Materials Decree
23 DECEMBER 2011. - Decree on the sustainable management of material cycles and waste

Article 1.
This Decree governs a regional matter.

Article 2.

Article 3.
The following definitions shall apply for the purposes of this Decree:

1° waste: any substance or object which the holder discards or intends or is required to discard. The following are not considered waste:
   a) gaseous effluents emitted into the atmosphere and carbon dioxide that is captured and transported with a view to geological storage, and that is geologically stored in accordance with the Decree of 8 May 2009 on the deep underground;
   b) animal manure as mentioned in the Decree of 22 December 2006 on the protection of water against nitrate contamination from agricultural sources;
   c) contaminated or uncontaminated water which is discharged into surface water or into the public water treatment infrastructure; in this context in-situ treatment, including dewatering of sludge produced at the site, which is intended to make that water comply with the environmental conditions that apply to discharges, is not considered waste treatment;
   d) household and industrial waste water which, in accordance with the provisions of the Decree of 24 January 1984 on groundwater management and of the Decree of 28 June 1985 on the environmental licence, is indirectly discharged into the groundwater;
   e) unexcavated soil, including buildings which are permanently connected to the land;
   f) radioactive waste, as far as it is not considered waste released as mentioned in the cooperation agreement between the federal State and the Regions of 17 October 2002 on the management of waste released;

2° waste trader: any undertaking which acts in the role of principal to purchase and subsequently sell waste, including such traders who do not take physical possession of the waste;

3° waste broker: any undertaking arranging the recovery or disposal of waste on behalf of others, including such brokers who do not take physical possession of the waste;

4° waste producer: any natural or legal person whose activities produce waste (original waste producer) or anyone who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of this waste;

5° waste treatment: recovery or disposal operations, including preparation prior to recovery or disposal;

6° operational waste: waste originating as a result of an industrial, artisanal or scientific activity, and waste considered equivalent to this by Order of the Government of Flanders;

7° waste management: the collection, intermediate storage and transfer, transport, recovery and disposal of waste, including the supervision of such operations and the after-care of disposal sites after closure, and including actions of waste as a trader or broker;

8° best available techniques: best available techniques as mentioned in Article 1(29°) of the Order of the Government of Flanders of 6 February 1991 laying down the Flemish regulations for the environmental licence;

9° special waste: household, hazardous, operational or other waste which due to its nature, composition, origin or treatment requires a special regulation. The Government of Flanders may determine what waste shall be considered special waste.

10° OVAM: the Public Waste Agency of Flanders, mentioned in Article 10.3.1, paragraph 1) of the Decree of 5 April 1995 concerning general provisions relating to environmental policy;

11° mixed municipal waste: household waste, as well as operational, industrial and institutional waste which is by its nature and composition comparable to household waste, except the waste types mentioned in the Appendix to Decision 2000/532/EC under 20 01 which are collected separately at the source, and the other waste type mentioned under 20 02 of the said Appendix;

12° separate collection: collection where a waste stream is separated by type and nature so as to facilitate a specific treatment;

13° hazardous waste: waste that presents or could present a specific hazard to human health or to the environment or that must be processed at specialised facilities. The Government of Flanders shall determine what wastes shall be considered hazardous waste in accordance with the applicable European requirements.

14° declaration of raw material: a declaration delivered by the Flemish authorities in which it is stated
that a certain material does not, or not any longer, have to be considered waste, possibly with certain preconditions;

15° reuse: any operation by which products or product components that are not waste are used again for the same purpose for which they were conceived;

16° holder of waste: the waste producer or the natural or legal person who is in possession of the waste;

17° household waste: waste originating from the normal activities of a private household and waste considered equivalent to this by order of the Government of Flanders;

18° collection: the gathering of waste, including the preliminary sorting and preliminary storage of waste for the purposes of transport to a waste treatment facility;

19° life cycle thinking: an approach whereby one looks at the effects that occur throughout the entire life cycle of a material;

20° local authorities: provinces, provincial companies, municipalities, municipal companies and intermunicipal cooperation partnerships;

21° material: any substance that is or has been extracted, obtained, cultivated, processed, produced, distributed, put into use, discarded or reprocessed, or any object that is produced, distributed, put into use, discarded or reused, including the waste originating therefrom;

22° material cycle: the whole of consecutive actions in a life cycle or material flow, ranging from extraction or obtention and cultivation to treatment, production, distribution, storage and transfer of goods, transport, use and reuse, discarding, disposal and possible reuse, where one or more materials are intentionally or unintentionally passed from one phase in the life cycle to another;

23° recovery: any operation the principal result of which is waste serving a useful purpose, either in the plant in question or in the wider economy, by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, as well as the actions thus determined by the Government of Flanders;

24° prevention: measures taken before a substance or object becomes waste, which reduce:

a) the quantity of waste, including through the reuse of objects or the extension of the life span of objects;

b) the adverse impacts of the generated waste on the environment and human health;

c) the content of harmful substances contained in substances and objects;

25° recycling: any recovery operation by which wastes are reprocessed into products or substances, for the original or other purposes. This includes the reprocessing of organic waste, but it does not include energy recovery or reproducing into materials that are to be used as fuel or for backfilling operations.

26° disposal: any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy, as well as the actions thus determined by the Government of Flanders;

27° preparing for reuse: any recovery operation that consists of checking, cleaning or repairing, by which products or components of products that have become waste are prepared so that they can be reused without any further pre-treatment being necessary.

Article 4.
§ 1. This Decree contributes to the attainment of objectives relating to sustainable development, as mentioned in Article 7bis of the consolidated Constitution.

§ 2. The aim of this Decree is to lay down measures for the creation of material cycles where:

1° human health and the environment are protected against the harmful influence of the production and management of waste;

2° the depletion of renewable and non-renewable resources, the wasting of materials and energy in general and the harmful effects on humans and the environment connected to the use and consumption of materials are countered.

§ 3. In particular, this Decree lays down measures:

1° which always strive for the best result for the environment and health, taking into account the effects occurring throughout the entire life cycle, and where the following hierarchy is used to determine the order of priority:

a) the prevention of waste and a more efficient use and consumption of materials which are less taxing on the environment via adapted production and consumption patterns;

b) preparing waste for reuse;

c) the recycling of waste and the use of materials in closed material cycles;

d) other forms of recovery of waste, such as energy recovery and the use of materials as sources.
of energy;
e) waste disposal, with landfilling as the last option;

2° to ensure that the management of material cycles and waste is carried out without endangering human health or having any harmful effects on the environment, in particular:
a) without risk to water, air, soil, plants or animals, or climate;
b) without causing a nuisance through noise or odours;
c) without adversely affecting the countryside or places of special interest.

CHAPTER 2. General provisions on the management of material cycles and waste

Article 5.
With a view to the attainment of the objectives mentioned in Article 4, the Government of Flanders may indicate materials and determine conditions for their use or consumption.

The Government of Flanders may, in accordance with the objectives mentioned in Article 4, lay down more specific rules for certain materials to guarantee their traceability, their treatment in accordance with Article 9, paragraph 1, and their lawful use.

Article 6.

§ 1. Natural and legal persons who manage waste shall keep a chronological waste register which shall include a record of the quantity supplied and disposed of, the nature, origin and, if applicable, destination, frequency of collection, mode of transport and treatment of the waste collected, picked up, transported, disposed of or recovered. The Government of Flanders shall lay down more specific rules with respect to the content and the modalities of this waste register. The Government of Flanders may release groups of natural and legal persons from this obligation. Without prejudice to the provisions of the Decree of 28 June 1985 on the environmental licence, the Government of Flanders can allow derogations from the content and conditions of the waste register during individual assessments of activities that are subject to authorisation or notification, as mentioned in Article 11.

Natural and legal persons who manage waste shall report certain information concerning the waste collected, picked up, disposed of or recovered to OVAM. The Government of Flanders can stipulate that OVAM selects natural and legal persons to report information. The Government of Flanders shall determine what information must be reported and in what manner this is to take place.

§ 2. The Government of Flanders may determine that when being transported, waste must be accompanied by an identification form, whether or not in electronic form.

§ 3. The Government of Flanders may determine that materials registers must be kept for specific materials with a view to obtaining information on the efficient and legitimate use of materials in accordance with the objective mentioned in Article 4. These registers may refer to amounts of incoming and outgoing material flows and their origin and destination. The Government of Flanders may lay down more specific rules for this.

The Government of Flanders can stipulate that OVAM select natural and legal persons to report information from the materials register. The Government of Flanders shall determine what information must be reported and in what manner this is to take place.

Article 7.
The Government of Flanders may define further rules for the sampling and analysis of materials.

OVAM may arrange to have analyses of waste and soil samples carried out at laboratories recognised by the Government of Flanders or accredited according to applicable international standards. Laboratories shall be recognised by the Government of Flanders in accordance with the provisions of Chapter IIIbis of the Decree of 28 June 1985 concerning environmental licences and its implementing orders.

Article 8.

§ 1. The measures mentioned in Article 4, paragraph 3 are to encourage the options that deliver the best overall outcome for the environment and health. This may mean that when defining measures for certain materials, it may be necessary to deviate from the hierarchy mentioned in Article 4, paragraph 3, if this is justified based on life cycle thinking.
§ 2. The Government of Flanders shall determine, following advice from OVAM, when the derogations mentioned in paragraph 1 are justified. In doing so, it shall take into account the principles mentioned in Article 1.2.1, paragraph 2 of the Decree of 5 April 1995 concerning general provisions relating to environmental policy, the technical and economic feasibility, the protection of resources, the overall impacts on the environment and human health and in the economic and social sphere, the objectives mentioned in Article 4 and the applicable European requirements.

The advice of OVAM mentioned in subparagraph 1 shall contain the basic principles, preconditions and methods used to come to a desired option based on life cycle thinking.

For the purposes of the advice mentioned in subparagraph 1, and for the purposes of defining the basic principles, preconditions and methods relating to life cycle thinking, a consultation platform shall be set up in accordance with Article 19.

If the results of scientific studies are used as a basis for this advice, then those studies are to have been carried out or verified by an independent party.

§ 3. If a derogation in accordance with paragraph 1 has been granted, the Government of Flanders may reconsider this derogation following advice from OVAM and in accordance with paragraph 2, on the basis of changed technical, economic or social circumstances or new insights into the effects on the environment and health.

Article 9.
§ 1. The Government of Flanders shall take the necessary appropriate measures to ensure that:

1° the reuse of objects and components of objects and activities preparing reuse are encouraged;
2° waste in accordance with Article 4, paragraph 3 or Article 8 undergoes an operation of reuse, recycling or another form of recovery;
3° high-quality recycling is stimulated.

With a view to compliance with the provisions in subparagraph 1, and in accordance with the objectives mentioned in Article 4, the Government of Flanders shall take the necessary measures in order for waste to be collected separately and not to be mixed with waste or materials which do not have the same characteristics, if this is technically, environmentally and economically feasible.

The Government of Flanders may:
1° make the separate presentation and collection of certain wastes mandatory and lay down rules for the mode of collection;
2° define objectives for separate collection and reuse, recycling and other forms of recovery;
3° impose or prohibit waste processing operations for certain wastes.

§ 2. Natural or legal persons operating a reuse centre where objects that come into consideration for reuse are collected for selection with in mind their reuse, or are stored, sorted, cleaned or repaired and sold, must be recognised by the Government of Flanders. The Government of Flanders shall lay down the more specific rules regarding this recognition.

Article 10. In accordance with the Polluter Pays Principle, the costs of waste management shall be borne by the original waste producer or by the current or previous waste holders, by the producer of the product from which the waste originated, or by the distributors or importers of this product. The Government of Flanders may lay down more specific rules for this.

Article 11. § 1. The disposal of waste, and any preparatory operations preceding such disposal, shall be subject to a licence obligation.

The recovery of waste, and any preparatory operations preceding such recovery, shall be subject to a licence or notification obligation.

The Government of Flanders may subject the use of materials to a licence or notification obligation in accordance with the objectives mentioned in Article 4.

§ 2.
The provisions of the Decree of 28 June 1985 concerning environmental licences shall apply to the licences and notifications mentioned in paragraph 1. The Government of Flanders may grant a licence for mobile and movable facilities which permits operation throughout the Flemish Region. The Government of Flanders shall define more specific rules on the application for, the granting of and the refusal of this licence and on the specific conditions to be complied with by such facilities.

The Government of Flanders may issue sectoral conditions for the activities referred to in section 1.

§ 3.
Without prejudice to the application of the matters governed by the Decree of 28 June 1985 on the environmental licence, the environmental licences mentioned in section 1 may only be granted if they do not conflict with the provisions of this Decree, its implementing orders or its implementation plans.

Without prejudice to the application of the matters governed by the Decree of 28 June 1985 on the environmental licence, when granting the environmental licences mentioned in section 1, conditions may be laid down relating to:
1° the type and amount of waste and materials that can be processed or used;
2° technical and other provisions that apply to the location in question;
3° safety and precautionary measures to be taken;
4° the way in which waste is processed or the efficiency with which materials are consumed;
5° control and monitoring measures;
6° the waste and materials resulting from the treatment or use, and any limitations of use;
7° provisions relating to closure and after-care, insofar as these are necessary.

The Government of Flanders may define further rules relating to the conditions stated in the second paragraph.

Article 12.
§ 1.
It is forbidden to leave wastes behind or manage them in violation of the requirements contained in this Decree or its implementing orders.

§ 2.
It is forbidden to use or consume materials in violation of the requirements contained in this Decree or its implementing orders.

§ 3.
Natural or legal persons who manage waste are under the obligation to take all measures which can reasonably be taken to prevent danger to the health of persons or the environment, in particular risks to water, air, soil, plants and animals, noise or odour nuisance, damage to the countryside or places of special interest, or reduce this danger to the extent possible.

The Government of Flanders may specify these measures further.

Article 13.
§ 1.
Enterprises and facilities that are professionally engaged in the collection or transport of waste, waste brokers and traders, as well as enterprises and facilities that process waste and have a notification obligation in accordance with Article 11, shall be included in a register.

The Government of Flanders may define further rules concerning the registration duty and the design of the register mentioned in subparagraph 1.

§ 2.
With a view to the attainment of the objectives mentioned in Article 4, the Government of Flanders may impose conditions on:

1° enterprises or facilities that collect or transport waste or make arrangements for its recovery or disposal;
2° waste traders or brokers.

The conditions mentioned in subparagraph 1 may also refer to the method of collection and transport.

Article 13/1.
The Government of Flanders may lay down more specific rules on the management, processing and use of materials produced by construction and infrastructure works and by demolition, dismantling and renovation works as part of construction and infrastructure works.
The Government of Flanders can recognise demolition management organisations. The Government of Flanders shall determine the conditions and procedure for recognition. It shall also determine the conditions governing the use of such recognition.

Article 14
The Government of Flanders may prohibit or regulate the import, export and transit of waste.

The Government of Flanders may take all measures relating to the import, export and transit of waste which may be necessary with a view to the implementation of Regulation (EC) No 1013/2006 of the European Parliament and the Council of 14 June 2006 on shipments of waste, and of the convention on the control of transboundary movements of hazardous wastes and their disposal, concluded in Basel on 22 March 1989. To this end, the Government of Flanders may, among other things:

1° subject each import, export or transit of waste within the scope of Regulation (EC) No 1013/2006 to the provision of a bank guarantee, a financial guarantee or equivalent financial security to cover the costs of transport and recovery or disposal, as mentioned in Article 6 of the aforementioned Regulation (EC) No 1013/2006;

2° Impose on the notifier for the import, export or transit of waste, the payment of a fee to cover the administration costs connected to executing the notification and inspection procedure, as well as demand the payment of the current costs for the appropriate analyses and inspections, as mentioned in Article 29 of the aforementioned Regulation (EC) No 1013/2006.

The transboundary movement of waste in violation of the provisions of the Regulation mentioned in subparagraph 2 or of the provisions laid down by virtue of subparagraph 1 or subparagraph 2, is prohibited.

By way of derogation from the Regulation mentioned in subparagraph 2, OVAM may, in the case of import, limit incoming movements of waste destined for waste incineration plants catalogued under recovery, if it has been determined that those movements would lead to waste originating in the Flemish Region needing to be disposed of or processed in a way that is not consistent with the implementation plans mentioned in Article 18.

Article 15.
The Government of Flanders shall lay down more specific rules regarding the granting of subsidies to:

1° natural or legal persons who take measures and initiatives in accordance with the objectives mentioned in Article 4, among other things to stimulate:
   a) the prevention of waste, the reuse and the more efficient use of materials which is less taxing on the environment via adapted production and consumption patterns;
   b) the cooperation between different actors within one or more material cycles with a view to reducing the environmental impacts of those material cycles;
   c) the separate collection of waste, recycling and the use of materials in closed material cycles;
   d) the market for products and raw materials obtained from waste;
   e) an optimisation of the management of material cycles and waste;
   f) research and development towards achieving cleaner and less wasteful technologies, products and services, as well as the dissemination and use of the results of research and development in this area;

2° local authorities with a view to tasks in implementation of the applicable implementation plans, as mentioned in Article 18;

3° the natural or legal persons mentioned in Article 9, paragraph 2 who operate a reuse centre, for its operation, investments or personnel;

4° the municipalities and associations of municipalities mentioned in subparagraph 1 of Article 27, for the costs of selective pick-up or collection.

The subsidies shall always be granted within the bounds of the credits included in the budget.

Article 16.
The tender specifications of authorities of the Flemish Region and of local authorities shall include provisions aimed at promoting the purchase of:

1° products or services which, taking into account the entire life cycle, contribute to a better closure of material cycles or have a lower environmental impact than similar alternatives;

2° raw materials obtained from waste or products made therefrom.

The Government of Flanders may lay down more specific rules for this.

Article 17.
§ 1. OVAM shall coordinate the design of prevention programmes and their possible review, and follow up their implementation. The Government of Flanders shall select the public institutions which will be involved in the design and implementation of the prevention programmes.

With a view to the design and implementation of the prevention programmes, consultation platforms shall be set up in accordance with Article 19.

§ 2. The prevention programmes shall consist at least of measures and initiatives taken to promote the prevention of waste, a more efficient use and consumption of materials which are less taxing on the environment via ecodesign and adapted production and consumption patterns and a better management of material cycles in accordance with Article 4. They shall be aimed at disconnecting the environmental impacts of material cycles and, in particular, of the production of waste, from economic growth. Insofar as this is necessary or advisable, these measures shall be laid down in cooperation with surrounding countries or regions, local authorities or the federal authority.

In the prevention programmes adequate qualitative and quantitative indicators, target figures and objectives shall be linked to the measures mentioned in subparagraph 1, which will serve to assess the progress and the effect of the measures and their contribution to the objective.

§ 3. Drafts of prevention programmes or drafts of changes to prevention programmes shall be announced by means of an extract in the Belgian Official Journal, and deposited for a period of two months for perusal at the municipalities and at OVAM. During this period anyone can make objections or remarks known to OVAM in writing.

§ 4. At the same time that they are announced, drafts of prevention programmes shall be passed to the Environment and Nature Council of Flanders, which shall issue a reasoned advice within a period of two months of receipt of the draft. This advice shall not be binding.

At the same time that the drafts of the prevention programmes are delivered to the Environment and Nature Council of Flanders, they shall also be submitted to the Flemish Parliament.

§ 5. The Government of Flanders shall lay down the prevention programmes, taking into account the advice given and objections or remarks submitted. If the Government of Flanders does not follow the advice given or does not take into account the objections or remarks submitted, either completely or in part, then it shall justify this in a report which shall accompany the announcement mentioned in paragraph 6.

§ 6. The prevention programmes shall be announced by means of an extract in the Belgian Official Journal. They shall be available for perusal at OVAM, the provinces and the municipalities and shall be published on the website of OVAM.

§ 7. The prevention programmes can be integrated into the implementation plans for the management of material cycles and waste mentioned in Article 18. In such case, they shall be marked as clearly different prevention measures.

§ 8. The prevention programmes shall apply to the administrative authorities of the Flemish Region, the provinces, the municipalities and the organisations governed by public or private law charged with tasks in the public interest relating to environmental policy. The duration of the prevention programmes shall be defined separately in each programme. The prevention programmes shall be evaluated at least once every six years, and revised if necessary.

§ 9. The provisions of the prevention programmes shall be binding, except if it is stated explicitly in those programmes that they are not binding. In these cases, they shall be indicative. Binding provisions can only be derogated from by a decision of the Government of Flanders, when substantial reason exists for this and subject to appropriate justification. Provisions of prevention programmes which conflict with a regional plan or programme of a later date of an enforcing or binding nature shall lose their validity.

§ 10. The Government of Flanders may determine more specific rules for the design, establishment, follow-up and implementation of the prevention programmes and the stakeholder participation provided for...
Article 18

§ 1.
OVAM shall design implementation plans for the management of material cycles and waste, design their possible review and follow up their implementation. These plans shall, alone or in combination, cover the entire geographical territory of the Flemish Region.

With a view to the design and implementation of the implementation plans, consultation platforms shall be set up in accordance with Article 19.

§ 2.
The implementation plans shall contain measures aimed at creating an adequate integrated network of waste disposal installations and of installations for the recovery of mixed municipal waste collected from private households, including where such collection also covers such waste from other producers, taking into account the best available techniques. These measures shall be taken with a view to self-sufficiency when it comes to waste disposal and the recovery of the above-mentioned waste streams and they must enable disposal or recovery of the respective waste streams in one of the nearest suitable installations using the most suitable methods and technologies to guarantee a high level of protection of the environment and public health. Insofar as this is necessary or advisable, these measures shall be laid down in cooperation with surrounding countries or regions.

Except in cases of force majeure, mixed municipal waste which is collected completely separately from waste from private households may only be exported if it has been collected in Flanders according to the rules drawn up by the Government of Flanders.

§ 3.
The implementation plans may contain an analysis of one or more material cycles and their impacts on the environment and health, as well as an overview of measures that need to be taken at different stages of the life cycle to reduce the environmental and health impacts of the use and consumption of the materials in question, in accordance with the objectives mentioned in Article 4.

§ 4.
The implementation plans shall contain at least an analysis of the current waste management situation, in general or for one or more categories of waste in particular, as well as the measures to be taken in order to make preparing for reuse, recycling and other forms of recovery and disposal of waste more environmentally sound, as well as an evaluation of how the plan will support the implementation of the objectives and provisions of this Decree.

§ 5.
The purpose of the implementation plans is to improve coordination between measures taken by different actors involved in the management of material cycles and waste.

§ 6.
In particular, the implementation plans shall comprise at least the following elements:

1° the type, quantity and source of the waste generated within the Flemish Region and of the waste likely to be shipped from or to the Flemish Region, and an evaluation of the development of the waste streams in the future;
2° existing waste collection schemes and major disposal and recovery installations, including any special arrangements for waste oils, hazardous waste or waste streams addressed by specific Community legislation;
3° an assessment of the need for new collection schemes, the closure of existing waste installations, additional waste treatment installations in accordance with paragraph 2, and, if necessary, the investments related thereto;
4° sufficient information on the location criteria for site identification and on the capacity of future disposal or major recovery installations, if necessary;
5° general waste management policies, including planned waste management technologies and methods, or policies for waste posing specific management problems;
6° adequate qualitative and quantitative indicators, target figures and objectives shall be linked to the measures mentioned in paragraph 2, which will serve to assess the progress and the effect of the measures and their contribution to the objective mentioned in Article 4.

§ 7.
Drafts of implementation plans or drafts of changes to implementation plans shall be announced by means of an extract in the Belgian Official Journal, and deposited for a period of two months for perusal at the municipalities and at OVAM. During this period anyone can make objections or remarks known to OVAM in writing.

§ 8.
At the same time that they are announced, the drafts mentioned in paragraph 7 shall be passed to the Environment and Nature Council of Flanders, which shall issue reasoned advice within a period of two months of receipt of the draft. This advice shall not be binding.

At the same time that the drafts of the implementation plans or the drafts of changes to implementation plans are delivered to the Environment and Nature Council of Flanders, they shall also be submitted to the Flemish Parliament.

§ 9.
The Government of Flanders shall lay down the implementation plans or the changes to these implementation plans taking into account the advice given and objections or remarks submitted. If the Government of Flanders does not follow the advice given or does not take into account the objections or remarks submitted, either completely or in part, then it shall justify this in a report which shall accompany the announcement mentioned in paragraph 10.

§ 10.
The implementation plans shall be announced by means of an extract in the Belgian Official Journal. They shall be available for perusal at OVAM, the provinces and the municipalities and shall be published on the website of OVAM.

§ 11.
The implementation plans shall apply to the administrative authorities of the Flemish Region, the provinces, the municipalities and the organisations governed by public or private law charged with tasks in the public interest relating to environmental policy. The duration of the implementation plans shall be defined separately in each plan. The implementation plans shall be evaluated at least once every six years, and revised if necessary.

§ 12.
Provisions of implementation plans shall be binding, except if it is stated explicitly in those plans that they are not binding. In these cases, they shall be indicative. Binding provisions can only be derogated from by a decision of the Government of Flanders, when substantial reason exists for this and subject to appropriate justification. Provisions of implementation plans which conflict with a regional plan of a later date of an enforcing or binding nature shall lose their validity.

§ 13.
The Government of Flanders may determine more specific rules for the design, establishment, follow-up and implementation of the implementation plans and the stakeholder participation provided for therein.

Article 19.
§ 1.
The Government of Flanders may set up consultation platforms consisting of stakeholder government bodies, institutions and organisations governed by private law involved in the management of one or more categories of waste or the management of one or more material cycles, as well as stakeholders from the broader civil society. The Government of Flanders shall designate the parties involved. OVAM may designate additional parties involved.

The purpose of the consultation platforms mentioned in subparagraph 1 includes:
1° achieving a coordination of measures taken by public and private actors at different stages of one or more material cycles with a view to the attainment of the objectives mentioned in Article 4;
2° achieving an exchange of information between public and private actors with respect to the management of material cycles;
3° following up and evaluating the implementation of measures.

§ 2.
Consultation platforms shall be set up, inter alia, in the framework of:
1° the design, follow-up and assessment of the prevention programmes mentioned in Article 17;
2° the justification of derogations from the hierarchy mentioned in Article 8;
3° the design, follow-up and assessment of the environmental policy agreements mentioned in Article 20;
§ 3.
The Government of Flanders may lay down further rules for the creation and functioning of the consultation platforms mentioned in paragraph 1.

Article 20.
To achieve the objectives in Article 4, the Government of Flanders may conclude environmental policy agreements in accordance with the applicable decree provisions.

Article 21.
§ 1.
In order to stimulate the prevention, reuse, recycling and other waste recovery, the Government of Flanders may take measures to ensure that any natural or legal person who professionally develops, manufactures, treats, processes, sells or imports products (producer of the product) bears an extended producer responsibility obligation.

The measures mentioned in subparagraph 1 may consist of imposing rules and obligations on the natural and legal persons mentioned in subparagraph 1 and shall refer to:

1° imposing partial or full responsibility for the organisation of the collection of the waste generated as a result of the products they have put on the market;

2° making the acceptance of this waste compulsory;

3° making the organisation partly or entirely responsible for the subsequent management of this waste;

4° assigning financial responsibility for the collection and treatment of this waste in accordance with Article 10;

5° providing publicly available information on environmentally sound product use and the extent to which and the way in which the product is reusable and recyclable.

The measures mentioned in subparagraph 1 may also be measures to encourage product design which reduces the environmental impacts and the generation of waste both in the course of the production and during the subsequent use of the products, and to ensure that the recovery and disposal of products that have become waste take place in accordance with Article 4. Such measures may encourage, inter alia, the development, production and marketing of products that are suitable for repeated reuse, that are technically durable and that are, once they have become waste, suitable for proper and safe recycling, other types of recovery and environmentally compatible disposal.

§ 2.
The Government of Flanders shall indicate the products or waste to which some kind of extended producer responsibility obligation applies. In doing so, it shall take into account the technical and economic feasibility and the overall impacts on the environment, public health and society, respecting the need to ensure the proper functioning of the market.

§ 3.
The extended producer responsibility obligation shall be applied without prejudice to the responsibility for waste management as provided for in Article 12, paragraph 3 and without prejudice to the application of existing specific legislation on waste streams and products.

§ 4.
The natural or legal persons mentioned in paragraph 1, subparagraph 1, may, with a view to compliance with the obligations imposed on them by or by virtue of this Article, turn to third parties at their own expense, under the conditions determined by the Government of Flanders.

For the collection of household waste, cooperation with the municipalities, in addition to possible other collection channels, is mandatory. In this case, the Government of Flanders shall lay down more specific rules for determining a reasonable compensation to be paid to the municipalities by the natural or legal persons mentioned in paragraph 1 for the collection of household waste which ends up in the municipal collection channels.

The Government of Flanders may derogate from this obligation to cooperate if other collection channels are more efficient and effective. For waste for which cooperation with the municipalities is not mandatory, the municipalities are not obliged to accept the waste via the municipal collection channels and they therefore have no right to the reasonable compensation as mentioned in subparagraph 2.

CHAPTER 3. Provisions on the management of specific material cycles
Section 1. General provisions

Article 22.
All waste shall be classified in one of the following main categories according to its source or nature:

1° household wastes;
2° operational wastes.

In addition, wastes can be classified in one or more of the following additional categories:

1° hazardous waste;
2° special waste;
3° mixed municipal waste.

The Government of Flanders may lay down further rules concerning the management of the waste classified in the categories mentioned in subparagraph 1 and subparagraph 2.

The requirements applicable for the main category and the additional categories in which a waste is classified shall be cumulative, as indicated in Article 29 or 32.

Section 2. Operational waste

Article 23.
Producers of operational waste shall keep a chronological waste register, which shall include a record of the nature, origin, composition, quantity, destination and method of recovery or disposal of the waste. The Government of Flanders shall lay down the more specific rules concerning the content and structure of this waste register.

Producers of operational waste shall report some of the information from the waste register to OVAM. The Government of Flanders shall determine what information must be reported and in what manner this is to take place. It may have the reporting done via the integral annual environmental report referred to in Article 3.5.3. of the Decree of 5 April 1995 concerning general provisions relating to environmental policy.

The Government of Flanders may release specific categories of producers from the obligations mentioned in subparagraph 1 and subparagraph 2 on the basis of the low quantities and the low degree of harmfulness of the wastes produced by them.

Article 24.
Producers of operational waste shall, at their expense, recover or dispose of the waste, unless otherwise determined by the Government of Flanders in accordance with Article 10.

Article 25.
§ 1.
Holders of industrial waste and waste brokers and dealers shall recover or dispose of the waste:

1° at the establishment where the waste was generated or is being treated, in accordance with the environmental licence referred to in Article 11 or the other applicable legal, decreed or regulatory requirements;
2° by delivery to a natural or legal person who, in accordance with Article 11, is a holder of a licence for the disposal or recovery of the waste, or who has complied with the reporting obligation, or who is a registered waste dealer or broker as mentioned in Article 13;
3° by delivery to a natural or legal person established in another region or country who, in accordance with the legislation applicable there:
   a) is entitled to dispose of the waste to the extent that there is no significantly closer disposal facility which can dispose of the waste in a responsible manner under comparable conditions;
   b) is entitled to recover the waste.

§ 2.
Any disposing of operational waste as referred to in paragraph 1, 2° and 3° shall take place in exchange for a disposing receipt, whether or not in electronic form. Without prejudice to the application of Article 23, the holders of operational waste must be able to present this disposing receipt at any time until at least five years after the date of disposing of the waste.

§ 3.
The disposing receipt shall state:
1° the date of disposing;
2° the name and place of residence of the producer or the installation from which the waste is received;
3° the name and place of residence of the natural or legal person referred to in paragraph 1, 2° and 3° with whom the waste is disposed of;
4° the nature, source, composition and quantity of the waste disposed of;
5° the intended treatment method.

The Government of Flanders may lay down further rules for the receipt/disposing mentioned in paragraph 2 and paragraph 3.

Section 3. Household waste

Article 26.
Each municipality, whether or not in cooperation with other municipalities, shall ensure that household waste is prevented or reused as much as possible, picked up at regular intervals or collected in another way and recovered or disposed of in accordance with Articles 11, 12 and 13, paragraph 2.

The municipalities shall recover the costs of the management of household waste from the waste producers in accordance with Article 10. The municipality may authorise its privatised bodies or intermunicipal cooperation partnerships to collect these costs, also if these are translated into taxes and fees. The Government of Flanders may lay down further rules concerning the way in which municipalities are to calculate the costs of the management of household waste.

Without prejudice to the application of the provisions of this Decree, the pick-up and collection of household waste shall be regulated by municipal regulation.

The activities of each person necessary for the normal working of the services charged with the pick-up of household waste, as well as the material required for this, may be requisitioned by the Mayor, the Assistant Governor and the Governor.

Article 27.
Municipalities and associations of municipalities may conclude agreements with OVAM to promote or supervise the organisation of the selective pick-up or collection of household waste.

The provinces may, within the framework of the Flemish waste policy, offer supporting initiatives and actions aimed at concrete achievements in the field.

Article 28.
If a municipality or province or their cooperation partnerships do not within the period of time determined by the Government of Flanders fulfil their obligations imposed by or by virtue of subparagraph 1 of Article 26 or by the programmes and plans mentioned in Articles 17 and 18 and, as a result, harm the public interest, the Government of Flanders may, after giving notice of default by means of a reasoned decision, replace the municipality or province or their cooperation partnerships in question for the implementation of all measures necessary to comply with the aforementioned obligations. The Flemish Region may recover the costs of the aforementioned measures from the municipality or the province or their cooperation partnerships.

Both with respect to the coordination and with respect to the organisation, municipalities, provinces and their cooperation partnerships have the possibility to lodge an appeal with the Flemish Minister with responsibility for the Environment. The Government of Flanders shall lay down the more specific rules for this appeal procedure.

Section 4. Hazardous waste

Article 29.
The provisions of Sections 1 and 2 and of Chapter 2 shall apply to hazardous waste insofar as this Section does not contain any explicit provisions to the contrary.

Article 30.
§ 1. Hazardous waste to be disposed of must be registered and identified.

§ 2. Hazardous waste must, during its collection, transport and temporary storage, be appropriately
packaged or stored and labelled in accordance with the applicable international and European requirements. Whenever hazardous waste is transported, it shall be accompanied by an identification document, which may be in electronic format, containing the appropriate data specified in Annex IB to Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste.

The Government of Flanders may specify more detailed rules concerning the packaging, storage and identification of hazardous waste.

§ 3.
Natural or legal persons engaged in waste treatment must not mix hazardous waste with other categories of hazardous waste, nor with other waste, substances or materials. Mixing shall also include the dilution of hazardous substances.

Derogation from the prohibition mentioned in subparagraph 1 is possible if the Government of Flanders takes other measures to ensure that hazardous waste is not mixed, either with other categories of hazardous waste or with other waste, substances or materials.

§ 4.
By way of derogation from paragraph 3, the licence referred to in Article 11 may allow hazardous waste to be mixed with other hazardous waste or with other waste, substances or materials, if:

1° this is required in order to improve safety during disposal or recovery;
2° this does not infringe the provisions of Article 12 paragraph 3.
3° this does not increase the adverse impacts of the waste management on human health and the environment;
4° the operation in question conforms to best available techniques.

§ 5.
Where hazardous waste has been mixed in a manner contrary to paragraph 3 and paragraph 4, a separation shall be carried out if this is technically and economically feasible and necessary in order to comply with Article 12 paragraph 3.

Article 31.
The provisions of Article 30 paragraph 2 and paragraph 5 shall not apply to mixed waste produced by households.

The provisions of Article 30 paragraph 2 shall not apply to separate fractions of hazardous waste produced by households until these materials are accepted for collection, disposal or recovery by an establishment or an undertaking which has obtained a licence or has been registered in accordance with Articles 11 and 13.

Section 5. Special waste

Article 32.
In accordance with Article 4, the Government of Flanders shall lay down more specific rules for the management of the special waste referred to in Article 22, subparagraph 2, 2°.

The rules mentioned in subparagraph 1 shall complement the rules mentioned in Section 1, 2, 3, 4 or 5 and in Chapter 2. They may contain requirements for specific special wastes and activities aimed at the management of these wastes which vary from the provisions of Articles 6, 11, 13 and 26, if this is required for the efficient disposal or the recovery of these wastes.

Article 33.
§ 1.

§ 2.
The Government of Flanders may release the producers of the waste mentioned in paragraph 1 from the notification obligation mentioned in Article 23, subparagraph 2 and subparagraph 3 and shall define more specific rules for this.

§ 3.
Except in the cases explicitly described by the Government of Flanders, the disposing of these wastes...
is only permitted to a natural or legal person who has been recognised or registered for this purpose or by this recognised or registered natural or legal person to a facility that has been recognised and licensed for this purpose.

The Government of Flanders shall lay down further rules on the issue procedure, recognition and registration.

In the cases specified by the Government of Flanders, the supervisors may decide that the waste may or must be disposed of through incineration or burial.

§ 4. The Government of Flanders shall indicate the categories of producers of waste who are required to enter into an agreement on the financing of its pick-up by an establishment as mentioned in paragraph 3.

The Government of Flanders can determine the maximum rates that may be applied in case of a fee per service.

The collection and treatment of this waste, if this concerns entire cadavers of farm animals, other than for the categories of producers mentioned in subparagraph 1, shall be carried out free of charge. The Government of Flanders shall determine the conditions under which the recognised establishments are remunerated for these services at the expense of the Flemish Region.

The Government of Flanders shall determine the conditions under which operations in the framework of waste management are remunerated at the expense of the Flemish Region.

CHAPTER 4. Demarcation of the waste phase

Article 34. The waste phase of a material shall commence as soon as the definition of waste is complied with.

Article 35. The Government of Flanders shall draw up a list of wastes, in accordance with the applicable European requirements, indicating the codes assigned to wastes, which wastes should be regarded as hazardous, and any analysis methods to be applied in order to determine whether a material complies with the description provided for a certain waste included in the list.

Article 36. Certain specific wastes cease to be waste when they have undergone a recovery, including recycling, operation and comply with specific criteria to be developed in accordance with the following conditions:

1° the substance or object is commonly used for specific purposes;
2° there is a market or a demand for the substance or object;
3° the substance or object fulfils the technical requirements for the specific purposes and complies with the existing legislation and standards applicable to products;
4° the use of the substance or object will not lead to overall adverse environmental or human health impacts.

These criteria must be developed in accordance with Articles 39 and 40.

Article 37. A substance or object resulting from a production process, the primary aim of which is not the production of that substance or object, may only be regarded as a by-product and not as waste if the following conditions are met:

1° further use of the substance or object is certain;
2° the substance or object can be used directly without any further treatment other than normal production practice;
3° the substance or object is produced as an integral component of a production process;
4° its further use is lawful, i.e. the substance or object fulfils all product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

Article 38. Excavated soil shall not be regarded as a waste if it is used in accordance with the conditions for the use of excavated soil mentioned in the Decree of 27 October 2006 on soil remediation and soil protection and its implementing orders.
Article 39.
§ 1.
If necessary, the Government of Flanders shall indicate the materials, in accordance with the European requirements, and impose specific criteria to determine whether the material in question can be considered a by-product or a material which has reached end-of-waste status.

§ 2.
If no European criteria have been defined for a specific material, the Government of Flanders may develop specific criteria for this material which must guarantee that the conditions mentioned in Articles 36 and 37 are complied with.

The criteria mentioned in subparagraph 1 may refer to, inter alia, the source of the material, the way in which it was collected, produced or processed, the nature and composition of the material, limit values for contaminants, the permitted use, the permitted method of application and the presence of a quality assurance system that monitors input, processes and end quality.

In the assessment of the overall adverse environmental and human health impacts mentioned in Article 36, 4° and Article 37, 4°, the objectives mentioned in Article 4, paragraph 3 shall be taken into account.

§ 3.
The Government of Flanders shall lay down more specific rules for the way in which materials shall be indicated and for the way in which criteria for this shall be developed, in accordance with paragraph 1 and paragraph 2.

§ 4.
Waste which, in accordance with the criteria mentioned in paragraph 1 and paragraph 2, is no longer considered waste shall also be deemed recycled or recovered in the framework of the attainment of possible recycling or recovery objectives.

Article 40.
The Government of Flanders may demand that a raw material declaration be issued which shows that the conditions and criteria mentioned in Articles 36, 37 and 39 are complied with.

OVAM shall decide on the applications for the issue of a raw material declaration. Appeals against the decisions of OVAM on the issue of a raw material declaration may be lodged with the Flemish Minister with responsibility for the Environment.

The Government of Flanders may define more specific rules regarding the procedure for the delivery of a declaration of raw material, the treatment of the appeals and the conditions for a declaration of raw material.

CHAPTER 5. Environmental contributions, taxes and fees

Section 1. Environmental contributions

Article 41.
The port authority shall ensure that the costs for using the port reception facilities associated with the disposing of ship-generated waste from maritime shipping, including the treatment and processing of the ship-generated waste, are paid with contributions from the ships via a cost cover system which must not encourage the discharge of waste at sea.

The Government of Flanders may define further requirements to be met by the cost cover system.

Article 42.
In accordance with the Convention on the Collection, Deposit and Reception of Waste Generated during Navigation on the Rhine and other Inland Waterways, signed in Strasbourg on 9 September 1996 and ratified by the Decree of Consent of 9 May 2008, an environmental contribution in proportion to the purchase of gas oil for inland shipping shall be owed with a view to the financing of the collection and treatment of oil and grease containing shipping waste that results from the operation and maintenance of inland navigation vessels. Said gas oil shall be understood to exclusively include fuel that is exempt from custom taxes and other taxes and that is intended for ships, with the exception of the ships that are authorised for maritime and coastal navigation and are mainly assigned for that purpose. The environmental contribution shall be owed by the person in charge of the ship that uses the gas oil for inland shipping purposes.
The Government of Flanders may lay down more specific rules for the operation of the financing system.

Article 43.
Port authorities who receive inland navigation vessels and waterway authorities shall outline a financing system for the reception and disposing of the remaining shipping waste in accordance with the Convention on the Collection, Deposit and Reception of Waste Generated during Navigation on the Rhine and other Inland Waterways, signed in Strasbourg on 9 September 1996 and ratified by the Decree of Consent of 9 May 2008. This contribution may be included in the port or dock charges, or charged separately.

The Government of Flanders may define further requirements to be met by the financing system.

Section 2. Environmental taxes

Article 44.
The definitions mentioned in the Decree of 28 June 1985 concerning environmental licences shall apply accordingly in this Section.

Article 45.
Operators of facilities with a licence obligation as mentioned in Article 46, paragraph 1, subparagraph 1, 1° through 18° and paragraph 2, subparagraph 1, as well as enterprises and facilities that are professionally engaged in the collection or transport of waste, waste traders and brokers with a view to its treatment outside the Flemish Region, as mentioned in Article 46, paragraph 1, subparagraph 1, 19°, shall be subject to an environmental tax.

Municipalities or associations of municipalities acting on their behalf may be directly liable for environmental taxes for the household and municipal waste picked up by them if they have received authorisation for this from OVAM. The authorisation shall mention the waste stream, the concrete destination and the applicable tax rate. A copy of this authorisation shall be provided to the operator of the facility to which the waste stream in question is being removed. The operator shall state the quantities concerned in an appendix to his declaration with reference to the respective authorisation. The operator shall report these quantities in good time to the municipalities or the associations of municipalities acting on their behalf that themselves act as the party responsible for paying the tax for the quantities concerned and shall submit a declaration in accordance with the provisions of this Decree.

Without prejudice to the exception specified in subparagraph 2 of Article 47, the tax mentioned in Article 46, paragraph 1, subparagraph 1, 1° through 18° and paragraph 2, subparagraph 1, shall apply for the quantities of waste as they are landfilled, incinerated or co-incinerated, including admixtures which were added for the purposes of landfilling, incineration or co-incineration.

Article 46.
§ 1.
The amount of the environmental tax shall, depending on the type of waste and the type of treatment method, be determined as follows:

1° for the incineration of wastes if this incineration of waste is not covered by an environmental or operating licence pursuant to the applicable legislation: 150 euros per tonne;

2° for leaving waste behind or managing it in violation of the requirements referred to in this Decree or its implementing orders as referred to in Article 12, paragraph 1: 150 euros per tonne;

3° for the deposit of flammable waste at a landfill licensed to this end: 75 euros per tonne; from 1 July 2016 a rate of 100 euros per tonne shall apply;

4° for the deposit of household waste that not could be processed in a facility licensed for the treatment of household waste because the operator voluntarily and temporarily put his facility out of use outside normal maintenance periods because he was unable to comply with the licence conditions imposed: 20 euros per tonne. This derogation shall only apply for each facility for a period of eighteen months starting from the first day of the month in which the facility was closed on a voluntary basis;

5° for the deposit of non-flammable waste at a landfill licensed to this end: 40 euros per tonne; from 1 July 2016 a rate of 55 euros per tonne shall apply;

6° a) for the deposit of residues originating from the cleaning of soil in soil cleaning centres licensed to this end at a landfill licensed to this end: 3 euros per tonne. With effect from the 2013 tax year, the tax rate of 2.2 euros per tonne shall apply;

b) for the deposit at a facility licensed to this end of wastes from soil remediation operations where, in accordance with the advice of OVAM, remediation methods other than excavation
and landfills entail unreasonably high costs or are impossible: 2.2 euros per tonne. By way of derogation, the tax rate of 0 euros per tonne for the deposit at a landfill licensed to this end of waste from soil remediation works approved by OVAM, possibly in the framework of an agreed covenant, for which OVAM has issued a statement that the zero rate is applicable by 31 December 2012 at the latest;

c) from 1 July 2016: 15 euros per tonne for the deposit of non-flammable, non-recyclable sludge residues from PST installations at a landfill licensed to this end;

7° for the deposit of residues originating from the treatment of sewage drain sludge in facilities licensed to this end at a landfill licensed to this end: 3 euros per tonne;

8° for the deposit of sludge residues originating from the cleaning of sieved sand at facilities licensed to this end at a landfill licensed to this end: 3 euros per tonne;

9° for the deposit of immobilised non-flammable waste originating from facilities licensed to this end at a landfill licensed to this end, provided that the immobilisation is required in order to comply with the licence conditions of the landfill: 23 euros per tonne; from 1 July 2016 a rate of 30 euros per tonne shall apply. In the case of export to another region or Member State, the rate also only applies to non-flammable waste in respect of which it is demonstrated that the immobilisation is required in order to comply with the conditions in force in the Flemish Region for the deposit of the waste in question;

10° for the deposit of iron oxide waste from zinc production, known under the names of jarosite and goethite, at a landfill licensed to this end: 5 euros per tonne;

11° for the deposit of gypsum or calcium chloride waste from the production of phosphoric acid and metallurgical processes at a landfill licensed to this end: 1 euro per tonne; for the assessment years 2013 and 2015 this rate also applies to the deposit at a landfill licensed to this end of selectively collected gypsum waste from companies that process selectively collected gypsum waste into raw material for the production of new gypsum products, which cannot be recycled according to the advice of OVAM. From 1 July 2016 up to and including 2019, this rate shall also apply to non-recyclable residues of selectively collected gypsum waste from facilities that process selectively collected gypsum waste into raw material for the production of new gypsum products. This rate applies to a quantity that for 2016 amounts to 15%, and for 2017, 2018 and 2019 10%, of the quantity of selectively collected gypsum waste supplied by the facilities in question;

12° for the deposit of ore residues from the production of titanium dioxide pigments according to the chlorination process at a landfill licensed to this end: 5 euros per tonne;

13° for the deposit of dredging spoil at a landfill licensed to this end: 0.1 euros per tonne;

14° for the deposit of dredged material at a landfill licensed to this end: 0.1 euros per tonne;

15° for the deposit of inert wastes and sludge from the production of drinking water at a landfill licensed to this end: 11 euros per tonne;

16° for the incineration of waste at a facility licensed to this end: 7 euros per tonne;

17° for the co-incineration of waste at a facility licensed to this end: 7 euros per tonne;

18° for the sorting or pre-treatment of waste at a facility licensed to this end: the amounts according to points 1° to 17° inclusive, which shall be determined by the treatment method applied to the non-recycled or non-reused wastes. If the treatment of the non-recycled or non-reused waste takes place outside the Flemish Region, the provisions of point 19° below shall apply;

19° for waste produced in the Flemish Region that is transferred with a view to its treatment at a facility licensed to this end outside the Flemish Region: the amounts mentioned included in points 1° to 18° inclusive, which are determined by the treatment method applied. If a similar environmental tax applies in the region or country where the waste in question is to be treated, the amount of the tax shall be decreased by the amount of the above-mentioned similar environmental tax, with a resulting amount which must not be lower than zero.

In the cases mentioned in subparagraph 1, 1° and 2°, the tax payer shall be the person who incinerates, deposits or manages the waste, respectively.

In subparagraph 1, 3°, 5° and 9°, “flammable waste” is understood to mean: waste with a loss on ignition of >10% and a TOC content of >6%.

By way of derogation from the cases mentioned in subparagraph 1, 16° and 17°, a tax rate of 2 euros per tonne shall apply to the incineration or co-incineration of waste paper and cardboard recycling residues from companies that use paper and cardboard waste as a raw material for the production of new substances or products, and to waste plastic recycling residues from facilities that use waste plastic as a raw material for the production of new substances or products, effective as of tax year 2010.

By way of derogation from the cases mentioned in subparagraph 1, 16° and 17°, a tax rate of 2.2 euros/tonne shall apply to the incineration or co-incineration of waste from soil remediation operations where, in accordance with the advice of OVAM, remediation methods other than excavation and
incineration or co-incineration entail unreasonably high costs or are impossible, effective as of tax year 2013. By way of derogation, the tax rate of 0 euros per tonne shall apply to the incineration or co-incineration in a facility licensed to this end of waste from soil remediation works approved by OVAM, possibly in the framework of an agreed covenant, for which OVAM has issued a statement that the zero rate is applicable by 31 December 2012 at the latest.

By way of derogation from the cases mentioned in subparagraph 1, 16° and 17°, a tax rate of 2.2 euros/tonne shall apply to the incineration or co-incineration of residues from the cleaning of soil in soil cleaning centres licensed to this end, effective as of tax year 2013.

In subparagraph 1, 18°, “pre-treatment” is understood to mean: the treatment of wastes whereby the nature and composition of the wastes change so they are made suitable for a next step in the pre-treatment or for recycling or for the final treatment of the wastes.

By way of derogation from the cases mentioned in subparagraph 1, 18°, this environmental tax shall not be owed if the licensed storage, transfer, sorting or pre-treatment facility demonstrates that the wastes were recycled or reused after storage, transfer, sorting or pre-treatment and, as regards the unused and non-recycled part, were treated with payment of the environmental tax in accordance with the provisions contained in points 1° through 17°.

§ 2.
For recycling residues from facilities that use or pre-treat waste originating from selective collection, as mentioned below, as a raw material for the production of new substances or products, the following amounts have been set:

1° 75 * K euros per tonne for the deposit of flammable waste at a landfill licensed to this end; from 1 July 2016 a rate of 100 * K euros per tonne shall apply;
2° 40 * K euros per tonne for the deposit of non-flammable waste at a landfill licensed to this end. From 1 July 2016 a rate of 55 * K euros per tonne shall apply.

The value of the factor K, mentioned in subparagraph 1, shall be the following:

1° a) K = 0 for recycling residues of rag waste as of tax year 2007 up to and including tax year 2013;
    b) K = 0.2 for recycling residues from facilities that sort or pre-treat selectively collected used textiles (clothing, household linen and shoes) for the production of new substances or products, as of tax year 2014;
2° K = 0 for recycling residues from companies that use or pre-treat glass waste originating from selective collection as a raw material for the production of new glass, as of tax year 2007;
3° K = 0.05 for non-flammable recycling residues of paper and cardboard waste as of tax year 2007;
4° K = 0.03 for flammable recycling residues of paper and cardboard waste as of tax year 2007 up to and including tax year 2009;
5° K = 1 for flammable recycling residues of paper and cardboard waste as of tax year 2010;
6° K = 0.15 for recycling residues of electronic and electrical scrap waste, of scrap waste and of shredder waste originating from scrap treatment, for waste plastic recycling residues from facilities that use waste plastic as a raw material for the production of new substances or products, and for recycling residues from composting and fermentation, as of tax year 2007 up to and including tax year 2009.
7° K = 1 for recycling residues of electronic and electrical scrap waste, of scrap waste and of shredder waste originating from scrap processing, for recycling residues of waste plastic from companies that use waste plastic as a raw material for the production of new substances or products, and for recycling residues from composting and fermentation, as of tax year 2010;
8° K = 0.2 for recycling residues originating from the normal activities of reuse centres recognised by OVAM, as of tax year 2007.
9° K = 0.6 for recycling residues of construction and demolition waste for tax year 2007;
10° K = 1 for recycling residues of construction and demolition waste as of tax year 2008;
11° K = 0.04 for the deposit of recycling residues from the treatment of concrete, brickwork and other stone debris into tested granular materials, originating from facilities that put tested granular materials on the market, as of tax year 2008. The residual fraction for landfilling must be less than 1 weight per cent. This percentage must be considered in relation to the total annual production of the tested granular materials at the licensed facility. When the residual fraction for landfilling exceeds 1%, the environmental tax, with K = 1, shall be applied to the excess. Recycling residues from the treatment of concrete, brickwork and other stone debris shall be defined as the residues that are released when the debris is broken and the granular materials are cleaned, with the exception of residues that have been sorted out prior to the breaking.
12° K = 0.4 for other recycling residues than those mentioned in points 1° through 11° for tax year
2007;
13° K = 0.6 for other recycling residues than those mentioned in points 1° through 11° for tax year 2008;
14° K = 0.8 for other recycling residues than those mentioned in points 1° through 11° for tax year 2009;
15° K = 1 for other recycling residues than those mentioned in points 1° through 11° as of tax year 2010.

By way of derogation from subparagraph 2, 5°, K = 0.03 for flammable waste paper and cardboard recycling residues from new companies that use paper and cardboard waste as a raw material for the production of new substances or products for tax year 2010.

By way of derogation from subparagraph 2, 7°, K = 0.40 for shredder waste originating from scrap treatment, decontaminated scrap vehicles and scrap electronic and electrical components for tax years 2010 and 2011. For these wastes K = 0.7 for tax year 2012 and K = 1 as of tax year 2013.

By way of derogation from subparagraph 4, K = 0.15 for the deposit of the residue from shredder waste that is processed in a post-shredder-technology installation (PST installation: treats the light fraction that is extracted from a cyclone, and the heavy fraction that remains after metallic separation and after the linear motor), for the following quantities:

1° for a maximum amount to be landfilled equal to four times the amount of materials, no more than 3% of which metals, recovered in the PST installation and removed for recovery, in tax years 2010 and 2011;

2° for a maximum amount to be landfilled equal to the amount of materials, no more than 3% of which metals, recovered in the PST installation and removed for recovery, multiplied by a factor of 2.5, in tax year 2012;

3° for a maximum amount to be landfilled equal to the amount of materials, no more than 3% of which metals, recovered in the PST installation and removed for recovery, multiplied by a factor of 1.5, in tax year 2013;

4° for a maximum amount to be landfilled equal to the amount of materials, no more than 3% of which metals, recovered in the PST installation and removed for recovery, in tax year 2014;

5° for a maximum amount to be landfilled equal to 80% of the amount of materials, no more than 3% of which metals, recovered in the PST installation and removed for recovery, in tax year 2015;

6° for a maximum amount to be landfilled equal to 60% of the amount of materials, no more than 3% of which metals, recovered in the PST installation and removed for recovery, in tax year 2016;

7° for a maximum amount to be landfilled equal to 50% of the amount of materials, no more than 3% of which metals, recovered in the PST installation and removed for recovery, in tax years 2017, 2018 and 2019;

8° for a maximum amount to be landfilled equal to 40% of the amount of materials, no more than 3% of which metals, recovered in the PST installation and removed for recovery, in tax year 2020;

9° for a maximum amount to be landfilled equal to 30% of the amount of materials, no more than 3% of which metals, recovered in the PST installation and removed for recovery, in tax year 2021;

10° for a maximum amount to be landfilled equal to 20% of the amount of materials, no more than 3% of which metals, recovered in the PST installation and removed for recovery, in tax year 2022;

11° for a maximum amount to be landfilled equal to 10% of the amount of materials, no more than 3% of which metals, recovered in the PST installation and transferred for recovery, in tax year 2023.

In all these cases, the sum of the amount recovered in the PST installation and transferred for recovery and the amount of shredder waste that is landfilled at the tax rate with K = 0.15 must not exceed the input of the PST installation. In accordance with the provisions of subparagraph 2 of Article 52, the operator of the PST installation shall, as proof of the application of the reduced tax rate, submit a report to OVAM by 31 January of each year from 2011 onwards containing a complete and detailed mass balance of processed waste streams and recovered waste streams and their respective destinations.

By way of derogation from subparagraph 2, 7°, in the case of waste plastic recycling residues from companies that use waste plastic as a raw material for the production of new substances or products, the following values shall apply: K = 0.15 for tax year 2010, K = 0.3 for tax year 2011, K = 0.6 for tax year 2012 and K = 1 as of tax year 2013.
In order to be able to apply the tax mentioned in subparagraph 1, the residual fraction to be landfilled, after (pre-) treatment, must be lower than the percentages specified below, which must be considered with respect to the total supply of the wastes concerned on an annual basis at the facility licensed to this end. If the residual fraction to be landfilled exceeds the percentages specified below, the environmental tax, with \( K = 1 \), shall be applied to the excess:

1° 15 weight per cent for glass waste;
2° a) 20 weight per cent for rag waste up to and including tax year 2013;
   b) 8 weight per cent for selectively collected used textiles (clothing, household linen and shoes) from tax year 2014;
3° 20 weight per cent for waste plastic, applicable for facilities that use waste plastic as a raw material for the production of new substances or products;
4° 5 weight per cent for waste plastic, applicable for facilities that pre-treat waste plastic as a raw material for the production of new substances or products;
5° 10 weight per cent for electronic and electrical scrap waste;
6° for a maximum amount to be landfilled equal to 60% of the amount of materials, no more than 3% of which metals, recovered in the PST installation and removed for recovery, in tax year 2016;
7° 5 weight per cent for wood waste;
8° 5 weight per cent for paper and cardboard waste;
9° 3 weight per cent for green waste;
10° 5 weight per cent for polystyrene foam waste;
11° 5 weight per cent for vegetable, fruit and garden waste originating from aerobic composting;
12° 8 weight per cent for vegetable, fruit and garden waste originating from anaerobic fermentation;
13° 5 weight per cent for construction and demolition waste;
14° 10 weight per cent for rubber waste, other than from waste tyres;
15° 5 weight per cent for waste tyres;
16° 20 weight per cent for plastic packaging, metal packaging and drink cartons (PMD);
17° 25 weight per cent for shredder waste originating from scrap processing;
18° 5 weight per cent for food waste;
19° 25 weight per cent for used solvents;
20° 10 weight per cent for recycling residues originating from the normal activities of reuse centres recognised by OVAM;
21° 3 weight per cent for recycling residues from the treatment of bottom ash.

In this paragraph, “flammable waste” is understood to mean: waste with a loss on ignition of >10% and a TOC content of >6%.

§ 3.
For the following wastes a rate of 0 euros per tonne shall apply:
1° from 1 July 2016 for the deposit of asbestos-containing waste with a content of asbestos or equivalent ceramic fibres of more than 10,000 mg/kg, determined as a weighted average concentration, at a landfill licensed to this end. The weighted average concentration is equal to the sum of the concentration of bound asbestos and 10 times the concentration of non-bound asbestos (cf. Compendium for Sampling and Analysis CMA/2/II/C2 and 3).
The rate of 0 euros per tonne also applies to soil and debris contaminated with asbestos (or equivalent ceramic fibres) with an asbestos content greater than 1,000 mg/kg (0.1%), determined as a total asbestos concentration, and less than or equal to 10,000 mg/kg, determined as a weighted average concentration, which, in accordance with the advice of OVAM, cannot be cleaned using the best available techniques;
2° [...]
6° from 1 July 2016 for the incineration or co-incineration in a facility licensed to this end of the wastes listed below produced in a country other than Belgium and which are shipped in application of the provisions of Regulation (EC) No 1013/2006 of 14 June 2006 on shipments of waste:

a) hazardous waste;

b) Non-hazardous slurries belonging to chapters 04, 05, 06, 07, 08, 12, 16 and 19 of the list referred to in Article 35.

The zero rate shall apply both to imported hazardous waste and non-hazardous slurries that are shipped directly to the incineration or co-incineration unit and to waste and slurries that are incinerated or co-incinerated following pre-treatment in a facility licensed to this end, possibly together with Flemish waste.

Without prejudice to the above provisions, the zero rate shall only apply to those quantities that satisfy the relevant conditions and are fully traceable in accordance with the approval of OVAM.

In subparagraph 1, 1°, "asbestos-containing waste" is understood to mean: waste wholly or partly consisting of ceramic fibres with similar carcinogenic properties.

§ 4.

The following activities shall not be subject to an environmental tax:

1° the use in the sealing layer at a licensed landfill of mixtures of, on the one hand, reagents and/or admixtures and, on the other hand, the following wastes which in accordance with the best available techniques (BAT) cannot be cleaned: sewage sludge, soils/sands, bottom ash and ash from the incineration of sewage sludge;

2° the deposit of soils that satisfy the conditions for use as soil and that are used as intermediary cover;

3° the incineration or co-incineration of wood waste in a facility licensed to this end, with recovery of energy.

§ 5.

When calculating the tax rates, the figures shall always be rounded up to the next cent.

The amounts of the environmental taxes mentioned in paragraph 1 and paragraph 2 shall be indexed according to the consumer price index, with the consumer price index of December 2006, base 1996, as base index. The amounts shall be indexed automatically every year without prior notice on 1 January of each year. The resulting amounts shall also be rounded up to the next cent. From budgetary year 2017, annual indexing shall take place on the basis of the index figure for the month of November of the previous year, initially on 1 January 2017 on the basis of the index figure for November 2016, 2006 base.

§ 6.

The amounts of the environmental tax mentioned in paragraph 1, subparagraph 1, 3° to 19° inclusive and paragraph 2, subparagraph 1 shall, from 2007 up to and including the second quarter of 2015, be multiplied by 0.70 for parties liable to pay taxes who, in accordance with Article 179 of the Income Tax Code 1992, are liable to pay corporation tax.

As of 1 July 2015 the amounts of the environmental tax mentioned in paragraph 1, subparagraph 1, 1° to 19° inclusive and paragraph 2, subparagraph 1, shall be multiplied by 1.5.

§ 7.

As of 1 January 2017 the amounts stated in paragraph 1, 16° and 17°, and indexed according to the stipulations of paragraph 5, are reduced by 4 euros per tonne, more specifically in the cases that the wastes in question are delivered by ship.

Article 47.

The environmental tax mentioned in Article 45 shall be owed:

1° at the moment the waste is processed in the facilities mentioned in Article 46, paragraph 1, subparagraph 1, 1° to 18° inclusive and paragraph 2, subparagraph 1, where the amounts mentioned in Article 46, paragraph 1, subparagraph 1, 1° to 18° inclusive and paragraph 2, subparagraph 1 are concerned;

2° at the moment the waste produced in the Flemish Region is shipped for the purposes of its processing outside the Flemish Region, where the amounts mentioned in Article 46, paragraph 1, subparagraph 1, 19° are concerned.

When a waste undergoes different treatment methods, the tax shall only be payable for the first treatment method applied that is subject to the tax. The exemption from the tax shall also apply for the admixtures added in the first treatment method.

Article 48.
When for the operation of a facility the licence granted in conformity with the provisions of this Decree has expired and a new licence has been issued for the same facility, with a view to the application of the environmental taxes mentioned in Article 46, paragraph 1 and paragraph 2 the new licence shall be deemed to have been issued either with effect from the time mentioned in the licence decision if the licensing authority has taken a decision within the legally determined period, or with effect from the time when this decision should have been taken in conformity with the legally set period.

Article 49.
The collection of the tax shall take place once per quarter, specifically:
1° in the course of the months of April and May for the first quarter;
2° in the course of the months of July and August for the second quarter;
3° in the course of the months of October and November for the third quarter;
4° in the course of the months of January and February of the next year for the fourth quarter.

The Government of Flanders shall lay down the more specific rules concerning the collection of the tax.

The Government of Flanders shall appoint the officials and contract staff of OVAM who will be charged with the collection and the recovery of the tax and the control of compliance with the obligations relating to the tax, and it shall determine the more specific rules with respect to their competences.

Article 50.
§ 1. The party responsible for paying the tax shall submit a declaration in the course of the months of April, July, October and January concerning the tax owed for the prior quarter.

§ 2. The party responsible for paying the tax shall pay the tax for the prior quarter before 10 May, 10 August, 10 November and 10 February. The party responsible for paying the tax shall also, before 10 December of each year, make an advance payment of the tax for the fourth quarter of that year. This advance payment shall be set at sixty-six per cent of the amount obtained by dividing the amount payable by the party responsible for paying the tax for the first three quarters by three. The resulting fixed sum shall be rounded down to the nearest ten. If based on the declaration relating to the fourth quarter it appears that the tax that is actually due is lower than the due advance payment, this advance payment is decreased by the tax that is actually due, but increased by legal late payment interest on the calculated difference, shall be repaid to the party responsible for paying the tax within ninety calendar days of receipt of the appropriately completed declaration relating to the fourth quarter. The advance payment shall not be payable if the party responsible for paying the tax provides proof before 10 December that they have ceased their taxed activity before the commencement of the fourth quarter.

§ 3. If the party responsible for paying the tax does not proceed with payment of the indicated amount, or if after control by the official charged with the collection and recovery of the tax it appears that the indicated amounts are incorrect, the official charged with the collection and recovery of the tax may claim a further amount from the party responsible for paying the tax.

§ 4. If the party responsible for paying the tax has to make payments for a number of quarters, the oldest debts shall be paid first and, in order, payment shall be made of administrative penalties, late payment interests and the principal sum.

§ 5. The Government of Flanders shall lay down the more specific rules for the declaration and payment of the tax.

Article 51.
The party responsible for paying the tax may reclaim the part of the tax included by him in his declaration and which has been regularly paid in the manner described in Article 50, paragraph 2), under the following conditions:
1° the tax is indisputable and has been clearly described on an invoice issued by the party responsible for paying the tax to a contracting partner with reference to the register referred to in subparagraph 1 of Article 52;
2° the claim of the party responsible for paying the tax shall be deemed permanently non-collectable in case of absence of assets after recording as an indisputable claim in the liabilities of the bankruptcy of the contracting partner on the basis of a certificate issued by the acting liquidator;
3° the application for the repayment of the tax shall be submitted to OVAM by registered mail,
accompanied by the invoice mentioned in point 1° and a copy of the certificate issued by the acting liquidator mentioned in point 2

Article 52.
The party responsible for paying the tax shall record the quantities of wastes, in tonnes, for each day and in the order of treatment, in a register.

The party responsible for paying the tax shall present all documents required to check the settlement of the tax or the correctness of the indicated amounts on each request from the officials responsible for the control of compliance with the obligations relating to the tax.

On each request from the officials responsible for the control of compliance with the obligations relating to the tax, the party responsible for paying the tax shall, orally or in writing, provide all information requested from him to check the settlement of the tax or the correctness of the indicated amounts.

Article 53.
If the tax has not been paid after the expiry of the period referred to in Article 50 paragraph 2, the legal interest mentioned in the Royal Decree of 4 August 1996 amending the legal interest rate shall become payable by operation of law.

Article 54.
If a party responsible for paying the tax, for whatever reason, has not submitted the declaration referred to in Article 50 paragraph 1, or has submitted it late, or has not complied with the obligations referred to in Article 52, the official charged with the collection may impose an official notice to pay for the amount of tax that is estimated to be payable.

In the cases mentioned in subparagraph 1 the tax shall be determined based on the requested documents or, in the absence thereof, based on the information that can be demonstrated by documents, witnesses and presumption.

The official notice to pay shall be imposed without prejudice to the possibility of further claims within the period referred to in Article 59.

Article 55.
Within a period of thirty days of the date of sending the official notice to pay or a further claim by registered letter, the party responsible for paying the tax may submit an appeal by registered letter to the Flemish minister appointed by the Government of Flanders, who shall issue a ruling within six months of the date of sending the notice of appeal. A copy of this appeal must be delivered to OVAM by registered letter. Under penalty of nullity, the appeal shall make reference to the case number, assessment year and quarter mentioned in the official notice to pay or the further claim. The Flemish minister appointed by the Government of Flanders may extend the above-mentioned period once only by a period of six months by means of a registered letter stating reasons sent to the party responsible for paying the tax.

Before taking a decision, the Flemish minister appointed by the Government of Flanders shall present the disputes referred to in subparagraph 1 before an advisory committee.

The Government of Flanders shall determine the more specific rules with respect to the operation and composition of the disputes committee.

In the absence of a ruling by the Flemish minister appointed by the Government of Flanders within the period mentioned in subparagraph 1, the appeal of the party responsible for paying the tax shall be deemed to have been granted.

The minister shall send his decision to the party responsible for paying the tax by registered mail. An appeal may be lodged against the decision of the minister in accordance with the provisions of Articles 1385decies and 1385undecies of the Judicial Code.

Article 56.
With regard to the party responsible for paying the tax referred to in Article 45, the repayment of excessively declared and paid environmental taxes can take place by setting it off against the due amount to be declared and paid in a next quarter of the current calendar year.

With the quarterly declaration the party responsible for paying the tax shall append the necessary documents to prove the validity of his calculation. If this calculation is incorrect or wrongly applied, further claims as mentioned in Article 50, paragraph 3 remain possible.
Article 57.
The Government of Flanders may determine more specific rules with respect to the appointment of persons charged with the collection and recovery of the environmental taxes, the method of collection and recovery of the environmental taxes, the declaration and the payment of the environmental taxes and the treatment of the appeals lodged in accordance with subparagraph 1 of Article 55.

Article 58.
Without prejudice to the application of the provisions of Chapter 7, an administrative penalty shall be imposed for each further claim, as mentioned in Article 50, paragraph 3), and for each official notice to pay, as mentioned in subparagraph 1 of Article 54. If taxes are not or insufficiently declared, the penalty shall be equal to the taxes that were not or insufficiently declared. In cases where payment of the declared taxes is late, the penalty shall be equivalent to 10% of the taxes that were not paid on time. In both cases, the penalty shall be no less than 70 euros. This administrative penalty shall be calculated based on the environmental tax without application of the coefficient of 0.70, as referred to in Article 46, paragraph 6.

Article 59.
The claim for payment of the tax, the interest and the administrative penalty shall lapse after five years starting on the date of origination. This period of limitation shall be interrupted in the manner and under the conditions described in the Civil Code.

Article 60.
The official appointed by the Government of Flanders to this end may reach settlements with the party responsible for paying the tax, to the extent that these do not lead to an exemption from or reduction of the tax.

Article 61.
The official mentioned in Article 60 shall also decide on the reasoned requests for the release from or reduction of the administrative penalty addressed to him by registered mail by the party responsible for paying the tax. Under penalty of nullity, these requests must be submitted at the latest within one month after the appellant has been notified of the decision of the Flemish minister appointed by the Government of Flanders concerning the appeal lodged in accordance with the provisions of subparagraph 5 of Article 55.

An appeal may be lodged against the decision mentioned in subparagraph 1 in accordance with the provisions of Articles 1385decies and 1385undecies of the Judicial Code.

Article 62.
The official mentioned in Article 60 shall also decide on the reasoned requests to delay payment submitted to him by registered letter by the party responsible for paying the tax.

Article 63.
In the absence of the settlement of the tax, the interest, the administrative penalty and related charges, the official charged with collection shall issue a final demand and notice. This final demand and notice shall be signed and declared enforceable by the official designated for this purpose by the Government of Flanders. The final demand notice shall be served by writ or by registered letter.

The provisions of part V of the Judicial Code with regard to attachment and means of enforcement shall apply to the final demand and notice.

Article 64.
As security for the settlement of the tax, the interest, the administrative penalty and the costs, the Flemish Region shall have a general preferential right to all movable property of the party responsible for paying the tax. It may establish a legal mortgage on all goods liable for such that are located in the Flemish Region and belong to the person in whose name the further claim or tax demand is established.

The preferential right mentioned in subparagraph 1 shall rank immediately after the preferential rights mentioned in Articles 19 and 20 of the Mortgage Law.

The rank of the legal mortgage shall be determined by the date of registration.

The mortgage shall be registered on the request of the officials referred to in Article 60.

Article 19 of the Bankruptcy Law shall not apply to the legal mortgage relating to the tax due for
which the registration was made and notice was served on the party responsible for paying the tax prior to the bankruptcy order.

Article 65.
Municipalities shall be entitled to call in the services of OVAM for the collection of the surcharges, insofar as these amount to a maximum surcharge of 20%, to be collected by the municipality in question on the environmental taxes collected by OVAM, mentioned in Article 46, paragraph 1 and paragraph 2, for facilities subject to the taxes located on their territory.

The Government of Flanders shall lay down the more specific rules relating to the costs and method for the collection of the surcharges.

Section 3. Fees

Article 66.
§ 1. The Government of Flanders may subject the evaluation of an application for recognition as a laboratory for the performance of waste and soil sample analyses, as mentioned in subparagraph 2 of Article 7, to the payment of a fee.

The Government of Flanders may subject the application for inclusion in a register, as mentioned in Article 13, paragraph 1, to the payment of a fee.

The Government of Flanders may subject the evaluation of an application for recognition or registration with a view to the management of animal by-products, as mentioned in Article 33, paragraph 3, to the payment of a fee.

The Government of Flanders may subject the evaluation of an application for the issuing of a declaration of raw material, as mentioned in Article 40, for the producer of the raw material in question or the natural or legal person acting on his behalf, to the payment of a fee.

§ 2. If the Government of Flanders, in the cases mentioned in paragraph 1, lays down a fee, the proof of payment of this fee shall be included with the application, under penalty of inadmissibility.

§ 3. The Government of Flanders shall determine the amount and the method of collection of the fees referred to in paragraph 1.

The Government of Flanders shall designate the OVAM officials who will be responsible for collecting and recovering the fees mentioned in paragraph 1, and it shall determine the specific rules regarding their competence.

CHAPTER 6. Plan C: towards greater autonomy

Article 67.
OVAM supports the transition towards a sustainable materials management. The purpose of this support is to achieve and support concrete breakthroughs on the road towards a sustainable economy and society when it comes to materials in the Flemish region, and to set an example within the European Union. To this end, OVAM, the Department of Economy, Science and Innovation, the Department of Services for the General Government Policy and the Flemish Institute for Technological Research shall set up a cooperation partnership with a view to:

1° providing operational support to companies, associations, enterprises, organisations or institutions governed by public or private law, with or without legal personality, that pursue the same objective, including Plan C, the Flemish transition network for sustainable materials management;

2° bidding for or carrying out orders and projects of associations, enterprises or institutions governed by public or private law in which the knowledge and experience of OVAM and the government institutions concerned can be used;

3° stimulating the exchange of information and cooperation between government institutions that pursue the same objective. This cooperation partnership may be extended to other government institutions.

Within this cooperation partnership, agreements shall be made on:

1° the allocation of budgetary and personnel resources of the government institutions involved with a view to their efficient use towards the attainment of the objectives mentioned above;

2° participation and representation of the government institutions that are part of the cooperation partnership in the above-mentioned companies, associations, enterprises, organisations or
institutions governed by public or private law;
3° other matters necessary in order to achieve the objectives mentioned above.

OVAM shall take on the chairmanship of the cooperation partnership. The Government of Flanders may lay down further rules for the cooperation partnership.

CHAPTER 7. Supervision and criminal provisions

Article 68.
For the purposes of this Decree and its implementing orders, the supervision and the administrative enforcement shall be carried out and safety measures shall be taken according to the rules referred to in Chapters III, IV and VII of Title XVI of the Decree of 5 April 1995 concerning general provisions relating to environmental policy.

By way of derogation from subparagraph 1, the supervision of and administrative enforcement of compliance with the requirements relating to environmental taxes shall be carried out according to the rules mentioned in Chapter 5, Section 2.

Article 69.
For the purposes of this Decree and its implementing orders, the investigation, detection and punishment of environmental infringements and environmental offences shall be carried out according to the rules referred to in Title XVI of the Decree of 5 April 1995 concerning general provisions relating to environmental policy.

By way of derogation from subparagraph 1, breaches of the requirement to notify and pay environmental taxes mentioned in Article 50 and the requirement to pay the administrative fine mentioned in Article 58 shall only be punished in the manner mentioned in Chapter 5, Section 2.

CHAPTER 8. Amending provisions

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CHAPTER 9. Final provisions

Article 81.
Articles 1 and 7 of the Law of 22 July 1974 on toxic waste are repealed.

Article 82.
The Decree of 2 July 1981 on the prevention and management of waste, last amended by the Decree of 23 December 2010, is repealed.

In all law texts in which reference is made to the Decree of 2 July 1981 on the prevention and management of waste, this shall be read as a reference to this Decree.

Article 83.
The Royal Decree of 9 February 1976 establishing the general regulation on toxic waste, last amended
Article 84.
The sectoral implementation plans, laid down in accordance with the Decree of 2 July 1981 on the prevention and management of waste, shall remain in force for the duration specified in the plan.

Article 85.
The appeals lodged before the coming into force of this Decree in accordance with Article 50, paragraph 15) of the Decree of 2 July 1981 on the prevention and management of waste against an official notice to pay or further claim, shall continue to be treated in accordance with the procedure mentioned in Article 50 of the Decree of 2 July 1981 on the prevention and management of waste.

Article 86.
This Decree shall enter into force on a date to be determined by the Government of Flanders, with the exception of Section 2 of Chapter 5, which shall enter into force on 1 January 2012.