



Department
for Environment
Food & Rural Affairs

www.gov.uk/defra

Consultation on rules for mobile crushing of lamps that contain mercury

December 2015



Llywodraeth Cymru
Welsh Government



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1. Introduction

1.1 A healthy economy and a healthy environment go in hand in hand in securing Britain's future. In line with Defra's 25-year plan for the environment, the Government has made a commitment to move away from the jumble of "contradictory targets and controls" governing the natural environment to a new approach that maintains improvement and values nature systematically for all the benefits it provides.

1.2 We all depend on the services the waste management industry provides. It has a vital role to play in this Government's work to secure a strong, growing economy that flourishes alongside a healthy natural environment. We want to support the great companies in this industry that operate to the highest standards.

1.3 To help us achieve this, we will continue working closely with the waste industry to protect human health and the environment in a coordinated approach and in line with those shared goals. We will push decisions down to the most local level where it is possible and safe to do so and simplify rules so people understand them better—cutting confusion, not cutting corners.

1.4 The crushing of waste fluorescent tubes that contain mercury ('lamps') is a waste management operation which is subject to EU Waste Framework Directive (WFD) 2008/98/EC and Waste Electrical and Electronic Equipment (WEEE) Directive 2012/19/EU. The WFD requires that waste operations are either carried out under a permit, the primary objective of which is to prevent harm to human health and the environment, or registered as an exempt activity where they are considered low risk.

1.5 It is essential that we take effective action to ensure that the regulatory requirements and levels of compliance monitoring for mobile lamp crushing balance the need to provide sufficient protection for human health and the environment with the importance of adopting a proportionate approach to regulation of business.

1.6 In England and Wales the crushing of waste lamps containing mercury is regulated under the Environmental Permitting Regulations 2010 (EPRs) and carried out:

- 1) As an activity carried out under an exemption (hereinafter referred to as the T17 exemption) from the need for an environmental permit which provides for lamp crushing in order to reduce the volume prior to collection (henceforth described as mobile lamp crushing). This activity is subject to a risk based approach to the nature and frequency of compliance checks by the regulators (Environment Agency (EA) and Natural Resources Wales (NRW)). In practice, exempt waste activities are subject to limited inspections compared with permitted sites.
- 2) As a permitted activity (usually in conjunction with either recycling of the constituent materials or as part of a wider range of waste operations) after the lamps have been collected whole, subject to compliance checks funded through operator fees and charges.

1.7 This consultation examines options for the regulation of mobile lamp crushing, including removing the T17 exemption with the consequent requirement for an environmental permit. In consulting on these options, we want to ensure that the regulatory requirements and levels of compliance monitoring for mobile lamp crushing:

- balance the need to provide sufficient protection for human health and the environment with the importance of adopting a proportionate approach to regulation of business
- provide a level playing field for businesses involved in lamp recycling
- comply with and provide legal clarity on the minimum European requirements.

1.8 Mobile lamp crushing is also a form of waste treatment with specific environment protection requirements as set out in the WEEE Directive. Regardless of which option is implemented mobile lamp crushing operations will become subject to all of the conditions of treatment set out in the WEEE Directive, for example, the requirement in paragraph 2 of Annex VIII to use impermeable surfaces during treatment.

1.9 The UK Government and the Welsh Government are seeking views on the proposed approach and invite comments **8 February 2016**.

2. Purpose of this consultation

2.1 The purpose of this consultation is to seek views on three options for ensuring that the regulatory requirements and levels of compliance monitoring for mobile crushing of waste lamps are appropriate for the risks involved.

3. Geographic extent and definitions

3.1 This document and descriptions of law relate to England and Wales only.

3.2 References to “the regulator” or “regulators” are references to the Environment Agency (EA) and Natural Resources Wales (NRW). However, there are some facilities that operate under the environmental permitting regime that are regulated by local authorities so, where appropriate, local authorities are included in references to “the regulator” or “regulators”.

3.3 Unless otherwise stated, references to “the Government” are references to both the UK Government and the Welsh Government.

4. Audience

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

- operators of permitted and exempt waste facilities,
- local authorities,
- waste producers,
- waste brokers and dealers,
- waste carriers,
- professional and membership organisations,
- consultants and
- charitable/ voluntary bodies.

4.2 This consultation is primarily aimed at operators of facilities or equipment which handle or treat lamps containing mercury across England and Wales and those who produce such waste lamps that are crushed on their premises.

5. Responding to this consultation

5.1 Please respond to this consultation using the citizen space consultation hub at Defra <https://consult.defra.gov.uk/waste/rules-for-mobile-crushing-of-lamps>

By email to: exemptions@defra.gsi.gov.uk

or in writing to:

Waste Regulation and Crime
Defra
Area 2B, Nobel House
17 Smith Square
London
SW1P 3JR

Please send responses for Wales:

By email to: waste@wales.gsi.gov.uk

or in writing to:

Waste & Resource Efficiency Division
Department for Natural Resources
Welsh Government
Cathays Park
Cardiff, CF10 3NQ

6. Duration

6.1 This consultation will run for **8 weeks**. This is in line with the Cabinet Office's 'Consultation Principles' which advises Government departments to adopt proportionate consultation procedures.

The consultation opens **14 December 2015**

The consultation closes **8 February 2016**

7. After the consultation

7.1 After the consultation, a summary of the responses to this consultation will be published and placed on the Government websites at www.gov.uk/defra and www.wales.gov.uk.

7.2 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.

7.3 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.

7.4 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>

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

Consultation Co-ordinator
Room 629
9 Millbank
17 Smith square
London
SW1P 3JR

Or e-mail: consultation.coordinator@defra.gsi.gov.uk

8. Background

8.1 Exemptions are an effective and cost-efficient means of ensuring that the EU legislation requirements are implemented in a proportionate, risk-based way while encouraging the genuine re-use and recovery of smaller-scale low risk waste operations.

8.2 They provide a lighter touch form of regulation, minimise regulatory costs for small scale low risk waste operations and allow businesses to fulfil their obligations more easily and effectively. However, an exemption does not free an operator from all regulatory control.

8.3 The operator has to comply with the limits and conditions set out in the exemption and there is an obligation to ensure that the exempt activity does not pollute the environment or harm human health. The operator must register with the regulator, the Environment Agency in England or the Natural Resources Body in Wales.

8.4 In England, there are currently **66,953** businesses that have registered a total of **529,478** exemptions of which **848** businesses have registered the T17 exemptions at a total of **2,349** locations. In Wales there are **74,000** registered exemptions of which **308** are T17 exemptions.

8.5 In England, the Environment Agency is carrying out a review of waste exemptions and will report to the UK Government with recommendations by spring 2016. In Wales, Natural Resources Wales, will also review information available on compliance with the exemption regime and will liaise closely with the Environment Agency to identify and share relevant evidence to inform consideration of this issue by the Welsh Government.

8.6 In the intervening period, following feedback from industry, the UK Government has identified some immediate issues that should be addressed without waiting for the conclusions of this review.

9. Proposal for consultation

Issue

9.1 The T17 exemption currently allows waste lamps to be crushed before collection subject to meeting certain conditions, these are:

- that a maximum of 3 tonnes (approx. 15,000 lamps) may be crushed in any 24 hour period;
- the equipment used must be designed for crushing and volume reduction;
- mercury concentrations in any emission must not exceed 25 µg/m³; and
- that the glass and mercury resulting from the crushing must be stored in secure containers under weatherproof covering.

9.2 We estimate that several hundred tonnes of waste lamps are crushed annually under this exemption, equivalent to well over one million waste lamps a year.

9.3 Whilst mobile lamp crushing is now carried out at significant levels nationally as an exempt activity it is subject to less compliance monitoring, than that applied to lamp crushing activities carried out at permitted sites. Compliance monitoring for exempt sites is based on an intelligence led risk-based model, whereas permitted sites are subject to annual compliance checks.

9.4 Where the conditions of the T17 exemption are not followed there is the potential for lamp crushing to release mercury vapour and mercury containing phosphor powder. The release of mercury to air, land or water can have damaging impacts on human health and the environment. Given the inherent hazards associated with the presence of mercury in the lamps being crushed, the Government is seeking views on whether the regulatory requirements and levels of compliance monitoring provided under the T17 exemption are sufficient. Our objective is to provide protection to human health and the environment and ensure a proportionate approach to the regulation of these activities and provide a level regulatory playing field for all lamp recycling operators, which reflects the hazards associated with the different operations.

10. Options for change

10.1 We have given consideration to three options for ensuring the regulatory requirements and levels of compliance checking for mobile crushing of waste lamps are sufficient. The first option is to retain the T17 exemption with updated conditions. The second is to remove the exemption and require mobile crushing of waste lamps to be carried out under a bespoke permit. The third option retains the T17 exemption for crushing of low levels of lamps by waste lamp producers but requires a permit in other circumstances. The options are set out in more detail below.

10.2 Subject to consultation responses, we are minded to propose that mobile crushing of lamps is carried out under a bespoke permit (Option 2), or that the T17 exemption is retained for crushing of low levels of lamps by waste lamp producers only (Option 3) because these options provides a greater level of compliance checking for an activity

which processes significant volumes of hazardous material nationally. Responses to this consultation will inform our final decision.

Option 1: Retain and Update the T17 Exemption

10.3 Under this option the T17 exemption would be retained but with lower tonnage and mercury concentration limits and additional equipment requirements. We would also clarify that where mobile crushing is carried out the relevant Waste Electrical and Electronic Equipment Directive (WEEE) requirements also apply. The proposed changes would be as follows:

- a) Reduce the weight of lamps that can be crushed in any 24hr period from 3 tonnes to 1 tonne. The 3 tonne limit is significantly higher than the standard amount crushed in any 24hr period and the lamp recycling industry has also indicated it is not normal practice to exceed this threshold. A 1 tonne limit would still allow approximately 5,000 lamps to be crushed in 24hrs under this exemption.
- b) Reduce and more tightly define the mercury emission limit from 25 microgrammes per cubic metre to 20 microgrammes per cubic metre over an 8 hour time-weighted average (TWA). This change reflects the Workplace Exposure Limits published by HSE: <http://www.hse.gov.uk/pubns/priced/eh40.pdf> We would also require that the equipment used for crushing is secure enough to ensure any mercury vapour and phosphor/glass dusts are effectively contained in a sealed system, and that the equipment is routinely monitored and maintained to ensure the seals remain effective.
- c) Broaden the locations where the crushing can be carried out to include WEEE collection points as well as places of production. In this context a collection point means a place which is used for the collection of waste by an establishment or undertaking where the establishment or undertaking does not; (a) receive payment for collecting the waste or (b) collect waste as its main business activity.
- d) Make explicit that the technical requirements of Article 8(3) of the WEEE Directive must be met. This would include the presence of impermeable surfaces and waterproof covering for appropriate areas, the provision of spillage collection facilities and, where appropriate, decanters and cleanser-degreasers. To support this, Defra is currently working on an updated version of the WEEE treatment guidance on best available techniques to meet these requirements (BATRRT), which we hope to consult on in 2016.

Option 2: Require mobile crushing to be undertaken under a bespoke permit

10.4 Under this option a business that wishes to carry out mobile crushing would need to apply for a bespoke mobile plant permit. Once the permit was granted they would also be required to provide an annual notification of the premises where they anticipate mobile crushing will be carried out and pay an annual deployment charge to fund compliance monitoring at some of the sites visited. A business or organisation that wishes to crush its own waste lamps at a single location (e.g. a hospital) would require a site based permit.

10.5 This approach will strengthen the level of compliance monitoring for mobile crushing whilst recognising that it is both impractical and not economically viable for a company that deploys multiple mobile plants to a number of sites on a daily basis, to be subject to an inspection and deployment charge for each individual site.

10.6 Mobile crushers operating under a permit would also be required to meet operator competence requirements, provide details of their management systems, and would be subject to a greater level of scrutiny than is possible under the current exemption regime.

Option 3: Introduce a permit requirement for operators that carry out widespread use of mobile crushing but retain T17 as amended for waste producers

10.7 Under this option, the T17 exemption would be retained for waste producers who crush their own lamps at the place of production. The threshold for the amount of material that can be crushed would be lower than in option 1, (possibly 2 tonnes a year, based on industry examples we think this is roughly the amount of waste lamps a hospital might generate in a year). The other amended conditions set out in option 1 would apply.

11. Estimated costs and benefits of these proposals

11.1 This section sets out the expected costs and benefits that may arise as a result of the proposed amendments to the legislation. There are no anticipated additional costs to those operators currently operating under environmental permits.

11.2 These proposals will mainly apply to operators who carry out mobile crushing under a registered exemption and who treat waste fluorescent tubes before collection for recovery.

11.3 We do not expect waste producers to incur significant additional costs but there could be additional costs for lamp manufacturers and distributors and their WEEE compliance schemes and we would welcome comments on the extent of these costs.

11.4 Businesses that currently carry out activities in accordance with the T17 exemption will incur additional costs, namely:

- Costs of any equipment needed to meet any revised exemption conditions or the equivalent conditions in a bespoke permit
- If option 2 or 3 is implemented the additional costs associated with applying for a bespoke permit in accordance with the Environment Agency and Natural Resources Wales charging regimes.

11.5 Comments are welcomed on the extent of these and any additional costs.

12. Consultation Questions

Q1: Which of the three options set out in this consultation do you support? Please give reasons for your answer.

Q2: If the T17 exemption is retained under Option 1 do you agree with the amendments proposed to the exemption conditions?

Q3: If the T17 exemption is replaced with a requirement for a permit under Option 2 do you agree with the proposed permitting approach?

Q4: If the T17 exemption is retained under option 3 do you agree with the amendments proposed to the conditions and the constraining of its use to producers of waste lamps at the point of production?

Q5: Do you have any comments or evidence you wish to share on the costs and benefits of these options?