

KURDISTAN REGION – IRAQ

COUNCIL OF MINISTERS

MINISTRY OF NATURAL RESOURCES

In the exercise of our powers and functions under Law No. 22 of 2007 and pursuant in particular to Articles 6, 7, 8, 53 and 60 of the said Law, we have decided to issue the following Instructions.

DRAFT INSTRUCTIONS (NO.) OF 2014 ON THE FRAMEWORK FOR THE MANAGEMENT OF WASTE GENERATED BY PETROLEUM OPERATIONS

Purpose of these Instructions

First Article. The objectives of these Instructions are to establish a framework for the Ministry’s regulation of waste generated by Petroleum Operations and to impose a number of obligations on those who produce or manage oilfield waste in order to minimise:

1. the generation of such waste by encouraging waste prevention and minimisation, reuse of resources, recycling and other forms of resource recovery; and
2. the overall impact of such waste on the environment and public health.

Definitions

Second Article. In these Instructions:

1. “Article” means an Article of these Instructions;

2. “Best Available Techniques” mean the most effective and advanced techniques and methods of operation for the prevention and management of waste in a manner that adheres to the waste management hierarchy and minimises adverse effects on the environment and human health, and for this purpose:
 - (a) “techniques” include both the technology used and the way in which Petroleum Operations and Waste Operations are designed, built, maintained, operated and terminated;
 - (b) “available” techniques mean those developed on a scale which allows their implementation under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced inside the Region as long as they are reasonably accessible to the operator; and
 - (c) “best” means most effective in minimising damage to the environment and human health as a whole;
3. “carrier” means a person who accepts waste for transport or transports waste;
4. “collection” means the gathering of waste, including the preliminary sorting and storage of waste for the purposes of transport to a waste treatment facility;
5. “conducting” Waste Operations includes all elements of the commencement, carrying on and termination of the Waste Operations;
6. “consignor” means a person who consigns waste for storage, transport, treatment or disposal;
7. “day” means a calendar day;

8. “disposal” of waste means the discharge, deposit, injection, spilling, leaking, pouring, emission, discarding, placing or other release of waste into the environment (including upon or into any land or into groundwater, any waterways or the air) and includes the causing or permitting of such disposal and “dispose” shall be construed accordingly;
9. “effect” of Waste Operations in relation to the environment means any change in the physical, natural or cultural environment brought about by the operations, and includes any direct, indirect, secondary, cumulative, short, medium or long-term, permanent or temporary effects and “effects” shall be construed accordingly;
10. “energy recovery” is the conversion of waste materials into useable heat, electricity, or fuel through a variety of processes, including combustion, gasification, pyrolysis, anaerobic digestion, and landfill gas (LFG) recovery;
11. “environment” includes all components of the biosphere, including air, land, water, plant and animal life, social and economic activities, cultural assets, any man-made development, any natural resources, any other aspects of the human and natural environment, and any part or combination of the forgoing and the interrelation between them, and “environmental” shall be construed accordingly;
12. “hazardous waste” means any oilfield waste or combination of oilfield wastes that because of its concentration or physical, chemical or toxicological characteristics may present danger to human health or the environment when improperly managed, and for the avoidance of doubt, includes but is not limited to waste containing a substance or mixture of substances that:

- (a) exhibits characteristics of ignitability, corrosivity, reactivity or toxicity as described in Schedule 1;
 - (b) exhibits any radioactive or infectious characteristics;
 - (c) is designated as hazardous by the Ministry; or
 - (d) is otherwise designated as dangerous or hazardous under the Region’s laws.
- 13. “management” of waste means the collection, storage, transport, treatment, recovery or disposal of waste, including the supervision of such activities, and “manage” shall be construed accordingly;
- 14. “Manifest” means a set of forms prescribed by the Ministry, which is used in accordance with the 24th Article for recording the quantity, composition, origin, routing and destination of waste during its transportation from the point of generation to the final point of off-site management;
- 15. “Ministry” means the Ministry of Natural Resources of the Kurdistan Regional Government;
- 16. “MNR Waste Permit” or “Waste Permit” means a permit granted by the Ministry under the 7th to 10th Articles;
- 17. “non-hazardous waste” means any oilfield waste other than hazardous waste;
- 18. “oilfield waste”:
 - (a) means any waste generated from Petroleum Operations or associated activities taking place on an oil or gas exploration, development or production site or at a petroleum refining or treatment facility;
 - (b) includes all types of waste including hazardous and non-hazardous, industrial and municipal waste; and

- (c) includes new waste generated as a result of the management of oilfield waste; but
 - (d) excludes municipal waste generated at offsite offices;
- 19. “person” may be a natural person or a legal entity and “persons” shall be construed accordingly;
- 20. “Petroleum Operations” have the definition given to them in Law No. 22 of 2007 and mean activities including prospecting, exploration for, development, production, marketing, transportation, refining, storage, sale or export of petroleum, or construction, installation or operation of any structures, facilities or installations for the transportation, refining, storage, and export of petroleum, or decommissioning or removal of any such structure, facility or installation;
- 21. “Petroleum Operator” means an “Operator” as defined in Law No. 22 of 2007, shall mean Petroleum Operators in respect of any Petroleum Operations of which there are more than one operator and may be an individual or an entity or a combination thereof;
- 22. “prevention” of waste means the use, before waste has been produced, of processes, practices, materials, products, substances or energy to avoid or minimise the production of the waste, and “prevent” shall be construed accordingly;
- 23. “producer” of waste means anyone whose activities result in the production of waste;
- 24. “production” of waste means the generation of waste, including the generation of a new type of waste by causing a change in the nature or composition of already existing waste, and “produce” shall be construed accordingly;
- 25. “receiver” means a person who receives waste for storage, treatment or disposal;

26. “recovery” means any process that extracts useful materials or energy from waste, and “recover” shall be construed accordingly;
27. “recycling” means any recovery operation by which waste materials that would otherwise be disposed of are reprocessed into useful products, materials or substances, but does not include energy recovery or reprocessing into materials for backfilling, and “recycle” shall be construed accordingly;
28. “Region” means the Kurdistan Region of Iraq and “Regional” shall be construed accordingly;
29. “responsible” for any Waste Operations means being an owner or manager of the operations;
30. “re-use” means using an object or material again, either for its original purpose or for another purpose, without making any changes in the physical form or composition of the object or material;
31. “terms and conditions” of a Waste Permit mean the scope of the permit as described in Paragraph 3 of the 10th Article and the conditions imposed on the permit under Paragraphs 4 and 5 of the 10th Article;
32. “treatment” of waste means applying any method, technique or process (including, without limitation, neutralisation and stabilisation) designed to change the physical, chemical or biological character or composition of the waste so as to:
 - (a) make it non-hazardous or less hazardous;
 - (b) recover energy or material resources from the waste; or
 - (c) make the waste safer for transport, storage or disposal; and“treat” shall be construed accordingly;

33. “waste” means any solid, liquid or gaseous material or product which the holder discards or intends, or is required, to discard;
34. “waste management hierarchy” means the following hierarchy:
 - (a) Avoidance of unnecessary resource consumption;
 - (b) Prevention of waste;
 - (c) Re-use;
 - (d) Recycling;
 - (e) Other recovery (including energy recovery);
 - (f) Disposal, following treatment to minimise the adverse effects of the waste on the environment and human health;
35. “Waste Operations” mean the production or management of oilfield waste;
36. “Waste Operator” means any person who is responsible for Waste Operations and shall mean Waste Operators in respect of any Waste Operations of which there are more than one operator and may be an individual or an entity or a combination thereof, and “it” when used in these Instructions to refer to a Waste Operator shall mean “he”, “she” or “they” as applicable;
37. “Waste Permit holder” or “permit holder” means a Waste Operator that holds a valid MNR Waste Permit.

Third Article.

Unless otherwise clear, any other word or expression used in these Instructions that is assigned a meaning in Law No. 22 of 2007 shall have the same meaning as in the said Law.

Obligations of Waste Operators

Fourth Article.

Every Waste Operator must:

1. take all necessary and practicable measures to minimise the adverse effects of its Waste Operations on the environment and human health.
2. ensure that all design and operational decisions in respect of the Waste Operations (including as to their termination) are reached in accordance with the waste management hierarchy.
3. ensure that unless a different course is required under national or Regional law, the Waste Operations are conducted in compliance with best international practice.
4. ensure that no oilfield waste that it has produced or managed is transferred to or managed by another Waste Operator who:
 - (a) does not have a valid Waste Permit for the management of the said waste, if a Waste Permit is required by virtue of the 7th Article; or
 - (b) is otherwise in breach of these Instructions or other laws concerning waste.
5. take all such measures as are reasonable in the circumstances:
 - (a) to prevent any contravention by any other person of these Instructions or of the terms and conditions of any Waste Permit; and
 - (b) to prevent the escape of any oilfield waste from its control or that of any other person.

Fifth Article.

For the purpose of Paragraph 1 of the 4th Article, necessary measures include but are not limited to:

1. employing Best Available Techniques; and

2. making appropriate arrangements (including any training, management systems and contractual relationships) that will enable the Waste Operator, its workers and its sub-contractors to manage waste in compliance with the Waste Operator's waste management obligations.

Sixth Article.

No Waste Operator shall:

1. mix any hazardous waste produced or managed by it with any other solid or liquid substance or allow another person to so mix the waste; or
2. divide the hazardous waste or allow another person to so divide the waste;

for the purpose of avoidance, by it or someone else, of the provisions of these Instructions, including the Waste Permit requirements herein.

MNR Waste Permit

Seventh Article.

No Waste Operations may be conducted except under and to the extent authorised by a valid MNR Waste Permit granted under these Instructions, if the Waste Operations involve:

1. the production and/or management of an average of at least 500 Kilograms or Liters (or combination thereof) of non-hazardous waste, excluding produced water, per month, averaged over the calendar year; or
2. the production and/or management of an average of at least 5 Kilograms or Liters (or combination thereof) of hazardous waste in any given calendar month, averaged over the calendar year.

Eighth Article.

A person may apply for a Waste Permit by:

1. duly submitting the application form prescribed by the Ministry;

2. paying any application fees prescribed by the Ministry;
3. submitting for the Ministry's approval a Waste Management Plan which complies with the 18th and 19th Articles.

Ninth Article.

The Ministry will not grant a Waste Permit unless it is satisfied that:

1. the Waste Management Plan submitted for the Waste Operations complies with the requirements set out in these Instructions; and
2. the Waste Operator is willing and able to conduct the operations in compliance with the obligations in these Instructions, including the 4th Article.

Tenth Article.

A Waste Permit granted under these Instructions:

1. signifies MNR's approval of the Waste Management Plan submitted for the Waste Operations in question;
2. signifies MNR's satisfaction that the Waste Operator appears willing and able to conduct the operations in compliance with the obligations in these Instructions;
3. is only granted for the specific Waste Operations at the specific location(s) described in the permit;
4. is granted subject to the condition that the Waste Operations must at all times be conducted in compliance with:
 - (a) these Instructions including the obligations in the 4th Article;
 - (b) the current Waste Management Plan as approved by MNR; and
 - (c) all other applicable national and Regional laws including all requirements thereunder for permits and approvals; and
5. may be granted subject to such further conditions as the Ministry considers appropriate.

Eleventh Article. If it considers that to do so would be reasonable and appropriate in light of the objectives of these Instructions, the Ministry may, either on the application of the permit holder, accompanied by any prescribed fees, or on its own initiative, vary the terms and conditions of a valid Waste Permit, which variation shall take effect upon its written notification by the Ministry to the permit holder unless a later time is specified in the notification.

Twelfth Article. The Ministry may revoke a Waste Permit at any time if:

1. it is no longer satisfied that the approved Waste Management Plan complies with the requirements and obligations set out in these Instructions;
2. the permit holder fails to comply with the terms and conditions of the Waste Permit or otherwise to comply with its obligations under these Instructions; or
3. the permit holder no longer conducts the Waste Operations to which the permit relates.

Thirteenth Article. A Waste Permit holder may, by written notification to the Ministry, surrender its Waste Permit if it no longer conducts any Waste Operations requiring such a permit.

Fourteenth Article. The expiry, revocation or surrender of a Waste Permit does not remove or otherwise affect the permit holder's obligation to terminate the Waste Operations (or the elements of the operations requiring a Waste Permit, as the case may be) in compliance with these Instructions and the approved Waste Management Plan.

Fifteenth Article. In the event that responsibility for the conduct of any Waste Operations is transferred from a current Waste Permit holder to a new entity, the Ministry may, by way of a variation of the Waste Permit, allow the existing Waste Permit to be transferred to the new entity if:

1. at least sixty days before the transfer is implemented:

- (a) the existing permit holder and the new entity inform the Ministry of the transfer; and
- (b) the new entity:
 - (1) informs the Ministry of its name and contact details, including its point of contact for the purposes of the Waste Permit;
 - (2) confirms that the Waste Operations will continue to be conducted in line with the terms and conditions of the Waste Permit;
 - (3) either confirms that it will comply with the approved Waste Management Plan or submits a revised Waste Management Plan;
 - (4) undertakes to comply with all the obligations imposed on it by virtue of these Instructions; and
- (d) the Ministry is satisfied that if the new entity were a new applicant for a Waste Permit, the requirements in Paragraphs 1 and 2 of the 9th Article would be met.

Sixteenth Article.

The transfer of a Waste Permit under the 15th Article takes effect from the date on which the Ministry formally varies the Waste Permit to confirm the transfer, until which time:

1. the original permit holder remains responsible for the Waste Operations' compliance with the terms and conditions of the permit and these Instructions; and
2. the new entity must not assume control over the conduct of the operations.

Seventeenth Article.

A permit is valid for three years from the date of its issuance unless it is surrendered or revoked earlier.

Waste Management Plans

Eighteenth Article. A Waste Management Plan submitted for the purpose of an MNR Waste Permit must:

1. cover all the activities that will, or could, form part of the Waste Operations for which the Waste Permit is being sought;
2. serve the following objectives:
 - (a) to prevent, and to the extent that prevention is not possible, reduce waste production and disposal in accordance with the waste management hierarchy; and
 - (b) to minimise the short- and long-term adverse effects of waste and its management on the environment and human health including ensuring the safe disposal of oilfield waste;
3. contain at least the following elements:
 - (a) a detailed description of the Waste Operations including:
 - (1) a description of each type of oilfield waste to be produced or managed and whether it is hazardous or non-hazardous waste;
 - (2) the estimated total quantities of each type of oilfield waste to be produced or managed both per month and for the expected duration of the Waste Operations;
 - (3) a detailed description of all the ways in which the waste is to be produced or managed; and
 - (4) types, numbers and specifications (including energy efficiency) of any facilities, installations or machinery being used in the management of the waste, including any incinerators;
 - (b) a brief description of how the environment (including the

local land, air, groundwater, waterways and ecosystem) and human health may be adversely affected by the waste being produced or managed;

- (c) a description of the measures to be taken in order to minimise the adverse effects set out in Clause (b) of this Paragraph;
 - (d) the proposed control and monitoring procedures for waste;
 - (e) a document describing or containing the emergency plan that will be put into effect before the Waste Operations begin;
 - (f) a description of the relevant national and Regional laws, standards and guidelines and the extent of the Waste Operator's compliance with the same;
 - (g) a detailed statement explaining how each element of the waste production and management set out in Clause (a) and Clauses (c) to (e) of this Paragraph serve the objectives in Paragraph 2 of this Article and comply with the obligations in the 4th Article, which statement shall be substantiated by an analysis of the opportunities for the prevention, reuse, recycling and other recovery of each waste type being produced or managed and alternative waste management options;
 - (h) a declaration that the Waste Operator will ensure that its Waste Operations are conducted in accordance with the approved Waste Management Plan and in compliance with the obligations set out in these Instructions; and
4. provide sufficient information to enable the Ministry to evaluate the Waste Operator's ability and willingness to meet the objectives of the Waste Management Plan as set out in Paragraph

2 of this Article and its obligations under these Instructions.

Nineteenth Article. The emergency plan referred to in Paragraph 3, Clause (e) of the 18th Article must include such measures as are necessary to achieve the following objectives in relation to the conduct of the Waste Operations:

1. preventing major accidents and other incidents that may pose a threat to human health and safety or the environment;
2. containing and controlling major accidents and other incidents, including any spills, so as to minimise their adverse effects on human health and the environment;
3. ensuring that any measures adopted for achieving the objectives in Paragraphs 1 and 2 of this Article are implemented in an effective way;
4. communicating the necessary information to the public and to the relevant services or authorities in the area in the event of an emergency;
5. achieving the rehabilitation, restoration and clean-up of the environment following a major accident or other emergency; and
6. ensuring that the emergency plan is reviewed and updated regularly so that it best achieves the objectives in Paragraphs 1 to 5 of this Article.

Reporting by Waste Permit holders

Twentieth Article. As often as necessary to ensure that its Waste Management Plan accurately reflects the Waste Operations, and in any event no later than every twelve months, a Waste Permit holder must review the plan and submit an updated Waste Management Plan.

Twenty-first Article. A Waste Permit holder must immediately inform the Ministry of any changes in the information that it has submitted to the Ministry in

relation to its application for the Waste Permit.

Reporting and record-keeping by all Waste Operators

Twenty-second Article. By no later than the tenth day of every January, April, July and October, every Waste Operator must submit to the Ministry a Waste Report for the previous quarter, using the template prescribed by the Ministry, which report must contain:

1. a description of the quantities of each oilfield waste type produced and managed;
2. in relation to each oilfield waste type:
 - (a) confirmation of whether it was hazardous or non-hazardous waste;
 - (b) a description of how the waste was managed; and
3. if the Waste Operator holds a valid Waste Permit, confirmation as to whether the Operator's production and management of waste in that month was consistent with the terms and conditions of the Waste Permit and the approved Waste Management Plan.

Twenty-third Article. All Waste Operators shall:

1. keep, for at least four years, a chronological record of the quantity, nature and origin of all waste that they produce and manage and, where relevant, the destination, frequency of collection, mode of transport and treatment method in respect of the waste; and
2. make the information in Paragraph 1 of this Article available to the Ministry upon request.

Waste Manifests

Twenty-fourth Article. In respect of the transportation of any oilfield waste:

1. there must be a duly completed Manifest for each consignment of waste transported;
2. every consigner, carrier and receiver of the waste must:
 - (a) complete its section of the Manifest for that waste and deal with it in accordance with the guidance accompanying the Manifest; and
 - (b) retain, for a period of no less than four years from the date that the waste reaches the receiver, those copies of the Manifest that are specified in the guidance accompanying the Manifest.

Enforcement notices

Twenty-fifth Article. If the Ministry considers that a person has contravened or is contravening any obligations under these Instructions (including the terms and obligations of a Waste Permit), it may serve an enforcement notice on that person who must fully comply with the notice within the time period specified therein.

Twenty-sixth Article. An enforcement notice will specify:

1. the Ministry's reason for serving it;
2. the matters constituting the contravention;
3. the steps which must be taken to ensure that the contravention does not continue or recur and to restore the position to that which existed before the contravention arose; and
4. the period within which those steps must be taken.

Transitional provisions

Twenty-seventh Article. Subject to the grace period provided in the 28th Article, these Instructions apply to all Waste Operations in the Kurdistan Region whether or not they have already commenced on the date on which these Instructions become effective.

Twenty-eighth Article. In respect of any Waste Operations that, on the date on which these Instructions become effective, have already commenced and are of the type that require a valid Waste Permit hereunder:

1. the person responsible for the Waste Operations shall be deemed to hold a valid MNR Waste Permit under these Instructions for a period of one hundred and twenty days from the said date;
2. by the end of the one hundred and twenty day period, the Waste Operations must cease unless the person responsible for them has applied for and obtained a Waste Permit; and
3. subject to Paragraph 1 of this Article, the Waste Operations must be conducted in full compliance with these Instructions from the date on which these Instructions come into effect.

Reconsideration of the Ministry's responses and decisions

Twenty-ninth Article. An Operator:

1. whose application for a Waste Permit has been rejected pursuant to the 8th and 9th Articles;
2. who has been granted a Waste Permit subject to conditions imposed under Paragraph 5 of the 10th Article;
3. whose application for a variation of a Waste Permit has been rejected under the 11th or 15th Article;

4. the terms or conditions of whose Waste Permit have been varied on the Ministry's own initiative under the 11th Article;
 5. whose Waste Permit has been revoked under the 12th Article; or
 6. who has received an enforcement notice under 25th Article;
- may apply to the Ministry for a reconsideration of the decision in question.

Thirtieth Article. Any application under the 29th Article must:

1. be made within thirty days of the date on which notice of the decision was received by the Operator;
2. contain a clear and concise statement of the reasons for the application; and
3. include any supporting documentation.

Thirty-first Article. The Ministry will consider any application under the 29th Article and make a determination on it within thirty days, which determination shall be final.

Supplementary provisions

Thirty-second Article. The Ministry may:

1. issue Technical Guidelines in respect of any aspect of these Instructions.
2. issue oilfield waste production and management standards.
3. at any time:
 - (a) undertake, at its own discretion, appropriate monitoring, inspection and auditing activities; and
 - (b) require an Operator or third party to provide the Ministry with such information as it considers necessary;

in order to assess and ensure compliance with these Instructions or the environmental provisions of Law No. 22 of 2007.

- Thirty-third Article.** Except to the extent that the Ministry considers harmful to the public interest or unjustifiably detrimental to legitimate private interests, it may allow any organisation, government body or member of the public to inspect any Waste Permits, Waste Management Plans or Manifests submitted to the Ministry under these Instructions.
- Thirty-fourth Article.** The Waste Operator submitting any Waste Management Plans, Manifests, or other reports or information to the Ministry under these Instructions is fully responsible for any inaccuracies or misleading information in the said documents or other information.
- Thirty-fifth Article.** The Waste Operator responsible for any given Waste Operations is fully responsible for any failure to ensure that the Waste Operations are conducted in compliance with these Instructions.
- Thirty-sixth Article.** These Instructions shall be effective from the date on which they are published in the official Kurdistan Gazette.

Dr Ashti Hawrami

Minister of Natural Resources

Schedule 1

Ignitability	Ignitable wastes have a flashpoint of less than 61 degrees Celsius, ignite and propagate combustion in a test sample, and/or generate heat at a rate greater than they lose heat and reach the auto-ignition temperature.
Corrosivity	Corrosive wastes are acids or bases (pH less than or equal to 2, or greater than or equal to 12.5) and/or are capable of corroding metal containers, such as storage tanks, drums, and barrels.
Reactivity	Reactive wastes are unstable under "normal" conditions. They can cause explosions, undergo violent reactions, generate toxic fumes, gases, or vapors or explosive mixtures when heated, compressed, or mixed with water.
Toxicity	Toxic wastes are those that have an oral toxicity LD50 not greater than 5000 mg/kg, wastes that have a dermal toxicity LD50 not greater than 1000 mg/kg, and wastes that have an inhalation toxicity LD50 not greater than 10000 mg/m ³ at normal atmospheric pressure.