

# Memorandum of Understanding

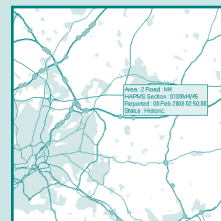
between the

## Environment Agency

and the

## Highways Agency

### Annex 2 - Waste



**ENVIRONMENT  
AGENCY**



**HIGHWAYS  
AGENCY**

An Executive Agency of the  
*Department for  
Transport*



# Contents

## The Parties

Introduction

## Chapter 1 Background

- 1.1 Areas of mutual interest
- 1.2 Communications and Partnership Working
- 1.3 Research and development

## Chapter 2 Highways Agency Interaction with the Regulatory Framework

- 2.1 Highway Improvement Works
- 2.2 Highway Maintenance Activities - the management and provision of the routine and winter service on the trunk road network
- 2.3 Constructing, Operating and Maintaining the Strategic Road Network - waste, and environmental permitting
  - 2.3.1 Exempt waste operations
- 2.4 The Highways Agency and Construction, Demolition and Excavation (CD&E) waste

## Chapter 3 Waste Exemptions and Permits for Highway Works

- 3.1 Ongoing Priority issues – routine maintenance and operation
- 3.2 Low Risk Waste Regulation and modernising waste regulation
- 3.3 Regulatory Positions Relating to SRN Key Waste Streams
  - 3.3.1 The Strategic Road Network and Soft Estate as Places of Production

## Glossary





# The Parties

Highways Agency (HA)

Environment Agency (EA)

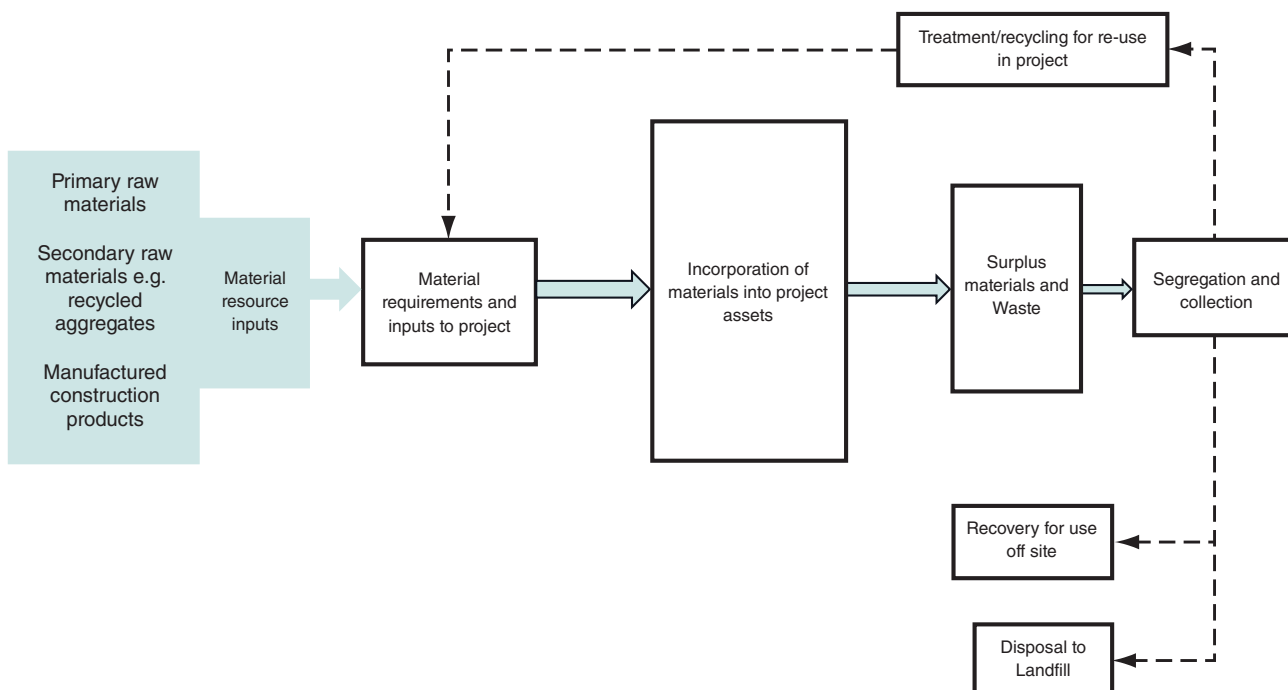
(Together the 'Parties')

## Introduction

This Annex is one of the supporting technical documents to the Memorandum of Understanding (MoU) between the Environment Agency and the Highways Agency. It sets out a framework for effective co-operation between the Parties to minimise the impact of the Highways Agency's construction and operational activities on the environment, specifically in relation to waste management activities.

The Highways Agency is responsible for the stewardship and operation of the strategic road network within England. Within this is the construction and maintenance of new and existing networks and operational activities across the network. These construction and maintenance activities generate waste streams which require management under regulatory controls. Figure 1 details the materials to waste flow within such activities.

Figure 1 – Material to waste resource flow



The Environment Agency is the regulatory body which enforces many of these regulations.

The Waste Annex identifies the linkages between the Highways Agency's operational activities and the regulatory regime in England and recommends best practice. It will develop alongside the regulatory framework and change to meet both Parties' operational needs. The Annex:

- defines waste in legislative terms for the Highways Agency's construction and maintenance activities
- outlines the Highways Agency's position on construction waste
- outlines the key pieces of waste legislation that directly affect the Highways Agency and are regulated by the Environment Agency
- identifies Highways Agency activities and subsequent waste streams which the Environment Agency regulates
- outlines Environment Agency processes that the Highways Agency must follow when raising a waste query
- sets out the Parties' shared commitments.

Chapter 1 describes areas of mutual interest - how the Parties will work together on waste related issues.

Chapter 2 identifies Highways Agency activities and how the legislative requirements affect such operations.

Chapter 3 identifies the priority waste activities that affect the Highways Agency in its maintenance activities and future works.

## Chapter 1 Background

The Highways Agency is responsible for operating, improving and maintaining the Strategic Road Network (SRN) in England. Waste materials are generated as part of the construction projects to improve or renew the network and as a result of maintenance operations.

This document does not deal with waste arising from the Highways Agency's office estate or the office estates of its Service Providers. The storage of these are covered by Non Waste Framework Directive exemptions.

### 1.1 Areas of mutual interest

The principal areas of mutual interest between the Parties, covered by this Annex, are:

1. Protection of the environment.
2. Legislative compliance – identification of legislation that directly affects the Highways Agency's construction, maintenance and operational activities and is regulated by the Environment Agency; this includes the development of guidance and best practice.
3. Sustainable development – through the efficient use of resources and the minimisation of waste.
4. Better regulation – The EA is committed to improving the way they regulate; the HA will look to ensure that its contracts, guidance and specifications reflect the spirit and tone of the regulations.

## 1.2 Communications and Partnership Working

The Parties will work together to develop and implement policy and best practice to manage waste produced during the construction and maintenance of the highway network.

The Parties have identified areas where they can improve working practice and agreed commitments for how they will do this, as set out below.

Communication between the Agencies on waste management issues

### Key commitment: Communication

- The Highways Agency will consult the Environment Agency when concerns with waste management are raised by its Service Providers, or there are national concerns on waste types or activities. The HA national contact officer at the EA will deal with any concerns on waste management and create a log to track queries which have been raised by either Party.
- The Highways Agency will be kept up to date with legislative and regulatory changes on waste management. A process will be established to keep the Highways Agency informed of changes which will directly affect their waste management activities. The Environment Agency will respond to requests for information and comment on submissions, within agreed timescales.
- Account Managers for Waste will meet at least twice a year to review and update this Annex.

### Key commitment: Operational support

- The Environment Agency will support the Highways Agency's Waste Champions Group WCG (a quarterly national forum for the Highways Agency's managing agent contractors and Service Providers) either by attending the forum or submitting material to it.
- The Parties will consider Low Risk Waste Position requests submitted by the WCG following the agreed process defined at Schedule 3.



## 1.3 Research and development

Sustainable construction, and the reduction of construction waste generated by the activities of both Parties, remains an area of active concern.

### Key commitment: Research and development

- The Parties will continue to explore opportunities for collaborative research to reduce costs, protect the environment and maximise benefits for both organisations, including the exchange of information. Both Parties agree to keep confidential any information disclosed by the other Party unless either Party is obliged by law to make the information publically available.

## Chapter 2 Highways Agency Interaction with the Regulatory Framework

This describes the Highways Agency's categories of work and identifies the different types of waste produced by each category.

### 2.1 Highway Improvement Works

Although 'Highway works' can include a wide range of activities, all have the potential to produce material requiring regulation under waste law. In all instances the Highways Agency's Service Provider, under Section 34 of the 1990 Environmental Protection Act, assumes the duty of care related to controlled waste produced, imported, transported, stored, treated or disposed of on, to or from, the Strategic Road Network, that result from its construction, maintenance or operation of such. The Service Provider shall make any necessary applications to the relevant regulatory authority under the Environmental Permitting Regulations (England and Wales) 2010 for the storage, use, treatment or disposal of waste. Guidance relating to the Environmental Permitting Regulations (England and Wales) 2010 regarding key waste operations likely to be undertaken in the management of the SRN by Service Providers is given in Schedules 1 & 2 of this Annex.

- Major Projects are large schemes exceeding £10m for which an environmental impact assessment (EIA) and the publication of an environmental statement are often required. Major Projects can produce large volumes of waste which could be hazardous, non-hazardous or inert and are universally subject to the Site Waste Management Plans Regulations 2008.
- Small Improvement and Technology Schemes are local improvements and safety schemes, typically less than £10m, for which an environmental impact assessment and an environmental statement will be required in some cases. The small improvement schemes can produce hazardous, non-hazardous and inert waste streams and are potentially subject to the Site Waste Management Plans Regulations 2008.
- Renewal Schemes are works to replace damaged or worn out parts of the highway asset and are funded from the maintenance budget; an environmental statement is not required. Maintenance schemes include resurfacing and structures renewal works and can produce hazardous, non-hazardous and inert waste streams and are potentially subject to the Site Waste Management Plans Regulations 2008.

## 2.2 Highway Maintenance Activities - the management and provision of the routine and winter service on the trunk road network

Highways Maintenance is taken to include those operations included within the Highways Agency's *Network Management Manual and Routine & Winter Service Code*, which describes the processes for the management of the maintenance service including the interface between the Highways Agency, its service providers and other stakeholders. Key activities with regard to waste regulation include gully cleaning, soft estate management and litter clearance. It is anticipated that these activities are not subject to the Site Waste Management Plan Regulations 2008.

## 2.3 Constructing, Operating and Maintaining the Strategic Road Network - waste, and environmental permitting

From 6 April 2008, the Waste Management Licensing Regulations 1994 (as amended) were replaced by the Environmental Permitting Regulations (England and Wales) 2007. There are no longer separate regulation regimes for waste management and PPC activities, with both being regulated by Environmental Permits. The 2007 regulations have subsequently been replaced by the Environmental Permitting Regulations (England and Wales) 2010 (EPR 2010). The EPR 2010 also introduced a new exemptions regime which will be referred to later in this document.

Some highways works can harm the environment or human health unless they are controlled. The Environmental Permitting Regime ("the Regime", as set out under the Environmental Permitting Regulations 2010) requires operators to obtain permits for some facilities, the registration of exemptions for other facilities and ongoing supervision by regulators. The aim of the Regime is to:

- protect the environment
- deliver permitting and compliance effectively and efficiently with increased clarity and minimal administrative burden on both the regulator and the operators of facilities
- encourage regulators to promote best practice in the operation of regulated facilities
- continue to fully implement European legislation.

An Environmental Permit is required for any waste operation as defined by the Environmental Permitting Regulations (by reference to the recovery and disposal operations in the Waste Framework Directive). Explicitly, any recovery or disposal of waste is a waste operation and requires an Environmental Permit, unless the waste operation is specifically 'excluded' or 'exempt' from the need to hold a permit.

### 2.3.1 Exempt waste operations

A number of waste operations undertaken by the Highways Agency pose a sufficiently low risk and are exempt from the need to hold a permit, although this can only be done where any applicable European Directive allows it. Exempt waste operations are not included in the definition of a regulated facility under the regulations and must:

- meet the criteria of one of the paragraphs in Part 1 of Schedule 3 of the Regulations
- be consistent with the need to attain the relevant objectives in the Waste Framework Directive, namely:  
“... ensuring that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment and in particular without:
  - (i) risk to water, air, soil, plants or animals; or
  - (ii) causing nuisance through noise or odours; or
  - (iii) adversely affecting the countryside or places of special interest.”
- be registered
- not involve hazardous waste or the storage or treatment of WEEE, unless allowed by the relevant paragraph of Schedule 3 of the Regulations.

A wide range of construction, maintenance and operational activities undertaken by Service Providers on behalf of the Highways Agency require regulation under the EPR 2010 and other legislation. It is not the intention of the Parties to provide definitive guidance through this Annex but to provide clarity in the areas of greatest concern to the Service Provider Community through Schedules 1 and 2.

## 2.4 The Highways Agency and Construction, Demolition and Excavation (CD&E) waste

The sustainability vision of the Highways Agency defined in its Sustainable Development Action Plan is: *“To provide a network that allows safe, efficient strategic movement of goods and people, in a cost effective manner which minimises environmental and social harm, and seeks enhancement wherever possible”*. Part of this vision is the responsible management of natural resources and the minimisation of waste generated by Service Provider operations on the Strategic Road Network. Buying less and throwing less away will help the Highways Agency and its Service Providers to:

- Save money by reducing costs;
- Reduce carbon emissions and waste to landfill;
- Embed sustainability in Asset Management Plans;

- Link network management with other policies, like planning or waste policies, demonstrating integrated action; and
- Respond to drivers from UK government

The Highways Agency is committed to playing its part in the Strategic Forum for Construction's target to halve the amount of CD&E waste going to landfill by 2012.

To support this aim, the HA's Service Providers shall work to adopt and implement standards for good practice in reducing waste, recycling more, and increasing the use of recycled and recovered materials. The Service Provider, in order to reduce the need for waste disposal, shall minimise the generation and environmental impacts of waste arising during works and maximise the opportunity for the re-use and recovery of wastes. In line with the Employer's Procurement Strategy the Service Provider shall;

- demonstrate 50% reduction of waste to landfill from construction and demolition activities by 2012 (compared with 2008);
- by 2020, the recovery of non-hazardous construction and demolition waste shall be increased to a minimum of 70% by weight.

This will be achieved by:

- considering the waste hierarchy throughout every phase of every task, minimising the amount of waste produced, and maximising the amount of waste that is recycled or reused and diverted from landfill
- minimising the use of primary resources as far as is practicable
- encouraging the use of low energy and/or recycling techniques and innovations
- encouraging flexibility in specifications to accommodate local materials and considering the whole life cycle of a product or project
- reducing transport distances/lorry movements where possible
- complying with all relevant legislation in relation to waste
- considering resource efficiency and minimisation where practicable
- monitoring the production of waste and how it is managed to measure progress against government targets through IAN 138/10 Site Waste Management Plans
- promoting this position statement throughout the Agency and its supply chain so that it is accepted as the norm rather than the exception.

Key commitment: Environmental impact assessment of the Highways Agency's waste generating activities

- The Highways Agency will continue to develop Materials EIA guidance to allow the environmental impact assessment of natural resource usage and waste production, in line with Sections 105A and 105B of the Highways Act 1980 as inserted by the Highways (Assessment of Environmental Effects) Regulations 1999 for all highways schemes with the active consultation of the Environment Agency.
- For major schemes, the Highways Agency will carry out an environmental impact assessment if required and publish an environmental statement for which the Environment Agency is a statutory consultee.

## Chapter 3: Waste Exemptions and Permits for Highway Works

### 3.1 Ongoing Priority issues – routine maintenance and operation

Gully arisings, balancing pond dredgings and other wastes from the Highways Agency drainage asset continue to remain a significant regulatory and financial issue to the Parties. The physical properties of these wastes (i.e. that they are often liquid and therefore banned from landfill under the Landfill Directive 2002) and their potentially hazardous nature currently often requires a number of transport, treatment and analysis operations that preclude a uniform approach. Ultimately, much of the material is landfilled and the Parties recognise that this does not represent the most sustainable use of these materials, as they have the potential for use in higher value applications.

#### Key commitment: Gully Waste

The Parties recognise the need for each to work within the constraints of the Spending Review and the potential for delivering operational efficiencies whilst enhancing environmental protection and regulatory compliance. The effects of the Landfill Directive together with the annual increase in Landfill Tax have been to significantly increase the cost of disposal of gully waste. Gully arisings and other potentially hazardous liquid wastes arising from the maintenance of the SRN therefore remain a priority concern and the Parties, together with the WCG, CIWM and Local Government Regulation, will explore avenues for tackling these priority waste streams. This will form the priority research and development activity for the Highways Agency in 2011/12.

### 3.2 Low Risk Waste Regulation and modernising waste regulation

The EA recognises that waste industry regulation should be proportionate to risk and are working to target activities that have a greater potential for harming the environment or human health. The low risk initiative is part of this overall aim and has been set up to identify low risk waste operations that are not exempt from environmental permitting, but which do not justify enforcement. A number of activities relevant to Service Providers are already covered by Low Risk Waste Positions (LRWPs) that will continue to exist following the introduction of the EPA 2010; Service Providers may view the potential for other activities to be similarly handled. The Parties have therefore agreed that potential LRWPs should be handled under the terms of this Annex in accordance with the process laid out in Schedule 3, for inclusion in future revisions to this Annex. Current LRWPs can be found on the Environment Agency's website at <http://www.environment-agency.gov.uk/business/topics/waste/32080.aspx>

While an activity may not meet the criteria for a low risk position, it may still be disproportionate to require the operator to have a permit. This activity may then be referred to the Environment Agency's Modernising Waste Regulation Panel (MWRP).

If successful it will be given a Regulatory Position Statement (RPS). Details of RPSs published to date can be found at the MWRP homepage at <http://www.environment-agency.gov.uk/business/regulation/99685.aspx>.

### 3.3 Regulatory Positions Relating to SRN Key Waste Streams

Work with the Service Provider community since the implementation of the Environmental Permitting Regulations (England and Wales) 2010 has identified a number of key operations that cause operational difficulty. This Annex is intended to offer non-binding guidance to both Parties in these areas through Schedules 1 and 2, which have been consulted where appropriate with the Environment Agency and Local Government Regulation.

#### Key commitment: Operational guidance

The Parties will continue the population of Schedules to this Annex as operational need and/or regulatory development occur. The Schedules will be reviewed biannually by both Parties to ensure their continuing relevance and accuracy.

#### 3.3.1 The Strategic Road Network and Soft Estate as Places of Production

Place of Production, in relation to any waste, is defined as the place where the waste was originally produced; an activity that may be common to Service Providers is the temporary storage of waste at the place of production and the storage of waste at a place controlled by the producer. Both of these activities require exemptions that do not need registration. The Strategic Road Network is an example of a *Linear Network*<sup>1</sup> where a number of exemptions may be applied along stretches rather than a definable and discrete point or “place” (such as depot or site compound).

The Environment Agency will accept a single registration to cover a Managing Agent Contract Area, DBFOco or Concession for those exemptions to which a Linear Network is applicable. The registration will be made in the name of the Service Provider at their registered office or principle place of business and will identify the network (preferably accompanied by a map) to which the registration applies. The Service Provider is encouraged to support registration applications by way of a spreadsheet or database that identifies:

- EA customer reference number (if known)
- Contractor (i.e. company named on exemption application)
- Highways Agency Area - Network extent (start and finish grid references)
- ‘U, T, D, S’ exemption identifier
- County
- Network descriptor



## Schedule 1 – Environmental Permitting Regulations (England and Wales) 2010 – Guidance for Service Providers

Activity	Descriptors	Relevant Exemption (see Note A)	Other Action	Comments	Ref
Temporary Storage – Non Framework Directive	Temporary storage of waste, either at the place of production or at a Service Provider depot/compound/collection point.	NWFD 2 and 3		Ancillary Treatment for the purposes of the Schedule could be <i>an activity that facilitates the transport of the waste material without changing its condition</i> – as such, dewatering, by separating waste streams, could not be an ancillary treatment.	
Sustainable Disposal of Cut Vegetation  (i) 'Virgin' timber	Whole trees and the woody parts of trees including branches and bark derived from soft estate management, tree surgery and other similar operations (not consisting primarily of foliage)	None	Virgin timbers are not waste and are not subject to waste regulatory controls provided they are certain to be used for purposes to which virgin wood is commonly put. This includes use as a material to create or maintain a habitat as part of the natural cycle of soft estate management. Virgin timbers mixed with any other waste are classed as waste.		2
(ii) Plants or trees infected with <i>P. ramorum</i> or <i>P. kernoviae</i>	Fera or the Forestry Commission will issue a Statutory Notice under either the Plant Health (England) Order 2005 (as amended) or the Plant Health (Forestry) Order 2005 (as amended). The Statutory Notice will detail the actions to be taken to eradicate and contain the <i>P. ramorum</i> or <i>P. kernoviae</i>	Various	The infected vegetation and trees are waste and will need to be disposed of in accordance with the Notice and the Environmental Permitting Regulations (England & Wales) 2010.  MWRP RPS 071: Disposal of trees and plants infected with <i>Phytophthora ramorum</i> and <i>Phytophthora kernoviae</i>	In the event of Statutory Notice being issued the required Exemption(s) should be agreed with the Environment Agency prior to works under the Notice being conducted	3

<sup>1</sup> [http://www.environment-agency.gov.uk/static/documents/Business/Guidance\\_on\\_meaning\\_of\\_place.pdf](http://www.environment-agency.gov.uk/static/documents/Business/Guidance_on_meaning_of_place.pdf)

<sup>2</sup> [http://www.environment-agency.gov.uk/static/documents/Research/PS\\_005\\_Regulation\\_of\\_wood\\_v3.0.pdf](http://www.environment-agency.gov.uk/static/documents/Research/PS_005_Regulation_of_wood_v3.0.pdf)

<sup>3</sup> [http://www.environment-agency.gov.uk/static/documents/Business/MWRP\\_RPS\\_071\\_Sudden\\_Oak\\_Death\\_final\\_08-07-10.pdf](http://www.environment-agency.gov.uk/static/documents/Business/MWRP_RPS_071_Sudden_Oak_Death_final_08-07-10.pdf)

Activity	Descriptors	Relevant Exemption (see Note A)?	Other Action	Comments	Ref
(iii) Other green waste not covered by (i) or (ii)	Clippings, mowings and other soft estate waste <i>not</i> classed as virgin timber or arising from invasive non-native plants <sup>4</sup> .	<p>"U13 - Spreading of plant matter to confer benefit"</p> <p>"T6 Treatment of waste wood and waste plant matter by chipping shredding, cutting or pulverising" coupled with "U12 - Use of Mulch"</p>		<ul style="list-style-type: none"> <li>Exemption U13 may only be applied at the place of production. Exemption U11 - Spreading waste on non-agricultural land to confer benefit is not applicable.</li> <li>Where compatible with landscape and biodiversity objectives U12 offers the benefit of being applicable as a linear exemption.</li> <li>Plant matter removed from inland waters is considered "dredgings" or "dredging spoil" for the consideration of Exemption D1 – see "Arising from the maintenance vegetative drainage systems for highway runoff"</li> </ul>	5
Temporary Storage of Fly-tipped Waste	Temporary secure storage of fly-tipped waste and waste from trash screen clearance at a site other than where it was produced, pending recovery or disposal	None applicable	<p>MWRP RPS 060 Temporary storage of flytipped waste<sup>6</sup>.</p> <ul style="list-style-type: none"> <li>the total quantity of non-hazardous waste stored at any one site, at any one time does not exceed 20m<sup>3</sup></li> <li>the total quantity of hazardous waste stored at any one site, at any one time does not exceed 5m<sup>3</sup></li> <li>the waste is stored securely and for no longer than six months;</li> <li>any hazardous wastes are handled in accordance with the Hazardous Waste Regulations</li> </ul>		

<sup>4</sup> Taken to be Parrot's feather (*Myriophyllum aquaticum*), Floating pennywort (*Hydrocotylera nunculooides*); Australian swamp stonecrop (*Crassula helmsii*); Himalayan or Indian balsam (*Impatiens glandulifera*); Giant hogweed (*Heracleum mantegazzianum*); Japanese knotweed (*Fallopia japonica*); giant knotweed (*Fallopia sachalinensis*); and hybrid knotweed (*Fallopia x bohemica*). In particular controlled waste arising from japans knotweed and giant hogweed requires special attention and reference should be made to "Managing Invasive Non-native plants" published by the Environment Agency.

<sup>5</sup> <http://www.environment-agency.gov.uk/business/topics/permitting/116328.aspx>

<sup>6</sup> [http://www.environment-agency.gov.uk/static/documents/Business/MWRP\\_RPS\\_060\\_Temporary\\_storage\\_of\\_flytipped\\_waste\\_finalv2.pdf](http://www.environment-agency.gov.uk/static/documents/Business/MWRP_RPS_060_Temporary_storage_of_flytipped_waste_finalv2.pdf)

Activity	Descriptors	Relevant Exemption (see Note A)?	Other Action	Comments	Ref
Gully Arisings	<p>These consist of a mixture of sand, silt, grit, metal and organics with high moisture content. The inert components depend on the local geology; the organic content varies with the seasons and depends on the local vegetation. The wastes collected by gully suckers and road sweepers will vary in content and consistency depending on the vehicle design, sweeping method, location being cleaned, the weather, and the time of year. Whether these wastes are liquid or not, will also vary between loads and a judgement should be made on each individual load.</p>	None	<p>Although classified under the LoW as non-hazardous, the concentrations of heavy metals and hydrocarbons will lead to the many gully wastes ultimately being classed as hazardous. Gully pot liquors are therefore considered potentially highly polluting and <b>must not be discharged to underground or surface waters or into any surface water drain</b>. Alternative disposal options include discharging the liquors to the foul sewer after solids settlement or disposal at a suitably permitted waste disposal site.</p>		
Oil Separator Waste	Arisings from the maintenance or decommissioning of oil separators regardless of location	None	<p>For guidance on disposal of oil separator wastes see EA Pollution Prevention Guidance 3, 'Use and design of oil separators in surface water drainage systems' section 8 Waste Management<sup>7</sup></p>	Oil separator wastes are classified under LoW as hazardous, regardless of any threshold concentrations	
Dewatering of Street Sweepings	Dewatering operations of street sweepings at Service Provider depots prior to collection for recovery or disposal	None	MWRP RPS 065 De-watering of street sweepings.	Does not apply to gully arisings or other dewatering activities	<sup>8</sup>

<sup>7</sup> [http://publications.environment-agency.gov.uk/pdf/PMHO0406BIYL-e-e.pdf?lang=\\_e](http://publications.environment-agency.gov.uk/pdf/PMHO0406BIYL-e-e.pdf?lang=_e)

<sup>8</sup> [http://www.environment-agency.gov.uk/static/documents/Business/MWRP\\_RPS\\_065\\_Dewatering\\_of\\_street\\_sweepings\\_final\\_08-07-10.pdf](http://www.environment-agency.gov.uk/static/documents/Business/MWRP_RPS_065_Dewatering_of_street_sweepings_final_08-07-10.pdf)

Activity	Descriptors	Relevant Exemption (see Note A)?	Other Action	Comments	Ref
<p>Arisings from the maintenance of vegetative drainage systems for highway runoff</p>	<p>Dredgings/arisings from the maintenance of highways balancing/attenuation ponds and other vegetative drainage treatment systems.</p>	<p>Where applicable, "D1 – Deposit of waste from dredging of inland waters"; Exemption D1 specifically precludes those wastes considered contaminated or hazardous; the nature of attenuation ponds means that there is the potential for contamination with heavy metals, hydrocarbons or other pollutants and the Service Provider must determine the nature of the material prior to any maintenance operation</p>		<p>Inland waters<sup>9</sup> are taken to include permanent ponds and water bodies on the Highways Agency estate. Over any 12-month period, Service Providers can deposit or treat up to 50 cubic metres of dredgings for each metre of land on which waste is deposited.</p> <p>Plant matter removed from inland waters is considered "dredgings" or "dredging spoil" for the consideration of Exemption D1</p>	10
<p>Animal By-Products</p>	<p>Includes the carcasses of domestic pets, livestock, wild animals and materials of animal origin deposited on the Highways Agency Estate either deliberately or accidentally</p>	<p>None</p>	<ul style="list-style-type: none"> <li>EA Low Risk Position LRW 154<sup>11</sup> allows secure storage, for up to 6 months, in a freezer of 5m<sup>3</sup> of dead pets collected from highways without Permit or Exemption.</li> <li>For the carcasses of livestock, wild animals and materials of animal origin deposited on the Highways Agency Estate either deliberately or accidentally refer to Schedule 2.</li> </ul>		

<sup>9</sup> Defined "a) any river, stream or other watercourse (within the meaning of Chapter II of Part II of the Water Resources Act 1991), whether natural or artificial and whether tidal or not; (b) any lake or pond, whether natural or artificial, or any reservoir or dock, in so far as the lake, pond, reservoir or dock does not fall within paragraph (a) of this definition; and (c) so much of any channel, creek, bay, estuary or arm of the sea as does not fall within paragraph (a) or (b) of this definition."

<sup>10</sup> <http://www.environment-agency.gov.uk/business/topics/permitting/116143.aspx>

<sup>11</sup> <http://www.environment-agency.gov.uk/business/topics/waste/32080.aspx>

Activity	Descriptors	Relevant Exemption (see Note A)?	Other Action	Comments	Ref
Demolition Waste Left in Situ	Where large structures such as bridges are demolished down to ground level, the foundations of the structure are waste and exceed the tonnage threshold for a low risk waste activity. Removal of the foundations would result in large quantities of waste material.	None	<ul style="list-style-type: none"> <li>EA Regulatory Position Statement reference MWFRP RPS/074 has been issued which states that the subject to the requirements stipulated in the EA Regulatory Position Statement the EA will allow the foundations of large structures to be left in situ when they are demolished.</li> </ul>	There are a number of requirements in the Regulatory Position Statement that must be met if foundations from large structures are left in situ. Please see the Regulatory Position Statement for further information.	12

<sup>12</sup> <http://www.environment-agency.gov.uk/waste/MWFRP/RPS074>Version 1

## Schedule 2 – Highways Agency, Local Government Regulation and the Environment Agency Guidance on the Animal By-Product Regulations 2005 (The Regulations)

Animal by-products are entire animal carcasses, parts of animals, or products of animal origin that are not intended for human consumption. The Animal By-Product Regulations 2005 (in England) and Animal By-products (Wales) Regulation 2006 have been in place for a number of years and contain rules for the collection, storage, transport, handling, and disposal of animal by-products. Typically, animal by-products will be encountered on the Highways Agency estate either as animals that have been slain by traffic or have otherwise perished. However, in the course of dealing with illegally dumped waste other animal-by-products may be encountered by Service Providers.

This guidance has been developed in coordination with the Local Government Regulation (LG Regulation) and the Environment Agency and provides an overview of the role of Service Providers and other authorities as well as more specific detail on the responsibilities in relation to animal by-product requirements.

It should be read in conjunction with Network Management Manual Part 7A, particularly with reference to the identification of canine fatalities and incident management

### General Guidance

#### **Transportation**

Animal by-products must be collected and transported in leak-proof, closed containers or sealed new packaging. Service providers must keep each category of by-product separate and clearly labeled to avoid contamination.

All movements of animal by-products (except manure) must be accompanied by a commercial document. This may also be referred to as a delivery note, transfer or consignment note. There is no standard format for this paperwork. However, it must include:

- a record of the origin and quantity of the material
- a description of the material
- the date of transport
- the name and address of the carrier
- the name and address of the receiver

The document should be produced in triplicate and copies kept by the producer, transporter and receiver for a minimum of two years. Service Providers carrying ABP and who have the relevant paperwork that covers them under the ABPR, do not also need a waste transfer note under waste legislation.

## **Storage**

Where it is necessary for Service Providers to store animal by-product waste, it must be separated from other waste, and stored in clean, sealed, leak-proof containers. Animal by-products should be collected and disposed of without undue delay – i.e. as soon as reasonably practical.

Label all containers with the category of the material as follows:

- Category 3 material: 'Not for human consumption'
- Category 2 material: 'Not for animal consumption'
- Category 1 material: 'For disposal only'

Canine carcasses must be treated and stored in accordance with the above guidance and Network Management Manual Chapter 3.17

## Wild Animals

Scope: any animal not kept by humans. The Animal By-products Regulations do not apply to the carcasses or parts of wild animals not suspected of being infected with diseases communicable to humans or animals<sup>13</sup>. Therefore, most carcasses (other than fallen livestock and domestic animals) encountered by Service Providers that require removal can continue to be landfilled at suitably permitted sites. Wild animals suspected of being infected with a disease communicable to humans and animals must be disposed of using a Category 1 disposal method. In all other instances the carcass is waste resulting from the Service Provider carrying out its duty to clean the highway under Section 89 of the Environment Protection Act 1990 and is considered to be controlled under waste management legislation and disposed of accordingly.

Description of Animal By-Product	Category under the Regulations	Location of Animal By-Product	Organisation Responsible for Disposal	Action Required
Carcasses of small wild animals or birds (up to the size of a rabbit or a pheasant).	None	<ul style="list-style-type: none"> <li>On Highways Agency land or on the Strategic Road Network</li> <li>In or near waterways within the Highways Agency Estate</li> </ul>	Unless the carcass is causing a statutory nuisance or likely to cause pollution or a health risk, these carcasses are usually rapidly devoured by necrophagous animals or otherwise obliterated.	No action required.
Carcasses, and parts, of large wild mammals or birds, not suspected of being infected with a disease communicable to humans and animals	None	<ul style="list-style-type: none"> <li>On Highways Agency land or on the Strategic Road Network</li> <li>In or near waterways within the Highways Agency Estate</li> </ul>	The Service Provider	There is no legal action required under the ABP legislation, but the animal by-product will be covered by Controlled Waste legislation if removed for disposal. Service Providers will therefore have a Duty of Care.
Carcasses, and parts, of large wild mammals or birds, which <u>are</u> suspected of being infected with a disease communicable to humans and animals	Category 1	<ul style="list-style-type: none"> <li>On Highways Agency land or on the Strategic Road Network</li> <li>In or near waterways within the Highways Agency Estate</li> </ul>	During a disease outbreak, specific licences may be required to move fallen stock or birds from public and private land or highways. Also a registered collector may have to be used. This situation may vary between different types of outbreak	Arrange for appropriate disposal as Category 1 ABP During disease outbreak: Contact Animal Health Divisional Office, Local Authority or National Fallen Stock Company

<sup>13</sup> <http://www.defra.gov.uk/foodfarm/farmanimal/diseases/atoz/zoonoses/common.htm>;

<http://www.defra.gov.uk/foodfarm/farmanimal/diseases/atoz/notifiable.htm>



## Domestic (Including Zoo and Pet) Animals

Scope: any animal belonging to species normally nourished and kept, but not consumed, by humans for purposes other than farming. Service Providers must transport, store (only where necessary and with no undue delay) and dispose of carcasses usually regarded as domestic species by an approved route as Category 1 material.

Description of Animal By-Product	Category under the Regulations	Location of Animal By-Product	Organisation Responsible for Disposal	Action Required
Carcasses and parts of large domestic mammals or birds.	Category 1	<ul style="list-style-type: none"> <li>• On Highways Agency land or on the Strategic Road Network</li> <li>• In or near waterways within the Highways Agency Estate</li> </ul>	The Service Provider	<p>(i) Canine fatalities should be handled in line with Network Management Manual Chapter 7.17</p> <p>(ii) Although derogation exists to allow the disposal through burial of pet carcasses (including those of pet horses), it is considered this will often be inappropriate and Service Providers should arrange for appropriate disposal as Category 1 ABP.</p>

## Livestock

Scope: any animal, including parkland deer, that is kept, fattened or bred by humans for the production of food (including meat, milk and eggs), wool, fur, feathers, skins or any product of animal origin. Service Providers must dispose of carcasses usually regarded as farm species, e.g. sheep, cattle, pigs, goats, poultry, horses and other equine species by an approved route. Contact the National Fallen Stock Company, or DEFRA Animal Health for advice.

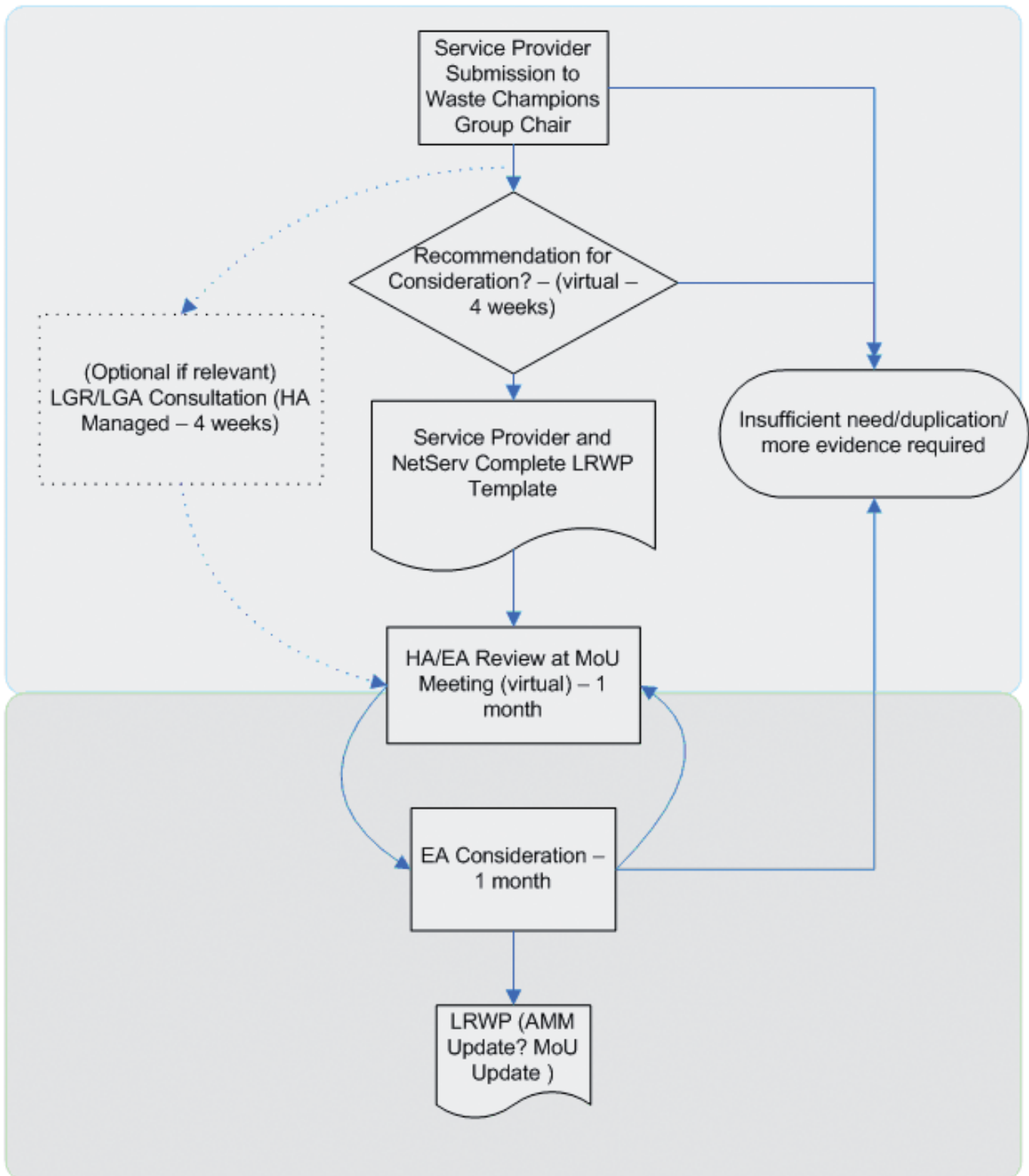
Description of Animal By-Product	Category under the Regulations	Location of Animal By-Product	Organisation Responsible for Disposal	Action Required
Carcasses of livestock, or other animal by-products from livestock origin, including parts of animal carcasses, blood or products of animal origin.	Category 1 or 2	<ul style="list-style-type: none"> <li>On Highways Agency land or on the Strategic Road Network</li> <li>In or near waterways within the Highways Agency Estate</li> </ul>	<ol style="list-style-type: none"> <li>Owner or person responsible for depositing the carcass or animal by-product from livestock origin, if possible to identify if not:</li> <li>The Service Provider</li> </ol> <ol style="list-style-type: none"> <li>Owner or person responsible for the depositing the carcass or animal by-product from livestock origin, if possible to identify</li> <li>Landowner or riparian landowner or</li> <li>If there is a pollution/flood defence problem the Environment Agency will remove where the owner/riparian owner cannot be found.</li> </ol>	<p>Carcasses, or animal parts, of any ruminant (e.g. cattle, sheep and goats) must be disposed of as a Category 1 animal by-product and collected/transported by an approved service.</p> <p>Any non-ruminant animals (e.g. pigs, poultry and horses) are considered a Category 2 animal by-product, and therefore must be disposed of accordingly.</p>

## Illegal Disposal of Animal By-Products on the Highways Agency Estate

Scope: the disposal of animal by-products from retailers, distributors, wholesalers and food manufacturers that have been fly tipped against the terms of the Animal By-Product legislation. The details below apply to the disposal of raw meat and raw fish. Former foodstuffs containing cooked meat may be disposed of to licensed landfill.

Description of Animal By-Product	Category under the Regulations	Location of Animal By-Product	Organisation Responsible for Disposal	Action Required
Raw Meat and Raw Fish Catering Waste Former Foodstuffs	Potentially 1, 2 or 3 but usually 3	<ul style="list-style-type: none"> <li>On Highways Agency land or on the Strategic Road Network</li> <li>In or near waterways within the Highways Agency Estate</li> </ul>	<ol style="list-style-type: none"> <li>Producer or person responsible for depositing waste where possible to identify, and if not:</li> <li>Service provider</li> <li>Producer or person responsible for depositing waste where possible to identify, and if not:</li> <li>Landowner or riparian landowner</li> <li>If there is a pollution/flood defence problem the Environment Agency will remove where the person responsible/ owner/riparian owner cannot be found.</li> </ol>	<ol style="list-style-type: none"> <li>Contravention of ABPR (incorrect disposal of raw meat or fish) should be reported to the relevant local authority for possible enforcement action.</li> <li>Fly-tipped waste should be handled in accordance with the Network Management Manual</li> </ol>

Schedule 3 – Submissions of LRWP by Highways Agency through Memorandum of Understanding





## Glossary

ABPR	The Animal By-products Regulations 2005
Activity	An activity listed in Part 2 of Schedule 1 to the Regulations which will form part of an installation or be a mobile plant
Contaminated land	Land determined to be contaminated under Part IIA of the EPA 1990
Directive	The European Community (EC) Directive 2006/12/EC on waste (“the Directive”)
EC/ EU	European Community/European Union
EIA	Environmental Impact Assessment
Emission	For Part A installations and waste operations, the direct or indirect release of substances, vibrations, heat or noise from individual or diffuse sources into the air, water and land
Environment Agency	The Environment Agency for England and Wales is the regulator for Part A(1) Installations and most waste operations
Environmental permit	A permit granted by the regulator allowing the operation of a regulated facility subject to certain conditions
Environmental Permitting Regulations	The Environmental Permitting Regulations (England and Wales) 2010
EPA 1990	Environmental Protection Act 1990
Excluded Waste Operation	A waste operation excluded from the need to hold an environmental permit because it is regulated under another regime
Exempt waste operation	A waste operation exempt from the need to hold an environmental permit where it meets certain criteria
EWC	European Waste Catalogue
Guidance	Highways Agency published guidance, either Design Manual for Roads and Bridges or Network Management Manual
Hazardous waste	Any solid or liquid featuring on a list drawn up by the European Commission because it possesses one or more of the hazardous properties set out in Article 1 of Council Directive 91/689/EEC on Hazardous Waste
Installation	A stationary technical unit where one or more activities listed in Part 2 of Schedule 1 to the Regulations are carried out and any other location on the same site where any other directly associated activities are carried out
IPPC	Integrated Pollution Prevention and Control – a general term used to describe the regulatory regime applied to Part A Installations under the Regulations which give effect to the IPPC Directive 96/61/EC (this guidance will be updated to take account of the codified version of the IPPC Directive 2008/1/EC)

Local Authority	<p>The relevant District, London or Metropolitan Borough Council in England, the County or Borough Council in Wales or the port health authority.</p> <p>In relation to Part B activities and installations, 'local authority' means district, borough and unitary councils, including county councils and county borough councils in Wales, and port health authorities constituted under section 2 of the Public Health (Control of Diseases) Act 1984.</p> <p>In relation to Part A2 activities and installations, it means all of the above with the exception of port health authorities. (See EP regulation 6)</p>
Mobile plant	Plant which is designed to be moved and which undertakes an activity or waste operation
Operator	The person or body who has control over the operation of the Regulated Facility
PPC	PPC Act 1999; Pollution Prevention and Control Act 1999
Regulated facility	A collective term for those facilities that require an environmental permit i.e. an Installation, a Waste Operation or a Mobile Plant
Regulations	The Environmental Permitting Regulations (England and Wales) 2010
Regulator	The body responsible for applying the Environmental Permitting regime – the Environment Agency is the regulator for a Part A(1) Installations and most Waste Operations while the Local Authority is the regulator for Part A(2) and Part B Installations
Standard facility	A Regulated Facility specified in standard rules
Standard permits	A standard facility where the standard rules are the permit conditions
Standard rules	Rules which establish fixed sets of conditions for standard facilities
Waste	Any substance or object in the categories set out in Annex I of the Directive which the holder discards or intends or is required to discard
Waste operation	Any recovery or disposal of waste
WEEE	DIRECTIVE 2002/96/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 January 2003 on waste electrical and electronic equipment (WEEE)







