Written evidence submitted by FCC Environment

Scottish Landfill Tax and Contaminated Soil

We welcome the opportunity this consultation offers in clarifying contaminated soil matters - which would give certainty to our business & clients moving forward.

Whatever the outcome, there needs to be cross-boundary consistency between Scotland, England, Wales and Northern Ireland to avoid significant 'waste tourism' - whereby waste is transported long distances to take advantage of lower tax rates.

Defining contaminated soils

We note the consultation refers to "contaminated soil" but we are not aware of a standard designation that outlines when soil has become defined as contaminated, other than for recent, obvious spills.

Contamination may not be immediately visible in a soil, despite its presence. What is more, some naturally occurring soils have elevated levels of "contaminants", such as heavy metals, due to regional geology. These would show up in a chemical analysis data set. FCC Environment therefore believes it is difficult to accurately define a contaminated soil.

As both uncontaminated soils and contaminated non-hazardous soils share the same entry on the European waste catalogue (17 05 04) it seems straightforward to align the Inactive rate of Landfill Tax with waste soils defined by this classification.

Waste classification is undertaken with reference to WM3 (replacing the former WM2 document) which FCC Environment understands is also used by the UK departments as a whole to avoid cross boundary inconsistencies.

Concerns about Inert WAC testing

FCC Environment believes that introducing the use of Inert WAC testing to define Inactive Landfill Tax will produce a significant burden to both waste soil producers and landfill operators.

Each WAC test costs several hundred pounds and takes approximately two weeks for the results to be produced. The producer would have to conduct a round of expensive testing, not previously required for Non Hazardous landfill disposal. Landfill operators will similarly have to conduct expensive additional tests to ensure compliance.

There is also the potential for conflict whereby the waste producer provides compliant WAC tests only for the landfill operator to discover the material fails compliance testing two weeks later - after the waste has been accepted.

FCC Environment's experience with WAC testing is that there are very few soils which actually pass the Inert WAC. Even virgin, naturally occurring soils, can fail when tested. The best, naturally occurring, engineering Oxford Clay soils in England fail some of the Inert WAC limits.

With respect to soil treatments, FCC Environment's experience suggests it is very difficult to treat contaminated soils for the reasons outlined above. Also, some of the treatments undertaken use additives which may then cause the material to fail the Inert WAC.

For example, the addition of lime to heavy metal impacted soils increases Leachable Sulphate, Leachable Organics and TDS. Similarly, the addition of organic material such as compost and woodchip, used as additives to accelerate the bioremediation of hydrocarbon contaminated soils, will result in the end soil failing the Total Organic Carbon / Loss On Ignition Inert WAC thresholds.

There are some contaminated soils for which there are no real treatment options and that will always require landfill, e.g. asbestos & Japanese Knotweed impacted soils. Should these materials fail the inert WAC, as FCC Environment expects (based on previous experience), this places additional burden on waste producers and site developers.

Question 1

FCC Environment favours option one. It would be straightforward to determine the tax on each load as our waste assessment team will classify the contaminated soil using the nationally available guidance (WM3) for Non Hazardous landfill. This is in line with FCC's current procedures. There would be no requirement for additional costly and time consuming testing by the waste producer or the landfill operator.

Question 2

FCC Environment expects the volume of material to Non Hazardous landfill to stay relatively stable for option one. This would ensure continued supply of suitable contaminated soils to be utilised by landfill operators in order to fulfil daily cover and low grade engineering obligations, rather than consuming virgin materials.

Should option two be implemented, then FCC Environment expects contaminated soils to disappear from Non Hazardous landfill, and on to facilities operating lower levels of engineered protection, being exported out of the country or possibly being fly tipped.

Question 3

Admin changes would be minimal under option one. FCC Environment currently has procedures and staff in place for the assessment of contaminated soils in line with WM3 guidance for acceptance into Non Hazardous landfill disposal in Scotland and also for compliance samples taken at the time of disposal.

In terms of day to day site operations, option one would ensure contaminated soils that are suitable for reuse as daily cover or engineering, would continue to be accepted to replace the use of virgin material for the same purpose.

Option two would generate a significant administrative burden. Existing acceptance procedures would require significant revision, with additional training implemented to ensure staff are competent. Extra staff may be required to assess the additional level of testing results provided prior to acceptance and also for compliance testing. The cost of additional WAC testing by the landfill operator would be passed onto the waste producer once the impact of the changes is known.

Option two may also cause conflict whereby the results provided by the operator are not consistent with the compliance samples taken by FCC Environment. Any disputes will inevitably cause additional administrative burden and potentially costly legal fees given the possible sums involved.

With respect to day to day landfill operations for Option two; the loss of certain contaminated soils for reuse onsite has the potential to cause environmental issues at the landfill, IE odours, litter, scavengers, etc.

To summarise the advantages and disadvantages of Option one: A.) No additional testing and time consuming burden on waste producers and landfill operators. B.) Straightforward to implement without additional cost to either party. C.) Defined by nationally implemented guidance. D.) Maintain reuse of contaminated soils for landfills. E.) Alignment of LFT rate with environmental legislation would avoid the potential for disputes.

To summarise the disadvantages of Option two: A.) There would be additional cost and time delays to waste producers and landfill operators. B.) The majority of soils would inevitably fail – which could alienate operators and producers from the value of testing in general. C.) Significant admin and resource burden on landfill operators which would be passed onto waste producers in terms of increased gate fees. D.) Potential for additional environmental harm by deposition of contaminated soils in sites of little or no environmental protection, increased fly tipping, and waste tourism.