



**Cyfoeth  
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Wales

**Response to Consultation on proposed changes to Standard  
Rules Permits**

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Standard rules for the Environmental Permitting Regulations

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Cambria House

29 Newport Road

Cardiff

CF24 0TP

0300 065 3000 (Mon-Fri, 8am - 6pm)

[enquiries@naturalresourceswales.gov.uk](mailto:enquiries@naturalresourceswales.gov.uk)

[www.naturalresourceswales.gov.uk](http://www.naturalresourceswales.gov.uk)

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## Summary

The Environmental Permitting (England and Wales) Regulations 2010 (“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 across, and mirror similar rule sets in England 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.

In October 2016 we consulted on proposals to amend a number of the Standard Rules Permits available for waste operations. There were proposed changes to 36 different rules sets, along with proposals to withdraw the four existing standard rules sets for Deposit for Recovery, and replace them with a single consolidated version.

We received a total of 5 responses to the consultation.

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## 1. Deposit for Recovery

### Proposals we consulted on

This consultation proposed introducing a new standard rules set SR2015 No39 in place of the existing 4 standard rules that cover deposit for recovery (SR2010 No7, No8, No9 and No10). The proposed rules would allow the use of up to 60,000 cubic metres of low risk wastes only for construction, reclamation, restoration or improvement of land in low risk locations. There would be a limited allowance for the use of other waste in surface layers for specific purposes.

We proposed that the existing standard rules would be withdrawn for new applicants in April 2017. Those operating under these rules already would be given 9 months to either:

- Complete their operations and apply to surrender their permit; or
- Apply for the new standard rules if the activities comply with them; or
- Apply to obtain a bespoke permit authorising the activity.

We also clarified that Waste Recovery Plans will not need to be re-submitted if the proposed scheme is not changed. Amendments to the included waste types will only be required, if there is conflict with the new rules.

### The level of response

One consultee responded to this consultation.

The responses to the questions are discussed in detail under the headings below. We have carefully considered the response, and our responses to those observations are made below.

**Question one:** *Do you agree with our approach to use standard rules for deposit of waste for recovery activities?*

The consultation response agreed that standard rules permits may provide a useful mechanism for facilitating the recovery of some waste materials, but it did raise concerns that the breadth of waste codes acceptable may undermine markets for managing some of these wastes via alternative, potentially more environmentally beneficial, routes.

It also raised concerns that the removal of certain waste types permitted under the Standard Rules sets, specifically Pulverised Fuel Ash, may result in an increase of landfilling of this particular material.

### **NRW Response**

We do recognise that the restriction of specified materials from the standard rules set might result in some proposals needing to submit an application for a bespoke permit in the future. A bespoke application will ensure that the risks of using some of these materials can be assessed on a site specific basis during application stage. We feel this is a more appropriate method to deal with such proposals.

**Question two:** *What are your views on the proposed changes and why?*

The consultation response considers that the removal of several waste codes which have been eligible for acceptance under the four standard rules (SR2010 Numbers 7 to 10), coupled with the potential for the withdrawal of Environment Agency (EA) Regulatory Position Statement 172 (RPS 172, Regulation of the use of unbound pulverised fuel ash and furnace bottom ash, May 2014) and the Natural Resources Wales (NRW) Regulatory Decision RD\_02, which mirrors it, will have negative impacts. These impacts are likely to include increased quantities of otherwise useable materials being disposed of in landfills and a corresponding increase in the use of virgin aggregates, thus reducing the sustainability of resources.

**NRW Response**

Whilst we acknowledge that the list of waste codes has been reduced for use under the standard rules permits, it does not restrict the use of these materials at sites operating under a bespoke permit deposit for recovery permit, subject to more detailed assessment.

**Question three:** *Do you understand the requirements of the proposed new standard rules?*

The consultee stated that its members fully understand the requirements of the new standard rules, but not necessarily the justification for some elements of them.

**Question four:** *Will the proposed standard rules provide a useful mechanism to allow the beneficial use of waste?*

The consultation response proposed that waste types which can achieve End of Waste status through the Quality Protocol Aggregates from inert waste should be excluded in the list of acceptable waste under the Standard Rules Permits, as the Protocol offers a more sustainable method for recovering wastes.

The consultee expressed concern that ash materials were restricted from the scope of the proposed scope of the Standard Rules set, most notably;

- 10 01 01 (bottom ash, slag)
- 10 01 02 (PFA)
- 10 01 05 gypsum (solid)
- 10 01 07 gypsum (sludge)
- 10 01 15 (bottom ash and slag from co-incineration)

They express concern that applicants will be expected to make greater use of Bespoke Permits (BP) for waste recovery activities and expect groundwater risk assessments to be undertaken, taking into account the nature of the waste and hydrogeological sensitivity of the proposed recovery location.

The consultee said that, because coal ash has been removed from the standard rules, other wastes including secondary aggregates or virgin materials will displace it for use in projects. It was said that this will increase resource use (and greenhouse gas emissions) and mean that more coal ash will go to landfill. The consultee says that the bespoke permitting requirement for site specific risk assessment would not give regulatory certainty that coal ash can be used and therefore other wastes will be used instead.

**NRW Response**

Whilst we support the production of aggregates from inert waste using the quality protocol, and recognise how the continued inclusion of these waste types within the standard rule set could potentially undermine the use of this protocol. We believe that the restriction of permitted waste types acceptable for use under the Standard Rules Permit may not be appropriate at this time. We will continue to monitor whether future changes are appropriate.

Pulverised fuel ash (PFA) and incinerator bottom ash aggregate (IBAA) have been assessed as part of the Quality Protocol project. Computer models of engineering structures, including embankments, have been developed based on laboratory analysis of these wastes that demonstrate unacceptable impacts to groundwater in modelled sensitive locations. In addition, field leaching trials have been carried out under the EQual programme and the results support the findings of the computer modelling work. Quality protocols clarifying end-of-waste status have not been issued for unbound uses of PFA and IBAA for these reasons. There may be locations where no harm or pollution of groundwater will occur as a result of the deposit of these wastes, but these locations will have to be determined through the use of site specific risk assessment. As the risks posed by these wastes cannot be assessed generically a standard rules permit allowing the use of these wastes is not appropriate.

***Question five: Have we correctly identified all the risks for the activity, as described in the generic risk assessment associated with the consultation?***

With regard to the generic risk assessment, the respondent largely agrees with the identification of risks and the description of all residual risks associated with the activity as either “low” or “very low”.

The consultee fully understands the need to protect groundwater supplies, in particular Principal and Secondary Aquifers which are heavily utilised for Public Water Supply (PWS), food/beverage industry, and provide base flow to surface water courses. However, they are not aware of waste recovery operations that have taken place in SPZ 1 and resulted in a detrimental impact on groundwater quality.

## 2. Fire Prevention Requirements

### Proposals we consulted on

We consulted on proposals to require operators permitted under a range of different Standard Rules Permits to implement the recommendations set out in Natural Resources Wales' guidance on Fire Prevention and mitigation plan at permitted waste sites.

### The level of response

One consultee responded to this consultation.

The comments made in response to this consultation generally refer to specific conditions with the fire prevention guidance, rather than the proposals to deliver the requirements through the Standard Rules permits. As such, we propose to make no amendments to the draft Standard Rules sets itself. We do recognise the comments regarding the fire prevention guidance, and we are currently undertaking a review of the document

The responses to the questions are discussed in detail under the headings below. We have carefully considered the response, and our responses to those observations are made below.

#### ***Question one; Do you recognise the need to control fire risk at sites dealing with combustible wastes by the production of a fire prevention plan?***

The response recognised the need to introduce measures to prevent fires on waste sites, and to employ measures to control the environmental impact when they do occur. The response did ask that a balance should be found between what is desirable and what is practicable on individual waste sites. It expresses concern around the prescriptive implementation of fire prevention criteria across all sites in a one size fits all approach may not offer the same protection or be as practical to implement as measures implemented to suit the individual site circumstances.

### **NRW Response**

We recognise that Natural Resources Wales guidance on fire prevention and mitigation currently does suggest that certain fire prevention actions must be taken to ensure compliance. We are in the process of reviewing of NRW guidance and will ensure that it is amended to reflect that alternative methods may be employed, as long as they deliver an appropriate level of protection.

#### ***Question 2: For sites without a building, storing or treating combustible waste. Is the three month residence time and effective fire prevention measure.***

The response agreed that the three month residence time was in most cases, an appropriate measure. They did call for there to be a level of flexibility in this restriction, to allow for site specific considerations to be factored in.



The response also calls upon Natural Resource Wales to actively monitor compliance with these residence times, and to ensure enforcement action is pursued in cases where the limits have not been met.

### **NRW Response**

It is the responsibility of the operator to ensure it is compliant with their permit and associated management system taking account of relevant guidance. Where it is identified that an operator is breaching any permit condition this will constitute NRW would consider appropriate enforcement action to be taken.

***Question 3: Please tell us any further views or comments you may have on these changes.***

The consultation response highlight the following areas of concern.

#### Quarantine Areas

The response expressed concerns regarding the designation of specified quarantine areas, and the practicability of moving burning waste. The consultee agrees that quarantine procedures are important, but the guidelines, as currently set out, will have significant impact on the economic model for many sites.

#### Separation Distances

The consultation response calls for a reduction in separation distances to be acceptable, subject to demonstration of other control measures being in place.

#### Fire Suppression

The consultee calls for site specific assessment for the need for suppression systems to be undertaken, rather than implementing a solution for all sites.

### **NRW Response**

We will consider the comments made with regards to quarantine areas, separation distances and fire suppression in our review of our fire prevention and mitigation plan guidance. We will take into account the concerns raised by the consultee in this response.

### 3. Metals Treatment

#### Proposals we consulted on

We consulted on proposals to require operators permitted under a range of different Standard Rules Permits to implement the recommendations set out in Natural Resources Wales' guidance on Fire Prevention at permitted waste sites.

#### The level of response

One consultee responded to this consultation

**Question one: Will allowing equipment containing ODS to be accepted for storage, even though it cannot be treated, give greater flexibility to sites operating under these standard rules?**

The response agreed with our proposals.

**Question two: Do you support this proposal and will providing alternative drainage options for undepolluted vehicles benefit operators by increasing the number of sites capable of operating under these standard rules?**

The response suggested it may be beneficial to provide a drainage condition within the permit which references the drainage requirements and or standards to approved guidance, such as PPG3 Use and design of oil separators in surface water drainage systems.

Condition 1.1.1 provides an overarching condition to ensure that all appropriate measures in line with current guidance are in place

It also suggested, to avoid current confusion and misinterpretations, it would be useful if the standard rules permits contained a definition of a "Hardstanding" (permeable and impermeable) and a revised definition of a "Sealed Drainage System". It would also be helpful that the standard rules permits contained a definition of "Point Source Emissions" in relation to polluting discharges, contaminated drainage and uncontaminated site surface and roofed rain waters.

***Question 3; Do you agree that as these standard rules are primarily for recovery operations, the restriction on storage of hazardous waste for disposal is precautionary and won't have much practical effect?***

The response agreed that these are primarily recovery operations and the restriction on hazardous waste storage for disposal is trying to be a precautionary one, however, it continued to say that the storage (still limited overall at 50 tonnes anyway) of hazardous waste, whether for disposal or recovery, does not reduce or increase the risks for potential pollution or harm.

The response suggests a limit to the duration of storage times for hazardous waste (whether for disposal and / or recovery) instead, may have a more practical effect, e.g. reducing times for corrosion or deterioration of containers or slow leaks, etc.

The new storage limit has been introduced to ensure that activities undertaken under the standard rules sets remain outside of scope of the Industrial Emissions Directive. The storage limit with therefore remain in the new rule set.

**Question four: Do you support the principle of combining standard rules in the metals recycling sector and do you think more operators will be able to benefit from standard rules as a result?**

The response agreed that the changes will be beneficial.

**NRW Response**

We therefore propose to make no changes to the proposals set out in our consultation

## **4. Changes to Household Waste Recycling Sites Standard Rules Sets**

### **Proposals we consulted on**

We consulted on proposals to extend the list of acceptable wastes to include various additional codes relating to packaging waste, (EWC Chapter 15)

### **The level of response**

We received no responses to these proposals. We will therefore be implementing the proposed changes.

## **5. Changes to sites handling Asbestos**

### **Proposals we consulted on**

We consulted on proposals to amend the storage requirements for sites handling Asbestos.

### **The level of response**

We received no responses to these proposals. We will therefore be implementing the proposed changes.

## 6. Changes to permits allowing the beneficial spreading of waste on land.

### Proposals we consulted on

We consulted on proposals to significantly change the standard rules set for the use of waste for land treatment. These proposals included a new limit on the way waste was managed on site, how it is applied, and also amended the criteria a site must meet in order to benefit from a Standard Rules permit.

### The level of response

We received 2 responses to our consultation. Both responses raised specific comments on various aspects of the proposals, which are summarised below;

#### Storage of Waste Prior to deployment

One response felt there that little evidence presented to justify the change to the storage of non-stackable waste, and asked NRW to explain why this reduction has been made and provide evidence to support this change.

The second response agreed that it is a positive approach to formalise the arrangement whereby storage limits will apply to each Deployment as opposed to each Permit, and to continue to allow a 3,000 tonne storage limit. The reduction in quantity of the limit from 3,000 to 1,250 tonnes for non-stackable wastes is entirely reasonable and recognises the magnitude of the Risks involved in such non-permitted storage.

#### **NRW Response**

The maximum storage of waste will change from 3,000 tonnes per permit to 3,000 tonnes per deployment. This is therefore a beneficial increase to on-site storage. To reflect this change and reduce the risk profile the element of non-stackable waste in the 3,000 tonnes per deployment at any one time has been reduced to 1,250 tonnes (this was the limit set under the previous exemption on which the original SRP is based on). It should not be necessary for waste to be bulk stored in temporary facilities for long periods. We believe this will, result in better use of waste at a lower risk to the environment.

We believe the storage conditions in the consultation document are reasonable, and will therefore form part of the new Standard Rules set.

#### Additional Waste Types

The proposal to allow additional waste types was welcomed, and the suggestion was made that a mechanism be developed to allow additional waste types to be accepted under standard rules set.

#### **NRW Response**

As the Rule Sets are subject to consultation as per the legislation, changes to waste types cannot be done unless a review of the rule set is undertaken. Changes can be made readily if appropriate to bespoke mobile plant permits.

#### Pre-notification of Deployment

One response believes the requirement for pre-notification is an unnecessary burden on those who operate a landspreading permit. They believe requirement will make the permit more onerous for little environmental gain. Changeable weather conditions and machinery breakdown can also make it difficult to forecast when landspreading will take place 48hours beforehand.

The second response was from an operator who is already pre-notifying of deployments, and recognises the benefits of doing so. They did go onto to have an element of flexibility to ensure operators are not forced to and use land rendered unsuitable by the weather.

### **NRW Response**

The requirement to pre-notify is an "intention to spread" notification to the regulator. NRW has yet to finalise its approach for notification. However, it is likely to be via telephone/email with a specific set of information given e.g. deployment reference, contact and date of proposed spread. It has been estimated that approximately for each deployment there is 2 potential notifications in that deployments window. The regulator does not deem this overly onerous and it is hoped it will build better links with local regulatory teams.

### Groundwater Safeguard Zones

One consultation response reported that they were in agreement with our proposals to restrict deployment s of certain waste types in Groundwater Safeguard Zones (SGZ).

The second response was very concerned about the proposed restrictions, and over the development of groundwater safeguard zones in general.

### **NRW Response**

A standard rule set is developed to cover circumstances where a specified set of generic pre-assessed rules apply. The assessment would not include specific assessment of impact of nitrate on a specified source. If the activity did not comply with the generic circumstances the operator would need to apply for a bespoke permit application if required.

We appreciate that there will be concerns where the SGZ falls within a SPZ2 area and further consideration will be given to the potential to place restrictions rather than a ban under this rule set in these areas. Current deployment assessment places any deployments in SPZ2 as a higher risk location and the applicant is required to submit a site specific assessment. This is in line with Groundwater Regulations requirements.

Currently in Wales we have 1 designated SGZ in Pendine and this is listed on the basis of microbial contamination concerns. The restrictions in this rule set apply to nitrate controls. Obviously it is understood that high RAN wastes will also have high microbial load.

We believe these measures are both protective to water resources and also to the agricultural sector and will ensure protected potable water in areas where this designation exists.

### Nitrate Vulnerable Zones

One response suggested that it might be better to refer to the standards specified in the NVZ requirements, than referring to specific standards in the permit itself.

### **NRW Response**

The proposed wording comes from the restrictions currently in place under the relevant exemption for landspreading and Code Of Good Agricultural Practice. NRW will look at this wording and ensure that it does not undermine or weaken the requirements to be set out in the proposed NVZ Action programme.

#### Amendments to SR 2010 No 17. Storage of Digestate from Anaerobic Plants

One consultation response state that all these proposals are welcome both from the view point that they help to widen the range of acceptable wastes, and from the perspective that risks are being better managed i.e. with CIRIA compliant storage containers and covered Digestate Tanks.

Comments were made on the proposal to require stackable wastes to be stored on impermeable surface with sealed drainage. The response stated that in a Nitrate Vulnerable Zone (NVZ), stackable wastes can be stored in temporary heaps, as well as in vessels, roofed buildings and on impermeable bases with collection of runoff. They believe the permit conditions should mirror NVZ requirements, and only apply in NVZ areas.

#### **NRW Response**

NRW have proposed these storage requirements to ensure consistency with other waste operations. The NVZ requirements cover all non-waste stackable materials also. As a regulator there is a requirement to adhere to consistency within the waste sector. We therefore do not propose to change this requirement

NRW proposal is to require containers used to store non-stackable wastes to be constructed to CIRIA 126 specifications. The current SSAFO Regulations may well be appropriate to elements of the regulation of anaerobic digestion. However, as was noted in the recommendations of the 2013 Joint Government and Industry Slurry Management and Storage Project, the extent to which SSAFO covers ensiled feedstock and other elements of AD must be made 'very clear in revised Regulations'. Welsh Government consulted on proposals to updating the SSAFO regulations during 2015. It is the consultees understanding from the Summary of Consultation Responses, that many of the proposals made within the consultation document require further development before any decisions are made. The consultee does not think the standard rules permit should be updated in isolation of these other ongoing pieces of work.

#### **NRW Response**

As stated the SRP rule set sits within a suite of permits for the waste sector and as such reflects the requirements of this sector and the standards required. There is opportunity to apply for a bespoke storage permit if any operator wishes to use an alternative to the requirements set within specific rules sets.

The proposal for high readily available nitrogen wastes to be stored, but only in containers, to prevent ammonia emissions was questioned. The consultee points out that this is not a requirement of SSAFO or NVZ regulations at present. We would therefore not support this requirement under the standard rules permit, particularly when digestate may be stored for a short period of time prior to spreading.

#### **NRW Response**

NRW point out that this rule set is set for the bulk storage of waste AD digestate. Temporary short term restricted storage is covered by the landspreading permit. Where alternative storage options are preferred by the operator a bespoke storage permit can be considered.

With any applicable legislation the highest standard applies if this is within the rule set then those standards apply. If there is legislation of statutory guidance that's states a higher requirement then this must also be followed

## **Summary**

Based on the consultation responses received, we do not propose to make any changes to the proposals set out in our consultation