



# Standard Rules for the Environmental Permitting Regulations – consultation No.16

Summary of consultation responses  
and decisions

March 2019

We are the Environment Agency. We protect and improve the environment. We help people and wildlife adapt to climate change and reduce its impacts, including flooding, drought, sea level rise and coastal erosion. We improve the quality of our water, land and air by tackling pollution. We work with businesses to help them comply with environmental regulations. A healthy and diverse environment enhances people's lives and contributes to economic growth. We can't do this alone. We work as part of the Defra group (Department for Environment, Food & Rural Affairs), with the rest of government, local councils, businesses, civil society groups and local communities to create a better place for people and wildlife.

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# 1. Introduction

The Environmental Permitting (England and Wales) Regulations 2016 (“EP Regulations”) allow us to offer standard permits. This reduces the administrative burden on business while maintaining environmental standards. They’re based on sets of standard rules that we can apply widely. We develop the rules using assessments of the environmental risk posed by the activity.

From this consultation, live from 28 June 2018 to 20 September 2018, we proposed revisions to a number of standard rules. The consultation invited views on changes to a number of existing standard rules. These included: water discharges; materials recovery and recycling; waste electrical and electronic equipment (WEEE); storage of electrical insulating oils; metal recovery/scrap metal and onshore oil and gas exploration and mining operation.

The consultation also asked for views on: clarifying the wording on distances from spring, well or borehole; business impact and revoking one existing standard rules set.

## 2. How we ran the consultation

We invited comments on the proposal from operators, trade associations and businesses, other regulators, the public, community groups and non-governmental organisations with an interest in environmental issues.

We ran an e-consultation and made hard copies available to those who requested them. We also met several trade associations and their members to explain our proposals and to understand their views. This document summarises the responses to the consultation questions and any other key points raised by consultees. It also sets out our responses, the decisions we have made and the actions we’ll take as a consequence.

## 3. Proposed changes to rules and risk assessments

### 3.1. Proposals we consulted on

We proposed revisions to the following existing rule sets, generic risk assessments and waste management plans:

- SR2010 No 2: discharge to surface water - cooling water and heat exchangers
- SR2010 No 3: discharges to surface water - secondary treated domestic sewage
- SR 2015 No19: 75kte non-hazardous household waste amenity site
- SR2015 No 20: 75kte: non-hazardous and hazardous household waste amenity site
- SR 2008 No 23: waste electrical and electronic equipment authorised treatment facility (ATF) excluding ozone-depleting substances - existing permits
- Generic risk assessment: SR2008 No 23 v6.0
- SR2015 No15: waste electrical and electronic equipment authorised treatment facility (ATF) excluding ozone – depleting substances.
- Generic risk assessment: SR2015 No15 v2.0
- SR 2015 No 3: metal recycling and waste electrical and electronic equipment authorised treatment facility (ATF) excluding ozone-depleting substances

- Generic risk assessment: SR2015 No 3 v2.0
- SR 2012 No 15: storage of electrical insulating oils
- Generic risk assessment: SR2012 No15 v1.0
- SR 2011 No 2: metal recycling site - existing permits
- SR2015 No 14: metal recycling site
- SR 2015 No 13: vehicle storage, depollution and dismantling (authorised treatment) facility
- SR 2008 No 20: vehicle storage, depollution and dismantling (authorised treatment) facility - existing permits
- SR2011 No 3: vehicle storage, depollution and dismantling (authorised treatment) facility - existing permits.
- SR2012 No 14: metal recycling, vehicle storage, depollution and dismantling (authorised treatment) facility - existing permits.
- SR2015 No 13: vehicle storage, depollution and dismantling (authorised treatment) facility
- SR2015 No 17: vehicle storage, depollution and dismantling (authorised treatment) facility
- SR2015 No 20: 75kte - non-hazardous and hazardous household waste amenity site
- SR2015 No 1: the management of extractive waste not including a waste facility, generated from onshore oil and gas prospecting activities including drilling, coring, leak off testing (LOT), acid wash and decommissioning but excluding any well stimulation or hydraulic fracturing, for the production of oil or gas, (using oil and water based drilling mud)
- SR2015 No 1: waste management plan
- SR2015 No 2: storage and handling of crude oil arising from onshore oil and gas exploration and production activities
- • Generic risk assessment: SR2015 No 2

We also proposed to either close (not allow new applications) standard rules SR2014 No 2: management of extractive waste to new applicants maintaining it for the existing operator or revoke it.

We also proposed to clarify wording in a number of standard rules sets relating to distances from springs, wells or boreholes. The following standard rules sets were affected by the proposal:

- SR2010 No 18: storage and treatment of dredgings for recovery
- SR2010 No 7: 50kte use of waste in construction
- SR2010 No 8: use of waste in construction
- SR2010 No 9: use of waste for reclamation, restoration or improvement of land
- SR2010 No 11: mobile plant for treatment of waste to produce soil, soil substitutes and aggregate
- SR2010 No 13: use of waste to manufacture timber or construction products

Finally the consultation gave people the opportunity to comment on the business impact of the proposed changes.

## 4. Level of response

We received a total of 19 responses. We have carefully considered these. Of the 19 responses:

- 8 were from operators
- 9 were from a trade body/association
- 1 was from a government agency/local authority
- 1 was from an individual

## 5. Responses to questions, our response and actions we'll take

### 5.1. Water discharges

We proposed minor changes to both SR2010 No 2 and SR2010 No 3. To change the wording of the conditions which were subject to appeal decisions. The appeals were made under the Environmental Permitting Regulations. We will also take the opportunity to update reference to the Flows and Loads document.

#### Question 1

Do you agree with the proposed minor changes to SR2010 No 2 and SR2010 No 3 to bring the wording in line with the conditions that have been subject to appeal decisions under the Environmental Permitting Regulations and to update references to Flows and Loads document?

- 5 respondents answered and they agreed with the proposal
- 14 respondents did not answer the question

We received 3 comments and they all agreed with the proposal. We will be implementing the proposed changes to these standard rules sets.

### 5.2. Materials recovery and recycling

We proposed to add 2 new waste codes to the existing standard rules permits SR2015 No 19 and SR2015 No 20.

- Waste code 16 01 03 (end of life tyres) with a storage limit of 1 tonne of intact vehicles tyres
- Waste code 17 09 04 (mixed construction and demolition wastes other than those mentioned in 17 09 09, 17 09 02 and 17 09 03)

#### Question 2

Do you agree with the addition of new waste codes for SR2015 No 19 and SR 2015 No 20?

- 7 respondents answered and they agreed with the proposal
- 12 respondents did not answer the question

We received 3 comments and they all supported the addition of the waste codes. One comment asked whether we would be reviewing a wider range of standard rules sets to incorporate similar waste types. This is outside the scope of the consultation. We are currently planning a wider permitting review but the scope or timescale has not been agreed yet.

We will be implementing the proposed changes to the standard rules sets mentioned in section 5.2. We will also include to SR2015 No 20 waste code 13 02 08\* (other engine, gear and lubricating oils) as a result of a comment we received.

## 5.3. Waste electrical and electronic equipment (WEEE)

We proposed to make the following amendments to standard rules sets SR2008 No 23 and SR2015 No 3.

- reduce the annual input limit to 25,000 tonnes per annum (for SR2015 No 3 - this limit only applies to WEEE)
- reduce the maximum quantity of batteries that can be accepted to 5000 tonnes per annum
- provide clarification to what wastes need to be stored in a container and/or under weatherproof covering (Table 2.3)
- provide clarity in Table 2.5 to avoid ambiguity
- prohibit point source emissions to air

### Question 3

Do you agree that the proposed reductions in the overall quantity limit as well as the limit specified for batteries are appropriate in view of the nature and scale of current WEEE operations?

- 6 respondents answered and they agreed with the proposal
- 13 respondents did not answer the question

Of the 6 people who responded 4 gave further comment. They were either a general comment or were supportive of the proposal - they do not need a response.

### Question 4

Do you agree that requiring activities such as treatment of batteries and mechanical treatment of cooling appliances and display equipment to be carried out under a bespoke permit is necessary in order to fully protect the environment?

- 8 respondents answered the question and they agreed with the proposal
- 11 respondents did not answer the question

We received 6 comments to this question. Two respondents argued for even tighter controls in relation to the treatment of refrigerators and other cooling equipment. They suggested we could prohibit it under the standard rules. This is due to the perceived risks associated with handling volatile fluorocarbons and hydrocarbons and their belief that these require bespoke consideration.

These suggestions go beyond the scope of the original consultation so cannot be implemented at this time. However, they do warrant further consideration. We will implement the changes consulted on. Any further changes will need a separate consultation.

### Question 5

Do you agree that the revised Table 2.3 provides greater clarity about storage requirements than the old one?

- 7 respondents answered the question and they agreed with the proposal
- 12 respondents did not answer the question

We received 5 comments. One respondent asked for further clarification on if it was justifiable to require shredder residues to be stored under cover. The existing rules use the same description as the WEEE Directive which require certain precautions to be taken 'where appropriate'. We have now explained clearly what we mean by the provision of weatherproof covering. We have set out where cover is required. Some WEEE shredding residues may have the potential to generate polluting run-off. We believe it is appropriate to require it to be stored under weatherproof covering.

## Question 6

Do you agree that point source emissions to air should be considered on a bespoke basis and therefore not allowed under these standard rules?

- 7 respondents answered the question and they agreed with the proposal
- 12 respondents did not answer the question

We received 5 comments. They were either a general comment or were supportive of the proposal. Therefore, they do not require a response.

We will implement the proposed changes to these standard rules sets.

## 5.4. Storage of electrical insulating oils

We proposed to require that all parts of the site used in connection with the storage of waste must have an impermeable surface. The area must also have a sealed drainage system prohibiting any release to groundwater or surface water. To eliminate doubt we will amend the storage requirement to also refer to a sealed drainage system.

## Question 7

Do you agree the changes are necessary to ensure there are not point source releases to water from sites that are receiving and storing these waste oils?

- 6 respondents answered the question, 4 agreed with the changes and 2 did not
- 13 respondents did not answer the question

Two respondents representing the industry disagreed and provided detailed reasoning. Their main point was that precautions are already being taken. To carry out the required drainage alterations would be costly and impractical. These would be disproportionate relative to small environmental benefits. One urged us to do a cost/benefit assessment before considering the proposal any further.

The requirement for an impermeable surface and sealed drainage is a standard requirement for hazardous waste storage and treatment operations authorised by a bespoke permit. It is set out in our Sector Guidance Note 5.06 (SGN 5.06). Applicants must either sign up to or justify deviating from site specific risk assessment. The principles of standard rules do not allow for site specific risk assessments but do provide a streamlined application process. That process does not include any reference to SGN 5.06. Activities operating under standard rules should operate to the same environmental standards as those under bespoke permits. Embedding this requirement in the rules themselves is the obvious way to achieve this.

However, we recognise the costs to industry to do this. We will work with industry to carry out a financial impact assessment before we make a final decision. We will not implement the proposed changes at this time.

## 5.5. Metal recovery and scrap metal

For permits: SR2008 No 21, SR2011 No 3, SR 2015 No 14 and SR2015 No 16 we proposed to add new conditions which will cover the following:

- include the acceptance and storage of up to 10 tonnes of intact waste vehicle catalytic converters (waste codes 16 01 21\* or 16 01 22) at any one time
- allow no treatment other than sorting and separating from other wastes
- the manner in which the catalytic converters must be stored

For permits: SR2008 No 20, SR2011 No 3, SR2012 No 4, SR2015 No 13, SR2015 No 17 and SR2015 No 20 we proposed to:

- include the conditions above to allow catalytic converters from third parties to be accepted and stored
- restrict storage of waste vehicle batteries (waste code 16 01 01\* lead acid vehicle or 16 06 05 Other Lithium or lithium ion) to no more than 25 tonnes at any one time

- remove waste codes 16 01 07 (oil filters), 16 01 11\* (Brake pads containing asbestos and 16 01 12 (Brake pads other than 16 01 11\*)
- add a condition for the storage of lead acid batteries
- reduce the tonnage from 75,000 tonnes per year of end of life vehicles (ELV) and other wastes to 25,000 tonnes per year for SR2008 No 20 and SR 2015 No 13
- reduce the tonnage from 5,000 tonnes per year of ELV and the other wastes to 2,500 tonnes per year for SR2011 No 11 and SR2015 No 17

We also proposed changes to the generic risk assessment to reflect the changes to the standard rules sets.

### **Question 8**

Do you agree with our proposal to add catalytic converters and the associated conditions to the permits listed?

- 7 respondents answered and they agreed with the proposal
- 12 respondents did not answer the question

We received 4 comments which were all supportive of the proposal. One respondent asked to include waste code 20 01 33\* (lead acid (other) as well as 16 01 01 and 16 06 05. After considering this, we will include this waste code. We will restrict it to lead acid vehicle batteries. Waste code 20 01 34 will also be included but restricted to nickel metal hydride and lithium-ion vehicle batteries only.

### **Question 9**

Do you agree with our proposal to remove 16 01 07\* (oil filters), 16 01 11\* (brake pads containing asbestos) and 16 01 12 (brake pads other than 16 01 11\*) from ELV standard rules permits?

- 6 respondents answered and they agreed with the proposal
- 13 respondents did not answer the question

We received 3 comments. They were either a general comment or were supportive of the proposal. They do not require a response.

### **Question 10**

Do you have any comments or views on our proposal to drop the annual tonnage limits in SR2008 No 20, SR 2015 No 13, SR 2011 No 3 and SR2015 No 17?

- 2 respondents answered and they agreed with the proposal
- 17 respondents did not answer the question

We received a number of comments which either supported the proposal or fell outside the scope of the consultation. We will look into those that were not in scope and address them outside of the consultation. We did receive one comment which we will respond to. We were asked if an ELV site with a standard rules permit processing in excess of 25,000 tonnes would require a bespoke permit. We confirm that a bespoke permit would be required above 25,000 tonnes per annum. This is as a result of the proposed changes.

### **Question 11**

Do you have any comments or views on our proposal to add some extra conditions around battery storage at ELV sites?

- 1 respondent answered and did not agree
- 18 respondents did not answer the question

We received one comment and the respondent did not agree with our proposed change. Their concern was that their current practices would not meet the conditions. The respondent acknowledged that they do not operate an ELV site, a metal recycling site, nor a scrap metal yard and do not process or handle any other waste activities. This indicates that their operation is not covered by the standard rules permits we are consulting on. We are however considering their response and the options available to them.

## Question 12

Have we correctly identified all the risks for the activities, as described in the generic risk assessment associated with the consultation?

- 7 respondents answered and they agreed that we covered the risks
- 12 respondents did not answer the question

One respondent had not been able to find and review the generic risk assessment. The rest agreed that the risks associated with the proposed changes to the rules sets had been correctly identified.

After taking all comments into consideration we will amend the relevant standard rules. We will also add waste code 20 01 33\* to the relevant sets. However, we will restrict it to lead acid vehicle batteries. We will also include waste code 20 01 34 but restrict to nickel metal hydride and lithium-ion vehicle batteries only. We will also make the proposed amendments to the generic risk assessments.

## 5.6. Clarification of wording

For permits: SR2010 No 18, SR2010 No 7, SR2010 No 8, SR2010 No 9, SR2010 No 11 and SR2010 No 13 we proposed to amend the wording in the permit to the following:

- "the permitted activities shall not be within 50 metres from any spring or well or borehole used for the supply of water for human consumption, domestic or food production purposes. This must include private water supplies".

## Question 13

Do you agree with the proposed word change for SR2010 No 18, SR2010 No 7, SR2010 No 8, SR2010 No 9, SR2010 No 11 and SR2010 No 13?

- 5 respondents answered and they agreed with the proposal
- 1 respondent answered and disagreed with the proposal
- 13 respondents did not answer the question

We received 3 comments. 1 was general, 1 was outside the scope of the consultation. The third comment raised concerns that the clarification should only be for new applications and not existing sites. The new wording will apply to both new and existing operators. If operators can no longer meet the rules they will have to vary their permit to a bespoke permit. However, we are changing the wording to make it clearer, we are not imposing a new or tightening the current requirement.

## 5.7. Onshore oil and gas exploration and mining operation

SR 2014 No 2 is an existing rules set which covers a mining waste operation for the management of extractive waste. This permit is only held by one operator. We proposed to either close this set of rules for new applicants and maintain it for the one operator or revoke it.

SR 2015 No 1 and SR2018 No 2 are existing rules sets. We proposed to update the rules sets to reflect the consolidated Environmental Permitting (England and Wales) Regulations 2016. The proposal includes changes to the rules set, the waste management plan and the generic risk assessment.

## Question 14

Do you agree with our approach to reviewing and updating these standard rules for these onshore oil and gas activities?

- 17 respondents did not answer the question
- 2 respondents answered and they agreed with the approach

We received 2 comments. They were supportive of the proposal. Therefore, they do not require a response.

## Question 15

Do you agree with our proposal to remove SR2014 No 2 to new applicants?

- 15 respondents did not answer the question
- 2 respondents answered and they agreed with the approach
- 2 respondents answered and asked for no change

We propose to remove for use by new applicants the standard rules for the management of waste from the drilling of onshore oil and gas wells (SR2014 No 2). This has now been superseded by an updated standard rules set SR2015 No 1.

## Question 16

For SR2015 No 1 and No 2, have we correctly identified all the risks for each activity, as described in the generic risk assessments associated with the consultation?

- 15 respondents did not answer the question
- 2 respondents answered and they agreed with the approach
- 2 respondents answered and they asked for no change

For SR2015 No 1 we propose to adopt the changes we consulted on. SR2015 No 1 has an accompanying waste management plan (WMP) and a generic risk assessment. We have amended all three documents where appropriate.

In addition to the changes consulted on, we have made a minor change to section 3 Waste Characterisation of WMP for consistency with the Onshore Oil and Gas (OOG) sector guidance. We have also included a statement in Annex 2. This allows for additional lost circulation materials approved by the JAGDAG process prior to the next standard rules review authorised by the Environment Agency, for use, pending incorporation into Annex 2 of the WMP. The availability of sustainable lost circulation materials in the UK market can vary. This provision will allow an operator to use alternative lost circulation materials providing they are approved through the JAGDAG process and the operator has obtained our agreement. We will include any new material in any future standard rules review.

An operator's response suggested other changes to SR2015 No 1. A technical working group considered these to determine whether for current holders of this rules set, there would be any impact on the:

- environment
- ability of operators to comply

The operator's proposed changes mainly relate to the WMP. Despite the consultation with industry when the standard rules were first issued; it has only now become evident that some of the requirements were not compatible with current safe drilling practices and cannot be complied with.

There are a number of comments relating to use of OOG terminology. We have checked industry publications and agree to update the terminology used within the WMP. Some of the comments also referred to consistency between documents. We have made sure the standard rules, the generic risk assessment and the WMP are all consistent.

It was also suggested we should provide clarification and further explanation of our existing regulatory requirements. We have made the necessary alterations to WMP.

Some of the consultation comments identified parts of the process that can be removed from the WMP as they are regulated by the Health and Safety Executive. We are satisfied that we do not need to also require this information under this set of standard rules.

For the standard rules for the storage of crude oil at onshore oil and gas facilities (SR2015 No 2), we propose to adopt the changes we consulted on. We received no specific comments. We have included a reference to monitoring protocol to support monitoring requirements within these rules.

## Question 17

Can you identify any barriers to complying with these standard rules?

- 17 respondents did not answer the question
- 2 respondents answered and they did not identify any barriers - however, 1 operator has suggested a number of improvements and clarifications

## Question 18

Please tell us if there are any other activities you think would benefit from the standard permitting approach?

- 17 respondents did not answer the question
- 2 respondents proposed new activities for rule sets relating to the onshore oil and gas sector

As a result of the consultation and the response to this question we will consider and discuss with industry these activities:

- flaring of less than 10 tonnes per day
- drill stem testing
- mini fall-off tests
- extended well testing

## 5.8. Business impact

Growth duty requires us and other national regulators to have regard to the desirability of promoting economic growth, alongside our statutory duties. As part of this consultation we asked for views on the financial impact the proposed changes could have to help us with our assessment of the financial impacts.

## Question 19

Do you think that any of the proposed changes to the standard rules will have significant financial impact overall on your business?

- 7 respondents did answer.
- 12 respondents did not answer the question.

The 7 respondents that did answer the question, all stated that they did not believe that the proposed changes would have a significant financial impact on their business.

We received 2 comments. They referred back to their answer in question 10 regarding permitting income and site inspections. These matters fall outside of the scope of this consultation. The concerns raised will be looked at and addressed outside of this document.

## 5.9. Additional Comments

## Question 20

Please tell us if you have any other views or comments on these proposed rules that have not been covered by previous questions (not including any measures introduced by SI 2018 No.110 The Environmental Permitting (England and Wales)(Amendment) Regulations 2018.

- 5 respondents did answer.
- 7 respondents did not answer the question.

We received 3 comments for this question. The comments received fall outside of the scope of this consultation and we won't be addressing them in this response.

## 6. Next Steps

We will use the responses from this consultation to inform any amendments to the proposed rules sets and generic risk assessments.

The new standard rules sets will be published on the GOV.UK website in April 2019. Revised rules will be published in April 2019 and there will be a three month notification period for existing standard permit holders before the new rules apply.

If you responded and wish to follow up your response, or want more detail on any of the points made in this document, you can contact us:

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