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How to comply with your environmental permit.

Additional guidance for: mining waste operations (EPR6.14)

**and** Guidance on financial guarantees for mining waste facilities

Consultation Document

25 June 2009

We are the Environment Agency. It's our job to look after your environment and make it **a better place** - for you, and for future generations.

Your environment is the air you breathe, the water you drink and the ground you walk on. Working with business, Government and society as a whole, we are making your environment cleaner and healthier.

The Environment Agency. Out there, making your environment a better place.

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# Opportunity to respond to our consultation

We invite you to participate in our consultation on “*How to comply with your environmental permit. Additional guidance for: mining waste operations and Guidance on financial guarantees for mining waste facilities*”. The consultation opens on 25 June 2009 and closes on 1 October 2009.

We recognise that for many of you, this will be your first experience of regulation by the Environment Agency or operating under an environmental permit. You may not be familiar with our regulatory systems and documents. While your operations and our regulation can be technical in nature we want to make sure that the guidance we produce is both comprehensive and clear to understand. We need your input to help us achieve this.

Further information on environmental permitting and the regulatory package we have developed can be found at: [www.environment-agency.gov.uk/business/topics/permitting/default.aspx](http://www.environment-agency.gov.uk/business/topics/permitting/default.aspx)

This consultation comprises of two documents which can be found in the appendices as follows:

**Appendix 1:** How to comply with your environmental permit. Additional guidance for: mining waste operations.

**Appendix 2:** Guidance on financial guarantees for mining waste facilities.

## Background to this consultation

The permitting requirements of the Mining Waste Directive are scheduled to be implemented in July 2009 in England and Wales through amendments to the Environmental Permitting (England and Wales) Regulations 2007 (S.I. 2007/3538) (EPR). EPR forms part of a wider better regulation initiative to reduce or minimise the administrative burden and cost of regulation on you, whilst maintaining current environmental standards. The Mining Waste Directive controls how waste from mines, quarries and other mineral extractions should be managed. Its aim is to protect human health and the environment. The management of extractive waste will be regulated through environmental permits.

The implementation of the Directive requires us as competent authority to develop new documentation to guide operators through the permit application process and support permit compliance.

**1) *How to comply with your environmental permit. Additional guidance for: mining waste operations***, is a new document in the Technical Guidance Note series, developed specifically for operators who manage extractive waste. In the published guidance document “How to comply with your environmental permit – Getting the basics right” we describe the standards and measures that we expect operators to take in order to control the risk of pollution from the most frequent situations encountered in the waste management (including the management of extractive wastes) and process industries.

This additional guidance provides support for operators of mining waste operations. It also gives specific guidance on the requirements necessary to prepare a waste management plan in accordance with the requirements of Article 5 of the Mining Waste Directive.

**2)** Operators of new mining waste operations that include a Category A waste facility or a mining waste facility for hazardous wastes are required to have a financial guarantee in place before starting to deposit waste in that facility. The financial guarantee is required to ensure that sufficient funds are available to meet the obligations of the permit (which include closure and aftercare provisions).

Operators of existing mining waste operations that include a relevant mining waste facility (those that were operational on 1 May 2008) have until 1 May 2014 to have this financial guarantee in place.

*Guidance on financial guarantees for mining waste facilities* provides guidance for operators preparing applications on how to meet these financial guarantee obligations and for Environment Agency staff when assessing an applicant's proposals. It uses the same established principles as those for the landfill sector, in that the guarantee has to be sufficient to meet the costs, secure for as long as obligations and the permit exist and made available to the right person when needed.

This consultation is made in advance of final confirmation of the amendments to the 2007 Environmental Permitting Regulations. Guidance in the documents is based on information contained in the draft environmental permitting guidance on the Mining Waste Directive for England and Wales that is currently being consulted on by Government. Our guidance will be revised if necessary, when the amendment Regulations are published.

## **Your views**

We want to ensure that both *How to comply with your environmental permit. Additional guidance for: mining waste operations* **and** *Guidance on financial guarantees for mining waste facilities* are appropriate for mining waste operations in England and Wales, and provide you with the information you need in a clear and concise way.

We welcome your views on the questions listed below (questions 1 to 6 relate to the Technical Guidance Note and question 7 relates to the financial guarantee guidance only):

1a) Are the standards and measures in the Technical Guidance Note appropriate for the range of mining waste operations in England and Wales. If not, please specify which one(s) you consider not to be appropriate and why.

1b) Is the guidance provided for category A mining waste facilities sufficient? If not, please explain why.

2) Is the guidance clear about what should be included in the waste management plan? If not, please explain why.

3) In section 3.3.2 we have suggested that attenuation ponds that form part of the waste management facility are designed with a capacity for a 1 in 100 year return period storm of any duration. Existing facilities may not have been built to this standard. Please inform us whether or not your facilities meet this standard. If not, what steps will you have to take to achieve it?

4a) We have interpreted the "survey of the condition of the land to be affected by the mining waste facility" (in section 2.2.9) to mean - identification of any aspects of the land which could potentially affect stability and lead to pollution of the environment or harm to human health. Do you agree with this interpretation?

4b) Is it clear what information you would need to submit?

5) Do the requirements of the Technical Guidance Note mean that you will be able to rely on existing information provided to other regulators in order to produce a waste management plan?

6) A list of inert extractive wastes which the Confederation of British Industry Minerals Group has helped develop can be found in Appendix 4 of the Technical Guidance Note.

a) Do you agree with the approach suggested?

b) What, if any, other inert extractive wastes do you consider should be included and why?

7a) Do you consider the 60 year period over which we require a detailed estimate of aftercare costs in the financial guarantee guidance to be reasonable?

7b) If not do you consider different timeframes are required depending on the type of facility?

8) Any other comments?

## Returning the form

Please return your comments to us using the attached [response form](#), (or see Appendix 3).

Responses to this consultation should be made no later than 28 September 2009.

Please email the completed response form to: [epp@environment-agency.gov.uk](mailto:epp@environment-agency.gov.uk)

Alternatively you can post your response form to:

Fran Sykes  
Environment Agency,  
Kingsmeadow House,  
Kingsmeadow Road,  
Reading.  
RG1 8DQ

If you have any questions please contact Stephen Clark on 08708 506 506 or email [steve.clark@environment-agency.gov.uk](mailto:steve.clark@environment-agency.gov.uk)

## Consultation feedback and next steps

We will compile a report on the consultation feedback, which we will publish on our website in the Autumn of this year. We plan to finalise and publish both documents as soon as any changes needed as a result of this consultation have been made.

### **Consultation Code of Practice**

We are carrying out this consultation in accordance with the criteria set out in the Government's *Code of Practice on Consultation*. If you have any comments about **how** we are undertaking this consultation please contact:

Cath Beaver, Consultation Coordinator, Environment Agency, Rio House, Aztec West, Bristol, BS32 4UD. Email: [cath.beaver@environment-agency.gov.uk](mailto:cath.beaver@environment-agency.gov.uk). Please **don't** send your consultation responses to this address.

### **How we will use your information**

The Environment Agency will use the information contained in your response to help shape these documents.

All responses will be published after the consultation has closed, unless you have specifically requested that it is kept confidential. Names of individuals who respond will not be published. Responses made on behalf of organisations will be published with the organisation name. Please indicate on your response if you want us to treat it as confidential.

**Would you like to find out more about us, or about your environment?**

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## **Appendix 1:**

### **How to Comply with your Environmental Permit. Additional Guidance for: Mining Waste Operations**

## **Appendix 2:**

### **Guidance on financial guarantees for mining waste facilities**

## **Appendix 3:**

### **Consultation Response Form**