



Llywodraeth Cymru  
Welsh Government

GUIDANCE

# Landfill Disposals Tax qualifying mixtures of materials: fines notice

This tells landfill site operators what they must do when accepting waste fines on site to qualify for the lower rate of tax.

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# 1. Introduction

## 1.1 General

This notice is published by the Welsh Revenue Authority (“WRA”) under section 17(5) of the Landfill Disposals Tax (Wales) Act 2017 (“LDTA”) and section 191 of the Tax Collection and Management (Wales) Act 2016 (“TCMA”). The notice supplements:

- part 2 of the Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (mixtures of materials consisting entirely of fines), and
- section 39 of TCMA (duty to make tax return).

The notice relates to the tax chargeable on disposals of fines. Fines are particles of material produced by a waste treatment process that involves mechanical treatment.

Where a mixture of materials consisting entirely of fines:

- meets requirements 1 to 6 in section 16 of LDTA and requirements 1 to 4 in regulation 4 of the 2018 Regulations, and
- is disposed of at an authorised landfill site,

the mixture may be treated as a qualifying mixture of materials and landfill disposals tax will be chargeable at the lower rate on disposals of the mixture.

Some of the requirements in the 2018 Regulations require operators of authorised landfill sites to do things specified in the WRA notice, or to do things in accordance with the WRA notice. This is the WRA notice to which the Regulations refer.

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**This notice takes effect on 3 April 2023** and continues to have effect unless and until it is withdrawn by a subsequent notice published under section 17(5) of LDTA. It supersedes previous versions which have been in effect since 1 April 2018.

## 1.2 Persons who must comply with this notice

Operators of authorised landfill sites in Wales must comply with this notice if they wish any mixtures of materials:

- consisting entirely of fines, and
- disposed of at their authorised landfill sites on or after 1 April 2018,

to be treated as qualifying mixtures of materials.

An **authorised landfill site** is a site in relation to which an environmental permit authorising disposals of material by way of landfill has been granted under the Environmental Permitting (England and Wales) Regulations 2016 and remains in force.

The **operator of an authorised landfill site** is the person who holds the environmental permit authorising disposals of material by way of landfill at the site.

## 1.3 Glossary

In this notice:

- “you” or “your” is a reference to the operator of an authorised landfill site;
- “landfill site” means an authorised landfill site;

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- “mixture of fines” means a mixture of materials consisting entirely of fines.

Other expressions used both in this notice and in LDTA have the meaning given in LDTA.

## 2. Pre-acceptance requirements

### 2.1 General

Before accepting a load consisting of a mixture of fines for disposal at your landfill site:

You must carry out a visual inspection to determine whether the load consists of:

- 1 or more qualifying materials, and
- a small amount of 1 or more non-qualifying materials that is incidental to the qualifying materials.

You must also carry out other pre-acceptance checks to determine whether the load consists of a qualifying mixture of materials and complete a pre-acceptance questionnaire in relation to the mixture of fines contained in the load. The questionnaire must provide the information specified in section 2.2 of this notice.

If multiple loads of the same mixture of fines are produced by the same waste producer, a single questionnaire may be completed in relation to all those loads. But you must complete separate questionnaires:

1. for mixtures of fines which originate from different waste producers, and
2. for mixtures of fines which originate from the same waste producer but are derived from different waste streams and/or process.

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You must keep each completed pre-acceptance questionnaire up to date and preserve it in accordance with section 38 of the Tax Collection and Management (Wales) Act 2016 so that you can demonstrate that each tax return which relates to a disposal of the mixture of fines is correct and complete.

If you fail to comply with any of these requirements, landfill disposals tax will be chargeable at the standard rate on the disposal of each load to which the failure relates.

If you fail to complete and preserve a pre-acceptance questionnaire, you may also be liable to a penalty under regulation 8(1)(b)(i) of the Landfill Disposals Tax (Administration) (Wales) Regulations 2018.

## 2.2 Contents of pre-acceptance questionnaire

Each completed pre-acceptance questionnaire must provide the following information about the mixture of fines to which it relates.

1. The name and business address of the waste producer.
2. A description of the waste producer's business and the facility at which the mixture of fines is produced.
3. Details of each waste stream from which the mixture of fines is derived, including:
  - a. the code for each waste stream. A description of the mixture of fines and the appropriate code(s) for the mixture from the list of wastes is established by Commission Decision 2000/532/EC and set out in '**Waste Classification: Guidance on the classification and assessment of waste (1st edition v1.1), Technical Guidance WM3**'
  - b. a statement as to whether any of the waste streams contains hazardous waste, and

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- c. if any of the waste streams contains hazardous waste, a list of those waste streams.
4. Details of each process to which the waste streams are subjected in order to produce the mixture of fines;
5. A statement as to whether gypsum is removed from the waste streams in producing the mixture of fines; and if gypsum is removed, a description of the process by which it is removed.
6. Details of any shredding or blending process used in producing the mixture of fines (as set out in '**Waste Classification: Guidance on the classification and assessment of waste (1st edition v1.1), Technical Guidance WM3**').
7. Details of the storage arrangements for the mixture of fines:
  - a. at the facility at which the mixture is produced,
  - b. during its transfer to your landfill site, and
  - c. at any other stage prior to its disposal.
8. An estimate of the total tonnage of the mixture of fines that will be sent to your landfill site each year. If you operate more than one site, you must estimate the total tonnage that is to be sent to all your sites.

The completed questionnaire must contain a declaration:

- from the waste producer, or a person acting on the waste producer's behalf, and
- from you, or a person acting on your behalf,

that the information provided in the questionnaire is accurate to the best of their/ your knowledge and belief.

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## 2.2.1 Transitional arrangements

If, immediately before 1 April 2018, you were registered under section 47 of the Finance Act 1996 for the purposes of UK landfill tax and:

- you completed a pre-acceptance questionnaire in relation to a mixture of fines before 1 April 2018 in accordance with paragraphs 6.5.1 and 6.5.2 of **Excise Notice LFT1**, and
- you continue to hold that questionnaire

then you do not need to complete a new pre-acceptance questionnaire for that mixture under section 2.1 of this notice. However, you must review the existing questionnaire and update it if appropriate.

## 3. LOI-related requirements

### 3.1 General

The purpose of the Loss on Ignition (LOI) test is to determine the organic content of the material contained in a mixture of fines. The difference in the mass of the tested material before and after the ignition process is used to determine the LOI percentage of the material.

You must comply with the requirements relating to LOI testing that are set out in this part of the notice.

Mixtures of fines:

- which originate from different waste producers, or
- which originate from the same waste producer, but from different waste

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streams and/or processes,

must be treated as separate mixtures for the purposes of the LOI-related requirements.

The LOI-related requirements apply in relation to each landfill site separately. If you are the operator of more than one landfill site, you must comply with each LOI requirement in relation to each site separately.

## 3.2 Frequency of LOI testing

You must carry out LOI tests on mixtures of fines present at your landfill site(s):

- at the times and intervals specified below, or
- whenever WRA directs you to do so.

### 3.2.1 The first LOI test

You must carry out a first LOI test on each mixture of fines:

- before the first 500 tonnes of the mixture has been brought onto your landfill site, or
- if sooner, within the period of one month beginning with the date on which the first load of the mixture is brought onto your landfill site.

### 3.2.2 Subsequent tests

You must carry out further LOI tests on each mixture of fines at intervals determined by reference to the risk indicators in the Table below.

- If any of the high risk indicators are present in relation to the mixture, you

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must treat it as a high risk mixture and test every load of the mixture brought onto the landfill site until all three low risk indicators are present.

- In any other case, you must treat the mixture as a low risk mixture and test it at the intervals specified in relation to low risk mixtures.

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<b>Risk Level</b>	<b>Risk indicators</b>	<b>Frequency of testing</b>
<b>Low</b>	<ul style="list-style-type: none"><li>• Visual inspections indicate that the mixture consists of:<ul style="list-style-type: none"><li>◦ one or more qualifying materials, and</li><li>◦ a small amount of one or more non-qualifying materials that is incidental to the qualifying materials.</li></ul></li><li>• Other pre-acceptance checks indicate clearly and consistently that the mixture is a qualifying mixture of materials (see section 16 of LDTA).</li><li>• The mixture has not failed the LOI test more than once in the last 20 LOI tests.*</li></ul>	<p>You must test:</p> <ul style="list-style-type: none"><li>• 1 load of the mixture for every 1,000 tonnes of the mixture brought onto the landfill site, or</li><li>• 1 load of the mixture every 6 months,</li></ul> <p>whichever event occurs soonest.</p>
<b>High</b>	<ul style="list-style-type: none"><li>• Visual inspections do not indicate that the mixture consists of:<ul style="list-style-type: none"><li>◦ one or more qualifying materials, and</li><li>◦ a small amount of one or more non-qualifying materials that is incidental to the qualifying</li></ul></li></ul>	<p>You must test every load of the mixture brought onto the landfill site until:</p> <ul style="list-style-type: none"><li>• the mixture has not failed the LOI test more than once in the last 20</li></ul>

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**Risk Level****Frequency of testing**

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materials.

- Other pre-acceptance checks do not indicate clearly and consistently that the mixture is a qualifying mixture of materials (see section 16 of LDTA).
- The mixture has failed the LOI test more than once in the last 20 LOI tests.\*

LOI tests\*, and

- neither the visual inspections nor the other pre-acceptance checks indicate that their mixture should be treated as a high risk mixture.

At that point, the mixture may be re-classified as a low risk mixture and may be tested accordingly.

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\* See section 3.3.2 of this Notice for the circumstances in which a mixture of fines is treated as having failed the LOI test; and see section 3.3 of this Notice for circumstances in which a LOI test result may be ignored.

### 3.2.3 Early tests

You may choose to carry out a LOI test sooner than is required under this notice. If you do so, the point at which the next LOI test must be carried out on a mixture of fines must be determined by reference to the point at which the early test was carried out on the mixture.

### 3.2.4 Late or missed tests

If:

- you fail to carry out a LOI test which is required under this notice, or
- you carry out a LOI test on the mixture later than is required,

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the point at which the next LOI test must be carried out on the mixture must be determined by reference to the point at which the late or missed test should have been carried out.

Landfill disposals tax is chargeable at the standard rate on each load of the mixture which is disposed of after the load on which the late or missed test should have been carried out until a further LOI test is carried out on the mixture.

### **3.2.5 Directions to carry out LOI test**

WRA may, at any time, direct you to carry out a LOI test on a mixture of fines.

If you fail to comply with the direction, landfill disposals tax is chargeable at the standard rate on each load of the mixture which is disposed of after the date on which the test should have been carried out until a further LOI test is carried out on the mixture.

## **3.3 Conduct of LOI tests**

Each LOI test must be carried out:

- on a representative sample of the mixture of fines produced in accordance with section 3.3.1 of this notice, and
- in accordance with the methodology set out in section 3.3.2 of this notice.

### ***3.3.1 Production of representative sample***

To produce a representative sample of the mixture, you must:

- take samples from at least 6 different places within a load of the mixture,
- ensure that the samples taken include samples from each part of the load,

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i.e. top, middle and bottom, and that the samples are selected at random in all other respects,

- ensure that the samples are thoroughly mixed, and
- produce a composite (or master) sample from this mixture of samples.

This composite (or master) sample is the representative sample which must be prepared for the LOI test.

### **3.3.2 LOI test methodology**

#### **Sample preparation**

You must prepare the representative sample for the LOI test by taking the following steps:

1. dry 1kg of the representative sample at a temperature of between 30°C and 50°C until a constant weight is achieved;
2. cone and divide the 1kg sample to select a 200g sub-sample;
3. remove any material from the sub-sample that:
  - a. is within Group 1 (rocks and soil) or Group 2 (ceramic or concrete material) of the Table in Schedule 1 to the Landfill Disposals Tax (Wales) Act 2017, and
  - b. exceeds 20mm;
4. record the weight of:
  - a. the removed material, and
  - b. the remaining sub-sample;
5. grind the remaining sub-sample to a particle size of 2mm or less to produce a homogenous sample;
6. weigh any material that does not pass the 2mm sieve and record its weight before adding that material back into the sub-sample; and
7. mix and homogenise the combined sub-sample.

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The LOI test must then be carried out on 20g of the combined sub-sample, in accordance with the methodology set out below. The remainder of the sub-sample must be retained for a period of 3 months beginning with the filing date for the tax return in which the disposal of the load is to be accounted for, so that it can be re-tested if appropriate (see section 3.4 of this notice).

### **LOI testing of sample**

You must carry out the LOI test on the combined sub-sample by taking the following steps:

1. take a minimum of 20g of the combined sub-sample;
2. place it in a dried, weighed dish and record its weight;
3. dry it in an oven at 180°C until it achieves a constant weight;
4. cool it in a dessicator for a minimum of 45 minutes and record its weight;
5. transfer it to a muffle furnace at a temperature of 440°C for a minimum of 5 hours; and
6. cool it in a dessicator for a minimum of 45 minutes and record its weight again.

### **Calculation of LOI percentage**

You must calculate the LOI percentage of the mixture in accordance with the following formula:

$$\text{LOI \%} = (A \times 100) / ((B \times C / D) - E)$$

Where:

- A is the weight (in grams) lost on ignition at 440°C;
- B is 20 (i.e. the weight of the 20g sample);
- C is 200 (i.e. the weight of the 200g sample);

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- D is the weight of the sample following the removal of the Group 1 and Group 2 material that exceeds 20mm;
- E is the weight (in grams) lost on drying the 20g sample at 180°C.

If the LOI percentage indicated by the test is 10% or less, the mixture of fines is to be treated as having passed the test. If the LOI percentage indicated by the test is greater than 10%, the mixture is treated as having failed the LOI test (but see section 3.4 of this notice).

If a mixture of fines fails the LOI test, landfill disposals tax is chargeable at the standard rate on the disposal of the load from which the test sample was taken.

### **3.4 Re-testing in the event of a failed LOI test**

If a mixture of fines fails the LOI test, a single re-test may be carried out on the mixture provided that the following conditions are met:

- the LOI percentage indicated by the original LOI test does not exceed 10.5%; and
- the re-test is carried out:
  - within a period of 21 days beginning with the date on which the result of the original LOI test was obtained,
  - by using the combined sub-sample prepared in accordance with section 3.2.2. of this notice for the purposes of the original LOI test, and
  - in accordance with the methodology set out in section 3.3.2 of this notice.

If you carried out the original LOI test, you may carry out the re-test yourself. If the original LOI test was carried out by WRA, you may ask WRA to carry out the re-test.

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If the LOI percentage indicated by the re-test is 10% or less, the original test result may be ignored for the purposes of this notice and for the purposes of the Landfill Disposals Tax (Administration) (Wales) Regulations 2018.

### 3.5 LOI record-keeping requirements

You must keep a record of each LOI test that you carry out. The record must contain the following information:

1. Your name, business address and telephone number.
2. The registration number assigned to you by WRA.
3. The address of the landfill site at which a sample was taken from a load of the mixture of fines.
4. The transaction ID of the load the sample was taken from.
5. Details of the test, including:
  - a. the date on which the sample was taken from the mixture of fines;
  - b. the date on which the LOI test was carried out on the sample;
  - c. the date on which the test result was obtained (if different);
  - d. if the test was carried out on your behalf, the person who carried out the test;
  - e. the test result (including the LOI percentage indicated by the test).
6. If the mixture of fines has failed the LOI test:
  - a. details of the steps taken following the test;
  - b. the tonnage of the load from which the sample was taken;
  - c. details of the waste producer from whom the load was obtained, including:
    - i. the waste producer's name, business address and telephone number, and

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- (ii) a description of the facility at which the load was produced;
1. d. details of the waste stream from which the load originated.

If the record relates to a failed LOI test, it must also contain a declaration from you, or a person acting on your behalf, that the information provided in the record is accurate to the best of your/their knowledge and belief.

You must preserve the record in accordance with section 38(1) of the Tax Collection and Management (Wales) Act 2016 so that you can demonstrate that the tax return which relates to the disposal of the load from which the LOI test sample was taken is correct and complete.

If you fail to keep or preserve a LOI test record in accordance with this section, you may be liable to a penalty under regulation 8(1)(b)(ii) of the Landfill Disposals Tax (Administration) (Wales) Regulations 2018.

### **3.6 Additional steps to be taken in the event of a failed LOI test**

Where a mixture of fines present at your site fails the LOI test, you must also:

- submit the LOI test record (see section 3.5 of this notice) to WRA in accordance with section 3.7 of this notice,
- review the pre-acceptance checks that were carried out on the mixture
- review the pre-acceptance questionnaire that relates to the mixture, and amend it if necessary, and
- refer to the Table at 3.2.2 of this notice to determine whether the frequency at which the mixture is tested needs to be increased.

You must account for and pay tax at the standard rate on the disposal of the load from which the test sample was taken.

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## 3.7 LOI reporting requirements

### 3.7.1 Information on the LDT tax return

You must provide the following information in each tax return that you make to WRA:

1. The number of LOI tests carried out (by you or by WRA), during the accounting period to which the tax return relates, on mixtures of fines present at your landfill site(s).
2. The number of those tests which were failed LOI tests (i.e. in which the LOI percentage indicated by the test exceeded 10%).
3. The number of those tests that passed the LOI test.
4. The number of tests that you are awaiting results for.
5. The number of tests that you missed.

### 3.7.2 Information to accompany LDT tax return

In all cases, you must provide the following information alongside each tax return that you make to the WRA:

1. Of the LOI tests reported for the accounting period, a breakdown of how many of the tests were carried out under the low and high risk categories respectively (see Section 3.2.2 of this notice).
2. The total taxable weight of disposals of mixtures of fines on which landfill disposals tax is chargeable at the standard rate in relation to that accounting period.

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### 3.7.3 Additional information following a failed LOI test

If there were any failed LOI tests during the accounting period, the tax return must be accompanied by:

- a completed Welsh Revenue Authority Loss on ignition test result form; and
- the LOI test records for those tests (unless the LOI tests were carried out by WRA).

Each LOI test record must contain the information specified in section 3.5 of this notice.

This section of the notice does not require you to provide information or records about a failed LOI test if:

- the mixture of fines that failed the LOI test was re-tested by you in accordance with section 3.4 of this notice, or was re-tested by WRA, and
- the LOI percentage obtained by the re-test did not exceed 10%

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