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Standard Rules Consultation No. 3

Standard rules for the Environmental Permitting
Regulations

05 June 2009

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Published by:

Environment Agency
Rio House
Waterside Drive, Aztec West
Almondsbury, Bristol BS32 4UD
Tel: 0870 8506506
Email: enquiries@environment-agency.gov.uk
www.environment-agency.gov.uk

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Summary

The Environmental Permitting (EP) Regulations allow us to develop standard sets of rules. These consist of common controls we can apply widely in England and Wales and are based on risk assessments.

If an operator wishes to carry out an activity covered by a set of standard rules and can meet those rules, they can apply for a standard permit. Standard rules take considerable time and resources to develop but, once in place, they make applying for a permit comparatively easy and our work determining them simpler. Unlike with a bespoke permit, there is no need for a risk assessment of the specific activity in its particular location.

We have previously consulted on sets of standard rules and associated risk assessments for low to medium risk waste operations and these rules are already available to use.

This is the third consultation on standard rules and it is made in the context of the formal consultation¹ on the Exemptions Review. This Review suggested that a number of current exemptions could be replaced with Standard Permits and invited comments on this legislative change.

To date there has not been a Government response to the comments received through its formal consultation and no statement that Government intends to move these exempt operations into permitting.

This consultation does not commit the Government to any changes; it invites comments on the standard rules and associated risk assessments that the Environment Agency would apply to regulated facilities in the event that the waste activities identified in this consultation are made subject to the permitting requirements of the Environmental Permitting (England and Wales) Regulations 2007.

Please note that the provision of rule sets; SR2009No20, SR2009No21, SR2009No22 and amendment to SR2008No21 are not dependent on the Government response to the Exemption Review consultation.

We would now like your views on these sets of standard rules. Subject to the Government deciding to move the relevant exempt activities into permitting we would make them available before amendments to the EP Regulations relating to exempt waste operations come into effect in April 2010.

We will take account of the consultation responses and publish the new and revised standard rules on our website.

You can find full details of the consultation, including all of the documents, on our website: <http://www.environment-agency.gov.uk/yourenv/consultations/>

There is a list of consultation questions in section 6 of this document.

¹ <http://www.defra.gov.uk/corporate/consult/waste-exemption-review/index.htm>

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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 fully understand the documents and to help you to comment on them.

2 What we are consulting on

Defra, the Welsh Assembly Government and the Environment Agency carried out a consultation on revised exempt waste operations during 2008².

The aim of the review was to provide a more risk-based and proportionate approach to regulating waste recovery and disposal operations, complementing the new environmental permitting regime. It was proposed that the current exempt waste operations would be replaced with updated exemptions under the headings of: use, treatment, disposal and storage at the place of production. It also proposed to regulate some of the medium risk exempt waste activities through Environmental Permitting.

To date there has been no Government response to the comments received through its formal consultation and no statement that Government intend to move these exempt operations into permitting. This consultation does not commit the Government to any changes; it invites comments on the standard rules and associated risk assessments that the Environment Agency would apply to regulated facilities in the event that the waste activities identified in this consultation are made subject to the permitting requirements of the Environmental Permitting (England and Wales) Regulations 2007.

Please note that the provision of rule sets; SR2009No20, SR2009No21, SR2009No22 and amendment to SR2008No21 are not dependent on the Government response to the Exemption Review consultation.

The EP Regulations allow us to develop standard rules for certain activities. We use our understanding of the risks associated with these standard facilities to develop appropriate rules.

We are proposing that standard rules are appropriate for exempt waste operations that could need a permit. We have held a number of workshops with appropriate industry sectors to develop the draft rules that we are now consulting on. The main activities that could require standard rules are:

- spreading sewage sludge on non-agricultural land;
- spreading industrial waste;
- reclaiming or improving land;
- composting;
- manufacturing construction products and soil from waste;
- storing and using waste in construction;
- storing and treating dredgings;
- recovering scrap metal and dismantling depolluted waste motor vehicles;
- anaerobic digestion (AD) – this is an activity that will benefit from standard rules to complement the new proposed exemption for AD.

We are asking for your views on whether we have correctly identified the risks associated with each activity and whether the sets of rules to manage those risks are appropriate.

² <http://www.defra.gov.uk/corporate/consult/waste-exemption-review/index.htm>

The consultation is mainly about the following documents:

- **Generic risk assessments (Section 4.1 for more information):**
These describe the different risks that each type of activity poses to the environment and human health, and the ways in which these risks are 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 (Section 4.2 for more information):**
These consist of all the rules necessary to make sure that 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: particularly those who are currently exempt from permitting who could, as a result of the exemption review, need an environmental permit. It is your opportunity to make sure that the rules and generic risk assessments work for you and your industry and also provide the necessary protection for the environment and human health.

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

4 Standard permits – how they work

Standard permits became available 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 restrictions on those activities such as emission limits, or the types of waste or raw materials that can be accepted at the facility. Following public consultation, we publish standard rules on our website. This is the third consultation we have carried out.

An operator who wishes to carry out a particular activity can look at the standard rules and, if they can comply with them, they can 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.³

There is no right of appeal against the standard rules imposed in a standard permit because applying for a permit referring to the rules is voluntary. The condition in a standard permit that relates to a set (or sets) of standard rules cannot be varied itself. However, 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, they can apply to vary to a bespoke permit.

³ Working together: your role in our environmental permitting decision making, Issue 2 July 2007

We issue bespoke permits for all activities not covered by standard rules or exemptions. 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.

We have based 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 waste management licensing and pollution prevention and control. Guidance on how to comply with the rules is provided in “**Getting the Basics Right – How to comply with your environmental permit**”, which is available on our website.

In developing sets of standard rules we carry out a one-off national assessment of risk for a common 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 enable a consistent set of rules to reduce the risk to an acceptable level. The rules will be the same for each operator carrying out that particular activity, irrespective of location. The rules will be published in advance so that operators will know precisely what controls we will apply to their 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 stating that the activity must not be carried out within a certain distance of certain types of nature conservation sites, such as European sites³ or Sites of Special Scientific Interest. The standard rules sets for some operations will not permit activities to be carried out within a set distance of a residential property or workplace. Operators will need to check that their operation fits within the rules before making an application. If there is a change in the state of the local environment after the permit has been issued, an operator may have to upgrade the operation to maintain levels of protection or apply to change to a bespoke permit.

4.1 The generic risk assessments for the activities

Each of the activities being consulted on here has been subject to a qualitative, generic risk assessment. This is to define the risk boundary that can be regulated through common requirements, to set appropriate rules to support the outcome of the risk assessment and to manage the identified 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 being considered.
2. **Judgement** – we have carried out the risk assessment to determine the likelihood of the receptors being exposed to the hazard, the consequences of this happening and the overall size 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 make sure that operators comply with the rules.

³ 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.

As previously mentioned, each set of standard rules we produce normally contains a rule stating that activities must not be carried out within a certain distance of specified nature conservation

sites. The sensitivity of habitats and species groups to the potential hazards from facilities we regulate through the EP Regulations is well understood. Damage can be caused through toxic contamination, nutrient enrichment, habitat loss, siltation, smothering, disturbance and predation.

We have consulted with Natural England and the Countryside Council for Wales in developing the distance screens (or “buffer zones”) for specified nature conservation sites for the new standard rules sets. These 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 applications for standard permits, in accordance with our public participation statement.

4.2 Site permits and mobile plant

The standard rules that have been developed include those for site-based permits and also for mobile plant permits. Mobile plant is applicable for waste operations where the plant is designed to move or be moved whether on roads or other land. A mobile plant permit is different from a site permit in that any permit granted to an operator for an activity will cover England and Wales. Under the mobile plant rules, an operator must notify us of details of each site and the activity before starting each operation.

4.3 The standard sets of rules

The sixteen sets of standard rules we are consulting on are:

1. SR2009No9 Mobile plant for land-spreading
2. SR2009No10 Mobile plant for treatment of land for land reclamation, restoration or improvement.
3. SR2009No11 Mobile plant for land-spreading of sewage sludge
4. SR2009No12 Use of waste in construction (up to 50,000 tonnes of waste)
5. SR2009No13 Use of waste in construction (up to 100,000 tonnes of waste)
6. SR2009No14 Treatment of land for reclamation, restoration or improvement of land (up to 50,000 tonnes of waste)
7. SR2009No15 Treatment of land for reclamation, restoration or improvement of land (up to 100,000 tonnes of waste)
8. SR2009No16 Mobile plant for the treatment of waste to produce soil, soil substitutes, road-stone and aggregate
9. SR2009No17 Treatment of waste to produce soil, soil substitutes, road-stone and aggregate
10. SR2009No18 Use of waste to manufacture timber or construction products
11. SR2009No19 Composting biodegradable waste
12. SR2009No20 Anaerobic digestion facility including use of the resultant biogas
13. SR2009No21 On-farm anaerobic digestion facility including use of the resultant biogas
14. SR2009No22 Storage of digestate from anaerobic digestion plants
15. SR2009No23 Storage and treatment of dredgings for recovery
16. SR2008No21 Scrap Metal (amendment of existing standard rules)

Mobile plant for land-spreading

These rules would allow operators to use appropriate technology to store and spread waste on land to benefit agriculture or improve the ecology in England and Wales.

This set of rules would cover those activities that are currently exempt under paragraphs 7 and 28 of Schedule 3 of the EP Regulations if the Exemption Review moves these activities into permitting. Types of waste that have been approved for spreading on land under a low-risk waste position or a modernising waste regulation position statement have also been included under this rule set.

Under the rules, operators would have to send us a deployment form which we agree before any operations can begin. Each deployment form will cover up to 50 hectare parcels of land. A maximum of five different types of waste may be spread under any one deployment.

The rules refer to different categories of waste and locations where waste can be spread. This will affect the type of deployment required based on the risk of the activity. The risk depends on the types of waste to be spread and the location. We have to assess locations in or near sensitive receptors such as habitats and groundwater source protection zones in more detail because the activity may pose more risks in these areas.

Mobile plant for the treatment of land for reclamation, restoration or improvement

These rules would allow operators to use mobile plant to treat land for reclamation, restoration or improvement purposes in England and Wales as long as this benefits agriculture (including biomass production), improves the ecology of the area.

This set of rules would cover those activities that are currently exempt under paragraph 9(1) (b) of Schedule 3 of the EP Regulations if the Exemption Review moves these activities into permitting. Under the rules, operators must send us a deployment form which we agree before any operations can begin. The rules distinguish between two categories of location for a number of different types of waste. We have to assess the higher risk location more, because sensitive sites are closer.

Mobile plant for land-spreading of sewage sludge

This set of standard rules would allow operators to spread sewage sludge on non-agricultural land to benefit agriculture or improve the ecology. They would cover those activities that are currently exempt under paragraph 6 of Schedule 3 of the EP Regulations if the Exemption Review moves these activities into permitting.

This mobile plant permit will operate in the same way as the mobile plant permit for landspreading and operators will have to send deployment forms to us to be assessed.

Use of waste in construction

These rules would allow operators to store and use waste in construction work. There are two sets of rules, one for storing and using up to 50,000 tonnes and one for storing and using up to 100,000 tonnes of waste. This is to reflect the different levels of compliance assessment that we think these different scales of activity require. Operators will also have to provide us with details of the type of construction work they will be carrying out and the types of waste and quantities to be used. This set of rules would cover those activities that are currently exempt under paragraph 19 of Schedule 3 of the EP Regulations if the Exemption Review moves these activities into permitting.

Use of wastes for reclamation, restoration or improvement of land

These rules would allow operators to spread waste to reclaim, restore or improve land. This set of rules would cover those activities that are currently exempt under paragraph 9(1) (a) of Schedule 3 of the EP Regulations if the Exemption Review moves these activities into permitting. There are two sets of rules, one for spreading up to 50,000 tonnes of waste and one for up to 100,000 tonnes of waste. This reflects the different levels of risk. No more than 2 metres depth of waste may be spread. The operator also has to provide us with details of the purpose of the operation and the types and quantities of waste to be used.

Use of mobile plant for treatment of waste to produce soil, soil substitutes road-stone and aggregate

This set of standard rules would allow operators to use mobile plant to treat waste to produce soil, soil substitutes, road-stone and aggregate at a temporary site either where the waste is being produced or where the waste is to be used. Under the rules, operators must send us a deployment form that we agree before operations can begin. The rules allow up to 75,000 tonnes of waste per deployment to be treated. The rules also allow up to 10,000 tonnes of waste not produced on the site to be stored. This set of rules would cover a number of activities that are currently exempt under paragraph 13 of Schedule 3 of the EP Regulations if the Exemption Review moves these activities into permitting.

Treatment of waste to produce soil, soil substitutes, road-stone and aggregate

This set of standard rules would allow operators to treat waste to produce soil, soil substitutes, road-stone and aggregate at a fixed site. Up to 75,000 tonnes of waste per year can be treated under these rules. The rules also allow up to 50,000 tonnes of waste to be stored on site. This set of rules would cover a number of activities that are currently exempt under paragraph 13 of Schedule 3 of the EP Regulations if the Exemption Review moves these activities into permitting.

Use of waste to manufacture of timber or construction products

This set of standard rules will allow operators to manufacture timber and construction products from waste. Up to 75,000 tonnes of waste per year can be used in the manufacturing process. The rules also allow up to 50,000 tonnes of waste to be stored on site. Storage of wood and other combustible materials is limited to 10,000 tonnes. This set of rules would cover a number of activities that are currently exempt under paragraph 13 of Schedule 3 of the EP Regulations if the Exemption Review moves these activities into permitting.

Composting biodegradable waste

These rules apply to small-scale composting processes, for example community composting and on farm composting, and cover both open and contained systems. This set of rules is aimed at smaller operators who operate outside of the quantities and waste streams allowed by the proposed new exemption, but who do not require the greater scope provided by the existing standard rules for composting. The quantity of stored waste is limited to 500 tonnes at any one time, including storage, physical treatment, composting and maturation.

This set of rules would cover a number of activities that are currently exempt under paragraph 12 of Schedule 3 of the EP Regulations if the Exemption Review moves these activities into permitting.

Anaerobic digestion facility including use of resultant biogas

These rules will allow operators to carry out the anaerobic digestion of a range of waste and also to use the biogas that it produces in compression and spark ignition engines with a rated thermal input of less than three megawatts. The rules also cover on-site storage of the resultant digestate. This set of rules has been provided to complement the proposed new exemption for anaerobic digestion under the review and to provide an appropriate level of regulation based on potential risk. The quantity of waste to be used is limited to 75,000 tonnes per year. The rules have specific emission limits for gas engines stacks.

On-farm anaerobic digestion facility including use of resultant biogas

These rules are for the anaerobic digestion of waste manures and slurries on farms. They also allow operators to use the biogas that is produced in compression and spark ignition engines with a rated thermal input of less than three megawatts. The rules cover on-site storage of the resultant digestate. The rule set complements the proposed new exemption for anaerobic digestion under the review and to provide an appropriate level of regulation based on potential risk. The quantity of waste to be used is limited to 75,000 tonnes per year. The rules have specific emission limits for gas engines.

Digestate storage from anaerobic digestion facilities

These rules allow digestate from anaerobic digestion plants to be stored in lagoons. The rules cover storage when it is located away from the digestion facility before digestate is spread on agricultural land. This set of rules complements the sets of rules provided for anaerobic digestion. The quantity of waste to be stored is limited to 75,000 tonnes per year.

Storage and treatment of dredgings for recovery

These rules would allow waste from the dredging of inland waters to be stored in lagoons. The rules are provided for dewatering and storing waste before it is recovered elsewhere. This set of rules would complement the proposed new exemption for dredgings. The total capacity of the lagoon used under these rules must not exceed 125,000 cubic metres.

5 Proposed revisions to existing standard rule sets

Scrap metal (amendment of existing rules)

These are an amendment to the existing rules for storing and treating scrap metal. The activities have been changed to include granulation, and waste types have been expanded to include metallic packaging and discarded ELV components. We are proposing to remove the specific restriction on fragmentation as we believe this is essentially the same as shredding, which is already a permitted activity in the rules. The quantity limit remains at 75,000 tonnes per year. The set of rules has been amended to complement the new proposed exemption for treating scrap metal.

6 Consultation questions

This consultation is your opportunity to help develop the standard rules for exempt activities that might require a permit as a result of the Government review of the exemptions from waste permitting. It will also introduce some additional standard rules for anaerobic digestion that complement the revised exemptions. We are also consulting on the risk assessments that support the standard rules.

We would particularly welcome your feedback on the questions below and attach a response form for you to complete and send back:

Question one: Have we correctly identified all the activities that will require a standard permit under the review of waste exemptions? If not, please explain why.

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

Question three: 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 four: Have we correctly set the risk boundaries of the standard rules so that only the higher risk activities are covered by bespoke permitting? If not, please explain why.

Question five: Do you have any further 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 05th June to 28th August 2009. We will be compiling a report on the consultation feedback, which we will publish on our website.

All responses will be published on our website after the consultation has closed, so please indicate on your response if you want us to treat it as confidential. Responses made on behalf of organisations will be published with the organisation's name, but names of individuals who respond will not be published.

You have until August 28th 2009 to send us your comments. We will not be able to take into account comments received after this date.

You can comment in a number of ways:

- By Email

Please send us your comments on a separate document – do not use tracked changes. You can use our on-line consultation form on our website:

<http://www.environment-agency.gov.uk/research/library/consultations/36989.aspx>

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

Email your response to Elena Williams at SRC3@environment-agency.gov.uk by the closing date.

- Writing to us at this address:

Elena Williams
Environment Agency Wales
Floor 1
Ty Cambria
29 Newport Road
Cardiff
CF24 0TP

This consultation is being run in accordance with the criteria set out in the Government's Code of Practice on Consultation.

If you have any queries or comments about the conduct of the consultation, please contact:

Cath Beaver, Consultation Co-ordinator
Environment Agency, Rio House
Waterside Drive, Aztec West
Almondsbury, Bristol BS32 4UD.
Email: cath.beaver@environment-agency.gov.uk

Please do not send consultation responses to this address

Would you like to find out more about us, or about your environment?

Then call us on

08708 506 506 (Mon-Fri 8-6)

email

enquiries@environment-agency.gov.uk

or visit our website

www.environment-agency.gov.uk

incident hotline 0800 80 70 60 (24hrs)

floodline 0845 988 1188

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