

Response form

Standard Rules Consultation No. 14 – new and revised standard rules sets

Your details

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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 e.g. business, environmental group*)
 The Renewable Energy Association
- Other (*please specify*) _____

Please tell us if you would like to (tick all that apply):

- Receive an email acknowledging your response
- Receive an email to let you know that the summary of responses has been published

If you have ticked any of the boxes above, please provide us with your email address:

Email: jeremy@r-e-a.net

- Put a cross in this box if you are requesting non-disclosure of your response. Please provide an explanation to support your request.

Please tell us how you found out about the Standard Rules Consultation No. 14 – new and revised standard rule:

- From the Environment Agency
- From another organisation
- Through an organisation you're a member of
- Advert
- Press article
- Social media e.g. Facebook, Twitter
- Through a meeting you attended
- Other (please specify)_____

How we will use your information

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

We will not publish names of individuals who respond.

We will also publish a summary of responses on our website in which we will publish the name of the organisation for those responses made on behalf of organisations.

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.

Returning your response

Your response to this consultation needs to be returned by **20th March 2015**.

We would like you to use this form if you are not submitting your response online. You can return it by email to SRCN14@environment-agency.gov.uk. Please use this email address if you have any questions regarding this consultation.

Or by post to:

**FAO E & B Permitting Project
Environment Agency
Horizon House
Deanery Road
Bristol BS1 5AH**

We welcome your views on the Standard Rules for land spreading and digestate storage.

OVERVIEW OF THE REA

The Organics Recycling Group (ORG) of the Renewable Energy Association (REA) is pleased to submit this response to the Environment Agency in response to their consultation on Standard Rules #14 Landspreading and Digestate Storage. The ORG circulated the consultation to members for comments and held two workshops in London and Leeds to garner the views of their members. We submit this response based on their feedback.

The REA represents a wide variety of organisations, including organic resource management companies, project developers, fuel and power suppliers, investors, equipment producers, and service providers. The ORG is one of the twelve sector groups within the REA and represents a wide range of operators who manage composting, anaerobic and aerobic digestion facilities, mechanical and biological treatment and in-vessel composting facilities within the UK handling a wide range of biodegradable feedstocks.

Members range in size from major multinationals to sole traders. There are over 1000 corporate members of the REA, making it the largest renewable energy trade association in the UK.

Q1. Have we correctly identified all the risks for each activity, as described in the generic risk assessments associated with the consultation?

Please tick the relevant box

- Yes
- No
- Don't know

Please explain your answer.

The risk assessments don't include a justification for reducing the storage period. Is there any evidence to support that reducing the time of storage, reduces the risk? Why would risk of pollution increase with storage reduced from 12 months to 6 months.

There does not appear to be any significant weight of evidence to justify the changes proposed within this consultation whereas the financial impact will be significant in respect to the construction of new storage facilities for AD operators.

Q2. Do you consider that reducing the storage period allowed in mobile plant standard rules from 12 months to 6 months will be effective in stimulating investment in contingency storage facilities and lead to greater business resilience?

Please tick the relevant box

- Yes
- No
- Don't know

If not, please explain why and suggest alternatives.

The REA do not consider the imposition of a shorter storage time under the mobile plant permit to act as an incentive for the building of additional permanent storage infrastructure.

The overwhelming view from our members is that this proposal would be damaging, costly and in many cases a 'show stopper' to the effective management of the storage and spreading of compost and digestate, in particular the latter.

If these proposals have been brought about to address the lack of on-site storage at AD sites, then this should be addressed at the planning and permitting stage of the AD plants not through the landspreading permits.

Planning conditions may be contradictory to this requirement, for example, in terms of maximum numbers of vehicles per day will be harder to comply with as reducing the spreading window will necessitate intense activity as large volumes are removed during short periods of the year.

The REA would like to see evidence from the EA which clearly demonstrates that 'temporary storage' facilities are an issue and have failed to contain biodegradable wastes effectively. In addition it should be noted that there is little reduction in risk from reducing the storage time from twelve to six months, either the storage facility is fit for purpose or not. It would be more effective if the EA was to allow all existing stores to be used but that they be routinely examined to ensure that they were 'fit for purpose'. The use of old lagoons should not be penalised if they still serve a useful function.

-Biodegradable waste management is not a highly profitable enterprise and does not support the high cost of building new storage facilities-. Increased storage at the site of production entails that facilities will need to be much larger with larger foot print and increased capital expenditure. This would put newly built plants at a competitive disadvantage compared to existing plants

It should also be noted that sites using this material for restoration purposes often are significant in size so will require the full 12 months in order to get the work carried out.

The current 12 month storage periods allow for unavoidable changes imposed by weather conditions such as the need to change from autumn to spring cropping due to adverse weather conditions, reducing this is likely to result in more risk of spreading at inappropriate times.

The need for digestate with high readily available nitrogen (RAN) to be applied at optimum times severely restricts spreading windows. This means that the logistics of managing intense spreading operations within a short time frame is challenging and is greatly facilitated by the use of satellite storage facilities. Using the proximity principle it is neither cost effective nor environmentally sound practice to move low value materials greater distances than necessary in order to apply them to land, which would surely result if some sites had to shut down as a result of the new requirements.

In addition, for arable crops low nutrient wastes such as water treatment cake (often applied at 100 t ha) can only be spread on the land prior to sowing, either in the autumn or spring. Restricting the storage load and time will cause serious implications.

In grassland areas digestate can be applied a number of times during the season e.g in multi-cut silage systems. In such circumstances a storage tank could be filled and emptied a number of times during the season. The concept of a 6 month storage period under a deployment that has a 12 month span would be very restrictive.

The REA seek clarification as to whether or not continually filling and emptying and re-filling a lagoon would be permitted or not. It would be very hard to demonstrate and audit but material may only be in a lagoon for 6 months but the lagoon would be in use for 12 months?

There is also a concern that if you limit the storage time to six months there is a greater likelihood that in order to comply, landspreading will be carried out in sub-optimal conditions which is more likely to cause pollution incidents.

A recent study commissioned by the Waste and Resources Action Plan (WRAP) called [DC Agri](#) conclusively shows that the correct time to apply digestate to crops is at the time when the nutrient uptake is at the highest in the Spring, this suggestion of limiting storage to six months will make applications at the most suitable time less likely, as there will always be pressure to spread materials to land before the storage limit runs out.

A longer storage period of 12 months will give greater business resilience to operators and farmers as this will provide flexibility during unforeseen weather events when the spreading window may be dramatically reduced. REA strongly oppose any reduction to this as it will have a detrimental effect on the industry without a clear environmental benefit.

Q3. Can you suggest other wastes that could be suitable for inclusion in these standard rules?

The REA would like the inclusion of the Waste code 19 12 12 (compost Like Output) biodegradable waste from mixed waste streams adding to the SR 2010 #5 for land restoration.

In addition, it would be helpful if there was a mechanism to add additional waste streams without undue time delay to a SR permit when the need arises in the future. At present, new waste streams can only be added to Bespoke Permits, which are adopted by few landspreading mobile plant operators.

Q4. Do the codes and descriptions for ashes cover the range of waste ashes being spread on land?

Please tick the relevant box

- Yes
- No
- Don't know

Please explain your answer.

Q5. What would be your preferred method for pre-notifying us of the intention to commence spreading operations?

There is existing evidence that a number of deployment approvals in 2013 incorporated a requirement for prior notification already. Whilst it may be possible to notify the EA of proposed spreading activities within the 48 hour notification period, this proposal will have a limited value. Timing of the spreading of digestate with high RAN content can be subject to a number of constraints such as machinery breakdowns, unsuitable weather conditions, ground conditions, even management of farm livestock. Changes to spreading plans can therefore be made at extremely short notice (less than 24 hours is not uncommon) and in the case of larger operations there can be a number of spreading operations taking place at the same time. Any notifications would therefore have to be subject to caveats over precise timings and it would therefore mean that in practice the EA would need to check with the operator that spreading operations are actually taking place if they wish to visit a site.

One issue which is significant for a number of operators is where the person spreading the material to land is not the permit holder but a third party such as a farmer or external contractor who cannot always be relied on to inform the permit holder when this activity is taking place.

The REA has no objection to this concept in theory, and is happy for EA officers to gain a greater understanding of landspreading operations by watching them first hand. The reality of requiring pre-notification making this happen in a manner that is beneficial to both parties is unlikely and will most likely result in wasted effort for the EA who have limited resources. If this is purely a mechanism to 'trap' poor performers, a more targeted approach would yield improved results rather than approaching all operators.

It should be noted that it is not unusual for EA officers to work part time or limited hours, so often the emails will not be read by the relevant person until the event has taken place which is of little value.

The REA recommends that if any pre-notification is mandatory this takes the form of an email exchange between the permit holder and the local officer; however the EA should be warned that for companies managing significant land banks, this could mean multiple e-mails being sent daily to local officers and the possibility of spreading not taking place, is this effective use of the EAs time and resources?

Any pre-notification requirement will make the permit more onerous for little environmental gain. We are told that the EA are keen to reduce the burden on industry through the recent 'red tape challenge', this is adding a burden not reducing it.

Q6. For deployments of up to 100 hectares how would you prefer the standard rules to define 'continuously managed area of land'?

There is some confusion as to the land area as the consultation document refers to 150 hectares rather than the 100 shown above, **please clarify which one is correct.**

Possible wording to define 'continuously managed area of land' can be seen below:

1. *A parcel of land that is managed under the same nutrient management plan*
2. *Land managed by an operator in continuity for a minimum of one year*
3. *Land 'Managed under a single plan', 'part of an integrated cropping and management plan'*
4. *Land which is managed by the same farmer/contractor/permit holder and is in their regular control and forms part of their annual land bank which they manage. (The land does not need to be a continuous physically adjacent block of land, but an area or pockets of land within a 10 mile radius as before, which is continuously managed by the same person).*

That the rules should include the following:

- Land parcels fall within a 10 mile radius of one another
- Land is managed for the 12 month period of this deployment by an individual identified as the Land Manager/owner
- No more than 20 fields are identified on the deployment form (i.e. average field size 5ha) where more than one waste stream is identified within the deployment application.

Q7. We consider that taken as a whole the package of proposals described here will not have a significant financial impact on the wider business community. Do you agree?

Please tick the relevant box

- Yes
 No
 Don't know

If you agree or disagree please explain why and provide evidence to support your view of the likely impacts.

The construction of new infrastructure for the storage is expensive and cannot be justified by the majority of operators given the low operating margins within this sector.

The REA has yet to see evidence that the suggested measures will have an impact on reducing the number of pollution incidents. Reducing the number of storage facilities that can be used will mean that the movement of digestate and compost between storage facilities and land bank will become more costly both financially and environmentally as well as placing a greater burden on local infrastructure such as local roads in rural communities. The REA would like to see a full financial impact before any changes are implemented.

The REA considers that the changes requested will have a significant financial impact on a sector (see below for an example) and this additional cost burden cannot be justified. The REA would like to see a full financial risk assessment carried out to justify the proposals rather than taking a blanket approach to regulation, this is poor regulation rather than 'lighter touch' regulation which is the EA aim often quoted.

As an example, the storage of liquid wastes of 1,250 tonnes would render any proposal to increase the permissible deployment area to a maximum of 100 ha (or 150 ha) as pointless. To apply liquid waste at 50t/ha would require 4-6 lagoons which in turn would require 4 deployments each with an area of 25ha. This will have significant impact on the cost to business as pointed out several times within this document making the spreading of this material unaffordable.

For sites whose spreading operations fall within a Safeguard Zone for spreading, no consideration has been made for the additional cost of transporting material to a zone where spreading is permitted, and having a readily available market within this distance. In addition there is the cost of these changes resulting in the need to use a bespoke permit for spreading within these safeguard zones (we have highlighted below that this is double regulation as existing safeguards are already in place through the NVZ regulations).

Q8. Please tell us if you have any other views or comments on these proposed revisions that have not been covered by previous questions.

Supplementary information of significant importance not shown in the eight questions shown above.

General comment

The ORG should like to raise the wider concern not directly addressed within this consultation that the imposition of an EU End of Waste (EoW) Criteria could supersede PAS110/ ADQP if proposed EU fertiliser regulations are modified to include organic materials. Although this has recently been suspended, there is the potential for this to go forward in the future. This change could have the consequence of making EoW compliance very difficult to achieve resulting in more digestate being spread as “waste”. The outcome of the EA consultation could be of great significance to AD operators who are currently producing digestate with product status. If PAS and the QP was to be overridden by a wider EU end of waste position then there is a likelihood that significant volumes of compost and digestate currently being spread as a product would revert to waste which would incur additional burden to both operators and the regulator alike!

Spreading compost and digestate under a PAS and QP regime is less onerous and more flexible than using a deployment regime and there are concerns that the gap is widening between the two existing regimes.

Storage of wastes prior to spreading

The proposal for the storage limits to relate to each deployment rather than permit is welcomed.

It is evident that the EA has significant concerns regarding the use of remote stores for compost and digestate, however rather than imposing the draconian and costly measures suggested, the REA suggests that there is a protocol for the independent inspection and auditing of all existing sites and sign them as ‘fit for purpose’ and review these every three years rather than exclude many stores which are adequate and safe to use.

There needs to be recognition that there are a wide range of biodegradable materials being stored such as paper sludge and a range of liquid wastes, and the need to build additional storage for these will have a wider impact on the farming community. It should also be noted that farm AD plants handling manures and purpose grown AD crops do not operate under any permitting regime currently when the risk posed from handling their outputs is no less.

There is a need for greater scrutiny by the regulator at the planning and permitting stage of a site’s development rather than changing the rules and implementing them retrospectively which is costly and not budgeted for.

There is concern from some operators that by reducing the tonnage to 1250 tonnes of non-stackable wastes that it will no longer be viable to store such small volumes of material in one place. In particular it should be noted that where larger volumes are deployed to land (up to 500t/ha) such as land restoration projects which can often be in remote locations, when combined with a reduced storage time of six months will result in an unacceptable solution for industry.

The proposal to increase the deployment size from 50 has to 150 (or 100? Clarification required on this please) is welcomed but if at the same time the volume of material allowed to be stored has reduced to 1250 tonnes for digestate, this is counter intuitive when the need is for the exact opposite. The suggested storage limit is not sufficient to supply one single deployment of 50 hectares if the digestate was applied at 30t/ha, this is not helpful to industry.

Would it be helpful for the larger deployment area to suggest that there should be a separate storage area for each 50ha area (so 2 or 3 areas), thus reducing the risk from one large store?

Whilst there has been a risk assessment on the use of 3000 tonne storage facilities, there is no evidence on what the impact of reduced storage would have. For the Readily Available Nitrogen (RAN) in digestate to be used most efficiently it should be applied to crops during the growing season i.e. spring, but to achieve this there needs to be a considerable amount of storage available to hold digestate throughout the rest of the year.

The REA believe that in a Nitrate Vulnerable Zone (NVZ), stackable wastes can be stored in temporary field heaps, as well as in vessels, roofed buildings and on impermeable bases with collection of runoff. The permit conditions should mirror NVZ requirements, and only apply in NVZ areas.

If added restrictions are placed on storage, then the risk of RAN being lost to atmosphere or water increase. ADAS in a recent trial showed that the efficiency of use of digestate used as a spring application on winter wheat approached 80% of the N applied, this fell to <20% in an autumn application on the same crop (IFS presentation Cambridge 2014).

Digestate storage within 200 metres of a European Ramsar site or SSSI should be covered.

The REA would like to see greater clarity on what is meant by 'covered' storage in this context. Is the purpose of covering the digestate lagoons to prevent emissions of odour and VOCs or the ingress of water? There are some floating 'aero covers' that assist in reducing the odour emissions from the lagoon or storage tank but do not provide a vapour type seal.

This is not a requirement of SSAFO or NVZ regulations at present. The REA would therefore not support this requirement under the standard rules permit, particularly when digestate may be stored only for a short period of time prior to spreading.

The REA proposes that the primary purpose should be to reduce odour emissions. Also we would like to question if this proposal is in keeping with the requirements placed on other storage facilities of high RAN materials within the agricultural arena such as storage of farmyard manures? If not, then again this demonstrates an uneven playing field in the manner in which digestate is being treated.

Does this apply to all SSSI features as some are geological in nature and would not be negatively impacted by biowaste emissions? Please provide clarification on this.

Ground water safeguard zones for nitrate

The REA recognises that The Water Framework Directive provides for a range of measures to protect groundwater quality and has led to the setting up of various protected areas for groundwater such as drinking water protected areas, source protection zones and safeguard zones. Within GP3, the document that defines Safeguard Zones, the following comment is made which clearly refers to 'voluntary' measures; *'Where appropriate we will work in partnership with water companies to designate safeguard zones around abstractions used for human consumption that are at a high risk of deteriorating raw groundwater quality. Within safeguard zones, we will target existing measures and focus additional new **voluntary** measures'*

The proposal to prohibit the storage or spreading of HRAN (defined as >30%N) is not welcomed by the REA as although these zones are limited in nature, where they do exist it will effectively close down the spreading of digestate using a SR permit. With the alternative of using a bespoke permit prohibitive due to cost.

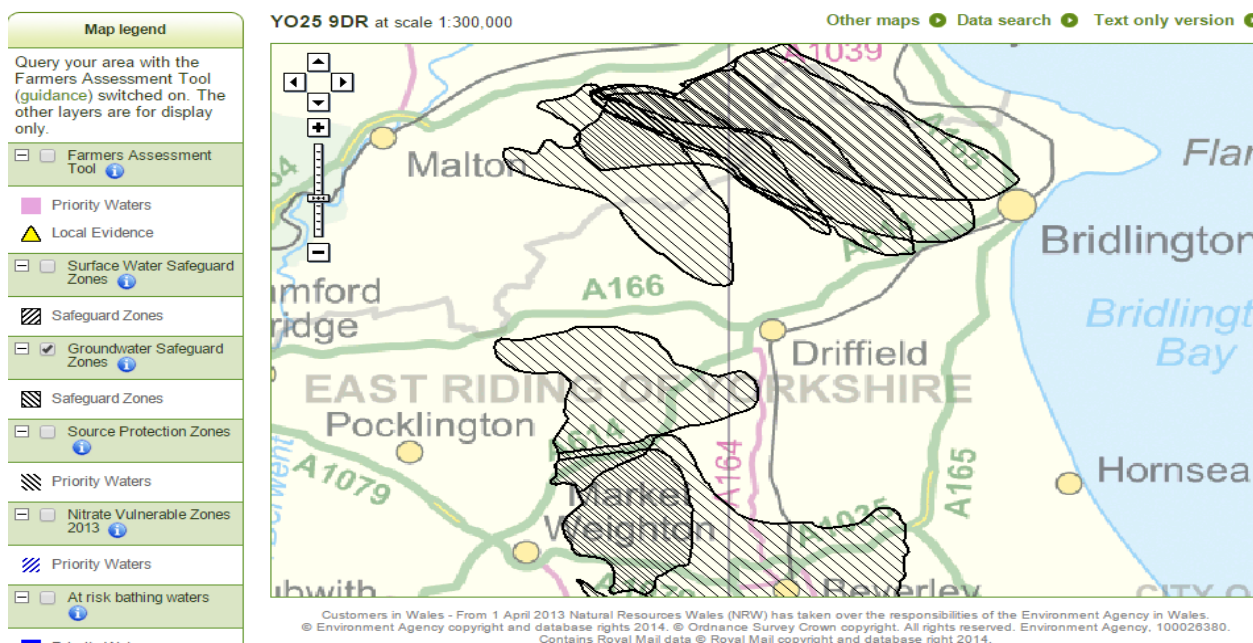
The existing NVZ regulations already exist as a regulatory mechanism to control nitrate levels in groundwater and this 'gold plating' is both unnecessary and damaging to industry. The most important aspect of compost and digestate application (particularly the latter) is to ensure that applications are made at the time when the crop uptake is at its highest, this requires good planning and quick access to your storage facilities. If HRAN is applied at the correct time, it presents no greater risk to the ground water than artificial fertilisers that may be applied in these areas.

If PAS 110 and QP digestate was applied as a product to a groundwater safeguard zone this would be allowable as long as NVZ regulations were complied with. The environmental impact would be the same from both PAS and non-PAS material, this demonstrates the nonsensical approach suggested here.

The REA should like to point out that they believe that the punitive steps within the existing cross compliance requirements in England are a far greater deterrent at preventing inappropriate applications of organic fertilisers than any suggested within this consultation. The SMR 1: *Reduce water pollution in Nitrate Vulnerable Zones* sets a number of key requirements that have to be adhered to. Failure to meet these requirements means that a reduction in the SFP can be made of between 3 and 5% if the land owner abuses the nutrient management of his/her holding and this can in certain instances be increased up to 100% depending on the severity, reoccurrence and permanence of the non-compliance.

The REA is concerned about the introduction of safeguard zones (SgZs) in environmental permitting. SgZs are much larger since they are based on SPZ1 and SPZ2. Unless there is evidence that water quality is deteriorating due to nitrate from highly available nitrate containing wastes we would strongly question the need to bring these requirements into environmental permits. SgZs will already be afforded protection due to the existing rules for landspreading in SPZ1, in addition to NVZ requirements. Measures in SgZs should instead be focusing on the contribution that new voluntary measures and mechanisms would make towards addressing problems as shown above.

An example of how this would significantly impact the agricultural and waste sector is in the East Yorkshire Nitrate SgZ. It is a significant arable area (Yorkshires Bread Basket) and the area is used by Water Companies as well as a significant number of Anaerobic Digestion plants. Many companies recycling valuable waste back to the land would lose their available land bank and would find this change catastrophic to the viable operation of their business.



The REA would like to make the point that HRAN materials such as digestate do not 'readily' leach into aquifers as is suggested as the primary dissipation of nutrients is through volatilisation to air which has little or no impact on water quality.

Spreading in adverse conditions:

The REA do not object to following the restrictions already in place within the U10 and U11 Exemptions as this would be considered to be good agricultural practice. However it is covered by COGAP already, so why is it necessary to duplicate what is already in place? It has been noted however that if the six month storage was to be implemented this would be very likely to have the unintended consequence of encouraging the spreading of materials to land in adverse weather conditions.

Amendment to the standard rule permit and risk assessment for the storage of digestate from anaerobic digestion plants (storage of digestate in containers or lagoons). SR2010 No 17

The REA welcomes the suggestion of expanding the list of acceptable wastes to include all non-hazardous wastes listed in SR2010 #4, 5 and 6 including dust, powders and loose fibres when they are stored in a building. The request to store non-stackable materials in storage facilities compliant with Ciria 126 is a major cost undertaking and will be for many too expensive to undertake.

The requirements are quite onerous and there is a high specification that slurry/silage stores must comply with. There may also be issued with planning permission given that a limit of 200m from houses may conflict with likely planning permission conditions.

It is not clear who will be checking the construction and are all existing slurry tanks CIRIA compliant and again consistency needed with other agricultural practices.

The requirement for high RAN wastes to be covered to prevent ammonia emissions is good practice but the term 'cover' is open to interpretation. We suggest that floating covers would be appropriate. REA request that the EA define what they are expecting with regards to cover requirement before commenting further.

The requirement for different wastes to be stored separately may be problematic for some of our members. Occasionally there is a need to blend materials and often they are going to be spread together and have a beneficial effect in combination so there seems little justification in requiring them to be stored separately.

END