

Update - Regulation of closed landfills**Purpose of this note**

This note summarises some of the key issues relevant to the regulation of closed¹ landfills. It updates the briefing note that we issued in November 2008.

Background

Closed landfills fall into one of three categories:

1. Sites that are permitted and close/closed after 16 July 2001 (Landfill Directive closed landfills);
2. Sites that are permitted and closed before 16 July 2001 (closed landfills), and;
3. Sites that are closed but no longer have a permit (historic closed landfills).

Sites that close/closed after 16 July 2001 are subject to the requirements of the Landfill Directive (LFD) and will have closed in accordance with a closure plan (See our [Environmental Permitting guidance, regulatory guidance series, No. LFD1](#)). We do not have regulatory control over closed historic sites as their permits have been surrendered. However, we maintain an interest in these sites because of their potential to release green house gasses. This note describes our approach to regulating **closed landfills** that have a permit but are not subject to the requirements of the LFD (i.e. category 2 above).

Compliance and permitting

Any reported or perceived problems at a closed landfill are investigated by our local area teams. They will take necessary action to protect the environment either through the permit or the use of other regulatory tools. Area teams receive and maintain data submitted but will not inspect closed sites on a routine basis.

Closed landfills are regulated by a range of conditions that were originally imposed through waste management or waste disposal licences. All existing closed landfill licences have become environmental permits, but due to the variability in their requirements the conditions and standards remain inconsistent. We have developed a template of permit conditions for closed landfills to reduce this inconsistency.

Charges

Closed landfills are currently charged subsistence at a fixed rate, based on the size of the site and the waste type it accepted. There will be no change to the subsistence charge mechanism for closed landfills in 2010/ 11. However, subsistence charges for closed landfills are likely to be based on a site's OPRA score from April 2011. Schedule 3, table 4 will then be removed from our Charging Scheme. This will ensure that the sites that present the greatest risk to the environment because of their location and the wastes they accepted pay an appropriate charge. It also allows time for operators of sites that present a low risk to surrender their permits.

Charges for surrender will continue to be based on the site's OPRA score or our low risk surrender criteria. Our guidance ([Environmental Permitting guidance, regulatory guidance series, No. 9](#)) on surrender is being amended to reflect this low risk approach for landfills.

We will continue to review how we charge for flares and gas engines on closed landfills. Any proposed changes will be included in our annual consultation on the charging scheme (September).

¹ 'Closed' means ceased accepting waste for disposal.

Re-opening closed landfills

Sites that closed before July 2001 and did not submit a conditioning plan can not accept waste for disposal because of the transitional requirements of the Landfill Regulations². Operators of these sites now have an environmental permit and may therefore apply to vary the permit to allow operations to re-commence. The operator must apply for a new 'activity'³ to show that they are compliant with the LFD.

Current work

Data Review

We have used the results of our previous groundwater risk assessments and are reviewing data for 30 sites within the range of sites perceived as high risk. By the end of 2009 we expect to have contacted individual operators to discuss the options.

We are working to identify a group of sites which are considered low risk. Where appropriate we will invite operators to apply to surrender their permit.

We accept that the standards required for monitoring and aftercare were different in the past and that not all closed sites will have evidence of the condition of the waste mass or surrounding environment. Where there is limited or no monitoring data we may in some circumstances be able to accept surrender based on indirect evidence such as; waste returns, duty of care waste descriptions, surface water and land quality, local geology, aquifer status etc. Where this evidence does not provide confidence that the waste no longer presents a hazard to human health or the environment, more detailed evidence or investigations may be required before we can accept surrender. We will consult operators on our guidance on risk assessment for landfills soon (amendment to H5 – Site condition report).

Permitting

We plan to impose the new template conditions when a permit is being varied for other purposes or when the permit is due for its regular review. Permit conditions will only apply to activities on site that are necessary during the aftercare phase, mainly maintenance and monitoring. Varied conditions may include emission limit values to help us track potentially polluting emissions. Permits may be varied as a result of the data review to include additional management or monitoring provisions to ensure the risk to the environment is minimised.

Hydrogeological Risk assessment reviews

All sites that present a risk to groundwater are required to undertake a regular review to confirm that predicted emissions to groundwater continue to be accurate. This requirement applies to closed landfills and we expect landfill operators to continue to submit this information as it is necessary to satisfy the requirements of the Groundwater Directive. We have produced a template for hydrogeological risk assessment reviews for landfill that we plan to develop for closed landfills.

Working towards landfill permit surrender

We are considering our approach for the surrender of permits at sites that closed before May 1994⁴.

We will charge for surrender applications in accordance with our charging scheme. We will apply the low risk surrender charge where appropriate. This will include sites where we invite a surrender application as a result of the data review.

Version 2

September 2009

² The Landfill (England and Wales) Regulations 2002, schedule 4, paragraph 1(7)

³ As defined by the Environmental Permitting (England and Wales) Regulations 2007

⁴ Sites that were originally licensed under the Control of Pollution Act 1974