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**This publication was withdrawn on 12 May 2023.**

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## Regulatory Position Statement 172

### The regulation of the use of unbound pulverised fuel ash and furnace bottom ash

**If you comply with the requirements below, we will allow the use of unbound pulverised fuel ash (PFA) and furnace bottom ash (FBA) in specified circumstances without the need for an environmental permit.**

#### Background

The Waste Protocols Project considered whether a generic end of waste position could be developed for the use of unbound PFA and FBA. The work concluded that a quality protocol, setting out the end of waste criteria for the production and use of unbound PFA and FBA, could not be produced at this time.

Industry is currently working with the Environment Agency through the Equal project assessing the impact of use of unbound PFA in the environment. More information on this can be found [here](#). This regulatory position statement allows unbound PFA and FBA to be used in construction under specified conditions without an environmental permit pending the findings of the field work being undertaken by the Equal project. When the findings have been reached, this regulatory position statement will either be amended or withdrawn.

This regulatory position covers only the final use and associated storage of unbounded PFA and FBA in construction projects such as embankments, road building and the construction of flood defences. If you carry out any treatment of PFA/FBA, or if you store these materials anywhere other than at the place of final use, or if you are carrying out a disposal activity, you will need a permit.

Our position is that unbound PFA and FBA remains waste until it has been put to its final use.

#### Our approach

We will not pursue an application for an environmental permit for the permanent deposit of PFA or FBA on land for recovery in construction projects and associated storage where the following conditions are met:

Storage must be:

- secure and be at the place of final use

Storage must not:

- exceed 50,000 tonnes
- be for longer than 6 months
- be on a principal aquifer
- be within 500 metres of any borehole or well used to supply water for drinking or domestic food production
- be within 500 metres of a Groundwater Dependent Terrestrial Ecosystem unless a leachate collection system is in place.

The use of waste:

- must not exceed 100,000 tonnes for the entire construction project;  
*We will apply a common sense approach to whether something is a single project or has been artificially divided, for example the construction of a road or highway would normally be a single project even if described as being split into several phases. Similarly, the construction of a noise bund, creation of a golf course or construction of a flood embankment would normally be a single project.*
- must be for a recovery activity and not for disposal. Our Regulatory Guidance Note EPR 13 Defining Waste Recovery: Permanent Deposit of Waste on Land, provides advice on whether an activity constitutes recovery or disposal.

The use of waste must not be within:

- groundwater Source Protection Zones 1 or 2;
- 50 metres of any spring or well, or of any borehole used to supply water (including private water supplies);
- 50 metres of a site that has relevant species or habitats protected under the Biodiversity Action Plan that the Agency considers at risk to this activity;
- 500 metres of a European Site, Ramsar site or a Site of Special Scientific Interest (SSSI);
- 50 metres of a National Nature Reserve (NNR), Local Nature Reserves (LNR), Local Wildlife Site (LWS), Ancient Woodland or Scheduled Ancient Monument;
- 250 metres of the presence of Great Crested Newts where the location of the waste deposit is linked to breeding ponds of the newts by good habitat.

Good habitats are those that provide plenty of cover and shelter for the newts in hot or cold weather and a good supply of invertebrates. The types of habitats that can support great crested newts includes scrub and woodland, rough grasslands and linear features such as hedges stone walls and railway lines with a variety of refuges for the newts to use.

In addition to the above, the use and storage of the waste must 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 operator must notify the Environment Agency Combustion Sector Facing Officer from where the waste is produced, of the proposed activity i) at least 10 days before delivery of the waste to the site begins for uses of greater than 5,000 tonnes and ii) at least 5 days before delivery for uses of less than 5,000 tonnes. The notification must include as a minimum: the operator's name and contact details; the location of where the PFA or FBA is to be used to include grid reference; quantities to be used (in tonnes); duration of the project; details of the activity; confirmation that the use of the waste complies with the conditions of this regulatory position statement. For uses >5000 tonnes detailed scheme drawings (plans/cross sections) showing original and final levels are required to be submitted.
- The waste must be suitable for use and must meet the required civil engineering standards.
- The waste must not be mixed with other wastes.
- The waste may only be mixed with non-wastes if the mixing improves its use or application.
- All other waste controls such as duty of care and waste carriers registration will still apply.

customer service line  
03708 506 506

incident hotline  
0800 80 70 60

floodline  
0345 988 1188  
0845 988 1188

[www.gov.uk/environment-agency](http://www.gov.uk/environment-agency)

## Enforcement

In not pursuing an application for a permit or registering an exemption, we will not normally take enforcement action unless the activity has caused, or is likely to cause, pollution or harm to health. For a more detailed explanation of this enforcement position, please see our [Enforcement and Sanctions](#) statement.

## Further information

If you consider your material has met the end of waste test, visit our [end of waste pages](#) where you will find guidance on the end of waste test and how to seek our view.

This statement is based on our understanding of the relevant legislation. It applies to England only. You can get advice on the approach being taken in Wales, Scotland and Northern Ireland from Natural Resources Wales, SEPA and the Northern Ireland Environment Agency (NIEA) respectively.

This regulatory position will be reviewed by May 2015.

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