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# Standard Rules Consultation No. 4

Standard rules for the Environmental Permitting Regulations

**4 September 2009**

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The Environment Agency. Out there, making your environment a better place.

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# Summary

The Environmental Permitting (England and Wales) Regulations 2007 (“EP Regulations”) allow us to offer standard permits, to reduce the administrative burden on business while maintaining environmental standards. They are based on sets of standard rules that we can apply widely in England and Wales. The rules are developed using assessments of the environmental risk posed by the activity.

The rules take considerable time, resources and consultation to develop but once in place they make applying and determining the applications comparatively easy. This is because there is no need for a site specific risk assessment.

This is the fourth consultation<sup>1</sup> on sets of standard rules and associated risk assessments. We are proposing revisions to some current rules and some new ones, to prepare for the planned extension of the EP Regulations to include surface water discharge consenting, groundwater authorisations and radioactive substances regulation in April 2010.

We would like your views on the following sets of rules:

1. The keeping or use of Category 5 sealed radioactive sources (new rules set).
2. The discharge to surface water of water from a cooling circuit or heat exchanger (new rules set).
3. The discharge to surface water of secondary treated domestic sewage (5 – 20 cubic metres per day) (new rules set).
4. The discharge to land of enzyme treated sheep dip (new rules set).
5. Composting in open windrows (revised rules set).
6. Composting in closed vessels (revised rules set).

We would also like your views on how we can make existing management rules clearer; and in the terminology we use.

We will take account of the consultation responses and publish the new and revised standard rules on our website, beside details of the application process.

Full details of the consultation, including all of the documents, can be found on our website: <http://www.environment-agency.gov.uk/research/library/consultations/110788.aspx>

A list of consultation questions is given in section 6 of the document.

<sup>1</sup> Note we consult separately on charges for standard permits.

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# 1 The purpose of this document

This is an explanatory document that provides an outline of the documents we are consulting on and an overview of the standard permitting process. It is designed to help you understand and comment on them.

## 2 What we are consulting on

The EP Regulations allow us to develop standard rules for certain activities. We base them on our understanding of the risks. We are asking for your views on whether we have correctly identified the risks associated with each activity and whether the sets of rules are appropriate to manage those risks.

The consultation is primarily about the following documents:

- **Generic risk assessments (see Section 4.1 for more information):**  
These describe the risks that each type of activity poses to the environment and human health and the ways in which these risks can be controlled. They define the boundary of risk that can be regulated by common controls, whilst still achieving a high level of environmental protection.
- **Standard rules sets (see Section 4.2 for more information):**  
These consist of all the rules necessary to ensure that the risks to the environment and human health are reduced to an acceptable level for each of the listed activities.

## 3 What does this consultation mean to you?

We think that this consultation will be of particular interest to:

**Operators, trade associations and business:** this is your opportunity to ensure that the rules and generic risk assessments work for you and your industry but also provide the necessary protection to the environment and human health. We would like any suggestions you may have to extend the uptake of existing rules and for further sets of rules.

**Other regulators, the public, community groups and non-governmental organisations with an interest in environmental issues:** this is your opportunity to ensure that the rules and risk assessments work to provide the necessary protection to the environment and human health, whilst still being useful to industry.

# 4 Standard permits – how they work

## What is a standard permit?

**Standard permits** became available for use when the EP Regulations came into force in April 2008. They contain one condition, which refers to a fixed set (or sets) of standard rules that an operator must comply with. The standard rules define the activities that an operator can carry out and specify necessary restrictions on those activities, such as emission limits or the types and sizes of radioactive sources that can be held. Standard rules are published on our website, following public consultation. This is the fourth such consultation, covering new and existing sets of rules.

An operator who wishes to carry out a particular activity can look at the standard rules and, if they can comply with them, they may decide to apply for a standard permit. We are able to issue the permit quickly and cheaply because we have no decisions to make on site-specific permit conditions. An operator who cannot meet the requirements of the standard rules must apply for a **bespoke permit** and provide us with additional information. It takes us longer to issue a bespoke permit because we have to carry out a more detailed assessment of the application, decide whether to include site-specific conditions and consult in accordance with our public participation statement.<sup>2</sup>

There is no right of appeal against the rules in a standard permit because applying for a standard permit is voluntary. If an operator wants to change the way the site operates so that it falls outside the scope of the standard rules or they feel that the standard permit no longer works for their particular operation, an application must be made to vary to a bespoke permit.

Operators must apply for a bespoke permit for any regulated activities not covered by standard rules. These activities generally have a higher potential impact on the environment or require more complex controls than operations for which standard rules can be used.

## What are standard rules?

When developing sets of **standard rules** we carry out a single assessment of risk for a commonly undertaken activity. This enables us to define the risk boundary within which the rules can be used. This boundary comprises a number of restrictions such as size, location and operational controls. The restrictions will be those necessary to enable a consistent set of rules to reduce the risk to an acceptable level. The rules would be the same for each operator carrying out that particular activity, irrespective of location. Rules and risk assessments are published in advance so that operators and the public know precisely what controls we will apply to a proposed activity.

In developing the risk boundary for each set of standard rules, we have to protect the environmental quality of some specific sensitive receptors. For example, standard rules sets would normally contain a rule which requires that the activity must not be carried out within a certain distance of specified types of nature conservation sites, such as European sites<sup>3</sup> or Sites of Special Scientific Interest.

The rules for some operations will not permit activities to be carried out within a specified distance of a watercourse or groundwater source protection zone. Operators will need to check that their operation fits within the rules before making an application. If there is a change in the local circumstances after the permit has been issued such that the operation no longer fits within the standard rules (for example a conservation site is designated within the prescribed screening

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<sup>2</sup> Working together: your role in our environmental permitting decision making, Issue 2 July 2007. Note that we have recently consulted on changes to the existing public participation statement to reflect the proposals to widen the Environmental Permitting regime.

<sup>3</sup> Candidate or Special Area of Conservation (cSAC or SAC) and proposed or Special Protection Area (pSPA or SPA) in England and Wales). For the purposes of standard rules, a Ramsar site is considered as a European site.

distance), an operator may be required to upgrade the operation to maintain levels of protection or apply to change to a bespoke permit.

We have based most of the rules on the objectives that need to be achieved. They specify **what** we want operators to achieve, but do not tell them **how** to achieve it. That is their responsibility. This approach is not new and was used in previous regimes such as water quality discharge consents, waste management licensing, pollution prevention and control and radioactive substances regulation. Guidance on how to comply with the rules we have already published is provided in “**Getting the Basics Right – How to comply with your environmental permit**”, which is available on our website. The guidance will be revised to take account of the proposals to expand the existing Environmental Permitting regime to include new types of regulated facility. We propose to develop separate guidance for the keeping or use of Category 5 sealed radioactive sources.

## 4.1 The generic risk assessments for the activities

We have prepared a generic risk assessment for each of the activities. Each assessment defines the risk boundary that can be regulated through common controls and how to properly manage the risks. Each risk assessment has been carried out using the “source – pathway – receptor” approach. The risk assessment is split into three broad sections:

1. **Data and information** – this section comprises receptor, source, harm and pathway information that is relevant to the activity under consideration.
2. **Judgement** – we have carried out the risk assessment to determine the likelihood of the receptors being exposed to the hazard, the consequences of the hazard being realised and the overall magnitude of the risk.
3. **Action** – risks will be controlled by setting standard rules. We will control residual risks by carrying out compliance assessment, such as site inspections, to ensure that operators comply with the rules.

As previously mentioned, each set of standard rules normally contains a rule which requires that activities must not be carried out within a certain distance of specified nature conservation sites. The broad sensitivity of habitats and species groups to the potential hazards from facilities regulated by us through the EP Regulations is well understood. Harm can occur through hazards such as toxic contamination, nutrient enrichment, habitat loss, siltation, smothering, disturbance and predation.

We are in discussion with Natural England and the Countryside Council for Wales about the proposed distance screens (or buffer zones) for specified nature conservation sites. We may alter the distances shown following these discussions. These distance rules allow us to filter out activities which could not have an effect on the interest features of these sites. This is part of the overall risk boundary for each activity and is necessary because we will not be consulting the nature conservation bodies on individual applications for standard permits, in accordance with our public participation statement. We do not consider that a distance screen is necessary for the proposed rules for keeping or use of Category 5 sealed radioactive sources. We explain this in the generic risk assessment for that activity.

## 4.2 The new standard rules sets

We are consulting on four new sets of standard rules:

1. The keeping or use of Category 5 sealed radioactive sources
2. The discharge to surface water of water from a cooling circuit or heat exchanger
3. The discharge to surface water of secondary treated domestic sewage (5 – 20 cubic metres per day)
4. The discharge to land of enzyme treated sheep dip

## **Category 5 sealed sources**

We have developed a set of standard rules that will allow an operator to keep or use radioactive material in the form of sealed sources where each radioactive source, and all radioactive sources taken together, fall within source Category 5. The rules are based on the existing fixed condition registration and will be familiar to some of you.<sup>4</sup> Category 5 sources present, relative to others, the least risk to health and the environment. It is important to note that operators will also have to comply with other legislation to which the keeping or use of radioactive material is subject; this includes legislation enforced by the Health and Safety Executive and the Department for Transport.

### **Discharge to surface water: cooling water and heat exchangers**

This set of standard rules will allow an operator to discharge water from a cooling circuit or heat exchanger to surface waters, provided that no chemicals are added to the water and the temperature change between the inlet and outlet is less than five degrees Celsius. The discharge must be to the same water body from which the water was taken and there is a minimum dilution limit.

### **Discharge to surface water: secondary treated domestic sewage (5-20 m<sup>3</sup> per day)**

This set of standard rules will allow an operator to discharge sewage with a maximum daily volume of between five and twenty cubic metres per day to surface waters. The sewage has to be domestic sewage only and it must be treated by a secondary treatment plant. The plant must be sized, installed, operated and maintained in accordance with our requirements. There must be a flow in the watercourse throughout the year.

### **Discharge to land: enzyme treated sheep dip**

We have developed a set of standard rules to allow operators to carry out the spreading of sheep dip to land which has been subject to an approved enzyme treatment process using a prescribed treatment. The maximum quantity of working strength sheep dip that can be treated with the prescribed product per year under the standard rules is five cubic metres.

# **5 Proposed revisions to existing standard rules sets**

## **Composting in open windrows and closed vessels**

We have been working with operators and other groups to review the lists of permitted waste types for these existing sets of standard rules. As a result of this we intend to increase the range of wastes that can be accepted. We also intend to clarify the scope of the permitted activities in the operations sections of both rules sets, revise some of the rules relating to emissions and monitoring and reporting, and add new terms to the interpretation sections to make things clearer. These amendments are highlighted on the draft rules in this consultation. We do not consider these revisions will have any impact on the generic risk assessments already published for these activities.

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<sup>4</sup> Guidance on the fixed condition registration can be found on our website: <http://www.environment-agency.gov.uk/business/sectors/39769.aspx> - we will continue to adopt the approach set out there to defining "Category 5."

## **Management rules**

We are considering minor administrative changes to the management rules to make them clearer and appropriate for surface and groundwater discharges and radioactive substances regulation; while still being consistent - as far as possible - across all types of activity for which we issue standard permits.

The wording and content of the management rules in the draft standard rules set for the discharge of enzyme treated sheep dip to land shows how we could do this. You will also note that this set of rules does not include specific accident management plan rules. If we did decide to remove these rules, we would apply this change to all existing sets of standard rules. We would still expect operators to have accident management plans but our guidance on the general management rules would be amended to say how this should be done.

We would write to the existing holders of permits affected by a change but being administrative we do not consider they would each need to be consulted in advance because their obligations would not change.

## **Fugitive emissions**

Existing standard rules and some of the rules sets we are consulting on use the term “fugitive emission”. This is defined as an emission to air, water or land from a localised or diffuse source which is not controlled by an emission limit. We would like your views on whether the term is clear enough for surface and ground water activities we may be permitting under the Regulations in future.

In the interests of consistency, we would likely adopt any changes in management rules or terminology in our new bespoke permits, should the EP Regulations expand into surface and groundwater and radioactive substances regulation.

## **Waste batteries and accumulators**

The Waste Batteries and Accumulators Regulations 2009 amend the EP Regulations to require the Environment Agency to ensure compliance with the requirements of Article 12(2) of European Community Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators. In order to implement these requirements we propose to amend all sets of standard rules that allow waste batteries to be accepted for treatment. These changes will be applied to all such permits issued since 5 May 2009. As we have to make them to implement a change in the law we consider them to be administrative changes and we will not be consulting in advance.

Any permit that authorised the treatment of waste batteries before 5 May 2009 has already been amended directly by legislation.<sup>5</sup>

We will notify existing permit holders affected by these changes.

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<sup>5</sup> Regulation 68A of the Environmental Permitting (England and Wales) Regulations 2007 (as amended by Regulation 92 and Schedule 8 of the Waste Batteries and Accumulators Regulations 2009).

# 6 Consultation questions

This consultation is your opportunity to contribute towards the development of the next sets of standard rules and some proposed revisions to existing sets. They should be published early next year. We are also consulting on the risk assessments that support those rules.

We would particularly welcome your feedback on the questions below:

**Question one:** Have we correctly identified all the risks for each activity, as described in the generic risk assessments? If not please explain why.

**Question two:** Have we correctly identified all the rules for each activity, as described in the standard sets of rules? Do you think there are there any rules missing?

**Question three:** Existing standard rules and some of the rules sets we are consulting on use the term “fugitive emission”. This is defined as an emission to air, water or land from the activities from a localised or diffuse source which is not controlled by an emission limit. Do you think the term is appropriate for typical activities we regulate with surface and groundwater permits? Can you suggest a better alternative, usable across all types of activity covered by the Regulations; i.e. process industry, intensive farming and waste sectors?

**Question four:** Are there any barriers to the take-up of existing rules or other activities that you think would benefit from the standard permitting approach? We will consider these for a future consultation.

**Question five:** Do you have any comments about this consultation document and the way that we have conducted this consultation?

**Question six:** How did you find out about this consultation?

**Question seven:** Any other comments?

# 7 Responding to this consultation

This consultation runs from **4 September to 27 November 2009**. We will use your information to help shape the standard rules.

We will publish all responses after the consultation has closed, unless you have specifically requested that we keep your response confidential. We will not publish names of individuals who respond. We will publish the name of the organisation for those responses made on behalf of organisations. Please indicate on your response if you want us to treat it as confidential.

If you provide us with an email address, we will acknowledge your response and send you a summary of responses after the consultation has closed. We will also publish the summary of responses on our website.

## Confidential responses

We may publish or disclose information you provide in your response to this consultation, including personal information, in accordance with the Freedom of Information Act 2000 (FOIA). If you want us to treat the information that you provide as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request to disclose the information we will take full account of your explanation, but we cannot give an assurance that we can maintain confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the Environment Agency.

You have until **27 November** to send us your comments. We will not be able to take into account comments received after this date.

You can comment in the following ways:

- By Email

Send us your comments on a separate document – please do not use tracked changes. You can use our Feedback form:

[http://www.environment-agency.gov.uk/static/documents/Research/Feedback\\_Form\\_English.doc](http://www.environment-agency.gov.uk/static/documents/Research/Feedback_Form_English.doc)  
(Word, 62 KB)

Make sure your response can be read by Microsoft Office or Adobe Acrobat.

Email your response to Karen Gillibrand at [epp@environment-agency.gov.uk](mailto:epp@environment-agency.gov.uk) by the closing date.

- Writing to us at this address:

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### **Code of Practice on Consultation**

We are running this consultation in accordance with the criteria set out in the Government's Code of Practice on Consultation.

If you have any queries or complaints about the way this consultation has been carried out, please contact:

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Waterside Drive, Aztec West, Bristol BS32 4UD.  
Email: [cath.beaver@environment-agency.gov.uk](mailto:cath.beaver@environment-agency.gov.uk)

Please do not use this contact for sending your consultation responses.

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