 3, L 127 of 26 May 2009, p. 24, L 297 of 13 November 2015, p. 9, and L 42 of 18 February 2017, p. 43), most recently amended by Directive (EU) 2018/851 (OJ L 150 of 14 June 2018, p. 109).

Section 2

Scope

(1) The provisions of the present Act shall apply to

1. the prevention of waste, as well as to
2. the recovery of waste,
3. the disposal of waste, and
4. the other activities of waste management.

(2) The provisions of the present Act shall not apply to

1. substances which are to be 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 food, food additives, cosmetic products, commodities and products that can be confused with foods,
   b) in accordance with the Tobacco Products Act (*Tabakerzeugnisgesetz*) in the version of the notification of 4 April 2016 (Federal Law Gazette Part I p. 569), 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 Health Act (*Tiergesundheitsgesetz*) 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 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 the statutory ordinances issued on the basis of the Acts designated at (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 of 21 October 2009 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. substances which are
   a) intended for use as feed materials in accordance with Article 3(2)(g) of Regulation (EC) No 767/2009 of the European Parliament and of the Council of 13 July 2009 on the placing on the market and use of feed, amending European Parliament and Council Regulation (EC) No 1831/2003 and repealing Council Directive 79/373/EEC, Commission Directive 80/511/EEC, Council Directives 82/471/EEC, 83/228/EEC, 93/74/EEC, 93/113/EC and 96/25/EC and Commission Decision 2004/217/EC (OJ L 229 of 1 September 2009, p. 1, L 192 of 22 July 2017, p. 71), most recently amended by Regulation (EU) 2018/1903 (OJ L 310 of 6 December 2018, p. 22), and
   b) neither consist of nor contain animal by-products,
4. carcasses of animals that have died other than by being slaughtered, including animals killed in order to eradicate epizootic diseases, insofar as these animal carcasses are to be disposed of or processed in accordance with the legal provisions designated in number 2,
5. 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 generation of energy from such biomass through processes or methods which do not harm the environment or do not endanger human health,
6. nuclear fuels and other radioactive substances within the meaning of the Atomic Energy Act (*Atomgesetz*) or of the Radiation Protection Act (*Strahlenschutzgesetz*),
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 subject to 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 kept in containers,
9. substances as soon as they are discharged or released into waters or sewerage systems,

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 safeguarded 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 or 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 *Land* law on the basis of 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 and transported and stored in carbon dioxide storage installations, or is stored in research storage installations.

(3) The provisions of the present Act shall apply, in accordance with the special provisions of the Radiation Protection Act and of the statutory ordinances issued on the basis of the Radiation Protection Act, also to the disposal of waste that is radioactively contaminated, or may be radioactively contaminated, as the result of an emergency within the meaning of the Radiation Protection Act.

Section 3

Definitions

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

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

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

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

The producer's or holder's opinion shall be used as a basis for evaluating the purpose, whereby generally-accepted standards shall be applied.

(4) The holder must discard substances or objects within the meaning of subsection (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, safe recovery, or through disposal that is

compatible with the public interest, in accordance with the provisions of the present Act and with the statutory ordinances issued on the basis of the present Act.

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

(5a) Municipal waste within the meaning of section 14 subsection (1), section 15 subsection (4) and section 30 subsection (6) number 9 (b) shall be mixed waste and separately collected waste

1. from private households, in particular paper and cardboard, glass, metal, plastic, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, as well as bulky waste, including mattresses and furniture, and
2. from other sources, where such waste is similar on the basis of its nature and composition to waste from private households.

The following waste shall not be municipal waste within the meaning of the first sentence

a) waste from production,
b) waste from agriculture,
c) waste from forestry,
d) waste from fishery,
e) waste from the sewerage system,
f) construction and demolition waste, and
g) end-of-life vehicles.

(6) Inert waste within the meaning of the present 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, and
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 and on the environment.

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

(6a) Construction and demolition waste within the meaning of the present Act shall be waste generated by construction and demolition activities.

(7) Bio-waste within the meaning of the present 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. foodstuffs and kitchen waste from private households, restaurants and canteens, as well as caterers, from offices and from wholesale and retail premises, as well as waste from food processing plants that is comparable to the above waste, and
4. waste from other areas of origin comparable to the waste designated in numbers 1 to 3, by type, nature or material characteristics.

(7a) Food waste within the meaning of the present Act shall be all food in accordance with Article 2 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31 of 1 February 2002, p. 1), most recently amended by Regulation (EU) No 2017/228 (OJ L 35 of 10 February 2017, p. 10) which has become waste.

(7b) Recyclates within the meaning of the present Act shall be secondary raw materials that have been generated by means of the recovery of waste or are generated in the disposal of waste and are suitable for the production of products.

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

1. whose activities generate waste (initial producer), or
2. who carries out pre-treatment, mixing or other treatment resulting in a change in the nature or composition of such waste (secondary producer).

(9) A waste holder within the meaning of the present Act shall be any natural or legal person who has physical control of such waste.

(10) A waste collector within the meaning of the present 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 the present 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 the present Act shall be any natural or legal person who purchases and re-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 therefor to acquire actual physical control over waste.

(13) A waste dealer within the meaning of the present Act shall be any natural or legal person arranging the management of 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 dealing in waste, or public facilities on behalf of third parties; it shall not be necessary therefor to acquire actual physical control over waste.

(14) Waste management within the meaning of the present Act shall be the provision, surrender, collection, transport, as well as recovery and disposal, of waste; the two last named processes shall include the sorting of the waste. Waste management shall also include the supervision of the activities and processes within the meaning of the first sentence, the after-care of disposal installations, and actions taken by dealers or brokers.

(15) Collection within the meaning of the present Act shall be the gathering of waste, including its preliminary sorting and preliminary storage for the purposes of transport to a waste treatment installation.

(16) Separate collection within the meaning of the present Act shall be a collection where a waste stream is kept separately by type and nature of the waste so as to facilitate or enable a specific treatment.

(17) A non-profit collection of waste within the meaning of the present Act shall be a collection which is funded by a tax-exempt corporation, association or estate in accordance with section 5 subsection (1) num-

ber 9 of the Corporation Tax Act (*Körperschaftssteuergesetz*) 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 sections 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 disburses the proceeds of the sale in full to the corporation, association or estate, after deduction of its costs and of a suitable profit.

(18) A commercial collection of waste within the meaning of the present Act shall be a collection that is carried out with the purpose of generating income. The implementation of the collection on the basis of contractual ties between the collector and the private household in permanent structures shall not preclude a commercial collection.

(19) Circular economy within the meaning of the present Act shall constitute the prevention and recovery of waste.

(20) Prevention within the meaning of the present Act shall be any measure taken before a substance, material or product has become waste and serving to reduce the quantity of waste, the detrimental impacts of waste on human health and on the environment, or the content of noxious 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 consumption conduct aimed at the acquisition of low-waste and low-pollution products, and at the use of reusable packaging.

(21) Re-use within the meaning of the present 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 intended.

(22) Waste disposal within the meaning of the present Act shall be recovery and disposal processes, including preparation prior to recovery or disposal.

(23) Recovery within the meaning of the present Act shall be any process the principal outcome of which is waste that is put to a useful purpose within the plant or in the wider economy, either by substituting other materials which 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 processes.

(23a) Material recovery within the meaning of the present Act shall be any recovery process with the exception of recovery of energy and processing into materials intended to be used as fuel or as another means of energy generation. Material recovery shall particularly include preparation for re-use, recycling and backfilling.

(24) Preparing for re-use within the meaning of the present Act shall be any recovery process for verification, cleaning or repair by which products or components of products that have become waste are prepared in such a way that they can be re-used without any other pre-treatment for the same purpose for which they were originally intended.

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

(25a) Backfilling within the meaning of the present Act shall be any recovery procedure in which suitable non-hazardous waste is used for the recultivation of excavation, or for construction purposes in landscaping. Waste within the meaning of the first sentence is waste which replaces materials which do not constitute waste which are suitable for the above purposes, and are restricted to such quantities as are absolutely vital for fulfilling these purposes.

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

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

(28) The technical state-of-the-art within the meaning of the present Act shall be the level of development of advanced processes, installations or modes of operation that gives a reliable indication of the practical suitability of a measure for limiting emissions into the air, water and soil, for ensuring 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 technical state-of-the-art.

Section 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 safeguarded,
2. no pre-treatment beyond normal industrial practice is necessary therefor,
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 its respective use and will not lead to overall detrimental human health or environmental impacts.

(2) The Federal Government is herewith empowered, after consulting the parties concerned (section 68), by means of a statutory ordinance with the consent of the *Bundesrat,* in accordance with the requirements stipulated in subsection (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.

Section 5

End-of-waste status

(1) A substance or object shall cease to be waste when it has undergone a recycling or other recovery process, 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 respective purpose, as well as all legal provisions and applicable standards for products, and
4. its use does not lead to overall detrimental environmental or human health impacts.

(2) The Federal Government is herewith empowered, after consulting the parties concerned (section 68), by means of a statutory ordinance with the consent of the *Bundesrat,* in accordance with the requirements stipulated in subsection (1), to determine the detailed conditions under which specific substances and objects take on end-of-waste status. These conditions must safeguard a high degree of protection of human health and the environment and facilitate the thoughtful, economical, efficient use of natural resources. The statutory ordinance shall in particular provide as follows:

1. what waste may be recovered,
2. what treatment processes and methods are permissible,
3. the quality criteria, where necessary also emission limit values, for substances and objects within the meaning of subsection (1); the quality criteria must comply with the applicable technical requirements, legal provisions or standards for products,
4. the requirements as to management systems proving compliance with the criteria for end-of-waste status, including requirements
    a) as to quality control and self-monitoring, and
    b) as to accreditation or another form of external monitoring of the management systems, insofar as this is necessary, as well as
5. the need for and the content of a conformity declaration.

Part 2

Basic principles for, and obligations incumbent on, waste producers and holders and the public disposal providers

Division 1

Basic principles of waste prevention and waste management

Section 6

The waste hierarchy

(1) Measures for prevention and waste management shall be, in the following order of priority:

1. prevention,
2. preparing for re-use,
3. recycling,
4. other recovery, in particular recovery of energy and backfilling,
5. disposal.

(2) On the basis of the order of priority in accordance with subsection (1), in accordance with sections 7 and 8 the measure shall take priority which best guarantees the protection of human health and the environment in the generation 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 shall especially be taken into account in this connection

1. the anticipated emissions,
2. the degree of the conservation of natural resources,
3. the energy to be input or generated, 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, economic acceptability, and the social consequences of the measure, shall be taken into account.

(3) Annex 5 contains a non-exhaustive list of examples of measures and economic tools for creating incentives for applying the waste hierarchy of recovery procedures.

Division 2

Circular economy

Section 7

Basic obligations of circular economy

(1) Obligations to prevent waste shall be in accordance with section 13 and with the statutory ordinances issued on the basis of sections 24 and 25.

(2) Waste producers or holders shall be obliged to recover their waste. The recovery of waste shall take priority over its disposal. Such priority shall cease to apply if the disposal of the waste best ensures the protection of human health and the environment in accordance with section 6 subsection (2), second and third sentences. Such priority shall not apply to waste occurring directly and customarily through research and development.

(3) The recovery of waste, especially via the binding of waste within products, shall take place properly and safely. Recovery shall be deemed to take place properly if it is effected in compliance with the provisions of the present 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 its contaminants, and the type of recovery, no adverse effect on the public interest can be 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 also be deemed to be technically possible when it requires pre-treatment. It shall be deemed to be economically reasonable if the costs which recovery entails are not disproportionate to the costs that waste disposal would entail.

Section 7a

Chemical and product legislation

(1) Natural or legal persons using or placing on the market for the first time substances and objects with end-of-waste status shall ensure that such substances or objects satisfy the applicable requirements under chemical and product legislation.

(2) Before the legal provisions designated in subsection (1) come into force for substances and objects, they must have attained end-of-waste status in accordance with the requirements in accordance with section 5 subsection (1).

Section 8

Ranking and quality of recovery measures

(1) Priority shall be given in complying with the recovery obligation in accordance with section 7 subsection (2), first sentence, to the recovery measure designated in section 6 subsection (1) numbers 2 to 4 which best guarantees the protection of human health and the environment in accordance with the type and nature of the waste, taking into consideration the criteria set forth in section 6 subsection (2), second and third sentences. Waste producers or holders shall have an option between several recovery measures that are of equal ranking. When designing the recovery measure to be implemented in accordance with the first or second sentence, high-quality recovery shall be aspired to which best guarantees the protection of human health and the environment. Section 7 subsection (4) shall apply to the first to third sentences mutatis mutandis.

(2) The Federal Government shall determine, by means of a statutory ordinance with the consent of the *Bundesrat*, after consulting the parties concerned (section 68), for specific waste types on the basis of the criteria set forth in section 6 subsection (2), second and third sentences,

1. the priority or equal ranking of a recovery measure, and

2. the requirements to be met as to high-quality 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 is to take place according to its type and nature, quantity and constituents by several consecutive material and subsequent recovery of energy measures (cascade use).

(3) (repealed)

Section 9

Separate collection and treatment of waste for recovery

(1) Waste shall be collected and treated separately where this is necessary in order to meet the requirements in accordance with section 7 subsections (2) to (4) and section 8 subsection (1).

(2) Treatment shall include removing hazardous substances, mixtures or components from the waste, subject to the preconditions stated in subsection (1), and recovering or disposing of them in accordance with the requirements of the present Act.

(3) The separate collection of waste shall not be required if

1. the joint collection of the waste does not adversely affect its potential for preparation for re-use, recycling or other recovery processes, taking account of the stipulations of section 8 subsection (1), and if such processes achieve a waste stream with the joint collection of different types of waste the quality of which is comparable to the waste stream achieved with separate collection,
2. the separate collection of the waste, taking into account the environmental impact caused by its management, does not best ensure the protection of human health and the environment,
3. separate collection is not technically feasible, taking best waste collection practices into account, or
4. separate collection would cause disproportionately high costs for the party obliged in comparison to joint collection; the following shall be considered hereby:
   a) the costs of adverse effects on human health and on the environment related to joint collection and the subsequent treatment of the waste,
   b) the possibility to increase efficiency in waste collection and treatment, and
   c) the possibility to obtain income from marketing the separately-collected waste.

(4) Where waste has been separately collected in order to prepare for re-use or for recycling, recovery of energy shall only be permissible for waste which has been generated in the downstream treatment of the separately-collected waste, and only where the recovery of energy from this waste best or equivalently ensures the protection of human health and the environment, taking into account the criteria set out in section 6 subsection (2), second and third sentences, as preparation for re-use or recycling. Section 7 subsection (4) shall apply mutatis mutandis.

Section 9a Ban on mixing and treatment of hazardous waste

(1) 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.

(2) Notwithstanding subsection (1), mixing shall be permissible by way of exception if

1. it takes place in an installation authorised for this purpose in accordance with the present Act, or in accordance with the Federal Immission Control Act,

2. the requirements as to proper, safe recovery in accordance with section 7 subsection (3) are complied with and the detrimental impact of waste management on human health and the environment is not exacerbated by means of mixing, and
3. the mixing process complies with the technical state-of-the-art.

(3) Insofar as hazardous waste has been mixed in an impermissible manner, the producers and holders of the waste shall be obliged to separate it without undue delay insofar as separation is necessary in order to ensure proper, safe recovery of the waste in accordance with section 7 subsection (3). If separation is not necessary for the purpose of proper, safe recovery, or if it is necessary but not technically possible or economically reasonable, the producers and holders of the mixed waste shall be obliged to treat it without undue delay in an installation authorised for this purpose in accordance with the present Act or in accordance with the Federal Immission Control Act.

Section 10

Requirements of circular economy

(1) The Federal Government is herewith empowered, after consulting the parties concerned (section 68), by means of a statutory ordinance with the consent of the *Bundesrat,* where it is necessary to fulfil the obligations in accordance with section 7 subsections (2) to (4), section 8 subsection (1) and sections 9 and 9a, especially those ensuring safe recovery,

1. to place restrictions on or to ban specific waste being bound in or remaining in products, depending on type, nature and constituents,
2. to mandate requirements pertaining to the separate collection, treatment, permissibility of mixing, as well as 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 similar products or with products that are to be recovered by the same means, which are in each case subject to a return obligation in accordance with section 25,
4. for specific waste the recovery of which is especially suitable due to its type, nature or quantity to cause adverse effects to the public interest, above all to the interests that are listed in section 15 subsection (2), second sentence, to determine in terms of area of origin, place of occurrence or initial product
   a) that such waste may be placed on the market or recovered only in specific quantities or nature, or only for specific purposes,
   b) that such waste, if of a specific nature, may not be placed on the market,
5. to determine requirements as to the recovery of mineral waste in technical structures.

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

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

b) notwithstanding specific requirements in accordance with sections 49 and 50, or with a statutory ordinance in accordance with section 52,

2. that waste disposal companies, upon accepting or passing on waste, shall review the waste in a specific manner and record the result of such review in documentary proof or registers,
3. that waste transporters and waste disposal companies shall keep an operational log and record therein certain types of information relative to operational procedures that is not yet included in registers,
4. that waste producers or holders, or waste disposal companies, on accepting or passing on waste, shall point to the requirements arising from the ordinance, or shall label the waste, or the containers used for transporting same, in a specific manner,
5. the taking of samples, keeping and storage of reserved samples, and the processes to be applied therefor,
6. the analysis processes required to identify individual substances or substance groups,
7. that the party obliged to take and analyse samples in accordance with numbers 5 and 6 must commission an expert designated by the competent *Land* authority, or an agency designated by such 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, as well as
9. that documentary proof, 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 section 3a subsection (2), second and third sentences, of the Administrative Procedure Act (*Verwaltungsverfahrensgesetz*).

(3) With regard to requirements in accordance with subsection (2) numbers 5 to 7, reference may be made to notifications that are accessible to all. In such cases,

1. the statutory ordinance shall give the date of the notification and 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 subsection (1) number 4 may prescribe that parties placing on the market or recovering specific waste with regard to the safe recovery of which in accordance with section 7 subsections (2) and (3), section 8 subsection (1) and sections 9 and 9a 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 specific requirements with regard to their reliability, or
4. must prove their necessary expertise or knowledge in a procedure to be stipulated in detail.

Section 11

Requirement of circular economy for bio-waste and sewage sludge

(1) (repealed)

(2) The Federal Government is herewith empowered, after consulting the parties concerned (section 68), by means of a statutory ordinance with the consent of the *Bundesrat,* for the promotion of the recovery of bio-waste and sewage sludge, and insofar as is required to comply with the obligations in accordance with section (20) subsection (2) number 1, section 7 subsections (2) to (4) and section 8 subsection (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 processes 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 specific types of bio-waste and sewage sludge may not be placed on the market or recovered, or may only be placed on the market or recovered in specific quantities, only in a specific nature or only for specific purposes, depending on their starting substance, type, nature, origin, quantity, the type or time when the soil was treated with them, the nature of the soil, the situation at the location, and the 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 the proper, safe recovery of bio-waste and sewage sludge is guaranteed by provisions of the law on fertilisers.

(3) By means of a statutory ordinance in accordance with subsection (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 regarding the effectiveness of the treatment, the nature of the untreated and treated bio-waste and sewage sludge, of the operations to be applied, or of 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 for reviewing the requirements in accordance with section 10 subsection (2) numbers 1 to 9 and subsection (3).

A statutory ordinance in accordance with subsection (2), first sentence, number 1 may prescribe that parties placing on the market or recovering specific bio-waste or sewage sludge with regard to the safe recovery of which, in accordance with section 7 subsections (2) and (3) and section 8 subsection (1) and sections 9 and 9a, 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 specific 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 *Land* Governments may issue statutory ordinances within the meaning of subsections (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 *Land* Governments may transfer the empowerment in accordance with the first sentence to other authorities by means of a statutory ordinance, in whole or in part.

Section 12

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

(1) The quality assurance institutions and the quality seal holders may establish regular quality assurance in order to promote circular economy and safeguard 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 commercial 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 a quality assurance institution.

(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 as well as 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 vis-à-vis the quality assurance institution compliance with the requirements in accordance with numbers 1 and 2 in the context of ongoing supervision.

(4) The quality seal holder may only use the quality seal insofar and as long as it has been awarded to him/her by the quality assurance institution.

(5) A quality assurance institution is an association with legal capacity, made up of producers or managers of bio-waste or sewage sludge, professional associations, as well as of facilities, institutions or persons with expert knowledge. The quality assurance institution shall require recognition by the competent authority. The award of the quality seal shall be effected on the basis of a set of statutes, of a supervision contract or of another regulation that is binding on 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) For the supervision of the quality seal holders, the quality assurance institution shall avail itself of experts who have the requisite reliability, independence, as well as knowledge and expertise, for the implementation of the supervision.

(7) The Federal Government is herewith empowered, after consulting the parties concerned (section 68), by means of a statutory ordinance with the consent of the *Bundesrat*, 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 measures, 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 as well as reliability, and 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, documentary proof, notifications or other data, that documents be kept electronically and that data be submitted in electronic form in accordance with section 3a subsection (2), second and third sentences, of the Administrative Procedure Act.

Section 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, shall follow from the provisions of the Federal Immission Control Act.

Section 14

Promotion of recycling and other material recovery

(1) The preparation for the re-use and recycling of municipal waste is to be:

1. at least 50 % by weight overall from 1 January 2020 onwards,
2. at least 55 % by weight overall from 1 January 2025 onwards,
3. at least 60 % by weight overall from 1 January 2030 onwards, and
4. at least 65 % by weight overall from 1 January 2035 onwards.

(2) Preparation for the re-use, recycling and other material recovery of non-hazardous construction and demolition waste, with the exception of naturally-occurring material defined in waste key 17 05 04 in the Annex to the Waste List Ordinance (*Abfallverzeichnis-Verordnung*), is to be a minimum of 70 % by weight at the latest from 1 January 2020 onwards.

Division 3

Waste disposal

Section 15

Basic obligations of waste disposal

(1) Producers or holders of waste that is not recovered shall be obliged to dispose of such waste unless provided otherwise in section 17. The quantity and noxiousness of waste shall be reduced through treatment. Energy or waste occurring in connection with disposal shall be exploited at a high level of quality; section 8 subsection (1), third sentence, shall apply mutatis mutandis.

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

1. human health is adversely affected,
2. animals and plants are endangered,
3. water bodies or soil are detrimentally affected,
4. detrimental environmental impacts are caused by air pollution or noise,
5. the aims or principles and other requirements of regional planning, or 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 subsections (1) and (2), waste shall be collected and treated for disposal separately. Section 9 subsections (2) and (3) and section 9a shall apply mutatis mutandis.

(4) The deposit of municipal waste on landfills may be a maximum of 10 % of the total volume of municipal waste by weight at the latest from 1 January 2035 onwards.

Section 16

Requirements of waste disposal

The Federal Government is herewith empowered, after consulting the parties concerned (section 68), by means of a statutory ordinance with the consent of the *Bundesrat,* to meet the obligations in accordance with section 15 in line with the technical state-of-the-art to determine requirements of the disposal of waste by area of origin and place of occurrence, as well as by type, quantity and nature, in particular

1. requirements regarding the separate collection and the treatment of waste,
2. requirements regarding the provision, handover, gathering and collection, transport, storage and deposit of waste, as well as
3. provisions to review the requirements in accordance with section 10 subsection (2) numbers 1 to 9 and subsection (3).

A statutory ordinance in accordance with the first sentence, numbers 1 and 2 may prescribe that parties placing on the market or disposing of specific waste with regard to the treatment, collection, gathering, transport, storage and deposit of which, in accordance with section 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 specific 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

Section 17

Handover obligation for hazardous waste

(1) Notwithstanding section 7 subsection (2) and section 15 subsection (1), producers or holders of waste from private households shall be obliged to make such waste available to the legal persons (public disposal providers) which are obliged in accordance with *Land* laws to carry out disposal 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 producers 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 disposal provider 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 section 25, unless the public disposal providers contribute to the return on the basis of a provision in accordance with section 25 subsection (2) number 8; a standard recycling bin or a standard recyclables collection in comparable quality may be provided for this in particular by means of which waste from private households which is of value is efficiently collected and taken for high-quality recovery,
2. that is voluntarily accepted in fulfilment of product responsibility in accordance with section 26 if the producer or distributor who accepts the waste has been issued with a declaratory notice or exemption notice in accordance with section 26 subsection (3) or section 26a subsection (1), first sentence,
3. that is subjected, through non-profit collection, to proper, safe recovery,
4. that is subjected, through commercial collection, to proper, 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 to hazardous waste. Special provisions contained in statutory ordinances in accordance with sections 10, 16 and 25 regarding the obligation to hand over waste shall remain unaffected thereby.

(3) Overriding public interests in accordance with subsection (2), first sentence, number 4 shall be deemed to conflict with a commercial collection if the specific type of collection, also in conjunction with other collections, endangers the functionality of the public disposal provider, 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 section 25. A risk to the functionality of the public disposal provider, or of the third party

commissioned by the latter, shall be presumed to exist if the exercise of the waste management obligations under section 20 in economically balanced conditions is prevented, or if a considerable adverse effect on the planning certainty and organisational responsibility is caused. A major adverse effect on the planning certainty and organisational responsibility of the public disposal provider shall be presumed to exist in particular if, as a result of the commercial collection,

1. waste is included for which the public disposal provider, 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 disposal provider or the third party commissioned by the latter. The evaluation of such 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 on the suitability 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 disposal provider. 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) In order to safeguard environmentally-compatible disposal, the *Länder* 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 *Länder* had determined by 7 October 1996 shall remain unaffected thereby.

Section 18

Notification procedure for collections

(1) Non-profit collections within the meaning of section 17 subsection (2), first sentence, number 3, and commercial collections within the meaning of section 17 subsection (2), first sentence, number 4, shall be notified by their institution to the authority that is competent in accordance with subsections (2) and (3) 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 collecting enterprise,
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, quantity and final destination of the waste to be recovered,
4. a presentation of the recovery channels provided for within the notified period, including the necessary activities to safeguard their capacities, as well as
5. a presentation of how the proper, 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 the 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 subsection (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 disposal provider affected by the commercial or non-profit collection to give a statement for its remit within a period of two months. If the public disposal provider 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 section 17 subsection (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 of the persons responsible for the management and supervision of the collection, or regarding compliance with the prerequisites designated in section 17 subsection (2), first sentence, number 3 or number 4 cannot otherwise be guaranteed.

(6) The competent authority may 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 are considerably restricted within this period in derogation from the conditions or instructions determined by the authority in accordance with subsection (5), first sentence, the institution of the commercial collection shall be obliged, vis-à-vis the public disposal provider concerned, to provide compensation in respect of 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 the present Act has previously not endangered the functionality of the public disposal provider, of the third party commissioned by the latter, or of the system for accepting returned goods established due to a statutory ordinance in accordance with section 25, the principle of proportionality shall be taken into account in case of orders in accordance with subsection (5) or (6), in particular reliance of the institution carrying out the collection on its continued implementation where such reliance deserves protection.

(8) The public disposal provider affected by the commercial collection shall be entitled to compliance with the provisions of the notification procedure applicable to commercial collection.

Section 19

Toleration obligations in connection with premises

(1) The titleholders and holders of land on which waste which must be surrendered is produced shall be obliged to tolerate the installation of containers required for waste collection, as well entry 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, out-

side 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) Subsection (1) shall apply mutatis mutandis to return and collection systems that are required to fulfil obligations to accept returned goods on the basis of a statutory ordinance in accordance with section 25.

Section 20

Obligations incumbent on the public disposal providers

(1) The public disposal providers shall recover, in accordance with sections 6 to 11, or dispose of, in accordance with sections 15 to 16, waste from private households in their area that has been generated 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 section 7 subsection (4), the public disposal providers shall be obliged to carry out recovery to the extent that these reasons do not apply to them.

(2) The public disposal providers shall be obliged to separately collect the following waste generated in their territory in private households and made available to them:

1. bio-waste; section 9 subsection (1) and subsection (3) numbers 3 and 4, as well as subsection (4), shall apply mutatis mutandis,
2. plastic waste; section 9 shall apply mutatis mutandis,
3. metal waste; section 9 shall apply mutatis mutandis,
4. paper waste; section 9 shall apply mutatis mutandis,
5. glass; section 9 subsection (1) and subsection (3) numbers 3 and 4, as well as subsection (4), shall apply mutatis mutandis,
6. textile waste; section 9 shall apply mutatis mutandis,
7. bulky waste; the public disposal providers shall collect bulky waste in such a manner as to facilitate preparation for re-use and recycling of the individual components, and
8. hazardous waste; the public disposal providers shall ensure that hazardous waste is not mixed with other waste on collection.

The obligation to collect textile waste separately in accordance with number 6 shall apply from 1 January 2025 onwards.

(3) The public disposal providers may, with the consent of the competent authority, exclude waste from disposal insofar as the waste in question is subject to the obligation to accept returned goods, on the basis of a statutory ordinance issued in accordance with section 25, or on the basis of a statute, and insofar as 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 insofar as the waste in question, due to its nature, quantity or state, cannot be treated together with the waste generated in households, or insofar as safe, environmentally-compatible disposal, in harmony with the waste management plans of the *Länder*, is ensured by another public disposal provider, or by a third party. The public disposal providers may revoke the exclusion from disposal 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.

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

1. they are parked in public areas or outside of contiguously built-up municipal areas,
2. there are no indications that they have been misappropriated or 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 thereto.

Section 21

Waste management concepts and waste balance sheets

The public disposal providers within the meaning of section 20 shall prepare waste management concepts and waste balance sheets concerning the recovery, in particular preparation for re-use and recycling and disposal of the waste that is generated in their area and that must be made available to them; the systems in operation and planned systems for separate collection, in particular of the types of waste designated in section 20 subsection (2), shall be shown separately in so doing. The measures that have been taken to prevent waste shall furthermore be portrayed in the waste management concepts and waste balance sheets. The measures of the waste prevention programme in accordance with section 33 shall be taken into account when refining the waste prevention measures. The *Länder* shall regulate requirements for waste management concepts and waste balance sheets.

Section 22

Commissioning of third parties

The bodies responsible for waste recovery and disposal may 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

Section 23

Product responsibility

(1) Parties who develop, produce, process, treat or distribute products shall bear product responsibility with regard to the achievement of the objectives of circular economy. Products shall 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 generated in their use is safeguarded. It shall be ensured in the distribution of the products that their fitness for purpose is maintained and that they do not become waste.

(2) In particular, product responsibility shall comprise

1. the development, production and marketing of products that are efficient in terms of resources, can be used multiple times, are technically durable and repairable, and are suitable, after use, for proper, safe, high-quality recovery and environmentally-compatible disposal,
2. priority for use of recoverable waste or secondary raw materials, in particular recyclates, in the production of products,
3. the efficient use of critical raw materials, and the labelling of the critical raw materials contained in the products in order to prevent these products becoming waste, as well as to ensure that the critical raw materials can be recovered from the products or from the waste generated after the products have been used,
4. enhancing the re-use of products, in particular support for re-use and repair systems,
5. reducing the hazardous substance content, as well as labelling products containing pollutants in order to ensure environmentally-compatible recovery or disposal of the waste generated after their use,
6. provision of information concerning possibilities or obligations for return, re-use, recovery and disposal, and concerning deposit payment arrangements, through product labelling, and
7. acceptance of returned products and of the waste generated after their use, as well as the subsequent environmentally-compatible recovery or disposal of such products and waste,
8. assumption of financial or financial and organisational responsibility for the management of the waste generated after the products have been used,
9. the information and advice of the public regarding ways to prevent, recover and dispose of waste, in particular regarding requirements as to separate collection, as well as measures to prevent the littering of the environment,
10. participation in costs incurred by public disposal providers and other public legal persons for cleaning the environment and the subsequent environmentally-compatible recovery and disposal of the waste generated after the products have been used that were placed on the market by a producer or distributor, as well as
11. a duty of care with regard to the products distributed, in particular the obligation to ensure when distributing the products, also in connection with their acceptance or return, that the fitness of the products for purpose is maintained and that they do not become waste.

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

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

Section 24

Requirements with regard to prohibitions, restrictions and labelling, advising, information und duty of care

In order to determine requirements in accordance with section 23, the Federal Government is herewith empowered, after consulting the parties concerned (section 68), to mandate by statutory ordinance and with the consent of the *Bundesrat* that

1. specific products may only be placed on the market in a manner that is efficient in terms of resources, especially in a form facilitating multiple use, technical durability and repairability, as well as in a manner specifically tangibly reducing the strain on waste management,
2. specific products may only be placed on the market in a specific nature or form, or for specific uses, where environmentally-compatible recovery or disposal of the waste generated after the use of the products can be guaranteed,
3. specific products may only be placed on the market in a specific manner tangibly reducing the strain on waste disposal, in particular in a form facilitating multiple use or recovery,
4. specific products may not be placed on the market if
   a) the release of harmful substances could not be prevented, or only with a disproportionate effort, in the recovery or disposal of the waste generated after the use of the products and environmentally-compatible recovery, or disposal cannot be safeguarded by other means,
   b) their use contributes considerably to the littering of the environment, and this cannot be prevented, or only with a disproportionate effort,
5. specific products shall be labelled in a specified manner, especially in order to ensure or promote the fulfilment of the obligations in accordance with section 7 subsections (2) and (3), section 8 subsection (1) or section 9 subsections (1) and (3), and subsequent to the acceptance of returned goods,
6. specific products, due to the critical raw materials contained in the product, other materials or the noxious substance content of the waste generated after the use of the products may only be placed on the market if they are provided with labelling which indicates in particular the necessity of return to the producer, distributor or specific third parties,
7. for specific products, information must be provided at the point of sale or of placing on the market with regard to
   a) the prevention of the waste generated after the use of the products and re-use of the products,

b) the prevention of littering of the environment by the waste generated after the use of the products,
c) the use of secondary raw materials, in particular recyclates, as well as the recyclability of the waste generated after the use of the products,
d) the environmentally-compatible recovery and disposal of the waste generated after the use of the products, and
e) the possibility of return in the event of an obligation to accept returned goods, or to return goods, having been ordered in accordance with section 25,

8. specific products for which the levying of a deposit has been mandated in accordance with section 25 must be appropriately labelled, where appropriate stating the amount of the deposit,
9. for specific products, in particular those the use of which considerably contributes to the littering of the environment, the public is to be advised and informed as to the impact of the littering of the environment, of ways of preventing same, and of management of the waste generated after the use of the products,
10. when distributing specific products, also in connection with their acceptance for return, or return, it is to be ensured that the fitness of the products for purpose is maintained and that they do not become waste.

Section 25

Obligations to accept returned goods and obligation to return goods, re-use, recovery and disposal of the waste generated after the use of the products, cost participations for cleaning the environment – duty of care

(1) In order to determine requirements in accordance with section 23, the Federal Government is herewith empowered, after consulting the parties concerned (section 68), to mandate by statutory ordinance and with the consent of the *Bundesrat* that producers or distributors

1. may only sell or place on the market specific products after providing a blanket possibility for return for the respective area, as well as safeguarding environmentally-compatible recovery or disposal,
2. must accept specific products when returned, and shall provide for return as well as environmentally-compatible recovery and disposal by suitable measures, especially by means of establishing or participating in systems for accepting returned goods, or by levying a deposit, or by granting other economic incentives,
3. must accept specific products at the point of sale or of generation, or at another prescribed point,
4. must contribute towards costs incurred by public disposal providers and other public legal persons for cleaning the environment and the subsequent environmentally-compatible recovery and disposal of the waste generated subsequent to the use of the products placed on the market by a producer or distributor in accordance with Part E of the Annex to Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (OJ L 155 of 12 June 2019, p. 1),
5. may only place specific products on the market if an authorised representative is appointed who is established within the scope of the present Act, and who is responsible for the obligations connected to

product responsibility emerging from the statutory ordinances issued on the basis of sections 24 and 25 if the producer or distributor is established in another Member State,

6. of specific products must support systems to promote re-use and repair,
7. must keep records
   a) concerning the products placed on the market and their characteristics and quantities,
   b) concerning the acceptance of waste and participation in acceptance systems, and
   c) concerning the type, quantity and management of the products accepted for return, or waste generated after the use of the products,
8. must submit, retain and store documents in accordance with number 7, or present same on request, and
9. must draw up a report to ensure suitable transparency for specific products falling under the duty of care having as its contents the use of the products, in particular their type, quantity, final destination and disposal, as well as the measures that have been taken and are planned to implement the duty of care; it may also be determined whether and in what manner the report is to be examined by third parties, submitted to the competent authority, or published in a suitable manner; the applicable environmental statement of an organisation that is entered in the EMAS Register shall be deemed to satisfy the requirements as to the report insofar as it addresses the requisite duties of care.

(2) In order to determine requirements in accordance with section 23, and to additionally determine obligations incumbent on waste producers and holders, as well as on the public disposal providers within the framework of circular economy, the following may also be mandated in a statutory ordinance in accordance with subsection (1)

1. who is responsible for paying the costs for collection, acceptance, recovery and disposal, labelling, data collection and transmission, as well as advising and informing in accordance with section 24 number 9,
2. how the costs are established, in particular that the life cycle of the products is to be taken into account when establishing the costs,
3. that the party responsible for meeting the costs must provide proof of disposing of the requisite financial or financial and organisational means to satisfy the obligations entailed by product responsibility, in particular by paying a security or forming operational reserves,
4. that the party responsible for meeting the costs must establish and implement suitable own controls in order to verify and assess
   a) its finances, including the cost distribution, and
   b) the quality of the data for which proof was ordered to be provided in accordance with subsection (1) number 7,
5. that the party responsible for meeting the costs must have the verification of the own controls in accordance with number 4 carried out by an expert notified by the competent authority, by an agency notified by such authority, or by another person having the requisite knowledge and expertise,
6. that the holder of waste must surrender such to the producers, distributors under an obligation in accordance with subsection (1), or systems for accepting returned goods established in accordance with subsection (1) number 2,

7. the means and manner by which waste is made available, including measures for provision, collection and transport, and the respective requisite extent, as well as the waste-bringing obligations incumbent on the waste holders designated at number 6,
8. that the public disposal providers within the meaning of section 20 must co-operate in accepting waste by collecting the waste, as a task entrusted to them, and making the collected waste available to the parties obliged in accordance with subsection (1),
9. what form, what content and what process must be adhered to when appointing an authorised representative in accordance with subsection (1) number 5 or a voluntary authorised representative,
10. what requirements as to recovery must be adhered to, in particular by establishing waste management targets, and
11. that data regarding adherence to the waste management targets in accordance with number 10, as well as further data, are to be collected and suitably published concerning the organisation and structure of the systems for accepting returned goods.

Section 26

Voluntary acceptance; fulfilment of product responsibility

(1) The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety is herewith empowered, after consulting the parties concerned (section 68), by means of a statutory ordinance without the consent of the *Bundesrat*, to determine objectives for the voluntary acceptance of products and of the waste generated after the use of the products which are to be achieved within an appropriate period.

(2) Producers and distributors who voluntarily accept returned products, as well as waste remaining from products following product use in own installations or facilities, or in installations or facilities of the third parties commissioned by them, must notify the competent authority thereof prior to the commencement of such acceptance.

(3) On request by the producer or distributor, the authority competent within the meaning of subsection (2) shall establish that the necessary acceptance of returned waste takes place in order to fulfil product responsibility obligations within the meaning of section 23 if

1. the waste taken back by the producer or distributor comes from products produced or distributed by the producer or distributor itself,
2. the goals of product responsibility in accordance with section 23 are implemented by means of voluntary acceptance,
3. the environmentally-compatible recovery or disposal of the waste is guaranteed, and
4. the aims of circular economy are promoted.

The promotion of circular economy shall be presumed if the planned acceptance and recovery of the waste as a whole take place on at least as high a quality level as acceptance and recovery offered in the disposal area by the competent public disposal provider, the third parties commissioned by the latter, or a non-profit or commercial collection. Section 26a subsection (3) shall apply mutatis mutandis.

(4) On request by the producer or distributor, the establishment of fulfilment of the product responsibility shall also cover non-hazardous waste from products that were not produced or distributed by the producer or distributor itself if

1. the preconditions of subsection (3), first sentence, numbers 2 to 4 are met,

2. the products belong to the same category or product type as those produced or distributed by the producer or distributor itself,
3. acceptance is closely connected to the economic activity of the producer or distributor,
4. the quantity of the accepted waste is proportionate to the quantity of the products produced and distributed by the producer or distributor, and
5. it is safeguarded that acceptance and recovery are implemented for a period of at least three years.

Section 26a

Exemption from obligations to keep records and proof in case of voluntary acceptance of hazardous waste

(1) Insofar as the producer or distributor, in fulfilment of product responsibility, voluntarily accepts the hazardous waste remaining after their products have been used in their own installations or facilities, or in installations or facilities of the third parties commissioned by them, the competent authority is to exempt the producer or distributor, on request, from the obligation to keep records and proof in accordance with section 50 until completion of acceptance of the waste. Acceptance shall be deemed to be completed when the waste is accepted at an installation for further disposal, with the exception of installations for the interim storage of the waste, if no earlier point in time is determined in the exemption notice.

(2) The prerequisites established in section 26 subsection (3) numbers 1 to 4 shall apply mutatis mutandis to exemption in accordance with subsection (1). Applications for the establishment of the fulfilment of product responsibility in accordance with section 26 subsections (3) and (4), and the application in accordance with subsection (1), may be linked to the notification in accordance with section 26 subsection (2).

(3) The exemption in accordance with subsections (1) and (2), and the establishment of the fulfilment of product responsibility in accordance with section 26 subsections (3) and (4), shall apply to the Federal Republic of Germany unless restricted application is applied for or ordered. The authority that is competent in each case for the exemption or establishment shall forward one copy each of the exemption and establishment notice to the competent authorities of the *Länder* in which the waste is accepted.

(4) Producers, holders, transporters or disposers of hazardous waste returning such waste to a producer or distributor, or disposing thereof on its behalf, shall be exempt from the obligation to keep records and proof in accordance with section 50 with regard to such waste until acceptance has been completed, insofar as the producer or distributor is exempt from the obligation to keep records and proof for such waste. The competent authority may make return or disposal contingent on conditions, may time limit same, or provide for conditions therefor, insofar as this is necessary in order to ensure environmentally-compatible recovery and disposal.

Section 27

Obligations incumbent on holders after acceptance of returned goods

Producers and distributors who accept waste on the basis of a statutory ordinance in accordance with section 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

Section 28

Regulation of waste disposal

(1) For purposes of disposal, waste may only be treated, stored or landfilled 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 section 4 of the Federal Immission Control Act. Storage or treatment of waste for disposal in waste disposal installations serving such 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 adverse effects is slight, and no other provisions are made in a statutory ordinance in accordance with section 23 of the Federal Immission Control Act, or in a statutory ordinance in accordance with section 16. Liquid waste which is not waste water may be disposed of with waste water under the conditions specified in section 55 subsection (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 subsection (1), first sentence, while reserving a right of revocation, if such action does not adversely affect the public interest.

(3) The *Land* Governments may permit, through statutory ordinance, disposal of certain waste, or of certain quantities of such waste, outside installations within the meaning of subsection (1), first sentence, insofar as there is a need for such disposal and it is not expected to adversely affect 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 *Land* Governments may transfer such powers to other authorities by statutory ordinance in full or in part.

Section 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 section 15, and the public bodies responsible for waste management within the meaning of section 20, to share in the use of the waste disposal installation, for an appropriate fee, insofar as such party or parties cannot expediently dispose of the waste by other means, or only at considerable additional cost, and such shared use is reasonable for the operator. If no agreement is reached concerning the fee, it shall be determined by the competent authority on application. On application of the party obliged in accordance with the first sentence, the party benefiting from such permission may 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 it is not precluded by legal provisions contained in the present Act; it must be safeguarded that the fundamental obligations in accordance with section 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 the disposal of such waste to the operator of a waste disposal installation who is able to dispose of waste more economically than the public disposal providers, on application by the operator. Such transfer may in particular be made contingent on the requirement that the applicant dispose of all waste occurring in the area covered by the public disposal providers, in return for reimbursement of costs, if the public disposal providers 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 holder of land used for mineral extraction, or a party otherwise authorised to dispose of such land, may be obliged by the competent authority to tolerate disposal of waste in exposed tunnels in its installation, or on its land, to permit access during normal operation or business hours and, to the extent that this is indispensable, to make available existing operational equipment or installations, or parts thereof. The party obliged to effect disposal shall reimburse the party obliged in accordance with the first sentence for costs incurred. If no agreement is reached concerning payment of the fees, they shall be determined by the competent authority on request. The priority of mineral extraction over waste disposal may not be adversely 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, shall be prohibited in accordance with the Act on the Prohibition of Dumping of Waste and Other Materials or Objects on the High Seas (*Hohe-See-Einbringungsgesetz*) of 25 August 1998 (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 plans and waste prevention programmes

Section 30

Waste management plans

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

1. the aims of waste prevention and recovery, in particular preparation for re-use and recycling, as well as waste disposal,
2. the measures taken to prevent waste, and the extant situation in waste management,
3. the necessary activities to improve the recovery of waste and waste disposal, including an evaluation of their suitability to achieve the objectives, as well as

4. the waste treatment installations that are required in order to ensure waste disposal, as well as the recovery of mixed waste from private households, including waste which is collected in so doing 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, as well as
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 may furthermore determine which disposal providers are to be chosen, and which waste treatment installation within the meaning of the second sentence, number 4 the parties obliged to carry out waste disposal must use.

(2) The description of demand shall take into account future developments anticipated within a period of at least ten years. Waste management concepts and waste balance sheets shall be evaluated insofar as is necessary in order to describe demand.

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

(4) Lists within the meaning of subsection (1), third sentence, number 2, and the fourth sentence, may be declared binding on 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. Section 7 subsection (4) 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
   a) existing waste collection schemes and significant disposal and recovery installations, including special precautions for waste oils, for hazardous waste, and for waste containing considerable quantities of critical raw materials, or
   b) waste streams to which special provisions apply in accordance with the present Act or with the statutory ordinances issued on the basis of the present Act,
   c) waste streams to which special laws apply regarding placing on the market and acceptance of specific waste streams, or on the basis of statutory ordinances issued on the basis of such laws,
3. an evaluation of the need for the closure of existing waste treatment installations, or for the construction of additional ones, in accordance with subsection (1), third sentence, number 1; the *Länder* shall ensure that the investments and other funding, also for the competent authorities, are evaluated which are needed for the measures established in accordance with the first clause; the evaluation

shall be included in the corresponding waste management plans, or in other strategic documents applicable to the *Land* in question,

4. information regarding the measures to achieve the targets in accordance with Article 5(3a) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste (OJ L 182 of 16 July 1999, p. 1), most recently amended by Directive (EU) 2018/850 (OJ L 150 of 14 June 2018, p. 100), or in other strategic documents applicable to the *Land* in question,
5. an evaluation
    a) of the existing waste collection systems, including the waste that is collected separately, of the geographical areas in which the separate collection takes place, and of the measures to improve separate collection,
    b) an explanation of the preconditions in accordance with section 9 subsection (3) insofar as no separate collection takes place, and
    c) of the need for new collection systems,
6. sufficient information on the criteria for determining the location and on the capacity of future waste disposal installations or major recovery installations,
7. general waste management strategies, including planned waste management technologies and operations, or strategies for waste giving rise to particular management-related problems,
8. measures to counter and prevent all forms of littering, as well as to clean the environment of waste of all kinds,
9. suitable qualitative and quantitative indicators and targets, including in relation to
        a) the quantity of waste generated and its treatment, and
        b) the municipal waste from which energy is recovered or which if disposed of.

(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 specific group of consumers,
4. information on closed contaminated waste disposal locations and activities for their restoration.

Section 31

Preparation of waste management plans

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

(2) The municipalities and the rural districts, as well as their respective associations, and the public disposal providers, shall be involved in the preparation of the waste management plans.

(3) The public disposal providers shall 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 *Länder* shall regulate the procedure for the preparation of plans and for declaring them to be binding. Subsections (1) to (3) and section 32 shall remain unaffected thereby.

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

Section 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 section 30, including separate chapters, or separate sub-plans, especially referring to the disposal of hazardous waste, waste batteries and accumulators, or packaging and packing waste. Preparation or modification of a waste management plan, as well as 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 subsection (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 the 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 that has been 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) Subsections (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 subsections (1) to (4), the *Länder* shall inform the public of the state-of-the-art 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 plans, a comparison to the previous one, as well as a prognosis for the following information period.

Section 33

Waste prevention programmes

(1) The Federation shall draw up a waste prevention programme. The *Länder* may take part in the preparation of the waste prevention programme. In such case, they shall draw up contributions for their respec-

tive remit for which they shall take individual responsibility; these contributions shall be included in the waste prevention programme of the Federation.

(2) Insofar as the *Länder* 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 establish 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 provide for at least the following waste prevention measures:
   a) promotion of and support for sustainable production and consumption models,
   b) promotion of the development, production and use of products which are efficient in terms of resources, and also with regard to their technical durability, and ruling out planned obsolescence, are technically durable, repairable as well as re-useable or updateable,
   c) the targeted identification of products containing critical raw materials in order to prevent such materials becoming waste,
   d) support for the re-use of products, and creation of systems to promote repair and re-use, in particular of electrical and electronic equipment, textiles, furniture, packaging, as well as construction materials and products,
   e) notwithstanding intellectual property rights, the promotion of the availability of spare parts, operating manuals, technical information or other means and devices, as well as software, enabling the repair and re-use of products without adversely affecting their quality and safety,
   f) reducing waste generation in processes in connection with industrial production, in extraction of minerals, in production, in construction and demolition activities, in each case in consideration of the technical state-of-the-art,
   g) the reduction of food waste in primary production, processing and production, in retail and in other forms of food distribution, in restaurants and in catering, as well as in private households, in order to contribute to the United Nations sustainable development goal to halve per capita global food waste at the retail and consumer levels by 2030 and reduce food losses along production and supply chains, including post-harvest losses,
   h) the promotion
      aa) of food donations and other forms of redistribution of food for human consumption so that consumption by humans takes priority over use as animal feed and processing into other products,
      bb) of donations in kind,
   i) the promotion of the reduction of the content of hazardous substances in materials and products,
   j) the reduction of the generation of waste, in particular of waste that is not suitable for preparation for re-use or for recycling,
   k) the identification of products which constitute the main sources of littering, in particular of nature and of the marine environment, and the implementation of suitable measures to prevent and reduce the refuse generated by these products,

l) the prevention and significant reduction of marine waste, as a contribution towards achieving the United Nations sustainable development goal to prevent and significantly reduce marine pollution of all kinds, as well as

m) development of and support for information campaigns in the framework of which awareness is created for waste prevention and littering,

3. shall establish, where necessary, further waste prevention measures, and
4. shall define expedient, specific, qualitative or quantitative standards for established waste prevention measures by means of which the progress made in the measures shall be monitored and evaluated; indicators or other suitable specific qualitative or quantitative goals may be used as a standard.

(4) The following shall be taken into account when establishing the waste prevention measures:

1. the proportionality of the measures in accordance with section 7 subsection (4),
2. other legal provisions on the use of products, on product responsibility, as well as on the protection of human health and on the environment, and
3. determinations of Union law on the free movement of goods.

(5) The establishment of the waste prevention programme

1. shall describe the existing waste prevention measures and their contribution to waste prevention,
2. shall evaluate the expedience of the waste prevention measures listed in Annex 4, or of other suitable waste prevention measures, and
3. shall describe, where relevant, the contribution that is made by the waste prevention tools and measures listed in Annex 5.

(6) The waste prevention programme shall refer to specific food waste prevention programmes, and shall state their waste prevention goals and measures.

(7) The waste prevention programme may refer to other environmental policy programmes or programmes specific to the material flow. Where reference is made to such a programme, its waste prevention goals and measures shall be clearly listed in the waste prevention programme.

(8) Contributions from the *Länder* in accordance with subsection (1), or waste prevention programmes of the *Länder* in accordance with subsection (2), may be included in the waste management plans in accordance with section 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 measures shall be clearly identified.

(9) Existing waste prevention programmes shall be adjusted by the end of 12 December 2025 in line with the requirements in accordance with subsection (3) number 2 and subsections (4) and (5), shall be evaluated every six years, and shall be updated where necessary. The public shall be involved by the competent authority in accordance with section 32 subsections (1) to (4) in the drafting or altering of waste prevention programmes. The Federal Ministry for the Environment, Nature Conservation 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 which have competence in this area.

Division 3

Authorisation of installations in which waste is disposed of

Section 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 disposal providers, when exploring 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 as well as other similar work. Landowners and parties entitled to use land shall be notified in good time of the intention to enter premises and to carry out such measures.

(2) After completing such measures, the competent authority and the public disposal providers must restore the relevant premises to their condition prior to the relevant work without undue delay. They may order equipment installed in connection with the exploration to be retained. The equipment shall be removed when it is no longer needed for the exploration, or if a decision thereon 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 may demand monetary compensation from the competent authority for loss of assets incurred through measures in accordance with subsection (1) or subsection (2).

Section 35

Plan approval and permission

(1) The construction and operation of installations in which waste disposal is implemented, as well as significant changes in such installations or their operation, shall require permission in accordance with the provisions of the Federal Immission Control Act; no further permission in accordance with the present Act shall be required.

(2) Construction and operation of landfills, as well as a significant change in such an installation or in its operation, shall require plan approval on the part of 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) Section 74 subsection (6) of the Administrative Procedure Act shall apply subject to the proviso that the competent authority may only issue planning permission (*Plangenehmigung*), instead of a plan approval decision (*Planfeststellungsbeschluss*), on application or ex officio, if

1. construction and operation of an insignificant landfill are applied for, insofar as such construction and operation cannot have any significant adverse effects on an interest that is eligible for protection referred to in section 2 subsection (1) of the Environmental Impact Assessment Act, or
2. major changes in a landfill or in its operation are applied for, insofar as they cannot have any significant adverse effects on an interest that is eligible for protection referred to in section 2 subsection (1) 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 the 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; insofar as such landfill is used 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 is to implement a permission procedure if the major change does not have any significant adverse effects on an interest that is eligible for protection referred to in section 2 subsection (1) of the Environmental Impact Assessment Act and pursues the purpose of bringing about a major improvement for such interests as are eligible for protection. 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) Section 15 subsection (1), first to fourth sentences, and subsection (2) of the Federal Immission Control Act, shall apply mutatis mutandis. The first sentence shall also apply to the landfills designated in section 39.

(5) The project sponsor may apply for plan approval or planning permission for changes subject to notification accordance with subsection (4).

Section 36

Issuing, security, secondary provisions

(1) The plan approval decision in accordance with section 35 subsection (2) may only be issued, or planning permission in accordance with section 35 subsection (3) may only be awarded, if

1. it is safeguarded that the public interest is not adversely affected, in particular
   a) that dangers to the interests that are eligible for protection, as designated in section 15 subsection (2), second sentence, cannot arise,
   b) that precautions are taken against adverse effects on the interests that are eligible for protection referred to in section 15 subsection (2), second sentence, especially through construction-related, operational or organisational measures in keeping with the technical state-of-the-art, 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 of the persons 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 requisite knowledge and expertise for their duties,
4. no adverse effects on a right of another person can be anticipated, and
5. the contents of a waste management plan that have been declared binding do not preclude the project.

(2) The adverse effects on a right of another person, as described in subsection (1) number 4, shall not preclude the issuing of a plan approval decision or the granting of planning 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. Subsection (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 of assets.

(3) The competent authority is to require the operator of a landfill to provide security within the meaning of section 232 of the Civil Code (*Bürgerliches Gesetzbuch*), or to provide equivalent collateral, for recultivation, as well as for prevention or elimination of adverse effects on the public interest after closure of the installation.

(4) The plan approval decision and the planning permission in accordance with subsection (1) may be made subject to conditions or contingent on requirements, and issued for limited terms, where this is required in order to protect the public interest. The competent authority shall review, on a regular basis and when special reasons require, whether the plan approval decision and the planning permission in accordance with subsection (1) are in keeping with the latest version of the requirements set forth in subsection (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 decision or planning permission has been issued. The Federal Government is herewith empowered, after consulting the parties concerned (section 68), by statutory ordinance and with the consent of the *Bundesrat*, to specify the times at which the competent authority must carry out reviews and issue the conditions referred to in the third sentence.

Section 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 implementation, prior to the decision, and, insofar as the project does not receive plan approval or planning permission, to restore the former condition.

This period may be extended by six months on application.

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

Section 38

Plan approval procedure and other administrative procedures

(1) Sections 72 to 78 of the Administrative Procedure Act shall apply to the plan approval procedure. The Federal Government is herewith empowered, through statutory ordinance and with the consent of the *Bundesrat*, 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 section 35 subsection (4),
3. details pertaining to the procedure for the determination of definitive closure in accordance with section 40 subsection (3), as well as
4. details pertaining to the procedure for the determination of the completion of the after-care phase in accordance with section 40 subsection (5).

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

Section 39

Existing waste disposal installations

(1) The competent authority may mandate term limitations, conditions and requirements for the operation of landfills that were in operation, or the construction of which had been commenced, prior to 11 June 1972. It may prohibit the operation of such installations, completely or in part, if a considerable adverse effect on 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 order term limitations, conditions and requirements for the construction and operation of landfills that were in operation, or the construction of which was commenced, prior to 1 July 1990. Subsection (1), second sentence, shall apply mutatis mutandis.

Section 40

Closure

(1) The operator of a landfill intended for closure shall notify the competent authority of such intended closure without undue delay. Such notification shall be accompanied by documents concerning type, size and operating procedures, as well as intended recultivation and other measures to protect the public interest.

(2) Where corresponding provisions are not yet included in the plan approval decision in accordance with section 35 subsection (2), in the planning permission in accordance with section 35 subsection (3), in conditions and requirements in accordance with section 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 recultivate the site that has been used for a landfill in accordance with subsection (1) at its expense,
2. to take all other necessary precautions, including supervisory and control measures during the after-care phase, at its expense, to fulfil the requirements set forth in section 36 subsections (1) to (3), including after closure, and
3. to report to the competent authority all findings from supervision giving rise to 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 detrimental changes in the soil or of other dangers to individuals or to the general public in accordance with subsection (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 (definitive closure).

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

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

Section 41

Emissions declaration

(1) The operator of a landfill shall be obliged to provide to the competent authority, at the time defined in the statutory ordinance in accordance with subsection (2), information regarding the nature and quantity, as well as the geographical and chronological distribution, of the emissions produced 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 subsection (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 insofar as this is necessary in an individual case due to special circumstances.

(2) The Federal Government is herewith empowered to specify by statutory ordinance and with the consent of the *Bundesrat* 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 are exempted from obligations to submit an emissions declaration in accordance with subsection (1), second sentence.

(3) Section 27 subsection (1), second sentence, and subsections (2) and (3) of the Federal Immission Control Act shall apply mutatis mutandis.

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

Section 42

Access to information

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

Section 43

Requirements for landfills

(1) The Federal Government is herewith empowered, after consulting the parties concerned (section 68), to mandate, by statutory ordinance and with the consent of the *Bundesrat*, that the construction, characteristics, operation, condition following closure and operator monitoring of landfills for compliance with section 36 subsection (1), and of sections 39 and 40, and for implementation of legal acts of the European Union, must meet specific requirements relevant to the purpose designated in section 1; in particular, it may mandate,

1. that sites must conform to specific requirements,
2. that landfills must meet specific operational, organisational and technical requirements,
3. that the waste stored in landfills must conform to specific requirements; in so doing, it may be provided in particular that waste with specific metal contents may not be stored, and what waste is regarded as inert waste,
4. that the emissions emanating from landfills may not exceed specific maximum levels,
5. that operators must carry out, or have carried out, specific measurement and supervisory activities during operation and in the after-care phase,
6. that operators must have an expert carry out specific tests
   a) during construction or otherwise prior to the start-up operation of the landfill,
   b) following the start-up of landfill operations, or following a change within the meaning of section 35 subsection (2) or subsection (5),
   c) at regular intervals, or
   d) upon or following closure,
7. that operators are only permitted to carry out the following 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, the operator must inform the competent authority within specified periods of time and take the requisite 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 undue delay during operations and in the after-care phase all results of monitoring that provide indications of significant adverse environmental effects, as well as specific events that may have such impacts, and 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 effects from one vulnerable interest to another; a high overall level of protection for the environment must be ensured.

(2) The statutory ordinance in accordance with subsection (1) may specify the extent to which the requirements for precautions against adverse effects on the interest that are eligible for protection referred to in section 15 subsection (2), second sentence, must be fulfilled following the expiry of specific transition periods, insofar as 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 *Länder* law. The nature, characteristics and quantity of landfilled waste, the site conditions, the nature, quantity and hazardousness 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 the transition periods, and of the requirements to be fulfilled. The first and second sentences shall apply mutatis mutandis to the landfills mentioned in section 39 subsections (1) and (2).

(3) The Federal Government is herewith empowered to specify, after consulting the parties concerned (section 68), by statutory ordinance and with the consent of the *Bundesrat*, what requirements are to apply to the reliability, knowledge and expertise of persons responsible for the construction, direction or supervision of the operation of a landfill, as well as to the knowledge and expertise of other staff, including ongoing training of the responsible individuals and of the other staff.

(4) The Federal Government is herewith empowered, by statutory ordinance and with the consent of the *Bundesrat*,

1. to provide that the operators of specific landfills must provide security within the meaning of section 232 of the Civil Code, or furnish other equivalent collateral,
2. to issue provisions regarding the nature, extent and amount of the security required in accordance with section 36 subsection (3) within the meaning of section 232 of the Civil Code, or other equivalent collateral, and
3. to provide for the length of time for which such security in accordance with number 1 or other equivalent collateral is to be provided.

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

Section 44

Costs for the landfilling of waste

(1) The fees 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 section 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 section 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), a corresponding assessment of the costs for closure and after-care, and for the collateral, shall not be included in the calculation of charges.

(2) The operator shall determine the costs referred to in subsection (1), and shall provide the competent authority, within a period to be set by the latter, with overviews of costs and charges levied.

(3) The fees of the public disposal providers shall be in accordance with *Land* law.

(4) Subsections (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 insofar as waste is stored in such installations in each case over a period of more than one year prior to its disposal, or insofar as 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

Section 45

Obligations incumbent on public authorities

(1) The authorities of the Federation, as well as the legal persons under public law, special assets and other agencies under federal supervision, shall be obliged to contribute, through their conduct, to the attainment of the purpose of section 1.

(2) The parties obliged in accordance with subsection (1), in the design of work procedures, procurement or use of materials and consumer durables, in construction projects and other contracts, and in particular taking into account sections 6 to 8, shall give preference to products without thereby giving rise to third-party legal entitlements, which

1. have been produced in resource-saving, energy-saving, water-saving, low-pollution or low-waste processes,
2. have been produced through preparation for re-use, or by recycling waste, in particular using recyclates, or from renewable raw materials,
3. are characterised by durability, repairability, re-useability and recyclability, or
4. in comparison to other products, lead to less waste, or to lower-pollution waste, or are better suited to environmentally-compatible waste management.

The obligation described in the first sentence shall apply insofar as the products are suited to the intended purpose, their procurement or use does not cause any unreasonable additional costs, sufficient competition is guaranteed, and it is not precluded by other legal provisions. Insofar as provisions of procurement law are to be applied, these shall be complied with. Section 7 of the Federal Budget Code (*Bundeshaushaltsordnung*) shall remain unaffected thereby. In derogation from the obligation in the first sentence, when procuring or using material and consumer durables, and in construction projects, as well as other contracts constituting defence- or security-specific contracts, or covering defence and security aspects, and with other contracts, insofar as such are required for the operational capability of the *Bundeswehr*, it shall be examined whether and to what extent the products designated in the first sentence can be deployed.

(3) The parties obliged designated in subsection (1), first sentence, shall strive to ensure, within the framework of their resources, that the private-law companies in which they have interests fulfil the obligations in accordance with subsections (1) and (2).

(4) Within the framework of its obligations in accordance with subsections (1) to (3), 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.

Section 46

Obligation to provide advice on waste

(1) The public disposal providers within the meaning of section 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) In particular the prevention measures designated in section 33 subsection (3) number 2, and the determinations of the applicable waste prevention programme of the Federation and of the respective *Land*, shall be used as a basis for advice on possibilities of waste prevention. The advice shall particularly point towards facilities of the public disposal provider, and as far as possible of other natural or legal persons by means of which products which do not constitute waste are covered and re-used.

(3) In particular the obligation to separately collect waste, and the return obligations, shall be indicated as part of advice on waste recovery. Advice shall also encompass advice on providing bulky waste in as resource-efficient a manner as possible, as well as on measures to prevent the littering of the environment.

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

Part 6

Supervision

Section 47

General supervision

(1) Waste prevention, in accordance with statutory ordinances issued on the basis of sections 24 and 25, as well as waste management, shall be subject to supervision by the competent authority. Section 25 subsections (1) and (3), section 26 subsections (2) and (3), section 27 subsection (1), section 28 subsections (1) and (2), and subsection (4), first and second sentences, of the Product Safety Act (*Produktsicherheitsgesetz*) of 8 November 2011 (Federal Law Gazette Part I pp. 2178 and 2179) shall be applied mutatis mutandis to the enforcement of the statutory ordinances issued in accordance with sections 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 in that respect.

(2) The competent authority shall monitor at regular intervals, and to a suitable degree, producers of hazardous waste, installations and enterprises which carry out waste treatment, as well as collectors, transporters, waste brokers and waste dealers. Supervision of the activities of waste collectors and transporters shall also encompass the source, type, quantity and 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 producers and holders,
2. parties obliged to carry out waste disposal,
3. operators, and former operators, of enterprises or installations that carry out waste treatment, or have carried out waste treatment, including if such installations have been closed, and
4. waste collectors, transporters, brokers and dealers.

Persons obliged to provide information in accordance with the first sentence shall allow the employees of and agents commissioned by the competent authority, when verifying fulfilment of their obligations in accordance with sections 7 and 15, to enter premises, including business and operational premises, to inspect documents and to conduct technical investigations and tests during normal business hours. The persons obliged to provide information in accordance with the first sentence shall furthermore be obliged to permit entry for these purposes into business and operational premises and offices, as well as dwellings, if this is required in order 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.

(4) Operators of recovery and waste disposal installations, or of installations in which waste is also recovered and disposed of, shall be required to make such installations accessible to the employees of or 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 have the condition and operation of the installation inspected, at their own expense.

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

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

(7) In order to implement subsections (1) to (4), the competent authorities, within their area of competence, shall establish supervision plans and supervision programmes for all landfills requiring authorisation. The first sentence shall not apply to landfills for inert waste, and to landfills with a landfilling capacity of ten tonnes or less per day and a total capacity of 25,000 tonnes or less. Supervision according to the first sentence shall include in particular supervision of construction, on-site inspections, monitoring of emissions, review of internal reports, follow-up documents as well as measurements and controls, review of the own controls, as well as tests of the techniques applied and of the suitability of the landfill's eco-management. The Federal Government is herewith empowered, after consulting the parties concerned (section 68), by means of a statutory ordinance with the consent of the *Bundesrat,* to specify detailed requirements regarding the content of the supervision plans and supervision programmes in accordance with the first sentence.

(8) The *Länder* shall submit to the Federal Ministry for the Environment, Nature Conservation and Nuclear Safety on request information on the implementation of Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (Recast) (OJ L 334 of 17 December 2010, p. 17), in particular representative data on emissions and other forms of pollution, on emission limit values and on the application of the technical state-of-the-art. The *Länder* shall make this information available by electronic means. The type and form of the information to be made available by the *Länder*, and the time of its transmission, shall be established in accordance with the requirements laid down in Article 72(2) of Directive 2010/75/EU. Section 5 subsection (1), second sentence, and subsections (2) to (6), of the Act implementing the Protocol on Pollutant Release and Transfer Registers (*Gesetz zur Ausführung des Protokolls über Schadstofffreisetzungs- und -verbringungsregister*) of 21 May 2003 and implementing Regulation (EC) No 166/2006 of 6 June 2007 (Federal Law Gazette Part I p. 1002) shall apply mutatis mutandis.

(9) The competent authority may order the operator of a landfill to transmit data that are specified in an implementing act in accordance with Article 72(2) of Directive 2010/75/EU, and that are necessary to fulfil the reporting obligation in accordance with subsection (6), insofar as such data have not yet been made available to the competent authority as a result of other provisions. Section 3 subsection (1), second sentence, and section 5 subsections (2) to (6), of the Act implementing the Protocol on Pollutant Release and Transfer Registers of 21 May 2003 and implementing Regulation (EC) No 166/2006 shall apply mutatis mutandis.

Section 48

Waste designation, hazardous waste

Special requirements, in keeping with the present Act, are to be made of the disposal, as well as of the supervision, of hazardous waste. For the transposition of legal acts of the European Union, the Federal Government is herewith empowered, after consulting the parties concerned (section 68), by statutory ordinance and with the consent of the *Bundesrat*, to specify the designation of waste as well as hazardous waste, and in individual cases to permit the specification of hazardous waste by the competent authority.

Section 49

Obligations pertaining to registers

(1) Operators of installations or enterprises that dispose of waste via a procedure in accordance with Annex 1 or Annex 2 (waste disposal companies) 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, as well as
   2. the classification, frequency of collection, the relevant means of transport and the type of recovery or disposal, including preparation for recovery or disposal, insofar as such information is significant to ensuring proper waste management.

(2) Waste disposal companies that treat or store waste shall record the information required in accordance with subsection (1), especially the determination of treated or stored waste, also with regard to further disposal measures, insofar as this is necessary to ensure proper disposal in light of the intended purpose of the waste treatment installation. The first sentence shall apply mutatis mutandis to the further use of products, materials and substances generated from preparation for re-use, from recycling or from another recovery process. Waste disposal companies in accordance with the first sentence shall be determined by a statutory ordinance in accordance with section 52 subsection (1), first sentence.

(3) The obligation in accordance with subsection (1) to keep a register shall also apply to producers, holders, collectors, transporters, brokers and dealers of hazardous waste.

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

(5) Register entries, and added documents, relative to hazardous waste, shall be archived by waste producers, holders, brokers, dealers and waste disposal companies for at least three years, whilst waste transporters 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 section 52 provides for a longer period.

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

Section 50

Obligations to keep records and proof

(1) Producers, holders, collectors, transporters and waste disposal companies of hazardous waste shall furnish proof to the competent authority and to each other of the proper disposal of hazardous waste. Such proof shall be provided

1. prior to the commencement of disposal, in the form of a declaration on the part of the waste producer, holder, collector or transporter relative to the planned disposal, of a declaration of acceptance of the waste disposal company, as well as of the competent authority's confirmation of the permissibility of the planned disposal, and
2. regarding completed disposal, or completed sections of disposal, 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 subsection (1) shall not apply to the disposal of hazardous waste of which waste producers or holders dispose in their own waste disposal installations if such disposal installations are located in a close geographical and operational context with the installations or sites at which the waste requiring to be disposed of has been generated. The obligations pertaining to registers in accordance with section 49 shall remain unaffected thereby.

(3) The obligations to furnish proof in accordance with subsection (1) shall not apply until completion of acceptance or return of products, or of the hazardous waste remaining following use of the products, subject to the acceptance or return ordered in accordance with section 25. Acceptance or return of products, and of waste remaining following use of products, shall be deemed to have been completed at the latest on acceptance at an installation for further disposal, except for installations for interim waste storage, unless the statutory ordinance prescribing acceptance or return stipulates an earlier time.

(4) The obligations to keep records and proof in accordance with subsection (1) shall not apply to private households.

Section 51

Supervision in individual cases

(1) The competent authority may order that waste producers, holders, collectors, transporters, brokers, dealers, or waste disposal companies, but not private households,

1. must keep and present registers or records, or provide information from the registers, insofar as no obligations exist in accordance with sections 49 and 50, or
2. must fulfil specific requirements in accordance with section 10 subsection (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 to be kept electronically, and that documents are to be presented in electronic form in accordance with section 3a subsection (2), second and third sentences, of the Administrative Procedure Act.

(2) If the waste producer, holder, collector, transporter, broker, dealer or waste disposal company is a Certified Waste Management Company within the meaning of section 56, or an audited company location within the meaning of section 61, the competent authority shall take this into account in orders in accord-

ance with subsection (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 the environmental auditor and prepared as part of participation in the Community Eco-Management and Audit Scheme (EMAS).

Section 52

Requirements pertaining to records and registers

(1) The Federal Government is herewith empowered, after consulting the parties concerned (section 68), by statutory ordinance and with the consent of the *Bundesrat*, for fulfilment of the obligations arising from sections 49 to 51, to specify requirements pertaining to the form and content of records, and to the procedure for keeping and presenting records and registers, and for reporting specific information from the registers, as well as to specify the installations or enterprises obliged in accordance with section 49 subsection (2). A statutory ordinance in accordance with the first sentence may also specify

1. that the proof in accordance with section 50 subsection (1), second sentence, number 1 shall be deemed to have been confirmed, or that no confirmation shall be necessary, on expiration of a specific period, as long as proper disposal continues to be 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 disposal, to the authority or to the former holder,
3. that specific requirements are not to apply to specific small quantities, which may also be specified at different levels depending on the type and nature of the waste, or to individual waste management operations, types of waste or waste groups, or that derogating requirements are to apply, as long as proper disposal continues to be assured,
4. that the competent authority may exempt, subject to revocation, on application or ex officio, obliged parties wholly or partly from obligations to keep records or registers, as long as proper disposal continues to be assured,
5. that registers must be kept as a topically- and chronologically-ordered collection of prescribed records, or of documents commonly used in disposal practice,
6. that records and registers must be archived until the expiration of specific 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 subsection (1):

1. that records and registers are to be kept electronically and that documents are to be presented in electronic form in accordance with section 3a subsection (2), second and third sentences, of the Administrative Procedure Act,
2. that the necessary basis for fulfilment of the obligations designated in number 1 is to be created and maintained, and
3. that specific information relative to the technical requirements in accordance with number 2, especially the necessary accesses for receipt as well as any disruptions of the facilities necessary for communication, be reported to the competent authorities or to the participating parties obliged to keep records.

Section 53

Waste collectors, transporters, brokers and dealers

(1) Waste collectors, transporters, 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 section 54 subsection (1). The competent authority shall confirm receipt of the notification to the notifying party in writing without undue delay. The authority of the *Land* in which the notifying party is headquartered shall be competent therefor.

(2) The holder of an operation within the meaning of subsection (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 requisite knowledge and expertise for their work.

(3) The competent authority may make the notified activity contingent on conditions, may time limit it or provide for conditions therefor, insofar as this is necessary in order to protect 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 the 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 subsection (2), second sentence.

(4) Proof documents from another Member State of the European Union, or from another Contracting Party of the Agreement on the European Economic Area, regarding compliance with the requirements in accordance with subsection (2) shall be deemed equivalent to domestic proof documents if it emerges therefrom 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) Section 36a subsection (1), second sentence, and subsections (2) and (4), fourth sentence, of the Trade Regulation Code (*Gewerbeordnung*) shall apply mutatis mutandis to the review of the requisite knowledge and expertise in accordance with subsection (2), second sentence, of a notifying party from another Member State of the European Union, or of another Contracting Party of the Agreement on the European Economic Area; section 13a subsection (2), second to fifth sentences, and subsection (3) of the Trade Regulation Code shall apply mutatis mutandis in case of a temporary, only 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 requisite knowledge and expertise.

(6) The Federal Government is herewith empowered, after consulting the parties concerned (section 68), by means of a statutory ordinance with the consent of the *Bundesrat,* for the notification and activity of waste collectors, transporters, dealers and brokers, for waste collectors and transporters, in particular taking account of the particularities of the respective modes of transport, transport routes or the respective means of transport

1. to issue provisions regarding the form, content and 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 submitted in electronic form in accordance with section 3a subsection (2), second and third sentences, of the Administrative Procedure Act,
3. to exempt specific activities from the notification obligation in accordance with subsection (1) insofar as such notification is not required in the public interest,
4. to determine requirements of the parties obliged to notify and their activities ensuing from legal provisions of the European Union, and
5. to order that suitable documents are to be taken along when transporting waste for the purpose of supervision.

Section 54

Waste collectors, transporters, brokers and dealers of hazardous waste

(1) Collectors, transporters, 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 owner or of persons who are responsible for the management and supervision of operations, as well as
2. the owner, 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 requisite knowledge and expertise for their work.

The authority of the *Land* in which the applicant is headquartered shall be competent therefor. 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 insofar as this is necessary to protect the public interest.

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

1. public disposal providers, as well as
2. Certified Waste Management Companies within the meaning of section 56 insofar as they are certified for the activity subject to authorisation.

(4) Licences from another Member State of the European Union, or from another Contracting Party of the Agreement on the European Economic Area, shall be considered equivalent to licences in accordance with subsection (1), first sentence, insofar as they are equivalent thereto. When reviewing the application for a licence in accordance with subsection (1), first sentence, proof documents from another Member State of the European Union, or from another Contracting Party of the Agreement on the European Eco-

nomic Area, shall be deemed equivalent to domestic proof documents insofar as it emerges therefrom that the applicant meets the relevant requirements of subsection (1), second sentence, or requirements of the state of issue 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) Section 36a subsection (1), second sentence, and subsections (2) and (4), fourth sentence, of the Trade Regulation Code shall apply mutatis mutandis to the review of the requisite knowledge and expertise in accordance with subsection (1), second sentence, number 2 of an applicant from another Member State of the European Union, or from another Contracting Party of the Agreement on the European Economic Area; section 13a subsection (2), second to fifth sentences, and subsection (3) of the Trade Regulation Code shall apply mutatis mutandis in case of temporary, only 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 requisite knowledge and expertise.

(6) Licensing procedures in accordance with subsections (1) and (4) may be processed via a single agency. Section 42a of the Administrative Procedure Act shall apply to the procedure in accordance with subsections (1) and (4) insofar as 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 domiciled in one of these states as a legal person.

(7) The Federal Government is herewith empowered, after consulting the parties concerned (section 68), by means of a statutory ordinance with the consent of the *Bundesrat*, for the obligation to obtain a licence and the activity of collectors, transporters, brokers and dealers of hazardous waste, for collectors and transporters 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 section 3a subsection (2), second and third sentences, of the Administrative Procedure Act,
3. to exempt specific activities from the obligation to obtain a licence in accordance with subsection (1) insofar as 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 suitable documents are to be taken along for the purposes of supervision when transporting waste.

Section 55

Labelling of the vehicles

(1) Collectors and transporters 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 transporters collecting or transporting waste in the context of economic enterprises. Section 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 labelling of vehicles.

(2) The Federal Government is herewith empowered to provide in a statutory ordinance in accordance with section 53 subsection (6) or section 54 subsection (7) for exemptions to the labelling obligation in accordance with subsection (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

Section 56

Certification of Certified Waste Management Companies

(1) Certified Waste Management Companies (*Entsorgungsfachbetriebe*) shall contribute towards the promotion of circular economy and safeguarding 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, and the reliability as well as 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 verified 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”, in conjunction 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 given 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 those 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 subsection (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 of 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 requisite reliability, independence, as well as knowledge and expertise, 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”.

Section 57

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

The Federal Government is herewith empowered, after consulting the parties concerned (section 68), by means of a statutory ordinance with the consent of the *Bundesrat*, 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, as well as adequate liability insurance coverage demanded,
2. requirements of the owner and of the persons employed in the Certified Waste Management Company, in particular minimum requirements as to knowledge and expertise as well as to reliability, and 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 of the members of such supervisory bodies, may be determined,
5. minimum requirements of 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 deprival, 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 other further use of the designation “Certified Waste Management Company” by the competent authority in accordance with section 56 subsection (8), second sentence, may be determined, and
9. the electronic keeping and submission of documents in electronic form in accordance with section 3a subsection (2), second and third sentences, of the Administrative Procedure Act may be ordered for the requisite declarations, proof documents, notifications or other data.

Part 8

Company organisation, Waste Management Officer and easing of requirements for audited company locations

Section 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 shall be notified regarding which of them, in accordance with the provisions concerning management authorisation, is to fulfil, for the company, the obligations of an operator of an installation subject to licensing within the meaning of section 4 of the Federal Immission Control Act, or the obligations of the holder within the meaning of section 27, incumbent on such operator or owner in accordance with the present Act and in accordance with the statutory ordinances issued on the basis of the present Act. The overall responsibility of all members of such organ, or of all partners, shall remain unaffected thereby.

(2) The operator of an installation subject to licensing within the meaning of section 4 of the Federal Immission Control Act, the holder in accordance with section 27, or the person to be designated in accordance with subsection (1), first sentence, within the framework of his or her management authorisation, shall inform the competent authority of the means by which it is safeguarded that the provisions and orders which support the prevention, recovery and environmentally-compatible disposal of waste are being complied with in the operation.

Section 59

Appointment of a Company Waste Management Officer

(1) Operators of installations subject to licensing within the meaning of section 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, holders within the meaning of section 27, as well as operators of acceptance systems and units which have been established by the holders within the meaning of section 27, or in which they have holdings, shall appoint one or more Company Waste Management Officer(s) (Waste Management Officers) without undue delay insofar as this is necessary with regard to the type or size of the installations, or to the significance of the waste management activity, in particular in consideration of the type or extent of the acceptance of the waste and of the holders' obligations connected therewith, because of the

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

The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety shall determine, after consulting the parties concerned (section 68), by statutory ordinance and with the consent of the *Bundesrat*, the operators of installations in accordance with the first sentence, the holders in accordance with the first sentence, as well as the operators of acceptance systems and units in accordance with the first sentence, which must appoint Waste Management Officers. It may also be provided via a statutory ordinance in ac-

cordance with the second sentence which holders of waste and which operators of acceptance systems and units to which the first sentence applies mutatis mutandis must appoint Waste Management Officers.

(2) The competent authority may order that operators of installations, in accordance with subsection (1), first sentence, holders in accordance with subsection (1), first sentence, and operators of acceptance systems and units in accordance with subsection (1), first sentence, for which the appointment of a Waste Management Officer is not required by statutory ordinance in accordance with subsection (1), second and third sentences, must appoint one or more Waste Management Officers, insofar as, in individual cases, the necessity of such appointment results from the reasons designated in subsection (1), first sentence.

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

Section 60

Tasks of the Company Waste Management Officer

(1) The Waste Management Officer shall advise the party obliged to appoint, 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 path taken by waste from its generation or delivery to its recovery or disposal,
2. to supervise compliance with the provisions of the present Act and of the statutory ordinances issued on the basis of the present Act, as well as fulfilment of existing conditions and restrictions, especially by checking, 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 adverse effects on the public interest which may result from the waste, or from the waste management activity,
   b) concerning facilities and measures for preventing adverse effects on the public interest, taking into account the laws and statutory ordinances applying to the prevention, recovery and disposal of waste,
4. to encourage the development and introduction
   a) of environmentally-friendly, low-waste processes, including processes for the prevention, proper, safe recovery or environmentally-compatible disposal of waste,
   b) of environmentally-friendly, low-waste 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 designated in number 4 (a) and (b), especially by evaluating the processes and products using criteria of waste management,
6. to additionally encourage improvements in the process in installations in which waste is generated, recovered or disposed of.

(2) The Waste Management Officer shall submit an annual written report to the party obliged to appoint concerning the measures taken and planned in accordance with subsection (1), second sentence, numbers 1 to 5.

(3) Section 55 subsections (1), (1a) and (2), first and second sentences, and subsections (3) and (4), and sections 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 appointment. The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety is herewith empowered, after consulting the parties concerned (section 68), by means of a statutory ordinance with the consent of the *Bundesrat* to prescribe which requirements are to be made of the specialist knowledge and reliability of the Waste Management Officer.

Section 61

Requirements for easing restrictions on audited company locations

(1) The Federal Government is herewith empowered, in the interest of promoting personal private responsibility for locations of the Community Eco-Management and Audit Scheme (EMAS), by statutory ordinance and with the consent of the *Bundesrat*, to ease requirements pertaining to the content of the application documents in the procedure under the law on waste, as well as to ease requirements under laws pertaining to supervision, insofar as the corresponding 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 the application documents in accordance with the present Act, or to the statutory ordinances issued on the basis of the present Act, or to the extent that equivalence is safeguarded via the statutory ordinance in accordance with this provision.

(2) Additional prerequisites pertaining to claiming and to the revocation of easing of restrictions, or to the complete or partial suspension of eased restrictions for cases in which the prerequisites for granting such eased restrictions are no longer in place, may also be regulated by means of a statutory ordinance in accordance with subsection (1).

(3) By means of a statutory ordinance in accordance with subsection (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, and has certified such compliance in the validation.

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

Part 9

Final provisions

Section 62

Orders in individual cases

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

Section 63

Secrecy and data protection

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

Section 64

Electronic communication

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

Section 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 designated in section 1, and with the consent of the *Bundesrat*, to safeguard environmentally-compatible waste prevention and management, in particular for proper, safe recovery, as well as for the environmentally-compatible disposal of waste. Such statutory ordinances may also regulate how 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 *Bundesrat*, to regulate the administrative procedures for the issuing of licences and permissions, or to provide notification in accordance with the present Act or in accordance with a statutory ordinance issued on the basis of the present Act.

Section 66

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

(1) Within the sphere of the Federal Ministry of Defence, responsibility for enforcement of the present Act, and of the statutory ordinances issued on the basis of the present Act for material intended to be used for military purposes, as well as for recovery and disposal of waste owned by the military, as well as of waste with regard to which a special military security interest exists, shall lie with the Federal Ministry of Defence and with the bodies designated by it.

(2) The Federal Ministry of Defence is herewith empowered, for material intended to be used for military purposes, as well as for the purposes of recovery or disposal of waste, within the meaning of subsection (1),

from within the remit of the *Bundeswehr*, to permit exceptions to the present Act and to the statutory ordinances issued on the basis of the present Act, insofar as compelling reasons of defence or the fulfilment of intergovernmental obligations so require.

Section 67

Participation of the *Bundestag* in the issuing of statutory ordinances

Statutory ordinances in accordance with section 8 subsection (2), section 10 subsection (1) numbers 1 and 4, as well as sections 24, 25 and 65, shall be submitted to the *Bundestag*. Such submission shall take place prior to submission to the *Bundesrat*. Such statutory ordinances may be amended or rejected by resolution of the *Bundestag*. The resolution of the *Bundestag* shall be submitted to the Federal Government. If the *Bundestag* has not dealt therewith after the completion of three session weeks following receipt of the statutory ordinance, the statutory ordinance shall be forwarded unchanged to the *Bundesrat*.

Section 68

Consultation of parties concerned

A selected group of representatives from Academia, from the parties affected, from involved sectors of industry, from the highest *Land* authorities responsible for waste management, as well as from the communities and associations of local government, shall be consulted insofar as authorisations to issue statutory ordinances and general administrative provisions prescribe the consultation of the parties concerned.

Section 69

Provisions concerning fines

(1) A regulatory offence shall be deemed to have been committed by anyone who, intentionally or negligently,

1. mixes hazardous waste, in contravention of section 9a subsection (1),

1. a) fails to separate waste, or to separate it in good time, or to treat it, or to treat it in good time, in contravention of section 9a subsection (3),

1. b) uses a seal designated therein, in contravention of section 12 subsection (4) or of section 56 subsection (4), second sentence,

2. treats, stores or landfills waste for disposal, in contravention of section 28 subsection (1), first sentence,

3. constructs or significantly modifies a landfill without a plan approval decision in accordance with section 35 subsection (2), first sentence, or without planning permission in accordance with section 35 subsection (3), first sentence,

4. violates an enforceable condition in accordance with section 36 subsection (4), first or third sentence, section 39 subsection (1), first sentence, or subsection (2), first sentence, section 53 subsection (3), second sentence, or section 54 subsection (2),

5. violates an enforceable restriction tied to a licence in accordance with section 37 subsection (1), first sentence,

6. violates an enforceable prohibition in accordance with section 53 subsection (3), third sentence,

7. collects or transports hazardous waste, trades therein or acts as a broker therefor without permission in accordance with section 54 subsection (1), first sentence, or
8. violates a statutory ordinance in accordance with section 4 subsection (2), section 5 subsection (2), section 10 subsection (1) or (4) number 2, section 11 subsection (2), first or second sentence, or subsection (3), first sentence, numbers 1 to 3, or second sentence, number 2, section 12 subsection (7), section 16, first sentence, number 1 or number 2, section 24, section 25 subsection (1) numbers 1 to 3 or 5, or subsection (2) numbers 5 to 7 or 10, section 28 subsection (3), second sentence, section 43 subsection (1), first sentence, numbers 2 to 5, 7 or number 8 or section 57, second sentence, numbers 1 to 7 or number 8, or an enforceable order on the basis of such statutory ordinance, insofar as the statutory ordinance refers to this provision concerning fines for a specific offence.

(2) A regulatory offence shall be deemed to have been committed by anyone who, intentionally or negligently,

1. fails to provide notification, correct notification, complete notification or notification in good time, in contravention of section 18 subsection (1), section 26 subsection (2), section 40 subsection (1), first sentence, or section 53 subsection (1), first sentence,
2. in contravention of section 34 subsection (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 in good time, or fails to supplement an emissions declaration, a correct emissions declaration or a complete emissions declaration, or fails to supplement an emissions declaration in good time, in contravention of section 41 subsection (1), first sentence, in conjunction with a statutory ordinance in accordance with section 41 subsection (2), first sentence,
4. fails to provide information correctly, completely, or in good time, in contravention of section 47 subsection (3), first sentence,
5. fails to permit entry to land or residential, business or operational premises, inspection of a document or technical inspections or testing, in contravention of section 47 subsection (3), second or third sentence,
6. in contravention of section 47 subsection (4), fails to make an installation designated therein accessible or to provide workers, a tool or a document,
7. violates an enforceable order in accordance with section 47 subsection (4) or subsection (9), first sentence, section 51 subsection (1), first sentence, or section 59 subsection (2),
8. fails to keep a register, a correct register or a complete register, in contravention of section 49 subsection (1), also in conjunction with section 49 subsection (3), or with a statutory ordinance in accordance with section 10 subsection (2) number 1 (b) or section 52 subsection (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 in good time, in contravention of section 49 subsection (2) in conjunction with a statutory ordinance in accordance with section 52 subsection (1), first sentence,
10. fails to submit a register, a correct register or a complete register, or fails to submit a register in good time, or fails to provide notification, correct notification or complete notification, or fails to provide noti-

fication in good time, in contravention of section 49 subsection (4), also in conjunction with a statutory ordinance in accordance with section 10 subsection (2) number 1 (b) or section 52 subsection (1), first sentence, or second sentence, number 3,

11. fails to retain information or a document, or fails to do so for the prescribed period, in contravention of section 49 subsection (5), also in conjunction with a statutory ordinance in accordance with section 52 subsection (1), second sentence, number 6,
12. fails to keep records, or to keep records correctly, completely, or in good time, in contravention of section 50 subsection (1), in conjunction with a statutory ordinance in accordance with section 52 subsection (1), first sentence, in each case also in conjunction with a statutory ordinance in accordance with section 10 subsection (2) number 1 (b) or section 52 subsection (1), second sentence, number 3,
    1. 13.fails to affix warning panels to a vehicle, or fails to affix them correctly, completely or in good time, in contravention of section 55 subsection (1), first sentence,
13. fails to appoint a Waste Management Officer, or to do so in good time, in contravention of section 59 subsection (1), first sentence, in conjunction with a statutory ordinance in accordance with section 59 subsection (1), second and third sentences, or
14. violates a statutory ordinance in accordance with section 10 subsection (2) number 1 (a), numbers 2 to 8, or subsection (4) number 1, in each case also in conjunction with section 11 subsection (3), first sentence, number 4, section 16, first sentence, number 3 or section 43 subsection (5), in accordance with section 10 subsection (4) number 1, section 11 subsection (3), second sentence, number 1, section 25 subsection (1) number 7 or number 8, or subsection (2) number 3, 9 or 11, section 43 subsection (1), first sentence, number 6 or number 9, section 52 subsection (1), first sentence, and subsection (2) number 2 or number 3, section 53 subsection (6) number 1, 2 or 4 or number 5, section 54 subsection (7) number 1, 2 or 4 or number 5, or section 57, second sentence, number 9, or an enforceable order issued on the basis of such a statutory ordinance, insofar as the statutory ordinance refers to this provision with regard to a specific offence.

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

(4) The administrative authority within the meaning of section 36 subsection (1) number 1 of the Act on Regulatory Offences (*Gesetz über Ordnungswidrigkeiten*) shall be the Federal Office for Goods Transport, insofar as regulatory offences in accordance with subsection (1) numbers 6 to 8, or in accordance with subsection (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 in an enterprise which has neither its domicile nor a commercial branch in Germany, and where the person in question does not have a place of residence in Germany.

Section 70

Confiscation

If a regulatory offence in accordance with section 69 subsection (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.

Section 23 of the Act on Regulatory Offences shall apply.

Section 71

Exclusion of derogating *Land* law

Land law may not derogate from provisions of administrative procedure contained in the present Act or handed down on the basis of the present Act.

Section 72

Interim provision

(1) Transfers of obligations in accordance with section 16 subsection (2), section 17 subsection (3) or section 18 subsection (2) of the Act for Promoting Closed Substance Cycle Waste Management and Ensuring Environmentally-Compatible 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 section 13 subsection (2) and sections 16 to 18 of the Act for Promoting Closed Substance Cycle Waste Management and Ensuring Environmentally-Compatible 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) Section 30 of the Circular Economy Act of 24 February 2012 (Federal Law Gazette Part I p. 212) in the version applicable until [insert: date of the entry into force in accordance with Article 4 of the present Act] shall apply to procedures to establish waste management plans which have been initiated up to 5 July 2020.

(3) A transport licence in accordance with section 49 subsection (1) of the Act for Promoting Closed Substance Cycle Waste Management and Ensuring Environmentally Compatible 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 section 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 section 54 subsection (1) until the end of its time limitation.

(4) A licence for agency transactions in accordance with section 50 subsection (1) of the Act for Promoting Closed Substance Cycle Waste Management and Ensuring Environmentally Compatible 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 section 54 subsection (1) until the end of its time limitation.

Annex 1

Disposal processes

D 1 Deposit into or onto land (e.g. landfill)

D 2 Land treatment (e.g. biodegradation of liquid or sludgy discards in soils)

D 3 Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories)

D 4 Surface impoundment (e.g. placement of liquid or sludgy discards into pits, ponds or lagoons)

D 5 Specially-engineered landfills (e.g. placement into lined discrete cells which are capped and isolated from one another and from the environment)

D 6 Release into a water body, with the exception of seas/oceans

D 7 Release into 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[1]

D 12 Permanent storage (e.g. emplacement of containers in a mine)

D 13 Blending or mixture prior to the application any of the processes listed in D 1 to D 12[2]

D 14 Repackaging prior to the application of one of the processes listed in D 1 to D 13

D 15 Storage pending the application of one of the processes listed in D 1 to D 14 (excluding temporary storage, pending collection, on the site where the waste is generated)[3]

[1] This process is prohibited by EU legislation and international conventions.

[2] If no other D code is suitable for categorisation, process D 13 may also include preparatory processes prior to disposal, including pretreatment, such as sorting, crushing, compacting, pelletising, drying, shredding, conditioning or separating prior to submission to the application of any of the processes listed in D 1 to D 12.

[3] Interim storage means temporary storage within the meaning of section 3 subsection (15).

Annex 2

Recovery processes

R 1 Use principally as a fuel or other means to generate energy[1]

R 2 Solvent reclamation and regeneration

R 3 Recycling and reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes)[2]

R 4 Recycling and reclamation of metals and metal compounds

R 5 Recycling and reclamation of other inorganic materials[3]

R 6 Regeneration of acids and 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 one of the processes listed in R 1 to R 10

R 12 Exchange of waste in order to subject it to one of the processes listed in R 1 to R 11[4]

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[1] a) This shall include incineration facilities dedicated to the treatment of municipal solid waste only where their energy efficiency is equal to or above the following values:
aa) 0.60 for installations in operation and approved up to 31 December 2008,
bb) 0.65 for installations approved after 31 December 2008,
b) The following formula was used in the calculation in accordance with (a):
Energy efficiency = (Ep - (Ef + Ei))/(0.97 × (Ew + Ef))
c) In the formula contained in (b):
aa) Ep means annual energy produced as heat or electricity. The value is calculated with energy in the form of electricity being multiplied by 2.6 and heat produced for commercial use multiplied by a factor of 1.1 (GJ/year);
bb) Ef means annual energy input to the system from fuels contributing to the production of steam (GJ/year);
cc) Ew means annual energy contained in the treated waste calculated using the net calorific value of the waste (GJ/year);
dd) Ei means annual energy imported not including Ew and Ef (GJ/year);
ee) 0.97 is a factor for calculating the energy losses due to bottom ash and radiation.
d) The value of the energy efficiency formula shall be multiplied as follows with a climate correction factor (CCF):
aa) CCF for installations in operation and approved in accordance with valid EU law prior to 1 September 2015: CCF =

1 if HDD > = 3,350

CCF =
1.25 if HDD < = 2,150

CCF =

– (0.25/1,200) × HDD + 1.698 if 2,150 < HDD < 3,350;

bb) CCF for installations approved after 31 August 2015, and for installations in accordance with number 1 from 31 December 2029 onwards: CCF =

1 if HDD > = 3,350

CCF =
1.12 if HDD < = 2,150

CCF =

– (0.12/1,200) × HDD + 1.335 if 2,150 < HDD < 3,350.

(The CCF value calculated on this basis shall be rounded off to three decimal places).

The HDD value (heating degree days) should correspond to the average of the annual HDD values for the location of the incineration installation, calculated for a period of 20 consecutive years prior to the year for which the CCF is determined. The HDD value should be calculated in accordance with the Eurostat method below: HDD = (18° C – Tm) × d, if Tm is less than or equal to 15° C (heating threshold), and HDD = zero, if Tm is more than 15° C; Tm is the mean (Tmin + Tmax)/2 external temperature over a period of d days. The calculations shall be implemented daily (d = 1) and extrapolated to one year.
e) This formula shall be used in accordance with the reference document on the technical state-of-the-art for waste incineration.

[2] This shall include gasification and pyrolisis using the components as chemicals.

[3] This shall include soil cleaning resulting in recovery of the soil and recycling of inorganic construction materials.

R 13 Storage of waste pending the application of one of the processes listed in R 1 to R 12 (not including temporary storage, pending collection, on the site where the waste is produced)[5]

[4] If no other R code is appropriate for classification, process R 12 may include preparatory processes prior to recovery, including pre-treatment such as dismantling, sorting, crushing, compacting, pelletising, drying, shredding, conditioning, repackaging, separating, blending or mixing prior to the application of one of the processes listed in R 1 to R 11.
[5] Temporary storage means preliminary storage within the meaning of section 3 subsection (15).

Annex 3

Criteria for determination of the technological state-of-the-art

In determination of the technological state-of-the-art, the following criteria are especially to be considered, taking into account the proportionality between the expense and benefits of potential measures, as well as the principle of care and prevention, and in each case with regard to installations of a specific type:

1. use of low-waste technology,
2. use of less hazardous substances,
3. promotion of the recovery and re-use of the substances – and where appropriate of the waste – generated and used in the individual processes,
4. comparable processes, 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 quantity of the respective 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), as well as 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 section 33

1. Measures that can affect the framework conditions related to the generation of waste:
   a) the use of planning measures, or of other economic instruments promoting the efficient use of resources,
   b) the promotion of appropriate research and development aiming to achieve more environmentally-friendly and less waste-intensive 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, production and distribution phases:
   a) the promotion of eco-design (the systematic integration of environmental aspects into product design with the aim in mind of improving the environmental performance of the product throughout its whole lifecycle),
   b) the provision of information on waste prevention techniques with a view to facilitating the implementation of technical state-of-the-art by industry,
   c) training of competent authorities as regards the consideration of waste prevention requirements when awarding licences on the basis of the present 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 section 4 of the Federal Immission Control Act. Where appropriate, this could include measures to assess waste prevention and to establish plans,
   e) the use of awareness-creation campaigns or support for enterprises in funding or in decision-making. 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 respective enterprises or industrial sectors establish their own waste prevention plans or objectives, or improve waste-intensive products or packaging,
   g) the promotion of recognised environmental management systems.
3. Measures that can affect the consumption and use phases:
   a) economic instruments such as incentives for environmentally-friendly purchases or the introduction of a supplementary payment by consumers for a packaging article or element of packaging that would otherwise be provided free of charge,
   b) the use of awareness-creation activities and information provision directed at the public or at a specific group of consumers,
   c) the promotion of eco-labels,

d) agreements with industry, for instance the use of product panels such as those being carried out along the lines of Integrated Product Policies, or with retailers on the availability of waste prevention information and environmentally-friendly products,

e) in the context of public and corporate procurement, the inclusion of environmental-protection and waste-prevention criteria into calls for tenders in public and private procurement within the meaning of 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 re-use 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 re-use centres and networks, especially in densely-populated regions.

Annex 5 (re section 6 subsection (3))

Examples of economic instruments and other measures for creating incentives for the application of the waste hierarchy

1. fees and restrictions for the storage of waste on landfills and the incineration of waste as an incentive for waste prevention and recycling, the deposit of waste on landfills remaining the least preferable waste management option,
2. polluter-related fee systems within the framework of which fees are invoiced to waste producers on the basis of the waste volume actually generated, and incentives created for the separate collection of recyclable waste and for the reduction of mixed waste,
3. fiscal incentives for donations of products, in particular of food and textiles,
4. product responsibility for different types of waste, and measures to optimise the effectiveness, cost efficiency and management of such product responsibility,
5. deposit systems and other measures to promote the efficient collection of used products, materials and substances,
6. sound planning of investments in the waste management infrastructure, including via the Union Funds,
7. a public procurement system orientated towards sustainability in order to promote better waste management and the use of recycled products, materials and substances,
8. the gradual abolition of subsidies that are not compatible with the waste hierarchy,
9. use of fiscal measures or other means to promote the sale of products, materials and substances that were prepared for re-use or recycled,
10. promotion of research and innovation in modern recycling and reconditioning technology,
11. use of the best available waste treatment processes,
12. economic incentives for authorities, in particular to promote waste prevention and to introduce more separate collection systems, whilst at the same time preventing the promotion of the deposit of waste on landfills and the incineration of waste,
13. public awareness-creation campaigns, in particular in relation to waste prevention, separate collection and prevention of littering, as well as constant consideration of these issues in basic and further training,
14. systems for coordination, including with digital means, between all authorities responsible for waste management,
15. promotion of advanced dialogue and of cooperation between all waste management stakeholders, as well as support for voluntary agreements and reporting on waste by enterprises.