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**This publication was withdrawn on 14  
July 2021**

We are no longer considering any new waste quality protocols, therefore this RPS can no longer be used.

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## Regulatory position statement 017

# The regulation of materials under consideration for an end of waste Quality Protocol

### Background

This position statement sets out advice for our staff and customers on how we regulate wastes whilst they are under consideration for an end of waste Quality Protocol. If a Quality Protocol is developed, this statement will also cover our regulatory position whilst the draft Quality Protocol is considered by the European Commission<sup>1</sup>.

A Quality Protocol identifies the point at which waste, having been fully recovered, may be regarded as a non-waste product that can be used in specified markets, without the need for waste management controls. Quality Protocols have been produced for a range of materials. Further information can be found on [GOV.UK](https://www.gov.uk).

Whilst the development of a Quality Protocol is being considered our position is that the materials covered by this document remain waste until they have been put to their final use in a recovery operation that achieves complete recovery of the waste.

However, we consider it appropriate to allow the end-use of materials being considered for a QP to take place under a regulatory position statement rather than a permit because if a Quality Protocol is developed the final use of the material, subject to any conditions and limitations, will not be subject to regulatory control as a waste.

This regulatory position statement relates to the final use of waste only. Any treatment of the waste prior to the final use will still need any relevant permit or exemption for that activity.

This regulatory position statement sets out the limitations, requirements and conditions for the use of these materials. If these are met in full, at all times, we will not take enforcement action for the final use of the material if it is not authorised by an environmental permit. This interim position statement will normally continue to apply while the use of the specified waste stream (listed in Annex 2) is under consideration for a Quality Protocol. However, if we acquire information during that time which leads us to consider this is not appropriate, we may amend or withdraw this position for any particular material.

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<sup>1</sup> Member States are obliged to consult the Commission on proposed technical regulations under the Technical Standards and Regulations Directive 98/34/EC. This involves a three to six month standstill period before the Quality Protocol can be published as final document.

If we conclude that a Quality Protocol cannot be developed for a particular material or that a material should not be used in a particular way without waste management controls, then this position will cease to apply and the material must be used in line with the appropriate permit or exemption and other relevant waste management controls. We will then provide a revised position.

It is the producer's responsibility to ensure they refer to the most up-to-date version of this interim statement to ensure their activity remains included and that they are complying with any conditions.

## Our approach

We will not take action to require a permit for the activity if you do not already have one if it is the final use in a recovery operation achieving complete recovery of the waste for the waste types specified in Annex 2, and the following conditions are met.

1. The holder can demonstrate that the processed material meets one of the relevant standards listed.
2. The record requirements in Annex 1 are complied with.
3. The waste is being used in one of the final uses specified for that waste type in accordance with any conditions or limitations specified in Annex 2.
4. The waste is only mixed with non-wastes that improve its use or application.
5. You meet the relevant objectives of the Waste Framework Directive:  
'... ensuring that waste management is carried out without endangering human health, without harming the environment and in particular:  
(i) without risk to water, air, soil, plants or animals;  
(ii) without causing a nuisance through noise or odours; and  
(iii) without adversely affecting the countryside or places of special interest.'

## The following activities are not covered by this position statement and so normal regulatory controls will apply.

- An operator carrying out an interim process<sup>2</sup>. This activity will need an environmental permit or exemption from permitting for that activity.
- Where the activity involves one of the final uses of the processed waste and you already have an environmental permit for that activity, you should comply with the conditions of that permit.

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<sup>2</sup> An interim process is the activity where the wastes undergo additional processing to the point that they meet the relevant standard listed in Annex 1 for that activity.

- If the listed final use of the processed waste is covered by an exemption from the need for an environmental permit, you should register the activity as exempt and comply with the conditions of that exemption.
- If waste produced to the standard set out in Annex 2 is mixed with a waste material, the resulting material will be waste and any treatment, storage or use must be covered by a permit or exemption.
- Activities that result in the disposal of the waste stream must be covered by a permit or exemption.

### **Storage of materials listed in Annex 2**

Secure storage of the processed material (in compliance with any standard, restriction or limitation set out in Annex 2) at the place of final use will not require a permit / exemption as long as appropriate best practice is followed to ensure it does not cause a nuisance or harm to human health or the environment. Storage at any other place, such as an interim storage facility, will require a permit or an exemption from permitting unless provision is made for interim storage in Annex 2 and the conditions and limitations stated are complied with.

### **Other regulatory controls**

Even where we do not require a permit for a waste operation, you must comply with all other appropriate waste management controls including duty of care, hazardous waste regulations and carrier registration. In addition, any controls that do not depend on the status of the material as a waste will still apply. These include permitting requirements for other activities such as water discharge activities and groundwater activities.

### **Enforcement**

If the activity does not, at all times, comply with all the requirements of this position statement, or there is a breach of waste management or other controls we regulate, we will take action in line with our [Enforcement and Sanctions Statement](#).

We review this regulatory position statement regularly. It is the responsibility of the user to ensure they are referring to the most up-to-date version.

MWRP RPS 017

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## **Annex 1 – Record keeping**

All duty of care requirements must be complied with, in addition for each delivery a separate record including the following details must be kept by the producer for a period of 2 years and be made available for inspection by an Environment Agency officer, on request:

- date of supply
- the name and contact details of the producer and distributors (as applicable), including the address of the site of production
- quantity supplied by weight/volume
- a statement from the producer that the material meets the relevant standard for a specified end use in this position statement and has been supplied for that use.

For the purposes of this position statement the user must:

- keep and retain specified records for a minimum of 2 years
- make them available for inspection by the regulator (if requested).

## **Annex 2 - Waste streams to which this position applies**

Annex 2 sets out the requirements for each of the waste streams to which this position applies:

- incinerator bottom ash aggregate (IBAA)

### **Incinerator bottom ash aggregate (IBAA)**

#### **Final use**

Processed for use in:

- construction applications such as blocks or cement bound material or foamed asphalt/concrete

#### **Relevant standards**

Processed material must conform to relevant publicly available civil engineering standards. For the above use, these include:

- BS EN 12620:2013 Aggregates for concrete
- BS EN 13055-1:2002 Lightweight aggregates. Lightweight aggregates for concrete, mortar and grout.