



Department
for Environment
Food & Rural Affairs

Consultation on the reform of waste carrier, broker, dealer registration in England

21 January 2022



© Crown copyright 2019

This information is licensed under the Open Government Licence v3.0. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/

This publication is available at www.gov.uk/government/publications

Any enquiries regarding this publication should be sent to us at

wastecrime.consultation@defra.gov.uk

www.gov.uk/defra

Contents

Introduction	5
1. Purpose of the consultation	6
2. Geographic extent and definitions	6
3. Audience.....	7
4. Responding to this consultation	7
5. Duration	8
6. After the consultation	8
Reforming the Carrier, Broker, Dealer regime	9
Our approach to reform	9
Terminology around Carriers, Brokers and Dealers	10
The case for action.....	10
Our proposals.....	10
The move to environmental permitting	13
The case for action.....	13
Our approach	13
Our proposals.....	14
Who will be required to hold a permit?.....	15
Devolved administrations.....	15
Permit types: Transporter and Controller permits	15
Applying for a standard rules permit and the conditions of the permits.....	17
Conditions of the permits	18
Advertising.....	18
Renewal/reviews.....	19
Charging	21

Enforcement	22
The link to electronic waste tracking	22
Exemptions from a requirement to operate under a permit	23
Our proposals	23
Implementation.....	30
Demonstrating competence for permitted activities	31
The case for action.....	31
Our proposals.....	31
Competence requirements	32
What do we mean by technical competence?	32
Development of the competence framework	32
Who would be required to demonstrate competence?.....	33
How would businesses demonstrate competency through the workforce.....	33
Transition period for the introduction of competence requirements	35
Ongoing competence.....	36
How will technical competence be monitored and enforced?	37
The link to Duty of Care.....	39
Waste Holders	39
Householders	39
Our proposals	39
Waste exporters.....	41
The Case for Action.....	41
The principles of a permitting framework for waste exporters	42
Key principles.....	42
Benefits	42

Introduction

This proposal would update key regulations for people and businesses involved in transporting and managing waste. It will modernise the approach and create an effective and predominantly online system, making it easier to use and providing stronger powers to fight waste crime.

The current carriers, brokers and dealers (“CBD”) regime¹ requires any person or business that transports waste, buys and sells waste, or arranges the transportation of waste in England to be registered with the Environment Agency.²

- A waste carrier is someone who transports controlled waste (waste that is subject to legislative control in either its handling or disposal) as part of their business.
- Waste brokers arrange for other businesses’ controlled waste to be handled, transported, disposed of or recovered.
- Waste dealers take waste from other businesses to sell on. Waste may be exported outside of the UK for further treatment, recovery and recycling but is prohibited from disposal in most cases. If a carrier is registered with the relevant agency in England, Wales or Scotland, they can carry waste across the borders of these three nations.

There are two tiers for registration. If a person or business only carries waste produced by their business (except construction or demolition) they can register at the lower tier. If they carry others’ waste, or construction or demolition waste, or act as a broker or dealer, they are classed as upper tier.

The cost of waste crime to the English economy in the 2018/19 financial year has been estimated at £924 million; scaled up to UK-level, the cost is estimated to be a little over £1 billion³. The main costs are lost business revenues to the legitimate waste companies, loss of Landfill Tax through misclassification of waste and costs to government of clearing abandoned waste sites and fly-tipping.

The Independent Review into Serious and Organised Crime in the Waste Sector in 2018 highlighted “the extent to which waste is handled by an increasing number of, often opaque, intermediaries”. It recommended that “Registration and duty of care requirements for carriers, brokers and dealers should be reformed (including in relation to hazardous waste)”⁴. This document is about reforming the waste carrier, broker, dealer registration

¹ <https://www.gov.uk/register-renew-waste-carrier-broker-dealer-england>

² The Control of Pollution (Amendment) Act 1989 and the Waste (England and Wales) Regulations 2011

³Counting the cost of UK Waste Crime, 2021, commissioned by the Environmental Services Association and written by Eunomia. http://www.esauk.org/application/files/3716/2694/1872/ESA_Cost_of_Waste_Crime.pdf

⁴ Recommendation 7- Independent report Serious and organised waste crime: 2018 review; commissioned by Defra

system in England to ensure that controlled waste in England is moved or traded by authorised persons and in a safe manner. **Householders disposing of their own waste are not in scope of these proposals.**

1. Purpose of the consultation

In 2018, the Resources and Waste Strategy⁵ set out the Government's commitment to improve the transport, management, and description of waste by reforming regulations for duty of care, carrier/broker/dealers, hazardous waste and international waste shipments.

We have since worked with the regulators to build upon the proposals from the waste industry to reform the CBD regime which are part of a wide-ranging ongoing review of the waste legislation framework across a number of regimes. **We are seeking further views from the waste industry and other stakeholders on the proposals.**

This consultation seeks views on:

- The move from a registration to a permit-based system and the types of permits available
- What activities should be covered by permits, what should be covered by registered exemptions and what activities should not require either a permit or registered exemption
- The introduction of a technical competence element required for permits; the level required and how it can be demonstrated through the workforce

This consultation and themes within it are closely linked to the introduction of an electronic waste tracking service. Subject to consultation, electronic waste tracking will be introduced across the devolved administrations. Together these measures will ensure all businesses will be made more accountable for the waste they handle. It also links to further reforms within the international waste shipment system which are due to be consulted on in 2022/23.

2. Geographic extent and definitions

This document and descriptions of law relate to England only.

References to “the regulators” or “regulators” are references to the Environment Agency (EA).

⁵

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765914/resources-waste-strategy-dec-2018.pdf

Unless otherwise stated, “the government” or “we” are references to the UK Government.

3. Audience

This consultation is primarily (but not exclusively) aimed at:

- Waste carriers
- Waste brokers
- Waste dealers
- Local authorities
- Waste producers
- Relevant professional and membership organisations
- Consultants operating in the waste and resources sector

As these proposals extend to all operators in the waste transportation industry, this consultation will also be of interest to all businesses across England that hold an environmental permit for waste operations or who operate under a registered exemption from the permitting system.

4. Responding to this consultation

Please respond to this consultation in one of the following ways:

Online using the citizen space consultation hub at Defra: <https://consult.defra.gov.uk/>

For ease of analysis, responses via the Citizen Space platform would be preferred, but alternative options are provided below if required:

By email to: wastecrime.consultation@defra.gov.uk

Or in writing to:

Consultation Coordinator- CBD reform
Waste Regulation and Crime
Defra
2 Marsham Street
Westminster
London SW1P 3JR

5. Duration

This consultation will run for 12 weeks. This is in line with the Cabinet Office's 'Consultation Principles' which advises government departments to adopt proportionate consultation procedures.

The consultation opens 21 January 2022

The consultation closes 15 April 2022

6. After the consultation

After the consultation, a summary of the responses to this consultation will be published and placed on the government website at www.gov.uk/defra

The summary will include a list of names and organisations that responded but not personal names, addresses or other contact details. However, information provided in response to this consultation document, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes e.g. Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998.

If you want information, including personal data that you provide to be treated as confidential, please say so clearly in writing when you send your response to the consultation why you need to keep these details confidential. If we receive a request for disclosure under the FOIA, we will take full account of your explanation, but we cannot provide an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as a confidentiality request.

This consultation is being conducted in line with the "Consultation Principles" as set out in the Better Regulation Executive guidance which can be found at <https://www.gov.uk/government/publications/consultation-principles-guidance>.

If you have any comments or complaints about the consultation process, please address them to:

By e-mail: consultation.coordinator@defra.gov.uk, or in writing to:

Consultation Coordinator – CBD reforms
Defra
2nd Floor
Foss House, Kings Pool
1-2 Peasholme Green
York, YO1 7PX

Reforming the Carrier, Broker, Dealer regime

Our approach to reform

The Resources and Waste Strategy⁶ set out the Government's commitment to improve the transport, management, and description of waste by reforming various regulations including those for waste carriers/brokers/dealers.

Reform of the CBD regime intends to ensure that only **appropriate people are in control** of waste.

Our approach focuses on:

- Making sure that people involved in moving waste follow the rules.
- Linking effectively with electronic waste tracking to allow **more effective accountability**
- **Setting the right requirements and standards** for becoming a carrier, broker or dealer to enable greater confidence in the credibility of the CBD regime and reduce opportunities for waste criminals to exploit the current weaknesses in the regime
- **Ensuring carriers, brokers and dealers are competent**, that they understand their responsibilities and the role they need to play in securing compliance and preventing waste
- Providing greater **flexibility for enforcement**

6

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765914/resources-waste-strategy-dec-2018.pdf

Terminology around Carriers, Brokers and Dealers

The case for action

The CBD regime, in combination with the waste duty of care and hazardous waste regulations⁷, governs the responsibilities of those involved in the movement of waste. The main responsibilities are:

- Classifying waste
- Deciding where waste is taken
- Transporting waste
- Ensuring records are kept

These responsibilities do not neatly map across to the existing carrier, broker and dealer terminology, leading to two related issues:

- A broker may arrange the classification of waste and decide where waste is to be taken, but **not transport it themselves**. This can present a barrier to holding brokers to account for their involvement in illegal activity.
- A carrier may just transport waste as instructed to by a broker or producer, or they may also take on the role of classifying it and determining where it is to be taken. These are **two discrete roles** and having them covered by one term contributes to the issues with attributing accountability to those taking decisions on the classification and fate of the waste.

Our proposals

We propose simplifying the current terminology of waste carriers, brokers and dealers to two distinct roles:

- The waste **transporter** who physically transports waste as instructed but **does not classify it** or decide its destination.
- The waste **controller** who takes responsibility for classifying waste and deciding where it is taken, and then arranges for a transporter to carry out the physical transportation.

These 'new' roles of controller and transporter will **properly link responsibility for the waste to those taking decisions on its fate**. In particular, it avoids the situation where a

⁷ The Hazardous Waste (England and Wales) Regulations 2005

broker is taking the decisions on the movement of waste but are a step removed from accountability for that waste, as they will be acting as a controller and will be recognised as such.

If a business was authorised to carry out both the waste transporter and waste controller roles they could:

- classify waste (if qualified to do so) and decide where it is to be taken, and then physically transport that waste themselves (as many “waste carriers” do now);
- act as a transporter with decisions on the classification and destination taken by a separate qualified party; or
- act as a waste controller and delegate the act of transporting to another operator.

The role each body was taking in relation to any particular waste movement and transfer will be recorded on the electronic waste tracking service, and this links to the responsibility of ensuring records are kept.

There will also be regulations made to amend the definition of waste operation/operators to include waste transporters and waste controllers.

Anyone who is a dealer under the old system would be a controller under the new system, unless they have an exemption (see page 23 for section on exemptions)

Q1 We think that assigning legal responsibilities for managing and transporting waste to ‘controllers’ and ‘transporters’ rather than ‘carriers, brokers and dealers’ better reflects the way the waste and resources industry works. Do you agree or disagree?

- a) Agree
- b) Disagree
- c) Don’t know/No opinion

If you disagree, please explain why and, if possible, suggest alternative approaches that would better reflect the structure of the industry.

Q2 We think that assigning legal responsibilities in this way will enable us to regulate the management and transport of waste more effectively. Do you agree or disagree?

- a) Agree
- b) Disagree
- c) Don’t know/No opinion

If you disagree, please explain why and, if possible, suggest alternative approaches that would achieve this goal more effectively.

Q3 We believe assigning responsibilities in this way will help ensure that all waste handlers are held accountable for any mismanagement that occurs. Do you agree or disagree?

- a) Agree
- b) Disagree
- c) Don't know/No opinion

If you disagree, please explain why and, if possible, suggest alternative approaches that would achieve this goal more effectively.

The move to environmental permitting

The case for action

The **current registration system**⁸ does not allow individuals to register solely as a carrier or a broker or a dealer. Brokers and dealers often play a key role in the description and management of high priority wastes but can operate almost out of sight of the regulator. In addition, anyone can set up and register as a CBD without any check on their competency or background.

The current **lack of identification of waste carrying activities** makes it harder for regulators to target high risk waste operators properly.

Current enforcement options around the CBD regime are limited.

The EA can only refuse or revoke registrations if both of the following criteria are met:⁹

- the applicant/registered person or another relevant person has been convicted of a relevant offence; and
- if in their opinion, it is undesirable for the applicant or currently registered carrier/broker/dealer to continue to be authorised to act as a carrier or broker of, or a dealer in, controlled waste.

The CBD regime is not part of a common framework for waste regulation and is therefore not effective for the regulator or customer. The regime does not differentiate between small and large players or the risks posed by the types and quantities of waste handled or managed by them. This is at odds with the other regulatory waste regimes which aim to deliver proportional charges and regulatory effort. As a result CBD compliance and enforcement work has become reactive rather than proactive, and often only occurs following enforcement activity for other reasons.

Our approach

We propose to bring the CBD regime under the Environmental Permitting (England and Wales) Regulations 2016 (“EPRs”). This has several benefits:

- The EPRs have different tiers that provide risk based and proportionate regulation. We would use these tiers for CBD regulation, giving the flexibility to apply the right level of regulation to different types of activity.
- The EPRs provide for a wider range of regulatory tools including conditions that can be placed on permits and more options for enforcement.

⁸ Control of Pollution (Amendment) Act 1989 and the Waste (England and Wales) Regulations 2011.

⁹ The Waste (England and Wales) Regulations 2011

- Bringing CBD under the EPRs would allow regulators to make an active decision about any potential operator at application stage.
- Because there is a fee associated with a permit, the Environment Agency will be funded for compliance monitoring activities, which will further strengthen the regulatory framework.
- This would bring the CBD regime into the framework of assessment and enforcement already used for waste sites and with which the industry is already familiar.

Our proposals

Existing registrations would be replaced by a “standard rules” permit (referred to as a ‘waste transporter permit’ and a ‘waste controller permit’) or a registered exemption. The framework would be made up of several standard rules permits, each for a different type of operation.

As well as permits, we are considering allowing some activities to be carried out without a permit, provided the operator registers with the Environment Agency (and the activity is carried on in accordance with conditions set out in the Regulations). This is referred to as a ‘registered exemption’ and ensures we are regulating waste properly, whilst not placing unnecessary burdens on people or businesses.

We expect that, broadly, those who are currently registered as upper tier under the existing regime will require a permit and those who are currently lower tier will be required to register an exemption.

There may be some situations where the requirement to apply for a permit or register an exemption may not be necessary at all. This is referred to as a ‘non-registered exemption’ and we cover this, and registered exemptions in the section ‘Exemptions from a requirement to operate under a permit or exemption’ on Page 23.

This combination of permits and registered exemptions will create a system like to the current upper and lower tiers of CBD registration, but framed in the terms of the stronger environmental permitting system.

The Core Guidance for environmental permitting explains the concepts used in the EPR and gives guidance as to how it will work in practice.¹⁰

¹⁰ Environmental permitting: Core guidance March 2020

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/935917/environmental-permitting-core-guidance.pdf

Who will be required to hold a permit?

The new transporter and controller permits must be held by the legal operator of the waste classification, management and/or transportation operations. The legal operator must be a legal entity¹¹ that can be held responsible for the permit and accept liability, as is the case for permitted sites.

The legal operator would:

- have day-to-day control of the operation/waste movements/transactions, including the work carried out
- make sure permit conditions are complied with
- decide who holds important staff positions and have staff who do not meet competence requirements removed, if required

A permit application can be refused if the Environment Agency does not consider the applicant to be the operator. If an operation is actually being controlled by someone else, the permit can be revoked and other enforcement action taken.

Devolved administrations

Waste is transported around Great Britain without administrative barriers. If a waste carrier registers in England, they can operate in Scotland and Wales without the requirement to register in each nation, and vice versa. Northern Ireland has its own separate system.

Our intention is that operators will only need to apply for a permit or register an exemption in their principal place of business, and devolved regulators will continue to co-operate with one another on enforcement.

Permit types: Transporter and Controller permits

To reflect the wide range of activities carried out by waste carriers, three different types of permits are proposed.

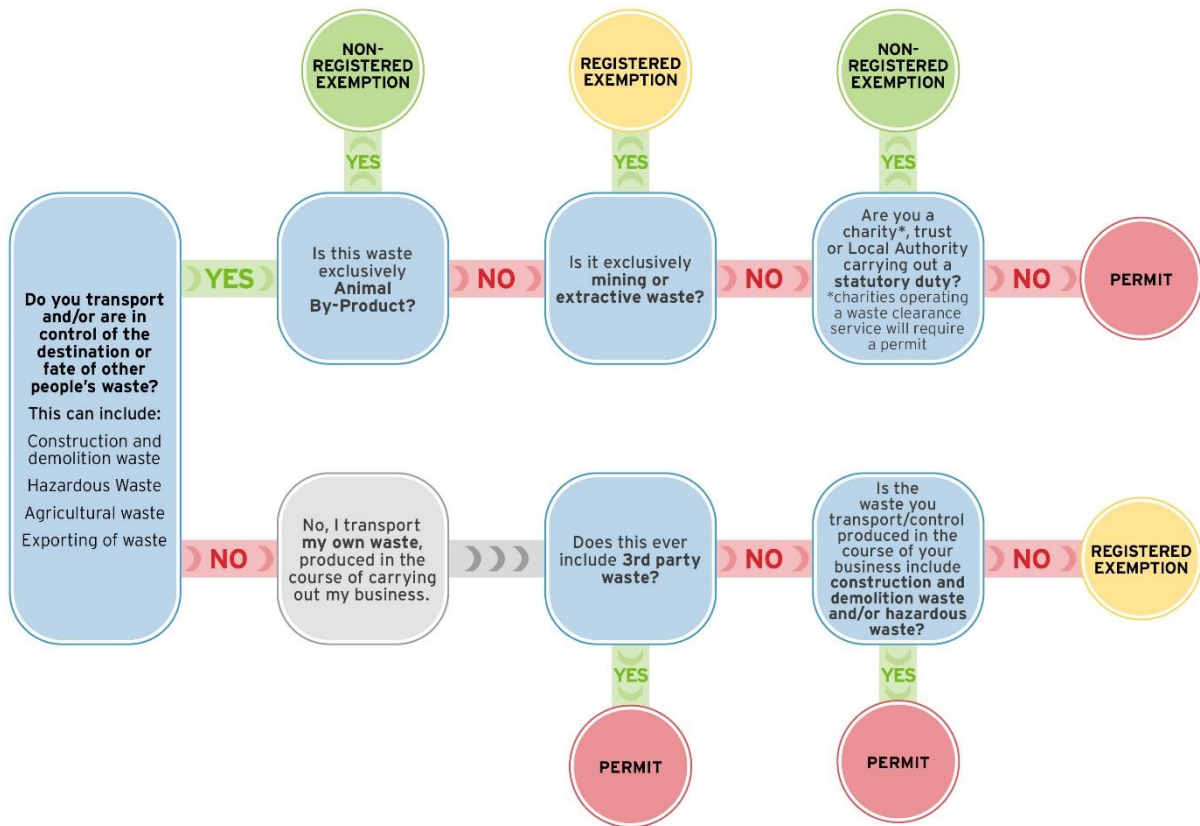
Transporter only - A transporter permit will be required for any operator that moves waste in a professional capacity and **does not make decisions** on the classification or fate of the waste. This would include, for example, carriers that work only as hauliers of waste, where the waste is just a material they have been paid to move under direction.

Controller only – A controller permit will be required for those **that make decisions** on the fate of waste produced by others. This will include brokers and dealers.

Both Transporter and Controller - For operators that do both.

¹¹ a company or organization that has legal rights and responsibilities, for example the right to make contracts and the responsibility to pay debts. All companies whose affairs are regulated by the Corporation Act are legal entities.

Diagram 1 below shows where an operator might fall under the proposals, based on their business activities:



Q4 Do you agree or disagree with our proposal to bring the current CBD regime under the environmental permitting regulations?

- a) Agree
- b) Disagree
- c) Don't know/No opinion

If you disagree, please explain why and, if possible, suggest alternative approaches that would achieve our ambitions more effectively.

Q5 Do you agree or disagree with our proposal to introduce three types of permit – controller only, transporter only and combined controller/transporter?

- a) Agree
- b) Disagree
- c) Don't know/No opinion

If you disagree, please explain why and, if possible, suggest alternative approaches that would achieve our ambitions more effectively.

Q6 Do you agree or disagree that standard rules permit types should be differentiated according to the activities to be carried out under the permit i.e. controller/transporter/both?

- a) Agree
- b) Disagree
- c) Don't know/No opinion

If you disagree, please explain why and tell us how you think they should be defined

Q7 If you disagree with our proposal, how do you think the standard rules permits should be differentiated?

- a) by size/number of vehicles
- b) by number of staff
- c) by type of waste
- d) they should not be differentiated – there should be a single type of permit
- e) don't know/no opinion
- f) other – please explain

Applying for a standard rules permit and the conditions of the permits

The procedure and checks for applying for a permit will be similar to the existing system for site-based permitting.¹² We expect it to be automated which will make applying simpler and more efficient. All applicants will need to provide the required information, which will be dependent on the permit they are applying for. All applications will need to provide details of the legal entity.

Applicants for permits will need to provide evidence of appropriate technical competence (see the section on 'Demonstrating competence for permitted activities' page 31 for further details). Applicants will need to confirm they have an appropriate procedure for ensuring all individuals who will operate under the permit are competent and will abide by the permit conditions. This will be verified through compliance checks. An application can be kept confidential if appropriate.

The regulator will not grant a permit to anyone it considers will not be the operator of that business or will not operate in accordance with the permit. This may include people who have not followed permit conditions in the past or appear unlikely to follow permit conditions, and those with more serious and unspent criminal convictions.

¹² [Environmental management : Environmental permits - detailed information - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/topics/environmental-management)

Conditions of the permits

To develop the permit conditions, we propose to add a new schedule into the existing EPRs. This will outline the Environment Agency's obligations and what outcomes they must deliver by exercising their relevant functions, which will then translate into permit conditions for waste transporters and controllers.

It is a legal requirement for the Environment Agency to **consult separately** on permit conditions as part of their Standard Rules consultation. The details of the permits and their requirements will be finalised following that.

We are considering what the key elements of the Schedule and the key conditions of environmental permits under that Schedule will be, but they are likely to include:

- Which activities are permitted and any relevant conditions associated with that activity (e.g. for waste transporter permits there would be conditions around transporting the waste securely)
- Keeping relevant records
- Compliance with the waste hierarchy
- Transporting / controlling waste in a way which does not endanger human health or harm the environment
- Compliance with relevant technical competence requirements (see page 31 for the section on demonstrating competence)
- Payment of any fees
- Requirement to tell the Environment Agency if certain details change (trading names, insolvency etc.)
- Requirement to notify the Environment Agency in event of incident / accident that significantly affects the environment

An example of what a Transporter standard rules permit might look like is provided in **Annex 1**.

Advertising

The Environment Agency is currently working with social media/online selling platforms to ensure existing CBD registration numbers are displayed in online adverts, but there are no legal requirements for waste carriers to show proof of registration on advertising or in any vehicles. This makes it harder for customers to be sure they are giving their waste to a legitimate operator. We are considering whether it should be a requirement for all

transporters/controllers to show their permit number on both advertising and in business vehicles (or available on request for ships for example), so those using their services can cross reference the number with the public database and/or the waste tracking service. Making it a requirement to show permit numbers on advertising would also allow the Environment Agency to carry out desktop compliance work and investigate businesses showing incorrect or fraudulent permit numbers in their advertising.

Q8 Do you agree or disagree that it should be a permit condition to show a permit number on advertising?

- a) Agree
- b) Disagree
- c) Don't know/No opinion

Please briefly explain why you agree or disagree.

Q9 Do you agree or disagree that it should be a permit condition to clearly display permit numbers on any vehicle used for the collection and transport of waste?

- a) Agree
- b) Disagree
- c) Don't know/No opinion

Please briefly explain why you agree or disagree.

Q10 Do you agree or disagree that these measures would help improve Duty of Care compliance?

- a) Agree
- b) Disagree
- c) Don't know/No opinion

Please briefly explain why you agree or disagree.

Renewal/reviews

Unlike current upper-tier CBD registration, the EPR legislation does not make provision for permit renewals; once permits are issued, they remain in place until they are surrendered, revoked or a variation is applied for.

There may be a case for introducing permit renewals for controllers and transporters. This is because transporters and controllers differ from waste site operators in that their business models can vary more over shorter periods of time. They can be more fluid in terms of operation size (vehicles, staff, market fluctuations etc) and change the amounts and types of waste they deal with more easily.

We propose to do this by building a 'self declaration' aspect into the system. This would allow permit holders to declare they are still meeting the conditions of their permit, and that their required technical competency is up to date. If details are not up to date then operators could be in breach of permit.

If renewals are built into the system, at any potential renewal stage, the conditionality introduced by the Finance Act 2021¹³ may require a check on tax for those renewing a permit/licence. Although waste carriers, brokers and dealers are not currently within scope of that legislation, the government has previously said it is considering introducing tax conditionality for them as an effective means of encouraging licence holders to register for tax which is something Defra would support. Conditionality aims to improve tax compliance by helping applicants for certain public sector licences better understand their tax obligations and by making access to the licences they need to trade conditional on completing a tax check. Defra and HMRC will continue to collaborate on this.

More information about tax conditionality can be found at:

<https://www.gov.uk/government/publications/new-tax-checks-on-licence-renewal-applications-in-england-and-wales/new-checks-on-license-renewals-for-taxis-and-private-hire-vehicles>

Q11 Do you agree or disagree that a renewal element should be built into the transporter/controller permitting system?

- a) Agree
- b) Disagree
- c) Don't know/No opinion

If you disagree, please explain why.

Q12 Do you agree or disagree that with our proposal to implement permit renewal through self-declaration process?

- a) Agree
- b) Disagree
- c) Don't know/No opinion

If you disagree, please explain why and, if possible, provide alternative options for implementing renewal.

Q13 If we introduce permit renewal, how frequently do you think permits should be renewed?

- a) annually

¹³ [Finance Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/acts/2021/1)

- b) every 2 years
- c) every 3 years
- d) every 5 years
- e) Some other frequency (please specify)
- f) Don't know/no opinion

Charging

Charges will be set in line with the existing legislative charging framework for Environmental Permitting. Application fees will cover the cost of determining an application, and subsequent annual subsistence charges cover the costs of monitoring compliance with permits. Detail about assumed levels of charges are in the Impact Assessment published alongside this consultation. Current indications are that charges will be in the range of the current higher tier registration fee. **The Environment Agency will be consulting on the associated charges separately.**

Charge rates will reflect the different regulatory tiers and types of activity in the permitting framework. More complex tiers and activities can expect to pay more than those with simpler permits due to the increased regulatory scrutiny required.

Q14 Do you agree or disagree that subsistence charges should align with charges under the Environmental Permitting Regulations to fund the same range of regulatory activity?

- a) Agree
- b) Disagree
- c) Don't know/No opinion

If you disagree, please explain why and, if possible, provide alternative options.

Enforcement

The CBD regime is currently regulated under the Control of Pollution (Amendment) Act 1989 and the Waste (England and Wales) Regulations 2011. This presents a number of limitations with limited powers available to the regulator to enforce registration requirements and revoke registrations, and the absence of legislative powers to address these limitations.

The Pollution Prevention and Control Act 1999¹⁴ and the [Environmental Permitting \(England and Wales\) Regulations 2016](#)¹⁵ (“EPRs”) made under it provide an alternate model to the existing CBD regime.

The EPRs specify which activities require an environmental permit. We would amend the EPRs and add ‘waste transporter’ and ‘waste controller’ definitions in Part 1 of the EPRs. Other necessary, consequential amendments will also be made to regulations.

Permit costs are for the application and subsistence of the permit and do not cover enforcement activity. They cover compliance monitoring such as:

- Roadside stop checks
- Integrated inspections
- Audits

Enforcement work is covered by EA’s ongoing Grant in Aid funding.

[Part 4](#)¹⁶ of the EPRs details the enforcement and offences available under EPR. Further to this, fixed and variable penalties which are not currently in EPR regime are due to come into EPRs as part of future reforms.

The link to electronic waste tracking

Once waste tracking service is introduced (subject to consultation and approval), users will be required to enter information to validate they are permitted or have registered an exemption. It will therefore not be possible for a waste transporter to legitimately take waste to or from producers or sites, or for a waste controller to arrange that, without being appropriately authorised.

Annex 2 outlines the possible offences in relation to Transporter/Controller permits and Waste Tracking

¹⁴ <https://www.legislation.gov.uk/ukpga/1999/24/contents>

¹⁵ <https://www.legislation.gov.uk/uksi/2016/1154/contents/made>

¹⁶ <https://www.legislation.gov.uk/uksi/2016/1154/part/4>

Exemptions from a requirement to operate under a permit

Our proposals

We recognise some activities are lower risk and so will not warrant a standard rules permit. We believe that some of these activities should require an exemption to be registered while others are so low risk that even a need to register would not be proportionate. We therefore propose that Transporter/Controller activities fall under one of these three categories:

- Requirement to apply for a standard rules permit
- Requirement to register an exemption
- A non-registered exemption

Annex 3 provides a summary of a range of activities and whether we propose they require a permit, a requirement to register an exemption, or if we consider that activity should be fall under a non-registered exemption. It should be noted that **householders are not in scope** of these proposals and will not require a permit or to register an exemption when carrying of and/or disposing of their own waste. They do however have to comply with their duty of care requirements (see page 39).

We seek views on the **following scenarios** in particular:

a) Charities/Voluntary Groups operating a **non-profit service**

Current situation - lower tier

Proposal - non-registered exemption

b) Waste disposal and collection authorities (including local authorities) **operating within their statutory remit**

Current situation - lower tier

Proposal – non-registered exemption

Waste collection, disposal or regulation authorities, and charities and voluntary organisations are already trusted to transport waste without meaningful oversight and are either meeting a statutory duty or providing a charitable service. Any material that charity shops receive that has been donated for re-use would not normally be regarded as waste unless and until the decision is taken that it is not suitable for re-use. If that decision is made by the charity after the item is in the possession of the charity, it can handle the

material as their own waste and would not need to be authorised under an exemption. In addition, the introduction of electronic waste tracking should capture the waste transactions and movements of this waste. We therefore propose **removing the requirement to register an exemption** for these groups.

- c) Charities operating a chargeable, commercial service; and waste disposal and collection authorities operating on a **commercial basis**

Current situation - upper tier

Proposal - relevant standard rules permit

For local authorities providing waste collection services **beyond** their statutory duty, e.g. on behalf of other authorities, or providing a commercially charged service to businesses, it is appropriate that they obtain a full permit in order to maintain a level playing field between them and the private waste companies they are competing with. Similarly we consider charities that offer a commercial payable service, such as house clearances, should be required to operate under a permit.

- d) Someone who transports waste produced **by themselves**, in the course of their business, **where that waste is construction/demolition waste** and/or the **waste is subject to a higher level of control** (e.g. hazardous waste)

Current situation - upper tier

Proposal - relevant standard rules permit

For example, a builder removing rubble from a job they've undertaken at a household.

We consider these activities will require a permit. For construction and demolition waste, this is because it is more likely than other types of waste to be disposed of inappropriately. For wastes subject to higher levels of control, this is due to the potential for serious harm to be caused.

- e) Someone who transports waste produced **by themselves**, in the course of their business, where that waste is **not** construction or demolition waste and/or the waste is **not** subject to higher levels of control.

Current situation - lower tier

Proposal - registered exemption

This scenario covers those who produce low levels of waste because of going about their business.

For example, a plumber is asked to do some work to fix some pipework and fit a new radiator for a person/business. To do that, they take on site his tools, metal pipes, soldering equipment and some rags. During the job they uses their rags to clear up some

dirty water and they create offcuts of the pipework they brought onto site to fix the pipe. This is **their own waste** and therefore they are effectively only removing waste from materials they brought to the job themselves.

These activities are lower risk, yet those in control of their waste still have a responsibility to ensure it is properly handled and disposed of. To keep controls proportionate, it is proposed that those transporting only waste produced by themselves just need to register for an exemption, rather than apply for a permit. However, if this waste includes either construction and demolition waste (given the high prevalence of fly-tipping of those materials) or waste subject to higher levels of control (given the higher risks associated with its mismanagement), then we consider they will require a permit.

For this scenario and scenario f) below we are also asking whether there is sufficient distinction between these activities to justify different treatment, and if there isn't, what level of regulation would be appropriate.

For this scenario and scenario f) below we are also asking whether there is sufficient distinction between these activities to justify different treatment, and if there isn't, what level of regulation would be appropriate.

- f) Someone who **removes any third party waste** produced in the course of their business

Current situation - upper tier

Proposal - relevant standard rules permit

This scenario is an extension of e) with the addition of someone removing third party waste i.e. waste created from materials that they have not brought onto the site themselves.

Using the example of the plumber, after they fit the new radiator they offer/or the client asks them to dispose of the old radiator for them. This isn't the plumber's waste. They have completed the work they were hired to do without the need to dispose of this as part of the service. By removing it, the plumber is now acting as a waste contractor, and providing a waste management service to that customer (even if only secondary to the main service).

We consider that this should be a permitted activity under the new regime, but with a proportionate level of competence. (see 'Demonstrating competence for permitted activities' section page 31). This is to ensure that the person handles the waste appropriately and follows rules to ensure it is taken to an appropriate waste facility and isn't disposed of illegally.

For scenarios e) and f) above we are also asking whether there is sufficient distinction between these activities to justify different treatment, and if there isn't, what level of regulation would be appropriate.

g) Waste from mines and quarries

Current situation - lower tier

Proposal - registered exemption

Currently only a lower tier registration is required for those that only transport waste from mines and quarries. Introducing permitting requirements could be considered a disproportionate and unjustified burden on industry. We believe that requiring such companies to operate under a registered exemption, along with a future requirement to enter movements on the waste tracking service (subject to consultation), provides adequate accountability.

h) Waste collected from agricultural premises¹⁷

Current situation - lower tier

Proposal - relevant standard rules permit

It would be disproportionate for farmers moving their own waste (produced in the course of their agricultural business) to apply for a permit and so we consider they should be required to operate under a registered exemption. However, we consider that companies transporting agricultural waste, or those that offer a take-back service for empty containers and unused product should be required to apply for a permit.

i) Animal by-products ("ABPs")

Current situation - lower tier

Proposal - non-registered exemption

Transport of ABPs is already covered by the ABP regulations requirements¹⁸. As the ABP Regulations are designed to ensure ABPs are suitably and safely handled to the satisfaction of Defra and APHA, there is no clear benefit to including them within the scope of the new permitting regime.

Q15 Do you agree or disagree that charities/voluntary groups operating a non-profit service should be able to operate under a non-registered exemption?

a) Agree

¹⁷ This means waste produced at agricultural premises as a result of agricultural activity

¹⁸ Animal By-Products

(Enforcement) (England) Regulations 2011.

- b) Disagree – they should be required to operate under a permit
- c) Disagree – they should be required to operate under a registered exemption
- d) Disagree – they should be required to operate under some other control
- e) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options.

Q16 Do you agree or disagree that local authority waste collection and disposal authorities and regulatory authorities should be able to operate under a non-registered exemption?

- a) Agree
- b) Disagree – they should be required to operate under a permit
- c) Disagree – they should be required to operate under a registered exemption
- d) Disagree – they should be required to operate under some other control
- e) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options.

Q17 Do you agree or disagree that charities operating a chargeable, commercial service should be required to apply for the relevant standard rules permit?

- a) Agree
- b) Disagree – they should be required to operate under a registered exemption
- c) Disagree – they should be required to operate under a non-registered exemption
- d) Disagree – they should be required to operate under some other control
- e) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options.

Q18 Do you agree or disagree that waste disposal and collection authorities operating on a commercial basis should be required to apply for the relevant standard rules permit?

- a) Agree
- b) Disagree – they should be required to operate under a registered exemption
- c) Disagree – they should be required to operate under a non-registered exemption
- d) Disagree – they should be required to operate under some other control
- e) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options.

Q19 Do you agree or disagree that those who transport and/or control waste produced by themselves in the course of their business, and where that waste is construction/demolition waste and/or the waste is subject to a higher level of control should be required to apply for the relevant standard rules permit?

- a) Agree
- b) Disagree – they should be required to operate under a registered exemption
- c) Disagree – they should be required to operate under a non-registered exemption
- d) Disagree – they should be required to operate under some other control
- e) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options

Q20: Do you agree or disagree that those who only transport and/or control non-construction or demolition waste, produced by themselves in the course of their business, should be allowed to operate under a registered exemption?

- a) Agree
- b) Disagree – they should be required to operate under a permit
- c) Disagree – they should be required to operate under a non-registered exemption
- d) Disagree – they should be required to operate under some other control
- e) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options.

Q21 Do you agree or disagree that businesses removing third party waste produced in the course of their business should be required to apply for a permit?

- a) Agree
- b) Disagree – they should be required to operate under a registered exemption
- c) Disagree – they should be required to operate under a non-registered exemption
- d) Disagree – they should be required to operate under some other control
- e) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options.

Q22 Do you agree or disagree that the distinction and risks between scenarios (e) and (f) are sufficiently clear to require two different regulatory approaches?

- a) Agree- they should be treated different
- b) Disagree- they should be treated the same

If you disagree and believe they should be treated the same, do you believe they should be required to:

- a) Operate under a permit
- b) Operate under a registered exemption
- c) Operate under some other control
- d) Don't know/no opinion

Q23 Do you agree or disagree that those transporting/controlling waste from mines and quarries should be required to operate under a registered exemption?

- a) Agree
- b) Disagree – they should be required to operate under a permit
- c) Disagree – they should be required to operate under a non-registered exemption
- d) Disagree – they should be required to operate under some other control
- e) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options.

Q24 Do you agree or disagree that companies transporting/controlling agricultural waste should be required to apply for a permit?

- a) Agree
- b) Disagree – they should be required to operate under a registered exemption
- c) Disagree – they should be required to operate under a non-registered exemption
- d) Disagree – they should be required to operate under some other control
- e) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options.

Q25 Do you agree or disagree that farmers should be required to operate under a registered exemption if they are only transporting their own agricultural waste?

- a) Agree
- b) Disagree – they should be required to operate under a permit
- c) Disagree – they should be required to operate under a non-registered exemption
- d) Disagree – they should be required to operate under some other control
- e) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options.

Q26 Do you agree or disagree that those who transport/control only animal by-products should operate under a non-registered exemption?

- a) Agree
- b) Disagree – they should be required to operate under a permit
- c) Disagree – they should be required to operate under a registered exemption
- d) Disagree – they should be required to operate under some other control
- e) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options.

Implementation

We recognise that these proposals represent a big step change to the industry, and it is right that both industry and regulators have sufficient time to prepare.

We propose that once the new system is 'live' (expected 2023/2024) those with an **existing upper tier registration** should be required to apply for the relevant permit when their registration is due for renewal. This will naturally create a staggered approach.

For those with **existing lower tier registrations**, as there is no requirement to renew, we propose that those who will be required to either register for an exemption or apply for a permit must do so within 12 months of the system going 'live'.

Q27 Do you agree or disagree that those who currently hold an upper tier registration should be required to apply for a permit at the time when this registration is due to be renewed?

- a) Agree
- b) Disagree
- c) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options.

Q28: Do you agree or disagree that 12 months is an appropriate length of time for those who currently have a lower tier registration to either register an exemption or apply for a permit when the system goes live?

- a) Agree
- b) Disagree
- c) Don't know/no opinion

If you disagree, please explain why and, if possible, suggest a time frame in which they must apply for a permit or register an exemption.

Demonstrating competence for permitted activities

The case for action

When dealing with waste someone needs to know what they are doing and understand the risks and potential harm that can be caused by the activities they are undertaking. A requirement to demonstrate competence for waste site permits is already well established and confirms the importance of this as part of permitting.

The most harmful and costly illegal activity in the waste sector revolves around the misclassification of waste or deciding for it to be taken to an inappropriate destination. This illegal activity can be facilitated by illegal transport and improper record keeping.¹⁹ Once waste has been dispatched with the wrong description, it is unlikely to be appropriately managed throughout the rest of the chain.

Whilst the introduction of an electronic waste tracking service (subject to consultation) will lead to a significant reduction in misclassified waste, there is still a need to ensure that those in control of waste (including those transporting it) have a suitable level of technical competence in terms of the handling of waste and applying the waste hierarchy to determine the appropriate destination.

Our proposals

Demonstrating a proportionate level of understanding of waste handling (technical competence) is a key element of site-based regulation and permitting. Waste industry bodies are supportive of this and we will work collaboratively with the sector as details of competence requirements are developed. We propose that applicants for controller permits, transporter permits and controller/transporter permits will be required to demonstrate appropriate understanding.

Applying the requirements of technical competence to waste carriers, brokers and dealers in a proportionate way will increase awareness of the importance of record keeping and the impacts of misclassification of waste and illegal disposal of waste. We expect that this, alongside any electronic waste tracking service, will increase compliance with regulation, will reduce waste crime within the industry and will create a more level-playing field for legitimate waste operators.

We expect that the technical competence system will be run similarly to that for existing EPR permits, with the standards set in regulation and schemes being managed by various bodies to meet those standards.

¹⁹ Waste carriers, brokers and dealers -Regime review report, Environment Agency 2015

Competence requirements

What do we mean by technical competence?

Technical competence is the ability to demonstrate an appropriate level of understanding of waste handling, to minimise risks to people and the environment. The level of competence required will vary depending on the type of permit applied for and the type of waste handled. Those only transporting waste under direction for example, wouldn't be required to demonstrate the same level of understanding as those transporting or dealing in hazardous waste.

Depending on what type of permit is applied for and what activities are being carried out, applicants (and/or their employees) may need to know how to:

- store and transport waste securely
- be competent in classifying waste
- comply with the law
- minimise risk and the impact of their activity on people and the environment

The Environment Agency must also be satisfied that applicants are able to meet the conditions of the permit being applied for.

Development of the competence framework

We are working with industry and existing training bodies to develop the framework and delivery mechanism.

Part of this exercise is to ascertain what elements, if any, of other existing competence schemes can be used as evidence towards the required level of Transporters/Controllers competence, to minimise the need for people to have to demonstrate those again.

We expect a 'tiered' approach, depending on the level of permit and associated activities.

Passing a free baseline online 'module' could be used as part of the application process. This would then signpost to 'next steps' to obtain any additional competence requirements needed for the type of permit applied for, and the timescales needed to provide evidence of these. For some lower risk activities/permits, this baseline assessment might suffice as demonstration of suitable competency. For higher risk activities a greater understanding would need to be demonstrated.

It should be noted that some groups who would operate under a permit or registered exemption may still require a separate level of classification competence, depending on the materials they are dealing with. This would be different from any transporter/controller competence.

Who would be required to demonstrate competence?

As with site-based permits, we would not expect that every individual in the workforce would be required to obtain a qualification as this would be disproportionate. It will depend on the structure of the legal entity.

Within companies that employ others, we propose that the permit holder demonstrates they meet the full competence requirements for that permit. They can also nominate named technically competent person/persons to obtain full competency requirements and who would be responsible for producing and implementing a training plan for the rest of the workforce.

How would businesses demonstrate competency through the workforce

As with site based permits, individual employees would not necessarily need to demonstrate 'full competence' but would have to be able to demonstrate they are competent in the activities they are carrying out. A staff training management plan, produced by the permit holder and/or nominated technically qualified person(s), could be used as evidence that required competence was in place for the whole workforce.

Alternatively, a workforce-based qualification could be obtained, which would allow the workplace as a whole to demonstrate competence rather than requiring individual qualifications. We are working with industry to develop the details of this framework.

Whatever the route chosen, there will be a requirement on a company to ensure that their workforce is suitably competent for their various roles in that organisation. If enforcement or compliance monitoring finds employees of an organisation to be acting in a way that breaches technical competence requirements, the company as a whole will be liable.

Q29 Do you agree or disagree with introducing technical competence as a controller/transporter permit requirement?

- a) Agree – but only for controller permits
- b) Agree – but only for transporter permits
- c) Agree – for both controller and transporter permits
- d) Disagree
- e) Don't know/no opinion

If you disagree, or if you believe that it should only be introduced for a particular type of permit, please explain why and, if possible, provide alternative options for assuring waste is managed in a competent manner.

Q30 Do you agree or disagree that a regulatory approach to assuring technical competence is likely to be the most effective in achieving a good standard of competence in waste controllers and transporters?

- a) Agree
- b) Disagree
- c) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options that would meet our objectives.

Q31 If you are a business that handles waste, which of the following waste technical competence qualifications do you and/or your employees hold? (tick all that apply)

- a) CIWM and WAMITAB Level 1 Award/Certificate
- b) CIWM and WAMITAB Level 2 Award/Certificate
- c) CIWM and WAMITAB Level 3 Award/Certificate
- d) CIWM and WAMITAB Level 4 Award/Certificate
- e) Energy and Utility Skills Competence Management System
- f) Other – please specify
- g) We currently don't hold any technical competence qualifications
- h) Don't know/not applicable

Q32 Who do you think should be required to hold a full level of competence? (tick all that apply)

- a) The permit holder (this can be an individual or a legal entity)
- b) Nominated person(s)
- c) All individuals in the business who handle/direct/transport waste
- d) Nobody
- e) Something else – please specify
- f) Not sure/no opinion

Q33 Do you agree or disagree that having a nominated person responsible for cascading competence through the workforce is a proportionate approach for companies to demonstrate that their staff are at a suitable level of competence?

- a) Agree
- b) Disagree
- c) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options that would meet our objectives.

Q34 To what extent are you in favour of a workforce-based competence scheme, such as the existing Energy and Utilities Skills scheme, being considered as an approach for waste controllers and transporters?

- a) Strongly in favour
- a) Somewhat in favour
- b) Neither in favour not against/no opinion

- c) Somewhat against
- d) Strongly against
- e) I don't know enough about the Energy and Utilities Skills scheme to comment

Please explain your views.

Q35 Do you agree or disagree that an online 'assessment', which needs to be completed as part of the initial application process, should be introduced as a way of demonstrating competence when applying for a permit?

- a) Agree
- b) Disagree
- c) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options that would meet our objectives.

Q36 Do you agree or disagree that those operating under a registered exemption should still be required to hold an appropriate level of transporter/controller technical competence?

- a) Agree
- b) Disagree
- c) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options that would meet our objectives.

Q37 If you agree, do you agree or disagree that some form of basic online assessment, possibly forming part of the registration process itself, would be a proportionate approach?

- a) Agree
- b) Disagree
- c) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options that would meet our objectives.

Transition period for the introduction of competence requirements

The introduction of a compulsory competence requirement is an important change for the sector, and we therefore propose a phased approach to its introduction to allow both industry and training providers to fully prepare.

If a phased approach was taken for waste operators, there will be a baseline level of competence required from day one of new measures implementation (possibly in the form

of an online module), building up to full competence within a set time that all operators will have to achieve. The level of full competence and associated timescales will vary depending on the permit applied for and the activities associated with it.

We are considering several options that would enable us to introduce this element with as little burden on industry as possible.

Q38 Do you agree or disagree that there should be a phased introduction of the competence requirements?

- a) Agree – there should be a phased approach
- b) Disagree – there should not be any competence requirements
- c) Disagree – there should be full competence from day one of implementation
- d) Don't know/no opinion

If you agree, how long do you think operators should have to provide evidence of full competence?

- a) Three months
- b) Six months
- c) 12 months
- d) Another time period – please specify

If you disagree, please explain why and, if possible, provide alternative options that would meet our objectives.

Q39 Do you agree or disagree that those operators applying for a transporter/controller permit with no existing CBD registration should be required to provide evidence of full competence at application stage?

- a) Agree
- b) Disagree
- c) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options that would meet our objectives.

Ongoing competence

To ensure operators are working with the most up to date knowledge and information we consider there may need to be a requirement for some form of ongoing competence. We believe industry bodies are supportive of this approach and would want to work with them on its implementation. We propose a low cost, light touch system where permit holders are required to demonstrate they have undergone refresher training (possibly via a short online module). This could be followed by a light touch assessment depending on the activities they carry out. This would be monitored as part of any permit review or self-declaration.

Q40 Do you agree or disagree that there should be a requirement to demonstrate continuing competence?

- a) Agree
- b) Disagree
- c) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options that would meet our objectives.

Q41 If we were to introduce a requirement for demonstrating continuing competence, how often do you think this should be undertaken?

- a) every year
- b) every 2 years
- c) every 3 years
- d) every 4 years
- e) every 5 years
- f) some other time period – please specify
- g) don't know/no opinion

Q42: Do you agree or disagree that an online module and assessment would be sufficient for demonstrating continued competence?

- a) Agree
- b) Disagree
- c) Don't know/no opinion

If you disagree, please explain why and, if possible, provide alternative options that would meet our objectives.

How will technical competence be monitored and enforced?

During phased implementation

During any phased implementation phase, an applicant will have to provide evidence they have completed and passed any mandatory online module, if required.

Once the applicant has received their permit, they will have a specified time period to provide evidence of the required technical competence certification. If they fail to provide it within this timeframe, the regulator will suspend the permit until evidence is provided.

Once a permit is granted, if the Environment Agency considers the permit holder is no longer a competent operator it could suspend or revoke the permit and potentially take further enforcement action.

Once fully implemented

When fully implemented, applicants will have full access to accredited trainers. This means that the application will ask for proof of technical competence.

If no evidence is provided, the regulator will reject the application on this basis. The regulator will reject an application if it does not consider the applicant to be of 'good repute' following the relevant conviction checks, or if the persons have a poor record of compliance with regulatory requirements.

The link to Duty of Care

Duty of care legislation²⁰ makes provision for the safe management of waste to protect human health and the environment. Every person who produces waste has a duty to make sure that it is disposed of properly and not passed onto an unauthorised person.

Waste Holders

The Waste Duty of Care Code of Practice²¹ applies to any person, business or organisation that imports, produces, carries, keeps, treats, disposes of or, as a dealer or broker have control of, certain waste in England or Wales. It says that waste producers must take all reasonable steps to keep waste safe and if they give it to someone else, they must take all reasonable steps to ensure that the person or organisation they give it to is authorised to take it and is able and likely to deal with it or dispose of it lawfully and safely.

The proposed introduction of mandatory electronic waste tracking (subject to consultation) will enable those who handle or arrange the movement of waste to more easily meet duty of care requirements. For transporters and controllers, this will make it much easier for businesses to demonstrate they have met their duty of care.

Householders

The duty of care for householders is different, and they have to show they have taken all reasonable steps to pass their waste onto appropriate operators i.e. someone who is authorised to take it. The application of the proposed system of permitting will allow householders to have a greater oversight of the requirements and conditions that an operator must meet, and there are several measures proposed which should make it easier for householders to meet this requirement.

Our proposals

In addition to the introduction of an electronic waste tracking service, we propose to amend the Duty of Care Code of Practice for householders and operators to make it clearer how waste transporters, controllers, and householders, can meet their Duty of Care requirements. We will do this by building in the link to waste tracking and reflecting the permitting requirements for waste transporters/controllers set out in this consultation.

For householders, we will update the guidance to make it clear that they have a responsibility to ensure their waste is given to a carrier with the appropriate permit.

²⁰ Section 34 of the Environmental Protection Act 1990.

²¹ <https://www.gov.uk/government/publications/waste-duty-of-care-code-of-practice/waste-duty-of-care-code-of-practice>

Depending on the outcome of this consultation, possible updates to the Code of Practice include:

- Making householders aware that transporters should have their permit number on display in vehicles or can produce it when asked, and that this can then be checked against the EA database of permitted operators, to ensure they are permitted.
- Making householders aware that operators should provide a receipt or a tracking number for that transaction that householders can enter on the waste tracking service to check where their waste has gone, if they choose to do so.
- Creating increased awareness around operator advertising, and that businesses should show their permit number on advertising which again can be used by the householder to check against the online database
- Creating increased awareness around cash payments and whether householders need to be extra vigilant when dealing with operators that request such payments

In addition to updating the duty of care legislation and accompanying code of practice, we are considering a communications campaign aimed at householders to raise awareness of the duty of care requirements, how they apply to them, and how they do not unwittingly fall foul of the law.

Waste exporters

The Case for Action

It is estimated that 13.9m million tonnes of waste is exported from the UK each year²². The regulators in England, Scotland, Wales, and Northern Ireland conduct intelligence-led, risk-based inspections on waste destined for export to ensure compliance with the relevant legislation. From April 2019 – March 2020 the Environment Agency (EA) inspected 1,889 containers at English ports and stopped 463 being illegally exported. This, combined with regulatory intervention upstream at waste management sites, prevented the illegal export of nearly 23,000 tonnes of waste from England. However, the prospective financial gains, combined with competitive pressure, and the desire to access international recycling markets, is likely to mean that companies will continue to seek opportunities to export waste, sometimes illegally. It is estimated that illegal exports of waste from England deprive the economy of up to £24 million.

Most wastes exported from England under Green List controls. Green List wastes are subject to a lesser degree of regulatory oversight because they generally pose a low risk to human health and the environment. However, Green List controls can be abused by misdescribing wastes, contaminating legitimate Green List wastes with other wastes, or shipping to sites overseas which are unregulated or unsuitable. In some cases, wastes exported from England under Green List controls have been dumped illegally overseas. When waste is exported illegally and the relevant competent authority has requested its repatriation, the Environment Agency may be required to bear the costs of repatriation if the UK exporter cannot be identified or is unable to fund the repatriation. Repatriation cases initiated in 2019 cost the EA £4.7 million.

In the 2018 Resources and Waste Strategy for England we committed to exploring ways to improve the quality of wastes exported for recycling. The 2018 Independent Review into Serious and Organised Crime in the Waste Sector²³ highlighted that the Government should require exporters of waste to be registered as a legal entity recognised in the UK. Requiring waste exporters to be registered as a legal entity in the UK would improve transparency, making it easier for the regulator to identify who is legally responsible for a shipment of waste, which would then drive-up standards in the quality of waste being exported.

²² [HMRC trade data](#) and [Basel Convention National Reporting](#)

²³ <https://www.gov.uk/government/publications/serious-and-organised-waste-crime-2018-review>

The principles of a permitting framework for waste exporters

The implementation of a more effective regulatory system for exporters of waste could be delivered through a permitting framework. We believe this would deliver improved transparency throughout the waste chain and deliver wider improvements to the regulation of waste shipments.

This section of the consultation seeks initial views from stakeholders on the principle of implementing a permitting framework for waste exporters. The legislative route to implementing a framework, either in England only or UK wide, would require further detailed consideration with the Devolved Administrations, the regulators, and stakeholders, and any policy proposals would be subject to separate public consultation.

Key principles

The key principles of a permitting framework currently under consideration are:

- a framework requiring all operators that export waste from England to hold a permit similar to that of a standard rules permit for waste site operations,
- operators wishing to apply for a permit would need to be registered as a legal entity in the UK or have a UK address,
- the permitting framework would be administered and regulated by the regulator for waste shipments in England, the Environment Agency,
- applicants would be required to demonstrate adequate technical competency related to the export of waste, for example in waste classification and waste handling,
- operators that hold a permit could be identified on a public register,
- enforcement action could be taken by the regulator against permit holders that do not meet the conditions in their permit.

Benefits

We consider that introducing a permitting framework for waste exporters would ensure that:

- all exporters of waste could be identified by the regulator
- the regulator could proactively provide advice and guidance to businesses when changes are made to export controls
- the regulator could more readily trace waste back to the exporter in the event of an illegal shipment being identified
- an assessment of adequate technical competence could be made by the regulator during the permit application process and at regular intervals throughout the life of the permit.
- the regulator could take enforcement action, suspend, or revoke a permit in the event of non-compliance with conditions of the permit

Q43 Are you an exporter²⁴ of waste, and are you currently registered as a broker or dealer in England or elsewhere?

- a) I am an exporter of waste and I am currently registered as a broker or dealer with the Environment Agency in England
- b) I am an exporter of waste. I am not currently registered as a broker or dealer with any of the UK regulatory agencies.
- c) I am an exporter of waste and I am currently registered with SEPA, NRW or NIEA but not with the Environment Agency in England
- d) No, I am not an exporter of waste

Q44 Do you agree or disagree with the proposal that operators exporting waste from England must hold a permit?

- a) Agree with the proposal – all operators exporting waste must hold a permit
- b) Partly agree with the proposal – most operators exporting waste must hold a permit, but some exemptions should also be allowed
- c) Disagree with the proposal – no operator exporting waste should have to hold a permit
- d) Don't know/no opinion

If you partly agree but think there should also be exemptions, what kinds of operations do you think should be exempt, either as a registered exemption or non-registered exemption?

If you disagree, please explain why.

Q45 If we were to require operators exporting waste from England to have a permit, do you agree or disagree that the permit should be time limited?

- a) Agree
- b) Disagree
- c) Don't know/no opinion

Please explain your views.

Q46 Do you agree or disagree with the principle of including a requirement for applicants to demonstrate technical competence as a requirement to hold an exporter of waste permit?

- a) Agree
- b) Disagree
- c) Don't know/no opinion

Please explain your views.

²⁴ For the purpose of this consultation 'exporter' is defined as 'any natural or legal person who intends to carry out a shipment of waste or intends to have a shipment of waste carried out on their behalf'

Q47 Do you have any other comments to make about our proposals to reform the law on waste carriers, brokers and dealers?

- a) Yes – please elaborate
- b) No – thank you for your input

Annex 1: Draft example of Transporter Permit



Standard rules SR2022 No 1 The Environmental Permitting (England & Wales) Regulations xxxx

Waste transporter

Introductory note

This introductory note is a non-technical summary and does not form a part of these standard rules. Operators will need to check all of the rules in detail to ensure they can comply with them at all times.

Any standard permit issued for these rules by the Environment Agency will:

- Name a specific operator who can use the permit
- Require the operator to comply with these rules.
 - a) The permit allows a named operator to transport and handle waste under the direction of an authorised waste controller.
 - b) May only be used by the named operator and their direct employees.
 - c) It may not be used by another legal entity such as a sub-contractor, they must have their own permit to transport waste.

These rules do not in themselves authorise deposit or treatment of waste.

End of introductory note

Record of changes

Version	Date	Change
0.2	DATE	Published

Rules

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, so far as is reasonably practicable, including those risks arising from operations, maintenance, accidents, incidents, non-conformances, closure 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 rule 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 the permit.

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

1.2 Non-payment of subsistence fees and failure to meet technical competence

1.2.1 These rules will automatically be suspended without appeal after 21 days from the failure of the permit holder to:

- (a) Pay annual subsistence fees.
- (b) Complete an approved technical competence scheme at the required level or any complete required updates, or
- (c) failure to submit evidence to the permitting authority that the approved technical competence requirements have been met.

2 Operations

2.2 Permitted activities

2.2.1 The operator is only authorised to carry out activities with the following descriptions:

- (a) **Transport and handling of controlled waste.**

2.3 Waste acceptance

2.3.1 Waste shall only be accepted for handling and transport by the operator if:

- (a) Has been assessed and described by an authorised waste controller,

- (b) it conforms to the description provided by the waste controller to the relevant waste tracking authorities and recorded on the authority's designated tracking service

2.4 Operating techniques

2.4.1 The activities shall, subject to the rules of this permit, be operated using the following techniques:

- (a) all waste shall be kept secure;
- (b) all loads of waste shall be transported in enclosed containers, sheeted or otherwise covered so as to minimise emissions during transport;
- (c) all waste movements must be recorded in a form specified by the Environment Agency and where appropriate any of the relevant waste tracking authorities where waste is transferred across a border.
- (d) where waste is to be transported outside of the United Kingdom it must conform to the requirements of the International Waste Shipment Regulations and be assessed by a waste controller authorised to do so.

3 Emissions and monitoring

3.1 Emissions to air, land and water

3.1.1 There shall be no point source emissions to water, air or land – except:

- (a) At an appropriately authorised facility

3.2 Emissions of substances not controlled by emission limits

3.2.1 Emissions from the handling and transportation of waste shall not cause pollution.

3.2.2 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.

3.3 Fire prevention

3.3.1 The operator shall take all appropriate measures to prevent fires from any waste that they carry and minimise the risk of pollution.

4 Information

4.1 Records

4.1.1 All records required to be made by these standard rules 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,

4.1.2 The operator shall maintain convenient access, in either electronic or hard copy, to the records, plans and management system required to be maintained by this permit.

4.2 Reporting and Notifications

4.2.1 All reports and notifications required by these standard rules shall be made in the form specified by the Environment Agency using the contact details supplied by the Environment Agency.

4.2.2 In the event:

- (a) that the operation of the activities gives rise to an incident or accident which significantly affects or may significantly affect the environment, the operator must immediately:
 - (i) inform the Environment Agency,
 - (ii) take the measures necessary to limit the environmental consequences of such an incident or accident, and
 - (iii) take the measures necessary to prevent further possible incidents or accidents;
- (b) of a breach of any rule the operator must immediately:
 - (i) inform the Environment Agency, and
 - (ii) take the measures necessary to ensure that compliance is restored within the shortest possible time;
- (c) of a breach of permit condition which poses an immediate danger to human health or threatens to cause an immediate significant adverse effect on the environment, the operator must immediately suspend the operation of the

activities or the relevant part of it until compliance with the permit conditions has been restored.

4.2.3 Written confirmation of actual or potential pollution incidents and breaches of rules shall be submitted to the Environment Agency within 24 hours.

4.2.4 Following the detection of an event listed in 3.2.2, the operator shall review and where necessary revise the management system, and implement any changes as necessary to minimise the risk of reoccurrence of the issue.

4.2.5 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:
 - (i) any change in the operator's trading name, registered name or registered office address; and
 - (ii) 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:
 - (i) any change in the operator's name or address; and
 - (ii) any steps taken with a view to the dissolution of the operator.
- c) In any other case:
 - (iii) the death of any of the named operators (where the operator consists of more than one named individual); and
 - (iv) any change in the operator's name(s) or address(es); and
 - (v) 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 in a partnership, dissolving the partnership; and

4.3 Interpretation

4.3.1 In these standard rules the expressions listed below shall have the meaning given.

“accident” means an accident that may result in pollution

“appropriately authorised person or facility” a permitted waste site, a registered exempt waste site, a waste installation, transfer to another permitted waste transporter or controller to facilitate onward transport, the supplier or manufacturer of the original product?

“approved competence scheme” A competence scheme approved by the relevant permitting authority.

“authorised waste controller” Has the relevant permit and has completed the appropriate approved technical competence scheme level to assess and make decisions about the specified types of waste that are being transported.

“controlled waste” Section 75(4) Environmental Protection Act 1990

“designated tracking service” an electronic service for tracking waste movements approved by the relevant waste tracking authority.

“EP Regulations” means The Environmental Permitting (England and Wales) Regulations SI 2016 No.1154 and words and expressions used in this rule set which are also used in the Regulations have the same meanings as in those Regulations.

“emissions” for the purposes of these standard rules emissions include: dust, litter and liquid.

“handling” includes transfer activities like loading and unloading.

“international waste shipment regulations” in these rules we mean the retained Waste Shipments Regulation EC No 1013/2006 as amended by the:

- International Waste Shipments (Amendment)(EU Exit) Regulations 2019
- International Waste Shipments (Amendment of Regulation (EC) No1013/2006) Regulations 2020

“permitting authority” In England the Environment Agency.

“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.

“secure” means that all reasonable precautions are taken to ensure that the waste cannot escape and that members of the public are unable to gain access to the waste.

“Waste controller” A person who holds a permit with the relevant level of technical competence to assess the waste that is to be transported and handled and specify its destination.

“waste tracking authority” in England: Environment Agency, in Wales: Natural Resources Wales, in Scotland: Scottish Environment Protection Agency, in Northern Ireland: Northern Ireland Environment Agency.

End of standard rules

Annex 2: Table outlining possible offences for Transporter/Controller permits and Waste Tracking

Transporter or Controller	
Offence	Sanction
<p>Operating a regulated facility (waste transporting or controlling) without or other than in accordance with a permit (regulation 12 and 38(1) EPRs)</p>	<ul style="list-style-type: none"> • enforcement notice • Suspension notice • warning • formal caution • prosecution • enforcement undertaking • variable penalty (2023)
<p>Failing to comply with a permit condition (regulation 38(2) EPRs)</p> <ul style="list-style-type: none"> • manage risks • necessary documentation • meet licencing and other requirements for the material • ensure relevant technical competency requirements • classify the waste • determine a suitable destination • ensure the transporter of the waste is suitably permitted • have procedures for those operating under permit 	<ul style="list-style-type: none"> • enforcement notice • Suspension notice • warning • formal caution • prosecution • enforcement undertaking
<p>Deliberately [or recklessly] providing false or misleading information in purported compliance with a requirement to provide information under the EPRs or in relation to an application for the variation, grant, transfer or surrender of a permit or for the purpose of obtaining, renewing or amending the registration of an exempt facility</p> <ul style="list-style-type: none"> • take due diligence / all reasonable measures in ensuring the waste they are carrying matches the assigned waste classification. 	<ul style="list-style-type: none"> • enforcement notice • Suspension notice • warning • formal caution • prosecution • enforcement undertaking

Waste Tracking	
Offence	Sanction
Failing to register on the waste tracking service where required	<ul style="list-style-type: none"> • Fines • Civil sanctions
Moving or receiving waste without a digital record/ID number/unique identifier	<ul style="list-style-type: none"> • Fines • Civil sanctions
Deliberately [or recklessly] providing incomplete or false information on a digital record	<ul style="list-style-type: none"> • Fines • Civil sanctions
Not entering information in the timeframes required e.g. failing to update or confirm information in a digital waste record within the required timeframes	<ul style="list-style-type: none"> • Fines • Civil sanctions
Not providing information required by the Regulations to other parties in the waste chain (e.g. householders) or deliberately or recklessly providing false or misleading information to those persons.	<ul style="list-style-type: none"> • Fines • Civil sanctions

Annex 3: Table of possible permit/exemption scenarios

Scenario	Example	Requirement
Householder transporting waste generated by their household	Householder taking DIY waste to HWRC	Non-registered exemption
Waste at place of production with minimal sorting to be collected by another company	Hospitals/universities/schools/offices/shopping centres	Non-registered exemption
Non chargeable collection services not for commercial profit	Charities collecting/transporting donations or transporting non-saleable stock	Non-registered exemption
Non commercial services within a statutory duty	Local authority waste collections	Non-registered exemption
Chargeable services for commercial profit	Waste collection companies/charities offering chargeable collection service	Permit
Drop off collection locations for low level waste	Crisp packet collection points in offices	Non-registered exemption
Transporting/disposing of construction and demolition waste or hazardous waste	Waste collection company collecting/transporting waste from building site/skip operators	Permit
Tradesperson/business transporting their own waste produced in course of that business (non-construction and demolition, non-hazardous only)	Plumber installing new bathroom for householder – removes offcuts of pipework installed, paint tins or dirty rags i.e. waste from materials that the plumber brought to site themselves	Registered Exemption
Tradesperson/business transporting 3rd party waste produced in the course of that business	Plumber installing new bathroom for householder – removes old bathroom suite from premises as part of job	Permit
Companies dealing in agricultural waste, picking up waste from a farmer or a group of farmers, or those that offer a take-back service for empty containers and unused product.	Agricultural waste collection services/[is the take-back service for agricultural waste - or for something else like DRS?]	Permit
Farmer taking own agricultural waste to permitted waste site		Registered Exemption

Companies which only transports or deals in extractive waste from mines or quarries		Registered Exemption
All movement or disposal of animal by-products		Registered Exemption