

# Annex 1- Overarching design principles for exemptions reform

## Reducing the quantity of waste that can be accepted

### ***What is the issue?***

Some exemptions allow significantly more waste to be accepted than under standard rules permits. As an example, the T6 exemption allows 5 times more waste to be accepted per year than under the equivalent standard rule<sup>1</sup>.

In addition, exempt operations are not subject to the same level of scrutiny through inspection as permitted operations, and those using waste exemptions are not required to demonstrate technical competence or submit quarterly waste returns.

As a result, poor performance is not detected early and sites often only get inspected once a problem arises. Therefore the risk of incidents, such as fires, and illegal activity is much greater. This situation also creates an unfair and unlevel playing field between waste businesses operating under environmental permits and those operating under waste exemptions.

### ***Design Principle***

- Waste exemptions should allow for significantly less waste to be accepted at a site than under the equivalent environmental permits.

### ***Approach and proposal***

- For each exemption standard rules allowing similar waste activities were identified.
- We started from the point that the quantity of waste allowed under an exemption should be less than that dealt with by businesses operating under equivalent standard rules. This means we looked both at the maximum amounts of waste allowed under a standard rules permit and the quantity of waste actually accepted by businesses under that permit according to site returns data.
- The new proposed waste quantities ensure that high risk activities only occur at permitted sites and that there is no overlap between use of exemptions and permits for activities of similar scale.

---

<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/479480/LIT\\_10296.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479480/LIT_10296.pdf)

# Reducing the quantities and time of storage on site

## ***What is the issue?***

Stockpiling of wastes has become a big issue. Often, gate fees are the main source of revenue for those operating under waste exemptions, and these operators are therefore inclined to accept large quantities of waste, even if they do not have a secure market for any recyclables or legal disposal routes. Even where there is a market for a particular waste stream, changes in the market can lead to stockpiling either because the cost of disposal is prohibitive or because the operator is waiting for the price of the waste materials to rise before selling.

Often, the most acute issue arising from stockpiling is fire risk, as waste accumulated for more than 3 months becomes increasingly at risk of self-combustion.

In addition, the recyclability of many wastes declines with time in storage, particularly if they are contaminated, for example with food residues. This can also attract vermin and pests, and generate smell, leading to severe negative impacts on local communities.

In some instances, sites are abandoned and large piles of waste blight local communities and the environment. Private landowners, local authorities and regulators can be left to clear these abandoned sites at significant cost.

## ***Design principle***

- Storage quantities and maximum storage time should be set at an appropriate level to prevent stockpiling, and be linked to an operational need for storage, to encourage turnover and sustain waste recovery at the site or waste export to another site.

## ***Approach and proposal***

- Depending on the exemption, different criteria were taken into account to set new proposed limits.
- As an example, if an exemption is used to bulk up waste, the maximum storage quantity has to be set to that of a single container that can be transported by one vehicle to the next facility for recovery. Only one container can be transported at a time, so having multiple containers on site does not allow for saving on transport costs.
- In other cases, such as when waste is recovered on site, storage times and quantities were set to sustain typical recovery turnover, and avoid stockpiling.

# Limiting the types of waste that can be handled

## ***What is the issue?***

Different types of issues can arise from allowing certain types of waste managed under particular exemptions.

A first set of issues relates to waste types that require a complex assessment to ascertain whether they are hazardous. This is the case for those waste types that have mirror entry codes (non-hazardous and hazardous), and therefore require a hazardous waste assessment. When such wastes are received in a mixed state (e.g. wood from construction and demolition), only a small proportion of hazardous waste, when it cannot be adequately separated, will render the load hazardous. In such instances, identifying the presence of hazardous waste can be challenging, and will often require carrying out a chemical assessment. If the waste is incorrectly assessed, then it can end up at facilities not permitted to take those wastes, such as combustion plants not designed to eliminate toxic emissions to air. Such potential consequences make these types of wastes incompatible with the remit of the waste exemption regime, which is meant to only cover low-risk activities and require limited technical knowledge.

Certain waste types, such as mattresses, are also difficult to recycle, and the resulting separated materials are often of very low-value. In such instances, an operator's main revenue will be generated from gate fees and not onward recovery. This can lead to issues of stockpiling and site abandonment.

The collection of certain wastes can also provide some exempted operators with a sustained source of revenue from charging gate fees, but often these operators do not invest into the necessary infrastructure and equipment to recover these wastes. Tyres, for example, are easy to collect, and we are aware of a number of instances where operators register a T8 exemption and subsequently stockpile tyres way above the maximum quantity allowed, with no intention to recover them. Such sites can be subject to fires – they also undercut legitimate businesses, which have the necessary infrastructure to properly recover tyres.

## ***Design principles***

- Waste exemptions should generally only include waste types that: 1) do not require complex assessments or advanced technical knowledge to be handled appropriately; 2) are easy to handle and process and for which there is a sustainable market to sell secondary materials; and 3) do not attract waste criminals.
- Waste types that need a complex assessment to identify if they are hazardous are removed from exemptions wherever possible, with the exception of producers handling their own waste.

### ***Approach and proposal***

- We reviewed all waste types currently listed under the 10 exemptions of interest.
- Evidence gathered by the regulators and through consultation with the industry was used to identify waste types that are problematic and should be excluded from the proposals.

# Tightening up fire prevention controls

## ***What is the issue?***

Permitted operations that handle combustible wastes are now required to store that waste in accordance with the EA's Fire Prevention Plan' (FPP) guidance<sup>2</sup> or produce their own plan giving alternative measures to control the risk from fire. The waste to which the FPP Guidance applies to include: wood, scrap metal, rags and textiles, paper, plastic and tyres.

Applying the FPP guidance only to permitted operations implies that exempted sites are of lower risk even where they are managing the same wastes in significant quantities. We know that the risks are the same and could be even higher due to the lower level on entry by operators (e.g. no need for technical competence) and low-level of inspection by the Regulator. Requiring lesser controls for exempted operations creates an unlevel playing field between businesses operating under permits and waste exemptions.

## ***Design principle***

- Exempted operations managing combustible wastes should have equivalent levels of controls and requirements as permitted sites to reduce fire risk.

## ***Approach and proposal***

- Of the exemptions specified in the consultation those allowing the handling of combustible waste were reviewed.
- For these exemptions, we are proposing to apply the same requirements as under the FPP Guidance, including maximum stack heights (no more than 4m), storage quantities and dimensions (no more than one pile of the size that is specified in the FPP guidance for a particular waste type) and length of storage (no more than 3 months). However, as exemptions require set limits, it is not possible to provide operators with the option to develop a separate plan specifying alternative measures.
- Where the new storage limits mean that the risk is much smaller, we have not required distance requirements between piles or boundaries to be applied.

---

<sup>2</sup> <https://www.gov.uk/government/publications/fire-prevention-plans-environmental-permits/fire-prevention-plans-environmental-permits>

## It should be clear when a site is compliant

### ***What is the issue?***

Often, it is difficult to assess on-site, without using a weighbridge or other specialist technical equipment, whether the maximum quantities of waste allowed under a particular exemption are exceeded.

This is particularly the case where exemptions allow for such large quantities of waste to be stored that it is difficult to appreciate on-site when limits are exceeded. This is also the case because some waste quantities are defined in tonnes, while it is much easier to ascertain volumes or number of units when visiting sites. Conversion factors<sup>3</sup> allowing for converting tonnages into volumes are also difficult to use, as they vary considerably depending on the type of waste and its level of compaction.

The issue here is that operators are sometimes able to exceed their limits without being stopped, which increases the risk of incidents, such as fires, and also indirectly encourages businesses to rely on gate fees as their main source of revenue, rather than to invest on recovery infrastructure. Ultimately, this also increases burden on the regulator and the operator, who cannot easily assess whether a site is compliant.

### ***Design principle***

- Waste quantity limits should be defined in such a manner that makes it easy for an operator or a regulator to ascertain whether a site is compliant with its exemption conditions.

### ***Approach and proposal***

- The proposals implement the use of volumes or, where more appropriate, number of units instead of tonnages to define maximum waste quantities. These measurement units can be paced out and simply measured or counted without the need of specialist equipment.
- As explained elsewhere in this document, new smaller limits were set to meet a number of criteria, including operational requirements, and the need to reduce risk and fit the FPP guidance. Much smaller limits also mean that issues of non-compliance can be identified quickly, before the situation becomes out of control.

---

<sup>3</sup> [www.wrap.org.uk/content/waste-conversion-factors-wrap-construction-tools](http://www.wrap.org.uk/content/waste-conversion-factors-wrap-construction-tools)

## Better, more explicit waste descriptions to accompany waste codes

### ***What is the issue?***

The way waste types and codes are currently displayed in the Environmental Permitting Regulations (EPR)<sup>4</sup> means that operators have to consult other regulation or guidance, such as the waste classification technical guidance WM3<sup>5</sup>, to appropriately assess whether a particular waste falls into the scope of a particular exemption.

A key issue is that the lists of waste types provided in the EPR for each exemption only refer to material types (e.g. Bricks, Concrete, Plastic...), with no details on the origin or source of these wastes (e.g. construction and demolition) or on any requirements to conduct a hazardous waste assessment. Currently, it is in particular not clear for an operator to assess from the EPR only, and without consulting additional guidance, whether there is a mirror entry code that requires a hazardous waste assessment to be carried out.

The current situation lacks clarity and imposes unnecessary burden on operators to meet their requirements. It also increases chances of misclassifying waste, increasing the risk of incidents, environmental damage and other negative impacts.

### ***Design principle***

- The regulations should make it easy for operators and regulators to identify what wastes are permitted under a particular exemption and whether any hazardous waste assessment needs to be carried out.

### ***Approach and proposal***

- The intention of the proposal is to use WM3 guidance to improve in the EPR the description of wastes allowed under the exemptions, to clarify the origin or source of the wastes, and whether a hazardous waste assessment needs to be carried out.
- Although we intend to avoid mirror-entry code wastes wherever possible it is not always a practical option.

---

<sup>4</sup> <http://www.legislation.gov.uk/uksi/2016/1154/contents/made>

<sup>5</sup> <https://www.gov.uk/government/publications/waste-classification-technical-guidance>