

The regulation of manufactured aggregates, soils and soil substitutes produced at a site registered exempt under Paragraph 13

Update

New regulations introduced on 6 April 2010 brought in a new set of waste exemptions that replaces the previous ones. These new exemptions are subject to transitional provisions so that if you had an exempt site that was registered under the old system it retains that exemption for up to 3.5 years.

After this transition time you must either register an exemption in the new system, get a permit or stop. Different activities have different transition dates and more information on these [transitional periods](#) can be found on our web site.

In order to benefit from the transitional arrangements you must comply with the terms and conditions of your current exemption, including paying any fees.

Operators who held a Paragraph 13 exemption on 5 April 2010 have until **6 April 2012** (or **1 October 2013** if you are treating agricultural waste on agricultural land) to move into the new regime which may mean having to obtain a permit, or registering another exemption, perhaps under T5 'Screening and blending of waste'. You can visit our [website](#) to find out what you need to do to comply with the new regulations.

Background

Paragraph 13 of Schedule 3 to the Environmental Permitting (England and Wales) Regulations 2007 exempted the manufacture of aggregates and soil or soil substitutes from waste (including waste from construction or demolition work) from the need to hold an environmental permit provided certain conditions are met.

Some operators were uncertain about whether wastes cease to be waste once a paragraph 13 operation has been carried out. This allowed soil or soil substitutes to be manufactured if the manufacturing was carried out either at the place where the waste was produced or where the soil / soil substitute was to be used. There was some misunderstanding about whether wastes separated out or resulting from a such a manufacturing operation could be used in the manufacture of soil or soil substitutes for use on a different site without the need for an environmental permit.

It is important that waste materials are processed and used in a manner that protects the environment. This statement clarifies the way we regulate aggregates, soils and soil substitutes manufactured on sites registered under the paragraph 13 exemption. It overrides any previous advice or any discussions between operators and our staff.

Our position

Manufacture of aggregates

Aggregates can be produced from suitable construction and demolition (C&D) wastes under a paragraph 13(1) exemption. Do not assume that because an aggregate is produced it will cease to be a waste.

Whether aggregates cease to be waste depends on whether you comply with the *Quality Protocol for the Production of Aggregates from Inert Waste* (“the aggregates protocol”). The aggregates protocol can be downloaded from the WRAP [website](#) and sets out a framework within which the decision can be taken on whether the inert wastes processed cease to be waste (i.e. whether the C&D waste is processed in accordance with the protocol’s requirements and the output meets the appropriate standard).

You must also demonstrate there is a need and a market for the recovered material and that it will not merely be stockpiled pending development of a market. The recovered material must also be used in a genuine construction works, if you are simply using the material to back fill or infill a void space you are likely to be disposing of the aggregate. In those cases the aggregate will be waste and you will need an environmental permit.

If all the criteria specified in the aggregates protocol are met, the material is probably no longer waste.

If the aggregates protocol has not been complied with or there is no market for the aggregate it will remain a waste and its subsequent use subject to regulatory controls.

Manufacture of soil and soil substitutes

When a load of C&D waste to be processed under a paragraph 13 exemption arrives at a site it is likely to contain fines. These fines can be separated out and used for the manufacture of soil or soil substitute. Fines can also result from the manufacture of aggregates under a paragraph 13 exemption. These fines are simply particles of the C&D waste brought to the site that have been reduced in size during the aggregate manufacturing process. In both cases, the fines are part of the C&D waste and were produced when it was originally discarded.

To meet the terms of the exemption, the manufacture of a soil/soil substitute incorporating fines must be carried out either where the waste was produced or where the soil / soil substitute is to be used. This means that you need to obtain an environmental permit for the manufacturing process if you do not meet these conditions.

customer service line

08708 506 506

www.environment-agency.gov.uk

incident hotline

0800 80 70 60

floodline

0845 988 1188

Further advice

Information and advice on exemptions and the Environmental Permitting Regulations can be obtained from our National Customer Contact Centre on 08708 506 506 or from our [website](#).

We have also produced a [position statement](#) which sets out how we will take account of the *Definition of Waste: Development Industry Code of Practice* when we take our waste regulatory decisions. This guidance outlines the regulatory requirements that must be complied with when handling waste. It also considers when wastes can cease to be waste and the regulations cease to apply.

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