

# Standard rules SR2015 No.39

The Environmental Permitting (England & Wales) Regulations 2016

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## Use of waste in a deposit for recovery operation (Construction, reclamation, restoration or improvement of land other than by mobile plant)

**Maximum volumetric capacity of recovery operation 60,000 m<sup>3</sup>**

### Introductory note

This introductory note does not form part of these standard rules.

When referred to in an environmental permit, these standard rules will allow the operator to store and subsequently use waste for the purposes of a recovery activity involving the deposit of waste that is to be used in construction and/or reclamation, restoration or improvement of land. These standard rules are for the recovery of waste only and do not apply to any activities involving disposal.

You must submit a waste recovery plan with your application for these standard rules. We will only be able to issue a permit if we approve the plan and compliance with the approved plan will then be a requirement of the permit, if the application is granted. The plan must demonstrate that your proposals will meet the definition of recovery in the Waste Framework Directive 2008 as explained in relevant regulatory guidance. We recommend that you submit your plan to us so that we can advise you on whether we consider that the proposed activity would be a recovery operation before applying for these standard rules.

Permitted wastes are limited to mainly inert wastes as defined in these standard rules, with some limited uses for selected non-inert wastes. The maximum quantity of waste that can be stored and subsequently used at the site under these standard rules is 60,000m<sup>3</sup>, although part of being a recovery operation is that the minimum amount of waste that is needed is used and therefore, where we have approved a plan proposing to use less waste, this becomes the permitted maximum.

If you need to deploy mobile plant under a mobile plant permit at a site that is subject to a site based permit to enable you to complete the recovery activity, there will be inconsistencies between the requirements of the two permits. In this situation the requirements of the site based permit prevail. Therefore you must be able to deliver the desired recovery activity through use of these standard rules alone, without relying upon the subsequent use of a separate mobile plant permit. If you need to use additional waste types or quantities to those allowed under these standard rules then you should apply to do this under a bespoke permit.

These standard rules do not allow any tipping into a water body or sub-water table.

These standard rules do not allow any point source emissions into surface waters or groundwater.

Anyone wanting to operate under these standard rules must ensure that the site location meets all the criteria set out in 2.4 of this rule set and the limits of the activity set out in Table 2.1. Definitions are given in 4.4 Interpretation.

**End of introductory note**

# Conditions

## 1 Management

### 1.1 General management

1.1.1 The operator shall manage and operate the activities:

- (a) in accordance with a written management system that identifies and minimises risks of pollution, including those arising from operations, maintenance, accidents, incidents, non-conformances and those drawn to the attention of the operator as a result of complaints; and
- (b) using sufficient competent persons and resources.

1.1.2 Records demonstrating compliance with condition 1.1.1 shall be maintained.

1.1.3 Any person having duties that are or may be affected by the matters set out in these standard rules shall have convenient access to a copy of it kept at or near the place where those duties are carried out.

1.1.4 The operator shall comply with the requirements of an approved competence scheme.

### 1.2 Avoidance, recovery and disposal of wastes produced by the activities

1.2.1 The operator shall take appropriate measures to ensure that:

- (a) the waste hierarchy referred to in Article 4 of the Waste Framework Directive is applied to the generation of waste by the activities; and
- (b) any waste generated by the activities is treated in accordance with the waste hierarchy referred to in Article 4 of the Waste Framework Directive; and
- (c) where disposal is necessary, this is undertaken in a manner which minimises its impact on the environment.

1.2.2 The operator shall review and record at least every four years whether changes to those measures should be made and take any further appropriate measures identified by a review.

## 2 Operations

### 2.1 Permitted activities

2.1.1 The operator is only authorised to carry out the activities specified in table 2.1 below (“Activities”).

| Table 2.1 Activities  |  |
|---|--|
| Description of activities   | Limits of activities   |
| <b>R13:</b> Storage of wastes pending any of the operations numbered R5 and R10 | The use and associated secure storage of a maximum of 60,000m <sup>3</sup> of wastes listed in table 2.5 for the purposes of the construction work and/or restoration, |

| <b>Table 2.1 Activities</b>   |  |
|---|--|
| <b>Description of activities</b>  | <b>Limits of activities</b>  |
| <p><b>R5:</b> Recycling or reclamation of other inorganic materials</p> <p><b>R10:</b> Land treatment resulting in benefit to agriculture or ecological improvement</p> | <p>reclamation or improvement of land as detailed in the approved waste recovery plan.</p> <p>In any event the total quantity of waste used shall not exceed the amount needed to complete the recovery operation to the final levels in the approved waste recovery plan.</p> <p>Only the waste types specified in table 2.5 that are specified in the approved waste recovery plan shall be accepted. Such wastes shall only be used as specified in the approved waste recovery plan.</p> <p>Restoration, reclamation and land improvement activities must only be carried out on land that has been previously subject to industrial or other man-made development.</p> <p>No waste shall be deposited into a water body or sub-water table.</p> <p>Waste types coded 17 05 04 and 20 02 02 that are top soils or peat and waste coded 02 04 01 that is soil from cleaning and washing beet shall only be used for R10 activities, subject to rule 2.3.1.</p> <p>Storage of waste prior to use in the recovery activity shall be limited to 12 months.</p> |

## 2.2 Waste recovery plan

- 2.2.1 The operator shall not deviate from the approved waste recovery plan without prior written approval from the Environment Agency. Submission for approval must be in a form specified by the Environment Agency.
- 2.2.2 A topographical survey of the site referenced to ordnance datum shall be carried out:
- (a) prior to commencement of the recovery activity; and
  - (b) on completion of the recovery activity to show final waste levels.
- 2.2.3 Each topographical survey shall be used to produce a plan of a scale adequate to show the surveyed features of the site. The plan shall be produced within 1 month of the completion of the survey.

## 2.3 Operating techniques

- 2.3.1 The activities shall be operated using the techniques and in the manner described in Table 2.3 below.

| <b>Table 2.3 Operating techniques</b>  |
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| <ol style="list-style-type: none"> <li>1. Road planings (waste types coded 17 03 02) shall be: <ol style="list-style-type: none"> <li>(a) limited to use for construction of hard surface infrastructure such as roads, tracks, pathways and parking; and</li> </ol> </li> </ol> |

| <b>Table 2.3 Operating techniques</b>   |
|---|
| <p>(b) only used within 30cm of the final waste level except where they are used as temporary infrastructure; and</p> <p>(c) removed before further waste is deposited where used as temporary infrastructure .</p> <p>2. Top soils or peat (waste types coded 17 05 04 and 20 02 02) and soil from cleaning and washing beet (waste coded 02 04 01) shall be limited to use in the top 50cm of the recovery activity and shall only be used to provide a growing medium.</p> |

## 2.4 The site

2.4.1 The activities shall not extend beyond the site, being the land shown edged in green on the site plan attached to the permit.

2.4.2 The activities shall not be carried out:

- (a) within 500 metres of a European Site or a Site of Special Scientific Interest (SSSI);
- (b) within 250 metres of the presence of Great Crested Newts where the site is linked by good habitat to the breeding ponds of the newts,
- (c) within 50 metres of a site that has species or habitats protected under the Biodiversity Action Plan that the Environment Agency considers is at risk from this activity,
- (d) within 50 metres of a National Nature Reserve (NNR), Local Nature Reserves(LNR), Local Wildlife Site (LWS), Ancient woodland or Scheduled Ancient Monument,
- (e) within groundwater Source Protection Zones 1 and 2 or if a source protection zone has not been defined then not within 250 metres of any well, spring or borehole used for the supply of water for human consumption. This includes private water supplies.
- (f) on any landfill whether historical, closed, or operational,
- (g) within 10 metres of a watercourse,
- (h) within a specified Air Quality Management Area for particulate matter less than 10 microns (PM10).

## 2.5 Waste acceptance

2.5.1 Waste shall only be accepted if it is of a type listed in table 2.5 of these standard rules, it meets the additional restrictions in that table; and

- (a) it is inert waste, with the exception of topsoil, peat, soil from cleaning and washing beet and road planings; and
- (b) appropriate measures have been taken to ensure that the waste is free from contamination; and
- (c) it has been identified as a suitable waste in the approved waste recovery plan; and
- (d) its chemical, physical and biological characteristics make it suitable for its intended use on the site.

| <b>Table 2.5 Waste types</b>  |
|---|
| <p><b>Exclusions</b></p> <p>Wastes having any of the following characteristics shall not be accepted:</p> <ul style="list-style-type: none"> <li>• Consisting solely or mainly of dusts, powders or loose fibres</li> <li>• Wastes that are in a form which is either sludge or liquid</li> </ul> |
| <p><b>Permitted waste types</b></p>   |

| Source   | Sub-source  | Waste code | Description   | Additional restrictions                                |
|--|---|------------|---|--|
| 01 Waste resulting from exploration, mining, quarrying and physical and chemical treatment of minerals               | 01 01 wastes from mineral excavation  | 01 01 02   | Wastes from mineral non-metalliferous excavation  | Restricted to waste overburden and interburden only.   |
|  | 01 04 wastes from physical and chemical processing of non-metalliferous minerals                  | 01 04 08   | Waste gravel and crushed rocks other than those mentioned in 01 04 06                   |  |
|  |   | 01 04 09   | Waste sand and clays  |  |
| 02 Waste from agriculture, horticulture, aquaculture, forestry, hunting and fishing, food preparation and processing | 02 04 wastes from sugar processing  | 02 04 01   | Soil from cleaning and washing beet   |  |
| 10 Wastes from thermal processes   | 10 12 wastes from manufacture of ceramic goods, bricks, tiles and construction products           | 10 12 08   | Waste ceramics, bricks, tiles and construction products (after thermal processing)      |  |
|  | 10 13 waste from manufacture of cement, lime and plaster and articles and products made from them | 10 13 14   | Waste concrete  |  |
| 17 Construction and demolition wastes  | 17 01 concrete, bricks, tiles and ceramics  | 17 01 01   | Concrete  |  |
|  |   | 17 01 02   | Bricks  |  |
|  |   | 17 01 03   | Tiles and ceramics  |  |
|  |   | 17 01 07   | Mixtures of concrete, bricks, tiles and ceramics other than those mentioned in 17 01 06 | Metal from reinforced concrete must have been removed. |
|  | 17 03 bituminous mixtures   | 17 03 02   | Bituminous mixtures other than those mentioned in 17 03 01                              | Road planings only.                                    |

|  |  |          |   |  |
|--|--|----------|---|--|
|  | 17 05 soil stones and dredging spoil   | 17 05 04 | Soil and stones other than those mentioned in 17 05 03  | Restricted to topsoil, peat, subsoil and stones only.  |
| 19 Wastes from waste management facilities   | 19 12 wastes from the mechanical treatment of waste (for example sorting, crushing, compacting, pelletising) not otherwise specified | 19 12 09 | Minerals (for example sand, stones) only  | Restricted to wastes from treatment of waste aggregates that are otherwise naturally occurring minerals.<br>Does not include fines from treatment of any non-hazardous waste or gypsum from recovered plasterboard.            |
|  |  | 19 12 12 | Other wastes (including mixtures of materials) from mechanical treatment of wastes other than those mentioned in 19 12 11 | Restricted to crushed bricks, tiles, concrete and ceramics only.<br>Metal from reinforced concrete must be removed.<br>Does not include fines from treatment of any non-hazardous waste or gypsum from recovered plasterboard. |
| 20 Municipal wastes (household waste and similar commercial, industrial and institutional wastes) including separately collected fractions | 20 02 garden and park wastes   | 20 02 02 | Soil and stones   | Restricted to topsoil, peat, subsoil and stones only.  |

## 2.6 Waste acceptance procedures

2.6.1 The operator shall obtain, as a minimum, the following information about the characteristics of each waste stream prior to receiving the waste at the site:

- (a) the full address where the waste was produced; and
- (b) the identity of the producer; and
- (c) all the reasonably identifiable previous uses of the producer site where the waste is excavation waste; and
- (d) the process giving rise to the waste; and
- (e) the physical appearance of the waste including colour and texture; and

- (f) where a weighbridge isn't used a metric conversion factor for volume (cubic metres) to weight (tonnes) for each waste stream; and
  - (g) the quantity of waste to be imported; and
  - (h) evidence of compliance with condition 2.5.1.
- 2.6.2 The operator shall maintain records demonstrating compliance with condition 2.6.1, which shall be kept until the permit is surrendered.
- 2.6.3 The operator shall satisfy themselves that any waste accepted for recovery conforms to the information submitted by the holder required by condition 2.6.1 and shall visually inspect:
- (a) without unloading it, waste that is in an open container or open vehicle on arrival at the site; and
  - (b) waste at the point of deposit;
- 2.6.4 Any waste that does not comply with all of the conditions of 2.5 or fit the description of the waste recorded in 2.6.1 shall be rejected and shall be:
- (a) removed from the site; or
  - (b) moved to a designated quarantine area pending removal.

### **3 Emissions and monitoring**

#### **3.1 Emissions of substances not controlled by emission limits**

- 3.1.1 Emissions of substances not controlled by emission limits (excluding odour) shall not cause pollution. The operator shall not be taken to have breached this condition if appropriate measures, including, but not limited to, those specified in any approved emissions management plan, have been taken to prevent or where that is not practicable, to minimise, those emissions.
- 3.1.2 The operator shall:
- (a) if notified by the Environment Agency that the activities are giving rise to pollution, submit to the Environment Agency for approval within the period specified, an emissions management plan which identifies and minimises the risks of pollution from emissions of substances not controlled by emission limits;
  - (b) implement the approved emissions management plan, from the date of approval, unless otherwise agreed in writing by the Environment Agency.
- 3.1.3 All liquids in containers, whose emission to water or land could cause pollution, shall be provided with secondary containment, unless the operator has used other appropriate measures to prevent or where that is not practicable, to minimise, leakage and spillage from the primary container.

#### **3.2 Odour**

- 3.2.1 Emissions from the activities shall be free from odour at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency, unless the operator has used appropriate measures, including, but not limited to, those specified in any approved odour management plan, to prevent or where that is not practicable to minimise the odour.
- 3.2.2 The operator shall:
- (a) if notified by the Environment Agency that the activities are giving rise to pollution outside the site due to odour, submit to the Environment Agency for approval within the period specified, an odour management plan which identifies and minimises the risks of pollution from odour;
  - (b) implement the approved odour management plan, from the date of approval, unless otherwise agreed in writing by the Environment Agency.

### **3.3 Noise and vibration**

3.3.1 Emissions from the activities shall be free from noise and vibration at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency, unless the operator has used appropriate measures, including, but not limited to, those specified in any approved noise and vibration management plan to prevent or where that is not practicable to

3.3.2 The operator shall:

- (a) if notified by the Environment Agency that the activities are giving rise to pollution outside the site due to noise and vibration, submit to the Environment Agency for approval within the period specified, a noise and vibration management plan which identifies and minimises the risks of pollution from noise and vibration;
- (b) implement the approved noise and vibration management plan, from the date of approval, unless otherwise agreed in writing by the Environment Agency.

## **4 Information**

### **4.1 Records**

4.1.1 All records required to be made by this permit shall:

- (a) be legible;
- (b) be made as soon as reasonably practicable;
- (c) if amended, be amended in such a way that the original and any subsequent amendments remain legible, or are capable of retrieval; and
- (d) be retained, unless otherwise agreed in writing by the Environment Agency, for at least 6 years from the date when the records were made, or in the case of the following records until permit surrender:
  - (i) off-site environmental effects; and
  - (ii) matters which affect the condition of the land and groundwater.

4.1.2 The operator shall keep on site all records, plans and the management system required to be maintained by these standard rules, unless otherwise agreed in writing by the Environment Agency.

### **4.2 Reporting**

4.2.1 The operator shall send all reports and notifications required by these standard rules to the Environment Agency using the contact details supplied in writing by the Environment Agency.

4.2.2 Within one month of the end of each quarter, the operator shall submit to the Environment Agency using the form made available for the purpose, the information specified on the form relating to each site and the waste accepted and removed from it during the previous quarter.

4.2.3 The operator shall:

- (a) submit the plan required under rule 2.2.3 from the survey required by rule 2.2.2 (a) to the Environment Agency prior to commencement of operations unless otherwise agreed in writing by the Environment Agency.
- (b) submit the plan required under rule 2.2.3 from the survey required by rule 2.2.2 (b) to the Environment Agency within one month of the completion of the recovery activity unless otherwise agreed in writing by the Environment Agency.

### **4.3 Notifications**



- 4.3.1 The operator shall notify the Environment Agency in writing:
- (a) at least 14 days before the commencement of the recovery operation; and
  - (b) within 14 days of completion of the recovery operation.
- 4.3.2 The Environment Agency shall be notified without delay following the detection of:
- (a) any malfunction, breakdown or failure of equipment or techniques, accident, or emission of a substance not controlled by an emission limit which has caused, is causing or may cause significant pollution;
  - (b) the breach of a limit specified in the permit; or
  - (c) any significant adverse environmental effects.
- 4.3.3 Written confirmation of actual or potential pollution incidents and breaches of emissions shall be submitted within 24 hours.
- 4.3.4 Where the Environment Agency has requested in writing that it shall be notified when the operator is to undertake monitoring and/or spot sampling, the operator shall inform the Environment Agency when the relevant monitoring and/or spot sampling is to take place. The operator shall provide this information to the Environment Agency at least 14 days before the date the monitoring is to be undertaken.
- 4.3.5 The Environment Agency shall be notified within 14 days of the occurrence of the following matters, except where such disclosure is prohibited by Stock Exchange rules.
- (a) Where the operator is a registered company:
    - any change in the operator's trading name, registered name or registered office address; and
    - any steps taken with a view to the operator going into administration, entering into a company voluntary arrangement or being wound up.
  - (b) Where the operator is a corporate body other than a registered company:
    - any change in the operator's name or address; and
    - any steps taken with a view to the dissolution of the operator.
  - (c) In any other case:
    - the death of any of the named operators (where the operator consists of more than one named individual);
    - any change in the operator's name(s) and address(es); and
    - any steps taken with a view to the operator, or any one of them, going into bankruptcy, entering into a composition or arrangement with creditors, or, in the case of them being a partnership, dissolving the partnership.

## 4.4 Interpretation

- 4.4.1 In these standard rules the expressions listed below shall have the meaning given.
- 4.4.2 In these standard rules references to reports and notifications mean written reports and notifications, except when reference is being made to notification being made "without delay", in which case it may be provided by telephone.

"accident" means an accident that may result in pollution.

"approved waste recovery plan" means a plan that has been approved by the Environment Agency that demonstrates and gives evidence that the operation carried out under these standard rules meets the definition of waste recovery, and will continue to do so throughout the duration of the permitted operation.

“authorised officer” means any person authorised by the Environment Agency under section 108(1) of The Environment Act 1995 to exercise, in accordance with the terms of any such authorisation, any power specified in Section 108(4) of that Act.

“air quality management area” means within the meaning of the Environment Act 1995 an area which has been designated by the Local Authority where it has concerns that the Air Quality Objectives will not be met and needs to put in a Local Air Quality action plan.

“aquifer” means subsurface layer or layers of rock or other geological strata of sufficient porosity and permeability to allow either a significant flow of groundwater or the abstraction of significant quantities of groundwater.

“construction work” means the carrying out of any building, civil engineering or engineering work and includes the building, alteration, conversion, repair, upkeep or other maintenance of a structure and the preparation of a site for an intended structure. It includes drainage works.

“ecological improvement” means providing, maintaining or improving the soils ability to provide a growing medium including for growth of vegetation on landscaping and for recreational and amenity uses.

“emissions of substances” means emissions of substances to air, water or land from the activities, from localised or diffuse sources.

“European Site” means “European Site” means a European site within the meaning of Regulation 8 of the Conservation of Habitats and Species Regulations 2017.

“good habitat” means rough (especially tussocky) grassland, scrub and woodland.

“groundwater” means all water, which is below the surface of the ground in the saturation zone (below the water table) and in direct contact with the ground or subsoil.

“groundwater Source Protection Zone” has the meaning given in the document titled “Groundwater Protection: Principles and Practice” published by the Environment Agency in 2013.

“historical landfill” means any area of land previously used for the disposal of waste that is no longer regulated by an environmental permit.

“inert waste” means waste that does not undergo any significant physical, chemical or biological transformations. Inert waste will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm to human health. The total leachability and pollutant content of the waste and the ecotoxicity of the leachate must be insignificant, and in particular not endanger the quality of surface water and/or groundwater.

“interburden” means material that lies between two layers of economic interest, such as the material separating coal seams within strata.

“overburden” (also called waste or spoil) is the rock and soil that typically lies above a layer of economic interest such as a coal seam or sand and gravel workings. Overburden is distinct from tailings, (the material that remains after economically valuable components have been extracted from the generally finely milled ore). Overburden is removed during surface mining, but is typically not contaminated with toxic components.

“pollution” means emissions as a result of human activity which may—

- (a) be harmful to human health or the quality of the environment,
- (b) cause offence to a human sense,
- (c) result in damage to material property, or
- (d) impair or interfere with amenities and other legitimate uses of the environment.

“quarter” means a calendar year quarter commencing on 1 January, 1 April, 1 July or 1 October.

“R” means a recovery operation provided for in Annex II of Directive 2008/98/EC of the European Parliament and the Council of 19th November 2008 on waste.

“secure storage” means storage where waste cannot escape and members of the public do not have access to it.

“SSSI” means Site of Special Scientific Interest within the meaning of the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000).

“sub-soil” means a natural soil layer extending between the topsoil and the weathered bedrock below that has no or very low organic content.

“sub-water table” is any location below the typical maximum upper level of the saturated layer of an unconfined aquifer. “Typical” in this context would employ a representative winter water table level, based on hydrogeological records and/or expert opinion, and discounting extremes in weather, or artificial suppression by engineering techniques e.g. pumping.

“topsoil” means the upper layer of an in situ soil profile, more fertile than the layer below (subsoil), and which is a product of natural chemical, physical, biological and environmental processes.

“Waste code” means the six digit code referable to a type of waste in accordance with the List of Wastes and in relation to hazardous waste, includes the asterisk. ‘List of Wastes’ means the list of wastes established by Commission Decision 2000/532/EC replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1(a) of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste, as amended from time to time.

“water body” the whole (or part) of a stream, river or canal, lake or reservoir, transitional water (estuary) or stretch of coastal water. A ‘body of groundwater’ is a distinct volume of groundwater within an aquifer or aquifers.

“watercourse” means all rivers (including underground and artificial rivers), streams, estuaries, canals, lakes, ponds, and ditches as far out as the fresh-water limit.

“year” means calendar year commencing on 1st January.

## **End of standard rules**