Use of PAS 108[1] tyre bales in civil engineering and landfill infrastructure works

For civil engineering projects and permitted landfill infrastructure works involving PAS 108 tyre bales, we will support a local enforcement decision to not pursue an application for an environmental permit in relation to the waste operation for the use and associated storage of tyre bales. This will apply where the proposed use has been notified to us and we are satisfied that the requirements set out below will be met.

Background

This statement sets out how we will regulate the use of tyre bales in civil engineering projects and landfill operations while a Quality Protocol for tyre bales is being considered by the Waste Protocols Project[2]. It applies to relevant activities within England and Wales.

The Waste Protocols Project is working with industry to assess the suitability of developing a Quality Protocol for tyre bales. A Quality Protocol identifies the point at which waste, having been fully recovered, may be regarded as a non-waste product or material that can either be reused by business or industry, or supplied into other markets without the need for waste management controls. Regulatory Position Statement 017 applies to wastes being considered by the Protocols Project, but we were unable to include waste tyre bales in this due to significant abuse of a previous tyre bales position.

The Environmental Permitting (England and Wales) Regulations 2010 came into force on 6 April 2010. These introduced new exemptions covering small scale storage and use of tyre bales. Our Low Risk Positions on the use of tyre bales in various construction activities expired on this date. The storage or use of tyre bales that cannot comply with the new exemptions requires an environmental permit.

We are aware that civil engineering companies that have previously used PAS 108 tyre bales are reverting to alternative virgin materials in some cases. We also need to provide clarity on when landfill operators can use tyre bales in engineering works such as road, liner or leachate drainage construction

[1] Copies of **PAS 108** – PAS108:2007, Specification for the production of tyre bales for use in construction, ISBN 978 0 580 50349 8 can be downloaded from the from the Waste Resources Action Programme (WRAP) website at www.wrap.org.uk/tyres

[2] a joint Environment Agency and WRAP (Waste & Resources Action Programme) initiative.

without having to vary their permit. We want to encourage the use of PAS 108 tyre bales in appropriate civil engineering and landfill infrastructure works while the Quality Protocol for tyre bales is under consideration.

Our position
While the Quality Protocol for tyre bales is being considered by the Waste Protocols Project, we will support local enforcement decisions not to pursue an application for an environmental permit or variation in relation to the waste operation for the use and associated storage of tyre bales where **all** of the following requirements are met:

- We have been notified of the proposed use and have confirmed in writing that the project plan falls within the scope of this statement. The project must be undertaken in accordance with the agreed plan.
- The tyre bales must conform with BSI PAS 108.
- The project including the associated storage of the tyre bales must be carried out to ensure the recovery of the waste and without endangering human health or harming the environment and in particular without –
  (i) risk to water, air, soil, plants or animals; or
  (ii) causing nuisance through noise or odours; or
  (iii) adversely affecting the countryside or places of special interest.
- The use of the tyre bales is a recovery operation (i.e. that the project isn't a means of disposing of tyres or tyre bales) and that it is intended that the tyre bales will be permanently incorporated into the civil engineering or landfill structure.
- The number of tyre bales stored at any time is no more than that required to complete the project and at no time exceeds 1,000 bales in any one location (multiple storage sites on major projects will be considered on a case by case basis).
- No bales are stored for longer than 3 months before the commencement of incorporation into the civil engineering works.

<u>Specific requirements for civil engineering works:</u>

- We receive prior written information about the project including the proposed civil engineering works that the baled tyres will be used for, who will be supplying the tyre bales, the approximate number of tyre bales required for the project, the estimated commencement and duration of the storage and construction activities, and the location of the proposed storage and construction areas. This information should be provided to our local area office covering the location of the proposed construction project.
- The project must be promoted by a recognised civil engineering company engaged by or on behalf of a Public Sector client (for

example, Government Department, Government Agency, or Local Authority) or organisation of similar standing (for example, Network Rail or Utility company) that has control over and responsibility for the design, specification and testing required to comply with the design.

- The tyre bales must not be used in locations where they will be exposed to very acidic (pH5 or below) ground conditions .

Specific requirements for landfill infrastructure works:

- The landfill must be permitted and the use of tyre bales agreed as part of the construction proposals and construction quality assurance plan for the works.

Operators who are considering using PAS108 tyre bales in a supervised civil engineering project or landfill infrastructure works should discuss their proposal with their local Environment Agency office at an early stage to establish the controls that will be required.

Where there is no need to hold an environmental permit for a 'waste operation', all other appropriate waste management controls, such as duty of care and carrier registration, must be complied with. In addition, any controls that do not depend on the status of the material as a waste will still apply.

The proposed activities must comply with land use planning and other statutory controls (such as health and safety requirements) that may apply.

Enforcement

In not pursuing an application for a permit for a waste operation, this means we will not normally take enforcement action unless the activity has caused, or is likely to cause, pollution or harm to health.

We will continue to investigate and take enforcement action against anyone involved in the abandonment, illegal export or inappropriate use of used tyres, tyre bales or tyre-derived materials.

This statement is based on our understanding of the relevant legislation. It applies to England and Wales. You can get advice on the approach being taken in Scotland and Northern Ireland from SEPA and the Northern Ireland Environment Agency (NIEA) respectively.

We may revise or withdraw this position; triggers that could lead us to do so include:

- a pollution incident(s);
- development in scientific understanding;
- a change in legislation or case law; or
- if it becomes apparent that it is generally being misapplied.

It will be withdrawn if the Waste Protocols Project determine that they can not progress with a Quality Protocol or once a Quality Protocol is adopted.

When we do withdraw it we will provide appropriate guidance.

This regulatory position will be reviewed by 31 December 2012.

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