



Waste Management on National Road Schemes: Soil & Stone Waste Prevention

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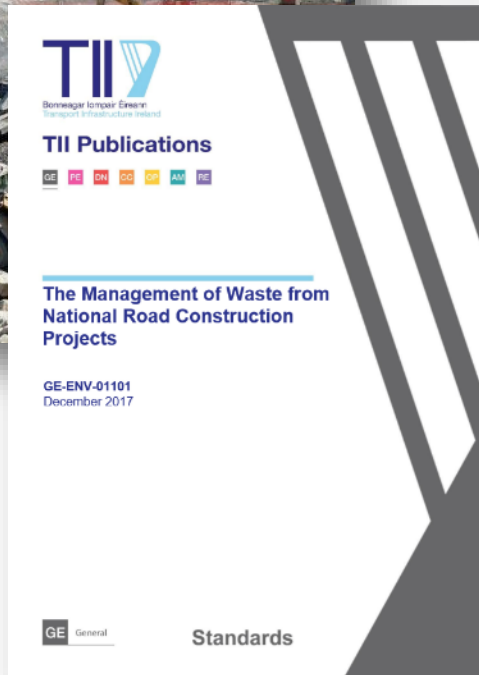
Disclaimer I am not a lawyer and this presentation is not legal advice. It is intended as a general summary and for discussion purposes only. Always refer to the original legal texts and case law.

Waste Prevention

- Focusing on preventing **soil and stone** materials becoming waste.
- EPA is about to publish, for public consultation, a specific **Regulatory Position on Soil & Stone By-products**.
 - Consultation period open during October and November 2018
 - Followed by a revised notification process and guidance for notifiers and Local Authorities.

What's in this for you?

- 1) How to prevent waste (& costs) by planning for your excess soil and stone materials to be **used elsewhere as a by-product** and not **discarded as a waste**.
- 2) How to accept **by-product** soil and stone materials for use in construction (*and stay within the law*).



.....waste issues should be given early consideration in the design stages of road projects. The management of waste materials can rapidly become a significant cost item where material needs to be moved off-site, particularly if no prior account has been taken of such requirements. Road contractors may face additional costs due to a shortage of local facilities that are suitable to handle the wastes being generated.

NRA (now updated to TII GE-ENV-01101)
Guidelines for the Management of Waste from National Road Construction Projects 2014

By-product ✓



By-product ?



What is a waste?

'waste'

means any substance or object which the holder discards or intends or is required to discard.

'waste holder'

*means the waste **producer** or the natural or legal person who is in **possession** of the waste.*

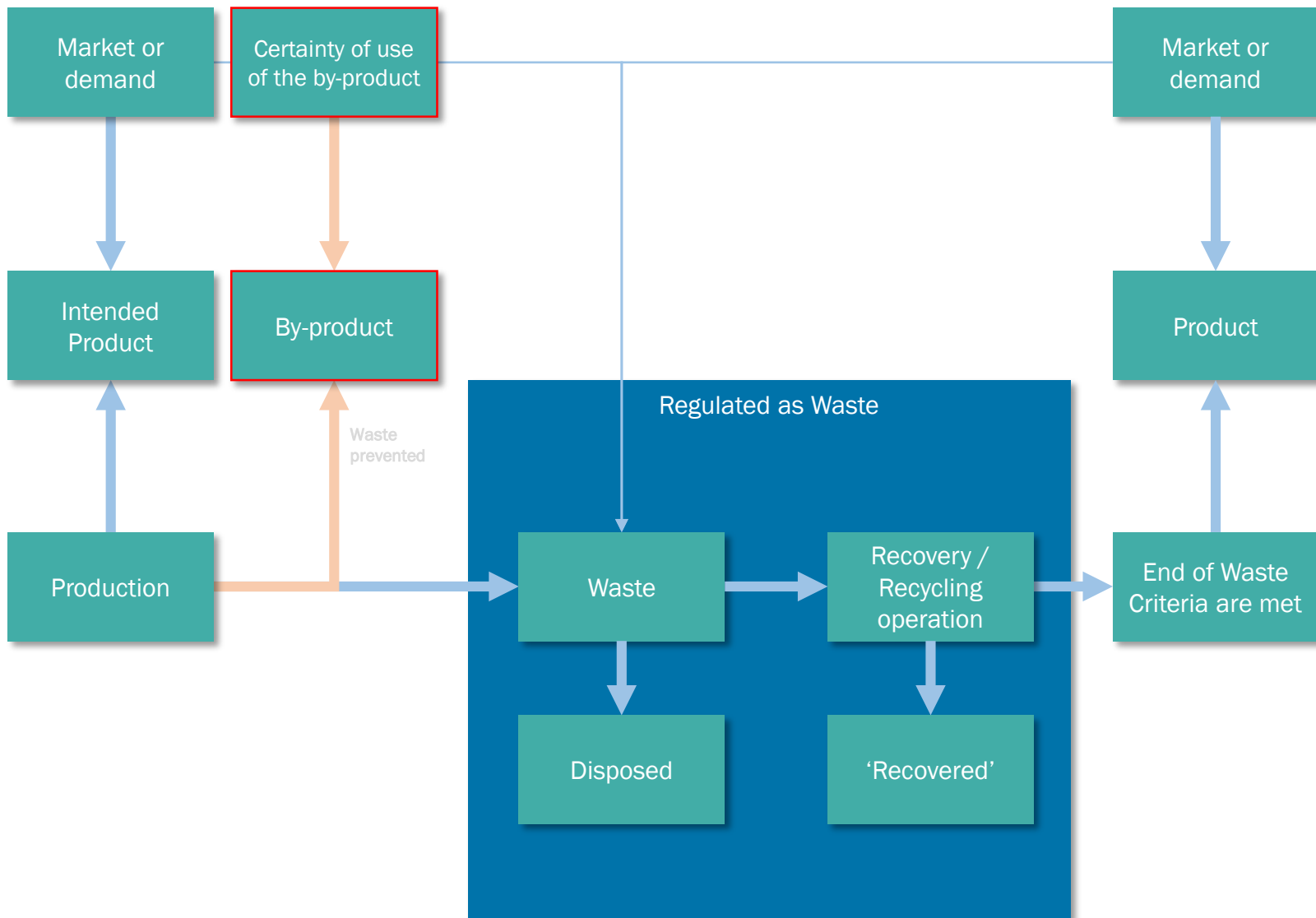
'Prevention'

*means measures taken **before** a substance, material or product has become waste...*

What is never a waste?

- Unexcavated land.
 - Including contaminated land,
 - buildings connected to land
- Uncontaminated soil excavated during construction and reused on the site where it was excavated.
 - (Site in the case of roads is most likely the project boundary / CPO line)

Mapping waste and non-waste



Once a material is waste....

End-of-waste criteria for that product determine when the product ceases to be waste.

End-of-waste criteria

- commonly used for specific purposes;
- a demand exists;
- fulfils the technical requirements, legislation and standards; and
- the use will not lead to overall adverse environmental or human health impacts.

It is best to prevent the waste being generated.

Generating a “by-product” ...

In summary, excess soil and stone resulting from excavation works can be a by-product and not a waste, if the following conditions are met;

- Further use of the soil and stone is certain.
- The soil and stone can be used directly without further processing other than normal industrial practice.
- The soil and stone is produced as an integral part of a production process (e.g. building a road).
- Further use is lawful in that the soil and stone fulfils all relevant requirements for the specific use and will not lead to overall environmental or human health impacts.

If the criteria are met, then the substance or object in question will not be discarded.

Certainty of use

- Establish that there is an obvious need for all the material.
- Show that the timescale of use is known (or not uncertain).
- Show that the material is not a burden for the producer.
- Flow of financial benefit can be a good indicator of waste or by-product.
- Show a strong, established need elsewhere for the material (e.g. rock for engineering works).

Is use lawful...

- Show that the specific use will not lead to overall adverse environmental or human health impacts.
- Show that it fulfils all requirements for the specific use
 - Is it exempt development?
 - Has the use planning permission for the specific use?
 - Is the specific use within the terms of the planning conditions?
 - If licensed or permitted, is the specific use within the conditions of the permit or licence?

Using a by-product...

To avoid accepting 'waste' onto your road project site...

- Apply the by-product tests in reverse.
- Look for the evidence (not opinions...).
- Go and see the origin site, verify its origin.
- Have written contracts (with the producer is better).
- Look for records and keep your own records.

If it is waste, you will have become the holder and so will have legal responsibilities!

Case study



55,000 tonnes of stone, from the deepening of the north channel of Dingle Fishery Harbour

- Use is certain in the N86 Tralee to An Daingean Road Project
- Used directly, equivalent to quarried stone
- Produced as an integral part of harbour works
- Use is lawful and meets engineering specifications for use in the N86 Project

A few key points...

- Design stage planning is key to preventing waste.
- Waste law is interpreted in light of the protection of human health and the environment.
- The **intent** of the holder is key. Intent is inferred from the holder's actions
 - Ensure that your actions demonstrate that it is a by-product.
 - Just because a material is useful to others does not mean it is not waste.
 - Just because a material is uncontaminated does not mean its not waste.

If in doubt, ask – your local authority waste section or the EPA.

Thanks



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