

Draft fines section for Notice LFT1 A general guide to landfill tax

Note: Paragraphs 4.2 to 4.9 of this section of this Notice have the force of law.

4 Lower rate: qualifying fines

4.1 What are qualifying fines?

For landfill tax purposes, fines are particles produced by a waste treatment process that involves an element of mechanical treatment.

Qualifying fines are:

- a mixture that consists of:
 - fines that consist of materials listed in the Schedule to the Landfill Tax (Qualifying Materials) Order 2011 – see section 19 for further information on qualifying material
 - an incidental amount of fines that consist of any other (i.e. non-qualifying) material

And where:

- the qualifying fines must not result from any deliberate or artificial blending or mixing of any material prior to disposal at a landfill site
- the qualifying fines must not be hazardous waste. You should always consult relevant guidance from your environmental regulator when assessing hazardous properties of waste

Qualifying fines must also meet the conditions set out in this guidance otherwise they are liable to the standard rate of landfill tax.

4.2 What are the conditions for qualifying fines?

For fines to be treated as qualifying fines the following conditions must be met for landfill tax purposes:

- you must hold evidence that the fines are qualifying fines – see paragraph 4.3
- if required to be tested as a condition of this Notice, the fines must meet the specified loss on ignition (LOI) threshold. For disposals made or treated as made on and between 1 April 2015 and 31 March 2016, the LOI threshold is 15%. For disposals made or treated as made from 1 April 2016, the LOI threshold is 10%

- if required to be tested as a condition of this Notice, you must conduct the prescribed test – see paragraph 4.5
- you must hold a transfer note, which should specify certain information to provide us evidence that the fines are qualifying fines - see paragraph 4.3.4 for information on waste transfer notes

4.3 How do I evidence that fines are qualifying fines?

You must be able to justify applying the lower rate to qualifying fines disposed of at your landfill site. You must hold evidence that fines received meet the requirements set out in paragraph 4.1. Evidence of the pre-acceptance checks and inspections outlined in paragraphs 4.3.1 – 4.3.3 will help you to justify your decisions to us. The transfer note should also evidence that the fines are qualifying fines – see paragraph 4.3.4.

4.3.1 Pre-acceptance checks

In line with good commercial practice, you should undertake a number of pre-acceptance checks with waste processors before accepting fines at your landfill site. The precise nature of the pre-acceptance checks may vary depending on your individual circumstances. However, as a minimum you should issue a questionnaire and declaration for completion by the waste processor that produces fines for disposal to your landfill site. The information must indicate that the waste is qualifying fines and will help you to determine the frequency of testing. Information should include:

- the type of operation
- details of the waste handled
- process types
- procedures for testing
- procedures for handling hazardous waste and other materials such as gypsum and plasterboard
- characterisation of output waste
- tonnages of qualifying fines likely to be sent to the landfill site operator in the coming year
- details of any shredding and/or blending processes

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The questionnaire and declaration should be reviewed at least annually to ensure that the information provided reflects current practice. You should review the questionnaire and declaration more frequently if, for example, there is any reason to doubt the veracity of the information provided or if a quantity of fines is above the LOI threshold. You should ensure that the waste processor notifies you of any changes in its circumstances that could have a material impact on the liability of the fines they send for disposal at your landfill site as they arise.

If the information indicates that the waste is not qualifying fines, then the standard rate will apply.

4.3.2 Example questionnaire

The following questionnaire is provided as an example. You may use your own questionnaires. However, the information must indicate that fines received meet the requirements set out in paragraph 4.1.

All sections below must be completed to enable the site to confirm its acceptance	
1. Waste processor details:	
Processor Name	<u>Date of next review</u>
Type of facility	
Address	
Postcode	
Te. Number	
2. Details of waste handled	
Details of waste stream inputs	
EWC Code	
Details of waste production process	

Are any of the input wastes hazardous?	
Can you confirm that gypsum (e.g. plasterboard) is not contained within the fines?	
Characterisation of output waste from production processes	
Procedures for storing fines	
Estimated tonnage of qualifying fines to be sent to the landfill site operator per month	
Details of blending and/or shredding processes	

WASTE PROCESSOR DECLARATION

I declare that the above information is true and correct to the best of my knowledge and if any of the above information changes I will notify the landfill site operator accordingly. I understand that this information will be used to determine landfill tax liability and false declarations will result in the waste being liable to the standard rate of tax.

Signature	Date	
Name	Company	Position

Authorised by Receiving Site Manager.....

Print Name.....

Date.....

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Notes on completion

The pre-acceptance questionnaire should be completed by an authorised person of the waste producer.

Waste processor details:

Details of the name and type of facility which produces the fines must be provided.

Details of waste handled:

- **details of waste stream inputs**

Details of the waste stream inputs must be provided.

For example 'Mixed Construction and Demolition' (C and D) waste.'

- **EWC Code**

The appropriate waste description from the European Waste Catalogue (EWC) must be provided.

- **details of waste production process producing the fines**

Details of the waste production process must be provided.

For example: Inputs are handpicked to remove larger recyclable items and non-recyclable items. The remaining waste is screened. The larger fraction is again handpicked to remove cardboard, wood and plastic. Magnets and an eddy current separator are used to remove any metals and a blower to remove light paper.

- **are any of the input materials hazardous? If yes please provide details**

Details of whether any of the input materials are of a hazardous nature must be included. If so, please provide details on how these materials have been separated.

For example: Input materials may contain gas canisters which are segregated at source.

- **can you confirm that Gypsum (e.g. plasterboard) is not contained within the fines?**

Details of whether any gypsum based materials are contained within the fines must be provided.

Gypsum-based materials must be disposed of only in landfills for non-hazardous waste in cells where no biodegradable waste is accepted as per the Landfill Directive. Guidance on Gypsum based materials can be found at section 19.

- **characterisation of output waste from production process**

An accurate description of the output waste must be provided to evidence that the fines comprise predominantly qualifying material with an incidental amount of non-qualifying material.

For example: For a process where the waste stream inputs are mixed C and D waste, the outputs may include:

- bricks
- wood
- plastics
- metals
- fines comprising predominantly of small particles of soils, stones and bricks with an LOI of 10% or lower

- **procedure for storing fines**

Details of how fines are stored must be provided to evidence that there is no blending or mixing.

For example: 'fines are stored separately away from other waste materials'. For the purposes of the LCR regime, fines must be stored separately from other materials in order to minimise cross contamination.

- **estimate tonnage of qualifying fines per month**

An estimated tonnage of qualifying fines likely to be sent to the landfill site operated each month must be provided.

This will help you establish an approximate timetable for testing.

- **details of blending and shredding processes**

A declaration as to whether any blending and shredding processes have taken place must be provided. If yes, details need to be provided.

Where blending, shredding and mixing of waste has taken place, the fines are liable to the standard rate of landfill tax.

Date of next review

Details on when the pre-acceptance form will be reviewed must be provided and this must be agreed with the landfill site operator. This is to ensure the information provided is current and accurate. Questionnaires should be reviewed at least annually or if any of the above information changes.

Waste processor declaration

A declaration that all the information provided is true and correct must be provided. Failure to provide accurate information will result in the waste being liable to the standard rate of tax.

4.3.3 Inspection of a quantity of fines

When you accept delivery of a quantity of waste described on the waste transfer note as qualifying fines, you must inspect the quantity to satisfy yourself that the waste is in fact qualifying fines. You should retain an audit trail to show that qualifying fines have been inspected.

If a visual inspection indicates that the waste is not qualifying fines, then the standard rate should apply.

4.3.4 Description on transfer note

For England and Wales, where we refer to transfer note within this notice, we mean 'written information' within the meaning of the Waste (England and Wales) Regulations 2011, as amended.

For Northern Ireland, where we refer to a transfer note within this notice, we mean a transfer note within the meaning of the Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002, as amended.

Although landfill tax will be devolved in Scotland with effect from 1st April 2015, it may still be necessary for operators to hold waste transfer notes relating to material transferred from Scotland to a site elsewhere in the UK. In those circumstances, where we refer to transfer note within this notice, we mean a transfer note within the meaning of the Environmental Protection (Duty of Care) (Scotland) Regulations 2014.

To qualify for the lower rate the transfer note, which is required to accompany most movements of waste in the UK, must accurately describe the waste so that it can be identified as qualifying fines. The simplest way to do this will be to complete the description in the open field box A1 on a transfer note with the appropriate term. Suggestions are made in the table that appears below.

The requirements relating to the waste transfer note described above are for tax purposes. They in no way override or affect your obligations in relation to the waste transfer note in environmental protection law including the requirement to define the waste source by reference to the European Waste Catalogue codes. You must still fully complete any transfer note in accordance with the other requirements of environmental legislation.

The following table provides examples of possible descriptions on the waste transfer note and the landfill tax liability.

Description	Landfill tax liability
Qualifying fines	Lower rate
Fines with an LOI of 10% or less	Lower rate
Screened subsoil and particles of stones containing an incidental amount of paper and wood	Lower rate
Fines	Standard rated
Mixtures of materials from the mechanical treatment of waste	Standard rated

4.4 Frequency of testing

4.4.1 First test

After 1 April 2015, you must conduct the prescribed test on qualifying fines received from each waste processor disposing fines at your landfill site and for each of their processes producing qualifying fines.

For existing customers, the first test must be undertaken within the period during which the first 500 tonnes are delivered or by 1 May 2015, whichever point is reached first.

For new customers after the 1 April 2015, the first test must be undertaken within the period during which the first 500 tonnes are delivered or within one month of their first load, whichever point is reached first.

4.4.2 Subsequent tests

After the first test, the required frequency of testing will depend on the circumstances. You must conduct the prescribed LOI test according to the following risk indicators. The test must be conducted for each waste processor disposing of fines at your landfill site and for each of their processes producing qualifying fines.

Risk	Indicators	Frequency of testing
Low	Pre-acceptance checks indicate that the waste processor is clearly and	You must test 1 load from that waste processor per waste process for each 1000 tonnes of

	<p>consistently producing qualifying fines.</p> <p>Inspection prior to disposal indicates that the fines are qualifying materials with a purely incidental amount of other material.</p> <p>LOI test result of less than 8% (12% up to 31 March 2016).</p> <p>The last 20 LOI results are below the LOI threshold.</p>	<p>fines received by you, or every 6 months, whichever point is reached first.</p>
Medium	<p>Pre-acceptance checks indicate that waste processor is producing qualifying fines but with some variability.</p> <p>Inspection prior to disposal indicates the presence of potentially more than an incidental amount of non-qualifying materials.</p> <p>LOI test result of between 8 and 10% (12% and 15% up to 31 March 2016).</p> <p>If 1 in the last 20 LOI is above the LOI threshold.</p>	<p>You must test 1 load from that waste processor per waste process for each 500 tonnes of fines received by you, or every 3 months, whichever point is reached first.</p>
High	<p>Pre-acceptance checks indicate that the waste processor can inconsistently produce qualifying fines.</p> <p>Inspection prior to disposal indicates the presence of more than an incidental amount of non-qualifying materials.</p> <p>LOI test result of over 10% LOI (15% up to 31 March 2016).</p> <p>If more than 1 in the last 20 LOI results are above the LOI</p>	<p>You must test every load from that waste processor.</p>

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	threshold.	
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4.4.3 Tests outside the prescribed frequency

You may conduct a test at times outside the prescribed frequency, for example, if requested by the waste producer or because you missed the prescribed test. In such circumstances, the timing of the next prescribed test will be determined by that test.

4.5 Prescribed test

4.5.1 How to take a representative sample

The sample of fines you send for testing must be representative of the whole quantity. You must follow the following methodology to take a representative sample:

- The sample must be taken from across the whole quantity of fines i.e. top, middle and bottom.
- A composite (master) sample must be produced from a mix of sub-samples taken from at least 6 or more places across the whole quantity of fines.
- The sub-samples must be selected at random.
- The sub-samples must be thoroughly mixed to ensure that a representative 1kg composite mix is sent for testing.

You will also need to need to take a second representative sample of the fines to retain as part of your records – see paragraph 4.8 for information.

4.5.2 Loss on Ignition test

LOI is a test for determining the organic content of material. The difference in the mass of the material being tested before and after the ignition process is used to calculate the LOI result. The LOI result will inform whether the waste is liable to the lower rate of landfill tax but is not the only determining factor.

The fines must meet all the requirements and conditions set out in this guidance in order to be liable to the lower rate.

You must arrange to have the LOI test prescribed below for landfill tax purposes:

Sample preparation

Air dry the 1kg sample until constant mass is achieved.

Cone and quarter the 1kg sample to select a 100g sub-sample.

Grind the sub-sample to a particle size of 2mm or less to produce a homogenous sample.

Sample treatment

Take [20g] of the homogenous ground sample.

Carry out a standard LOI test at a temperature of 440°C for 5 hours.

LOI calculation

Carry out standard calculation to determine the percentage loss.

4.6 What if a tested sample is above the LOI threshold

4.6.1 Actions to take if a sample is above the LOI threshold

Step	Action
1	You must declare that quantity of fines to HM Revenue and Customs at the standard rate of landfill tax.
2.	You must review the pre-acceptance checks for the waste producer – see paragraphs 4.3.1 and 4.3.2 for information.
3.	You must increase the frequency of testing – see paragraph 4.4.2 for information
4.	You must notify HMRC of the test result enclosing all the details provided in paragraph 4.6.2

4.6.2 Notify HMRC

Reporting loss on Ignition test result above the threshold

All sections of the form **must** be completed.

Please note that **one** form must be used for each test above the threshold.

You must notify HMRC no later than the last working day of the month after the end of the quarter in which the LOI test was carried out.

Landfill Tax Registration Number

Operator Name

Address

Contact Number

Waste Processor Name		
Address		
Contact Number		
Date of Disposal		
Date the test results received by the site operator		
Test result (LOI %)		
Details of waste stream		
Action carried out post failure (please tick relevant boxes)	Standard rate of tax charged for the quantity of fines above the threshold	
	Frequency of testing increased to every quantity	
	Pre-acceptance questionnaire reviewed	
<p>Please email the form to: environmentaltaxesubs@hmrc.gsi.gov.uk</p> <p>Or send by post to</p> <p>HM Revenue and Customs Chillingham House Building 4 – BP4002 Benton Park View Newcastle-upon-Tyne NE98 1ZZ</p>		

Notes on completing the Reporting Loss on Ignition failure form

Please read these notes before you complete the Reporting Loss on Ignition failure form.

Include all the information required. You can avoid a financial penalty by notifying us no later than the last working day of the month after the end of the quarter in which the LOI test was carried out.

See section 17 for information on penalties.

- operator Details

Please provide details of the Landfill Site Operator including landfill tax registration number name, address of site and contact number.

- **waste processor name**

Please provide details of the waste processor including name, address, type of facility and contact number.

- **date of disposal**

Please provide the date which the quantity of fines above the threshold was disposed of at the landfill site.

- **date the test results were received back by the operator**

Please provide the date the landfill site operator received the test results back from the laboratory which confirmed the quantity of fines had a Loss on Ignition higher than 10%.

- **test Result**

Please provide details of the actual test result supplied from the laboratory e.g. 17.1%

- **details of the waste stream**

Please provide details of the waste stream from which the non-qualifying fines originated from e.g. commercial and industrial (C and I).

- **action carried out post failure**

Please provide details of what action has been taken as a result of the quantity of fines having not met the LOI threshold. Please tick all the boxes which are relevant.

4.7 Can a sample be retested that is above the LOI threshold

If a test is above the LOI threshold, you may conduct a single retest provided the following conditions are met:

- the original sample of fines must be retested
- the first LOI result must be no more than 0.5% above the LOI threshold
- the retest must be conducted within a period of 21 days of the date of disposal of the waste

In such circumstances, if the retest result is within the LOI threshold, you may treat this as the test result for determining liability to landfill tax.

4.8 What records must I keep for qualifying fines?

You must make and preserve the following records in relation to qualifying fines:

- Master (untested) sample – where you have conducted an LOI test, you must preserve a representative sample of at least 1kg from that quantity of fines for a period of three months after the due date of the landfill tax return (LT100) on which you declared the tax to us.
- LOI test result – you must make and preserve a record of all LOI tests conducted and their results for a period of six years from the date of the test.
- Evidence of qualifying fines – you must make and preserve records to show that fines disposed of at your landfill site were qualifying fines for a period of six years. This includes waste transfer notes, pre-acceptance checks and evidence of visual inspections.

4.9 HMRC power to direct a test

Where we consider it necessary for the protection of the revenue against mistake or fraud, we can direct that a representative sample of fines is taken and sent for testing at your cost. In such circumstances, the results of that test may be used to determine the liability to landfill tax.

4.10 Summary of landfill operators responsibilities for lower rating of qualifying fines

A checklist of your responsibilities and the consequences of failing to comply are detailed below.

In all circumstances, if you have not declared the correct amount of tax to us, you may be liable to a penalty and interest on the under-declared tax. See section 17 for further information on penalties.

Ref	Requirement/condition	Consequence of failure to comply	Further guidance
1.	You must hold evidence that fines are qualifying fines.	Failure to hold evidence that fines are qualifying fines will render the quantity of fines for which evidence is not held liable to the standard rate.	Please see paragraphs 4.1 and 4.3 for information on what are qualifying fines and how to evidence that waste is

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			qualifying fines.
2.	The Transfer Note must be held and it must contain a description that identifies the material as qualifying fines	Failure to hold a waste transfer note which describes qualifying fines so they can be identified as such will render the fines for which the notes should be held liable to the standard rate.	Please see paragraph 4.3.4 for information on the condition in relation to waste transfer notes.
3.	Where HMRC request an additional test under paragraph 4.9	Failure to conduct the test will render those fines for which the test was not conducted liable to the standard rate	Please see paragraph 4.9
4.	You must conduct the prescribed test to the prescribed frequency of testing for each waste processor disposing fines at your landfill site and for each of their processes producing fines, including additional tests under paragraph 4.4.3.	Failure to conduct the prescribed test to the prescribed frequency will render all fines you receive from the date of the failure to conduct the prescribed test liable to the standard rate, until such time as the failure is put right in relation to a later quantity of fines. Example: if you are operating at 'Low' risk under paragraph 4.4.2 above, and you fail to conduct the test at 1000 tonnes, the quantity of fines of which the 1,000th tonne is a part will be standard rated. If you then conduct the test at the 1500 tonne point, then all quantities of fines up to 1499 tonnes will also be standard-rated. The 'clock' will start again at 1500 tonnes - so the next	Please see paragraph 4.4 for information on the frequency of testing.

		test will be due at 2500 tonnes.	
5.	<p>You must conduct the prescribed test including:</p> <ul style="list-style-type: none"> the prescribed methodology for selecting a representative sample; and the prescribed standard LOI test. 	<p>Failure to conduct the prescribed test according to the correct methodology will render all fines you receive liable to the standard rate from the time of that failure until such time as the failure is put right in relation to a later quantity of fines.</p>	<p>Please see paragraph 4.5 for information on the prescribed test.</p>
6.	<p>You must retain master (untested) samples of tested fines for a period of three months after the due date of the landfill tax return (LT100) on which you declared the tax to us.</p>	<p>Failure to retain samples will render you liable to a fixed penalty of £250.</p>	<p>Please see section 17 for information on penalties.</p>
7.	<p>You must make and preserve the following for 6 years:</p> <ul style="list-style-type: none"> evidence that fines are qualifying fines; records of tests conducted. 	<p>Failure to make and preserve:</p> <ul style="list-style-type: none"> evidence that fines are qualifying fines; records of tests conducted <p>will render you liable to a fixed penalty of £250.</p>	<p>See ref: 1 above for further information on failure to retain evidence that fines are qualifying fines.</p> <p>Please see section 17 for further information on penalties.</p>
8.	<p>The tested sample must meet the LOI threshold.</p>	<p>Where a test is above the LOI threshold, that quantity of fines is liable to the standard rate.</p>	<p>See section 4.6 for further consequences of a test above the LOI threshold.</p>
9.	<p>You must notify HMRC of a test above the LOI threshold at least quarterly.</p>	<p>Failure to notify HMRC of a test above the LOI threshold, will render you liable to a fixed</p>	<p>See section 17 for information on penalties.</p>

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		penalty of £250.	
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