

THE MINISTRY OF ENVIRONMENTAL PROTECTION, PHYSICAL PLANNING AND CONSTRUCTION

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Pursuant to Article 104, paragraph 1, item 3, indent 6 of the Waste Act (Official Gazette 178/04, 111/06 and 60/08), and with the consent of the Minister of Economy, the Minister of Environmental Protection, Physical Planning and Construction, hereby issues the

ORDINANCE

ON THE MANAGEMENT OF WASTE RESULTING FROM THE EXPLORATION AND EXCAVATION OF MINERAL RESOURCES

Article 1

This Ordinance lays down the measures and procedures for the prevention, or maximum possible reduction, of adverse effects on environmental components and of hazards to human health, which may be caused by the management of waste resulting from the exploration and excavation of mineral resources.

Article 2

(1) Waste from the exploration and exploitation of mineral resources (hereinafter: extractive waste) is the waste resulting from the exploration and exploitation of mineral resources in an exploration area and in an exploitation field.

(2) The provisions of this Ordinance shall apply if extractive waste is disposed of within the facilities/installations defined in this Ordinance:

- for facilities/installations of category A, classified according to Annex III of this Ordinance,
- for facilities/installations where unexpected hazardous waste is disposed of for a period longer than six months,
- for facilities/installations for the disposal of nonhazardous waste and non-inert waste for a period longer than one year,
- for facilities/installations for the disposal of unpolluted soil, non-hazardous exploration waste, waste from enrichment, processing or storage of peat and inert waste for a period longer than three years.

(3) The provisions of this Ordinance shall not apply to:

- indirectly generated waste and waste which is not directly associated with exploration, excavation, treatment of mineral resources and/or operation of the exploitation field, for instance waste oils, end-of-life vehicles, waste batteries and accumulators, etc.,
- waste resulting from the exploration, excavation and treatment of mineral resources at the sea,
- injection of water and reinjection of extracted ground water in accordance with a special regulation on water protection,
- waste landfills where extractive waste is deposited, which are regulated pursuant to regulations on the methods and conditions for the landfill of waste, categories and operational requirements for waste landfills.

Article 3

(1) Provisions of Articles 14, 15, 16, 17, 18, 19 and 20, Article 23, paragraphs 1, 4, 5 and 6, Article 24, Article 25, paragraph 6 and Article 27 of this Ordinance shall not apply pursuant to special regulation on soil protection to inert waste and to unpolluted soil resulting from the exploration, excavation, treatment and storage of mineral resources or the operation of the exploitation field, nor to the waste resulting from the excavation, enrichment and storage of peat, except when they are disposed of in a facility/installation of category A, classified in accordance with Annex III of this Ordinance.

(2) Provisions of Article 23, paragraphs 4, 5 and 6, Article 24, paragraphs 4, 5 and 6, Article 25, paragraph 6 and Article 27 of this Ordinance shall not apply to non-hazardous waste and non-inert waste resulting from the exploration, excavation, treatment and storage of mineral resources and from the operation of exploitation fields, except when these wastes are disposed of in facilities/installations of category A.

Article 4

For the purposes of this Ordinance the following definitions apply:

1. "inert waste" means waste which is not susceptible to any significant alterations of its physical, chemical or biological properties. Inert waste is insoluble, inflammable and physically and chemically inactive, it is non-biodegradable and has no significant impact on other substances with which it comes into contact, which would lead to environmental pollution or cause damage to human health. Total volumes of leachate, pollutant content in waste and leachate eco-toxicity are negligible and thus pose no risk to surface and/or ground waters,
2. "unpolluted soil" means the soil removed from the surface layer of land before and/or during the exploitation of mineral resources, which is not considered to be polluted pursuant to special regulations on soil protection,
3. "mineral resources" are defined pursuant to special mining regulation, but exclude waters,
4. "mineral exploitation" is defined by a mining regulation,

5. "off-shore" means the area above and below the seabed extending from the lowest mid tide level towards the open sea,
6. "mineral treatment" is defined by a special mining regulation, but excludes smelting, thermal manufacturing processes (other than limestone burning) and metallurgical processes,
7. "tailings" are waste solids or slurries that remain after the treatment of mineral resources by separation procedures (e.g., crushing, grinding, size sorting, flotation and other physical-chemical processes) whose purpose is to extract valuable minerals,
8. "heap" means a mining facility/installation intended for surface disposal of solid waste,
9. "dam" means an engineered structure built for the accumulation of water and/or waste within a pond,
10. "pond" means a natural facility or a constructed facility/installation for the accumulation of fine-grained waste and tailings resulting from mineral treatment, and from the clearing and reuse of process water,
11. "weak acid dissociable cyanide" means cyanide and cyanide compounds that are dissociated in weak acids at certain pH values of the solution,
12. "leachate" means fluid percolating through or out of disposed waste, or fluid contained within the waste management facility/installation, including polluted drainage water capable of causing adverse environmental effects if not subjected to adequate treatment,
13. "extractive waste management facility/installation" (hereinafter: facility/installation) means any site together with a facility/installation, which is designated for the disposal of extractive waste, whether solid or fluid, whether in solution or in suspension. Extractive waste management facilities/installations also include all dams, heaps, ponds and any other facilities serving for the accumulation and storage, or those ensuring the stability of the facility/installation. A mineral exploitation field which has been erased from the cadastre of mineral exploitation fields and which functions as a landfill in accordance with a special regulation on landfills shall not be considered as a part of the facility/installation.
14. "major accident" means an event that occurs during management of extractive waste in any facility/installation subject to the provisions of this Ordinance, which gives rise to serious, immediate or long-term, hazards to human health and/or the environment both within or outside the facility/installation,
15. "hazardous substance" is regulated pursuant to special regulation governing handling of chemicals,
16. "best available techniques" are defined pursuant to regulation determining integrated environmental protection requirements,
17. "receiving body of water" means surface waters, ground waters, brackish waters in estuaries and/or coastal waters,

18. "rehabilitation" means treatment of land polluted through the operation of a facility/installation, whose purpose is to restore the land back to a satisfactory state, in particular with regard to soil quality, wild animals and plants, natural habitats, the aquatic system, landscape and adequate subsequent beneficial use,

19. "exploration" is defined pursuant to special mining regulation,

20. "public and public concerned" are defined pursuant to the Environmental Protection Act and implementing regulation based thereon,

21. "installation/facility operator" (hereinafter: the operator) means a legal or natural person – a craftsman, who is responsible, pursuant to special waste management regulation, for the management of waste during the operation and after the closure of the facility/installation,

22. "waste holder" is a legal or natural person – a craftsman – in possession of extractive waste or one whose registered activity produces such wastes, whether continuously or periodically,

23. "responsible person" is a natural person who has the appropriate technological know-how in accordance with special regulations, and is authorised by the operator to perform the tasks prescribed pursuant to this Ordinance,

24. "competent authority" is the ministry competent for environmental protection, unless otherwise provided for in this Ordinance,

25. "site" means all the land in a certain geographical area under the management of an operator,

26. "significant change" means a change in the structure or operation of a facility/installation which, in the opinion of the competent authority, may have a significant detrimental effect on human health or the on environment,

27. "exploitation field" means an area on and/or beneath land surface where mineral resources are exploited in accordance with a special mining regulation.

Article 5

(1) Extractive waste should be managed in a manner that does not cause harm to human health.

(2) Procedures that may cause harm to the environment are prohibited, particularly those that could pose a risk of water, air, and soil pollution, or those likely to cause harm to animals and plants.

(3) The management of extractive waste must not cause disturbances in the form of noise or odour, and may not have a detrimental effect on the landscape.

(4) Extractive waste may not be left, discarded or improperly disposed of.

Article 6

(1) The operator must undertake all necessary measures to prevent or abate to the extent possible, any detrimental effects of extractive waste management on the environment and human health. These measures include the management of the extractive waste management facility/installation even after its closure, as well as the prevention of major accidents and limiting their effects on the environment and human health.

(2) The measures referred to in paragraph 1 of this Article are based on the best available techniques, taking into account the technical and technological features of the facility/installation, its geographical position and the state of the environment.

EXTRACTIVE WASTE MANAGEMENT PLAN

Article 7

The operator shall prepare an extractive waste management plan that shall include measures for the reduction, treatment, recovery and disposal of waste, by taking into account the principle of sustainable development.

Article 8

The extractive waste management plan shall be drawn up in accordance with the following objectives:

1. prevention or reduction of waste production and of its detrimental effects on human health and the environment, paying particular regard to:

– waste management during the design stage, as well as in the selection of methods for the exploration and exploitation of mineral resources,

– changes likely to occur in extractive waste as a result of increase in the exposed surface and exposure to the conditions obtaining on land surface,

– return of extractive waste back to the mineral exploitation field erased from the cadastre of mineral exploitation fields after the mineral resources have been processed, to the extent that this is technically and economically feasible and environmentally sound according to environmental protection standards and this Ordinance,

– return of surface land cover after the closure of the extractive waste management facility/installation, or, where this is not feasible, appropriate reuse of the surface land cover,

– use of less hazardous substances in mineral treatment,

2. encouraging extractive waste recovery through recycling or reuse, where this is environmentally sound,

3. providing for safe short-term and long-term disposal of extractive waste at the stage of designing, and at the stage of management of the facility/installation both during its operation and after its closure, by opting for a project which:

- requires the least amount of change, intervention, supervision and additional management procedures, and where possible, which requires no monitoring or control of the facility/installation after its closure,
- prevents or at least mitigates any long-term adverse effects on the environment, e.g., those which may be attributed to the dispersal of pollutants through water or the air,
- ensures long-term geotechnical stability of all the dams and heaps which are located above the original ground level.

Article 9

The extractive waste management plan shall include, in particular:

1. a proposal for the classification of the facility/installation in accordance with the classification criteria for facilities/installations laid down in Annex III of this Ordinance:
 - for facilities/installations of category A, the management plan must include documents providing evidence that a major accident prevention plan, a safety management system and an internal emergency plan would be established,
 - where the operator considers that the facility/installation is not of category A, the plan must include information providing justification for such a proposal, including an assessment and identification of potential hazards in the event of accident,
2. waste characterisation in compliance with Annex II of this Ordinance and a statement on the estimate of total volumes of extractive waste resulting from the operation of the facility/installation,
3. description of the processes giving rise to such waste and descriptions of all waste management procedures to be applied,
4. description of the ways in which the management of extractive waste may have detrimental effects on the environment and human health, and a description of the preventive measures to be undertaken in order to abate negative environmental effects both during the facility's/installation's operation and after its closure, including the requirements referred to in Article 23 paragraph 2 indents 1, 2, 8 and 9 of this Ordinance,
5. a proposal of control and monitoring procedures in relation to the state of the facility/installation pursuant to the provisions of this Ordinance,
6. a proposal of a closure plan, which must also include the rehabilitation and post-closure procedures, as well as arrangements for post-closure monitoring of the state of the facility/installation,
7. measures for the prevention of water pollution in compliance with special water protection regulations, and measures for the prevention or abatement of air and soil pollution,
8. data from studies on the condition of the soil potentially at risk from the operation of the facility/installation.

Article 10

- (1) The operator must obtain approval for the extractive waste management plan.
- (2) The extractive waste management plan shall be made in printed and electronic format.

Article 11

- (1) Approval of the extractive waste management plan for facilities/installations of category A shall be issued by the competent authority.
- (2) Approval of the extractive waste management plan for facilities/installations which do not belong to category A shall be issued by the administrative department competent for environmental protection at the county or at the City of Zagreb.
- (3) Approvals of the extractive waste management plan referred to in paragraphs 1 and 2 of this Article shall be issued for a five-year period that may be extended upon the operator's request.
- (4) The approval procedure for a extractive waste management plan includes an assessment of the operator's capacity to meet the objectives set out in the management plan and to fulfil other obligations laid down in this Ordinance.
- (5) The competent authority referred to in paragraphs 1 and 2 of this Article shall deliver its approval and the extractive waste management plan to the central state administration body competent for mining and to the Croatian Environment Agency for purposes of keeping record of the facilities/installations.

Article 12

- (1) Upon expiry of the period referred to in Article 11 paragraph 3 of this Ordinance, the operator must review the extractive waste management plan.
- (2) If there are significant changes in the operation of the facility/installation or in the type of disposed waste, the operator must amend the management plan within one month of the change.
- (3) The operator shall submit the amended management plan for approval to the competent authority referred to in Article 11 of this Ordinance.

Article 13

- (1) If the operator is in charge of a facility/installation for the management of inert waste and/or of unpolluted soil as defined in special regulations, which result from the exploration and exploitation of mineral resources, the extractive waste management plan shall be drawn up as part of the mining project, in accordance with a special mining regulation.
- (2) Approval of the waste management plan referred to in paragraph 1 of this Article shall be issued by the competent authority referred to in Article 11 paragraph 2 of this Ordinance.

(3) The competent authority shall forward the approval and a copy of the management plan to the Croatian Environment Agency for the purposes of keeping record of the facilities/installations.

PREVENTION OF MAJOR ACCIDENTS AND PUBLIC INFORMATION

Article 14

(1) Before putting into operation a facility/installation of category A, excluding those which are exempt from the regulation on the prevention of major accidents involving hazardous substances, the operator must set up a safety management system, and develop a major accident prevention plan and an internal emergency plan.

(2) The safety management system, the major accident prevention plan and the internal emergency plan shall be drawn up in compliance with the requirements laid down in paragraph 1 of Annex I of this Ordinance.

(3) The objective of the major accident prevention plan is identification of the hazards likely to result in a major accident, which would serve as the basis for future decisions on the design, operation, maintenance and closure of facilities/installations and of the post-closure procedures so as to prevent, or where prevention should not be possible, to abate detrimental effects of such accidents on human health and the environment.

(4) During the development of the major accident prevention plan, the operator shall designate a person in charge of safety, who will be responsible for the introduction of the safety management system and monitoring the implementation of the system and plans referred to in paragraph 1 of this Article.

Article 15

(1) The central state administration body responsible for rescue and protection operations shall prepare a Major accident contingency plan in the event of major accident arising off the site of the extractive waste management facility/installation as a result of accident occurring at the facility/installation (hereinafter: the external plan).

(2) The objectives of the external plan referred to in paragraph 1 of this Article are the following:

- control and containment of the effects of major and other accidents so as to reduce their impact and limit their effects on human health and the environment,
- introduction of the necessary measures for the protection of human health and environment from the effects of major and other accidents,
- informing the public, competent services and regional and local authorities,
- ensuring rehabilitation of environment and elimination of effects of environmental pollution after a major accident.

(3) The operator of a facility/installation of category A must deliver to the competent state administration body referred to in paragraph 1 of this Article all the information necessary for the development of the external plan.

(4) The competent authority referred to in paragraph 1 shall review the external plan every three years, and where necessary, amend the plan.

(5) The competent authority referred to in paragraph 1 shall inform the public of the preparation and amendments of the external plan in accordance with provisions of the regulation on information and participation of the public and public concerned in environmental matters, in compliance with item 2 of Annex I of this Ordinance.

Article 16

In the event of a major accident, the operator must forthwith provide the competent authority referred to in Article 15 paragraph 1 of this Ordinance with all the information necessary for reducing its impact on human health, and for the assessment and containment of the actual or potential environmental pollution, and must comply with all the requirements and measures provided in the internal emergency plan and in the external plan adopted on the basis of this Ordinance.

PERMIT FOR FACILITIES/INSTALLATIONS OF CATEGORY A

Article 17

(1) The facility/installation of category A must not commence with the disposal of extractive waste before the operator has obtained a permit from the competent authority.

(2) The permit application shall include the name of the operator, the proposed facility/installation site, possible alternative sites as well as data provided under the Waste Act.

(3) The application referred to in paragraph 2 of this Article shall be accompanied by:

– the extractive waste management plan

– a proposal of a financial guarantee, in accordance with the requirements laid down in Article 26 of this Ordinance,

– environmental protection measures and environmental monitoring programme in accordance with the Regulation on environmental impact assessment, where the project concerned is subject to the requirement of obligatory environmental impact assessment.

Article 18

The permit referred to in Article 17 of this Ordinance shall define:

– the category of the facility/installation,

– the type of waste to be disposed,

- total estimated volumes of waste, in cubic metres, to be disposed at the facility/installation,
- method of waste disposal and methods for the control of waste content,
- monitoring arrangements with respect to the operation and maintenance of the facility/installation,
- provisions on reporting to the competent authority on the operation of the facility/installation,
- requirements the operator must meet before launching the facility's/installation's closure procedure, as well as provisions concerning the prevention of adverse environmental effects of the facility/installation after its closure,
- deadline by which the operator must deliver the documentation to the competent authority when closing down the facility/installation, pursuant to Article 24 of this Ordinance,
- the amount of the financial guarantee in accordance with the provisions of Article 26 of this Ordinance.

Article 19

(1) The conditions set out in the permit issued in accordance with this Ordinance must be accessible for statistical purposes. The information containing business secret, such as information on business relations, costs, and quantities of mineral resources, shall not be given for statistical purposes.

(2) The permit shall also be delivered to:

- the environmental protection inspection,
- the Croatian Environment Agency,
- central state administration body competent for mining.

PUBLIC PARTICIPATION IN THE PROCEDURE OF ISSUING OPERATING PERMITS FOR FACILITIES/INSTALLATIONS OF CATEGORY A

Article 20

(1) The competent authority shall make arrangements for participation of the public concerned in the process of issuing and amending the permit referred to in Article 18 of this Ordinance, in accordance with the regulation on information and participation of the public and public concerned in environmental matters.

(2) Pursuant to the Regulation referred to in paragraph 1 of this Article and pursuant to this Ordinance, the public concerned shall have the right:

- to be informed that a permit application has been submitted,

- to be informed that another country has been notified of the permit application due to potential transboundary effects caused by the facility/installation,
- to any other information in accordance with a special environmental protection regulation which, in the opinion of the competent authority, is relevant for the issuance or amendment of the permit concerned.

CLASSIFICATION OF FACILITIES/INSTALLATIONS

Article 21

(1) The competent authority shall issue a decision on the classification of the facility/installation on the basis of the criteria set out in Annex III of this Ordinance, in accordance with the extractive waste management plan referred to in Article 9 of this Ordinance.

(2) The competent authority may issue a decision amending the classification of the facility/installation, under any of the circumstances set out in Annex III of this Ordinance.

USED EXPLOITATION FIELDS

Article 22

(1) When returning extractive waste to the mineral exploitation field erased from the cadastre of mineral exploitation fields, for purposes of rehabilitation and/or construction, the operator shall:

- ensure the stability of waste in compliance with the requirements referred to in Article 23, paragraph 2 of this Ordinance,
- prevent the pollution of soil, surface and ground waters in accordance with provisions of Article 25, paragraphs 1, 3 and 5 of this Ordinance,
- provide monitoring arrangements for the waste and the mineral exploitation field erased from the cadastre of mineral exploitation fields in accordance with provisions of Article 24, paragraphs 5 and 6 of this Ordinance.

(2) Other waste, which is not considered extractive waste within the meaning of this Ordinance, must not be disposed of in the used exploitation fields.

(3) Exempt from the rule set out in paragraph 2 of this Article are the used exploitation fields functioning as landfills, which have a waste disposal permit pursuant to the act regulating waste management and to the special regulation governing the operation of landfills.

CONSTRUCTION AND MANAGEMENT OF FACILITIES/INSTALLATIONS

Article 23

(1) Before a facility/installation is put into operation, the operator must designate a person responsible for its management. The operator must ensure technical development of the processes used in the facility/installation, and necessary education of its staff.

(2) When building a new or amending the operation of an existing facility/installation, the operator must make sure that:

– the facility/installation is located in an appropriate site, taking into consideration protected areas pursuant to regulations on nature protection and the geological, hydrological, hydrogeological, seismic and geotechnical requirements,

– the facility/installation is designed in compliance with the requirements set out in the first indent of this Article, so as to prevent short-term or long-term pollution of the soil, air, ground waters or surface waters, taking into account, especially, regulations on the management and protection of waters from pollution,

– efficient collection of polluted water and leachate is provided for, in a manner prescribed pursuant to the permit,

– procedures are in place for the reduction of water-induced and wind-induced erosion, resulting from mineral exploitation, insofar as they are technically feasible or economically justified,

– the facility/installation is built and maintained in a manner that ensures its physical stability, prevents the pollution of soil, surface or ground waters and reduces to the minimum possible damages to the landscape,

– plans for regular monitoring and internal control of the facility/installation have been prepared, to be carried out by the operator,

– intervention plans are in place in the event of soil or water pollution,

– plans are in place for land rehabilitation and for the closure of the facility/installation,

– post-closure management plans have been developed for the facility/installation.

(3) The operator must keep a record of regular monitoring and internal controls carried out by the operator on the basis of the plans referred to in paragraph 2 of this Article, together with the documentation on the basis of which the permit had been issued,

(4) The operator must, forthwith, and no later than within 48 hours, notify the competent authority and the central state administration body referred to in Article 15, paragraph 1 of this Ordinance of any event likely to have an effect on the stability of the facility/installation, as well as of any undesirable environmental effect of which the operator may have become cognizant during the monitoring and control of the facility/installation. The operator must follow all the instructions given by the competent authority so that measures may be taken to restore the situation back to normal. The operator shall bear all the costs of such measures.

(5) The operator shall, at least once a year, submit to the competent authority a report that must include all the data on the internal controls performed on the facility/installation, so that

its compliance with the permit requirements may be verified, where the facility/installation concerned is of category A.

(6) Where the competent authority deems it necessary, the monitoring report for a facility/installation may be requested at intervals shorter than one year. On the basis of this report, the competent authority may decide that an independent expert assessment is necessary, the costs of which are the responsibility of the operator.

CLOSURE OF FACILITIES/INSTALLATIONS OF CATEGORY A AND POST-CLOSURE PROCEDURES

Article 24

(1) The decision on the closure of a facility/installation is rendered by the competent authority, and includes the operator's obligations in accordance with the operating permit, as well as post-closure maintenance procedures for the facility/installation concerned.

(2) The facility/installation may be closed if:

- the conditions for its closure set out in the permit have been met
- the operator has submitted a request for its closure,
- the competent authority establishes, on the basis of the report, or in any other manner, that the facility/installation fails to comply with the requirements set out in the permit,
- the operator fails to abide by the decision of the environmental protection inspection

(3) Before the closure of the facility/installation, the environmental protection inspector shall:

- perform inspectional supervision of the facility/installation,
- examine all the reports on the operation and closure of the facility/installation submitted by the operator,
- verify that the soil on which the facility/installation was located has been rehabilitated,

(4) After the closure of the facility/installation, the operator must:

- maintain the facility/installation,
- monitor the physical and chemical stability of the facility/installation so as to reduce any adverse environmental effects, in particular on surface and ground waters,
- keep the monitoring and measurement equipment operational,
- keep overflow and drainage canals clear and open,

(5) After the closure of the facility/installation, the operator must inform the competent authority of:

- any changes in the state of the facility/installation,
- any maintenance procedures carried out on the facility/installation,
- any events which affect or are likely to affect the stability of the facility/installation,
- any adverse environmental effects which came to the operator's attention while monitoring the facility/installation.

(6) In the event of accidents after the closure of the facility/installation, the operator shall, forthwith, inform the competent authority of any events or consequences likely to arise and have an impact on the stability of the facility/installation, as well as of any significant adverse effects on the environment detected through situation monitoring. The operator must follow all the instructions given by the competent authority so that measures may be taken to improve the situation. The operator shall bear all the costs of such measures.

(7) The competent authority shall issue a decision on the termination of the operator's post-closure obligations referred to in paragraphs 1, 2, 3, 4, 5 and 6 of this Article, taking into account the type and duration of environmental pollution hazards after the closure.

PREVENTION OF WATER, AIR AND SOIL POLLUTION THROUGH THE OPERATION OF FACILITIES/INSTALLATIONS

Article 25

(1) The operator must take measures to prevent the deterioration of water quality, in accordance with water protection regulations, and:

- assess the likelihood of leachate forming in extractive waste during the operation and after the closure of the facility/installation, and assess the content of pollutants in such leachate,
- prevent or minimise, to the extent possible, the generation of leachate, as well as the pollution of surface and ground waters and soil by extractive waste,
- collect and treat polluted leachate from the facility/installation so as to bring its quality up to the standards required under the regulations on the quality of water discharged into aquatic recipients,

(2) The operator must keep emissions of gas and dust particles at levels consistent with air protection regulations.

(3) Where, according to the environmental impact assessment, the collection and treatment of leachate proves unnecessary, or the facility/installation proves to have no impact on the soil, ground and/or surface waters, the operator shall be exempt from the requirements set out in paragraph 1, indents 2 and 3 of this Article.

(4) Where the waste, whether solid, sludge or fluid, is disposed of into an aquatic recipient that is not a pond built for that purpose, all provisions of the regulations on water management and water pollution protection must be complied with. If the operator uses a pond, it must be

built in a manner which prevents any spillage of polluted water likely to cause environmental pollution.

(5) Where extractive waste is disposed on or under the surface of a used exploitation field, which may become flooded after the closure, the operator must take measures to prevent the pollution of water and soil in accordance with provisions of paragraphs 1 and 3 of this Article.

(6) In the case of facilities/installations which are ponds of category A, but contain cyanide, the operator must ensure, using the best available techniques, that the concentration of readily soluble cyanides in the pond is reduced to the lowest possible level and that it remains at concentrations below 10 mg/L.

FINANCIAL GUARANTEE

Article 26

(1) Before the facility/installation is put into operation, the operator must submit to the central administration body competent for mining a financial guarantee in order to:

– guarantee the fulfilment of all obligations stated in the permit, in the case of facilities/installations of category A

– make available funds for the rehabilitation of the land polluted as a result of the operation of the facility/installation, in accordance with the extractive waste management plan.

(2) The amount of the financial guarantee is determined on the basis of the likelihood that the facility/installation will have environmental effects, taking into account, in particular, the category of the facility/installation, the properties of the waste and the future purpose of the rehabilitated land, under the assumption that an independent and qualified third party will assess and carry out all necessary rehabilitation works.

(3) The amount of the financial guarantee must be adjusted to correlate with the scope of works necessary for rehabilitation of the land polluted through the facility's/installation's operations, in accordance with the extractive waste management plan.

(4) After issuing the decision on the closure of the facility/installation, the competent authority will issue a decision relieving the operator of the obligations set out in paragraph 1 of this Article.

TRANSBOUNDARY EFFECTS ARISING FROM THE OPERATIONS OF FACILITIES/INSTALLATIONS OF CATEGORY A

Article 27

If in the process of issuing the operating permit for a facility/installation of category A, the competent authority establishes that the operation of the facility/installation may give rise to significant environmental effects in another state, or if so requested by the other state, the competent authority shall communicate to the competent authority of the other state the information referred to in Article 20 paragraph 2 of this Ordinance.

RECORDS OF EXTRACTIVE WASTE MANAGEMENT FACILITIES/INSTALLATIONS

Article 28

(1) The Croatian Environment Agency shall keep a record of extractive waste management facilities/installations.

(2) Data from the records referred to in paragraph 1 of this Article must be made available to the public concerned no later than 1 May 2012.

Article 29

(1) The record referred to in Article 28 of this Ordinance shall include:

- the extractive waste management plans approved by the competent authorities,
- data from the operating permits issued to facilities/installations,
- the list of facilities/installations, including:
 - site name,
 - operator's name,
 - indication as to whether the facility/installation is closed, abandoned or operational.

TRANSITIONAL AND FINAL PROVISIONS

Article 30

The operator managing a facility/installation on the day of entry into force of this Ordinance must bring his operations into compliance with the provisions of this Ordinance by 1 May 2012.

Article 31

Annex I, Annex II and Annex III are published with this Ordinance and form an integral part thereof.

Article 32

This Ordinance shall enter into force on the eighth day after the day of its publication in the Official Gazette.

Class: 351-01/08-04/2
Reg. No.: 531-08-3-08-5
Zagreb, 31 October 2008

Minister

ANNEX I

SAFETY MANAGEMENT SYSTEM AND INFORMING THE PUBLIC CONCERNED
DURING THE DEVELOPMENT OF EXTERNAL PLANS

1. SAFETY MANAGEMENT SYSTEM

The operator's safety management system, major accident prevention plan and the internal emergency plan should be proportional to the magnitude of risks of major accidents posed by the facility/installation. For purposes of implementing the mentioned plans and system, the following should be taken into account:

- (1) The major accident prevention plan should include operator's objectives as well as principles determining the course of action in the management of major accident risks.
- (2) The safety management system should be an integral part of the general management system, including the organisational structure, responsibilities, courses of action, procedures, processes and means for defining and introducing the major accident prevention plan.
- (3) The safety management system includes:
 - organisation and staff – roles and responsibilities of the staff involved in major risk management at all organisational levels
 - identification of education needs for the staff involved in major risk management, and making arrangements for such education
 - involvement of employees, and when necessary, of subcontractors and others who participate in the operations
 - identification and assessment of major risks – adoption and implementation of procedures for systematic identification of major risks resulting from regular and exceptional activities, and assessment of the probability of their occurrence, as well as of the magnitude of their effects
 - monitoring management activities – adoption and implementation of procedures and instructions for safe operations, including maintenance of the installation, processes, equipment, as well as temporary suspension of the operations
 - management of amendments – adoption and implementation of procedures for planning amendments to or the design of new facilities/installations
 - planning for cases of emergency – adoption and implementation of procedures for the identification of foreseeable emergencies using system analysis, and preparation, testing and improvement of the emergency plans to be used if needed

- performance monitoring– adoption and implementation of procedures for continuous assessment of compliance with the objectives of the operator's major accident prevention plan and safety management system, as well as mechanisms for the detection of non-compliance and for the implementation of measures to ensure compliance in the event of non-compliance. These procedures should include a reporting system on major accidents or on events which could easily have lead to a major accident, particularly those which involve shortcomings in protection measures, their investigation, and conclusions regarding the lessons learned
- auditing and examination – adoption and implementation of periodic systematic assessments of the major accident prevention plan, and of the efficiency and adequacy of the safety management system. The operator must possess the documentation testifying to the implementation of a safety management system, major accident prevention plan and internal emergency plan

2. INFORMATION TO BE MADE AVAILABLE TO PUBLIC CONCERNED DURING THE DEVELOPMENT OF EXTERNAL PLANS

1. name of the operator and address of the facility/installation
2. information on and position of the person providing the information
3. confirmation that the facility/installation is subject to provisions of this Ordinance, and, where applicable, that relevant information has been delivered to the competent authority in compliance with provisions of Article 14 paragraph 3 of this Ordinance
4. clear and simple explanation of the activities performed at the facility
5. common or generic names or a general classification of the potential hazards posed by the substances or preparations, which will be present at the facility/installation, and of the waste that might cause major accidents, including an indication of their principal dangerous characteristics
6. general information relating to the nature of major accident hazards, including their potential effects on the nearby population and on the environment
7. appropriate information as to how the population concerned will be warned and kept informed in the event of a major accident
8. appropriate information concerning the measures that the population must undertake and how to behave in the event of a major accident
9. confirmation that the operator is required to establish appropriate procedures, particularly communication channels for sending timely alerts to the rescue and protection services in order to minimise the effects of a major accident
10. reference to the appropriate emergency plan containing measures to be implemented in the event of a major accident in a given area
11. reference to other sources of relevant information

ANNEX II

CHARACTERISATION OF EXTRACTIVE WASTE

Waste disposed in a facility/installation must be characterised in a manner that ensures long-term physical and chemical stability of the structure of the facility/installation, as well as prevention of major accidents.

Waste characterisation includes, in accordance with the category of the facility/installation, the following:

- (1) description of the anticipated physical and chemical properties of the waste to be disposed, whether on short-term or long-term basis, with a special focus on the stability of the waste below the surface under the impact of atmospheric and meteorological events, taking into account the type of minerals to be extracted, and the properties and composition of the tailings and/or waste to be disposed in the facility/installation,
- (2) classification of waste pursuant to special regulation on the waste catalogue, particularly with regard to its hazardous properties,
- (3) description of the chemical compounds to be used in mineral treatment, and of their stability,
- (4) description of waste disposal methods,
- (5) manner of waste transport.

ANNEX III

CRITERIA FOR THE CLASSIFICATION OF EXTRACTIVE WASTE MANAGEMENT FACILITIES/INSTALLATIONS

A facility/installation shall be classified as a facility/installation of category A:

- if a risk pre-assessment indicates that a performance omission or flawed performance, such as e.g. the collapse of a heap or bursting of a dam, would be likely to cause a major accident, taking into account factors such as the current or future size of the facility/installation, waste volumes, facility/installation site and its environmental impact,
- if the facility/installation disposes of hazardous extractive waste defined pursuant to special regulation,
- if the facility/installation contains substances or preparations that qualify as hazardous pursuant to special regulation,
- if, in the opinion of the competent authority, there are other prescribed or justified reasons for such classification