



**ENVIRONMENT
AGENCY**

Guidance for Registering an Exempt Operation: Waste for Construction – Paragraph 19

Please read these guidance notes carefully before you make your notification.

Introduction

This document is intended for any establishment or undertaking that wishes to renew or make changes to an existing paragraph 19 registration. It should be read in conjunction with the notification form EPA, EPB-19 & EPF which can be found alongside these guidance notes on our web site.

The document is split into four sections –

Section A - About the Regulations

This section explains where you can find a full description of a Paragraph 19 operation and what to do if you want to notify us of your intention to undertake this operation. We also explain what happens when your operation is registered and how a registration is renewed.

Section B – Completing the Notification Form

Explains how to complete the notification form which provides us with the basic details of your paragraph 19 operation. You must use the notification form with the same reference as this document – EPA, EPB-19 & EPF.

Section C – Supporting Documentation

Sets out the full list of supporting documents that you must submit with a renewal notification and details the sort of information each supporting document must contain.

Section D – Declaration

Reminds you to read the declaration on the notification form before you submit your new notification or renewal.

Section E – Guidance on Completing the Risk Assessment

Explains how to complete the Pollution Risk Assessment template that you must use when providing your pollution risk assessment.

Appendix 1 Contains Part 1 of the Risk Assessment Template.

Appendix 2 Contains Part 2 of the Risk Assessment Template..

Section A – About the regulations

Most waste management operations are regulated by the Environmental Permitting (England and Wales) Regulations 2010. The regulations determine whether certain waste operations must have a permit or if they can be exempt. The exception to this would be exemptions registered before 5 April 2010. This would still be covered by the Environmental Permitting (England and Wales) Regulations 2007, during the transitional provisions detailed in the 2010 regulations.

There are a number of waste operations that are exempt from permitting. We provide a plain language guide to each of the exemptions on our website at: -

<http://www.environment-agency.gov.uk/business/topics/permitting/32324.aspx>

A full transcript of the paragraph 19 exemption which covers using waste for certain construction purposes, and a summary explaining the legislation can be found on our web site at:-

<http://www.environment-agency.gov.uk/business/topics/permitting/34786.aspx>

Before you make your notification

If you want to undertake an exempt operation you must notify us first, providing us with certain information. We will assess the information and decide whether we can register that operation as exempt. **It is an offence to carry out a paragraph 19 exempt operation without being registered.**

Before you notify us, use the guidance detailed at the links above to make sure that you know what the exemption covers, what the specific limits of the exemption are and that you can always operate within its limits.

Please note:

For an operation to be exempt, the waste must be recovered without endangering human health and without using processes or methods which could harm the environment, and in particular without:

- risk to water, air, soil, plants or animals
- causing nuisance through noise or odours
- adversely affecting the countryside or places of special interest.

Making your notification

When you make a notification you are required to fill in a form and also provide supporting documentation.

You must allow at least 25 working days from the time your notification is complete, for us to make our assessment. The notification is complete when we have received all your documents and you have paid your fee.

Fees

Paragraph 19 is a chargeable exemption. You can find information under the Environmental Permitting Charging Scheme 2008/2009 at –

<http://www.environment-agency.gov.uk/business/regulation/38811.aspx>

You must include the correct fee with the renewal notification, otherwise all documentation will be returned to you without further processing.

What happens when we receive your notification

Once we have received your notification form, supporting documents and the correct fee we will start our assessment.

When we have completed our assessment, we will inform you of our decision by sending you either confirmation of your registration or a notice of refusal. In some cases we may need to extend the time that we take to assess your notification. If this is the case we will contact you. If we refuse your notification we will tell you why. There is no appeal process for exemptions.

If your notification is successful, we will register your operation. You will then be allowed to carry out that operation for 12 months from the registration date. If you want to continue for longer than this, you will need to renew your registration.

Renewing a notification.

We must receive notification for renewals before the current registration expires which is 12 months from the original registration or last renewal. A notification received after a registration has expired will be a new notification and will attract the higher fee. We will remind you when your registration is due for renewal, usually at least one month before it is due to expire.

Each year that you renew a Paragraph 19 exemption you will need to complete the notification form. Supporting documents may be required where you have not provided that item previously, where they are out of date or where there have been changes.

If you are making major changes to your currently registered exemption, you may have to make a new notification. Examples of changes that will require a new notification are:

- location of construction operation.
- different establishment or undertaking carrying out the operation
- type of waste has changed.

If you wish to vary any of the details of an exemption after it has been registered, phone us on **08708 506506** to discuss the changes.

When you are registered

When we confirm that we have registered your waste operation you may start to operate. We may inspect the site at any reasonable time. If you are using 2,500 tonnes or more of waste under this exemption, you will need to keep records of the -

- quantity
- nature
- origin
- destination and
- method of recovery

of any wastes covered by the exemption. You must keep this information for two years and make it available to us on request.

We may remove your registration from the public register if you are carrying out your operation in breach of the regulations. We will send you a notice and explain why we have removed your exemption. You will also be liable for prosecution

Where to post your form and how to contact us

Post your notification form, fee and any supporting documents to the Environment Agency office at the address on the last page of the notification form.

If you have any queries regarding the form or supporting documents, please contact us as shown below.

General Enquiries : 08708 506 506 (Monday to Friday, 8am to 6pm)

Minicom: 08702 422 549 (Monday to Friday 8am to 6pm)

E-mail: enquiries@environment-agency.gov.uk

Website: www.environment-agency.gov.uk

If you are happy with our service, please tell us. It helps us to identify good practice and encourages our staff. If you're not happy with our service, please tell us how we can improve it.

SECTION B – Completing the Notification Form EPA, EPB19 & EPF

Part A

Details of the establishment or undertaking

1 Customer Reference number

2 Please indicate in the boxes provided, the type of applicant (Individual, Organisation of Individuals, Company or Public Body).

3 - 5 Please provide the details of the person, company or organisation that will be carrying out the exempt operation in section 1.2., including name, date of birth, position (where relevant) address, phone number, fax and email address. If you are a company also include the company name and registration number. If you are a Public body say what type.

Where you have identified yourself as an Organisation of Individuals, include the same details for all members.

6 Provide the details of the person who will be the contact for this notification.

Please note the contents of the Data Protection Notice on the last page of the form which states what the information will be used for.

Part B

1 About the notification

1a Please provide your customer reference number

Type of Notification

1b Please state the notification is a renewal.

Please give details of the current or previous registration.

1c Please enter the registration number of the exemption which you wish to renew and the expiry date. Other supporting documents may be required where you have not provided that item previously, where they are out of date (such as soil analysis older than 4 years) or where there have been changes.

1d Please provide details of any changes to the current registration

2 About the waste

Details of the waste you propose using

2a Type of waste

You should describe the kind of waste as it is commonly described – not necessarily the exact description in the List of Waste Guide (see below).

Producer of the waste

Please enter the name and a postcode if you have it, of the establishment or undertaking that has produced the waste

Physical Form

This may be solid, liquid, sludge, powder etc. and relates to how the waste should be stored and spread.

Amount

This is the total amount of that waste type that you will be using to complete the operation.

Six digit European Waste Catalogue (EWC) codes

The List of Waste Guide is the new name for the European Waste Catalogue. A list of waste codes can be found at –

<http://www.environment-agency.gov.uk/business/topics/waste/32140.aspx>

The link also provides a thesaurus of commonly used waste descriptions and their waste codes. You must ensure that the waste you are proposing to spread is one of those specifically permitted by the legislation –

http://www.opsi.gov.uk/si/si2007/uksi_20073538_en_13#sch3

Are you using potentially contaminated materials?

2b Some of the wastes listed in table under paragraph (3) of the legislation may contain substances that could be harmful to health or the environment. This doesn't necessarily mean they are unsuitable for use, but it does mean we will only register activities involving those wastes if you can satisfy us that no harm will occur. So if your waste is of a type that may contain potentially harmful contaminants, for example, pulverised fuel ash (PFA) or soil from an industrial site, you will need to tick the potentially contaminated box and also provide us with:

1 an analysis of the waste that identifies the substances of concern and their concentration in the waste, and

2 part 1 and 2 of the risk assessment that demonstrates the operation can be undertaken without harming the environment or human health.

If you are using only uncontaminated waste and are not within 1km of an environmentally sensitive site you only need to provide part 1 only of the risk assessment.

3 Waste Storage

Location of waste storage

3a – 3b Please indicate whether you also intend to store waste under this exemption and enter the address and grid reference if you have not previously done so. You can store waste that has been imported onto a site for use in relevant work if -

- you store it for no longer than six months and
- you store no more than 50,000 tonnes of waste at any one time.

Only waste consisting of road planings and road base can be stored at a site other than where they were produced or are going to be used. Road planings can only be stored

- for a maximum of six months, and
- the total quantity stored must not exceed 50,000 tonnes.

You must take reasonable precautions to ensure that:

- the waste cannot escape from storage; and
- members of the public are unable to gain access to it.

Location of Waste usage

3c – 3d Please give the address where the construction operation will take place. It is essential that you provide an accurate grid reference. The grid reference should be the central point of the site.

4 Waste Usage – Construction Details

Please give details of the type of construction work the waste will be used for.

To benefit from this exemption the waste must be used for 'relevant work'.

Relevant work is work for the construction, maintenance or improvement of a building, highway, railway, airport, dock or other transport facility; recreational facilities; or drainage. It does not include work that involves land reclamation.

In the Regulations, *drainage* is narrowly defined and means drainage carried out for the purposes of the Land Drainage Act 1991, the Water Resources Act 1991 or the Environment Act 1995.

Maintenance/improvement/construction of a highway.

Waste such as crushed concrete bricks and blocks can often be used as a sub-base when constructing roads or tracks. Suitable materials from the Table under paragraph (3) can be used to fill in potholes and maintain the surface. The deposit of materials from the table cannot be used, under this exemption, for land reclamation or involve any significant land raising.

Maintenance/improvement/construction of a building.

Suitable wastes from the table can be used whilst maintaining and constructing buildings. This could be the use of hardcore materials in the footings and foundations. The wastes cannot be used to significantly raise the land so that the buildings can then be constructed.

Maintenance/improvement/construction of recreational facilities.

Suitable wastes from the table can be used for maintaining and constructing facilities such as sports pitches, tennis courts or riding arenas etc. Again the wastes could be used as aggregates in the footings and as a base for playing surfaces. The wastes cannot be used to significantly raise the land prior to the construction of the facilities.

Please indicate with a tick in the box provided, what type of construction work you intend to undertake.

5 Occupancy of the land

Occupancy.

5a – 5c The exemption will only be valid if either:

- the operation is undertaken by or with the consent of the occupier of the land where the operation is to be carried out *or*
- the person carrying out the operation is otherwise entitled to do so on that land.

For example, if you have the legal right to maintain an access road across land occupied by someone else.

The occupier may be the landowner or tenant. You must have the consent of the occupier before carrying out the operation unless you have any other rights that allow you to do this.

If you are not the owner or occupier please tell us why you are allowed to carry on this operation.

6 Waste usage – part 2

Do you need planning permission for this waste?

6a If planning permission is required for the operation you propose, you must obtain this prior to commencing the operation. If you already have planning permission please submit a copy with your notification; this will help us deal with your notification quickly. If you do not need planning permission you will need to explain why not. We may ask you to submit proof that no permission is required.

Will the waste used total 2500 cubic metres or more?

6b If you are proposing to spread 2,500 cu m / hectare or more of waste on the land, we will need a plan that shows cross-sections through the area of land on which you wish to use

If you are applying to spread less than 2,500 cu m /hectare of waste on the land, you do not need to submit these plans.

Please indicate with a tick in the box provided, which applies to your operation.

SECTION C

7 Supporting Documentation

7.1 Map or plan of the storage and spreading

You must provide a map or plan of the area where the spreading will be carried out, showing –

- the boundaries of that place
- locations within that area where the exempt operation is to be carried out *i.e. the parts of the fields or places that are subject to relevant work using waste*
- where the waste will be stored
- any properties where people live or work
- public rights of way
- conservation and archaeological sites within 250m of any area where the waste will be used.

The format of any maps or plans you send us should -

- be an A4 or A3 sheet
- show the area of land covered by your notification
- be based on an Ordnance Survey map at a scale of 1:10,000 or larger.
- label individual points and areas ('A', 'B' and so on)
- use colour or hatching to highlight areas on the map
- use the form to cross-refer to labelled and highlighted areas on the map.

7.2 Waste analysis

Only provide where you have indicated that the wastes you propose using, may be potentially contaminated (question 3.2).

It is our policy that we will only accept data on waste soils from methods that have been awarded MCERTS (Monitoring and Certification Scheme). The performance standard is applicable to all laboratories and procurers of analytical services where results generated for the chemical testing of soils are submitted to us for regulatory purposes.

The MCERTS Performance Standard for Laboratories Undertaking the Chemical Testing of Soil (Version 2) has been published and provides an application of the European and International standard BS EN ISO/IEC 17025:2000 (accredited by the United Kingdom Accreditation Service (UKAS)) specifically for the chemical testing of soil.

7.3 Scale Plan and Cross Section

If you Indicated that you are proposing to spread 2,500 cu m / hectare or more of waste on the land under Question 7.2 , we will need a plan that shows cross-sections through the area of land on which you wish to use it, showing

- the depth of waste you plan to spread across the area.
- the contours of the current level of the land.

The plan should be scaled at 1:1250 or larger.

We also need a further plan marked with the proposed final level contours.

If you are applying to spread less than 2,500 cu m /hectare of waste on the land, you do not need to submit these plans

7.4 Pollution Risk Assessment

Pollution Risk Assessment - Part 1 (Appendix 1) must be filled in for all notifications.

Please ensure that you answer the following questions. If this information is not submitted, we will not be able to process your notification and it is likely to be rejected.

(i)Please indicate if there are any additional storage areas and give any additional Grid references.

ii) Give the date when you first plan to store the waste.

iii) Is the land within a 1 km radius of an environmentally sensitive site (see below)? If you answer 'yes' to this question, you must also complete part 2 of the Risk Assessment.

Designated sites under the Habitats Directive

The requirements of the Habitats Directive mean that we must consider the impacts of your operation on the following sensitive sites:

- Special Protection Area (SPA)
- Potential Special Protection Area (pSPA)
- Special Area of Conservation (SAC)
- Candidate Special Area of Conservation (cSAC)
- Ramsar - Ramsar sites are designated under the International Convention on Wetlands of International Importance especially as Waterfowl Habitat (the Ramsar Convention).

You must state whether the land to be treated is in or within 1km of a designated conservation site.

Other protected sites

There may be other sites that are sensitive that are covered by the Wildlife and Countryside Act 1981 – as amended by the Countryside Rights of Way Act 2000 which include Sites of Special Scientific Interest (SSSI) and Areas of Outstanding Natural Beauty (AONB). Public bodies have a duty to have regard to conserving and enhancing the natural beauty of Areas of Outstanding Natural Beauty so we will take into account this when assessing your notification.

You must also identify any other protected sites such as these within 1km of the operation

Where to find information on these sites

You can access maps of these sites on Natural England's website: www.natureonthemap.org.uk/map.aspx

Natural England's Enquiries Service:

For general enquiries

0845 600 3078 [Email: enquiries@naturalengland.org.uk](mailto:enquiries@naturalengland.org.uk)

Search for Protected sites in Wales on the Countryside Council for Wales website: www.ccw.gov.uk/protected_sites/

Countryside Council for
Wales Maes-y-Ffynnon,
Penrhosgarnedd,
Bangor,
Gwynedd
LL57 2DW

For all general enquiries
Tel: 0845 1306229

[Email: enquiries@ccw.gov.uk](mailto:enquiries@ccw.gov.uk)

For Areas of Outstanding Natural Beauty see
www.aonb.org.uk/ or contact the Local Authority.

Consultation on sensitive sites

We will normally consult with Natural England or the Countryside Council for Wales on any notification where the storage or spreading locations are identified as in or within 1km of an environmentally sensitive site. We may also undertake consultation if we consider that a European Site further away could be impacted because of a hydraulic connection to an emission and there is some relevant hazard.

Pollution Risk Assessment Part 2 (Appendix 2)

You only need to fill this part in where:

- **You have indicated that you are spreading potentially contaminated wastes (Question 3.2) to demonstrate that you have assessed the potential contamination within the waste and that the operation can be undertaken without harming the environment or human health.**
- **Where you are within 1km of an environmentally sensitive site. You should detail the precautions you will be taking to ensure that your operation will not have an impact on it.**

Environmental risk assessment need not be onerous. However, it does need to be logical, transparent and related to operational practice and should be based on the source – pathway – receptor concept. In brief, environmental risk management typically involves answering the following questions:

- what hazards are present and what are their properties – what substances, agents or processes are present with a potential to cause harm?
- how might receptors become exposed to the hazards and what is the probability and magnitude of exposure? This includes considering how releases to the environment, or exposure, might occur, how likely this is and what level of exposure might occur.
- given exposure occurs at the above probability and magnitude, what is the probability and scale of harm – what harm might be caused and how likely is it?
- taking probability and consequence together, how significant is the risk and what are the uncertainties – do I need to worry about it?
- what options are available to prevent, control or minimise the risk – how can I best manage the risk?

*If you are not sure whether you need to submit a waste analysis and risk assessment, please discuss this with us **before** you submit your notification.*

If you fail to provide this information where it is needed, it could result in delays, or we may refuse to register your operation.

7.5 Evidence of Planning Permission

If you indicated that you have a planning permission for this operation and that it has been granted, please enclose a copy of the planning permission with your supporting documents.

7.6 Continuation sheets

If you have used continuation sheets for any of your answers, you should tell us how many sheets you are enclosing. Please make sure that you label each sheet clearly with

- the question number it applies to and
- the number of the sheet

Section D – Declaration

Part F

1. Payment

Select the method you will be using to pay for your application:

Cheques and postal orders: These should be made payable to Environment Agency or Environment Agency Wales as appropriate and crossed 'A/c Payee'. Send it to us with your completed application form and any relevant supporting documents.

Post-dated cheques will not be accepted.

Cash: You are advised not to send cash through the post. If this is unavoidable, please use a recorded delivery postal service and enclose your application reference details.

Payment by credit or debit card: We can accept payments by Visa, MasterCard or Maestro cards only. Please complete the required details in the separate form CC1.

Payment by electronic transfer: Make sure you use the right payment information, depending on whether your application is being made in England or Wales.

Failure to quote your reference number or to forward to us your payment details, including applicant name, payment amount and full payment reference number, may result in a delay in processing your payment and therefore your application.

2. Data Protection Notice

Make sure you understand how we will use the information you provide to us.

3. Confidentiality and national security

If you think any of the information in your application and supporting documents is confidential, tick the box and provide supporting evidence to enable us to determine your claim. If you think any of the information in your application and supporting documents is damaging to national security, tick the box and provide supporting evidence to enable us to determine your claim.

4. Declaration

When you have completed your notification form you will be asked to tick a declaration confirming the accuracy of the information you have provided both in the form and in the supporting documentation. We cannot progress an application unless the box is ticked. Please ensure that you have read the information contained in the Data protection notice in the form before you tick the declaration and submit or post your application.

5. How to contact us

If you need help filling in the form, please contact the person who sent it to you or contact us as shown below.

6. Where to send the form

Completed application forms and supporting information should be sent to:

Environment Agency
Permitting Support Centre (PSC)
Quadrant 2
99 Parway Avenue
Parkway Business Park
Sheffield
S9 4WF

If you need help filling in this form, please contact the person who sent you it or contact us as shown below.

General enquiries: 08708 506 506 (Monday to Friday, 8am to 6pm)

Textphone: 08702 422 549 (Monday to Friday, 8am to 6pm)

E-mail: enquiries@environment-agency.gov.uk

Website: www.environment-agency.gov.uk

Section E - Guidance on completing the risk assessment template

A risk assessment template is included in Appendix 2 of this document. If this is correctly filled out it should provide sufficient information to assess whether or not your operation is likely to endanger human health or harm the environment.

The risk assessment template should be used to address site and waste specific pollution risks to ensure that the waste is recovered without-

- harming human health
- causing a risk to water, air, soil, plant or animals
- causing nuisance through noise or odours
- adversely affecting the countryside.

Examples are given of some of the common receptors, sources etc that you may need to consider. These are not exclusive lists and you may need to consider others that are relevant to your particular circumstances. You should complete the risk assessment template making specific reference to the receptors you have identified.

Receptors to consider should include: surface waters, groundwater, wells and boreholes, soil, humans, wildlife and their habitats, local nature reserves and ancient monuments. A single receptor may be at risk from several different sources and all must be addressed.

The Source of hazard will be the waste proposed. E.g. wastes which may give rise to dust when used.

Harm could include: human health effects, noise nuisance, dust nuisance, odour nuisance, plant disease or toxic effects, deterioration of water quality, fish deaths.

Pathways to consider include: direct run-off or infiltration of liquids or soluble components, transport via land-drains or water (e.g. surface water or groundwater that is a receptor may also be a pathway to a different receptor such as a conservation site or water supply borehole), airborne

transport of fine or volatile materials, ingestion, direct contact.

Probability of exposure is the likelihood of the receptors being exposed to the hazard. Example definitions:

- High – exposure is probable: direct exposure likely with no / few barriers between hazard source and receptor;
- Medium – exposure is fairly probable: feasible exposure possible, barriers to exposure less controllable;
- Low – exposure is unlikely: several barriers exist between hazards source and receptors to mitigate against exposure:
- Very Low – exposure is very unlikely: effective, multiple barriers in place to mitigate against exposure.

The consequences of a hazard being realised may be actual or potential harm. Example definitions:

- High – the consequences are severe: sufficient evidence that short- or long-term exposure may result in serious damage;
- Medium – consequences are significant: sufficient evidence that exposure to hazard may result in damage that is not severe in nature and reversible once exposure ceases (e.g. irritant);
- Low – consequences are minor: damage not apparent though reversible adverse changes may occur;
- Very Low – consequences are negligible: no evidence of adverse changes following exposure.

Magnitude of the risk is determined by combining the probability with the magnitude of the potential consequences. Use the matrix below to categorise as high, medium, low or very low.

High risks require additional assessment and active management; medium risks require additional assessment and may require active management/monitoring; low and very low risks require periodic review.

Risk management techniques to consider may include: only carrying out the operation under certain weather conditions or at certain times, avoiding spreading close to sensitive receptors, appropriate choice of method of 'spreading' e.g. sub-surface injection.

		Consequences			
		<i>Very low</i>	<i>Low</i>	<i>Medium</i>	<i>High</i>
Probability	<i>High</i>	Low	Medium	High	High
	<i>Medium</i>	Low	Medium	Medium	High
	<i>Low</i>	Low	Low	Medium	Medium
	<i>Very low</i>	Very low	Low	Low	Low

Appendix 1

Paragraph 19 Exemption : Waste for Construction Pollution Risk Assessment

Please Note:

You must answer the questions below which address pollution risks common to all storage and spreading applications. If this information is not submitted, we will not be able to process your notification and it is likely to be rejected.

Please refer to Section C4 of the guidance under Pollution Risk Assessment Part 1, for more advice on how to answer these questions and the sort of information we will be looking for.

i) Please indicate if there are any additional storage areas giving grid references.		
ii) Give the date when you first plan to store the waste		
iii) State whether the land is within a 1km radius of an environmentally sensitive site.	YES	NO
If yes, please give the name of the site and why it is sensitive.		

Risk assessment template

Risk assessment for proposed landspreading activity at.....
 Risk assessment carried out by..... Date:.....

Data		Judgement				Action			
Receptor What is at risk? What do I wish to protect?	Source The agent or process with potential to cause harm	Harm The harmful consequences if things go wrong	Pathway How the receptor might come into contact with the source	Probability of exposure How likely is this contact?	Consequence Severity of the consequences if this occurs	Magnitude of risk The overall magnitude of the risk	Justification for magnitude Basis of my judgement	Risk management How I can best manage the risk to reduce the magnitude	Residual risk Magnitude of the risk after management
EXAMPLE Surface water ditches around field perimeter	High concentration of nutrients in waste	Eutrophication of surface waters	Direct run-off from field	Medium	Low	Medium	Proximity of ditches but of low ecological value. Ditches feed into major river with high flows	No gradient on field. Will not spread within 10m of field edges. Will not spread during or within 24 hours of heavy rain or if ground frozen	Low