

## UK Environment Agency – Coronavirus Disease 2019 Enforcement Suspensions

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In response to the disruption caused by the Coronavirus Disease 2019 (COVID-19) pandemic, the UK's Environment Agency (EA) has published [three new temporary regulatory position statements \(RPS\)](#).

Like the EA's [other RPS](#), the three new COVID-19 specific RPS are declarations by the EA (the primary environmental regulator and enforcement authority for England and Wales) that it will not seek to enforce certain aspects of the UK's environmental permitting regime in specific circumstances related to COVID-19.

An RPS does not render previously unlawful activity lawful, rather it renders it unlikely that enforcement action will be taken in relation to that activity (and, were enforcement action to be taken, the existence of an RPS could be sought to be relied upon as a defence).

Each of the new RPS sets out conditions which businesses seeking to rely on them must comply with and, as the EA's guidance notes, the existence of an RPS does not exempt a relevant business from complying with any other applicable environmental regulatory requirements.

In particular, businesses seeking to rely on a COVID-19 RPS must comply with:

- the specific conditions set out in the RPS (including any requirements to notify the EA or get its approval to rely on the RPS); and
- requirements concerning pollution and harm to human health.

COVID-19 RPS C1 applies to the [storing or treating COVID-19 cleansing waste at a healthcare waste management facility](#). RPS C1 will be withdrawn on 30 June 2020 (after which, as with other RPSs which are subject to an expiry date, it cannot be relied upon by businesses any longer as a defence to enforcement action).

COVID-19 RPS C2 applies to the [exceedance of waste storage limits at permitted sites because of COVID-19](#). RPS C2 will be withdrawn on 30 September 2020 unless extended by the EA. Businesses must notify the EA by email before using RPS C2.

COVID-19 RPS C3 applies to [water and sewerage company operator self-monitoring and Urban Waste Water Treatment Regulations sampling affected by COVID-19](#). RPS C3 will be withdrawn on 30 June 2020 unless extended by the EA. Businesses must get written agreement from their EA water company account manager before using RPS C3.

As noted above, businesses seeking to rely on a COVID-19 RPS should ensure that they comply with its terms and, in addition, that their activities do not, and are not likely to, cause pollution or harm to human health.

Further, even if the COVID-19 RPS effectively provides an exemption from the requirements of a particular legislative requirement, other activities governed by that legislation will not be covered by the RPS (although it may be that one of the EA's [general pre-COVID-19 RPSs](#) could be relevant).

Finally, activities subject to permitting requirements often involve a number of discrete steps, each of which is subject to a different permitting requirement – an RPS however will only apply to the specific step to which it expressly relates (and not, for example, to precursor or ancillary activities).

Businesses are advised to maintain a watching brief on the EA's [COVID-19 RPS website](#) for any updates to the EA's enforcement position.

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