

# Standard rules consultation number 29

## Proposals for new standard rules permit for using unbound incinerator bottom ash aggregate (IBAA) in construction as a deposit for recovery operation

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We are the Environment Agency. We protect and improve the environment.

Acting to reduce the impacts of a changing climate on people and wildlife is at the heart of everything we do.

We reduce the risks to people, properties and businesses from flooding and coastal erosion.

We protect and improve the quality of water, making sure there is enough for people, businesses, agriculture and the environment. Our work helps to ensure people can enjoy the water environment through angling and navigation.

We look after land quality, promote sustainable land management and help protect and enhance wildlife habitats. And we work closely with businesses to help them comply with environmental regulations.

We can’t do this alone. We work with government, local councils, businesses, civil society groups and communities to make our environment a better place for people and wildlife.

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# Introduction

This consultation is to introduce a new standard rule set for operators to store and subsequently use unbound incinerator bottom ash aggregate (IBAA) in construction as a waste deposit for recovery operation.

The construction activities in which IBAA can be used are:

* building a road sub-base
* building a structural platform
* pipe bedding

The standard rule set only applies to IBAA (or IBAA blended with primary aggregates) produced from incinerator bottom ash (IBA) from the incineration of municipal (household and business) solid waste. The majority of IBA consists of brick, rubble, glass, ceramics and stone.

IBA is processed to remove ferrous and non-ferrous metals and graded to produce IBAA which meets the specification of the customer and associated construction activity. IBAA is used as an alternative to primary or quarried aggregates. Use of IBAA supports the circular economy.

The standard rule set is supported by a generic risk assessment to ensure that the risks to the environment and human health are reduced to an acceptable level for this deposit for recovery operation.

The Environment Agency will take the consultation responses into account. We will publish our response, together with the new and revised standard rules and risk assessments, on GOV.UK.

Operators who cannot meet the requirements of the standard rules permit will need to apply for a bespoke permit. Bespoke permits allow us to undertake site specific assessments.

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# 1. About this consultation

This document describes:

* what we are consulting on
* an overview of the relevant documents
* the standard permitting process
* the proposed new standard rules permit SR2024 number 2
* how you can respond to the consultation
* how we will gain your consent and use your information
* the principles we follow when running this and other consultations

This is to help you understand our proposals and provide you with sufficient information to enable you to comment on them. We will consider your answers and comments to revise our proposal and finalise the standard rules.

The consultation will run for a period of 12 weeks from 9 December2024 and will close at 11:45pm on 3 March 2025.

## 1.1. What we are consulting on

The Environmental Permitting Regulations (EPR) allow us to develop standard rules for certain activities. We base the rules on our understanding of the risks from the proposed activity.

This consultation is:

* to seek your views on the proposed new standard rules permit for the storage and subsequent use of IBAA in specified construction activities
* to help us understand risk and whether the new standard rules permit ensures that the risks to the environment and human health are reduced to an acceptable level for this activity
* to help you understand how we will apply the new proposed standard rules and subsistence charges for this standard rules permit

## 1.2. What this consultation means to you

This consultation will be of particular interest to the following audiences:

* operators, trade associations and businesses
* other regulators
* the public
* community groups
* non-governmental organisations with an interest in environmental issues

This is your opportunity to ensure that the consolidated rules work for you and your industry but also provide the necessary protection for the environment and human health.

# 2. How standard rules permits work

## 2.1. What a standard rules permit is

Standard rules permits contain one condition which refers to a fixed set (or sets) of standard rules that an operator must comply with. The standard rules:

* define the activities that an operator can carry out
* specify necessary restrictions on those activities, such as emission limits or the types of waste or raw materials that can be accepted at the sites

[Standard rules are published on GOV.UK](https://www.gov.uk/government/collections/standard-rules-environmental-permitting) following public consultation.

Any operator who wishes to carry out a particular activity at a particular site or sites can look at the standard rules. If they can comply with them, they can decide to apply for a standard rules permit.

We can issue the standard permit more quickly and cheaply because we have no decisions to make on site-specific permit conditions. An operator who cannot meet the requirements of the standard rules must [apply for a bespoke permit](https://www.gov.uk/guidance/waste-environmental-permits#how-to-apply-for-a-bespoke-permit) and provide us with additional information. It takes us longer to issue a bespoke permit because we must carry out a more detailed assessment of the application. This includes deciding whether to include site-specific conditions and consult in line with our [public participation statement](https://www.gov.uk/government/publications/environmental-permits-when-and-how-we-consult).

There is no right of appeal against the rules in a standard permit because applying for a standard rules permit is voluntary. If an operator wants to change the way their site operates, they must apply to vary the standard rules permit to a bespoke permit when:

* their operation falls outside the scope of the standard rules
* they feel that the standard rules permit no longer works for their operation

Operators must apply for a bespoke permit for any regulated activities not covered by standard rules. These activities generally:

* have a higher potential impact on the environment
* require more complex controls than activities which can follow standard rules

The Environment Agency can only issue standard rules permit when the regulated facility has one single legal person as the operator. The term 'operator' is defined in Regulation 7 of the EPR as the person who has control over the operation of a regulated facility. If a regulated facility has not been put into operation, the person who will have control over it when it is in operation is the operator.

The main issue in deciding whether someone is the operator of a regulated facility is whether they are able to exercise control over its operation. The operator must demonstrate they have the authority and ability to ensure that the environmental permit is complied with.

## 2.2. What are standard rules?

When developing sets of standard rules, we carry out a single assessment of risk for a common activity. This enables us to define the risk boundary within which the rules can be used. This boundary comprises several restrictions such as size, location, and operational controls. The restrictions will be those necessary to enable a consistent set of rules to reduce the risk to an acceptable level. The rules are the same for each operator carrying out that activity. Rules and risk assessments are published in advance so that operators and the public know precisely what controls we will apply to a proposed activity.

In developing the risk boundary for each set of standard rules, we must protect the environmental quality of some specific sensitive receptors. For example, standard rules sets may contain a rule which prohibits activities taking place near to a surface water body such as a river or stream.

The rules specify the standards we want operators to achieve, but do not tell them how to achieve them. That is their responsibility.

## 2.3. The generic risk assessment for these activities

We have done a generic risk assessment for the new SR2024 number 2. This lists the potential risks and how to properly manage them. We did it by identifying possible pathways from the sources of the risks to the receptors. The risk assessment is split into 3 sections.

1. Data and information. This section is made up of receptor, source, harm and pathway information that is relevant to the activity under consideration.
2. Judgement. This works out the likelihood of the receptors being in danger from the hazard, the consequences of the hazard happening and the overall size of the risk.
3. Action. Risks will be controlled by setting standard rules. We will control residual risks by doing compliance assessment, such as site inspections, to ensure that the operators comply with the rules.

A set of standard rules may contain a rule which requires an operator not to carry out an activity within a certain distance of specified nature conservation sites. Harm can occur through hazards such as:

* toxic contamination
* nutrient enrichment
* habitat loss
* siltation
* smothering
* disturbance
* predation

We use specified distances to ensure the interest features of these sites and species are not affected. In line with our public participation statement, we do not consult the nature conservation bodies on individual applications for standard rules permits.

# 3. Proposed set of rules, risk assessments and revision to rules

We would like your views on the following proposed new standard rules permit. The standard rules are supported by a generic risk assessment which sets out how pollution risks will be controlled.

## 3.1. Proposed new standard rules permit SR2024 number 2

We are proposing a new standard rules permit for operators to store and subsequently use unbound incinerator bottom ash aggregate (IBAA) in construction. This is a waste deposit for recovery operation.

The construction activities in which IBAA can be used are:

* building a road sub-base
* building a structural platform
* pipe bedding

There are limits and conditions associated with the use of IBAA in these construction activities.

The proposed new rules permit can be viewed in full on our [[[Citizen Space consultation website](https://consult.environment-agency.gov.uk/environment-and-business/standard-rules-consultation-no-27)](https://consult.environment-agency.gov.uk/environment-and-business/standard-rules-consultation-no-29-proposals-for-ne/consult_edit#:~:text=https%3A//consult.environment%2Dagency.gov.uk/environment%2Dand%2Dbusiness/standard%2Drules%2Dconsultation%2Dno%2D29%2Dproposals%2Dfor%2Dne%20%C2%A0)](https://consult.environment-agency.gov.uk/environment-and-business/standard-rules-consultation-no-29).

## 3.2. Proposed charges

We’re proposing charges for the new standard rules permit SR2024 number 2 for the associated storage and use of unbound incinerator bottom ash aggregate (IBAA) in construction as a deposit for recovery operation, as follows.

|  |  |
| --- | --- |
| Type of charge | Charge (£) |
| Waste Recovery Plan assessment | 1,231 |
| Permit application | 2,641 |
| Minor variation | 792 |
| Normal variation | N/A |
| Substantial variation | N/A |
| Transfer application | 2,529 |
| Surrender application | 5,524 |
| Annual subsistence | 2,909 |

We have selected the charges from the application table, subsistence table and default standard rules charging table in the [environmental permits and abstraction licences: tables of charges](https://www.gov.uk/government/publications/environmental-permits-and-abstraction-licences-tables-of-charges). These charges aim to precisely recover the regulatory costs incurred by the Environment Agency because of the applications and compliance work associated with these permits.

Our charges are subject to periodic review and are adjusted down where efficiencies have been identified and processes have been developed to enable us to reduce costs.

## 3.3. Business impact

The [growth](https://www.gov.uk/government/publications/growth-duty) duty requires the Environment Agency and other national regulators to give appropriate consideration to the potential impact of their decisions on economic growth, alongside our other statutory duties. As part of this duty, we’re carrying out an assessment of the financial impacts of the proposed new standard rules permit. You can help by responding to the questions on the Citizen Space consultation website.

## 3.4. How we will use your information

The Environment Agency will make all responses publicly available after the consultation, unless you have specifically requested that we keep your response confidential.

This includes comments received online and by email unless you have specifically requested that we keep your response confidential. We will not publish names of individuals or personal data. We will publish the name of the organisation for those responses made on behalf of organisations.

We will not respond individually to responses unless you have specifically asked us to do so by providing us with an email address, in which case we will acknowledge your response. After the consultation has closed, we will publish a consultation response document on GOV.UK. We will contact you to let you know when this is available.

In accordance with the Freedom of Information Act 2000, we may be required to publish your response to this consultation but will not include any personal information. If you have requested your response to be kept confidential, we may still be required to provide a summary of it.

## 3.5. Privacy notice

The Environment Agency would like to keep you informed about the outcomes of the consultation. If you would like to receive an email acknowledging your response and telling you when we’ve published the summary of responses, please provide your email address with your response.

By giving us your email address, you consent for us to email you about the consultation. We will keep your details until we have notified you of the response document publication.

We will not share your details with any other third party without your clear and full consent unless required to do so by law.

You can withdraw your consent to receive these emails at any time by contacting us at wastetreatment@environment-agency.gov.uk

The Environment Agency is the data controller for the personal data you provide. For more information on how we deal with your personal data please see our [personal information charter](https://www.gov.uk/government/organisations/environment-agency/about/personal-information-charter) on GOV.UK.

You can email our Data Protection team: dataprotection@environment-agency.gov.uk

## 3.6. Questions introduction

We welcome your views on the proposed new standard rules permit for using unbound incinerator bottom ash aggregate (IBAA) in construction as a waste deposit for recovery operation.

**What is your name?**

**What is your email address?**

**When we come to analyse the results of this consultation, it would help us to know if you are responding as an individual or on behalf of an organisation or group.** Please select from the following options:

* Responding as an individual
* Responding on behalf of an organisation (Please specify which organisation or group you are responding on behalf of and include what type it is, for example business, environmental group)
* Other

If you’re responding on behalf of an organisation or group, please tell us who you are responding on behalf of.

**Can we publish your response? We will not include personal information.**

This is a required question. Please select one of the following:

1. Yes
2. No

If you answered ‘No’, please tell us why as we will need to understand this when responding to any Freedom of Information requests.

## 3.7. Questions on the draft standard rules permit

Where there is a free text field, please give as much information as possible to support your answer, including cost/benefit information whenever possible. For example, if meeting a requirement of the standard rules permit would be costly to your business, provide an estimate of the work that would be required at your facility (or facilities), and the likely costs and timescale.

If you already meet the requirements of the standard rules guidance, please state this and set out any costs and benefits associated with doing so. This will help us to assess the cost-benefit of this guidance and whether and how we should modify its requirements.

### Limits on permitted activities

The draft rules limit the IBAA deposit for recovery activities to:

* associated storage and use of unbound incinerator bottom ash aggregate (IBAA) in construction
* the following specified construction activities:
	+ building a road sub-base
	+ building a structural platform
	+ pipe bedding

We have set out placement restrictions, which includes limits on the width and depth of IBAA used, to minimise the impact on the environment over time from the loss of heavy metals from the IBAA.

**Question 1. Do you agree that the proposed activity limits are appropriate?**

**If no, please explain your answer.**

### Assessment of recovery

The draft standard rules permit sets out the requirement for a waste recovery plan.

These standard rules are for the recovery of waste only and do not apply to any activities involving disposal. You must therefore include a waste recovery plan with an application for these standard rules. It is a legal requirement. You can choose to submit your waste recovery plan at the pre-application stage and we will give our advice of recovery or disposal. If we do not agree that your proposed operation is a recovery activity, we will not grant a standard rules permit. Trade bodies may wish to produce a waste recovery plan template for operators to use. We recognise the efficiencies of doing this and we will support the development by industry of a template.

**Question 2. Are you satisfied that the** [**guidance**](https://www.gov.uk/government/publications/deposit-for-recovery-operators-environmental-permits/waste-recovery-plans-and-deposit-for-recovery-permits) **on how to prepare a waste recovery plan will help you to produce waste recovery plans for your operations?**

**Please provide additional comments to support your answer if needed.**

### Tonnages allowed

The draft rules set out a maximum tonnage allowed at any one site for IBAA or IBAA mixed with non-waste materials such as virgin aggregate. Use of IBAA above this threshold will require a bespoke assessment and permit.

**Question 3. Do you agree with the proposed tonnage limits?**

**Note: the amount of waste that you can deposit will be limited by the total amount stated in your approved waste recovery plan.**

**If no, please explain your answer.**

### Placement restrictions

Each construction activity allowed under this permit has restrictions on

* the width and/or depth of IBAA used
* the location of the construction activity. IBAA must not be used above groundwater source protection zones or used below the water table.

We have modelled the movement of heavy metals in IBAA and how they move through the ground over time. We are satisfied that our placement restrictions minimise risk to groundwaters from dust, and allows any hydrogen, which may evolve over time, to disperse.

**Question 4. Do you agree with the proposed IBAA placement restrictions?**

**If no, please explain your answer.**

### Distance to surface water from structural platforms

The draft rules set out distance requirements from the deposit of IBAA to construct structural platforms and any surface waters. If construction is within these set-back distances, we will need to carry out a site-specific assessment. This means a bespoke permit is needed. We have modelled the movement of metals in IBAA and how they move through the ground over time. We are satisfied that our setback distances to surface water ensure any risk to them is minimal.

**Question 5. Do you agree with the proposed set-back distances to surface water?**

**If no, please explain your answer.**

### Requirement for topographical surveys or other forms of measurement

The draft standard rules permit sets out the requirement for a topographical survey or other forms of measurement to be carried out prior to commencement of the recovery activity and on its completion. Plans produced from the surveys or measurements must be submitted to the Environment Agency to demonstrate compliance with the approved waste recovery plan.

Where topographical surveys have been carried out, these plans should be submitted. However, other forms of measurement could be used to produce plans that show the original level prior to deposit of IBAA and the final depth/height and width after deposit. For example, a plan with photographs and diagrams produced to an appropriate scale showing that pipe bedding has been laid to the thickness and width specified in the approved waste recovery plan.

**Question 6. Do you agree that the requirement for topographical surveys or other forms of measurement is appropriate to enable compliance with the approved waste recovery plan to be checked?**

**If no, please explain your answer.**

### Question 7. Please provide any other comments you wish to make about the draft standard rules.

## 3.8. Questions on the generic risk assessment

### The draft rules are accompanied by a generic risk assessment.

**Question 8.** **Do you agree that the generic risk assessment adequately covers the risks associated with the storage and use of IBAA in construction?**

**If no, please explain your answer.**

## 3.9. Questions on the business impact

You only need to complete this section if you are considering using the proposed standard rules permit.

The Growth Duty requires us to give appropriate consideration to the potential impact of decisions on economic growth, alongside our other statutory duties. As part of this duty we are carrying out an assessment of the economic impacts of the proposed standard rules permit.

We do not intend to publish the responses to question 9 as part of this consultation.

### Question 9. Are there any potential economic impacts, either positive or negative, that the introduction of the standard rules could have on your business?

### If yes, please explain your answer

###

# 4. Responding to this consultation

## 4.1. Important dates

This consultation will start on 9 December 2024 and will close at 11:45pm on 3 March 2025.

## 4.2. How to respond

You can view the consultation documents and questions online on the Environment Agency’s [[[Citizen Space consultation website](https://consult.environment-agency.gov.uk/environment-and-business/standard-rules-consultation-no-27)](https://consult.environment-agency.gov.uk/environment-and-business/standard-rules-consultation-no-29-proposals-for-ne/consult_edit#:~:text=https%3A//consult.environment%2Dagency.gov.uk/environment%2Dand%2Dbusiness/standard%2Drules%2Dconsultation%2Dno%2D29%2Dproposals%2Dfor%2Dne%20%C2%A0)](https://consult.environment-agency.gov.uk/environment-and-business/standard-rules-consultation-no-29)

### Respond online

Please submit your response on our Citizen Space consultation website, as it helps us to:

* gather all responses in one place
* summarise responses quickly and accurately
* reduce the costs of the consultations

### Respond by email

You can submit your response by email, if you cannot use our Citizen Space consultation website, by using the Response form, which you will find under the ‘Related’ section of the consultation on Citizen Space. Please email your Response form to: wastetreatment@environment-agency.gov.uk.

### Ask for a printed version

Please contact us if you need a printed version of the document to be posted to you.

National Customer Contact Centre

Telephone: 03708 506 506

Minicom for the hard of hearing: 03702 422 549

Monday to Friday, 8am to 6pm

## 4.3. Consultation principles

We’re running this consultation in line with the guidance set out in the government's [consultation principles.](https://www.gov.uk/government/publications/consultation-principles-guidance)

If you have any queries or complaints about the way this consultation has been carried out (the process), please email consultations.enquiries@environment-agency.gov.uk.

Otherwise, for all other queries relating to this consultation please email wastetreatment@environment-agency.gov.uk.

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

**Then call us on**

**03708 506 506** (Monday to Friday, 8am to 6pm)

**Email**

enquiries@environment-agency.gov.uk

**or visit our website**

www.gov.uk/environment-agency

**Incident hotline**

**0800 807060** (24 hours)

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