

Non-hazardous and inert waste: appropriate measures for permitted facilities- Response Form

We welcome your views on our proposed guidance on the appropriate measures for permitted facilities that take non-hazardous or inert waste for treatment or transfer. If you are unable to send us your views using the online tools, please use this form and send it to us by email or post.

Please complete the questions and, where there is a free text field, give as much information as possible to support your answer.

The Growth Duty requires us and other national regulators to have regard to the desirability of promoting economic growth, alongside our other statutory duties. You can help inform our decision-making by providing information in your responses about the costs and benefits of complying with the proposed guidance.

How we will use your information

A summary of responses to this consultation will be published on www.gov.uk/environment-agency. An annex to the consultation summary will list all organisations that responded but will not include personal names, addresses or other contact details.

The Environment Agency will look to publish the content of your response to this consultation to make it available to the public excluding your personal name and private contact details, for example your home or email address.

If you would like anything in your response to be kept confidential, you are asked to state clearly what information you would like to be kept as confidential and explain your reasons for confidentiality. The reason for this is that information in responses to this consultation may be subject to release to the public or other parties in accordance with access to information law (these are primarily the Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA)). We have obligations, mainly under the EIRs, FOIA and DPA, to disclose information to particular recipients or to the public in certain circumstances. In view of this, your explanation of your reasons for requesting confidentiality for all or part of your response would help us balance these obligations for disclosure against any obligation of confidentiality. If we receive a request for the information that you have provided in your response to this consultation, we will take full account of your reasons for requesting confidentiality of your response, but we cannot guarantee that confidentiality can be maintained in all circumstances.

If you don't request your response to be kept confidential, we will be able to release the content of your response to the public, but we won't make any of your personal details publicly available.

The Environment Agency is the data controller for the personal data you provide. For further information on how we deal with your personal data please see our Personal Information Charter on gov.uk (<https://www.gov.uk/government/organisations/environment-agency/about/personal-information-charter>) or contact our Data Protection team. Address: Data Protection team, Environment Agency, Horizon House, Deanery Road, Bristol, BS1 5AH. Email: dataprotection@environment-agency.gov.uk

This consultation is being conducted in line with the Cabinet Office's "Consultation Principles" which can be found at: <https://www.gov.uk/government/publications/consultation-principles-guidance>

customer service line
03708 506 506

incident hotline
0800 80 70 60

floodline
03459 88 11 88

Section 1: About you

Q1. Please tell us if you are responding as an individual or on behalf of an organisation or group.

To help us analyse the responses we receive we'd like to understand more about you and type of business you own, operate or represent.

Please select one answer only from the following options:

- Responding as an individual
- Responding on behalf of an organisation or group
- Other

If you're responding on behalf of an organisation or group, please tell us for whom you are responding.

Mineral Products Association _____

The Mineral Products Association (MPA) is the trade association for the aggregates, asphalt, cement, concrete, dimension stone, lime, mortar and silica sand industries. With the affiliation of British Precast, the British Association of Reinforcement (BAR), Eurobitume, MPA Northern Ireland, MPA Scotland and the British Calcium Carbonate Federation, it has a growing membership of 530 companies and is the sectoral voice for mineral products. MPA membership is made up of the vast majority of independent SME quarrying companies throughout the UK, as well as the 9 major international and global companies. It covers 100% of UK cement production, 90% of GB aggregates production, 95% of asphalt and over 70% of ready-mixed concrete and precast concrete production. In 2016, the industry supplied £18 billion worth of materials and services to the Economy and was the largest supplier to the construction industry, which had annual output valued at £152 billion. Industry production represents the largest materials flow in the UK economy and is also one of the largest manufacturing sectors.

If you selected other, please specify.

Q2. Keeping up to date

The Environment Agency would like to keep you informed about the outcomes of the consultation. If you would like to receive an email acknowledging your response and be notified that the summary of responses has been published please give us your email address below.

Your email address: _____nicola.owen@mineralproducts.org_____

By providing us with your email address you consent for us to email you about the consultation. We will keep your details until we have notified you of the response document publication.

We will not share your details with any other third party without your explicit consent unless required to by law.

You can withdraw your consent to receive these emails at any time by contacting us at:

wastetreatment@environment-agency.gov.uk with the subject "Non-Haz and Inert Waste Guidance".

Q3. Can we publish parts of your response that are not personally identifiable?

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Yes

No

If you do not want us to publish your response, you need to tell us why.

Your text:

Q4. If you operate a permitted waste facility (or facilities), please tell us what kind it is (they are).

As this guidance will apply to a wide range of types of waste facility, it will be helpful to understand the types of facilities operated by respondents. You can provide permit reference numbers if you wish.

Your text:

Our Members utilise waste materials across a wide range of products including the production of recycled aggregates from Construction, Demolition and Excavation Waste (CDEW). Collectively, this makes a significant contribution towards the delivery of government policy ambitions around reducing waste and increasing recycling as part of the wider circular economy agenda.

CDEW facilities are often located in remote areas within existing mineral extraction sites. Indeed, of the total of 721 quarries in England only 1.6% are classed as being in an urban area (based on the OS Classification of 2844 urban areas in GB). Other CDEW facilities will be standalone, occasionally close to areas where building demolition/ regeneration is happening. Most Member sites will be operating under the following authorisations/permits-

Inert and excavation waste transfer stations (no treatment)

Inert and excavation waste transfer stations with treatment

Physical treatment facilities for the production of secondary aggregates

Soil treatment facilities

Registration of exempt facilities which store or treat non-hazardous or inert waste

Appropriate measures to prevent harm to the local environment and human health should be established through a site's Environmental Permit which will be dependent on receptors, associated risk etc. For example, it would be expected that a CDEW recycling facility located within an urban area would require more stringent environmental controls than a site located within an active quarry.

Section 2: Questions on appropriate measures for permitted facilities that take non-hazardous or inert waste

Where there is a free text field, please give as much information as possible to support your answer, including cost/benefit information whenever possible. For example, if meeting a requirement of the guidance would be costly to your business, provide an estimate of the work that would be required at your facility (or facilities), and the likely costs and timescale. If you already meet the requirements of the guidance, please state this and set out any costs and benefits associated with doing so. This will help us to assess the cost-benefit of this guidance and whether and how we should modify its requirements.

Q5a. Management system.

The draft guidance (sections 27 to 44) sets out the standards we expect of management systems.

What are or would be the practical and financial implications of meeting these standards?

Your response:

The majority of permitted sites operated by MPA members will be covered by an existing Environmental Management System such as ISO14001. However, there is a wide range of wastes sites included under this guidance, including low risk exempt activities, and there should be allowances within the guidance to allow the development of procedures appropriate to each type of facility.

Assuming the guidance is applied in a proportionate, risk-based manner that is appropriate to the site-specific circumstances, taking into account local receptors and the risks posed by the activities being undertaken, then the practical and financial implications of meeting these requirements should be delivered through the existing management measures that are in place.

Issues may arise if the guidance is not applied in a proportionate, risk-based manner.

Q5b. Management system.

Please describe any alternative approaches or additions to these standards that we should consider.

Your response:

We are aware that the Environment Agency is also running an informal consultation on draft Climate Adaptation Guidance that will likely apply to some/all of the sites this guidance will also apply to. We would suggest that this is cross referenced in the final guidance that is produced.

There is also EA guidance on Management Systems, it is unclear why separate guidance is required.

Q5c. Management system.

Please identify any parts of these standards that you feel are unnecessary and explain why.

Your response:

No comment

Q5d. Management system.

How do you think meeting these standards would benefit your business, the environment or human health?

Your response:

We do not think the standards being proposed will benefit many of our Member operations. All sites already operate under an Environmental Permit or under an exemption and are therefore regulated by the EA who can issue a variation or undertake enforcement action, should the site specific context require additional controls. Imposing additional burdens through the generic standards being proposed will be damaging to businesses struggling to recover from the economic shock and contribute to the UK building back better.

We are not aware of any current issues relating to human health or the environment that require further, more stringent, industry wide requirements as set out in the guidance to mitigate against.

The need for the new generic standards being proposed is therefore not clear at this time.

Q6a. Accident management plan.

The draft guidance (sections 50 to 72) sets out the standards we expect of accident management plans.

What are or would be the practical and financial implications of meeting these standards?

Your response:

See comments at end of document regarding style of document.

Q6b. Accident management plan.

Please describe any alternative approaches or additions to these standards that we should consider.

Your response:

Guidance on Management Systems is already available on the .gov.uk webpage. It is unclear why separate guidance is required via this document.

Q6c. Accident management plan.

Please identify any parts of these standards that you feel are unnecessary and explain why.

Your response:

It is difficult to understand how some of the proposed security measures (66 & 67) would be appropriate to all inert waste facilities. For example, would the permitted area of the inert waste facility have to be fenced even if it were within a secure extractive site boundary?

Q6d. Accident management plan.

How do you think meeting these standards would benefit your business, the environment or human health?

Your response:

If the guidance is implemented in the spirit it is intended there should be no benefits to the business, the environment or human health. However, if the guidance is applied as a "blanket checklist" this will be detrimental to legitimate business with little or no benefit to the environment as per our response to question 5d.

Q7a. Contingency plan.

The draft guidance (sections 73 to 81) sets out the standards we expect of contingency plans.

What are or would be the practical and financial implications of meeting these standards?

Your response:

Please see our comments at the end of the document.

Q7b. Contingency plan.

Please describe any alternative approaches or additions to these standards that we should consider.

Your response:

No comment

Q7c. Contingency plan.

Please identify any parts of these standards that you feel are unnecessary and explain why.

Your response:

No comment

Q7d. Contingency plan.

How do you think meeting these standards would benefit your business, the environment or human health?

Your response:

No comment

Q8a. Enclosed building.

The draft guidance (sections 177-187) requires that waste treatment activities that are likely to pollute sensitive receptors, or have done so, must be undertaken within an enclosed building, unless the operator can demonstrate that alternative measures are equally effective or better. The draft guidance then explains the requirements for an enclosed building, for example containment with extraction to abatement. Further, it requires that non-treatment activities like loading and unloading are also undertaken in an enclosed building if they produce significant emissions that cannot be controlled by alternative measures.

What are or would be the practical and financial implications of meeting these requirements?

Your response:

As currently presented, the guidance does not just apply to "waste treatment activities that are likely to pollute sensitive receptors" as para 177 states that "for waste treatment activities, we consider this to be the default control measure". It is also difficult to envisage what alternative methods to enclosure within a building might be considered equally effective or better for controlling emissions. This then appears to leave little option but enclosure of all waste treatment facilities as currently written.

For many existing CDEW facilities, requiring enclosure within a building would make them uneconomically viable. There is also the matter of securing planning permission for erecting such a building, which for many rural CDEW sites would be difficult to obtain due to visual impact and proximity to designations such as Green Belt or AONBs. Hence there is a danger of legitimate operations being stymied by a generic requirement to be enclosed under permitting but being prevented from doing so under planning, even though the principle of the land-use is considered to be acceptable.

Moreover there would be little sense in erecting a building around a CDEW facility located within an operational quarry in many cases.

Q8b. Enclosed building.

Please describe any alternative approaches or additions to these requirements that we should consider.

Your response:

We would consider that for the majority of CDEW facilities, enclosure within a building would be inappropriate given their setting relative to any sensitive receptors.

Greater emphasis should be provided in the guidance on the importance of site-specific risk assessment to consider the significance of any impacts arising from the operation, relative to the exposure and sensitivity of any nearby receptors.

Although we appreciate that a risk assessment will be undertaken by the National Permitting Service (NPS) at the time of permitting, our previous experience with the EA in applying guidance would suggest this can often lead to a rigid application of the requirements, when the realities may actually be more nuanced in practice. A 'one-size fits all' approach can therefore lead to lengthy and time-consuming discussions and ultimately unjustified additional burdens where little or no environmental benefit may actually be delivered.

We also have significant concerns about the impact section 179 of the document may have on the use of rail hubs for the storage and transfer of inert waste and recycled aggregates.

A number of rail hub sites, particularly in and around London, play a vital role in supporting the

construction industry, facilitating the movement of waste and materials by rail and reducing transport of these materials by road. A number of these sites are located in Air Quality Management Areas (AQMA) which are designated by the Local Authority often based on the emissions from the road network. Perversely, rail hub sites which can assist in reducing vehicle movements by diverting waste from road to rail are set to be adversely affected and potentially made unviable (both in financial and practical terms) by the draft document due to their perceived negative impact on air quality. A more holistic approach needs to be taken when considering the impact of the draft document. If 'non-treatment activities such as storing and transferring waste' "must" be carried out in enclosed buildings it will be impractical to operate facilities such as rail hub waste transfer stations.

A number of rail hub sites are being developed to support movement of waste and materials either directly relevant to Nationally Significant Infrastructure Projects (NSIPs) or to handle waste and materials diverted due to station closures afforded by the progression of such projects like HS2. The aspects of the draft document relevant to the enclosure in buildings have the potential to significantly delay and add additional, unnecessary further costs to such projects.

There are many other appropriate measures available to operators to mitigate against emissions if there are local receptors, rather than simply defaulting to the enclosure option.

Q8c. Enclosed building.

Please identify any parts of these requirements that you feel are unnecessary and explain why.

Your response:

As already outlined above, for the majority of existing CDEW facilities, enclosure of these operations within a building is likely to be impractical and inappropriate. It will also introduce an additional cost burden on operators, which may render the activities unviable.

Planning permission for any permanent buildings required to house existing operations will have to be sought by the operator. This not only represents a further economic burden, but there is no guarantee the necessary planning permission will be granted.

Given the potential difficulties in securing planning consent and the additional cost burden, it is likely that some facilities may be forced to cease if such a requirement were to be rigidly applied, thereby reducing the capacity to receive and process CDEW into recycled products for use back in construction. This in turn is likely to either increase the amount of material disposed of to landfill, or encourage material to be processed and/or disposed of via illegal operations. The reduced availability of CDEW materials resulting from this reduction in production capacity is also likely to increase the demands for primary aggregates to ensure market demands for construction materials can be met. All these factors represent perverse outcomes given no evidence has been cited that supports the case for environmental or human health benefits arising from a blanket requirement for all CDEW operations to be enclosed.

Q8d. Enclosed building.

How do you think undertaking waste handling activities within an enclosed building would benefit your business, the environment or human health?

Your response:

We do not believe undertaking CDEW handling activities within an enclosed building will benefit our Member businesses, the environment or human health in the vast majority of cases.

The activities are already subject to planning permission, which governs the use of the land, and in most cases environmental permits, to ensure any environmental impacts are appropriately managed and adverse effects mitigated.

Q9a. Waste pre-acceptance, acceptance and tracking.

The draft guidance (sections 86 to 130) sets out standards for waste pre-acceptance and acceptance procedures. In particular, it requires that loads which have not been through pre-acceptance or properly characterised are rejected, except in an emergency or if the facility is a household waste recycling facility. Further, it requires a computerised system to manage waste pre-acceptance, acceptance, inventory and capacity.

What are or would be the practical and financial implications of meeting these standards?

Your response:

See response to Q13.

Q9b. Waste pre-acceptance, acceptance and tracking.

Please describe any alternative approaches or additions to these standards that we should consider.

Your response:

No comment

Q9c. Waste pre-acceptance, acceptance and tracking.

Please identify any parts of these standards that you feel are unnecessary and explain why.

Your response:

No comment

Q9d. Waste pre-acceptance, acceptance and tracking.

How do you think meeting these standards would benefit your business, the environment or human health?

Your response:

No comment

Q10a. Emissions inventory and monitoring.

The draft guidance (sections 254 to 259) includes a requirement for an inventory of point source emissions to air and water, and that monitoring is undertaken to demonstrate the effectiveness of abatement of point source emissions. Further, it requires that monitoring should be undertaken where fugitive dust/particulate pollution at sensitive receptors is likely or has occurred.

What are or would be the practical and financial implications of meeting these standards?

Your response:

See response to question 13.

Q10b. Emissions inventory and monitoring.

Please describe any alternative approaches or additions to these standards that we should consider.

Your response:

No comment

Q10c. Emissions inventory and monitoring.

Please identify any parts of these standards that are unnecessary and explain why.

Your response:

No comment

Q10d. Emissions inventory and monitoring.

How do you think meeting these standards would benefit your business, the environment or human health?

Your response:

No comment

Q11. Other omissions.

Are there any omissions from the draft guidance that you have not already described? If so, please suggest how the guidance should be changed to address them.

Your response:

See response to Q13

Q12. Unnecessary requirements.

Are there any requirements in the draft guidance that you feel are unnecessary, and that you have not already discussed? If so, please identify them and explain why they are unnecessary.

Your response:

No comment

Section 221 - we do not see the benefit in submitting a Noise Impact Assessment that uses a different BS standard to that normally required to be submitted as part of a planning application. This has been highlighted to the Environment Agency before.

Q13. Further comments.

Please provide any other comments you wish to make about the draft guidance.

Your response:

MPA support the raising of standards across the waste management sector and our Members understand the main purpose of this consultation is to do just that. However, we have concerns about the consultation process and the way in which the guidance (as currently framed) could be interpreted by EA officers on a case by case basis.

We are concerned that the draft document attempts to cover all inert waste and non-hazardous waste facilities under a single guidance document. The style, wording and content of the requirements reflect BAT requirements. The EU Commission's implementing decision establishing BAT conclusions for waste treatment (EU 2018/1147) provides the reference for setting permit conditions for installations and prescribes specific activities to which, and thresholds above which, the conclusions apply. BAT for waste treatment activities was clearly not intended to apply, across the board, to all non-hazardous and inert waste facilities.

The guidance for non-hazardous and inert waste facilities should be separated, as there can be huge differences in the potential risks associated with non-hazardous waste management sites, such as a household waste recycling centre, compared to inert waste facilities treating CDEW. The text is very focused on the types of activities at which higher levels of controls are likely to be necessary and there is the risk that the same levels of control will be expected for all activities covered by this guidance regardless of the outcomes of site specific risk assessments.

If all the measures presented within the guidance are applied to all non-hazardous and inert waste sites there will be a substantial adverse economic impact on the sector. It is also likely that the capacity to receive and process waste will be reduced, given a number of sites are unlikely to be able to comply with the requirement to enclose their operations. In turn, this would increase the amount of waste that needs to be disposed of to landfill, and would also remove an important source of construction material from the market which would have to be replaced by alternative materials - most likely from primary sources. Such an effect may also drive an increase in illegal disposal practices.

Given the points above, we would suggest that a Business Impact Assessment, alongside a pre-consultation to understand the potential consequences of the appropriate measures listed, should have taken place prior to the release of the consultation. MPA welcome pre-consultation discussions and in the majority of cases we are in discussion with regulators over the various different types of sites and activities our Members operate. The introduction/ revision of guidance for appropriate measures for a series of waste streams was obviously a planned set of work and so pre-consultation/ advanced warning could have been factored in. This would have been advantageous given the short consultation period. Also, many businesses may require more time to prepare a response whilst operating during a pandemic. Pre-consultation discussions can enable issues that could put many operators out of business to be resolved prior to formal consultation, such as requiring all waste facilities to be enclosed.

Any review of guidance that has the potential to impact the availability of recycled aggregates for the construction market, however minor, should be discussed with both industry and the Planning Officers Society minerals group who represent the local government function responsible for delivering a 'steady and adequate' supply of minerals in accordance with national policy. Currently MPA Members assist in the

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annual production of 51MT of recycled aggregates for use in the construction industry. This equates to around 30% of all aggregate demand (UK). It is not just the potential economic impact of applying the guidance but also the impact it could have on the wider circular economy.

We understand that the Guidance provides BAT and is intended to provide a starting point for discussion with regulators when determining the appropriate measures to be applied on a site. However, apart from the first page of the guidance it does not read this way.

The NPS is already struggling with its' workload and we have been in regular communication with the waste permitting team for a number of years. It is not clear how the NPS will implement the guidance or if they have the resources to do so. Operators require further evidence that the guidance will be interpreted and applied in the spirit it is intended, perhaps through workshops or worked examples. This will demonstrate that it will be used as intended rather than a blanket approach of BAT as listed applied to the whole sector. Similarly, we understand that the NPS has a strategy for reform to reduce the backlog and to stream line processes to improve performance. We would question how this guidance fits with the NPS strategy. Similarly, while the environmental permitting system is intended to be risk based, the guidance states that "the appropriate measures in the guidance will apply to all permitted waste management facilities in the sector, whether operating under an installation or waste operation permit" is at complete odds with that.

The guidance is unclear on how it will be implemented for currently operating sites and whether these standards are to be applied retrospectively- further guidance on this is required. For applications currently being determined, these should be subject to the standards in place at the time of duly making timescales given for those sites already operating.

Finally, we would question why the sector should go through a permit review to retrospectively apply the guidance when there have been very few EA led variations to existing permits or enforcement action the established routes available to the Agency by which site specific problems may be addressed. This indicates that there is not a demonstratable problem with the operation of CDEW sites in general. It is therefore unclear what the perceived environmental benefit would be. An impact assessment should be undertaken to test if the perceived benefits outweigh the predicted costs prior to its introduction.