

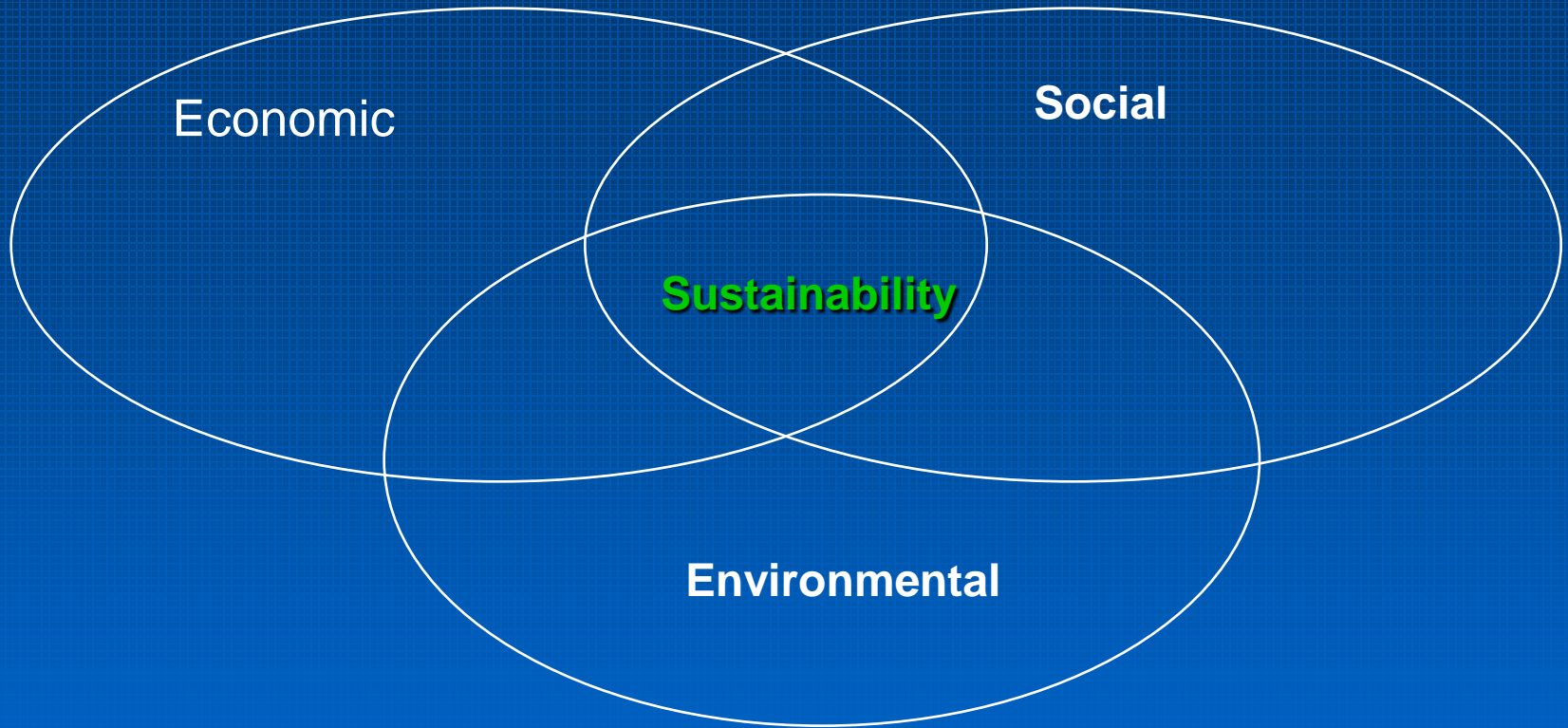
ICF Objectives for Industry Regulation

***Presentation to IPI Planning Conference
20th November 2009***

Liam Smyth FIEI

***Planning & Environment Manager
Irish Concrete Federation***

Sustainability

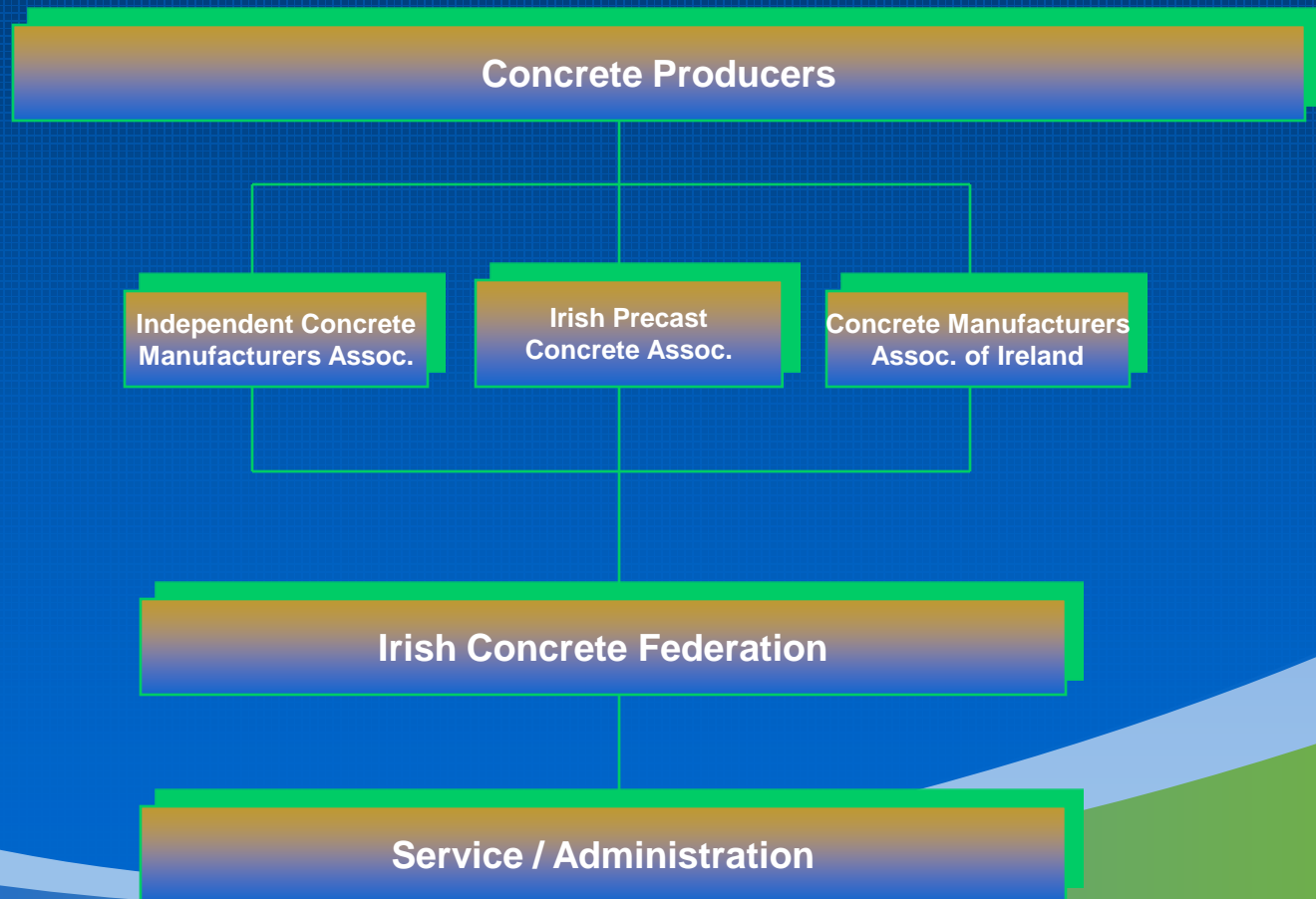


Concrete Built **is** Better Built





Irish Concrete Federation Structure

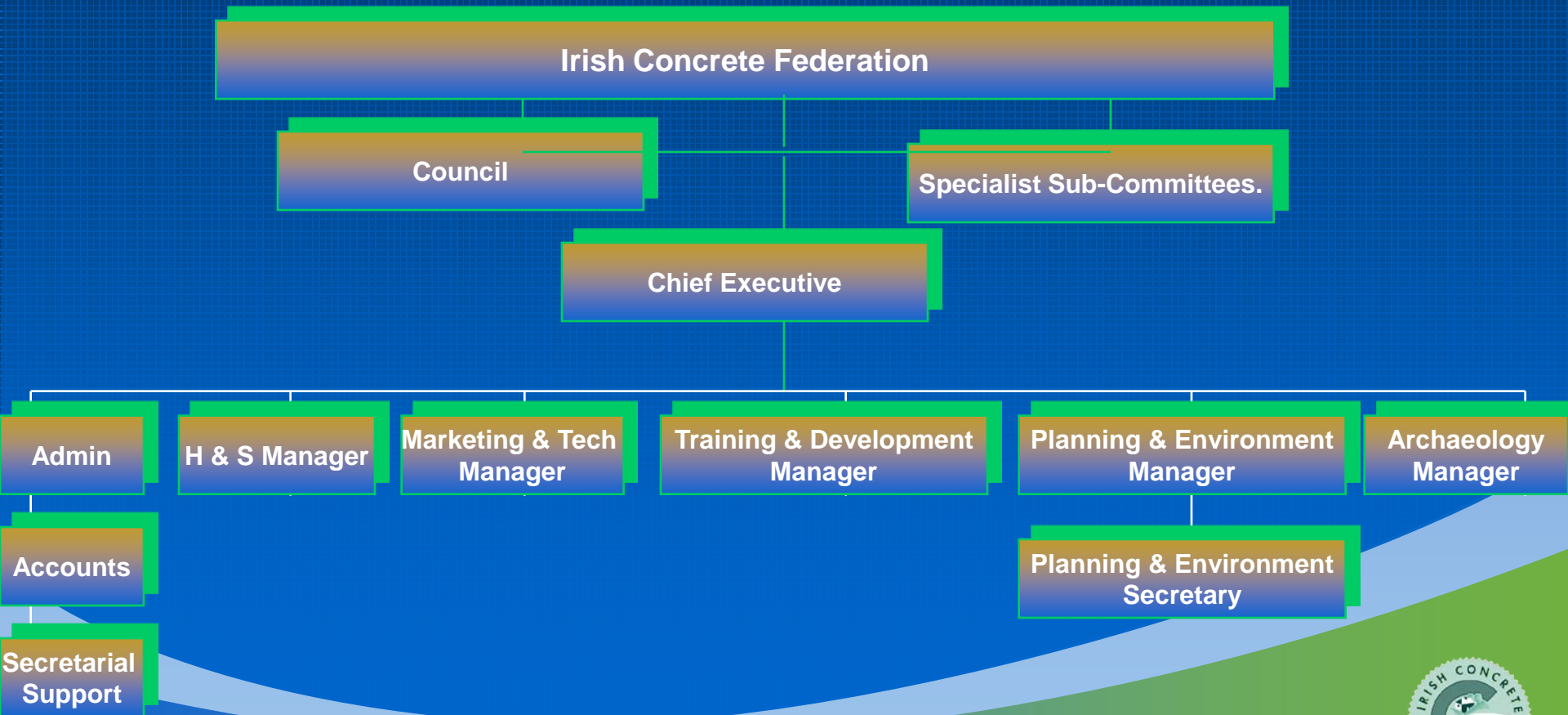


Concrete Built **is** Better Built





Irish Concrete Federation Structure

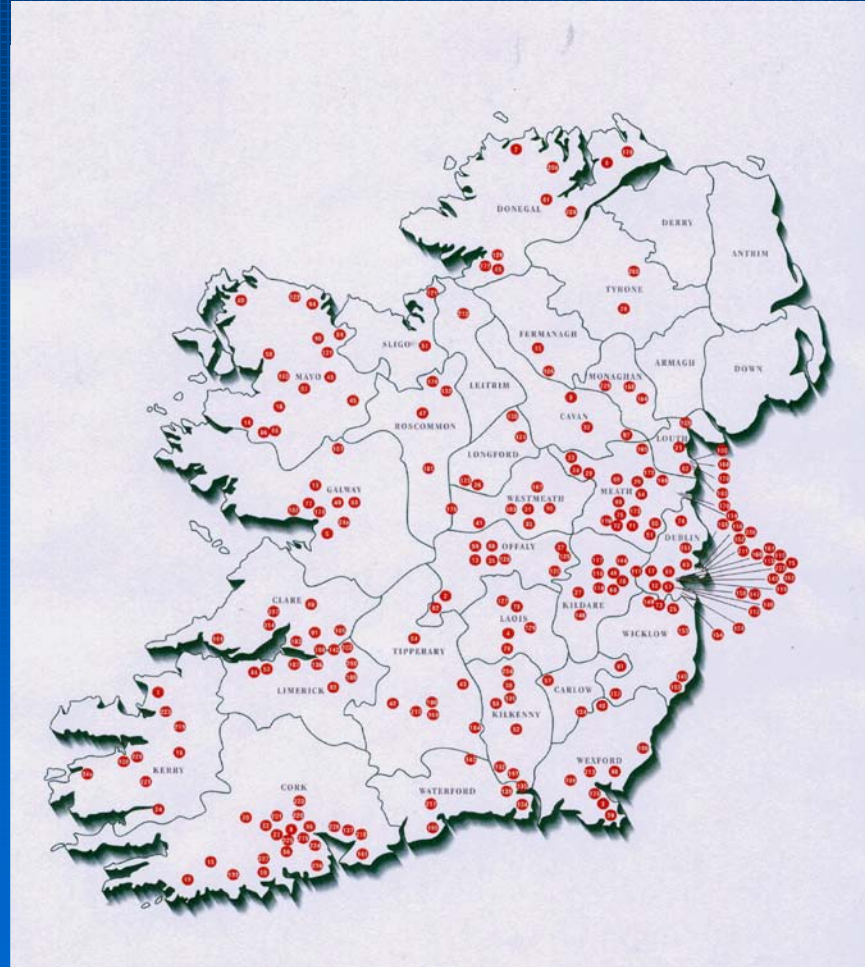


Concrete Built **is** Better Built



Irish Concrete Federation Membership

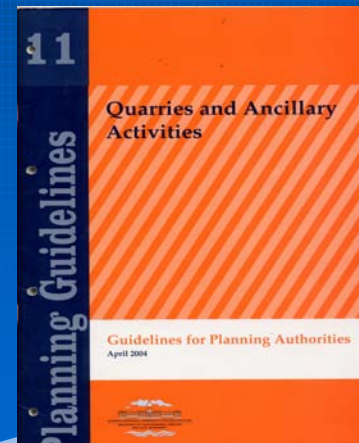
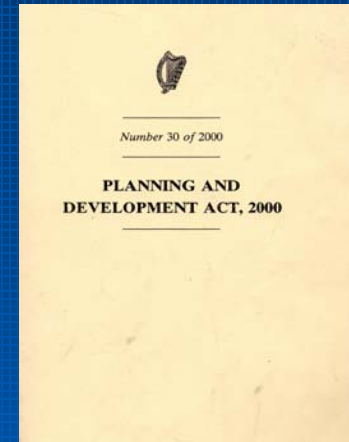
- National Trade Association
- 300 Main Locations plus satellite sites
- €1.5bn+ Value
- 10,000+ People employed
- 75% of Agg.
- 75% of Conc.



Legislative Framework Within Which We Must Operate

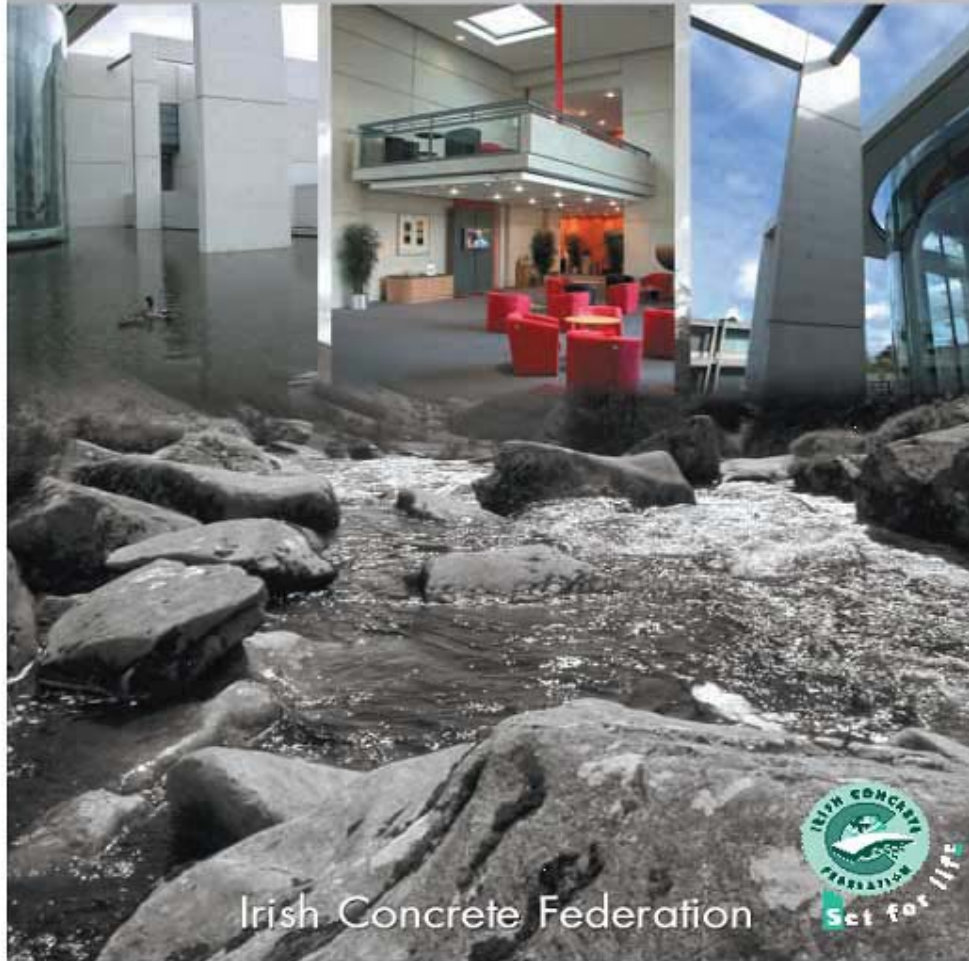
Legislation & Guidance

- European Directives, e.g. EIA Directive
- Government
 - Dept. of Environment
 - Planning & Development Act 2000
 - Minerals Developments Acts
- Special Section 261
 - Registration & Control of Quarries
 - S34/S261 Planning Guidelines
- EPA Environmental Guidelines
- Waste Management Act 1996 & Regs 2008
- Emissions
 - Water Pollution Acts 1977 & Regs to date
 - Air Pollution Act 1987 and Regs 1988



environmental code

Second Edition - October 2005



Irish Concrete Federation



Concrete Built **is** Better Built



Aggregates Planning Framework

Development Plans

- Local Authorities/ County Councils
 - ❑ Local Authority Development Plan
 - ❑ Only existing Aggregate Policy
 - ❑ Reviewed Every 6 Years
 - ❑ Regional Development Plans
- ICF Policy Statement
 - ❑ Identification & preservation of raw materials reserves
 - ❑ G.S.I.



Key Planning Issues

- Aggregate Demand versus Aggregate Availability
- Identification of Resources
- Accelerated Programme of Mapping (GSI),
(3-5 Years to Meet 25 Year Need)
- Protect Resources for National Benefit
- 100% Planned and Controlled Extraction
- Maximise Development Opportunities, especially
at Existing Operations (based on robust EIA)
- Long Permissions Required To Enable Investment
- Community/Stakeholder Consultation



15 10 2004



County Development Plan Review Process

1 of 2

- Only aggregate planning policy currently
- Long ICF history of Submissions at both SI and Draft Plan stages
- Generally good reception, particularly where industry is a big employer
- Lack of fundamental realisation of importance of aggregates to society and scale of societal demand
- Greatest exceptions most notable in counties where aggregate potential mapping completed
- Need to encourage and protect indigenous industry
- Template for applications (Mayo)

County Development Plans Review Process

2 of 2

- Recognition of Raw Material Resources
- Protection of Resources
- Accidental Sterilisation of Resources
- Spirit of Planning Guidelines
- Long Planning Consents (25years+)
- Control of Unauthorised Developments
- Heritage – Archaeology, Biodiversity and Geological diversity
- Fair and reasonable development contributions – special contributions per S48(2)(c)





ICF Policy Statement for the Aggregates Industry

(to be incorporated into County Development Plans)

It is recognised that the aggregates (stone, sand and gravel) and concrete products industry contribute significantly to the economic development of the County by the proper use and management of natural resources for the benefit of the community, and by the creation of employment opportunities. The Council recognises that these products are the essential building materials in our homes, farms, factories, schools and offices and that infrastructure projects of all kinds from water treatment plants to road projects to sewage works depend on a continued supply of aggregates and concrete products. The Council will, therefore, seek to safeguard valuable, unworked deposits for future extraction. The Council further recognises that the aggregates and concrete products industries have a particularly sensitive role in relation to the environment and as such, any development for aggregate extraction, processing, delivery, and associated concrete production must be carried out in a manner which minimises adverse effects upon the environment and the local community. Preference will be given to developments where the applicants can demonstrate their commitment to good environmental management through implementation of a recognised environmental code of practice. Developers must ensure that on completion of operations that the site is left in a satisfactory state and be of benefit after use.

Voluntary Codes of Practice

- ICF Environmental Code (2005 2nd Ed.)
- DEHLG/ICF Archaeological Code (2009 2nd Ed.)
- GSI/ICF Geological Heritage Guidelines 2008
- NPWS/ICF Biodiversity Guidelines 2009



ICF Environmental Award Winners

In 1998, an Environmental Awards Competition was established to recognize outstanding commitment to environmental management and sustainable development. The following sites have received awards since then.

1998



1999



2001



2002



2004



2005



Concrete Built **is** Better Built







25. 1. 2003



Water Framework Directive

- ICF on key River Basin District Advisory Councils
- Separation of Quarrying from Mining and Contaminated Lands accepted, if not in print
- Enforcement of existing standard conditions
- Review of Section 4 Discharge Licences
- Abstraction Licencing
- Beware of Freshwater Pearl Mussels!!
- Quarries identified on Sub-Basin Mgmt Maps



105 3 10

Waste Issues

- Legitimate quarries have some waste management related conditions, even if for restoration and landscaping or otherwise to register the site under Waste Management Regulations 2008
- Inert C&D recycling/recovery is a natural fit for an operating quarry, using existing authorised or planning exempt equipment - support in WMPs
- Commercial scale C&D facilities now require EIS and EPA licence (>100,000t total, >25,000t/annum)
- Ancillary manufacturing issues; Returned Concrete and Macadams not waste if beneficial use without further processing
- Extractive Industry Mgmt of Waste Directive – will require Waste Mgmt Plans to be approved by EPA
- E-PRTR Regs (25ha exposed)
CO, CO₂, NO_x, SO_x, PM₁₀

DOE Planning Guidelines 2004

- Significant ICF input
- Like most documents they are a compromise
- Most proposed conditions should not be a great problem to a modern commercial quarry operation.
- Reasonably balanced document if consistently applied and read as a whole:
 - Some evidence in recent planning permissions that some proposed conditions in the Guidelines are being included but are supplemented with several layers of additional conditions covering the one aspect
 - Certain planning authorities still showing a preference for a particular non-standard control method. This leads to uneven application.
 - Ideally perhaps 30 accepted standard conditions

Ireland's Quarries

- Range of sizes of operators and operations
 - Small, Medium & Large - Family run to PLCs, average 300,000 t/annum (2007)
 - Rock Quarries or Sand & Gravel (or mix)
 - Well dispersed, with limited haulage distances
 - Most are long-term operations
- Planning Status of Legitimate Quarries
 - Pre Planning 1st October 1964, S261(6(a)(i)&(7))
 - Post Planning with limited conditions S261(6(a)(ii))
 - Recent Planning with substantial conditions applied S34 & possibly S261(7)
 - ECJ C-215/06 issues in a small percentage
- Totally Unauthorised Quarries
 - Circa 18% of registrations plus many more unregistered sites, many ECJ C-215/06 issues
 - Potentially hundreds of sites

Section 261

1 of 2

- Industry expected 500-600 sites to register; instead 1,500+ sites registered
- Despite representing the vast majority of output, only 250-260 sites had ICF links
- Some attempts at regional consistency of application with several counties executing responsibilities
- Many counties did not deal with S261 correctly or try to be consistent with neighbouring counties
- Legal minefield with a large number of judicial reviews
- Few counties reasonably challenged bona fides of origins or non-abandonment of pre 63 sites

Section 261

2 of 2

- ICF estimates the following breakdown of registrations:
 - 71% Pre 63
 - 12% Previous Planning Permission
 - 17-18% Post 64 without a previous planning permission
- Ultimately, conditions were imposed on vast majority of sites under S261(6)(a)(i) were not enforceable
- Post 64 sites without planning not provided for
- Some unauthorised development on authorised sites highlighted

European Court of Justice

Decision C215/06 3rd July 2008

- Apparent general preclusion from Retention Applications where EIS involved
- Retention was not unusual practice in Ireland
- Incorrect transposition EIA Directive 1985 into Irish Law 1989 Regs
- Possibly hundreds of sites impacted including many while in the process of regularisation
- Small number of sites with previous authorisation (pre 63 or previous planning where area exceeded)
- Large number of post 64 sites without any authorisation (up to 18% of registrations though site sizes unknown)
- Judgement unchallenged by industry

ICF actions following ECJ C-215/06 1 of 2

- Meetings with DEHLG to spell out the extent of the problem and shortcomings of S261
- Meeting with EU Commission where a clear message was delivered: “Without certainty of enforcement, what will stop this recurring?”
- ICF developed a proposal to include licencing in parallel to permissions with most operational aspects covered by licence
- Once off remedial permission proposed with varying degrees of difficulty depending on planning status, linked to introduction of licencing
- Consultations with An Taisce over a number of months with common agreement on licencing and auditing

ICF actions following ECJ C-215/06 2 of 2

- Ongoing meetings with DEHLG who appear to support the proposal in principle
- Meeting with EPA on licencing issue
- Complexity of legislative measures acknowledged
- See amending legislation as merely the first step of what is required to achieve a fully professional and sustainable industry
- Judgement unchallenged by industry

ICF Objectives for Industry Regulation 1 of 2

- Prior to S261, ICF called for a licence for quarries; rejected in favour of the drafting of S261
- Poor history of successful enforcement against unauthorised developments; enforcement parked almost entirely during S261
- Ultimately, the certainty of enforcement, including closure, is required as a deterrent to unauthorised operation
- Complexity of ever expanding legislation (6th Env Action Plan) will mean more reporting to different bodies or local authority sections
- Inconsistency in assessment and conditioning

ICF Objectives for Industry Regulation 2 of 2

- Retain land use planning with local authorities but in combination with EPA Sectoral licence (non IPPC)
- Local Authorities deal with roads, visual impact and heritage matters
- EPA licence to deal with all other issues, emissions, waste etc
- Regional planning co-ordinators for extractive industry
- Live website of compliant sites; needed for public procurement
- Licence dependent on having planning and being in compliance

What does the Future hold?

- Likely that Retention only in Exceptional Circumstances (if applicable)
- No 7 Year Rule for extraction (S157 protection)
- Better Enforcement by either LAs and/or EPA
- Better public consultation/participation
- Overall integrated sectoral licence???. appears to be in programme for Government
- With a reviewable licence, no justification in not granting long term permissions
- Smaller but professional and sustainable industry
- Confident and capable of meeting the challenges ahead in a properly regulated environment!!

Thank You

liam.smyth@irishconcrete.ie

www.irishconcrete.ie

Concrete Built **is** Better Built

