Request for information under section 12 of the Freedom of Information Act 2014 (FOI Act)

Dear Sirs,

We hereby request a copy of the records set out below in accordance with section 12 of the FOI Act.

North-South Study May 2011 – May 2013

1. All communications, briefing notes, memos, reports or other records held by the Department of Communications, Energy and Natural Resources (the Department) in relation to the North-South study on all-island air quality in respect of the 2 year period leading up to the announcement of the study on 7 May 2013.

2. All communications between the Department and other government departments in relation to the North-South study on all-island air quality in respect of the 2 year period leading up to the announcement of the study on 7 May 2013.

3. All communications between the Department and Bord na Móna (and associated records relating to such communications e.g. emails, minutes of meetings) in relation to the North-South study on all-island air quality in respect of the 2 year period leading up to the announcement of the study on 7 May 2013.

North-South Study May 2013 - Present

4. All communications, briefing notes, memos, reports or other records held by the Department in relation to the North-South study on all-island air quality in respect of the period since 7 May 2013.

5. All communications between the Department and other government departments in relation to the North-South study on all-island air quality in respect of the in respect of the period since 7 May 2013.

6. All communications between the Department and Bord na Móna in relation to the North-South study on all-island air quality in respect of the period since 7 May 2013.
Air Pollution Regulations

7. All communications, briefing notes, memos, reports or other records held by the Department in relation to the drafting, adoption and implementation of:


S.I. 270 of 2011 - The Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) (Amendment) Regulations 2011

S.I. 714 of 2011 - The Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) (Amendment) (No.2) Regulations 2011

S.I. 326 of 2012 - The Air Pollution Act (Marketing, Sale, Distribution and Burning of Specified Fuels) Regulations 2012

S.I. 30 of 2015 - The Air Pollution Act (Marketing, Sale, Distribution and Burning of Specified Fuels) (Amendment) Regulations 2015

8. Any communications between the Department and Bord na Móna or between the Department and the Department of Environment, Community and Local Government or its predecessors (DECLG) (and associated records relating to such communications, e.g. emails, minutes of meetings) in relation to the drafting, adoption or implementation of any of the abovementioned regulations.

9. All communications, briefing notes, memos, reports or other records held by the Department in relation to the drafting, adoption and implementation of:


and any communications between the Department and Bord na Móna or between the Department and DECLG (and associated records relating to such communications, e.g. emails, minutes of meetings) in relation to the drafting, adoption or implementation of any of these regulations.

10. Any records relating to any proposals to adopt additional Regulations relating to the Marketing, Sale and Distribution of Fuels.

Some of the records in category 9 above were created before the effective date. However, access to these records is necessary in order to understand the other records sought in this request including any records falling with Category 9 that were created after the effective date. Therefore, in accordance with section 11(5)(a) of the FOI Act, we also request access to these records.

We confirm that the requested information should be furnished by email to the following email address:

We await hearing from you.

Yours faithfully,
FOI Request Reference: FOI/2015/73

Dear

I refer to your request which was received by this office on 09/07/2015 which you have made under the Freedom of Information Act 2014 for records held by this FOI body. Your request sought records relating to:

1. The North-South study on all-island air quality May 2011-May 2013
2. The North-South study on all-island air quality May 2013 – Present
3. Air Pollution Regulations

The decision maker handling your request is Margaret Mulhall, Energy Security Division, Department of Communications, Energy and Natural Resources, 29-31 Adelaide Road, Dublin 2 and they can be contacted at 01 6782963. A final decision on your request would normally be sent to you within 4 weeks, where a week is defined as 5 working days excluding the weekend and public holidays. This means that you can expect a decision letter to issue not later than 07/08/2015.

There are some limited situations under the FOI Act which could mean that the period for a final decision may be longer than this 4 week period. If this occurs in the case of your request, you will be advised promptly in writing setting out the reason and the new decision date.

Should our final decision not reach you on time, please feel free to contact the decision maker named above to discuss any problems that may have arisen. If you have not heard from us once the allotted time has expired, you are automatically entitled to appeal for a review of the matter. This review proceeds on the legal basis that the initial request is considered to be refused once the specified time for responding to it has expired. The review is a full and new examination of the matter carried out by a more senior member of staff.

In the event that you need to request such a review, you can do so by writing to FOI Unit, Department of Communications, Energy and Natural Resources, Elm House, Earlsvale Rd, Cavan, Co Cavan or alternatively by sending an e-mail to FOI.UNIT@dcenr.gov.ie. You should state that you are seeking this review because an initial decision was not sent to you within the time allowed for a response. In that event, you would normally have 4 weeks (after the initial decision should have been sent to you) in which to make the appeal. Consideration will be given to late applications in appropriate circumstances.

Please note the Department of Communications, Energy and Natural Resources has a policy of posting a summary of all non-personal FOI requests and decisions on the Departments website.

Yours sincerely,

Carmel Conaty
FOI Unit
6 August 2015

FOI Request - FOI/2015/73

Dear

I refer to the request of 9 July 2015 which you made under the Freedom of Information Act 2014 for records held by the Department of Communications, Energy and Natural Resources relating to the:

- North-South Study May 2011 – May 2013
- North-South Study May 2013 – Present
- Air Pollution Regulations

I have now made a final decision to part grant your request on 6 August 2015.

The purpose of this letter is to explain that decision. This explanation has the following parts:

1. a schedule of all of the records covered by your request;
2. an explanation of the relevant findings concerning the records to which access is denied, and
3. a statement of how you can appeal this decision should you wish to do so.

This letter addresses each of these three parts in turn.

1. Schedule of records
A schedule is enclosed with this letter, it shows the documents that this Department considers relevant to your request. It describes each document and refers to the sections of the FOI Act which apply to prevent release. The schedule also refers you to sections of the detailed explanation given under heading 2 below, which are relevant to the document in question. It also gives you a summary and overview of the decision as a whole.

2. Findings, particulars and reasons for decisions to deny access
The sections of the Freedom of Information Act which can apply to deny access to documents are known as its exemption provisions. I have determined that some of
the documents / deletions listed in the schedule are exempt and it would be contrary to the public interest to release the information.

In this schedule, I refer to Section 29 which refers to the Deliberations of FOI Bodies. I am satisfied that the documents contain information relating to a deliberative process which is still ongoing and releasing these documents / material would be contrary to the public interest.

3. Rights of appeal

In the event that you are unhappy with this decision you may appeal this it. In the event that you need to make such an appeal, you can do so by writing to the Freedom of Information Unit, Department of Communications, Energy and Natural Resources, Elm House Cavan (Tel: 01 678 2903 / E-mail: FOI.Unit@dcenr.gov.ie).

Your correspondence should include a fee of €30 for processing the appeal. Payment should be made by way of bank draft, money order, postal order or personal cheque made payable to “Department of Communications, Energy and Natural Resources”. If you wish to make payment by electronic means please contact: Accounts Receivable, Department of Communications, Energy and Natural Resources, Earlsvale Road, Cavan (Tel: 01 678 2000 / E-mail: accountsreceivable@dcenr.gov.ie).

You should make your appeal within 4 weeks from the date of this notification, where a day is defined as a working day excluding, the weekend and public holidays. However, the making of a late appeal may be permitted in appropriate circumstances. The appeal will involve a complete reconsideration of the matter by a more senior member of the staff of this body.

Should you have any questions or concerns regarding the above, please contact me by telephone on 01 678 2963.

Yours sincerely,

Margaret Mulhall
Energy Security Division

Faiditear roimh comhfháirgras i nGaeilge
FOI Request Reference:

Schedule of Records For Philip Lee, Solicitors, 7/8 Wilton Place, Dublin 2.
Ref: FOI/2015/73

Summary of Decision Making

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<td>Letter from Mr E Confrey, Department of the Communications, Energy and Natural Resources to Mr D Walsh, Department of the Environment, Community and Local Government - Use of term “smokeless” in advertisement of Bórd na Móna Peat Briquettes</td>
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<td>E-mail and attached letter – Letter from Mr E Confrey, Department of Communications, Energy and Natural Resources to Mr G Ryan, Bórd na Móna - Use of term “smokeless” in advertisements of Bórd na Móna</td>
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<td>Letter (+ enclosure) from Mr J McDermott, Department of the Environment to Mr L Daly, Department of Public Enterprise – Air Pollution Act 1987 (Marketing, Sale and Distribution of Fuels) Regulations, 1998 (S.I. 118 of 1998)</td>
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10 September, 1998

Mr. Liam Daly,
Department of Public Enterprise,
44 Kildare Street,
Dublin 2.

Re: Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels)

Dear Liam,

I enclose for your information public information leaflets prepared by this Department and soon to be delivered by An Post to all homes and businesses in the new “restricted areas” of Arklow, Drogheda, Dundalk, Wexford Town and Limerick City and contiguous built-up areas as set out in the above regulations.

Yours sincerely

[Signature]

P.P. John McDermott,
Assistant Principal Officer,
Air/Climate Section.
Ext. 2373.

c.c. Mr. Brown, Peat & Electricity Division
Ban on Bituminous Coal in Wexford Town and adjoining built-up areas
The word "restricted area" appears multiple times in the document, indicating that there are designated areas where certain activities or behavior are prohibited. The text also mentions "Where exactly is the restricted area?" and "Where will the signs operate?" suggesting that these areas are marked with signs. Additionally, there is a mention of "What type of solid waste can I burn?" which implies that the document might be related to waste management or environmental regulations. The use of technical terms and the structured format of the document also suggest it is an official or governmental document. The context and structure of the text lead to the conclusion that it is likely a regulatory or informational piece related to waste disposal or restricted areas.
Does the ban apply to main fuel merchants?

Yes, as well as applying to main fuel merchants (wholesale and retail), all coal lorries, coalmen "bellmen" etc. operating within a restricted area and all solid fuel retailers including shops, garage forecourts etc. within a restricted area are prohibited from selling banned fuels. If a trader offers banned fuels for sale within the area, he/she is breaking the law and risks prosecution.

What penalties are provided for?

As the ban is aimed at the solid fuel trade, there is no offence attaching to a member of the public purchasing banned fuels. Marketing, selling or distributing banned fuel can attract a fine of up to £1,000 and/or up to six months imprisonment upon conviction in the District Court. On conviction in a higher court the penalties are more severe - up to £10,000 in fines and/or two years imprisonment.

How will I recognise legitimate solid fuels?

The regulations require bags of smokeless fuels sold legitimately in a restricted area to be sealed with the following notice printed on the bag:

"SMOKELESS FUEL - Contents comply with the Air Pollution Act Regulations".

Any unsealed or unlabelled bags of fuel should be considered to be banned and not for legitimate sale within a restricted area.

Solid fuel sold in bales or in units other than bags (e.g. bales of briquettes) do not require labelling but must also meet the requirements of the regulations.

Your local solid fuel trader can advise you on the various different brands of smokeless fuel products available on the market.
April, 1998

Mr. Liam Daly
Department of Public Enterprise
44 Kildare Street
Dublin 2

Dear Liam,

I enclose for your information a copy of regulations governing the marketing, sale and distribution of solid fuels in certain urban areas and a circular letter to local authorities on implementation of the regulations.

Yours sincerely

John McDermott
Air Quality/Climate Section

Extension 2373
Circular Letter AQ 3/98

24 April, 1998

Ban on Bituminous Solid Fuels in certain urban areas

Extension of Bituminous Coal Ban

Bans on the marketing, sale and distribution of bituminous fuels already operate successfully in the built-up areas of Dublin since 1990 and Cork since 1995. The two cities now experience far better air quality than during the 1980s when winter smog was a public health hazard.

The five urban areas to which the ban will now be extended for next winter's heating seasons were chosen on the basis of an analysis of air quality monitoring results over recent years. While mandatory national and EU air quality standards were not breached anywhere in Ireland during the 1996-1997 heating season (October - March), higher than average smoke levels were experienced in the five areas. In banning bituminous coal in these areas, the Government is adopting a precautionary approach - one which will achieve the better standards enjoyed by Dublin and Cork. Air quality data in all other monitored urban areas were also assessed, and although preventive measures are not proposed elsewhere at present, the data and the need for further action will be kept under ongoing review.

New Regulations

The Minister of State at the Department of the Environment and Local Government, Mr Dan Wallace T.D., has made Regulations under the Air Pollution Act, 1987 banning the marketing, sale and distribution of certain solid fuels in the urban areas of Arklow, Cork, Drogheda, Dublin, Dundalk, Limerick and Wexford.


The purpose of the Regulations is to restate the existing ban on the sale of bituminous fuels in Dublin and Cork, and to extend the ban to the five other areas listed. The Regulations also ban the marketing, sale and distribution of fuels with a high sulphur content (above 2%), any manufactured fuel that does not comply with the requirements regarding quantities of smoke emitted, and any mixture of fuels containing any bituminous fuels.

The new Regulations come into force on 1 October 1998. All existing Regulations relating to the marketing, sale and distribution of bituminous fuels in Dublin and Cork are repealed with effect from the same day. The advance notice of the new Regulations and repeal of existing Regulations is to provide the solid fuel trade adequate time to adjust contracts and other arrangements to provide sufficient smokeless fuels in the restricted areas.
Local authorities will also have time to put in place enforcement arrangements to ensure a smooth transition to the ban on bituminous coal and high sulphur fuels.

7. The opportunity has been taken to consolidate and amend the existing smokeless fuel Regulations, following a consultation process with the local authorities where there are restricted areas currently and with the solid fuel industry. The main provisions of the new Regulations are set out in Appendix I and the main changes from the Regulations presently in force in Cork and Dublin are set out in Appendix II.

**Supplementary Fuel Allowance**

8. It is recognised that smokeless and low sulphur fuels are somewhat dearer than corresponding bituminous and high sulphur fuels. It will be noted that with the higher calorific value of permitted fuels, this price differential is not as large as prices per unit weight would suggest. However, to assist lower income households with the increased cost of smokeless solid fuel, the Department of Social, Community and Family Affairs pays a supplementary fuel allowance to qualifying social welfare recipient during the winter heating season (October to March).

9. The annual cost of this payment to the Exchequer is £8.8m per annum.

**Enforcement**

10. Local Authorities have a very important role in ensuring the success of the new Regulations in providing an improved quality of urban air in the restricted areas.

To ensure that the maximum return in improvements in air quality and value for money are received from this payment by the State, it is important that local authorities put in place adequate enforcement procedure to ensure that banned fuels are not marketed, sold or distributed inside a restricted area. These enforcement procedures should include adequate personnel and resources to carry out sufficient inspection and sampling of fuel in fuel merchants and on vehicles distributing or selling solid fuel within a restricted area to ensure that all fuel complies with the requirement of the Regulations.

11. Some revisions and updating have been made to the enforcement provisions of the Regulations to ensure local authorities have efficient and effective enforcement powers.

12. It is understood that the authorities in Dublin and Cork use Environmental Health Officers for enforcement duties. The authorities in the five new restricted areas may wish to examine the possibility of similar arrangements, but alternative arrangements may be preferred for local reasons.

13. Local authorities are reminded that agency arrangements may be made under section 59 of the Local Government Act, 1955.
All local authorities are asked to advise the Department of their proposed arrangements by 30 August, 1998.

**Public Awareness**

The Department intends to use "Postaim" to send leaflets to all households in the five new areas prior to the start of the heating season. Local Authorities should consider supplementing this publicity by local action and liaison with the local solid fuel trade may be useful in this regard.

**Smokeless Solid Fuels**

The typical smokeless and low sulphur solid fuels for sales in restricted areas are:

- peat (machine turf, loose and baled briquettes)
- ovoids
- anthracites
- petcoke/ovoid blend
- petcoke/nugget blend
- brown coal nuggets

Most of these are available under different brand names and the local solid fuel trade will be able to advise local authorities of the range they intend to carry.

Any queries about this Circular Letter should be made to Ms. Ann Cody at (01) 6793377 ext. 2472 or the undersigned.

John McDermott
Assistant Principal Officer
Air/Climate Section
Ext. 2373

To: Dublin Corporation, Cork Corporation, Limerick Corporation, Clare County Council, Cork County Council, Dun Laoghaire - Rathdown County Council, Fingal County Council, Limerick County Council, Louth County Council, Meath County Council, South Dublin County Council, Wexford County Council, Drogheda Corporation, Wexford Corporation, Wicklow County Council, Arklow UDC, Dundalk UDC.
Appendix I

Contents of Air Pollution Act, 1987

(Marketing, Sale and Distribution of Fuels) Regulations, 1998

(S.I. of 1998)

Note: This is provided for guidance only and is not a legal interpretation of the Regulations.

Article 1 provides for entry into operation on 1 October 1998; Article 10 provides for the repeal of all current Marketing, Sale and Distribution Regulations for Dublin and Cork on the same day.

Article 2 provides for necessary definitions. “Owner of a vehicle” includes both mechanically propelled and horsedrawn vehicles.

Article 3 bans the marketing, sale on distribution within the restricted areas of a list of fuels. The storing or burning of such fuels is not prohibited, should a householder carry a banned fuel into a restricted area from outside for his/her own use. A fuel merchant is not prohibited from stocking banned fuels inside a restricted area, but only for sale outside the area. Article 3(2) allows the transport of such fuel for sale outside a restricted area, provided it is transported in sufficiently large quantities (3 tonnes in Dublin, 1 tonne elsewhere) and provided the vehicle transporting such fuel is not distribution or selling any other fuels inside the restricted area (such as smokeless fuels).

While there are particular provisions in relation to fuel merchants in the Regulations, the scope of Article 3(1) is sufficiently broad to prohibit the marketing, sale or distribution of banned fuels from any premises in a restricted area (e.g. shops, garage forecourts).

The banned fuels listed in Article 3 are:
- high sulphur fuels (greater than 2%) Article 3 (1)(a); some alternative fuels which may be offered for sale illegally inside restricted areas can have a significantly higher sulphur content. If enforcement arrangements do not prevent its sale, such fuel can increase ambient levels of SO₂, with adverse consequences for public health;
bituminous coal Article 3 (1)(b);
- any fuel mixture containing bituminous coal (Article 3 (1)(c);
- manufactured fuels having an unacceptably high smoke content.

Article 4 provides that all smokeless fuels in a bag must be sealed and must contain a message that the fuel is smokeless (the specified text is in the Second Schedule viz. "SMOKELESS FUEL - Contents of this bag comply with the Air Pollution Act Regulations").

Article 5 lists the test standards. A number of laboratories in Ireland can carry out all tests except the smoke emission test for manufactured fuels; this test may be carried out in a number of facilities in the UK (at least one Irish laboratory contracts out this test to a UK partner).

Article 6 provides that a fuel merchant inside a restricted area must maintain a monthly register of stocks and movements of banned fuels, including the details of who transported the fuel into and out of the restricted area, and its destination.

Article 7 requires a vehicle transporting banned fuel inside a restricted area to have on board details of the amount, sources and destination of this fuel.

These two Articles provide a mechanism to allow local authorities to ensure that banned fuel is being transported through banned areas only for legitimate storage inside the area or legitimate sale outside the area.

Article 8(1), 8(2) and 8(3) area procedural to allow local authorities appoint authorised persons to enforce the Regulations. The authorised person need not necessarily be in the employment of the local authority.

Article 8(4) sets out the enforcement, inspection and sampling powers of an authorised person. While these will normally be operated inside a restricted area, it is open to an authorised officer to exercise them outside the restricted area should the circumstances require.
Article 9 sets out the procedures for taking and recording samples, and the notification of the person from whom the sample is taken. The procedures are necessary to ensure the chain of evidence for prosecution, and Article 9 (3) provides that the result of a test carried out in pursuance of the Regulations is sufficient proof of the outcome of the test, unless the contrary is shown.

The First Schedule sets out the restricted areas. Dublin and Cork are unchanged from the current Regulations. The additional areas encompass the whole of the county borough, borough corporation or urban district, as appropriate, together with the built up environs.

The Second Schedule prescribes the form and content of the label to be exhibited on bags of smokeless fuels within a restricted area.
Appendix II
Principal Amendments to Regulations previously in force
in Dublin and Cork

Article 1: New operational date of 1 October, 1998 to coincide with commencement of
1998 - 1999 winter heating season.

Article 2: New definition of “owner of a vehicle” includes both registered owner and person
in charge of a vehicle to strengthen enforcement powers. Horse-drawn vehicles are included
under this definition.

New definition of “restricted area” to include additional areas.

Article 3(1)(a): Clarification that “solid fuel” encompasses all forms of such fuel e.g. bag, bale
or other unit of sale. Reference to a bag of solid fuel to allow for greater ease of sampling
and remove doubts about need to sample individual fuels within a bag separately.

Article 3(2)(a): Reduction of tonnage of smoky fuel allowed to be transported through Cork
for sale outside the restricted area from 3 to 1 tonnes, given smaller trade composition and
smaller vehicle sizes used compared to Dublin. All new restricted areas to be subject to 1
tonne limit also for similar reasons. The 3 tonne limit is to remain in Dublin.

Article 4: Extension of provision requiring sealing of bags to all restricted areas to strengthen
and simplify enforcement. Sealing of bags together with the labelling requirement will permit
quick and ready identification of smokeless fuels.

Article 5(7): Any laboratory which can carry out the test to the required standards is allowed
to test fuels. This will permit local authorities to source testing in a wider variety of
laboratories and at more economical rates. All test methods are currently carried out at Irish
establishments with the exception of the smoke emission test, which is carried out at facilities
in the UK (at least one Irish laboratory contracts out this test to a UK partner).
Article 7: Inclusion of name and address of person purchasing fuel in addition to destination of fuel to tighten enforcement of transport of banned fuel within a restricted area for sale outside the area.

Article 10: Revocation of existing regulations.

First Schedule: Restatement of restricted areas of Cork and Dublin (unchanged) and delineation of new restricted areas in Limerick, Arklow, Drogheda, Dundalk and Wexford and contiguous built-up areas.

STATUTORY INSTRUMENTS
S. I. No. 118 of 1998

AIR POLLUTION ACT, 1987 (MARKETING, SALE AND DISTRIBUTION OF FUELS) REGULATIONS, 1998

Dublin
Published by the Government Supplies Agency
(Pa. 5472) Price £2.00
a reference to an International Standard is a reference to a standard published by the International Organisation for Standardisation;

“fuel merchant” means any person or body who or which carries out solely or mainly the business of the wholesaling or retailing of solid fuels;

“owner of a vehicle” means the person in possession of or, for the time being, in charge of a vehicle, howsoever propelled or drawn and, with respect to a mechanically propelled vehicle, includes the registered owner for the purposes of the Road Vehicles (Registration and Licensing) (Amendment) Regulations, 1994 (S.I. No. 277 of 1994);

“restricted area” means an area specified in the First Schedule to these Regulations.

3. (1) A person or body shall not place on the market, sell or distribute within a restricted area -

(a) any bag, bale or other unit of sale of solid fuel having a sulphur content greater than 2% by weight on a dry ash-free basis,

(b) any coal having a gross calorific value greater than, or equal to, 24 Megajoules per kilogram on a moist ash-free basis which contains more than 14% volatile matter by weight on a dry ash-free basis,
(c) any admixture of the coal referred to in paragraph (b) of this sub-article with any other coal or fuel, or

(d) any manufactured fuel containing the coal referred to in paragraph (b) of this sub-article where such manufactured fuel contains more than 14% volatile matter by weight on a dry ash-free basis save where such fuel has a smoke emission rate of not more than 10 grams per hour.

(2) Notwithstanding sub-article (1) of this article, a fuel merchant may transport any of the fuels referred to in sub-article (1) of this article within a restricted area provided-

(a) that such fuels are so transported on or in a vehicle in a total quantity of not less than 3 metric tonnes in weight at any one time in the case of the restricted area of Dublin and not less than 1 metric tonne in weight at any one time in the case of any other restricted area, and

(b) that such vehicle is not being used at the same time within that restricted area for the sale or distribution of any other fuels.

4. A person or body shall not place on the market, sell or distribute within a restricted area any solid fuel in a bag unless-

(a) such bag is sealed, and

(b) there is printed on such bag a notice in the form set out in the Second Schedule to these Regulations.
5. For the purposes of these Regulations -

(1) the sulphur content of a solid fuel shall be determined by the method for the time being specified in International Standard reference ISO 351;

(2) the gross calorific value shall be determined by the method for the time being specified in International Standard reference ISO 1928 and the moisture level for the purposes of expressing gross calorific value on a moist ash-free basis shall be the level corresponding to moisture holding capacity as determined by the method for the time being specified in International Standard reference ISO 1018;

(3) the volatile matter content shall be determined by the method for the time being specified in International Standard reference ISO 562;

(4) the smoke emission rate of a manufactured fuel shall be determined by the method for the time being specified in British Standard 3841: 1994;

(5) the ash content of a solid fuel shall be determined by the method for the time being specified in International Standard reference ISO 1:71;

(6) the method to be used for calculating analyses of fuels to different bases shall be the method for the time being specified in International Standard reference ISO 1170;
(7) a laboratory or test facility may carry out any test, examination or analysis of any sample of fuel taken pursuant to these Regulations in accordance with the methods specified in sub-articles (1) to (6) of this article:

6. A fuel merchant who, at any premises located within a restricted area, stores for the purpose of placing on the market, sale or distribution outside that area any of the fuels referred to in sub-article (1) of article 3 of these Regulations shall maintain a register in which shall be entered -

(a) on the day of coming into operation of these Regulations and on the last day of every month, details of the quantity of each such fuel stored at the premises on that day, and

(b) each day upon which the premises is open for business, details of any transport of any such fuel from the premises, including the name and address of the person who transported the fuel, the quantity of each fuel transported, and the destination to which it was transported.

7. The owner of any vehicle which is used for the transport of any of the fuels referred to in sub-article (1) of article 3 of these Regulations within a restricted area shall retain on the vehicle -

(a) a statement of the quantity of each such fuel on the vehicle and the name and address of the person or body who supplied the fuel, and

(b) a statement of the destination or destinations of the fuel and the name and address of the person or persons purchasing the fuel.
8. (1) These Regulations shall be enforced by a local authority within its functional area.

(2) The local authorities referred to in sub-article (1) of this article may authorise in writing any person, hereinafter referred to as an "authorised person", for the purposes of the enforcement of these Regulations.

(3) Every authorised person shall be furnished with a certificate of his or her authorisation and when exercising any power provided by or under these Regulations, the authorised person shall, if requested by any person affected, produce the certificate to that person.

(4) An authorised person may, in respect of any vehicle or any premises which, in his or her opinion, is being used in connection with the placing on the market, sale or distribution of solid fuel within a restricted area:

(a) inspect and take samples of any solid fuel on the vehicle or at the premises,

(b) inspect such records or such documents as the authorised person, having regard to all the circumstances, considers necessary for the purposes of these Regulations, or

(c) require from the owner or occupier of the premises or from any other person on the premises, or require from the owner of a vehicle, such information as the
authorised person, having regard to all the circumstances, considers necessary for the purposes of these Regulations.

(5) A person shall not obstruct an authorised person in the exercise of his or her powers under these Regulations or wilfully withhold any information which the authorised person requires.

9. (1) Where an authorised person takes a sample of any solid fuel from any vehicle or premises pursuant to these Regulations, the authorised person shall -

(a) forthwith notify an appropriate person that a sample has been so taken and give a receipt in respect of the sample to the appropriate person, and

(b) at the time of taking the sample, attach to the sample's container or packaging, as appropriate, a label specifying the date on which the sample was taken and an appropriate identification number for that sample.

(2) In this article "appropriate person" means the owner or occupier of, or any other person who appears for the time being to be in charge of, the premises at which the sample is taken, or the owner of a vehicle from which the sample is taken.

(3) Any evidence given or to be given in respect of any test, examination or analysis of any sample of fuel taken pursuant to these Regulations shall identify such sample by reference to its identification number and shall in relation to that sample be
evidence, without further proof, of the result of the test, examination or analysis, until the contrary is shown.

FIRST SCHEDULE
RESTRICTED AREAS

RESTRICTED AREA OF DUBLIN
The county borough of Dublin and the administrative counties of Dun Laoghaire-Rathdown, Fingal and South Dublin excluding the following areas:

Dun Laoghaire-Rathdown
1. The District Electoral Division of Tibradden.
2. That part of the District Electoral Division of Glencullen situated west of an imaginary line drawn as follows:

Commencing at the junction of Slate Cabin Lane and Woodside Road, thence in a south-easterly direction and proceeding along Woodside Road and Ballyedmonduff Road to the county boundary at Glencullen Bridge.

Fingal
3. The District Electoral Divisions of:

Balbriggan Rural
Balbriggan Urban
Ballyboghill
Balscadden
Clonmetheen
Donabate
Garristown
Hollywood
Holmpatrick
Kilsallaghan
Lusk
Rush
Skerries

4. That part of the District Electoral Division of Swords - Lissenhall situated north of the Broad Meadow River.

South Dublin
5. The District Electoral Divisions of:

Ballyascalony
Newcastle
Rathcoole
Saggart

6. That part of the District Electoral Division of Bohernabreena situated south of an imaginary line drawn as follows:

Commencing at the junction of Kilmore Road and Ballymara Lane, thence in an easterly direction to the junction of Daltree Road and Oldcourt Road.
RESTRICTED AREA OF CORK
The county borough of Cork together with the included areas of the administrative county of Cork. The included areas of the administrative county of Cork are:

1. The District Electoral Divisions of:-
   Ballincollig       Lehenagh
   Douglas           Rathcooney
   Inishkenny

2. That part of the District Electoral Divisions of Bishopstown and St. Mary's not within the county borough of Cork.

RESTRICTED AREA OF LIMERICK
The county borough of Limerick together with the included areas of the administrative county of Limerick and the included areas of the administrative county of Clare.

The included areas of the administrative county of Limerick are:-

1. in the District Electoral Division of Ballycummin, the townlands of:-
   Ballycummin          Dooradoyle
   Ballykeeffe         Gouldavoher
   Baunacloka           Moneteen
   Bunlicky             Skehecreggaun
   Castlemungret       Sluggary

2. in the District Electoral Division of Limerick North Rural, the townlands of:-
   Ballygrennan         Coonagh East
   Caherdavin           Coonagh West
   Clonconane           Knock
   Clondrinagh          Shannabooly
   Clonmacken
3. in the District Electoral Division of Ballysimon, the townlands of:-

Ballysimon
Ballysimon (Dickinson)
Dromroe
Garryglass
Kilbane

Newcastle
Newtown (E.D. Ballysimon)
Peasfield
Sreelane
Towlerton

4. in the District Electoral Division of Limerick South Rural, the townlands of:-

Banemore
Bohereen (E.D. Limerick South)
Crabb's-land
Crossagalla
Monaclinoe
Rathbane South

Reboge
Reboge Meadows
Rossbrien
Singland

5. in the District Electoral Division of Ballyvara, the townlands of:-

Castletroy
Rivers

The included areas of the administrative county of Clare are:-

in the District Electoral Division of Ballyglass, the townlands of:-

Athlunkard
Ballykeelaun
Fairyhill
Garraun
Gortatogher

Knockballinameath
Kilquane
Parteen
Quinspool South

RESTRICTED AREA OF ARKLOW
The urban district of Arklow together with the included areas of the administrative county of Wicklow. The included areas of the administrative county of Wicklow are:-

1. in the District Electoral Division of Kilbride (Arklow), the townlands of:-
Kilbride
Killiniskyduff
Seabank

2. in the District Electoral Division of Arklow Rural, the townland of Moneylittle.

RESTRICTED AREA OF DROGHEDA
The borough of Drogheda together with the included areas of the administrative county of Meath. The included areas of the administrative county of Meath are:

in the District Electoral Division of St. Mary's, the townlands of:

Lagavooeren
Bryanstown

RESTRICTED AREA OF DUNDAK
The urban district of Dundalk.

RESTRICTED AREA OF WEXFORD
The borough of Wexford together with the included area of the administrative county of Wexford. The included area of the administrative county of Wexford is all that area comprised between the existing borough boundary and an imaginary line drawn as follows:

from a point on the coast at Wexford Harbour, along the north eastern townland boundaries of Tincone and Crosstown in a north westerly direction to regional road No. 741-25; thence along regional road No. 741-25 in a northerly direction to the junction with local road No. LS 7010-02, then along local road No. LS 7010-02 in a south westerly direction for 400 metres; thence north for 150 metres then turning in a westerly direction along the southern-most boundary of Crosstown cemetery (excluding the cemetery) until reaching the eastern bank of the River Slaney.

From a point on the western bank of the River Slaney, along the northern and eastern boundaries of 1townparks townland, to the junction of regional road No. 730-16 and local road No. LP 3010-01, then west along regional road No. 730-16 to the junction with local road No. LT 30123 at Park townland; thence south along local road No. LT 30123 to the junction with local road No. LP 3012-01, then along the western boundary of Carricklawn townland, until it meets the regional
road No. 769-02 at Wexford racecourse; thence in an easterly direction along the regional road No. 769-02 for 300 metres; thence traversing the eastern and southern boundaries of Wexford racecourse (excluding the racecourse) until meeting Coolcotts Lane (local road No. LP 3013-01); thence turning west along Coolcotts Lane for 130 metres, and south along the western boundary of Townparks townland until it reaches local road No. LP 3014-01; thence crossing Clonard Little townland in a southerly direction until it reaches regional road No. 733-22; thence crossing east along the townland boundary of Killeens and then crossing the townland of Ballynagee and the southern townland boundary of Whiterock North, until it reaches local road No. LP 3016-01 at Whiterock Hill; thence traversing the townland of Whiterock South, along the western, northern and eastern boundaries of Wexford golf course (excluding the golf course) until it reaches Mulgannon Lane (local road No. LP 3039-01); thence crossing the townland of Mulgannon as far as the townland boundary, and travelling north east along this townland boundary for 250 metres and then crossing Rocksborough townland as far as local road No. LP 3039-01 and on to the junction with regional road No. 730-18 at Kerlogue; thence travelling north along regional road No. 730-18 to Wexford Town until reaching the southern townland boundary of Maudlittown, and from there crossing east along this townland boundary to the coast at Wexford Harbour.
SECOND SCHEDULE

Form of notice referred to in article 4 (b).

In letters at least 2 centimetres high and in a form which is clearly legible -

(i) the name and address of the person who packed the bag, and

(ii) "SMOKELESS FUEL - Contents comply with the Air Pollution Act Regulations".

For the purposes of this Schedule, a reference to the "Air Pollution Act Regulations" shall be construed as a reference to these Regulations.

Dated this 22nd day of April, 1998

DAN WALLACE

Minister of State at the Department of the Environment and Local Government
EXPLANATORY NOTE

(This is not part of the Instrument and does not purport to be a legal interpretation).

These Regulations revoke, and replace with some amendments, the Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) Regulations, 1990 to 1993 and the Air Pollution Act, 1987 (Marketing, Sale and Distribution of Fuels) (Cork) Regulations, 1994 relating to the ban on the marketing, sale or distribution of certain fuels within the restricted areas of Dublin and Cork.

The Regulations also provide for the introduction of the same ban in the restricted areas of Arklow, Drogheda, Dundalk, Limerick and Wexford.

The Regulations come into force on 1 October, 1998.
From: Andrew Caldicott - (DECLG) (mailto:Andrew.Caldicott@environ.ie)
Sent: 08 June 2015 13:08
To: John Rice
Cc: Micheal Young - (DECLG); Emmet Fahy - (DECLG); Paul McDonald - (DECLG)
Subject: RE: SWIFT 7

Hi John

There is no date fixed as yet for the commencement of Section 51, but discussions are on going.

The final report of the NS Report is some way off. The Interim Report was presented at NSMC in May, and a period of stakeholder consultation is now underway. We will be pressing to have the report finalised asap, but this is not entirely within our gift.

I’ll come back to you on the SWIFT7.

Regards

Andrew Caldicott
Assistant Principal Officer
Air Quality and Environmental Radiation Policy
Department of the Environment, Community and Local Government
2nd Floor South Block
Newtown Road
Wexford

Tel: 053 9117353

From: John Rice (mailto:John.Rice@dcenr.gov.ie)
Sent: 04 June 2015 15:54
To: Andrew Caldicott - (DECLG)
Cc: Des Byrne
Subject: SWIFT 7

Hi Andrew,

Is there an update available on the status of the revisions to SWIFT 7 and what is the expected timeline for commencing Section 51 if the 2013 Act – is it the expected for September/October this year?

Also, regarding the North-South study to examine options to reduce household emissions from the use of smoky coal and other solid fuels in both jurisdictions, has the final report been produced (the last I heard that it has been intended to have it presented at the NSMC meeting in May.
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Tá eolas sa teachtaireacht leictreonach seo (agus b’fhéidir sa chomhaid ceangailte leis) a d’fhéadfadh bheith próbháideach nó faoi rún. Is le h-aghaidh an duine/na ndaoine nó le h-aghaidh an aonán atá ainmnithe thuas agus le haghaidh an duine/na ndaoine sin amháin atá an t-eolas. Murph ionann tusa agus an té a bhfuil an teachtaireacht ceaptha dó bhfodh a fhios agat nach gceadaítear nochtadh, cóipeáil, scaipeadh nó úsáid an eolais agus/nó an chomhaid seo. Más trá earráid a fuair tú an teachtaireacht leictreonach seo cuir, més é do thoil é, an té ar sheol an teachtaireacht at an eolas láithreach. Deimhnítear leis seo freisin nár aims odh vreás sa phost seo tar éis a scanadh.

*************************************************************************
Is faoi rún agus chun úsáide an té nó an aonán atá luaite leis, a sheoltar an ríomhphost seo agus aon comhad atá nasctha leis. Má bhfuair tú an ríomhphost seo trá earráid, déan teagmháil le bhainistíochta an chóirí.

Deimhnítear leis an bhfo-nóta seo freisin go bhfuil an teachtaireacht ríomhphoist seo scuabtha le bogearrái frithfhórais chun fhoirisiú ríomhaire a aimísíu.

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**************************************************************************
From: John Rice
Sent: 22 July 2015 12:28
To: Des Byrne
Subject: FW: north south study on residential emissions

From: Gary McGuinn - (DECLG) [mailto:Gary.McGuinn@environ.ie]
Sent: 15 April 2014 17:08
To: John Rice
Subject: north south study on residential emissions

John,

Attached are the terms of reference and request for tender for the north-south study that is currently underway on residential emissions from solid fuel. CPL is on the stakeholders list. A final report is due in Aug/Sept.

Regards

Gary McGuinn
Assistant Principal Officer
Air Quality and Environmental Radiation Policy
Department of the Environment, Community and Local Government
Newtown Road
Wexford
(053) 9117353
At its meeting on 23 April 2013, the North South Ministerial Council agreed that in order to improve air quality on an “all island” basis, officials should prepare terms of reference for a study and have them approved as soon as practicable at another NSMC meeting. The research study will be jointly commissioned, funded and overseen by the Department of Environment (NI) and the Department of Environment, Community and Local Government. Subject to appropriate procurement arrangements, it is envisaged that the duration of the research project would be approximately six months.

The following are the proposed **Terms of Reference** for the study:

1. Carry out an assessment of the following topics on a Northern Ireland/Ireland basis, based *inter alia* on available emissions and ambient air quality monitoring data:
   - current levels of air pollution (including PM$_{10}$, PM$_{2.5}$, and PAHs) in the context of EU standards and WHO guideline values
   - significance and pollution intensity of residential heating and ‘smoky’ coal burning as a source of current air pollution
   - residential heating and solid fuel markets including import data
   - smoke control legislation and enforcement.

2. Evaluate regulatory and enforcement options
   - enhanced enforcement of existing smoke control legislation
   - increased legislative measures
   - further controls on the marketing of smoky coal and promotion of alternative cleaner residential fuel e.g. gas, oil or cleaner solid fuels
   - consult with relevant stakeholders including institutional, regulatory, industrial, public health stakeholders and other interested parties
   - consider relevance of revision to EU Thematic Strategy on Air Pollution.

3. Carry out an assessment of the potential effects of policy proposals on:
   - all-island, Northern Ireland and Ireland residential fuel markets
   - impacts on vulnerable sections of the population (including potential health benefits and fuel poverty issues)
   - economic analysis of residential fuel supply sector and positive and negative effects on consumer from potential fuel switching etc.

4. Using a cost-benefit analysis, and taking into account the outcomes from Stages 1 to 3, make recommendations for the most appropriate, proportionate and effective way to reduce air pollution from residential heating in both jurisdictions.
North-South Research Study on Policy Options to Reduce Emissions from Residential Solid Fuel, in Particular ‘Smoky’ Coal, Combustion

Terms of Reference

5. An interim report will be delivered three months after commencement of the research study, and the final report after six months.
North-South Ministerial Council
DOENI and DECLG Joint Research Study

Policy Options to Reduce Emissions from 'Smoky' Coal and other Residential Solid Fuels.

Request for Tender - August 2013
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1.1 INTRODUCTION

At the North South Ministerial Council (NSMC) on 23rd May 2013, the Ministers for Environment in Northern Ireland and Ireland, Ministers Attwood and Hogan, decided to commission a joint research study on policy options to address the problem of emissions to air from residential solid fuel combustion, in particular from bituminous coal (commonly referred to as 'smoky' coal), across and between both jurisdictions. The ministers elaborated further on the aims of the joint research study and the wider context in each jurisdiction in their respective press releases subsequent to the NSMC.

1.2 BACKGROUND

Air quality is a fundamental determinant of quality of life and the wellness of citizens. It is addressed by EU legislation at a number of levels, with the overall aim of achieving, at a minimum, ambient air quality standards for the protection of human health and the environment. Delivery of this overall aim is supported by complementary national emission ceilings and EU wide emission controls for various pollution sources including road vehicles and industrial installations. However, other significant sources, for example, residential emissions are currently regulated at national level, though they can be a significant source of both local and transboundary air pollution. The revised EU Thematic Strategy on Air Pollution is due for publication later this year and may contain proposals to address residential emissions, for example, by setting emission standards for new residential stoves and/or by setting quality standards for certain solid fuels.

EU directives 2008/50/EC and 2004/107/EC set ambient air quality standards (AAQSs) for a range of pollutants that are known to be injurious to human health, including particulate matter (PM$_{10}$, PM$_{2.5}$) and Polycyclic Aromatic Hydrocarbons (PAHs). The current EU ambient air quality standards for PM provide for a minimum level of health protection; however, the WHO guideline values for PM and PAH are significantly lower. Recent findings of the WHO strengthen the evidence base that health impacts occur below EU standards, and that public health benefits result from reductions in PM even at levels below EU standards. In recognition of this, EU legislation also sets an exposure reduction target, to be achieved by 2020, which aims to reduce levels of fine particulate matter even at ambient levels below those standards.

The EU’s 7th Environmental Action Programme was agreed in June and will be formally adopted in November this year. In order to safeguard EU citizens from environment-related pressures and risks to health and wellbeing, the programme commits, in relation to air quality, to ensuring that by 2020, outdoor air quality in the EU has significantly improved moving closer to WHO recommended levels, while indoor air quality has improved, informed by the relevant WHO guidelines. The Programme highlights that a substantial portion of the EU’s population remains exposed to levels of air pollution, including indoor air pollution, exceeding WHO recommended standards and identifies that, 'inter alia, local coal-fired heating is a significant source of mutagenic and carcinogenic polycyclic aromatic hydrocarbons (PAHs) and dangerous emissions of particulate matter (PM$_{10}$, PM$_{2.5}$ and PM$_{1}$).
Both the UK and Ireland are members of the international Climate and Clean Air Coalition (CCAC) which has the aim of reducing short-lived climate pollutants (SLCPs) to address the climate, environment and human health impact of SLCPs. Black carbon, a constituent of particulate matter, is a prominent SLCP. Air quality policy has historically focused on particulate matter rather than its black carbon fraction, however since the inclusion of black carbon in the UNECE Convention on Long-Range Transboundary Air Pollution, increasing focus will be placed on development of national black carbon inventories. National targets to reduce particulate matter, can implicitly imply a national target for black carbon reduction.

2.1 EMISSIONS FROM RESIDENTIAL FUELS

Air pollutants from residential fuels are disproportionately emitted by solid fuels. The precise amount of pollution depends on a range of factors, including the quality of the fuel, the efficiency of combustion and whether any abatement is installed. Typical emission factors are published for the purposes of compiling emission inventory estimates and these allow for indicative comparison between different fuels. The table in Annex I sets out the indicative pollution intensities for a range of fuels and pollutants compared to emissions from home heating oil. From Annex I, it can be seen that for NOx (oxides of nitrogen), emissions from solid fuels are broadly comparable to those from gas and oil. However, for all the other pollutants, emissions from solid fuel are significantly higher. Smoky coal is the most polluting coal or coal product for particulate matter (PM_{10} and PM_{2.5}); emissions are, respectively, 125 and 52 times greater than from home heating oil. Sulphur dioxide (SO2) emissions depend on the sulphur content of the particular fuel; low sulphur coal (<0.7% S) has emissions comparable to those from anthracite and smokeless solid fuel, and just over 10 times greater than those from home heating oil. However, emissions of PAHs from smoky coal are very much higher than from other coal or coal products: over 50 times higher than from anthracite and over 5 times higher than from smokeless solid fuel. Natural gas is the cleanest fuel with negligible emissions for all the pollutants except NOx for which its emissions are similar to the other fuels. Estimates for emissions from other residential solid fuels, namely peat, peat coke and wood, are included in the table in Annex I, which show elevated emissions compared to gas and oil. Further EPA research is on-going to determine Ireland-specific emission factors for a range of residential solid fuels.

2.2 IMPACT OF SMOKY COAL EMISSIONS

Smoky coal is a significant source of particulate matter (PM_{10}/PM_{2.5}) and PAH emissions. PAHs are a family of carcinogenic pollutants for which Directive 2004/107/EC sets an annual target value for benzo[a]pyrene (B[a]P), as a marker for PAHs. This target value has been regularly breached at the three sites in Northern Ireland where concentrations of this pollutant are measured; a modelling study in 2012 also demonstrated widespread exceedences of the target value across urban centres in Northern Ireland. Preliminary findings of EPA research in Ireland have also found elevated levels of PAHs, indicative of exceedences of the EU target value and exceedance of the WHO reference level. In all these cases smoky coal use was considered to be a significant contributor to these elevated levels. The most recent State of the Environment report for Ireland recommended that to improve air quality...
households must use more efficient methods to burn fuel and shift from solid fuel to cleaner alternatives including gas.

Black carbon is a constituent of fine particulate matter which like PM itself, is disproportionately emitted by residential solid fuels relative to other sources, during conditions of incomplete combustion. Black carbon is increasingly recognised as a contributing factor in climate change as well as having significant health impacts. In addition, airborne fallout of PAHs gives rise to the majority of PAHs found in water bodies and so is responsible for a significant number of breaches of Water Framework Directive Environmental Quality Standard values for PAHs at many locations in Ireland. As such, any reduction in smoky coal use and other solid fuels, whether urban or rural, should have a positive impact on water quality, as well as lowering the contribution to climate change from black carbon.

In 2010, 37% of total PM10 emissions in Northern Ireland came from commercial, residential and agricultural combustion (mainly of coal and solid fuels), down by 77% since 1990. Per capita emissions of PM10 in Northern Ireland are 60% higher than the UK average due to the high contribution of emissions from residential combustion and agricultural mobile machinery.\textsuperscript{xiii}

Smoky coal combustion is also potentially a source of elevated indoor air pollution levels, and a recent WHO study\textsuperscript{\textsuperscript{xyv}} concluded that indoor emissions from household combustion of coal are carcinogenic to humans. The WHO is developing the first set of WHO Indoor Air Quality Guidelines (AQG) for household fuel combustion, which are expected to be completed later this year. It is expected that these guidelines will emphasise the need to meet existing WHO (outdoor) air quality guidelines indoors, for example, 10 μg/m\textsuperscript{3} annual mean concentration for PM\textsubscript{2.5}.

3.1 AMBIENT AIR QUALITY

Episodes of poor air quality are observed in Ireland\textsuperscript{xyv} and Northern Ireland\textsuperscript{xvi} in some urban and suburban areas, particularly during the winter months in cold, settled weather conditions. Five high pollution alerts associated with such conditions have been issued in Northern Ireland so far this year in 2013; the corresponding number of ‘high pollution’ episodes in Ireland is 18. During episodes of high air pollution, vulnerable groups of the population, such as the old, the young and those with certain chronic respiratory and cardiovascular health conditions may be disproportionately affected. Residential solid fuel combustion, in particular the use of smoky coal, is a significant contributor to these wintertime pollution episodes, which occur in residential communities where vulnerable groups live.

3.2 CURRENT REGULATORY APPROACHES TO RESIDENTIAL EMISSIONS

In Northern Ireland, the Clean Air Order (NI) 1981 gives district councils powers to designate Smoke Control Areas, while legislation made under the Order specifies authorised fuels and fireplaces for use in Smoke Control Areas. The Smoke Control Areas (Sale or Delivery of Unauthorised Fuel) Regulations (Northern Ireland) 1998 restrict the retail sale or delivery of solid fuels, other than those authorised in smoke control areas.

In Ireland, the Air Pollution Act (1987) requires that the occupier of any premises does not cause or permit emissions to air which are a nuisance. Specifically, with regard to residential heating, regulations under the Act\textsuperscript{xvii} prohibit the marketing, sale, distribution and burning of ‘smoky’ coal in the larger urban centres defined as
'specified areas', including all those with a population of more than 15,000. Research following the introduction of the marketing ban found a reduced annual mortality of 350 in Dublin\textsuperscript{xviii} as well as significant improvements in ambient air quality\textsuperscript{xxiv}.

However, it is recognised in both Northern Ireland and Ireland, that there are significant challenges to the effective and efficient implementation and enforcement of clean air and smoke control legislation which come with a significant administrative burden and can require significant exchequer funding. The approach whereby different legislative standards apply in different areas as is the case in both Northern Ireland and Ireland i.e. between urban and suburban/rural areas, presents enforcement challenges and increasing the number of 'smoke control' or 'specified' areas brings increased enforcement challenges as well as potentially creating market distortions with people living inside specified areas able to travel short distances to acquire prohibited product. In addition, it is recognised that extending the approach unilaterally by introducing measures to regulate the supply of high-polluting solid fuels solely in one jurisdiction or the other could be undermined by cross border trade between the jurisdictions.

4.1 OBJECTIVES OF THE RESEARCH STUDY

The research study will be jointly commissioned, funded and overseen by DOENI and DECLOG. It is envisaged that the commission should be completed after six months with a final report outlining clear policy options to reduce emissions from residential solid fuels, in particular from 'smoky' coal. An interim report is to be delivered after 3 months.

The call is open for collaborative tenders from partnerships, for example, of those with detailed knowledge of the solid fuel sector in each jurisdiction.

4.2 DETAILED WORK ITEMS OF THE RESEARCH STUDY

The work items outlined in the sub-sections below shall be addressed as part of the research study. The tender document should set out the proposed methodology to be employed in addressing each of the work items.

4.2.1 CONTEXT

Conduct an assessment of the following topics on a Northern Ireland/Ireland all-island basis, based \textit{inter alia} on available emissions and ambient air quality monitoring data:  
- current levels of air pollution (including PM\textsubscript{10}, PM\textsubscript{2.5}, and PAHs) in the context of EU standards and WHO guideline values  
- significance and pollution intensity of residential heating and 'smoky' coal burning as a source of current air pollution  
- solid fuel markets (including relative cost data for heating fuels on an energy basis, import data) and the wider residential heating market considering barriers to move from dirtier fuels such as coal and peat/coke to cleaner alternatives \textit{e.g.} gas, \textit{vii}  
- smoke control legislation and enforcement  
- potential tensions between clean air and climate policy particularly in relation to the promotion of biomass as a residential fuel.
4.2.2 ASSESSMENT OF POTENTIAL POLICY OPTIONS

Conduct an assessment of the current and potential policy approaches to reduce residential emissions:
- evaluate regulatory and enforcement options including
  - enhanced enforcement of existing smoke control legislation
  - increased legislative measures
  - further controls on the marketing of smoky coal and promotion of alternative cleaner residential fuels
- consult with relevant stakeholders including institutional, regulatory, industry and public health stakeholders and other interested parties
- consider relevance of the upcoming revision to EU Thematic Strategy on Air Pollution.

4.2.3 IMPACT ASSESSMENT

Conduct an assessment of the potential effects of policy proposals in relation to:
- all-island, Northern Ireland and Ireland residential fuel markets
- potential impacts on vulnerable sections of the population (including potential health benefits and fuel poverty issues)
- the residential fuel supply sector including an economic analysis addressing the potential positive and negative effects on the consumer, for example, resulting from potential fuel switching, the availability of smokeless fuels to supply an all-island market, job creation opportunities in the manufacture and supply of smokeless fuels, etc.

4.2.4 REPORT AND RECOMMENDATIONS

Produce an interim report addressing the work elements 4.2.1 and 4.2.2. Produce a final report setting out a clear set of recommended potential policy options. The recommended policy options should be informed by a cost-benefit analysis, taking into account the assessments under paras 4.2.1 to 4.2.3 above, and consider the most appropriate, proportionate and effective ways to reduce air pollution from residential heating on an all-island basis

5.1 RESEARCH STUDY OUTPUTS

The research study will be overseen by a steering committee including representatives of DOENI and DECLG. The timeframe for the study is six months. An interim report will be delivered three months after commencement of the research study, and the final report after six months. It is anticipated that a minimum of three meetings with the steering committee will be required,

(i) a kick off meeting at the start of the study,
(ii) an interim meeting after approximately 3 months to discuss progress and the findings of the interim report, and
(iii) a final meeting to discuss the draft final report. These meetings or any additional meetings necessary may be conducted using video conference facilities if appropriate.

6.1 PROGRAMME TIMELINE

The target programme timeline for the tender process and the work programme is as
Follow set out below.

Award of contract - anticipated [4th] October 2013 [2 weeks for assessments]

Contract commencement - anticipated [11th] October 2013 [1 week to award]

Initiation Meeting

Interim Report and Interim Meeting 3 months after commencement

Final Meeting and Draft Final Report 5/6 months after commencement

Contract Completion - anticipated end March/start April 2014 2013 [6 months]

Final Report

It is intended to start this project by [??] October 2013 (however this is indicative only and may be subject to change).

7. PAYMENT

Details of the payment schedule will be discussed and agreed with the successful Contractor at the Project Initiation meeting. It is anticipated that an invoice for interim progress payment should be presented based upon work performed to-date. A final invoice for payment of the outstanding amount should be presented once the work has been concluded and accepted by NSMC. The invoice should detail the number of days contracted to the research assignment under the terms of the contract. It will be the responsibility of NSMC to ensure that payment is made within 30 days of receipt of a valid invoice. Tenderers shall confirm that they accept these arrangements.

8 BUDGET

The maximum budget for full completion of this project is £50,000 including expenses and VAT, submissions above this range will not be considered. Tenderers should note that this is a maximum figure and should price their bids accordingly if they wish to gain a competitive advantage. Any bids above this figure will not be considered.

9.1 ASSESSMENT OF APPLICATIONS

Applications will be evaluated against the Eligibility Criteria and the Award Criteria detailed below. Applicants who do not comply with the rules of the Eligibility Criteria and Award Criteria or who cannot meet the requirements of the detailed specification will be deemed ineligible.

9.1.1 Eligibility Criteria

Although applications are invited from any interested party, only those demonstrating that they have the required level of expertise and technical capacity will have their applications considered. In order to demonstrate eligibility, tenderers are required to provide the information set out in Annex II: Part 1. Minimum Standards of Professional Ability

Only those applicants who meet the eligibility criteria and specifications set out in this document and the relevant appendices, will be evaluated against the award criteria.
Applicants should ensure that they have submitted sufficient relevant information to allow their applications to be assessed under each of the award criteria set out below.

9.1.2 Award Criteria

The contents to be included in the detailed proposal are specified in Annex II Part 2. Proposal Details:

The Departments are not bound to accept any applicant for appointment. Assessment of applicants and appointment to the contract will be, by way of competition, in accordance with the following criteria, weightings and minimum requirements.

The Departments may, based on the scorings obtained, select the most efficient combination of applications for appointment to ensure sufficient coverage of the sectors to be inspected.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Max Percentage</th>
<th>Max Points</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Qualitative 50%</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Methodology - The Applicant’s demonstrated understanding of the specific services to be provided and the overall quality of the Application. The professional and technical capacity, experience and competence of the Applicant and project staff to carry out the service.</td>
<td>25%</td>
<td>125</td>
</tr>
<tr>
<td>2. Project Management - The Applicant’s proposed approach to project planning, management, quality control, resourcing and the demonstrated ability to deliver the required level of service.</td>
<td>25%</td>
<td>125</td>
</tr>
<tr>
<td><strong>Monetary 50%</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Indicative Cost: The indicative cost to be charged to an operator for a site visit and production of associated report. The cost specified here shall also include the cost (if any) the applicant proposes to charge for any repeat site visits inclusive of expenses. Costs to be given in GDP and shall exclude VAT.</td>
<td>50%</td>
<td>250</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>100%</td>
<td>500</td>
</tr>
</tbody>
</table>

For those tenders passing the qualitative assessment, the following formula will be used to evaluate price.

1. Lowest price tendered will be awarded the maximum score available 250.
2. To calculate the score for the remaining prices, the following formula will be applied. The lowest tendered price divided by the tenderers' price multiplied by 250.

3. Where a zero cost or "no cost" offer is made this offer will be assigned a nominal 1 pence value for assessment purposes only.

9.2 JOINT STUDY REVIEWS.

In addition to an introductory and close out meeting, progress review meetings will be undertaken at regular intervals during the duration of the contract as agreed between the successful tenderer and the Steering Group appointed by the Departments.

The successful tenderer shall provide for attendance at meetings with the Departments and other relevant stakeholders as necessary throughout the project.

A brief progress report and a marked up work programme showing progress to date shall be submitted to the Departments in advance of any scheduled progress review meeting. The progress report shall compare progress with the programmed work and shall include the following:

- Introduction
- Progress relative to programme for each task and activity
- Summary of work in progress and work completed
- Outputs and Deliverables since the last report
- Work scheduled for next period
- Decisions/directions required

Review meetings shall take place in the DECLG Headquarters, Custom House, Dublin 1 or DOENI, Belfast unless otherwise agreed by the Departments.

10.1 Sufficiency and Accuracy of Application

Applicants will be deemed to have examined all the documents enclosed and by their own independent observations and enquiries will be held to have fully informed themselves as to the nature and extent of the requirements of the application process.

Applicants are cautioned to check the accuracy of their documents prior to submission. Applications found containing any clerical errors or omissions may, at the sole discretion of DECLG and DOENI, be referred back to the applicant for correction. Any subsequent adjustment(s) must be confirmed in writing. The DECLG and DOENI reserve the right to disqualify incomplete applications.

10.2 Notification of Application Evaluation

All applicants will be informed of the outcome of their applications following evaluation and any necessary clarifications. Potential outcomes can be:

a) Letter of Intent for Appointment
b) Letter of Regret.
Duration of the Period of Appointment
The period of appointment will be for a maximum of 6 months. However, this is subject to the satisfactory performance, and the DECLG and DOENI may decide to review the contract and tender at any time. The appointment will be announced before the XX October, 2013.
Annex I Pollution Intensities* of Residential Fuels Relative to Home Heating Oil.

<table>
<thead>
<tr>
<th>Fuels</th>
<th>Particulate Matter</th>
<th>NOₓ</th>
<th>SOₓ</th>
<th>B(a)P</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PM₁₀</td>
<td>PM₂·₅</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Smoky Bituminous Coal</td>
<td>125</td>
<td>52</td>
<td>1</td>
<td>11</td>
</tr>
<tr>
<td>Anthracite (Smokeless Coal)</td>
<td>13</td>
<td>4</td>
<td>2</td>
<td>12</td>
</tr>
<tr>
<td>Petcoke</td>
<td>30</td>
<td>12</td>
<td>2</td>
<td>52</td>
</tr>
<tr>
<td>Smokeless Solid Fuel</td>
<td>29</td>
<td>8</td>
<td>1</td>
<td>11</td>
</tr>
<tr>
<td>Peat</td>
<td>132</td>
<td>55</td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>Wood</td>
<td>141</td>
<td>109</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Home heating oil</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Natural gas</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

Relative to Home Heating Oil

Source: Adapted from the National Atmospheric Emission Inventory (NAEI) UK and EPA Ireland.
CPL were recently scheduled to meet with our own Minister in his constituency but the meeting was cancelled owing to his workload and other priorities. It is expected that it will be rescheduled for some time in Dec.

The following is a summary of where things stand with the verification mechanism -

- Following representation from former Minister Hogan and subsequent meetings between officials, agreement was reached with the Department of Finance that the SFCT should not apply in full to manufactured solid fuels with significant biomass content. Section 51 of the Finance Act (No.2) 2013 introduced an amending provision allowing for partial relief from the solid fuel carbon tax (SFCT) for coal and peat based manufactured solid fuel products that contain >30% biomass.
- The relief remains subject to a commencement order by the Minister for Finance pending the development of a regulatory framework by the Minister for the Environment that will allow the Revenue Commissioners to readily identify qualifying solid fuels and provide for the verification of biomass content.
- The application of biomass relief has the potential to help incentivise industry to develop cleaner, more climate friendly, solid fuel products. The application of the relief would also partially offset the cost of the SFCT for consumers using biomass based solid fuel products.
- However, this is contingent on agreement with Dept Finance and Revenue that the SFCT relief can be limited to low smoke, low carbon biomass products. Dept officials are currently engaged with Finance/Revenue officials to resolve this matter.
- At the Department’s request, NSAI convened a technical stakeholder workshop to revise an existing voluntary standard (SWiFT 7) that provides for the verification of sulphur content in coal. The group is chaired by the EPA and includes industry representatives from CPL as well as SFTG members. The review is to conclude by the end of the year but consideration is also being given to then upgrading SWiFT 7 to a full Irish Standard.
- The review will extend the scope of SWiFT 7 to provide for the verification of biomass content in coal and peat based solid fuels, verification of smoke emission rates and the labelling of low smoke, biomass solid fuels. Follow up regulation will likely be needed in order to give formal effect to the provisions set out in SWiFT 7 and to satisfy Revenue requirements.

On the North-South study -
A North-South study is underway to examine options to reduce household emissions from the use of smoky coal and other solid fuels in both jurisdictions. The final report will be presented to the next NSMC meeting in May 2015. An interim report will shortly be circulated to key stakeholders, including CPL Fuels.

Regards

Gary McGulnn
Assistant Principal Officer
Air Quality Section
(053) 911 7353

From: John Rice [mailto:John.Rice@dcenr.gov.ie]
Sent: 26 November 2014 13:42
To: Gary McGuinln - (DECLG)
Cc: Des Byrne
Subject: Solid fuels

Hi Gary,

Minister White may be meeting with CPL very shortly.

Do you have a few lines on the state of play in terms of the verification procedures for the biomass content of hybrid fuels and indeed the North South study on emissions?

Regards,
John

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*****************************************************************************

Is faoi rún agus chun úsáide an té nó an aonán atá luaite leis, a sheoltar an riomhphost seo agus aon comhad atá nasctha leis. Má bhfuair tú an riomhphost seo tré earráid, déan teagmháil le bhainisteoir an chóróis.

Deimhnítear leis an bhfo-nóta seo freisin go bhfuil an teachtaíreacht riomhphoist seo scuabtha le bogearraí frithvíoraí chun víoraí riomháire a aimsid.
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**************************************************************************************
I read the NIA North South study debate on Smoky coal :Legislation to Ban its Burning.

The motion was brought before the Assembly because the Department for the Environment, NI has been engaging with DECLG on the matter and a joint study was commissioned by the National South Ministerial Council (NSMC) in July 2013.

Peat briquettes here in the South are exempt from the solid fuel smoke emission standards set in 1990 and under SI 326 2012 which cover bituminous coal only.

From reading the contend of the debate it would appear that the proposed legislation for NI will only include bituminous coal and will not include peat or wood. Sammy Wilson DUP among others is unhappy with this. He maintains that wood and peat are more polluting than smoky coal and it is because “peat is produced in the Republic by a state monopoly that produces about €51 million of income a year” that peat is exempt from the proposed legislation.

Mr Eastwood stated during the debate “ Peat briquettes are classified as smokeless fuel in the Republic of Ireland but not here in NI. I find that rather strange since emissions are greater from peat than bituminous coal”

Peat briquettes here are marked as smokeless in this jurisdiction whereas it is not an authorised smokeless fuel in NI/UK. I don’t think we can determine at this stage whether the status for peat briquettes in NI will change once the legislation to ban bituminous coal is introduced in NI.

Finally, I check the Division and couldn’t find any current files on this issue. We will open a new folder where we will save all the current docs.

Síobhán Murphy
Energy Security and Infrastructure
Department of Communications, Energy and Natural Resources
29-31 Adelaide Road
Dublin 2

Telephone: 01-678 2968
Email: Síobhán.murphy@dcenr.gov.ie
Siobhan

Will you go through the attached transcript please and also check the files in the Division to see has the apparent anomaly between the treatment of smokeless fuels for peat briquettes between the two jurisdictions been raised/discussed before?

EC

From: Micheal Young - (DECLG) [mailto:Micheal.Young@environ.ie]
Sent: 21 January 2015 16:35
To: Eamonn Confrey
Subject: FW: NIA North South study debate

Eamonn,

Attached for information is the transcript (with extract below) of a debate last evening in the Northern Ireland Assembly on a North/South study underway on all-island air pollution emissions from residential solid fuels and 'smoky' coal in particular. The issue of peat use was raised a number of times as being outside the scope of the study and reference was made to BNMs status as a state monopoly and the fact that peat briquettes are marketed here as 'smokeless' but are not an authorised 'smokeless' fuel in NI/UK.

Sammy Wilson (DUP) '...Of course, we know why that is; it is because peat is produced in the Republic by a state monopoly that produces about €51 million of income a year. ...'

Mrs Overend (UUP): 'In my constituency of Mid Ulster, we have a great number of people who dig peat and use it to heat their home. Although the study is deemed to be biased, singling out smoky coal or bituminous coal, which is the preferred title, it must be said that, as the proposer said, peat briquettes are classified as smokeless fuel in the Republic of Ireland but not here in Northern Ireland. I find that rather strange, since emissions are greater from peat than from bituminous coal. I am sure that the same can be said for other areas of Northern Ireland, in that there are a great number of installations of wood-burning stoves in Mid Ulster, in an attempt to save money on heating our homes.' ...

Minister Durkan (SDLP): 'Let me assure Mrs Overend and the House that I have spoken up on this issue with my Southern counterpart; I am sure that her colleague Mr Kennedy could vouch for that. [Laughter.] One of the points that I did speak up on was the one that she made about the anomaly around peat briquettes and the different classifications in both jurisdictions.' ...

Regards,

Micheal

Micheal Young | Environment Division | DECLG | Custom House | Dublin 1 | Ireland | 01 888 2389

http://www.environ.ie/en/

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