The regulation of materials being considered by the Waste Protocols Project

Purpose of this position statement

This position statement advises our staff and customers on how we intend to regulate wastes being considered by the Waste Protocols Project – a joint Environment Agency and WRAP (Waste & Resources Action Programme) initiative.

The statement sets out our regulatory position for the interim period between when a material is accepted for inclusion in the Waste Protocols Project and a decision being made by the Environment Agency and European Commission under the Technical Standards and Regulations Directive 98/34/EC.[1]

The current waste streams and end uses being considered are listed in Annex 1.

Background

The Waste Protocols Project is working with industry to provide clarity on the regulatory status of a number of waste streams and their suitability for use in specified markets. This may lead to:

- a Quality Protocol (e.g. compost Quality Protocol) identifying the point at which waste, having been fully recovered, may be regarded as a non-waste product or material that can either be reused by business or industry, or supplied into other markets without the need for waste management controls; or
- a statement that confirms to the business community what legal obligations they must comply with to use the treated waste material (e.g. our regulatory position statement on waste wood).

Quality Protocols have already been produced for compost and flat glass, along with regulatory position statements on wood waste, blast furnace slag (BFS) and contaminated soils. The latest regulatory guidance for these wastes can be obtained from the Waste Protocols Project section of our website.

A Quality Protocol is also being developed for the production and use of processed fuel oil (PFO) from waste lubricating oil (WLO). WLO has its own interim position statement, which is available on our website. This interim position statement does not apply to PFO from WLO.

The Waste Protocols Project has not been able to determine the point at which uncontaminated topsoil (both manufactured and naturally occurring) ceases to be

[1] Member States are obliged to send the Commission a draft of proposed technical regulations and to observe a three-month standstill period before the regulation is made or brought into force.

waste. This interim position does not therefore apply to soils. Current guidance is provided by our statement, *The Definition of Waste: Development Industry Code of Practice,* which states our position in relation to the CL:AIRE Definition of Waste: Development Industry Code of Practice. This document is available from the Construction sector 'What you must do' page in the Business & Industry section of our website.

The Environment Agency's position

This position applies only to waste streams set out in Annex 1 where the waste has been processed **and** is being used in one of the final uses specified for that waste type in Annex 1.

The producer must be able to demonstrate that the processed material is '**suitable for use**' and can meet one of the relevant standards listed for that waste type in Annex 1.

While the work of the Waste Protocols Project is in progress, our position is that these waste streams **remain waste** until the point of final use. However, it is possible for producers to show that the waste has been completely recovered on a case-by-case basis having regard to the aims of the Waste Framework Directive and the need to ensure that its effectiveness is not undermined.

During the process of determining whether a Quality Protocol can be produced, we recognise it may not be appropriate to take enforcement action if an operator does not obtain an environmental permit for that final use of waste.

We will adopt the following approach for wastes listed and used for one of the final uses specified for that waste type in Annex 1:

- An operator carrying out an interim process[2] or storage[3] will need an environmental permit or exemption from permitting.

- If your activity involves one of the final uses of the processed waste and you already have an environmental permit, you should continue to comply with the conditions of that permit.

- If the listed final use of the processed waste is covered by an exemption from the need for an environmental permit, you should register the activity as exempt and comply with the conditions of that exemption.

[2] An interim process is the activity where the wastes are processed to the point that they are fully recovered and can meet the relevant standards to ensure suitability of use; for example, the transesterification process to convert waste cooking oil and rendered animal fat into biodiesel or the process to incorporate aggregate into cement/concrete.

[3] Interim storage is where the material is stored elsewhere to the site of final use (but is certain to be used and has all necessary documentation).

- If you require a permit for the listed final use of the processed waste but you do not yet have one, we will not normally require you to have one provided:[4]
  - the waste is **not mixed** with other wastes;
  - the waste is only mixed with non-wastes that improves its use or application;
  - the activity is carried out in such a way that it does not, or is unlikely to, cause nuisance or harm to human health or the environment.

- Activities that result in the disposal of the waste stream remain subject to regulation and are not covered by this position statement.

- Even where we do not require a permit, you must comply with all other appropriate waste management controls such as duty of care and carrier registration.

If the waste is not processed for one of the appropriate final uses listed in Annex 1, or is processed for one of the final uses but not in accordance with the relevant standards, the processor **must** obtain the appropriate permit or exemption and ensure that other appropriate waste management controls are complied with.

If any of the wastes under consideration by the Waste Protocols Project are processed in line with Annex 1 but are mixed with other wastes, the processor must comply with the appropriate waste management controls.

This interim position statement will continue to apply while the use of the specified waste stream is under consideration for a Quality Protocol. It is your responsibility to ensure you refer to the most up-to-date guidance.

If the Waste Protocols Project concludes that a Quality Protocol cannot be developed for a particular material or that a material cannot be used in a particular way without waste management controls:

- this position will cease to apply to that waste stream;
- the material must be used in line with the appropriate permit or exemption, and other relevant waste management controls.

It is the producer's responsibility to ensure they refer to the most up-to-date version of this interim position statement to ensure that their waste type **and** final use remain included.

If the waste type is no longer covered by this interim position statement, we will issue a position statement to outline what steps industry needs to take to comply

[4] See also the section on enforcement overleaf.

with the relevant legislation. This will be available from the Waste Protocols Project section of our website.

Enforcement
By not requiring you to obtain an environmental permit, we will not normally take enforcement for the lack of a permit unless the activity has caused, or is likely to cause, pollution or harm to health or a nuisance.

Further advice
Further advice on the Waste Protocols Project and project outputs can be obtained from the Waste Protocols Project section of our website.

Detailed guidance on regulatory controls can be obtained from our National Customer Contact Centre on 08708 506 506, from our website (http://www.environment-agency.gov.uk) or from the NetRegs website (http://www.netregs.gov.uk).

We will review this regulatory position statement regularly. It is the responsibility of the user to ensure they are referring to the most up-to-date version. This is available from our website.

MWRP RPS 017
Version 3
Issued April 2009

Annex 1: Waste streams currently under consideration by the Waste Protocols Project

1 Anaerobic digestate
2 Gypsum from waste plasterboard
3 Incinerator bottom ash (IBA)
4 Marine dredged materials
5 Paper sludge ash (PSA)
6 Pulverised fuel ash (PFA) and furnace bottom ash (FBA)
7 Steel slag
8 Tyre-derived rubber material
9 Waste cooking oil and tallow

Note. A Quality Protocol is also being developed for the production and use of processed fuel oil (PFO) from waste lubricating oil (WLO). This has its own interim position statement, which can be downloaded from our website.

1. Anaerobic digestate

Final use
Processed for use in:

- land restoration and soil improvement;
- agriculture and forestry, excluding horticulture other than soil-grown horticulture.

Relevant standards
The requirements listed in the draft *Quality Protocol for anaerobic digestate* must be complied with. The draft is available from our website.

One of the key requirements of the draft Quality Protocol is compliance with the requirements of BSI PAS 110 *Specification for whole digestate, separated liquor and separated fibre from source-segregated biodegradable materials*.

2. Gypsum from waste plasterboard

Final use
Processed for use in:

- agriculture (fertiliser);
- construction (plasterboard manufacture and binder substitute).

Relevant standards
The requirements listed in the draft *Quality Protocol for the production and use of gypsum from waste plasterboard* must be complied with. The draft is available from our website.

One of the key requirements of the draft Quality Protocol is compliance with the requirements of BSI PAS 109 *Specification for the production of recycled gypsum from waste plasterboard.*

3. Incinerator bottom ash (IBA)

Final use
Processed for use in:

- unbound applications, e.g. slope stabilisation, replacement aggregates in culverts, bridge abutments and as fill beneath ground-bearing slabs, sub-base and capping layers;
- bound highway applications, e.g. construction and maintenance of roads/ public rights of way/ bituminous bound material and sub-base or capping layer;
- construction applications such as blocks or cement bound material or foamed asphalt/ concrete.

Relevant standards
Processed material must conform to relevant publicly available civil engineering standards.

4. Marine dredged materials

Final use

- Processed material must used as a replacement for virgin aggregate.

Relevant standards
Material **must** conform to relevant publicly available civil engineering standards for aggregates.

5. Paper sludge ash (PSA)

Final use
Processed for use in:

- as a liming agent for application to agricultural land;
- as a desiccant for animal bedding;

- as a sewage sludge stabiliser;
- in block manufacture;
- in cement manufacture.

Relevant standards
The requirements listed in the draft *Quality Protocol for the production and use of paper sludge ash* must be complied with. The draft is available from our website.

6. Pulverised fuel ash (PFA) and furnace bottom ash (FBA)

Final use
Processed for use in:

- bound applications, e.g. concrete blocks, cement manufacture, ready mixed and precast concrete, ceramic tiles, brick making, sintered lightweight aggregate (lytag) and asphalt bound applications;
- unbound applications, e.g. fill material for embankments, raising levels for construction sites and in horticulture as a growing medium;
- grout for cavern, mine filling and ground stabilisation.

Relevant standards
The requirements listed in the draft *Quality Protocol for the production of PFA and FBA for use in construction and manufacturing* must be complied with. The draft is available from our website.

7. Steel slag

Final use
The use of processed basic oxygen steelmaking (BOS) slag, electric arc furnace (EAF) slag and argon oxidisation decarburisation (AOD) slag in:

- civil engineering road applications including bitumen-bound capping layers, hydraulically bound mixtures for sub-base and base, unbound mixtures for sub-base and base, chippings for surface dressing, other public rights of way, replacement aggregate, slope stabilisation and culvert drainage beds;
- civil engineering non-road applications including landfill engineering, slope stabilisation, embankment development, structural fill and back-fill, replacement aggregate in culverts, drainage channels and bridge abutments;
- fertiliser in agriculture (BOS slag only);

- other engineering applications including sea defence and land reclamation (rock armour), railway track ballast and constituent in slag bound mixture, e.g. for canal and river towpath applications.

Relevant standards

- If used for civil engineering application the processed material must conform to relevant publicly available civil engineering standards.
- UK Fertiliser Regulations 1991 (as amended) SI 1991 No. 2197.
- *Code of practice for owners of sites and contractors using unbound air cooled blast furnace and steel slag for compliance with the Groundwater Regulations 1998* – produced by the Quarry Products Association (now part of the Mineral Products Association).
- *Code of good agricultural practice to protect water, soil and air quality for farmers, growers and land managers* (CoGAP) – available from the Defra website.

8. Tyre-derived rubber material

Final use

Processed for use in:

- civil engineering (road applications):
  - as a replacement aggregate in the construction of roads including roadbed stabiliser, slope stabiliser, drainage fill and as an additive for rubberised asphalt;
  - as a loose or bound material in the surfacing of footpaths, nature trails, cycle paths, bridleways and roads.

- civil engineering (non-road applications):
  - as a replacement aggregate in the construction of culverts, drainage channels and bridge abutments;
  - as a replacement aggregate in the construction and building industry, e.g. use in block fabrication;
  - as a bound rubberised product including wall and floor boarding (e.g. chairs and signposts) and railway crossing surface matting.

- landfill engineering: as a replacement aggregate in the construction of landfill sites (e.g. as a drainage layer).

- sports, recreation and leisure applications:
  - as unbound rubber granulate in sports surfacing (e.g. artificial turf, race courses, equestrian surfaces and running tracks);
  - as unbound rubber granulate in recreation and safety surfacing (playground surfaces, nature trails, bridleways, cycle trails);

- as a bound rubber granulate and/ or powders in safety surface matting, anti-vibration matting, impact protection barriers and street furniture.

- industrial and consumer applications:
  - automotive (e.g. new and remoulded tyres, mats and moulded parts);
  - street furniture and road surface matting (e.g. level crossings);
  - rubberised tiles and insulation mats;
  - rubber matting (e.g. livestock mats and mattresses);
  - as ingredients in rubberised adhesives and mastics;
  - manufacturing of consumer products (e.g. footwear and stationery);
  - carpet underlay.

Relevant standards

- BSI PAS 107 *Specification for the manufacture and storage of size reduced tyre materials*.

9. Waste cooking oil and tallow

Final use

- Used to produce biodiesel and then used for combustion in automotive engines or as a heating fuel.

Relevant standards

The requirements listed in the draft *Quality Protocol for the production and use of biodiesel derived from waste cooking oil and rendered animal fat* must be complied with. The draft is available from our website.

One of the key requirements of the draft Quality Protocol is that the material must meet the requirements of one of the following standards:

- BS EN 14214: 2003 Automotive fuels. Fatty acid methyl esters (FAME) for diesel engines. Requirements and test methods.
- BS EN 14213: 2003 Heating fuels. Fatty acid methyl esters (FAME). Requirements and test methods.