

UK Environment Agency – Four Further Coronavirus Disease 2019 Enforcement Suspensions

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

Like the EA's [other RPS](#), the four 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, an RPS may be used 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 C4 applies to the [incineration of specified healthcare wastes at municipal waste incinerators](#). RPS C4 will be withdrawn on 30 June 2020 (after which, as with other RPS which are subject to an expiry date, it cannot be relied upon by businesses any longer as a defence to enforcement action). Businesses must get written agreement from the EA before using RPS C4.

COVID-19 RPS C5 applies to [personal protective equipment \(PPE\) waste from home healthcare workers treating patients with COVID-19](#). RPS C5 will be withdrawn on 30 June 2020 unless

extended by the EA.

COVID-19 RPS C6 applies to [storing treated sewage sludge which cannot be moved because of COVID-19 restrictions](#). RPS C6 will be withdrawn on 30 June 2020 unless extended by the EA. Businesses must get written agreement from their EA water company account manager using RPS C6.

COVID-19 RPS C7 applies to [monitoring emissions from installations, radioactive substances, and waste activities](#). RPS C7 will be withdrawn on 30 June 2020 unless extended by the EA. Businesses must get written agreement from the EA before using RPS C7.

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. The precise requirements are set out in the webpages linked to above.

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 RPS](#) could be relevant).

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 including the publication of further RPS which may be relevant to their operations.

Finally, businesses are advised to monitor the [EA's general website](#) for updates to the EA's wider operational activities. For example, earlier this month the EA published an [Operational Update](#) setting out its overall response to the pandemic. One relevant point made is that the EA will *"continue to carry out regulatory visits to sites that could cause serious environmental harm where required"* but that it would be otherwise *"reducing regulatory visits to other sites and review how best to regulate them in accordance with the government guidance"*.

The EA has also corresponded with its stakeholders via email to update them on its wider approach during the pandemic.

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National Law Review, Volume X, Number 112

Source URL: <https://natlawreview.com/article/uk-environment-agency-four-further-coronavirus-disease-2019-enforcement-suspensions>