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Standard Rules Consultation No.12 Fire Prevention Plans

**Standard rules for the Environmental Permitting Regulations
Autumn 2016**

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Summary

The Environmental Permitting (England and Wales) Regulations 2010 (“EP Regulations”) 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 and Wales. 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 twelfth consultation on sets of standard rules. Changes to the following existing permits (all for sites storing or treating combustible waste) are being consulted on as we are proposing to add a condition requiring operators to have a fire prevention plan in place. In order to help operators understand their obligations, we have worked with the three fire services in Wales to produce a guidance document

We are proposing the revision of 21 rule sets in total.

We would like your views on the proposed amendments to one or more of the following existing rule sets:

1. SR2008 No1 75kte: household, commercial and industrial waste transfer station
2. SR2008 No2: household, commercial and industrial waste transfer station (no building)
3. SR2008 No3 75kte: household, commercial and industrial waste transfer station with treatment
4. SR2008 No4: household, commercial and industrial waste transfer station with treatment (no building)
5. SR2008 No5 75kte: household, commercial and industrial waste transfer station and asbestos storage
6. SR2008 No6: household, commercial and industrial waste transfer station with asbestos storage (no building)
7. SR2008 No7 75kte: household, commercial and industrial waste transfer station with asbestos storage
8. SR2008 No8: household, commercial and industrial waste transfer station with treatment and asbestos storage (no building)
9. SR2008 No12: Non-hazardous household waste amenity site
10. SR2008 No13: Non-hazardous and hazardous waste amenity sites
11. SR2008 No14: Materials Recycling Facility
12. SR2008 No15: Materials Recycling Facility
13. SR2008 No18 75kte: non-hazardous mechanical biological (aerobic) treatment facility
14. SR2008 No20 75kte: vehicle storage, de-pollution and dismantling (authorised treatment) facility
15. SR2008 No21 75kte: metal recycling site

16. SR2008 No23 75kte: WEEE authorised treatment facility (ATF) excluding ozone depleting substances
17. SR2010 No13: use of waste to manufacture timber
18. SR2011 No2: metal recycling site
19. SR2011 No3: vehicle storage de-pollution and dismantling (authorised treatment) facility
20. SR2011 No4: metal recycling, vehicle storage, de-pollution and dismantling facility
21. SR2011 No14 75kte: non-hazardous household waste amenity site

We will take account of the consultation responses and publish the new standard rules on our website together with details of the application process.

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1 About this consultation

This is an explanatory document that provides an outline of the documents we are consulting on, and an overview of the standard permitting process. It is designed to help you understand and comment on them.

1.1 What we are consulting on

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

The consultation is primarily about the following documents:

Generic risk assessments (see Section 3 for more information):

These describe the risks that each type of activity poses to the environment and human health and the ways in which these risks can be controlled. They define the boundary of risk that can be regulated by common controls, whilst still achieving a high level of environmental protection.

Standard rules sets (see Section 3 for more information):

These consist of all the rules necessary to ensure that the risks to the environment and human health are reduced to an acceptable level for each of the listed activities.

We are proposing amendment to **21** existing generic risk assessments and standard rules sets for sites storing or treating combustible waste.

1.2 What this consultation means to you

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

Operators, trade associations, and business:

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 to extend the uptake of existing rules and for further 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 Standard permits – how they work

2.1 What is a standard permit?

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 site. Standard rules are published on our website following public consultation. This is the twelfth such consultation.

An operator who wishes to carry out a particular activity can look at the standard rules and, if they can comply with them, they may decide to apply for a standard permit. We are able to issue the permit more quickly and more 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 which is available on our website.

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 the 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, an application must be made 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 facility has one single legal person as the operator. The term '**Operator**' is defined in regulation 7 of EPR 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. They must demonstrably 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 considering the following and other factors.

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

1. Manage site operations through having day-to-day control of plant operations, including the manner and rate of operation?
2. Ensure that permit conditions are effectively complied with?
3. Decide who holds key staff positions and have incompetent staff removed?
4. Make investment and/or other financial decisions affecting performance of the facility?
5. 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 they continue to take responsibility and exert sufficient supervision.

2.2 What are standard rules?

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 would be 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 specified types of nature conservation sites, such as European sites¹.

The rules for some operations will not permit activities to be 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 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. Guidance on how to comply with the rules we have already published is provided in '**How to comply with your environmental permit**', which is available on our website.

2.3 The generic risk assessment

We have prepared a generic risk assessment for each rule set. The assessment defines the risk boundary that can be regulated through common controls and how to properly manage the risks. The risk assessment has been carried out using the "source – pathway – receptor" approach. The risk assessment is split into three broad sections:

Data and information – this section comprises receptor, source, harm and pathway information that is relevant to the activity under consideration.

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.

¹ 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.

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.

As previously mentioned, a set of standard rules may contain a rule which requires that activities must not be carried out within a certain distance of specified nature conservation sites. The broad sensitivity of habitats and species groups to the potential hazards from facilities regulated by us through the EP Regulations is well understood. Harm can occur through hazards such as toxic contamination, nutrient enrichment, habitat loss, siltation, smothering, disturbance and predation.

These distance rules allow us to filter out activities which could not have an effect on the interest features of these sites and species. This is part of the overall risk boundary for each activity and is necessary because we will not be consulting the nature conservation bodies on individual applications for standard permits, in accordance with our public participation statement.

3 Proposed amended rule sets

3.1 Why we are changing the rule sets

We need to revise these rule sets because we continue to experience an unacceptable number of fires at permitted sites storing or treating waste. These revisions aim to both reduce the risk of fires starting and to limit the damage to the environment and to human health when fires do occur.

We need to apply new safeguards to ensure that the risk of fires starting in waste is as low as possible in the first instance and when fires do start that their scale and environmental impact is minimised.

These new safeguards come from new guidance Natural Resources Wales issued in 2016 – 'Fire Prevention and Mitigation Plan Guidance - Waste'. This guidance sets out the minimum standards of fire prevention that must be adopted at such sites.

All of the Standard Permit rule sets listed in the Summary section relate to sites dealing with combustible materials.

We propose to introduce the following new conditions to these rules sets requiring them to comply with the standards set out in Natural Resources Wales guidance on fire prevention:

The operator shall manage and operate the activities in accordance with a written fire prevention plan using the current, relevant fire prevention plan guidance.

The operator shall:

- a) if notified by Natural Resources Wales that the activities could cause a fire risk, submit to Natural Resources Wales a fire prevention plan which identifies and minimises the risks of fire;
- b) Operate the activity in accordance with the fire prevention plan, from the date of submission, unless otherwise agreed in writing by Natural Resources Wales.

There will be no change to the current costs for any of these permits.

4 Consultation questions

This consultation is your opportunity to contribute towards the development of these standard rules. They should be published in early 2017.

We would particularly welcome your feedback on the questions below:

Question one:

Do you recognise the need to control fire risk at sites dealing with combustible waste by the production of a fire prevention plan?

Question two:

For sites without a building storing or treating combustible waste, is the three month residence time on site for waste an effective fire prevention measure?

Question three:

Please tell us of any further views or comments you have on these proposed changes that you feel we ought to be aware of.

5 Responding to this consultation

5.1 Important dates

This consultation will close on 23rd December 2016

5.2 How to respond

You can view the consultation documents and questions online at <http://naturalresources.wales/?lang=en>

If you would like to ask for a printed version of the document to be posted to you, please contact our Customer Contact centre via email, telephone or post:

Email enquiries@naturalresourceswales.gov.uk

Phone 0300 065 3000

Mail Natural Resources Wales, Ty Cambria, Newport Road, Cardiff, CF24 0TP

You can submit your response by email or letter. Please send your completed response form by 23 December 2016 to the address above.

5.3 What will the responses be used for?

We will use the responses from this consultation to inform proposals to the Welsh Government. Natural Resources Wales staff dealing with this consultation will see all responses in full.

5.4 How we will use your information

Throughout the consultation we will make all comments (apart from personal information) publicly available on our website. This includes comments received online, by email, post and by fax, unless you have specifically requested that your response be kept confidential. Only names of organisations that respond and not individuals will be published.

If you respond online or provide an email address, you will receive an acknowledgement of your response. After the consultation has closed a summary of the responses will be published on our website by the end of **March 2015**. You will be contacted to let you know when this is available. You will also be notified of any forthcoming river basin consultations unless you request otherwise.

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 to be kept confidential, we may still be required to provide a summary of it.