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# Environmental Permitting Guidance Exempt Waste Operations

For the Environmental Permitting (England and Wales)  
Regulations 2010

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Llywodraeth Cynulliad Cymru  
Welsh Assembly Government



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# 1 Summary

- 1.1 This guidance is part of a series of documents which accompany the Environmental Permitting (England and Wales) Regulations 2010 (Regulations)<sup>1</sup>.
- 1.2 The series consists of the Environmental Permitting Core Guidance<sup>2</sup>, which describes the general permitting and compliance requirements, and guidance on each of the European Directives implemented through the regime<sup>3</sup>. Separate guidance is available for local authority regulation under the regime<sup>4</sup>. This is illustrated in Figure 1.
- 1.3 This guidance should be read in conjunction with the Environmental Permitting Core Guidance<sup>5</sup>.
- 1.4 This guidance is aimed at helping readers understand the European Community (EC) Directive 2006/12/EC<sup>6</sup> on waste (Waste Framework Directive) insofar as it provides that certain waste disposal or recovery operations may be exempt from the need to hold an environmental permit.
- 1.5 It aims to help readers understand what an 'exempt waste operation' under the Regulations is and the requirements associated with exempt waste operations, such as registration and record-keeping.
- 1.6 This guidance is intended to help those regulating and carrying on waste disposal or recovery operations covered by the Waste Framework Directive and those who are depositing waste covered by section 33 (1)(a) of the Environmental Protection Act 1990. It will also be of interest to others.
- 1.7 This guidance includes a section on exemptions provided in the Regulations for waste operations that are not waste recovery or disposal operations within the meaning of the Waste Framework Directive. These are referred to in this guidance as non-Waste Framework Directive exemptions. They are included in this guidance to help those regulating and carrying on waste operations to (i) distinguish between waste recovery and disposal operations that are covered by the Waste Framework Directive and deposits of waste that are covered by section 33(1)(a) of the Environmental Protection Act 1990 and (ii) to understand when a waste operation must be registered in order to be exempt from the need to hold a permit.

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<sup>1</sup> S.I. 2010/675 (the Environmental Permitting (England and Wales) Regulations 2010) as amended by the Environmental Permitting (England and Wales) (Amendment) Regulations 2010 (S.I. 2010/676)

<sup>2</sup> Available at

<http://www.defra.gov.uk/environment/policy/permits/documents/ep2010guidance.pdf>

<sup>3</sup> See footnote 2.

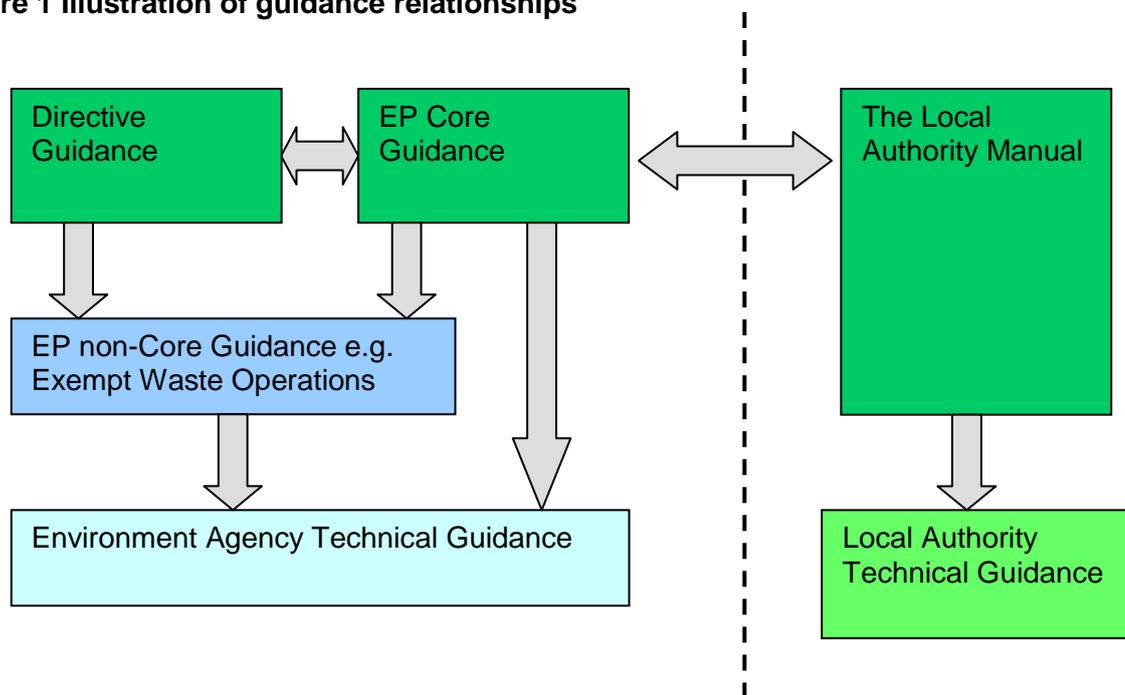
<sup>4</sup> Available at <http://www.defra.gov.uk/environment/quality/pollution/ppc/localauth/index.htm>

<sup>5</sup> See footnote 2.

<sup>6</sup> A revised Waste Framework Directive (2008/98/EC) was published in Official Journal on 22 November 2008 and is due to be transposed by 12 December 2010, at which point the Waste Framework Directive and the Hazardous Waste Directive (91/689/EEC as amended) will be repealed. Future revisions to this guidance may be required to reflect changes to legislation as a result of transposing the revised Waste Framework Directive.

- 1.8 The guidance sets out the views of the Secretary of State for Environment, Food and Rural Affairs (Defra) and the Welsh Assembly Government (WAG) on how the 2010 Regulations, in respect of exempt waste operations should be applied, and how particular terms should be interpreted. However, only the European Court of Justice or the national Courts can make a definitive interpretation of the legislation.
- 1.9 This guidance supersedes Annexes 5 and 6 of Circular 11/94 in England and Circular 26/94 in Wales<sup>7</sup>, which will also in part be replaced by guidance from the appropriate exemption registration authority. However, the guidance provided by the Circulars, in respect of detailed guidance on individual exemptions and registration requirements, will continue to apply, until the end of the transitional period(s), to those waste operations that are subject to the transitional provisions in the Regulations (see Chapter 11).

**Figure 1 Illustration of guidance relationships**



- 1.10 A number of other European Directives are relevant to exempt waste operations. Annex 1 to the Environmental Permitting Core Guidance<sup>8</sup> outlines the connections with other legislation.
- 1.11 In particular, some exempt waste operations are subject to the End of Life Vehicles (ELV) or Waste Electronic and Electrical Equipment (WEEE) Directives. Where other Directives apply, then reference should be made to the relevant guidance. Regulatory and technical guidance is also published by the Environment Agency<sup>9</sup>.

<sup>7</sup> Joint Circular on Environmental Protection Act 1990: Part II, Waste Management Licensing, The Framework Directive on Waste. Department of the Environment Circular 11/94, Welsh Office Circular 26/94

<sup>8</sup> Available at

<http://www.defra.gov.uk/environment/policy/permits/documents/ep2010guidance.pdf>

<sup>9</sup> Available at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

- 1.12 To ensure this guidance is current and up to date, it will be revised from time to time. A record of the revisions made can be found in the 'Revision of Guidance' section at the front of the document.
- 1.13 The Environment Agency will continue to develop and maintain its regulatory and technical guidance for exempt waste operations. In so doing it will continue to work closely with Defra, the Welsh Assembly Government and others.
- 1.14 Guidance on Part B mobile plant can be found in the General Guidance Manual on Policy and Procedures for Part A2 and B Installations<sup>10</sup>.
- 1.15 A separate glossary of terms is available. The glossary explains the meaning of many words, phrases and acronyms used in the Regulations and Directives<sup>11</sup>.
- 1.16 For the purposes of this guidance "2007 Regulations" means the Environmental Permitting (England and Wales) Regulations 2007 as amended by section 88(2) of the Climate Change Act 2008 (c.28), S.I 2009/890 and S.I 2009/1799 but prior to their amendment by the Environmental Permitting (England and Wales) (Amendment No.2) Regulations 2009 (S.I 2009/3381).
- 1.17 This guidance document is compliant with the Code of Practice on Guidance on Regulation<sup>12</sup>. If you feel this guidance breaches the code, or notice any inaccuracies within the guidance, please contact the Environmental Permitting Unit at: [exemptions@defra.qsi.gov.uk](mailto:exemptions@defra.qsi.gov.uk)

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<sup>10</sup> Available at:

<http://www.defra.gov.uk/environment/quality/pollution/ppc/localauth/pubs/guidance/index.htm>

<sup>11</sup> Available at:

<http://www.defra.gov.uk/environment/policy/permits/documents/ep2010guidelist.pdf>

<sup>12</sup> Environmental Permitting Guidance and Glossary :

<http://www.defra.gov.uk/environment/policy/permits/documents/ep2010guidelist.pdf>

## 2 What is an exempt waste operation?

- 2.1 Establishments or undertakings that carry on certain waste disposal or recovery operations have been exempt from the need to hold an environmental permit (formerly a waste management licence) for many years. These operations are not unregulated but are subject to lighter touch regulation requiring those who carry them out to comply with certain rules and not to cause harm to health or the environment.
- 2.2 Exempt waste operations originate from the Waste Framework Directive as described in paragraphs 2.4 to 2.8, with several other specific Directives impacting as described in paragraphs 2.9 to 2.16.
- 2.3 Exempt waste operations are defined in regulation 5(1) of the Regulations. The definition is explained in paragraphs 2.17 to 2.22. Where a waste disposal or recovery operation meets the definition of an exempt waste operation, it is exempt from the need to hold an environmental permit.

### Waste Framework Directive

- 2.4 The Waste Framework Directive<sup>13</sup> aims to protect the environment from risk of harm from waste management operations, including the recovery and disposal of waste.
- 2.5 Article 4(1) of the Waste Framework Directive sets out the objectives as regards the recovery and disposal of waste:
  - “to ensure that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment, and in particular:
  - without risk to water, air or soil, or to plants or animals,
  - without causing a nuisance through noise or odours,
  - without adversely affecting the countryside or places of special interest.”
- 2.6 The Waste Framework Directive aims to achieve these objectives by requiring establishments and undertakings<sup>14</sup> carrying on the disposal or recovery of waste to be obtain a permit from the competent authority<sup>15</sup> (Articles 9 and 10).
- 2.7 However, Article 11 allows Member States to exempt establishments or undertakings carrying out certain disposal or recovery operations from the requirement to obtain a permit. However, those exemptions can only relate to:
  - the disposal of waste at the place of its production; or,
  - the recovery of waste.

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<sup>13</sup> Guidance on the Waste Framework Directive is available at

<http://www.defra.gov.uk/environment/policy/permits/documents/ep2010waste.pdf>

<sup>14</sup> An establishment or undertaking includes any organisation, whether a company, partnership, authority, society, trust club charity or other organisation but not private individuals (see para 1.42 DoE Circular 11/94 (Welsh Circular 26/94) of 19 April 1994.

<sup>15</sup> Competent authority is used in the Waste Framework Directive. For the purposes of exempt waste operations the competent authority is the exemption registration authority.

- 2.8 Establishments or undertakings are exempt from the requirements to obtain a permit in respect of a waste operation if:
- the competent authority adopts general rules for each type of waste operation, laying down the types and quantities of waste and the conditions under which that operation may be exempted from the need to have a permit; and
  - the types and quantities of waste and the methods of disposal and recovery are such that the exempted operations do not breach Article 4 of the Waste Framework Directive.
  - establishments or undertakings carrying out operations that are exempt from permitting by virtue of Article 11 are registered with the competent authority (Article 11(3)).

### Other Directives

- 2.9 In addition to the controls set out in the Waste Framework Directive, Article 3 of the Hazardous Waste Directive (91/689/EEC as amended)<sup>16</sup> states that Member States may provide for exemptions for recovery involving hazardous waste so long as Member States adopt general rules listing the type and quantity of waste and lay down specific conditions for:
- the limit values for the content of hazardous substances in the waste,
  - emission limit values and the type of operations allowed, and
  - any other necessary requirements for the different forms of recovery.
- 2.10 Article 3 of the Hazardous Waste Directive makes further provision that exemptions for disposal of waste at the place of production cannot be provided for hazardous waste.
- 2.11 Those exempt waste operations which involve hazardous waste have been notified to the Commission.
- 2.12 The guidance on changes to the hazardous waste exemptions in 2007<sup>17</sup> will remain valid for those establishments or undertakings carrying on waste operations that are covered by the transitional provisions (see Chapter 11)
- 2.13 The End of Life Vehicle (ELV) Directive (2000/53/EC) also places restrictions on the operations that can be exempt. Article 6(2) of the ELV Directive limits exemptions to recovery operations only after the vehicles have been de-polluted.
- 2.14 The Waste Electrical and Electronic Equipment (WEEE) Directive (2002/96/EC) adds to the inspection requirement of the Waste Framework Directive by requiring an inspection to be carried out by the competent authority before registration of an exemption. This is to ensure compliance with the Article 4 objectives and specifically to verify the type and quantities of waste to be

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<sup>16</sup> The Hazardous Waste Directive will be repealed with effect from 12 December 2010, at which point exemptions relating to hazardous waste operations will be covered by the revised Waste Framework Directive.

<sup>17</sup> Guidance on changes to hazardous waste exemptions contained in Schedule 3 to the Environmental Permitting (England and Wales) Regulations 2007 (SI 2007 No 3538) <http://www.defra.gov.uk/environment/policy/permits/documents/hazardous-waste-exempt.pdf>

treated; the general technical requirements to be complied with; and the safety precautions to be taken. The inspection is required to be repeated annually.

- 2.15 The WEEE Directive also requires establishments and undertakings carrying on treatment operations to use best available treatment, recovery and recycling techniques and to store and treat WEEE in compliance with the technical requirements set out in Annex III of the Directive.
- 2.16 The WEEE Directive also requires establishments and undertakings carrying on treatment operations to store and treat WEEE in compliance with the treatment requirements set out in Article 3 of the Directive.<sup>18</sup>

### **Exempt waste operations as defined in the Regulations**

- 2.17 An exempt waste operation is defined in regulation 5(1) of the Regulations.
- 2.18 The first part of the definition provides that an exempt waste operation means a waste operation that is not carried on at installation or an activity that falls within section 5.3 or 5.4 of Part 2 of Schedule 1 and is carried on at an installation and that meets the requirements of paragraph 3(1) of Schedule 2.
- 2.19 A waste operation is defined in regulation 2 as meaning recovery or disposal of waste within the scope of the Waste Framework Directive.
- 2.20 An installation means a Part A or Part B installation<sup>19</sup> including any location on the same site where directly associated activities are carried out.
- 2.21 The first part of the definition provides waste operations carried on at a Part A or Part B installation, including any directly associated activities, will be covered by the environmental permit for that installation. In such a case, the waste operation may not be registered as an exempt waste operation. The exceptions to this is where the waste operation is an activity falling within section 5.3 or 5.4 of Part 2 of Schedule 1<sup>20</sup> or when the exempt waste operation is carried out by another operator. In such cases, the waste operation is not required to be covered by the permit of that installation and it may be an exempt waste operation.

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<sup>18</sup> <http://www.defra.gov.uk/environment/policy/permits/documents/ep2010weee.pdf>

<sup>19</sup> For further detail on the definitions of “installation” and “directly associated activities” see <http://www.defra.gov.uk/environment/policy/permits/documents/ep2010guidelist.pdf>

<sup>20</sup> Disposal of waste other than by incineration of landfill as described in Section 5.3 and recovery of waste as described in Section 5.4.

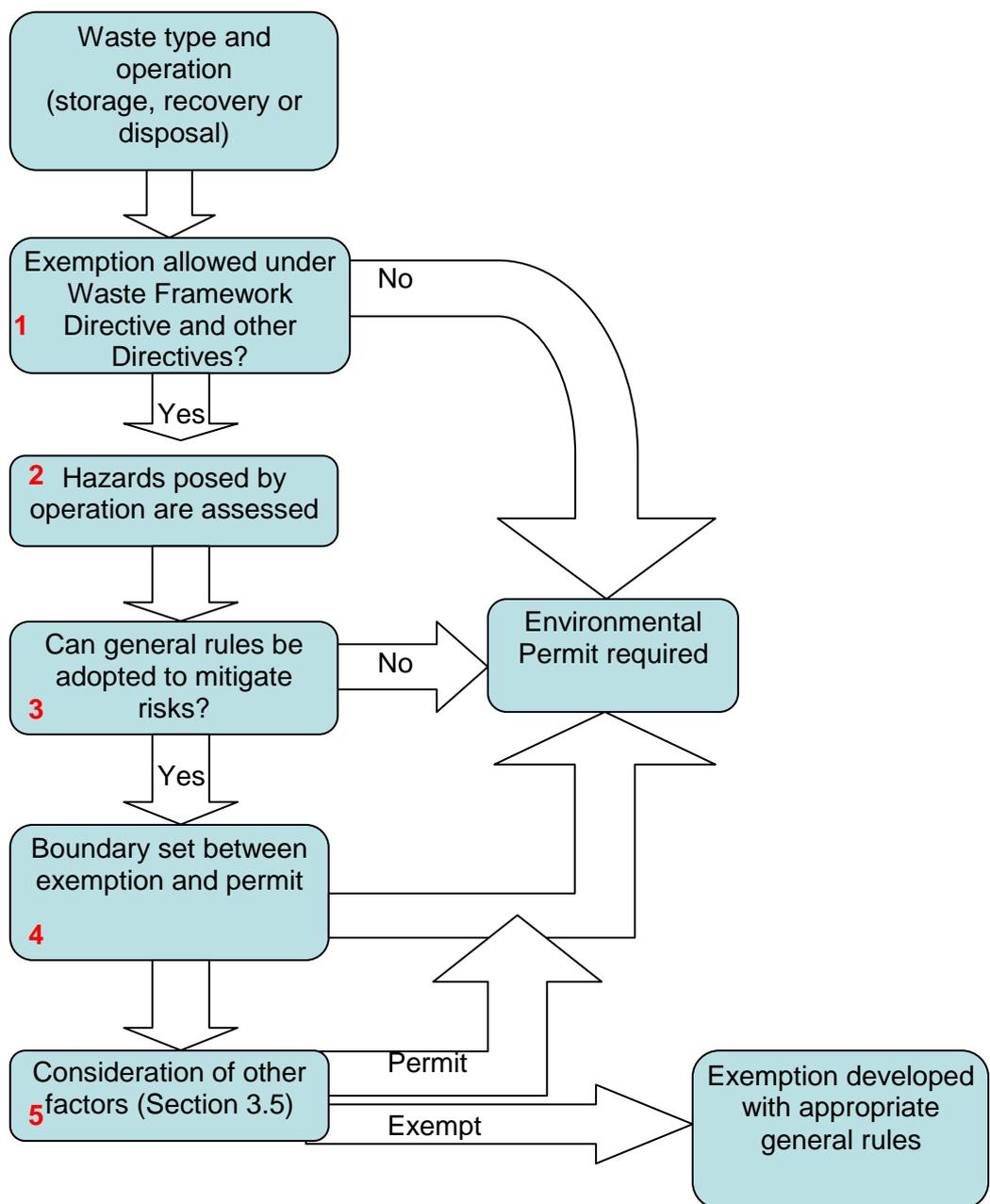
2.22 The second part of the definition provides that, in order for a waste operation to be an exempt waste operation, the operation must meet the requirements in paragraph 3(1) of Schedule 2. These requirements are as follows:

- The waste operation must fall within a description in Part 1 of Schedule 3;
- The waste operation must satisfy the relevant general and specific conditions specified in Part 1 of Schedule 3. These are specified in the same paragraph as the description for the operation;
- The waste operation must be registered;
- An establishment or undertaking must be registered in relation to the operation (but this does not apply where a waste operation is carried on by a person who is not an establishment or undertaking e.g. householder); and
- The type and quantity of waste submitted to the waste operation and the method of disposal or recovery must be consistent with the need to attain the objectives in Article 4 of the Waste Framework Directive.

### 3 The risk based approach to the Government's provision of exempt waste operations.

3.1 Figure 2 below illustrates the five step, risk-based approach, used by the Government to determine whether to provide an exemption in the Regulations for a given waste operation. This approach has enabled a clear and more consistent approach to the assessment and decision making process in the Regulations. It is anticipated this approach will be followed in subsequent reviews and help those proposing future revisions.

**Figure 2 Illustration of five step risk-based approach used by the Government**



- 3.2 The Government is required to adopt 'general rules' for each type of exempt waste operation. Point 3 of figure 2 means that where it is considered that the rules needed to mitigate against the risk posed by a waste operation need to be assessed on a case-by-case basis there is a presumption that it would not be appropriate to provide an exemption in the Regulations.
- 3.3 The threshold (i.e. the boundary in terms of the types and quantities of waste handled) set between an exempt waste operation and the need for an environmental permit is based not only on an assessment of the risk but also consideration of 'other factors'.
- 3.4 The Government's approach involves an overall risk assessment (high, medium or low) of a waste operation involving specific waste types based on the risk of pollution or harm arising from emissions to air, land or water, etc or due to noise/vibration, odour, particulate/dust, litter or vermin.
- 3.5 In addition the 'other factors' identified in point 5 of figure 2 have been taken into consideration by asking the following questions:
- Can the risk be easily mitigated e.g. by containment or is active abatement technology required?
  - Can the operation be undertaken anywhere or with easily defined restrictions or locations?
  - Will the establishment or undertaking be required to undertake risk assessments prior to the operation commencing?
  - Are the waste types well characterised and consistent?
  - Is it in the public interest to undertake a low regulatory approach?
  - Would the exempt waste operation be subject to abuse?
  - Is a high degree of operator competence or accreditation needed?
  - Is there a need for record-keeping?
  - Will regular inspection or other compliance assessment be needed?
  - Is the cessation of operations likely to need assessment?
  - Would the general binding rules be so complicated that it would be difficult for the regulator and establishment or undertaking to easily identify what compliance looks like?
  - Are there other, political, policy or economic considerations?
- 3.6 Having carried out these assessments the key factor used to decide whether or not to provide an exempt waste operation has been the perceived need for the regulator to formally assess information prior to the operation commencing and to carry out regular inspection thereafter.
- 3.7 This risk assessment approach enables a consistent approach to amendments and the development of new exempt waste operations will be adopted in the future as part of a regular review process, which can be found in Chapter 13.
- 3.8 It should be noted that the above risk-based approach relates only to the Government's development of new or amended exempt waste operations and not the interpretation of the exempt waste operations once they are prescribed in regulations.

## 4 The format and grouping of exempt waste operations

- 4.1 Schedule 3 to the Regulations sets out descriptions and conditions for exempt waste operations.
- 4.2 Schedule 3 has been split into four chapters, or groups, which are:
- Chapter 2 Use of waste
  - Chapter 3 Treatment of waste
  - Chapter 4 Disposal of waste
  - Chapter 5 Storage of waste pending its recovery
- 4.3 These chapters, and the individual exempt waste operations, are explained further in Environment Agency and/or other exemption registration authority guidance.
- 4.4 The Regulations include U, T, D or S as part of the paragraph title in each chapter which represent Use, Treatment, Disposal or Storage respectively. For example “**Storage of waste in a secure place (S2)**”. In this guidance, individual exempt waste operations are referred to by reference to this numbering (i.e. “T7” means paragraph 7 of Section 2 of Chapter 3 of Part 1 of Schedule 3 which is headed “Treatment of waste bricks, tiles and concrete by crushing, grinding or reducing in size (T7)”).
- 4.5 Within each chapter, general conditions are set out at the beginning of the chapter and apply to all of the exempt waste operations contained within that chapter. These general conditions should therefore be read in conjunction with specific conditions that apply to particular exempt waste operations.
- 4.6 Each exempt waste operation is set out in a standard format with a heading which generally describes the nature of the operation. This is:
- A description of the operation covered by the exempt waste operation
  - The List of Waste code(s)<sup>21</sup> accompanied by a written description of the waste types which are permitted under the exempt waste operation. The waste codes and types are generally set out in a table. Where there are different quantities of different wastes allowed, these are also contained in the table. Where a waste code is followed by an asterisk e.g. 160601\* this denotes that it is a hazardous waste type.
  - The specific conditions relating to that exempt waste operation including quantity limits and storage conditions. In some cases the specific additional conditions applying to different waste types are referenced by letters in the table of permitted wastes.

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<sup>21</sup> The List of Wastes (England) Regulations 2005 (SI 2005/895) as amended SI 2005/1673 and the List of Wastes (Wales) Regulations 2005 (SI 2005/1820). The List of Wastes (Wales) Regulations 2005 SN. 1820 (W.148)

## List of Waste codes

- 4.7 The European Waste Catalogue 2002 (EWC) is a non-exhaustive, hierarchical list of waste types established by the European Commission (2000/532/EC), under which all wastes should be classified. It is brought in to force by List of Wastes (England) and List of Wastes (Wales) Regulations 2005<sup>22</sup>. European Waste Catalogue (EWC) codes are the same as List of Waste Codes.
- 4.8 Under the Environment Protection Act (Duty of Care) Regulations 1990 (as amended) in England and Wales, all waste producers (including waste spread to land) must classify their waste using one of the six-digit codes set out in the List of Waste Regulations.
- 4.9 The List of Waste codes are split into twenty chapters based on the source from which the waste was generated (making up the first two digits of the code). This is further split in to subchapters, in which the process type and waste descriptions are given.
- 4.10 The Regulations make use of both the relevant six digit List of Waste code along with a description of the waste. In many cases, the written description alongside the List of Waste code is the one that appears in the List of Wastes Regulations.
- 4.11 However, where this written description is narrower for the exempt waste operation than in the List of Wastes, only those wastes described can benefit from the exempt waste operation. These narrower descriptions are indicated by the addition of “only” at the end of the waste description.
- 4.12 The combination of the waste codes and the written descriptions need to be read together to understand the types of waste that may be covered by an exempt waste operation.
- 4.13 List of Waste codes have not been used in non-Waste Framework Directive exemptions in Schedule 25 of the Regulations. The exemptions in that schedule apply to all waste of that description, unless otherwise specified.

## Quantity Limits

- 4.14 Paragraph 1(5) of Part 1 of Schedule 3 states that where a quantity limit is specified in relation to more than one operation (storage, use or treatment) in any specific or additional condition, that quantity limit applies to all of those operations on an aggregated basis.
- 4.15 This means that where an exempt waste operation has a “used or stored” or “treated or stored” quantity limit over a specified period, the quantity limit is the maximum limit that can be at that place for that period.
- 4.16 In relation to those exempt waste operations carried on by waste mobile plant , the quantity limits as stated in any specific or additional specific condition, apply in relation to each place where the operation is carried out.
- 4.17 The quantity limits relating to the use or storage of waste over a specified period, as stated in any specific condition in the paragraphs in Chapter 2 of Part 1 of Schedule 3 listed below, apply for that period regardless of whether

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<sup>22</sup> See footnote 21

more than one establishment or undertaking carries on the operation at the same place over the period. For example, where operator A registers a U1 exemption, uses the full quota of 5,000 tonnes in the first year and then notifies the Environment Agency that he wants their registration to be taken off the public register, this prevents operator B from seeking to register another U1 exemption at the same place within the original 3 year period. This provision applies to

- U1 Use of waste in construction
- U2 Use of baled end-of-life tyres in construction
- U10 Spreading waste on agricultural land to confer benefit
- U11 Spreading waste on non-agricultural land to confer benefit
- U12 Use of mulch
- U15 Spreading pig and poultry ash

### **Storage of waste**

4.18 Chapter 5 Storage of waste pending its recovery provides two exempt waste operations solely for the storage of waste prior to recovery elsewhere<sup>23</sup>.

4.19 Any storage associated with an exempt waste operation involving Chapters 2 to 4 of the Regulations (use, treatment or disposal of waste) is included as part of the appropriate exempt waste operation.

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<sup>23</sup> Paragraphs S1 and S2 of Chapter 5 of Part 2 of Schedule 3

## 5 Part B activities

- 5.1 A Part B activity is one which is listed under Schedule 1 of the Regulations for local authority regulation with an environmental permit in respect of emissions to air only.
- 5.2 Prior to the Regulations, an establishment or undertaking was traditionally required to register a separate exemption with the local authority for any related waste storage and other associated activities when an environmental permit is required in any case in respect of the Part B activity.
- 5.3 In line with the “single regulator” principles of environmental permitting, the Regulations provide that waste storage requirements, which were previously registered as exemptions, will be regulated through the Part B environmental permit. This is achieved through the definition of an “exempt waste operation” (see paragraphs 2.17 to 2.22).
- 5.4 Therefore, local authority environmental permits for Part B activities will need to address waste storage; other associated activities and apply the Waste Framework Directive Article 4 objectives accordingly.
- 5.5 Therefore, the following waste operations for the storage of waste at the place where the associated Part B activity is carried out (including their previous paragraph number under Schedule 3 to the 2007 Regulations) are no longer exempted under the Regulations and their requirements will be incorporated into the associated Part B permit. These are:
  - Paragraph 2 – Scrap metal furnaces
  - Paragraph 3 – Burning waste as a fuel
  - Paragraph 24 – Crushing, grinding or size reduction of bricks tiles or concrete (except if emissions are so trivial that they are not covered by a Part B permit)
  - Paragraph 43 – Glass manufacture and production

### Production of compost for growing mushrooms

- 5.6 There has historically been a split in the regulation of establishments or undertakings producing compost for growing mushrooms. On-farm composting for growing mushrooms has been regulated by the Environment Agency through a simple exemption, and off-farm commercial composting for growing mushrooms has been regulated by local authorities through a Part B permit.
- 5.7 The Regulations remove the separate exemption for on-farm production of compost for growing mushrooms, meaning that these establishments or undertakings will need to hold an environmental permit from the Local Authority to carry on the composting operation.
- 5.8 The Regulations amend the definition of an excluded activity so that all production of compost for growing mushrooms is included within this section and operators are therefore required to hold an environmental permit under Section 6.8 of Part 2 of Schedule 1 (a Part B permit).
- 5.9 The transitional provision for on-farm composting for growing mushrooms can be found in Chapter 11.

### **Trivial crushing, grinding or size reduction of bricks, tiles or concrete**

- 5.10 There are some cases where activities covered by Part B permitting are determined to be 'trivial' within the meaning of paragraph 6(3) of Part 1 of Schedule 1 of the Regulations and the regulator will not require a Part B environmental permit to be in place. In these cases the recovery activity would fall to be regulated under Waste Framework Directive requirements.
- 5.11 The Regulations provide for an exempt waste operation under paragraph 7(1) of Section 2 of Chapter 3 of Part 1 of Schedule 3 ("Treatment of waste bricks, tiles and concrete by crushing grinding or reducing in size (T7)") in respect of certain waste operations where a Part B permit is not required. This exempt waste operation will be registered with the local authority and statutory guidance is available on the definition of triviality<sup>24</sup>.
- 5.12 Specific provisions have been made in the Regulations to enable waste mobile plant to operate under this exemption and further details on registration requirements can be found in Chapter 6.

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<sup>24</sup> <http://www.defra.gov.uk/environment/quality/pollution/ppc/localauth/index.htm>

## 6 Registration Requirements

- 6.1 Under the 2007 Regulations, a distinction was made between simple and notifiable exemptions<sup>25</sup>, with variable registration requirements. This distinction has been removed under the Regulations and registration requirements under the Regulations are the same for all exempt waste operations, the only exception to this is where the waste operation is a WEEE operation<sup>26</sup>.
- 6.2 This chapter outlines the requirements for registration of exempt waste operations from 6 April 2010 under the Regulations. The requirements are subject to the transitional provisions set out in Chapter 11.
- 6.3 In order to be exempt from the need to hold a permit to carry on a waste disposal or recovery operation, an establishment or undertaking carrying on that operation must be registered in relation to the operation.
- 6.4 Until the establishment or undertaking is registered with the appropriate exemption registration authority in relation to the particular waste operation, it will not be carrying on an exempt waste operation and the operation will be subject to the requirement to hold a permit.
- 6.5 If an establishment or undertaking wishes to register an exempt waste operation in relation to a WEEE operation<sup>27</sup>, there are different and additional registration requirements which are laid out at the end of each specific section below.
- 6.6 Paragraph 3(2) of Schedule 2 states that the requirement to register an exempt waste operation does not apply to any waste operation by a person who is not an establishment or undertaking. Therefore none of the requirements of this Chapter of the guidance applies to individuals (acting on their own behalf) who are not an establishment or undertaking.

### Exemption registration authority

- 6.7 All exempt waste operations are to be registered with the relevant exemption registration authority, which is the Environment Agency in most cases. Further details of the relevant exemption registration authority for each exempt waste operation can be found in Annex B – Table of transitional

### Animal Health

- 6.8 Animal Health, an executive Agency of Defra, is the exemption registration authority for the following exempt waste operation:
- T22 Treatment of animal by-product waste at a collection centre.

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<sup>25</sup> The Waste Management Licensing (England and Wales)(Amendment)(No.3) Regulations 2005 introduced a two-tier system of 'simple' exemptions and more complex 'notifiable' exemptions that are subject to registration charges, annual renewal requirements and additional requirements prior to registration. This was incorporated into the Environmental Permitting (England and Wales) Regulations 2007.

<sup>26</sup> A WEEE operation means the repair or refurbishment of WEEE within the scope of paragraph 11(1) of Section 2 of Chapter 3 of Part 1 of Schedule 3 (T11).

## Local Authorities

- 6.9 Local Authorities are the exemption registration authorities for the following exempt waste operations:
- T3 Treatment of waste metals and alloys by heating for the purposes of removing grease etc.
  - T7 Treatment of waste bricks, tiles and concrete by crushing, grinding or reducing in size.
- 6.10 Where the exempt waste operation is not waste mobile plant, the exemption registration authority is the local authority in whose area the operation is carried on.
- 6.11 Where either of these exempt waste operations is carried out by waste mobile plant<sup>28</sup> the following provisions are made for exemption registration authority:
- Where the operator of the mobile plant has its principal place of business in England and Wales, the exemption registration authority is the Local Authority in whose area the operator has its principal place of business.
  - Where the operator of the mobile plant has its principal place of business outside England and Wales, the exemption registration authority is the Local Authority in whose area the operation is first carried on.

## Registration Procedure

- 6.12 Paragraph 6 of Schedule 2 requires that an establishment or undertaking seeking to register an exempt waste operation or to renew an existing registration (see later in this chapter) must notify the exemption registration authority of the following relevant particulars:
- its name and address;
  - a description of the exempt waste operation or operations;
  - the place where the exempt waste operation or operations will be carried on, including the postcode of that place. If the postcode is not available, the OS grid reference<sup>29</sup> must be provided; and
  - the name and business contact details of an individual designated by the establishment or undertaking to be the primary contact<sup>30</sup>.
- 6.13 The information required for registration must be provided in a form specified by the exemption registration authority.
- 6.14 In certain situations the exemption registration authority has the duty to refuse to register an operation as exempt. Please see paragraphs 6.23 to 6.25 for

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<sup>28</sup> Waste mobile plant is defined in Regulation 2(1)) of the Regulations and full guidance can be found in Chapter 2 of the Environmental Permitting Core Guidance, available at [www.defra.gov.uk/environment/policy/permits/documents/ep2010guidance.pdf](http://www.defra.gov.uk/environment/policy/permits/documents/ep2010guidance.pdf)

<sup>29</sup> Ordnance Survey grid reference

<sup>30</sup> This information will not appear on the register of exempt waste operations.

more details of when an exemption registration authority must decline to register an exempt waste operation.

### **WEEE Operations**

6.15 Where the exempt waste operation is a WEEE operation the establishment or undertaking must notify the following additional relevant particular:

- The type and quantity of waste subject to the operation

### **Place-based registration**

6.16 An establishment or undertaking has to register in relation to an exempt waste operation carried on at a particular place and the conditions applicable to the operation apply to that place. See also 7.11 in respect of exempt waste operations carried out by waste mobile plants.

6.17 The relevant particulars that must be notified to the exemption registration authority, as listed in the previous section, include:

- the place where the exempt waste operation is carried out, including the postcode of that place. If not postcode is available, the OS grid reference must be provided.

6.18 The exemption registration authorities will provide specific guidance on the definition of place in different circumstances.

### **Period of validity of registration**

6.19 Paragraph 12 of Schedule 2 states that the registration of an exempt waste operation or operations is valid for three years. This is subject to the restrictions of registering more than one of the same exempt waste operation at the same place as outlined in the section below. A “first registration” is valid for three years from the date of registration.

6.20 If an establishment or undertaking that has already notified one or more exempt waste operations at any one place wishes to add an additional exempt waste operation to the register at that same place at a later date, then that ‘additional’ registration will be valid until the date of renewal for the first registration.

6.21 For example, if an establishment or undertaking notified three exempt waste operations to the exemption registration authority on the 6 April 2010, the period of validity of the registration would be until 6 April 2013. If the establishment or undertaking wished to add another exempt waste operation to be carried on at the same place on 1 January 2011, the period of validity of the registration would remain as 6 April 2013 and any renewal of registration would take effect from 7 April 2013.

### **WEEE Operations**

6.22 The period of validity for a WEEE operation is 3 years but it is treated separately to any other exempt waste operation carried on at the same place. This is due to the requirement that a notification for this exemption must be

accompanied by an applicable fee and an inspection must be carried out by the exemption registration authority prior to registration.

### **Restrictions on registering exempt waste operations at the same place**

- 6.23 Paragraph 10 of Schedule 2 states that an establishment or undertaking cannot register more than one of the same exempt waste operation at the same place at the same time during the registration period of 3 years. For example, only one exempt waste operation under Use of waste in construction (U1) can be registered by an establishment or undertaking at any one place, or by more than one establishment or undertaking, in any 3 year registration period.
- 6.24 In addition to this, no more than one establishment or undertaking may be registered at the same place for the same exempt waste operation at the same time.
- 6.25 This restriction does not apply to an exempt waste operation falling within a description in paragraph D2 Deposit of waste from a railway sanitary convenience or sink<sup>31</sup>.

### **Renewal of registrations**

- 6.26 Paragraph 12 of Schedule 2 states that a first registration will remain valid for three years. At the end of the three year period the establishment or undertaking has the option of renewing the registration of the exempt waste operation(s).
- 6.27 An establishment or undertaking can renew their registration at any time in the month prior to the renewal date (3 years from date of initial registration) up to the date that the existing registration becomes invalid.
- 6.28 A renewed registration will become valid the day after the initial registration becomes invalid. Therefore, if an exempt waste operation appears on the register on the 6 April 2010, it is valid until 6 April 2013. If the registration is then renewed, the new registration will be valid from 7 April 2016.

### **WEEE Operations**

- 6.29 A WEEE operation will remain valid for three years. At the end of the three year period the establishment or undertaking has the option of renewing the registration of the exempt waste operation. This registration is separate from any other exempt waste operations registered at the same place.

### **Changes to relevant particulars**

- 6.30 Paragraph 13 of Schedule 2 requires that establishments or undertaking inform the exemption registration authority about any changes to the relevant particulars (as described in paragraph 6.12) and the contact details required under paragraph 6 of Schedule 2. Such changes must be notified in a form specified by the exemption registration authority.
- 6.31 The exemption registration authority is under a duty to update the register in relation to any changes notified to it within 5 working days (Paragraph 6.40).

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<sup>31</sup> D2 of Chapter 4 of Part 2 of Schedule 3

- 6.32 If an establishment or undertaking does not inform the exemption registration authority of changes to the relevant particulars, the exemption registration authority may remove the relevant entry from the register.
- 6.33 If the exemption registration authority removes an entry from the register under those circumstances outlined in paragraph 6.30 above, it must notify the establishment or undertaking concerned without delay.

### **Register of exempt waste operations**

- 6.34 Paragraph 7 of Schedule 2 requires that exemption registration authorities must establish and maintain a register of establishments or undertakings carrying out exempt waste operations in relation to which it is the exemption registration authority. Details of which competent authorities are the exemption registration authority for each exempt waste operation can be found earlier in this chapter or in Annex B – Table of transitional provisions.
- 6.35 Renewal of exempt waste operations, as discussed on the 6.26 to 6.28, will provide a way of maintaining an up to date register of exempt waste operations. It will also ensure improvements to the register of exempt waste operations and provide enhanced ability of producers and carriers to comply with the Duty of Care.
- 6.36 The exemption registration authority is required to ensure that its register is open to inspection by the public free of charge at all reasonable hours and to provide reasonable facilities to the public for obtaining a copy of an entry on payment of a reasonable charge.
- 6.37 As stated earlier in this chapter, an establishment or undertaking will not be exempt from the requirement to hold a permit in relation to a waste operation unless it has registered the operation where it is required to do so. The registration requirement does not apply to the non-Waste Framework Directive exemptions.
- 6.38 The exemption registration authority is required to enter the relevant particulars on its register within 5 days of receiving it, subject to the next paragraph regarding WEEE operations.

### **WEEE Operations**

- 6.39 Where the notification involves a WEEE operation the Environment Agency should only place an entry on the register if, in addition to requirements listed in the Registration Procedure (paragraphs 6.12 to 6.14), it has:
- carried out an inspection in relation to the exempt waste operation that complies with the second paragraph of Article 6(2) of the WEEE Directive; and
  - is satisfied as to the particulars to be verified pursuant to the third paragraph of that Article.
  - the applicable fee has been paid (Chapter 8).

### **Duty to remove entries from the register**

6.40 Paragraph 8 of Schedule 2 sets out a duty on the exemption registration authority to remove an entry from the register of exempt waste operations in the following circumstances:

- the establishment or undertaking notifies the exemption registration authority that it has ceased to operate the exempt waste operation at the place stated in the relevant particulars; or
- the waste operation is no longer an exempt waste operation (for example, an establishment or undertaking that fails to renew its registration will no longer be exempt or an operation that is operating outside the exempt waste operation conditions and requires an environmental permit); or
- where the operation involves a WEEE operation<sup>32</sup>, the exemption registration authority has carried an inspection and is not satisfied that the relevant requirements of the WEEE Directive<sup>33</sup> will be achieved

6.41 Paragraph 8 of Schedule 2 includes a requirement on the exemption registration authority to notify an establishment or undertaking without delay if it removes an entry from the register of exempt waste operations.

6.42 However, the exemption registration authority does not have to notify an establishment or undertaking if the reason that the entry has been removed from the register of exempt waste operations is that the establishment or undertaking has notified the exemption registration authority that it has ceased to carry on the exempt waste operation at the place stated in the relevant particulars.

### **Local Authority and Animal Health Registers of exempt waste operations**

6.43 Local Authorities and Animal Health will be required to maintain the register of exempt waste operations in respect of those exempt waste operations where they are the exemption registration authority. Further details of these exempt waste operations can be found in the section on exemption registration authorities (paragraph 6.7 to 6.11) and in Annex B – Table of transitional provisions.

### **Exclusions from the register of information affecting national security**

6.44 Where the Secretary of State in England or the Welsh Ministers in Wales<sup>34</sup> give a direction to an exemption registration authority that specified information or a specified description of information must be excluded from the register, those relevant particulars must be excluded from the register of exempt waste operations.

6.45 Further details on register of exempt waste operations and exclusions from the register of information affecting national security can be found in Chapter 13 of

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<sup>32</sup> WEEE operation is defined in paragraph 1 of Schedule 2 of the Regulations and means an waste operation falling within a description in the paragraph numbered T11 of Chapter 2 of Part 2 of Schedule 3 (repair or refurbishment of WEEE) of the Regulations

<sup>33</sup> WEEE Directive (2002/96/EC) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0096:EN:HTML>

<sup>34</sup> Termed “appropriate authority” under the 2007 Regulations

the Environmental Permitting Core Guidance.<sup>35</sup> This guidance has been updated to reflect that the same provisions exist in Paragraph 11 of Schedule 2 in the Regulations in relation to exempt waste operations.

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<sup>35</sup> <http://www.defra.gov.uk/environment/policy/permits/documents/ep2010guidance.pdf>

## 7 Record-keeping Requirements

- 7.1 Schedule 2 does not impose a general record-keeping duty in relation to exempt waste operations. The records required to be kept under the Environmental Protection (Duty of Care) Regulations 1991<sup>36</sup> or the Hazardous Waste Regulations 2005<sup>37</sup> can be used by the exemption registration authority to confirm the type and quantities of wastes being handled by an establishment or undertaking carrying on an exempt waste operation.
- 7.2 However, paragraph 14 of Schedule 2 requires record-keeping for the following exempt waste operations:
- U10 Spreading waste to agricultural land for benefit (subject to the exclusion outlined in paragraph 7.3)
  - U11 Spreading waste to non-agricultural land for benefit (subject to the exclusion outlined in paragraph 7.3)
  - T9 Recovery of scrap metal
  - T3 Treatment of waste metals and metal alloys by heating for the purposes of removing grease etc or T7 Treatment of waste bricks, tiles and concrete by crushing, grinding or reducing in size where the operation is carried on by waste mobile plant
  - T11 Repair or recovery of WEEE, as records are required under the WEEE Directive
- 7.3 The record keeping required in relation to U10 Spreading waste to agricultural land for benefit or U11 Spreading waste to non-agricultural land for benefit does not apply where the establishment or undertaking concerned is already required to keep records in relation to the operation and the waste that is subject to that operation, under the Nitrate Pollution Prevention Regulations 2008 or the Nitrate Pollution Prevention (Wales) Regulations 2008.
- 7.4 Establishments or undertakings carrying on those exempt waste operations outlined above that are required to keep records must:
- Keep records of the quantity, nature, origin and, where relevant, the destination and treatment method of all waste disposed of or recovered in the course of that operation;
  - Retain those records for a period of 2 years; and
  - During that period make those records available to the exemption registration authority on request.

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<sup>36</sup> Environmental Protection (Duty of Care) Regulations 1991 (SI 1991/2839) as amended (SI 2003/63)

<sup>37</sup> Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894) as amended (SI 2009/507) and the Hazardous Waste (Wales) Regulations 2005 (No 1806 (W.138) as amended (SI 2009/2861)

## 8 Funding and charging

- 8.1 In respect of the treatment of WEEE under T11 Repair or refurbishment of WEEE, a charge is payable for each three-yearly registration period. The WEEE Directive requires an initial inspection prior to registration and subsequent annual audit to take place and the charges reflect the Environment Agency's costs in carrying out the inspections.
- 8.2 Paragraph 11 of Schedule 2 provides a fee of £840 in respect of the registration of a WEEE operation until such a time as either the Environment Agency includes this operation in its Fees and Charges<sup>38</sup> scheme or 1 April 2013, whichever is earlier.
- 8.3 Although no other exempt operations are subject to any charging provisions under the Regulations, those currently subject to the charging provisions laid down in the 2007 Regulations in respect of complex/notifiable exemptions will continue to attract an annual renewal fee until such time as either the transitional period ends (see Chapter 11 for further information) or the operator either applies for an environmental permit or, where applicable, registers an exempt waste operation in accordance with the Regulations.

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<sup>38</sup> <http://www.environment-agency.gov.uk/business/regulation/38811.aspx>

## 9 Compliance and Inspection

- 9.1 Chapter 11 of the Environmental Permitting Core Guidance<sup>39</sup> describes the powers and duties of the regulator (and the establishment or undertaking) in ensuring compliance with the Regulations and permit conditions.
- 9.2 Section 11.4 states that there is a duty on the exemption registration authority to carry out periodic inspections of exempt waste operations, which is laid out in Chapter 15 on Exempt Facilities. This duty is imposed by paragraph 15(1) of Schedule 2 to the Regulations.

In addition to the risk-based compliance assessment outlined in the Core Guidance, the exemption registration authority will adopt a risk-based approach to compliance assessment as follows:

- where it receives complaints or problems are brought to its attention by local residents or businesses, local authorities, environmental groups or others.
  - use of sample inspection for different types of exempt waste operation to monitor compliance.
  - inspections targeted at surveying whether the new exempt waste operations are appropriate and/or effective at enabling low risk operations to take place, assessing whether an exempt waste operation is truly low risk, that the general rules are appropriate and identifying any signs of abuse. This information will assist subsequent regular reviews.
- 9.3 If a WEEE operation is registered, the exemption registration authority must undertake an annual inspection that complies with the third and fourth paragraphs of Article 6(2) of the WEEE Directive. If that inspection is unsatisfactory, then the registration must be removed from the registration of exempt waste operations as outlined in paragraph 6.40 above.

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<sup>39</sup> Available at <http://www.defra.gov.uk/environment/policy/permits/documents/ep2010guidance.pdf>

## 10 Appeals and Challenges

10.1 General appeal mechanisms for environmental permitting are outlined in Chapter 13 of the Environmental Permitting Core Guidance<sup>40</sup>. This chapter will be updated in the future to refer to exempt waste operations as outlined in this section.

10.2 As was the case under the 2007 Regulations, there is no specific statutory appeal mechanism in the Regulations in relation to the registration of exempt waste operations or the removal of entries from the register.

10.3 However, there are other systems in operation which provide sufficient safeguards for industry to address concerns about the exemption registration authority's handling of the registration of exempt waste operations and removing entries from the register.

10.4 The ability to challenge includes:

### Environment Agency

- Complaints and Commendations procedure allows customers to complain about its decisions.<sup>41</sup>
- Where a complainant is dissatisfied he has the right to raise the issue with the Parliamentary Ombudsman (in England) or the Public Services Ombudsman (in Wales).

### Local Authorities

- Local authority complaints procedures.
- Where a complainant is dissatisfied he has the right to raise the issue with the Local Government Ombudsman (in England) and the Public Services Ombudsman (in Wales).

10.5 All these Ombudsmen are independent referees and offer a free complaint service.

10.6 Decisions may also be challenged by judicial review.

10.7 The issues arising from refusal to register or the removal of registrations will be monitored during the three and a half year transitional provisions. The need for any formal appeals system in relation to exempt waste operations will be reassessed thereafter during the first Regular Review, as outlined in Chapter 13.

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<sup>40</sup> Available at

<http://www.defra.gov.uk/environment/policy/permits/documents/ep2010guidance.pdf>

<sup>41</sup> Available at [www.environment-agency.gov.uk/contactus/36316.aspx](http://www.environment-agency.gov.uk/contactus/36316.aspx)

## 11 Transitional provisions

- 11.1 The Regulations introduce three-yearly registration periods coupled with the revised format and grouping of exempt waste operations which may result in some operations that were exempt waste operations under the 2007 Regulations requiring a standard rules permit. Most other establishments or undertakings will need to register an exempt waste operation under the Regulations.
- 11.2 This means that all establishments or undertakings carrying on exempt waste operations under the 2007 Regulations will be affected by the changes.
- 11.3 A number of exempt waste operations that previously operated under a registered exempt waste operation, and to a lesser extent to some of those operating under an environmental permit, may be subject to a different level and type of regulation.

### General aims and principles for transitional provisions

- 11.4 In determining the transitional provisions and the relative timing to require migration to the new arrangements the main principle has been to prioritise the transition based on environmental risk and any need to enhance the regulators' ability to exercise appropriate controls.
- 11.5 A second principle has been to allow reasonable time periods for establishments or undertakings to take informed judgements about the options that are open to their business and to take the necessary steps to comply with the new regulatory requirements.
- 11.6 Thirdly, the arrangements aim to reduce the administrative effort associated with making changes to a minimum for all those who will remain subject to an exempt waste operation.
- 11.7 The Regulations provide that only those registered as an exempt waste operation, and in compliance with the conditions of that exempt waste operation, as at 5 April 2010 will be affected by the transitional provisions.
- 11.8 Regulation 22 of the Regulations states that where a waste operation is covered in whole or in part by an environmental permit that will become an exempt waste operation on 6 April 2010, that whole or part of the permit which covers the exempt waste operation is revoked on the date that the operation becomes an exempt waste operation.
- 11.9 The transitional provisions as laid out in Regulation 71B of the Regulations will have the effect outlined below.

### Transitional Provisions

- 11.10 Any establishment or undertaking registered as carrying on an exempt waste operation under the 2007 Regulations as at 5 April 2010 may register an exempt waste operation under the revised Regulations at any time between 6 April 2010 and the relevant date laid out below.

### **On or before 6 April 2010 (revised Regulations come into force)**

11.11 There are no transitional provisions for the following waste operations and the revised Regulations will apply to establishments or undertakings carrying out these from the 6 April 2010:

- Environment Agency low risk positions, and some enforcement and regulatory positions.
- Establishments or undertakings wishing to register an exempt waste operation at a new place or for the first time.

11.12 Establishments or undertakings carrying on those waste operations listed above must take one of the following actions as appropriate by **6 April 2010**:

- Register an exempt waste operation under the revised Regulations.
- Apply for an environmental permit.
- Stop carrying on the waste operation.

11.13 As described in paragraph 1.7 and Annex A there are several existing exempt waste operations under the 2007 Regulations which will become non-Waste Framework Directive exemptions under the revised Regulations. These will no longer be subject to any registration requirements and will be removed from the register of exempt waste operations.

11.14 Establishments or undertakings that were previously carrying on a notifiable exempt waste operation may wish to register an exempt waste operation.

### **On or before 1 October 2011**

11.15 This transitional provision applies to any establishment or undertaking carrying on an exempt waste operation listed below under the 2007 Regulations, where registered with the exemption registration authority as at 5 April 2010 and in compliance with the conditions of that exempt waste operation:

- Paragraph 9 – land reclamation or improvement
- Paragraph 10 – treatment of waste at a Water Treatment Works or Waste Water Treatment Works
- Paragraph 12 – composting of biodegradable waste, including composting for growing mushrooms
- Paragraph 19 - waste for construction

11.16 Establishments or undertakings carrying on those exempt waste operations listed above must take one of the following actions as appropriate at any time between the implementation of the Regulations and **1 October 2011**:

- Register an exempt waste operation under the Regulations
- Apply for an environmental permit
- Stop carrying on the waste operation

11.17 This transitional provision does not apply to any establishment or undertaking carrying on any of the exempt waste operations (under the 2007 Regulations) listed above in paragraph 11.15 that involves the disposal or recovery of agricultural waste on agricultural land.

### **On or before 6 April 2012**

11.18 This transitional provision applies to any establishment or undertaking carrying on any of the exempt waste operation listed below under the 2007 Regulations, where registered with the exemption registration authority as at 5 April 2010 and in compliance with the conditions of that exempt waste operation:

- Paragraph 13 - Manufacture and treatment of construction materials and timber products
- Paragraph 21 - Chipping, shredding, cutting or pulverising of waste plant matter

11.19 Establishments or undertakings carrying on those exempt waste operations listed above must take one of the following actions as appropriate at any time between the implementation of the Regulations and **6 April 2012**:

- Register an exempt waste operation under the Regulations
- Apply for an environmental permit
- Stop carrying on the waste operation

11.20 This transitional provision does not apply to any establishment or undertaking carrying on any of the exempt waste operations (under the 2007 Regulations) listed above in paragraph 11.18 that involves the disposal or recovery of agricultural waste on agricultural land.

### **On or before 1 October 2012**

11.21 This transitional provision applies to any establishment or undertaking carrying on an exempt waste operation listed below under the 2007 Regulations, where registered with the exemption registration authority as at 5 April 2010 and in compliance with the conditions of that exempt waste operation:

- Paragraph 6 – Storage and spreading of sewage sludge
- Paragraph 40 – Repair or refurbishment of WEEE
- Paragraph 46 – Dunnage burning at a dock
- Paragraph 7 - Treatment of land by spreading

11.22 This transitional provision also applies to the following exempt waste operations: paragraphs 4, 5, 11, 14, 15, 17, 18, 20, 22, 23, 25, 29, 30, 31, 32, 38, 41 and 42 of the 2007 Regulations.

11.23 Establishments or undertakings carrying on those exempt waste operations listed above must take one of the following actions as appropriate at any time between the implementation of the Regulations and **1 October 2012**:

- Register an exempt waste operation under the Regulations.

- Apply for an environmental permit.
- Stop carrying on the waste operation.

11.24 Establishments or undertakings carrying on these exempt waste operations must take one of the actions listed above in 11.24 before the 1 October 2012.

11.25 This transitional provision does not apply to any establishment or undertaking carrying on any of the exempt waste operations (under the 2007 Regulations) listed above in paragraph 11.21 and 11.22 that involves the disposal or recovery of agricultural waste on agricultural land.

### **On or before 1 October 2013**

11.26 This transitional provision applies to any establishment or undertaking carrying on an exempt waste operation listed below under the 2007 Regulations, where registered with the exemption registration authority as at 5 April 2010 and in compliance with the conditions of that exempt waste operation:

- exempt waste operations involving the disposal or recovery of waste on agricultural land that have not been identified in previous transitional provisions
- Paragraph 8 – storage of sludge which is to be used in accordance with the 1989 Regulations
- Paragraph 44 – heating metals and metal alloys for the purpose of removing grease, oil or any other non-metallic contaminant
- Paragraph 45 – recovery of scrap metal

11.27 This transitional provision also applies to the following exempt waste operations: paragraphs 7, 9, 10, 12, 13, 16, 19, 21, 28, 36, 37 and 47 of the 2007 Regulations. Establishments or undertakings carrying on these exempt waste operations must take one of the actions listed below in 11.24 before the 1 October 2013.

11.28 Operators of Part B activities that included waste operations requiring registration under the following exempt waste operations under the 2007 Regulations will need to have their permits varied to regulate waste storage ancillary to the process:

- Paragraph 2 - scrap metal furnaces
- Paragraph 3 - burning waste as a fuel
- Paragraph 24 - crushing, grinding or size reduction of, bricks, tiles and concrete
- Paragraph 43 - glass manufacture and production

11.29 Establishments or undertakings carrying on those exempt waste operations listed above must take one of the following actions as appropriate at any time between the implementation of the Regulations and **1 October 2013**:

- Register an exempt waste operation under the Regulations.
- Make a duly made application for an environmental permit.
- Stop carrying on the waste operation.

### **Requirements during the transitional period**

11.30 Establishments or undertakings registered as an exempt waste operation as at 5 April 2010 must continue to comply with the requirements of Schedules 2 and 3 of the 2007 Regulations for the duration of the transitional provision.

11.31 Therefore the establishments or undertakings must ensure that conditions applicable to the waste operation as set out in the old Schedule 3 are met and all the procedural requirements set out in the old Schedule 2 are complied with.

11.32 Those carrying on operations under notifiable exemptions and paragraph 45 (scrap metal and vehicle dismantlers) are required to comply with the exempt waste operation registered under the 2007 Regulations, renew their registration and pay the renewal fee during the transitional period in order to benefit from the transitional provision.

11.33 Any exempt waste operation benefitting from a transitional provision will be subject to continued compliance with the relevant environmental and health objectives, ensuring the regulator has the ability to act if pollution or harm occurs. There will be no immunity for establishments or undertakings from enforcement action if there is a risk of pollution or harm.

11.34 If an establishment or undertaking is found to be non-compliant with an exempt waste operation registered under the 2007 Regulations during the transitional provisions, the transitional provision will cease to apply.

11.35 Where a storage exemption under the 2007 Regulations is to be included in Part B permit conditions, the Government will ensure any necessary guidance or direction is in place and also set a date by which time the changes need to be made. This may be at an earlier point than the three and a half years allowed for in the Regulations.

## 12 Technical Competence

- 12.1 The requirements for technical competence for specified permitted waste operations are described fully in the Environmental Permitting Core Guidance, Chapter 9<sup>42</sup>. Further information on the technical competence scheme providers, the technical competence requirements and how they will apply to those required to apply for a standard permit from 6 April 2010 is also available on the Environment Agency website.
- 12.2 Although the technical competence requirement does not apply to exempt waste operations this Chapter has been included to assist those operators currently carrying on an exempt waste operation who will, as result of the changes made by the Regulations, be required in the future to demonstrate technical competence as part of the environmental permitting application process.
- 12.3 The Regulations set out the transitional provisions for those needing to apply for an environmental permit and are described in Chapter 11 **Error! Reference source not found.** The time period allowed for making a permit application varies and may give rise to peaks in demand for operators wishing to make use of one of the two waste technical competence schemes.
- 12.4 There are currently two waste technical competence scheme which have received Ministerial approval. These are provided by the Environmental Services Association (ESA)/Energy & Utility Skills and jointly by the Chartered Institution of Wastes Management (CIWM) and the Waste Management Industry Training and Advisory Board (WAMITAB)<sup>43</sup>.
- 12.5 Those establishments or undertakings registered as an exempt waste operation under the 2007 Regulations as at 5 April 2010 will be treated in a similar manner as new entrants to permitting for the purposes of when they have to demonstrate an agreed level of technical competence and will be given an additional 12 months from the date on which their permit is granted in which to demonstrate the appropriate level of technical competence.
- 12.6 It will be necessary for applicants to provide evidence to the exemption registration authority which scheme they have or will be using to demonstrate their technical competence.
- 12.7 Providers of schemes of technical competence should make allowances in the extent to which the relevant competence needs to be demonstrated by existing exempt waste operators who will be required to apply for a permit. Operators of many types of exempt waste operation will already be likely to be competent in several aspects of site operation in fulfilment of the rules of their exemption. Scheme providers should therefore make appropriate amendments to the relevant competence awards for existing operators, in agreement with the Environment Agency. It is possible different allowances may be made for different types of operation.

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<sup>42</sup> Available at

<http://www.defra.gov.uk/environment/policy/permits/documents/ep2010guidance.pdf>

<sup>43</sup> Further details of the two schemes can be found at

<http://www.wamitab.org.uk/pg/competence> and <http://www.euskills.co.uk/waste-management/competence-management-scheme/>

## 13 Regular Review Process

- 13.1 The Davidson Review on the Implementation of EU legislation<sup>44</sup> commended the Government's proposal to update the exempt waste operations more quickly and efficiently in the future.
- 13.2 A system to regularly review and amend the exempt waste operations will provide the opportunity for the existing exempt waste operations to be assessed on how well they are working and for relevant changes to be made and also for new exempt waste operations to be provided where suitable.
- 13.3 By basing the review on the environmental principles and criteria that have been developed, as laid out in Chapter 3, consistent levels of risk assessment should continue.

### What a review should consider

- 13.4 There are two aspects that should be reviewed:
1. New proposals for exempt waste operations and/or new waste streams to be covered by existing exempt waste operations through the five step process outlined in Chapter 3;
    - These would principally be derived from Environment Agency Low Risk Waste positions<sup>45</sup> and proposals received by Government;
  2. Whether existing exempt waste operations are fit for purpose;
    - that is are they genuinely low risk, are their control conditions adequate to protect human health and the environment, are they are compliant with the Waste Framework Directive and the exempt waste operation is not being abused or used to hide sham recovery.

### How reviews should be carried out

- 13.5 There will be distinct dates for the submission of proposed new exempt waste operations to enable industry to have a transparent deadline.
- 13.6 The reviews will consider the submissions for new exempt waste operations, the viability of existing exempt waste operations and any information on the impact of new exempt waste operations introduced in previous reviews. The reviews will be conducted by:
- Defra
  - Welsh Assembly Government
  - Environment Agency
- 13.7 The reviews will involve local authority and/or industry representation where it is considered appropriate or necessary.

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<sup>44</sup> [http://www.hm-treasury.gov.uk/independent\\_reviews/davidson\\_review/davidson\\_index.cfm](http://www.hm-treasury.gov.uk/independent_reviews/davidson_review/davidson_index.cfm)

<sup>45</sup> Information on Low Risk Waste Regulation is available at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

13.8 The recommendations from the reviews will be made in the form of a written report to the Government on what exempt waste operation amendments are to be made or additional exempt waste operations to be included.

### **Timeline of reviews and implemented**

13.9 When setting a frequency for the review the time taken to carry out a number of necessary tasks should be considered. These include reviewing proposals, preparing and implementing amendment to legislation and preparing for implementation.

13.10 The first opportunity for a review will be after the transitional provisions end on 1 October 2013. The following will be taken into account as a potential prompt for a review:

- major changes to EU Directives that apply to exempt waste operations.
- a significant number of proposals for new or amended exempt waste operations received by Environment Agency, WAG or Defra.
- a significant number of low risk waste positions, regulatory positions or enforcement positions developed by the Environment Agency, WAG or Defra.
- the continued development of new technology demands that the exempt waste operations are amended, updated or revised.
- concerns over whether the exempt waste operations are providing an appropriate level of regulatory control to protect human health or the environment.
- feedback from industry to Government and the exemption registration authority about the implementation of the exempt waste operations, including changes to conditions, changes in working practise or abuse of the system.
- where development of quality protocols has superseded the need for an exempt waste operation.

13.11 It is important that the review exercise is not carried out too frequently so as not to place an additional regulatory burden on businesses when changes are made. Reviews will only be carried out when significant changes to the regulatory framework demand it as outlined above.

13.12 Based on current regulatory impacts it is likely that each review will take about a year to complete including assessment of the risk and consultation on proposed amendments.

## Annex A – Part 3 of Schedule 25 – Non-Waste Framework Directive

### 14

The Waste Framework Directive states that recovery and disposal includes storage pending a recovery or disposal operation, but excludes temporary storage pending collection on the site where it is produced. In making the distinction between storage pending collection or pending recovery or disposal, Member States are advised to consider the objectives of the Waste Framework Directive, according to the type of waste, the size and time period of storage and the objective of the collection.

The UK domestic legislation<sup>46</sup> provides for an offence for the ‘deposit’ of waste other than in accordance with an environmental permit. The effect of this provision means that the temporary “deposit” and storage of waste would constitute an offence unless a permit was in place, notwithstanding the fact that the operation is outside the permitting scope of the Waste Framework Directive.

In order to avoid that situation the UK legislation provides exemptions for the temporary deposit and storage of waste in certain circumstances in order to avoid people having to obtain permits to carry on this storage. It is for the exemption registration authority to decide, where appropriate, on a case by case basis whether waste is considered to be temporarily stored. Part 3 of Schedule 25 of the Regulations sets out the non-Waste Framework Directive exemptions.

People carrying on these operations are not required to obtain a permit under section 33(1)(a) of the EPA 1990 (see regulation 68 of the Regulations)

- Storage of waste at the place of production pending collection
- Temporary storage of waste on a site controlled by the producer
- Temporary storage at a collection point.

There is no registration requirement for non-Waste Framework Directive exemptions. However, there are conditions in each of the non-Waste Framework Directive exemptions that must be complied with.

The non-Waste Framework Directive exemptions cannot be used at places where the treatment of the waste is taking place, other than treatment that is ancillary to the collection of the waste. This is discussed further below.

The following exempt waste operations under Schedule 3 to the 2007 Regulations will become non-Waste Framework Directive exemptions and will no longer be subject to a registration requirement, in so far as the exemption is ancillary to the collection of the waste. The exemption registration authority will remove these from the register of exempt waste operations.

**Paragraph 26 – Recovery or disposal as part of the production process**  
**Paragraph 27 – Baling, compacting, crushing, shredding or pulverising**  
**Paragraph 34 – Railway ballast**

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<sup>46</sup> section 33(1)(a) of the Environmental Protection Act 1990

**Paragraph 39 – Storage of medicines, and medical, nursing or veterinary waste**  
**Paragraph 49 – Temporary storage of ships’ garbage or tank washings**  
**Paragraph 50 – Storing non-liquid waste pending management elsewhere**  
**Paragraph 51 - Temporary storage of scrap rails**  
**Paragraph 52 – Temporary storage of waste on the site where it is produced**

## **Temporary storage of waste at the place of production – paragraph 2**

Temporary storage at the place of production pending its collection is not a recovery or disposal operation within the meaning of the Waste Framework Directive and consequently is not subject to the requirement for a permit under Article 9 or 10 of the Directive.

As a consequence, there is no need for the UK to provide an exemption under Article 11(1) of the Waste Framework Directive (as the Article 9 and 10 permit requirements do not apply) or require registration in order to meet European requirements.

It should also be noted that where waste stored at any place is stored in a manner likely to give rise to harm or pollution, the person so doing may be liable to an offence under section 33(1)(c) of the 1990 Act.

## **Temporary storage of waste at a site controlled by the producer – paragraph 3**

As part of the revision to the Waste Framework Directive, there has been set out what is meant by “collection”. Article 3(10) of the revised Waste Framework Directive<sup>47</sup> defines “collection” as meaning “the gathering of waste, including the preliminary sorting and preliminary storage of waste, for the purposes of transport to a waste treatment facility”.

Within the definition of collection, “preliminary storage” is understood to include storage pending its collection at a place that is different from the place where the waste was produced.

Whilst the place of production is easily understood in most cases, there are circumstances where waste is produced at a remote location but is brought back to the producer’s premises for temporary storage prior to collection. In these circumstances it is considered reasonable to conclude that the producer’s business premises are the place of production, as outlined in the next paragraph.

The exemption is limited to those sites owned or occupied by the producer of the waste. For example, but not limited to:

- Medical practitioners or vets who produce waste during visits possibly in remote locations and return any waste they generate from a range of locations to their surgery or practice
- A small builder who generates waste at a site and returns it to his depot or storage yard to place in a skip.

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<sup>47</sup> the revised Waste Framework Directive 2008/98/EC is currently being transposed and will be implemented by 12 December 2010.

## Temporary storage at a collection point – paragraph 4

As stated above, the revised Waste Framework Directive defines “collection” as meaning “the gathering of waste, including the preliminary sorting and preliminary storage of waste, for the purposes of transport to a waste treatment facility.

These operations may include:

- waste medicines collected by pharmacies
- take-back schemes in shops for consumer goods
- local community collection points e.g. schools and supermarkets

## Treatment ancillary to the storage of waste

Where a person produces waste and stores it at the place of production under a non-Waste Framework Directive exemption pending collection, that person may wish to carry on a variety of operations involving the waste prior to its collection for recovery or disposal elsewhere.

Where this operation does not result in a change in the make-up / composition of the overall waste arising and is carried out at the place of production purely to facilitate transport or separate collection of components, it is considered that the operation is not a waste recovery or disposal activity for the purposes of the Waste Framework Directive. The key principle is that the physical, chemical or biological nature of the waste has not been changed to the degree that it represents a new waste stream presenting potentially different impacts on the environment. These ancillary treatment operations, carried out prior to the collection of waste, may include:

- compaction of paper and cardboard in order to increase the amount of waste that can be collected within a container
- the shredding of confidential papers for security purposes
- size reduction of large items to allow easier loading or the separation of recyclables from mixed wastes into separate storage containers within the curtilage of the premises to facilitate recycling

It is considered that these operations are ancillary to the storage of waste before it enters the waste management chain and that these operations do not constitute waste recovery or disposal. Therefore there is no need for an exemption to be prescribed in the Regulations. As a result, an exemption does not need to be registered for the particular waste operation and the waste can be stored under a non-Waste Framework Directive exemption for the storage of waste at the place of production.

The exemption registration authority will provide advice on what operations in addition to those above, may be considered ancillary to collection. It is likely that some establishments or undertakings have an existing exemption registered for an ancillary treatment. These establishments or undertakings will not need to register as a result of the Regulations and their registration will ultimately be removed from the register of exempt waste operations.

## **Treatments not considered ancillary to storage of waste at the place of production**

There are some examples where it is considered that waste operations carried out at the place of production are indeed recovery or disposal operations under the Waste Framework Directive and exemptions have been provided for these. In these situations, the treatment is likely to result in a change to the waste that means the treated waste may have a different effect on the environment or human health than the original waste. Waste operations which would be considered to be recovery or disposal include:

- T17 - Crushing waste fluorescent tubes. In this situation, the bulbs are crushed and result in a number of separate components such as glass, mercury and metal that have different properties and effects on the environment and human health than the original waste item.
- T15 - Treatment of waste aerosol cans, where specific equipment is required to enable any residues to be collected and disposed of appropriately.

## Annex B – Table of transitional provisions

The following additional transitional provisions apply where specified:

- (a) the transitional provision is extended until 1 Oct 2013 if the exempt waste operation involves the disposal or recovery of agricultural waste to agricultural land
- (b) the transitional provision is extended until 1 Oct 2013 if the exempt waste operation involves the disposal or recovery of a waste to agricultural land

**NB:** There are no transitional provisions for those establishments or undertakings relying on Environment Agency Low Risk Positions.

2007 Regulations Exemption paragraph number <sup>48</sup>	Existing exemption title	Final date for transition to the revised Regulations	New exempt waste operation reference	Exempt waste operation title	Exemption Registration Authority	Other
2	Scrap Metal Furnaces	1 Oct 2013			Local Authority	Incorporated into Part B Permit
3	Burning waste as a fuel	1 Oct 2013			Local Authority	Incorporated into Part B Permit
4	Packaging or containers	1 Oct 2012 (b)	T1	Cleaning, washing, spraying or coating relevant waste	Environment Agency	
5	Burning waste as fuel in small appliances	1 Oct 2012 (b)	U4	Burning of waste as a fuel in a small appliance	Environment Agency	
6	Sludge on land	1 Oct 2012 (b)			Environment Agency	Environmental Permit

<sup>48</sup> Of Schedule 3 to the Environmental Permitting (England and Wales) Regulations 2007.

2007 Regulations Exemption paragraph number <sup>48</sup>	Existing exemption title	Final date for transition to the revised Regulations	New exempt waste operation reference	Exempt waste operation title	Exemption Registration Authority	Other
7	Waste for the benefit of land	1 Oct 2012 (a)	U10 U11	Spreading waste on agricultural land for benefit Spreading waste on non-agricultural land for benefit	Environment Agency	
8	Storage of sludge which is to be used in accordance with the 1989 Regulations	1 Oct 2013	S3	Storage of sludge	Environment Agency	
9	Land reclamation or improvement	1 Oct 2011 (a)	U1 U11	Use of waste in construction Spreading waste on non-agricultural land for benefit	Environment Agency	
10	Sewage and water treatment works	1 Oct 2011(a)	T20 T21	Treatment of waste at a water treatment works Treatment of waste at a waste water treatment works	Environment Agency	
11	Preparatory treatments of certain Wastes	1 Oct 2012 (b)	T4	Preparatory treatments (baling, sorting, shredding etc)	Environment Agency	
12	Composting waste (to include anaerobic digestion)	1 Oct 2011 (a)	T23	Aerobic composting and associated prior treatment	Environment Agency	
13	Construction and soil materials	6 Apr 2012 (a)	T5 T6	Screening and blending of waste Treatment of waste wood and plant matter by chipping, shredding, cutting or pulverising.	Environment Agency	

2007 Regulations Exemption paragraph number <sup>48</sup>	Existing exemption title	Final date for transition to the revised Regulations	New exempt waste operation reference	Exempt waste operation title	Exemption Registration Authority	Other
14	Manufacturing finished goods	1 Oct 2012 (b)	U9	Use of waste to manufacture finished goods	Environment Agency	
15	Use of waste	1 Oct 2012 (b)	U8	Direct and beneficial use of waste for a specified purpose	Environment Agency	
16	Biobeds	1 Oct 2013	T32	Treatment of waste in a biobed	Environment Agency	
17	Storage of waste in a secure place	1 Oct 2012 (b)	S2	Storage of waste in a secure place	Environment Agency	
18	Waste in secure containers	1 Oct 2012 (b)	S1	Storage of waste in secure containers	Environment Agency	
19	Waste for construction	1 Oct 2011 (a)	U1 U3	Use of waste in construction work Use of waste in the construction of entertainment or educational installations etc	Environment Agency	
20	Recovery of textiles	1 Oct 2012 (b)	T2	Recovery of textiles	Environment Agency	
21	Preparatory treatments of waste plant matter	6 Apr 2012 (a)	T6	Treatment of waste wood and plant matter by chipping shredding, cutting or pulverising.	Environment Agency	
22	Recovery of silver	1 Oct 2012 (b)	T30	Recovery of silver	Environment Agency	
23	Recovery of waste consisting of animal by-products at a collection centre	1 Oct 2012 (b)	T22	Treatment of animal by-product waste at a collection centre	Animal Health	

2007 Regulations Exemption paragraph number <sup>48</sup>	Existing exemption title	Final date for transition to the revised Regulations	New exempt waste operation reference	Exempt waste operation title	Exemption Registration Authority	Other
24	Crushing, grinding or size reduction of bricks, tiles and concrete	1 Oct 2013	T7	Treatment of waste bricks, tiles and concrete by crushing, grinding or size reduction	Local Authority	Otherwise incorporated into Part B permit
25	Waterway dredging	1 Oct 2012 (b)	D1	Deposit of waste from dredging of inland waters	Environment Agency	
26	Recovery or disposal as part of the production process	6 Apr 2010			Environment Agency	Non- Waste Framework Directive exemption
27	Baling, compacting, crushing, shredding or pulverising	6 Apr 2010			Environment Agency	Non- Waste Framework Directive exemption
28	Spreading ash	1 Oct 2013	U15	Pig and poultry ash	Environment Agency	
29	Disposal by burning at the place of production	1 Oct 2012 (b)	D6	Disposal by incineration	Environment Agency	
30	Burning waste in the open	1 Oct 2012 (b)	D7	Burning waste in the open	Environment Agency	
31	Waste from railway sanitary conveniences or sinks	1 Oct 2012 (b)	D2	Deposit of waste from a railway sanitary convenience or sink	Environment Agency	
32	Waste from sanitary conveniences with removable receptacles	1 Oct 2012 (b)	D3	Deposit of waste from a portable sanitary convenience	Environment Agency	
33	Peatworking	6 Apr 2010			N/A	Covered by Mining Directive

2007 Regulations Exemption paragraph number <sup>48</sup>	Existing exemption title	Final date for transition to the revised Regulations	New exempt waste operation reference	Exempt waste operation title	Exemption Registration Authority	Other
34	Railway ballast	6 Apr 2010			N/A	Non- Waste Framework Directive exemption
35	Waste from Prospecting	6 Apr 2010			N/A	Covered by Mining Directive
36	Spreading of dredgings	1 Oct 2013	U10	Spreading waste on agricultural land for benefit	Environment Agency	
37	The deposit of agricultural waste consisting of plant tissue at the place of production	1 Oct 2013	D4	Deposit of agricultural waste consisting of plant tissue	Environment Agency	
38	Samples of waste	1 Oct 2012 (b)	D5	Depositing samples of waste for the purposes of testing or analysing them	Environment Agency	
39	Storage of medicines, and medical, nursing or veterinary waste	6 Apr 2010			N/A	Non- Waste Framework Directive exemption
40	Repair or refurbishment of WEEE	1 Oct 2012 (b)	T11	Repair or refurbishment of WEEE	Environment Agency	
41	Secure storage of WEEE	1 Oct 2012 (b)	S2	Storage of waste in a secure place	Environment Agency	
42	Crushing waste discharge	1 Oct 2012 (b)	T17	Crushing waste fluorescent tubes	Environment Agency	

2007 Regulations Exemption paragraph number <sup>48</sup>	Existing exemption title	Final date for transition to the revised Regulations	New exempt waste operation reference	Exempt waste operation title	Exemption Registration Authority	Other
	lamps					
43	Glass manufacture and production	1 Oct 2013			Local Authority	Incorporated into Part B permit
44	Heating metals and metal alloys for the purpose of removing grease, oil or any other non metallic component	1 Oct 2013	T3	Treatment of waste metals and metal alloys by heating for the purposes of removing grease etc	Local Authority (Change of regulator)	
45	Recovery of scrap metal or the dismantling of waste motor vehicles	1 Oct 2013	T9	Recovery of scrap metal	Environment Agency	
46	Burning plant tissue waste and wood at a dock	1 Oct 2012 (b)	D8		Environment Agency	
47	Treating land by the spreading of agricultural waste (milk)	1 Oct 2013	U10	Spreading waste on agricultural land for benefit	Environment Agency	
48	Pet Burial	6 Apr 2010			N/A	
49	Temporary storage of ships' garbage or tank washings	6 Apr 2010			N/A	Non- Waste Framework Directive exemption
50	Storing non-liquid waste pending management elsewhere	6 Apr 2010			N/A	Non- Waste Framework Directive exemption

2007 Regulations Exemption paragraph number <sup>48</sup>	Existing exemption title	Final date for transition to the revised Regulations	New exempt waste operation reference	Exempt waste operation title	Exemption Registration Authority	Other
51	Temporary storage of scrap rails	6 Apr 2010			N/A	Non- Waste Framework Directive exemption
52	Temporary storage of waste on the site where it is produced	6 Apr 2010			N/A	Non- Waste Framework Directive exemption

## Annex C – Glossary of terms

Those terms listed below will be moved into Environmental Permitting – List of Guidance and Glossary when this Guidance is published, although some of these terms already appear in that document. The document can be found at <http://www.defra.gov.uk/environment/epp/documents/guidancelist-glossary.pdf>.

### Article 4(1) (WFD) Objectives

‘1. Member States shall take the necessary measures to ensure that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment, and in particular:

- (a) without risk to water, air or soil, or to plants or animals;
- (b) without causing a nuisance through noise or odours;
- (c) without adversely affecting the countryside or places of special interest.’

### Data Protection Act 1998

Under the Data Protection Act (DPA) 1998, individuals have rights of access to personal data. It must be ensured that personal data concerning an individual is processed in accordance with that individual's rights and that remedies are provided for failure to comply with the Act.

### Environmental Protection Act 1990 (the 1990 Act)

The Environmental Protection Act 1990 Chapter 43

[http://www.opsi.gov.uk/acts/acts1990/Ukpga\\_19900043\\_en\\_1.htm](http://www.opsi.gov.uk/acts/acts1990/Ukpga_19900043_en_1.htm)

### Environmental Information Regulations 2004

The Environmental Information Regulations (EIRs) 2004 are based on Directive 2003/4/EEC. They give the public access rights to environmental information held by a public authority in response to requests. The Regulations came into force on 1 January 2005 along with the Freedom of Information Act and cover any information that is considered to be 'environmental information' within the terms of the Regulations. The Regulations promote the release of as much environmental information as possible to enable increased public participation in environmental decision making. More information can be found at [www.defra.gov.uk/corporate/opengov/eir/index.htm](http://www.defra.gov.uk/corporate/opengov/eir/index.htm)

### Environmental Permitting (England and Wales) Regulations 2007<sup>49</sup>

Environmental Permitting replaced the waste management licensing and pollution prevention and control permitting systems on 6 April 2008. See The Environmental Permitting (England and Wales) Regulations 2007 on the OPSI website at [http://www.opsi.gov.uk/si/si2007/pdf/uksi\\_20073538\\_en.pdf](http://www.opsi.gov.uk/si/si2007/pdf/uksi_20073538_en.pdf) or Defra's website at <http://www.defra.gov.uk/environment/epp/guidance.htm>

### Establishments and Undertakings

An establishment or undertaking includes any organisation, whether a company, partnership, authority, society, trust club charity or other organisation but not private individuals. (see para 1.42 DoE Circular 11/94 (Welsh Circular 26/94) of 19 April 1994).

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<sup>49</sup> S.I. 2007/3538, amended by section 88(2) of the Climate Change Act 2008 (c.28), S.I. 2009/890, S.I. 2009/1799.

### **European Waste Catalogue (EWC)**

Commission Decision 2000/532/EC as amended and as enacted by the List of Wastes (England) Regulations 2005 (SI 2005/895) and List of Wastes (Wales) Regulations 2005 (2005/1820).

### **General Rules**

Member States must set out general rules for any exemptions that are provided. They specify the type of activity, the types and quantities of waste and the conditions under which the activity may take place under the exemptions. These are set out as general conditions, specific conditions and additional specific conditions in the new Schedule 3 to the 2007 Regulations.

### **List of Wastes Regulations**

The List of Wastes (England) Regulations 2005 (SI 2005/895) and the List of Wastes (Wales) Regulations 2005 (SI 2005/1820).

### **Low Risk Position**

Positions adopted by the Environment Agency whereby operations have been allowed to continue notwithstanding that they ought to have an environmental permit. These low risk positions are intended to be a temporary measure, pending this review of exempt waste operations.

### **Notifiable Exemptions**

Notifiable exemptions are waste management operations that are exempt from environmental permitting under the 2007 Regulations as at or before 5 April 2010 but which require additional checks to ensure that they will not harm the environment. To operate under the terms of these exemptions the Environment Agency must be notified first and pay a fee as set by the Environment Agency's charging scheme. As with all exempt waste operations the establishment or undertaking must be able to keep to the limits specified within the exemption. There are also a number of additional obligations that apply to a notifiable exemption. These exemptions are transferring into the Regulations under the transitional provisions outlined in Annex B – Table of transitional provisions.

### **Part B activity**

Means an activity falling within Part B of any section in Part 1 of Schedule 1 to The Environmental Permitting (England and Wales) Regulations 2007.

### **Simple Exemptions**

A "simple exemption" is a waste management operation that is exempt from the need for an environmental permit under the 2007 Regulations as at or before 5 April 2010 and which is relatively low risk. These are all of the current exemptions except for notifiable exemptions and the paragraph 45 metals recycling exemption. These exemptions are transferring into the Regulations under the transitional provisions outlined in Exemption Registration Authority in [Annex B – Table of transitional provisions](#).

### **Standard Permit**

A standard permit is a permit with one condition linked to a fixed package of standard rules for a particular type of activity.

### **Waste Framework Directive (WFD):**

Directive 2006/12/EC of the European Parliament and of the Council on Waste. This is often referred to as the Waste Framework Directive.

[http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l\\_114/l\\_11420060427en00090021.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_114/l_11420060427en00090021.pdf)

**Waste Electrical and Electronic Equipment Directive (WEEE)**

Directive 2002/96/EC of the European Parliament and of the Council on Waste. This is often referred to as the WEEE Directive.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0096:EN:HTML>  
14.1

Other guidance

<http://www.defra.gov.uk/environment/epp/documents/hazardous-waste-exempt.pdf>  
(valid until transitional provisions supersede the old exemptions).