



# Standard rules consultation no. 15: unintentional receipt of radioactive material and radioactive waste

Standard rules for the Environmental Permitting Regulations

September 2017

We are the Environment Agency. We protect and improve the environment.

Acting to reduce the impacts of a changing climate on people and wildlife is at the heart of everything we do.

We reduce the risks to people, properties and businesses from flooding and coastal erosion.

We protect and improve the quality of water, making sure there is enough for people, businesses, agriculture and the environment. Our work helps to ensure people can enjoy the water environment through angling and navigation.

We look after land quality, promote sustainable land management and help protect and enhance wildlife habitats. And we work closely with businesses to help them comply with environmental regulations.

We can't do this alone. We work with government, local councils, businesses, civil society groups and communities to make our environment a better place for people and wildlife.

Published by:

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# Summary

The Environmental Permitting (England and Wales) Regulations 2016 allow us to offer standard permits to reduce the administrative burden on business while maintaining environmental standards. They are based on sets of standard rules that we can apply widely in England. The rules are developed using assessments of the environmental risk posed by the activity.

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

This is the fifteenth consultation on sets of standard rules and associated risk assessments. We are proposing new standard rules in relation to the unintentional receipt of radioactive materials and radioactive waste. The rules will cover the accumulation and disposal of radioactive materials and radioactive waste and apply to operators of metal recycling facilities or any other facility which operates a radiation detection system and which may, inadvertently, receive radioactive materials and radioactive waste. These rules will also apply to the use of radiation detection systems by the UK Border Force.

We have, as set out in Section 5.7 of our charging scheme, indicated the proposed applicable charge band from the default standard facility table as applicable.

Please note that we are currently carrying out a strategic review of our permit charges. There will be a separate consultation on our overall approach to our charging scheme in the autumn. If approved by the Secretary of State, this may affect the charges set out in Section 3.1 of this document.

We would like your views on the following proposal:

## **Standard rules and risk assessment for the unintentional receipt of radioactive materials and radioactive waste: SR 2017 No1.**

The proposed rules would apply where an operator inadvertently receives radioactive materials or radioactive waste and is not otherwise permitted to accumulate or dispose of radioactive waste. Likely applicants include operators in the metal recycling sector, other sites handling non-radioactive wastes and the UK Border Force.

The Growth Duty requires us and other national regulators to have regard to the desirability of promoting economic growth, alongside our other statutory duties. As part of this duty we are carrying out an assessment of the financial impacts of this proposal. You can help by responding to the questions we have included to determine these impacts and inform our decision making.

We will take account of the consultation responses and publish the consultation response together with new standard rules and risk assessments (if any) on GOV.UK together. This will also have details of the application process for the new standard permit.

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# 1. About this consultation

This document describes the issues we are consulting on, provides an overview of the relevant documents and the standard permitting process. It is designed to help you understand and comment on our proposals.

## 1.1. What we are consulting on

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

The consultation is about the following documents:

- **Generic risk assessment (see Section 3 for more information)**

This describes the risks that the activity poses to the environment and human health and the ways in which these risks can be controlled. It defines the boundary of risk that can be regulated by common controls, whilst still achieving a high level of environmental protection.

- **Standard rule set (see Section 3 for more information)**

This consists of all the rules necessary to ensure that the risks to the environment and human health are reduced to an acceptable level for these activities.

## 1.2. What this consultation means to you

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

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

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

# 2. How standard permits work

## 2.1. What a standard permit is

Standard permits contain one condition which refers to a fixed set (or sets) of standard rules that an operator must comply with. The standard rules define the activities that an operator can carry out and specify necessary restrictions on those activities, such as emission limits or the types of waste or raw materials that can be accepted at the sites. Standard rules are published on GOV.UK following public consultation. This is the fifteenth such consultation.

Any operator who wishes to carry out a particular activity at a particular site or sites can look at the standard rules and if they can comply with them, can decide to apply for a standard permit. The Environmental Permitting Regulations allow a standard permit to cover multiple sites although, to date, we have not produced standard permits for multiple sites to date.

We are able to issue the standard permit more quickly and cheaply because we have no decisions to make on site-specific permit conditions. An operator who cannot meet the requirements of the standard rules must apply for a bespoke permit and provide us with additional information. It takes us longer to issue a bespoke permit because we have to carry out a more detailed assessment of the application, decide whether to include site-specific conditions and consult in accordance with our [public participation statement](#).

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

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

Standard rules permits can only be granted where the regulated facilities have one single legal person as the operator. The term 'Operator' is defined in Regulation 7 of the Environmental Permitting Regulations as the person who has control over the operation of a regulated facility. If a regulated facility has not been put into operation, the person who will have control over it when it is in operation is the operator.

The central issue in deciding whether someone is the operator of a regulated facility is whether they are able to exercise control over its operation. The operator must demonstrate they have the authority and ability to ensure that the environmental permit is complied with.

When assessing whether an operator (or proposed operator) has the authority and ability we consider the following and other factors.

Does the operator / proposed operator have the authority and ability to:

- manage the sites operations through having day-to-day control of plant operations, including the manner and rate of operation
- ensure that permit conditions are effectively complied with
- decide who holds key staff positions and have incompetent staff removed
- make investment and/or other financial decisions affecting performance of the facility
- ensure that regulated activities are suitably controlled in an emergency

A site owner can continue to be the operator and hold the permit where it lets a contract for activities at a site, provided the owner continues to take responsibility and exert sufficient supervision.

## 2.2. What standard rules are

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

In developing the risk boundary for each set of standard rules, we have to protect the environmental quality of some specific sensitive receptors. For example, standard rules sets may contain a rule which requires that the activity must not be carried out within a certain distance of a specified type of nature conservation sites, such as European sites<sup>1</sup>.

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

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<sup>1</sup> Candidate or Special Area of Conservation (cSAC or SAC) and proposed or Special Protection Area (pSPA or SPA) in England and Wales). For the purposes of standard rules, a Ramsar site is considered as a European site

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

We have based most of the rules on the objectives that need to be achieved. They specify what we want operators to achieve, but do not tell them how to achieve it. That is their responsibility. This approach is not new and was used in previous regimes such as water quality discharge consents, waste management licensing, pollution prevention and control and radioactive substances regulation.

### 2.3. The generic risk assessment for this activity

We have prepared a generic risk assessment for this activity. The assessment defines the risk boundary that can be regulated through common controls and how to manage the risks properly. It was carried out by identifying the possible pathways from the sources of the risks to the receptors (people, animals, property and anything else that could be affected by the hazard). The risk assessment is split into 3 broad sections:

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

## 3. Proposed set of rules and risk assessment

### 3.1. New rules and risk assessment for the unintentional receipt of radioactive materials and radioactive waste by the operator of any facility which uses a radiation detection system: SR2017 No1

The proposed rules would apply where an operator inadvertently receives radioactive materials or radioactive waste and is not otherwise permitted to accumulate or dispose of radioactive waste. Likely applicants include operators in the metal recycling sector, other sites handling non-radioactive wastes and the UK Border Force.

The proposed rules would allow radioactive materials or radioactive waste detected by a radiation detection system to be accumulated and then disposed of by transfer to operators who are permitted to receive and dispose of radioactive wastes of that type and quantity.

When radioactive material or radioactive waste is found, the Environment Agency's aim is that it should be brought under a system of control as soon as possible. We expect operators of radiation detection systems to provide safe and secure storage for any radioactive material or radioactive waste while it is assessed and an appropriate course of action is determined.

The proposed rules are intended to ensure that people and the environment are protected from the harmful effects of radiation from such items. A generic risk assessment has been completed to support the development of the proposed rules. The risk assessment identifies the risks and proposes control mechanisms to mitigate and reduce the risks. These control mechanisms (such as minimising the time the material or waste is on site, use of best available techniques in storage and transfer) are reflected in the rules. We consider the residual risk to be low.

The rules will also meet the requirements of Article 93(2) of the 2013 Basic Safety Standards Directive (COUNCIL DIRECTIVE 2013/59/EURATOM) by ensuring that the operator of a metal

recycling installation promptly informs the Environment Agency if they suspect or have knowledge of any melting of or other metallurgical operation on an orphan source and requires that the contaminated materials are not used, placed on the market or disposed of without the involvement of the competent authority.

## 3.2. Proposed charges

The Environmental Permitting Regulations allow an operator to make an application for a standard permit to cover multiple sites. We have not adopted this provision to date but are considering it in this case due to the nature of the activity. The proposed rules would allow an operator to apply for a single standard permit to cover a number of sites.

The charges for the new standard permit would comprise:

- an application charge of £700
- a transfer charge of £700, i.e. a change of operator
- a surrender charge of £530 to cover dealing with the notification
- an annual subsistence charge of £1,250 to cover compliance assessment of the radioactive materials or radioactive waste activity.

We are currently carrying out a strategic review of our charging schemes. We are committed to ensuring that our charges are fair and transparent and reflect the full cost of providing chargeable services to charge payers. The Strategic Review of Charges consultation will set out proposed changes to our regulatory charges. It will be launched in autumn 2017 and will be accessed via GOV.UK. There may be changes to the proposed charges listed above depending on the outcome of that consultation.

## 3.3. Business impact

The Growth Duty requires us and other national regulators to have regard to the desirability of promoting economic growth, alongside our other statutory duties. As part of this duty we are carrying out an assessment of the financial impacts of this proposed new standard permit. You can help by responding to the questions we have included in Section 4 to determine these impacts and inform our decision making.

# 4. Consultation questions

This consultation is your opportunity to contribute towards the development of these standard rules. Once we have considered all the consultation responses, and made any changes, we hope to be able to publish the standard rules and risk assessment before the end of January 2018.

We would particularly welcome your feedback on the questions below:

### **The standard rules and risk assessment**

**Question 1:** Do you agree with our approach to use standard rules to cover the proposed activity (including the proposal to allow a single standard permit to cover a number of sites)?

**Question 2a:** Do you understand the requirements of the proposed new standard rules?

**Question 2b:** Do you agree with the requirements of the proposed new standard rules?

**Question 3:** Have we correctly identified all the risks for the activities, as described in the generic risk assessment provided with the consultation?

### **The business impact**

Please provide your best estimates of time or costs entailed in certain activities - we appreciate these may be estimates only. We do not intend to publish the responses to questions 4 to 6 as part of this consultation.



**Question 4:** Typically, what are the roles of your members of staff responsible for preparing permit applications and supporting Environment Agency compliance assessment activity for permitted sites (such as technical specialist, manager, senior official)?

**Question 5:** Are you likely to incur any third party monetary costs to prepare a permit application (such as having to hire consultants, access external advice)? If so, please give an approximate estimate of this cost in £s.

**Question 6:** How many hours do you estimate it will take you to:

a) prepare a standard permit application; and

b) provide support for an Environment Agency compliance assessment visit (that is, preparing for the visit, accompanying an Environment Agency officer and follow-up actions)?

### General

**Question 7:** Please tell us if you have any other comments on these proposed new rules that have not been covered by the previous questions.

## 5. Responding to this consultation

### 5.1. Important dates

This consultation will start on 11 September 2017 and run until 1 December 2017.

### 5.2. How to respond

You can view the consultation documents and questions online at:

<https://consult.environment-agency.gov.uk/environmental-permitting/standard-rules-consultation-no-15>.

Here you can submit your response using our online tool which will enable you to manage your comments more effectively. It will also help us to gather and summarise responses quickly and accurately as well as reducing the costs of the consultation.

If you prefer to submit your response by email or letter, or if you would like to ask for a printed version of the document to be posted to you, please contact our National Customer Contact Centre on 03708 506 506 (Minicom, for the hard of hearing; 03702 422 549), Monday to Friday, 8am to 6pm, or email [standard-rules@environment-agency.gov.uk](mailto:standard-rules@environment-agency.gov.uk)

If you would like to send your response by post, please send your completed response form by 1 December 2017 to:

Future Regulation - Permitting [Standard Rules Consultation]

Environment Agency

Horizon House

Deanery Road

Bristol

BS1 5AH

### 5.3. How we will use your information

We will use your information to help shape these standard rules.

Throughout the consultation we will look to make all comments (excluding personal information) publicly available on our website. This includes comments received online, by email, post and by fax, unless you have specifically requested that we keep your response confidential. We will not publish names of individuals who respond but we will publish the name of the organisation for those responses made on behalf of organisations.

If you respond online and provide an email address, your response will be automatically acknowledged. After the consultation has closed we will publish a summary of the responses on the gov.uk website and contact you to let you know when this is available. We will not respond individually to responses.

In accordance with the Freedom of Information Act 2000, we may be required to publish your response to this consultation, but will not include any personal information. If you have requested your response be kept confidential, you must tell us why.

## 5.4. Consultation principles

We are running this consultation in accordance with the guidance set out in the government's Consultation Principles.

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

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