

Regulating Trials of Waste Management Activities

Background

There is increasing pressure to find innovative solutions for society's waste that maximise value recovered from materials and minimise impacts on the environment. Consequently we are sometimes approached by operators wishing to carry out various types of trial of waste management techniques.

Disposal or treatment of waste normally requires the operator to hold an environmental permit. Some of the enquiries we receive concerning trials question the need for a permit for short-term activities. As a modern regulator we need to strike a balance between encouraging innovation and protecting the environment and human health from activities involving waste.

The approach we take to regulating trials will vary according to the circumstances. This position statement clarifies our position and explains a new approach that we are piloting.

Our Regulatory Approach

Some trials involve clearly-understood processes where the need for an environmental permit is already well-established or involves variation of an existing process already covered by an environmental permit. In these cases we expect operators to continue using the existing mechanism to obtain or to vary the permit to allow the trial to take place.

In other cases operators may be developing relatively untried processes or using untested techniques. In these cases the requirement for an environmental permit may stop the trial going ahead at all and runs the risk of stifling beneficial innovation. For this reason **we intend to carry out a limited pilot of the following approach** to regulating trials of new processes and technologies.

Where an operator can satisfy us that:

1. the proposal is a genuine trial of a previously untested process; **and**
2. it would be disproportionate to require an environmental permit to be obtained;

we will issue a Regulatory Position Statement (RPS), which will be specific to the trial and relate to a particular site.

Specific RPSs will set out criteria that need to be met for the trial to take place and may also include actions to be taken by the operator once the trial has ended. They will not allow anyone to carry out other trials at the same site or similar trials elsewhere.

Trials can only start once a specific RPS has been issued and once the trial is over, any ongoing waste management activity (including the activity that was being trialled) will fall within the normal environmental permitting system.

We will be piloting this approach with 6 initial proposals. We will review our experience with this initial batch of proposals before considering whether to extend this approach further. We will update this statement following that review process

Types of trials we will consider for the pilot scheme

A trial will only be considered for inclusion in the pilot if you can demonstrate that it meets the general criteria set out below.

- The aim of the trial must be to recover¹ waste;
- The types and quantities of waste to be used in the trial must be clearly specified;
- The trial must be designed to produce clear outcomes including an understanding of the benefits and any risks or potential harm that might result from the process;
- There must be a realistic prospect that the trial will lead to a process that can be adopted more widely and that the trial will not be a one-off exercise;
- There must be a scientific need to demonstrate that the proposed process works;
- The scientific need cannot be met using information that can reasonably be sourced elsewhere (e.g. from previous trials, experience in other countries or a literature search);
- The trial must have a start and end date and will not normally continue for more than six months;
- There must be a clear plan for dealing with any residual waste or infrastructure on the site at the end of the trial to ensure these will not be abandoned;
- The trial will not distort the market while it is being carried out;
- It would be disproportionate for you to obtain a permit for the trial;
- The trial meets the relevant objectives of the Waste Framework Directive: '... ensuring 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 –
 - (i) risk to water, air, soil, plants or animals; or
 - (ii) causing nuisance through noise or odours; or

¹ The essential characteristic of a waste recovery operation is that its principal objective is that the waste serves a useful purpose in replacing other materials which would have had to be used for that purpose, thereby conserving natural resources.

- (iii) adversely affecting the countryside or places of special interest’;
- Where the activity is covered by the Integrated Pollution Prevention and Control Directive you must also demonstrate efficient use of energy and water
- We are able to set specific and appropriate conditions for the duration of the trial to ensure there is no harm to health or the environment.

Trials we will not consider for this approach

We will not consider trials of existing technologies or established techniques for inclusion in the pilot. We normally expect you to obtain a permit or to vary your existing permit to cover such trials.

Unless you can demonstrate that obtaining an environmental permit for a trial would be disproportionate and would stop it going ahead, we will expect you to obtain a permit before proceeding.

We will not allow multiple or repeat trials under the conditions of the pilot scheme.

How to submit your proposal to us

Before you submit a proposal, you should read consider this Position Statement carefully and decide whether your proposal can meet the criteria we have set. If you conclude that it can you should set out the details of the site-specific operation and contact your local Environment Agency office to discuss the proposal.

Annex 1 to this statement sets out the information you should consider providing. This list is not exhaustive and it is your responsibility to provide all relevant information relating to your proposal. You should pay particular attention to your plans for addressing any environmental risks arising from the trial. If the information you initially supply is insufficient for us to reach a decision we are likely to reject your proposal rather than ask for extra details.

Once you have collated the necessary information your local officer will arrange for it to be assessed and, if satisfactory, will send the details to the Environment Agency's Modernising Waste Regulation Panel (the Panel). The Panel will only consider proposals that have first been assessed by local area officers. The decision to issue a specific RPS can only be made by the Panel.

If the Panel is satisfied the proposed activity meets the criteria set out in this statement we will issue a site and trial-specific RPS and publish it on our website.

For further information on the Panel can be found at www.environment-agency.gov.uk/subjects/waste/1416460/1952914/

customer service line

08708 506 506

www.environment-agency.gov.uk

incident hotline

0800 80 70 60

floodline

0845 988 1188

Monitoring and feedback on the trial

Our area teams will:

- check that the trial is carried out as specified;
- use information that you submit on performance of the trial to decide whether the intended benefits have been realised; and
- record their decision.

Enforcement

Where we issue a site and trial specific RPS we will not pursue an application for a permit. This means we will not normally take enforcement action unless:

- the activity has caused, or is likely to cause, pollution or harm to health;
- the trial is carried out in a way different from that set out in the RPS, or
- you do not stop the trial when asked or in the manner set out in your original proposal.

For a more detailed explanation of this enforcement position, please refer to the public interest factors in *Guidance to the Enforcement and Prosecution Policy*. This can be found on the 'How and why we regulate your business' page in the Business & Industry section of our [website](#).

This Position Statement will be reviewed before 30 September 2009.

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Annex 1: Site-specific position checklist for operators

Number	Information	Document where this is set out
1	Proposed operation (including proposed waste types to be used), purpose and intended outcome of the trial. Intended environmental or commercial benefits, waste inputs and outputs – include details of any residual waste not recovered more efficiently.	
2	Current position: any existing environmental permits or exemptions from the need for a permit. Operator's level of competence.	
3	Site location and infrastructure (including plan).	
4	Whether there are existing methods capable of being used to achieve the objective. If so, how the proposed trial differs and the benefits of that difference.	
5	Details of on-site operation/activity including quantities of waste to be stored and processed, and the method of storage and processing.	
6	Actions that will be taken following completion of the trial, e.g. what permit will be needed for the proposed activity, will an application for a permit be made, removal of wastes/infrastructure, etc.	
7	Period of trial – normally the activity should not exceed six months. You will have to justify any longer period.	
8	Details of environmental and health impact, and proposed mitigation measures, for: <ul style="list-style-type: none"> • air (including dust, litter, odour) • controlled waters* • land • sewer • plants • animals • nuisance. 	
9	Details of approximate: <ul style="list-style-type: none"> • generation of heat/energy • generation of noise and vibration • generation of waste • energy consumption. 	
10	Whether a market already exists for the output you are proposing and, if so, how the trial will affect that market.	

11	Does your trial align with the adopted national, regional or local spatial planning framework for waste ² or support its implementation?	
12	Why should you not obtain an environmental permit for this proposal?	

* Controlled waters are: any relevant territorial waters that extend seaward for three miles from the baselines; any coastal waters that extend inland from those baselines to the limit of the highest tide or the freshwater limit of any river or watercourse; any enclosed dock that adjoins coastal waters; inland freshwaters including rivers, watercourses, ponds and lakes with discharges; and groundwaters (waters contained in underground strata).

² In England the Waste Strategy and its Annexes, together with Planning Policy Statement 10 *Planning for Sustainable Waste Management* (PPS10), Regional Spatial Strategies (RSSs), and local development plan documents.

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