

Jan Szuma\*  
Karolina Szuma\*\*

## Integrated permits to operate waste management installation in the Polish Environmental Protection Act

The Polish legislator dedicated a separate chapter<sup>1</sup> in the Environmental Protection Act (further referred to as the EPA) of 27 April 2001 to integrated permits<sup>2</sup>. An integrated permit implements the idea of integrated management of environmental emissions, as referred to in Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control<sup>3</sup>; integrated

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\* Master of Law, employed at Wojewódzki Sąd Administracyjny (Voivodship Administrative Court) in Poznań.

\*\* PhD in Law, European School of Law and Administration in Warsaw (assistant professor), H. Zambrowicz-Rybarczyk Office of Legal Counsels in Poznań; Studio legale Karolina Szuma, PhD in Poznań.

<sup>1</sup> Chapter 4, Division 4, Title 3 of the Act.

<sup>2</sup> Journal of Laws of 2008, No 25, item 150 with amendments, hereinafter referred to as: *Environmental Protection Act*.

<sup>3</sup> Official Journal L 24 of 29 January 2008, p. 8–29.

permits also arouse interest among the representatives of the doctrine<sup>4</sup>. An integrated permit covers all impacts on the environment and is to replace any and all sector permits. An integrated permit is an emission permit, therefore it is covered by general provisions concerning all sector permits (section 211(1) of the EPA) on one hand, and by specific requirements and modifications concerning explicitly integrated permits, on the other.

The EPA (Chapter 4, section 201) introduces an obligation of an integrated permit in order to operate certain industrial installations. Pursuant to section 201(1) of the EPA, an integrated permit is required to operate an installation, operating of which may cause significant pollution of environmental components or the environment as a whole, due to its type and the size of a conducted activity. This provision should be analysed together with the executive act issued to section 201(1) of the EPA, whereby the legislator authorized the Minister of the Environment to specify types of installations which meet the requirements of section 201(1) and therefore require an integrated permit. Currently, the applicable regulation is the one of the Minister of the Environment of 26 July 2002 concerning types of installations which may cause significant pollution of environmental components or the environment as a whole<sup>5</sup>.

As far as waste management is concerned, an integrated permit is required (Attachment to the regulation of the Minister of the Environment of 26 July 2002, section 5(1–4)) for the following installations:

1. for recovery or neutralization of hazardous waste, excluding land filling, with a capacity exceeding 10 tonnes per day,
2. for incineration of communal waste with a capacity exceeding 3 tonnes per day,
3. for neutralization of non-hazardous waste, excluding land filling, with a capacity exceeding 50 tonnes per day,

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<sup>4</sup> See e.g. M. Górski, *Prawo ochrony środowiska*, Warsaw 2009; J. Jendrośka (ed.), J. Jerzmański (ed.), *Prawo ochrony środowiska dla praktyków*; B. Wierzbowski, B. Rakoczy, *Prawo ochrony środowiska. Zagadnienia podstawowe*, Warsaw 2010; R. Paczuski, *Prawo ochrony środowiska*, Bydgoszcz 2000, A. Lipiński, *Elementy prawa ochrony środowiska*, Kraków 2002; J. Ciechanowicz-McLean, *Ochrona środowiska w działalności gospodarczej*, Warsaw 2003; J. Ciechanowicz-McLean, Z. Bukowski, B. Rakoczy, *Prawo ochrony środowiska. Komentarz*, Warsaw 2008; J. Boć, K. Nowacki, E. Samborska-Boć, *Ochrona środowiska*, Wrocław 2004.

<sup>5</sup> Journal of Laws of 2002, No 122, item 1055 with amendments.

4. for land filling of waste, excluding inert waste, receiving more than 10 tonnes of waste per day or with a total input capacity exceeding 25,000 tonnes.

In an integrated permit conditions for emissions are determined according to the rules provided for the following permits:

- gas and dust emission permit;
- water and sewage discharge into soil permit;
- waste generation permit;

(referred to in section 181(1)(2–4) of the EPA) and water intake permit (section 202(1) of the EPA).

Furthermore, an integrated permit specifies limits of gas or dust emissions from installations, irrespective of the fact whether, according to the law, this given installation needs a gas and dust emission permit.

However, it should be highlighted, which is important for waste management installations, that for the following installations limits of gas or dust emissions are not specified in an integrated permit:

- unorganized emission from installations which are not covered by the provisions concerning emission standards for gas and dust emission;
- installations for landfill gas disposal to the air;
- from natural ventilation.

An integrated permit also specifies the conditions for waste production and treatment as set out in the Waste Management Act<sup>6</sup> of 27 April 2001, irrespective of the fact, whether according to these provisions the given installation needs a waste generation permit.

An integrated permit also specifies, pursuant to the Water Act<sup>7</sup> of 18 July 2001, conditions for intake of surface or underground water, if water is taken for the needs of the installation which requires an integrated permit.

Pursuant to section 203(1) of the EPA, installations located on the premises of one plant are covered by one integrated permit. However, upon request of an operator of the installations, separate installations may be covered by separate integrated permits. Also upon request of an operator of the installations, an integrated permit may cover installations which do not require an integrated permit and which are located on the premises

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<sup>6</sup> Journal of Laws of 2010, No 185, item 12 with amendments, hereinafter referred to as Waste Management Act.

<sup>7</sup> Journal of Laws of 2005, No 239, item 2019 with amendments, hereinafter referred to as: Water Act.

of the same plant as the installations which do require such permit, and conditions for discharge of substances or energy into the environment will be set out for those installations pursuant to the rules regarding the permits as referred to in section 181(1)(2–4) of the EPA, and water intake permit.

An application for an integrated permit should meet certain requirements specified for applications for the following permits:

- gas and dust emission permit;
- water and sewage discharge into soil permit;
- waste generation permit;

and, if surface or underground water is taken only for needs of the installation, application for water intake permit within the meaning of the Water Act of 18 July 2001.

An application for an integrated permit should also include:

1) information regarding the installation which requires an integrated permit on:

- a) impact of emissions on the environment as a whole,
- b) existing or possible cross-border impact on the environment,
- c) proposed values of noise emission defined by noise levels generated off-site on neighbouring premises and on acoustic impact on various types of sites:
  - site for housing developments,
  - site for hospital and residential care centres,
  - site for facilities of permanent or temporary residence of children and youth,
  - site for spa purposes,
  - site for recreation and holiday purposes,
  - site for housing and business purposes;

and on working hours schedule for sources of noise, together with potential variations,

- a) proposed amount, condition and composition of sewage, unless the sewage is to be discharged into water or soil,
- b) proposed amount of used water, unless conditions referred to in section 202(6) of the EPA apply (i.e. if water is taken only for needs of the installation which requires an integrated permit);
- c) proposed prevention against accidents and limitation of their consequences, if it does not concern the plants referred to in section 248(1) of the EPA,

- d) fulfilment of the requirements referred to in section 207(1)(1a) of the EPA.
- 2) grounds for the suggested amount of emissions in cases referred to in section 207(2,3) of the EPA including fulfilment of the requirements specified therein;
- 3) description of variants of preventive measures against pollutions, if such variants exist;
- 4) list of emission sources, installations, technical measures which aim to prevent or limit emissions and list of substances which are to be recorded in a report referred to in section 7(1) of the Act on the System for the Management of Emissions of Greenhouse Gases and Other Substances of 17 July 2009<sup>8</sup>.

In order to supplement the above information it should be added that information on the requirements specified in section 207(1)(1a) of the EPA is a very important element of an integrated permit and distinguishes this permit from other sector permits. This information refers to the investor's fulfilment of the environmental protection requirements arising from the best available techniques (BAT). The key provision concerning this requirement is section 204 of the EPA which stipulates that the installations which require an integrated permit should meet the environmental protection requirements arising from the best available techniques (BAT), and specifically that they cannot exceed border emissions allowances. Border emissions allowances shall be understood as additional emissions standards which may not be exceeded by the installations which require an integrated permit. Best available techniques are defined in section 3(10) of the EPA.

It should be added that BAT requirements should be determined with consideration of information regarding the best available techniques published by the European Commission, pursuant to section 16(2) of Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control, drafted by EIPPCB Office in Seville.

If fulfilment of the requirements of the best available techniques entails actions to be taken within the period, for which a permit is to be issued, the information referred to in section 184(2)(15) of the EPA (proposed actions, including a list of technical measures aiming to prevent or limit emissions) shall include:

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<sup>8</sup> Journal of Laws of 2009, No 130, item 1070 with amendments.

- list and description of suggested actions;
- schedule of completion of the actions within the permit duration; if the planned completion takes longer than one year, it is required to present stages of such action for one-year periods and completion dates of those stages;
- anticipated completion costs for each action;
- financing plan for each action;
- list of technical and economic conditions to justify the suggested schedule of completion of the actions.

An application for an integrated permit is submitted in duplicate.

With the application the following documents should be enclosed:

- proof of registration fee payment;
- proof of stamp duty payment;
- application saved in electronic version on data carriers;
- copy of an application for a decision (decisions) on environmental conditions referred to in section 71(1) of the Act on Access to Information on the Environment and Environmental Protection, Public Participation in Environmental Protection and on Environmental Impact Assessment of 3 October 2008<sup>9</sup>, if such a decision had been issued.

Pursuant to section 209(2) of the EPA, if a permit is to cover an installation for the first time, or to cover it after a substantial change, the permit should be issued within 6 months from the day when the application was filed; the provision of section 35(5) of the Code of Administrative Procedure<sup>10</sup> shall be applied respectively (it means that time limits for the case to be dealt with do not include the time limit provided by the law for certain acts, periods when the proceeding is suspended and delays due to the party to the proceeding or due to reasons not attributable to the authority).

The Applicant may file an appeal within 14 days from the day when the decision is delivered to him. Having in mind that the Marshall of the Voivodship is a competent authority for matters of all installations in waste management since these are projects which may always significantly affect the environment (see section 378(2a)(2) of the EPA in relation to the Attachment to the regulation of the Minister of Justice of 26 July 2002 concerning types of installations which may cause significant pollution

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<sup>9</sup> Journal of Laws of 2008, No 199, item 1227 with amendments.

<sup>10</sup> Journal of Laws of 2000, No 98, item 1071 with amendments, hereinafter referred to as: CAP.

of environmental components or the environment as a whole and section 2(1)(39, 40, 41) of the regulation of the Council of Ministers of 9 November 2004 on defining types of projects which may significantly affect the environment and detailed conditions concerning classification of a project for environmental impact statements<sup>11</sup>) – an appeal is submitted to the Minister of the Environment (section 377a of the EPA) via the body which issued the decision.

The stamp duty is PLN 2,011 – pursuant to the Stamp Duty Act of 16 November 2006<sup>12</sup> (Attachment 1.III.40).

Registration fee:

- a) Registration fee for an application for an integrated permit – not exceeding EUR 3,000 (amount of registration fees is determined in the regulation of the Minister of the Environment of 4 November 2002 on registration fees<sup>13</sup>);
- b) Registration fee in case of change of an integrated permit due to substantial changes introduced in the installation covered by this permit – 50% of the registration fee, which would be required for an application for an integrated permit for such an installation;
  - PLN 17 for submission of the document certifying appointment of an agent and its excerpt or copy.

In order to obtain an integrated permit for operating an installation (in waste management), the applicant first prepares the documents necessary to obtain such permit. An application for an integrated permit should meet certain requirements as specified for applications for the following permits:

- gas and dust emission permit;
- water and sewage discharge into soil permit;
- waste generation permit;

and, if surface or underground water is taken only for needs of the installation, application for water intake permit as understood by the Water Act of 18 July 2001.

First of all, the application should include (section 184(2) of the EPA):

- 1) identity of the operator of the installation, their address of residence or registered office;
- 2) address of the plant, on the premises of which the installation operates;

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<sup>11</sup> Journal of Laws of 2004, No 257, item 2573 with amendments.

<sup>12</sup> Journal of Laws of 2006, No 225, item 1635 with amendments.

<sup>13</sup> Journal of Laws of 2002, No 190, item 1591 with amendments.

- 3) information on legal title to the installation;
- 4) information on the type of the installation, machinery and technologies used and technical characteristics of sources and places of emissions;
- 5) assessment of technical conditions of the installation;
- 6) information on the type of conducted activities;
- 7) description of intended variants of operation of the installation;
- 8) technological flowchart (general) with mass balance and types of materials, raw materials and fuels used, which are vital from the point of view of environmental protection requirements;
- 9) information on energy consumed or generated by the installation;
- 10) values and sources of emissions or places of emissions – current and proposed – during regular operation of the installation as well as during abnormal situations such as start-up and close-down;
- 11) information on planned periods when the installation will operate in abnormal conditions;
- 12) information on existing or potential impact of the emissions on the environment;
- 13) result of measuring the value of emissions from the installation, if such measuring was required;
- 14) changes in amount of emissions, if they occurred after the most recent permit had been obtained;
- 15) suggested actions, including a list of technical measures aiming to prevent or limit emissions and, if those actions are to be taken within the period, for which a permit is to be issued, proposed deadline for those actions;
- 16) suggested procedures of monitoring of technological processes which are vital for the environmental protection requirements, specifically emissions measuring and registering;
- 17) declared deadline and way of cessation of operation of the installation or its designated part, which does not pose a risk to the environment, if operation of the installation is to be ceased within the period, for which a permit is to be issued;
- 18) declared overall time limit for further operation of the installation, if it affects environmental protection requirements, and declared method of registering the time of such operation;
- 19) declared date when the installation is to be rendered operational in the case specified in s. 191a;
- 20) period to be covered by the permit.



If the application concerns newly started installation or substantially modified one, it should contain information on fulfilment of the requirements referred to in section 143 of the EPA. This provision stipulates that technology used by the investor should meet the requirements, which are defined specifically as:

- using low-risk substances;
- efficient production and use of energy;
- ensuring efficient use of water and other raw materials, materials and fuels;
- use of wasteless and small waste technologies and waste recovery possibilities;
- type, range and values of emissions;
- use of comparable processes and methods, which have been efficiently used in the industry;
- research and technology development.

Having in mind that the application for an integrated permit for waste management installation exempts the applicant from the obligation of waste recovery or neutralization permit (section 26(8) of the Waste Management Act, further referred to as the WMA), and simultaneously the integrated permit specifies the terms and conditions of waste generating and waste treatment pursuant to the rules set out in the provisions of the WMA, irrespective of whether under such provisions given installation is required to obtain a waste generation permit (section 202(4) of the EPA), the applicant should include the following information in his application for an integrated permit (section 27(1) of the WMA):

- list of waste types which are planned to be recovered or neutralized; if definition of the type is insufficient to specify the risks, which may be caused to environment by such waste, a competent authority may call the applicant to present the basic chemical composition of the waste and the characteristics of the waste;
- amount of waste of individual types which are subject to recovery or neutralization within one year;
- identification of the place of business activity for waste recovery or neutralization;
- identification of a place and method of waste warehousing, as well as the type of such waste, and if the actions include processing of waste containing asbestos in carrier machines – identification of a method of warehousing and a type of warehoused waste;

- detailed description of used recovery or neutralization methods, including identification of recovery or neutralization process according to the attachments 5 or 6 to the act and description of the technological process;
- presentation of technical and organizational capabilities allowing for due waste recovery or neutralization, particularly professional qualifications or staff training, as well as number and quality of – available installations and machines which meet the environmental protection requirements;

intended period of recovering and neutralizing waste.

An application for an integrated permit should also include:

- 1) information regarding the installation which requires an integrated permit on:
  - a) impact of emissions on the environment as a whole,
  - b) existing or possible cross-border impact on the environment,
  - c) proposed values of noise emission defined by noise levels generated off-site on neighbouring premises and on acoustic impact on various types of sites:
    - site for housing developments,
    - site for hospital and residential care centres,
    - site for facilities of permanent or temporary residence of children and youth,
    - site for spa purposes,
    - site for recreation and holiday purposes,
    - site for housing and business purposes;and on working hours schedule for sources of noise, together with potential variations,
  - a) proposed value, condition and composition of sewage, unless the sewage is to be discharged into water or soil,
  - b) proposed amount of used water, unless conditions referred to in section 202(6) of the EPA apply (i.e. if water is taken only for needs of the installation which requires an integrated permit);
  - c) proposed prevention against accidents and limitation of their consequences, if it does not concern the plants referred to in section 248(1) of the EPA,
  - d) fulfilment of the requirements referred to in section 207(1)(1a) of the EPA.

- 2) grounds for the suggested amount of emissions in cases referred to in section 207(2,3) of the EPA including fulfilment of the requirements specified therein;
- 3) description of variants of preventive measures against pollutions, if such variants exist;
- 4) list of emission sources, installations, technical measures which aim to prevent or limit emissions and a list of substances which are subject to be recorded in a report referred to in section 7(1) of the Act on the System for the Management of Emissions of Greenhouse Gases and Other Substances of 17 July 2009.

An application for an integrated permit is submitted in duplicate.

The following documents should be enclosed to the application:

- a document to certify that the applicant is authorized to act in legal transactions, if the installation is not operated by a natural person;
- abstract of the application executed in a non-specialist language;
- proof of registration fee payment;
- proof of stamp duty payment;
- application saved in electronic version on data carriers;
- copy of an application for a decision (decisions) on environmental conditions referred to in section 71(1) of the Act on Access to Information on the Environment and Environmental Protection, Public Participation in Environmental Protection and on Environmental Impact Assessment of 3 October 2008, if such decision had been issued.

Paid registration fee should be enclosed with the application. Stamp duty should be paid as soon as the obligation of its payment arises, namely upon submission of an application for an integrated permit. However, pursuant to section 3 of the regulation of the Minister of Finance of 28 September 2007 on stamp duty<sup>14</sup>, the applicant is obliged to attach a proof of payment of due stamp duty, or a certified copy of such proof of payment, not later than within 3 days after the obligation arises. The proof of payment may be a printout confirming an e-banking transfer.

It is worth mentioning here that, pursuant to section 211(4) of the EPA, an authority competent to issue the permit shall immediately submit

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<sup>14</sup> Journal of Laws of 2007, No 187, item 1330 with amendments.

to the Minister of the Environment or to an entity referred to in section 213(1) of the EPA (if another body or entity is entrusted with keeping the register of applications for an integrated permit and of issued integrated permits) a copy of the issued integrated permit and a record of the permit in electronic version on data carriers.

A permit for neutralization of hazardous waste on landfill is issued after an audit carried out by provincial environmental protection inspector concerning operation of the installation and machines for waste neutralization.

As mentioned above, if a permit is to cover an installation for the first time, or to cover it after a substantial change, the permit should be issued within 6 months.

In the case of default on supplementing, despite a request to supplement missing items, the applicant shall receive a letter (a letter that the application will not be further examined). This also applies in case of default on payment of a registration fee, which constitutes 'a requirement for the application for an integrated permit to be examined' (section 210(1) of the EPA).

In case of default on payment of a stamp duty despite a request for payment, the applicant shall receive a decision (a decision on return of the application – section 261(2) of the CAP).

If the application is formally correct, but it concerns an installation which does not meet environmental protection standards or any other requirements set out in the provisions, the authority by way of a decision shall refuse the applicant an integrated permit. Pursuant to section 186 of the EPA, the authority shall refuse an integrated permit if:

- requirements referred to in section 141(2), s. 143 and section 204(1) of the EPA are not met, and in case of waste generation permit and integrated permit – if there are reasons for refusal referred to in section 18(3)(1,2) or section 29(1,2) of the WMA of 27 April 2001;
- operation of the installation would exceed allowable emission standards;
- operation of the installation would exceed environmental quality standards;
- issuance of the permit would be incompatible with operational programmes, referred to in section 17, section 91(1) and section 119(1) of the EPA;
- application concerns the applicant's entitlements which were subject of a decision reversing or limiting the permit in the cases referred

to in section 194(1) and section 195(1)(1) of the EPA, where such decision had been made final and absolute less than 2 years ago;

- operation of the installation located within an industrial zone would infringe arrangements contained in the regulation concerning creation of this zone.

If the application meets the statutory requirements, the authority shall issue an integrated permit.

An integrated permit should meet the requirements specified for the following permits:

- gas and dust emission permit;
- water and sewage discharge into soil permit;
- waste generation permit;

and water intake permit.

Integrated permit should also specify, in reference to the installations which require an integrated permit:

- 1) type of conducted activities;
- 2) methods to achieve high level of protection of the environment as a whole;
- 3) methods to limit cross-border impact on the environment;
  - a) amount of noise emissions as set out by admissible noise levels expressed by noise indications LAeq D and LAeq N, in reference to the types of sites referred to in section 113(2)(1) of the EPA on working hours schedule for sources of noise, together with potential variations;
  - b) proposed amount, condition and composition of sewage, unless the sewage is to be discharged into water or soil;
  - c) amount of water, unless the conditions referred to in section 202(6) of the EPA occur;
- 4) prevention against accidents and limitation of their consequences and requirement to inform when a breakdown occurs, if it does not concern the plants referred to in section 248(1) of the EPA;
- 5) procedure in the case of cessation of operation of the installation, including removal of negative effects caused to the environment as a result of the operation; if such negative effects are expected;
- 6) methods to ensure efficient use of energy.

If meeting BAT requirements entails performance of actions in the period which is to be covered by the permit, the conditions referred to in section 188(3)(3) of the EPA are specified (amount of admissible emissions during

regular operation of the installation, not exceeding the value resulting from proper operation of the installation, for individual variants of operation), and schedule for completion of actions during the permit duration is set out; if it is necessary to complete certain action within the period exceeding one year, the permit shall specify stages of such action for one-year periods and completion dates of those stages.

An integrated permit may specify additional requirements for the installation if it is required to achieve high level of protection of the environment as a whole.

Here, it is worth assessing legal regulations regarding the investor's application to issue an integrated permit for operation of industrial waste management installations, which is currently regulated by the EPA. Such assessment aims to suggest potential trends for amendments of those provisions, which in the light of current practice, doctrine and case law could streamline the proceedings and introduce simplifications for the applicants. Our assessment focused on those points in the procedure which may be significant from the above point of view. We assumed that proceeding regarding an integrated permit is an essential and important part of regulations of the EPA which implements an idea of integrated management of environmental emissions as referred to in Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control.

Integrated permit implements the idea of integrated management of environmental emissions, as referred to in Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control. Its essence is that it covers the whole impact a given installation has on the environment and it replaces all other sector permits. Thus, it allows for broad assessment of the effects of the expanded installations, operation of which may cause significant pollution of environmental components or the environment as a whole, due to the type and size of conducted activity (s. 201(1) of the EPA).

An integrated permit is an emission permit therefore it is covered by general provisions concerning all sector permits (section 211(1) of the EPA) on one hand, and by specific requirements and modifications concerning explicitly integrated permits, on the other.

The EPA (Chapter 4, section 201) imposes an obligation of integrated permit on persons intending to operate certain industrial installations. Pursuant to section 201(1) of the EPA an integrated permit is required to

carry out an installation, operation of which may cause significant pollution of environmental components or the environment as a whole, due to its type and size of conducted activity. This provision should be analysed together with the executive act issued to section 201(1) of the EPA, whereby the legislator authorized the Minister of the Environment to specify types of installations which meet the requirements of section 201(1) and therefore require an integrated permit. Currently, the regulation of the Minister of the Environment of 26 July 2002 concerning types of installations which may cause significant pollution of environmental components or the environment as a whole applies.

In the part concerning waste management, the following installations are listed as requiring an integrated permit:

- 1) installation for recovery or neutralization of hazardous waste, excluding land filling, with a capacity exceeding 10 tonnes per day,
- 2) installation for incineration of communal waste with a capacity exceeding 3 tonnes per day,
- 3) installation for neutralization of non-hazardous waste, excluding land filling, with a capacity exceeding 50 tonnes per day,
- 4) installation for land filling of waste, excluding inert waste, receiving more than 10 tonnes of waste per day or with a total input capacity exceeding 25,000 tonnes (the Attachment to the regulation, section 5(1-4)).

An integrated permit sets out the conditions for emissions according to the rules provided for the following permits:

- gas and dust emission permit;
- water and sewage discharge into soil permit;
- waste generation permit;

(referred to in section 181(1)(2-4) of the EPA) and water intake permit under the Water Act (section 202(1) of the EPA). Furthermore, values for gas or dust emissions from installations are specified, irrespective of the fact whether the law requires this given installation to have a gas and dust emission permit.

It should also be mentioned, which is important for waste management installations, that for the following installations values of gas or dust emissions are not specified in an integrated permit:

- unorganized emission from installations which are not covered by the provisions concerning emission standards for gas and dust emission;

- installations for landfill gas disposal to the air;
- from natural ventilation.

An integrated permit specifies also the conditions for waste production and treatment as set out in the WMA, irrespective of the fact, whether these provisions require the given installation to have a waste generation permit.

An integrated permit also specifies, pursuant to the Water Act of 18 July 2001, the conditions for intake of surface or underground water, if water is taken for needs of the installation which requires an integrated permit.

We can see from the description above how wide the range of an integrated permit is as for waste management. If we consider as many elements concerning emissions from the waste installation as possible under an integrated permit, we may exclude them from the analysis under sector permits. Consequently, the WMA of 27 April 2001 exempts:

- a person generating waste who operates an installation covered by an integrated permit from the requirement to obtain a decision confirming hazardous waste management plan, waste generation permit and from submitting information about the generated waste and methods of generated waste management (section 17(4) of the WMA), as well as
- holder of the waste who carries out waste recovery or neutralization from the requirement to obtain a permit for such activity (section 26(8) in relation to section 26(1) of the WMA).

Having in mind the above exemptions and the fact that an integrated permit also specifies conditions for waste generation and methods of waste treatment according to the rules set out in the WMA, it should be recognized that integrated permits replace waste generation permits and permits for operating an activity of waste neutralization, collection and recovery (section 202(1,4) in relation to section 181(1)(4) of the EPA)<sup>15</sup>.

Provisions concerning the scope of an integrated permit should correspond with procedural regulations regarding the content of the investor's application. However, as far as waste landfills are concerned, that is installations which serve waste neutralization (see Attachment no 6 to the WMA), those regulations seem incompatible with later requirements of an integrated permit.

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<sup>15</sup> See also: K. Gruszecki, *Obowiązek dostosowania przez zarządzających składowiskami odpadów posiadanych pozwoleń w związku z nowelizacją ustawy o odpadach*, article published online at Local Government Website (Serwis Samorządowy), Wolters Kluwer business.



Section 208(1) of the EPA expressly stipulates that an application for an integrated permit should meet the requirements set out for the application for the following permits:

- gas and dust emission permit (section 181(1)(2) of the EPA);
- sewage discharge into soil and water permit (section 181(1)(3) of the EPA);
- waste generation permit (section 181(1)(4) of the EPA);

and, if surface or underground water is taken only for the needs of the installation, application for water intake permit as understood by the Water Act of 18 July 2001.

Considering the above provision one can have an impression that when requirements for the application had been set out, the legislator forgot to specify requirements for the fifth sector permit, which is replaced by an integrated permit, namely for a waste recovery or neutralization permit. List of installations in the regulation of Minister of Environment of 26 July 2002 concerning types of installations which may cause significant pollution of environmental components or the environment as a whole, covers the installations of particularly intensive or large emissions, therefore their operators have to fulfil the requirements for every emission permit. We should remember however that an integrated permit replaces not only the sector permits mentioned in the EPA, but also one of the permits regulated exclusively in the WM – a waste recovery or neutralization permit.

A waste landfill manager should in the first place meet all the requirements to conduct an activity which includes waste neutralization (section 26(1) of the WMA). This applies also to a person generating waste who holds a joint permit (section 31(1) of the WMA), who in his application for a waste generation permit or for a decision confirming hazardous waste management plan, is obliged to take into account the requirements provided for an application for a waste neutralization permit (section 31(2) of the WMA). No analogical requirement – as in section 31(2) of the WMA – has been expressly set out in the EPA in reference to an entity applying for an integrated permit for a waste landfill installation.

The authors hereof are of the opinion that the lack of reference in the EPA to the provisions regarding requirements of the application referred to in section 27(1) of the WMA in the case where an investor applies for an integrated permit for an installation for waste neutralization, is a serious oversight on the legislator's part, which may lead to difficulties

in interpretation. Since an integrated permit includes also the requirements for waste generation and for methods of waste treatment pursuant to the rules set out in the WMA (section 202(4) of the EPA), and an integrated permit replaces a waste neutralization permit, then for the sake of transparency of formal requirements for an integrated permit, an express reference to section 27(1) of the WMA should be added.

It seems that if an applicant was obliged to include in his application for an integrated permit for an installation including a waste landfill the content of section 208(1) of the EPA, it would enhance transparency of the act for investors intending to operate waste management installations. At the same time, it would simplify the procedure for authorities competent to issue an integrated permit, who are obliged to observe the waste treatment requirements according to the rules set out in the WMA.

Leaving aside the above, the authors hereof assess that there is no need for further simplification of proceeding regulations regarding integrated permits (issued to entities intending to operate waste management installations). We should remember that a proceeding concerning integrated permits applies to operation of high-classified installations, operation of which may cause significant pollution of environmental components or the environment as a whole, due to its type and size of conducted activities. Therefore, the proceeding requires an investor to be fully involved into the preparation of relevant documentation for the installation. A multitude of elements to be taken into account in the documentation attached to the application is not a result of excessively developed legal structure of an integrated permit, but it results from the nature of the subject matter of the proceedings, namely the classified installations within the meaning of section 3(8) in relation to section 201(1) of the EPA.

It should also be noted that it is necessary to introduce the basic principles of integrated emission management in order to harmonize the Polish law with the requirements of the EU law, in this given case to Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control.

The changes introduced by way of an amendment to the act in 2005, whereby greater freedom as for the scope of a permit has been granted to an operator of the installation, are given a positive opinion. At the request of an operator, a separate integrated permit may cover the installations on the premises of one plant (section 203(2) of the EPA), which makes an

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*Integrated permits to operate waste management installation...*

exception to the rule that the installations located on the premises of one plant are covered by one integrated permit (section 203(1) of the EPA).

At the request of an operator of the installations, also the installations which do not require an integrated permit and are located on the premises of the same plant as the installations which do require such a permit, may be covered by an integrated permit, and requirements regarding discharge of substances and energy into the environment may be specified for such installations pursuant to the requirements set out for sector permits and water intake permit.

Having in mind the above and the fact that proceedings to issue an integrated permit must fulfil minimum harmonization requirements, it should be recognized that currently there is no possibility to introduce into the proceedings radical simplifications for the investors intending to operate waste management installations. However, it is worth paying attention to the issue of a more precise definition of the requirements concerning the application in the situation when an integrated permit authorizes an operator of a waste landfill to take and conduct a waste neutralization activity.