Comment Receipt

Event Name	Standard Rules Consultation No.11 - new standard rules for onshore oil and gas activities
Comment by	Frack Free Ryedale (Mr Chris Redston)
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Your details

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 on behalf of an organisation or group
Please tell us if you would like to (tick all that apply):	. Receive an email acknowledging your response
Please tell us how you found out about the Standard Rules Consultation No. 12 ? new and revised standard rule sets:	Press article
Q1. Do you agree with our approach to use standard rules for these onshore oil and gas activities?	No

Please explain your answer.

We believe that it is wrong to assume that all sites should essentially treated the same, and that no set of prescribed rules can be appropriate for the range of conditions that might apply to a particular well-site. Each site has its own geology, water courses, human population, weather conditions and ecology to consider, and given the novel and untested nature of these techniques in UK conditions, it is inappropriate to try and impose a ?one-size-fits-all? Standard Permit.

While standard rules may be appropriate for some operations that fall within the Environment Agency remit that have a long and verifiable history, we do not feel that the use of standard rules are appropriate for the activities listed in the Consultation document, specifically leak off testing and acid washing.

A Standard Rule should only be applied when there is sufficient verifiable historical data of a particular activity being used in the UK for the EA to be able to draw conclusions that would be appropriate to

extend to all future undertakings of the same activity. This is certainly not the case for either of these two activities relating to unconventional gas production.

To date, there have (we believe) only been two leak off tests carried out in the UK, and those were beset with problems. The leak off test at Preece Hall in 2011 caused two major seismic events, leading to an 18-month industry moratorium, and the more recent one at West Newton resulted in the company ?losing the well?. How, therefore, can the EA justifiably argue that they have enough information with which to decide the parameters for Standard Permits for such activities?

Therefore it is inappropriate and unethical for the EA to consider lead off testing as a candidate for Standard Permits, as there is very little information to base this on in the UK. Similarly, to our knowledge, the acid wash technique has never been used in the UK as part of unconventional gas production, a fact which should automatically disqualify this technique from the Standard Rules format on the above criteria.

It seems clear, therefore, that the reason that Standard Rules are being proposed for these techniques has little to do with standardisation, but everything to do with making it easier and cheaper for oil and gas companies to drill and conduct testing, while at the same time shutting out the local community, avoiding public scrutiny of its actions and paving the way for the unconventional gas industry to sidestep current regulations.

There are also other issues to consider relating to the rights of local communities to be consulted before such activities take place. Currently, as oil and gas companies need to apply for bespoke permits for these activities, the local community has the opportunity to comment and provide input into the permit procedure. However, this proposal would remove this right from local communities ? presumably because the industry and the EA knows that any such permit would meet with very strong local opposition, such is the feeling among the UK population against the unconventional gas industry.

In section 2 of the Consultation Document you say that the EA has ?*a policy of increased consultation and engagement on permit applications where we consider there is, or is likely to be a high degree of public interest*.? Given the controversy around unconventional gas production (and associated testing techniques that pave the way for fracking such as leak off testing and acid washing) surely all future applications for these techniques will result in ?a high degree of public interest?, at least for the foreseeable future. Surely, then, you would agree that all such applications require ?increased consultation and engagement? ? ie bespoke permits and public consultation.

What would the local community have to do to persuade the EA that a particular well requires ?increased consultation and engagement??

Q2. Do you agree with the proposed new rules that we have set out in section 3 of this consultation? No

Please explain your answer.

Firstly, we would also like to place on record that we also feel it extremely misleading to refer consultees to ?the proposed new rules in section 3 of this consultation?. This section in the Consultation document contains no details whatsoever of the rules for leak off testing and acid wash, and instead only gives a description of what these techniques are (and a list of costs for the operator). This appears to be a piece of wilful misdirection, to avoid people looking at the actual rules themselves, which are contained in **document SR201 No 1 ?mining waste activity**.

With reference to this document, we have the following comments:

Section 1.1 General Management. It is, of course, appropriate that records be kept as listed. We feel, however, that these records should be made a matter of public record and available to all.

1.2.1 (c) ? This definition of waste disposal ?in a manner which minimises the effect on the environment? is far too vague, and is a good example of why Standard Permits should not be allowed for these sorts of activities. Waste disposal, almost by definition, should be a bespoke activity, and individually managed by the EA.

1.2.2 ? A review every 12 months seems inappropriate for flow testing and acid washing, both of which are short-term in nature.

Table 2.1 ? the definitions in this table are very vague, as they contain no reference to quantity, time of storage or method of disposal. It appears to effectively give operators a free rein to dispose of waste almost as it wishes.

There also appears to be a contradiction here. The first activity permitted is ?*The management of extractive waste not involving a waste facility, arising from prospecting for oil and gas without well stimulation of any sort.*? However, leak off testing is, by definition, a method of well stimulation ? albeit outside the new definition of ?fracking? as proscribed in the Infrastructure Act ? and so this table seems to prohibit the management of extractive waste for the very activity the permit would be for. *see glossary.

The second activity, well decommissioning, is not one of the activities that the Standard Permit is designed for, so should be excluded from the table.

A stronger and more accurate definition of ?temporary storage? for extractive waste should be included citing specific time limits.

2.2.2. (a) ?10 metres of any watercourse? appears to be far too close for such activities as acid washing and lead off testing. We would recommend 100m as an absolute minimum.

(b) We are unhappy that Groundwater Protection Zone 3 are not included in the provision, and recommend that they are so included.

(d) Again 200m near an SSSI cannot be given as a blanket condition. This is a good example of why bespoke permits are required, depending on the nature of the SSSI, the ecology protected by this area, the wildlife that inhabits it, etc. In some locations, this might be sufficient. however, in others, this would be too close. If there is to be a specific number cited, then 1km would probably cover most eventualities.

(e) There is no definition of ?sensitive receptor?, which makes this hard to comment on. However, if this means that a well can be close to a school, or a hospital, or a housing estate, this would again be far too close, particularly given the numerous disturbing reports of airborne carcinogens emanating from well-sites near inhabited areas from the USA (which occurs with exploratory wells as well as production wells).

Section 3.1.1. states ?There shall be no point source emissions to air, water or land.? How is this to be monitored and enforced? There should be specific provision for onsite inspections by the EA, some unannounced, to ensure that this rule is applied.

Section 3.2.1 states that ?*Emissions of substances not controlled by emission limits (excluding odour) shall not cause pollution*.? Fair enough.

However, it goes on to say that ?*The operator shall not be taken to have breached this rule if appropriate measures, including, but not limited to, those specified in the approved waste management plan and in any approved emissions management plan, have been taken to prevent or where that is not practicable, to minimise, those emissions*.?

This seems to give carte blanche to operators to pollute as much as they wish, as long as they can claim that they tried to stop it in the first place. This is completely unacceptable, and an egregious case of self-regulation. The fact that this is on a Standard Permit makes it even easier for companies to pollute without consequences and does not inspire confidence in the monitoring system.

Odour, Noise and Vibration

Sections 3.3.2 and 3.4.1 state that ?*Emissions from the activities shall be free from odour / noise and vibration at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency*.? Given that this is the text for a Standard Permit, which would be issued without visits by the EA staff, how can these clauses possibly be enforced?

The section goes on to say *?...unless the operator has used appropriate measures, including, but not limited to, those specified in the waste management plan, to prevent or where that is not practicable, to minimise, the odour / noise and vibration.*? This seems to give the operator permission to produce as much odour, noise and vibration as it likes, provided that it can say that it has tried to minimise it.

These clauses are written so loosely that they provide no protection whatsoever for the public and communities near the site. This vague wording and lack of site-specific odour, noise and vibration limits are another reason why bespoke permits are essential for operations such as those discussed in this Consultation.

Section 3.5.2 states ?*If required by the Environment Agency, the operator shall take such samples and conduct such measurements, tests, surveys, analyses and calculations, including environmental measurements and assessments, at such times and using such methods and equipment as the Environment Agency may specify*.?

Firstly, this sort of monitoring should always be compulsory, not optional. If there is to be no site visit by the EA, how are they to decide if this is required?

Secondly, the samples should be taken by the EA, not the operator, as this allows the operator to effectively self-regulate its own operations, which many in the community find unacceptable. You only have to look at the long list of regulation infractions at West Newton to show how ineffective oil and gas companies are at regulating their own activities. Regulation should be compulsory, and it should be conducted by an independent agency, not the companies themselves. We don?t let children mark their own homework in school.

Clause 3.5.4 should specify how frequently calibration should be undertaken ? we would suggest weekly, as a minimum, and should be conducted by the EA, not by the operator.

Records and reporting - Many people, including ourselves, do not feel that simply asking the operator to send their own documents, written by their own employees, to the EA once a month counts as adequate regulation or monitoring.

Finally, if there is one overriding criticism of these rules, it is **the onus for monitoring leak off testing, acid washing and related activities is almost entirely the responsibility of the operator ? essentially making the industry self-regulating** . There appears to be no provision whatsoever for any site visits by the Environment Agency, which we see a critical failing of the Standard Permit (and of course exactly the kind of loose regulation that the industry has been pushing for).

We would urge the EA to inforce a rigorous ? and random ? inspection regime, which involves a weekly visit to the site. Merely asking the operator to send in documents at the end of each month that they have written themselves, based on machines they calibrate themselves, will do nothing to convince the general public that this industry is monitored safely ? or indeed being monitored at all. And as we have found out to our cost many times throughout history, a self-regulating industry is a self-serving industry, one where environmental protection takes second place to the needs of the company?s shareholders.

Q3. Have we correctly identified all the risks for each activity, as described in the generic risk assessments associated with the consultation? No

Please explain your answer.

We believe this permit consultation does not go into enough detail about many of the environmental and health risks that are present in the activities covered by this Consultation, and in particular sets out wholly inadequate guidelines for air, noise, odour and water monitoring. As discussed in section 2, this is largely self-regulated by the operator, and very little monitoring is compulsory. It appears that the EA is washing its hands of responsibility to control these important first stages in gas production.

One issue we would like to raise is the use of Hydrofluoric Acid as a wash chemical. It is surely not by accident that this controversial chemical is not mentioned in the Consultation document, and is only to be found if you read through the Waste Management Plan document (something very few consultees will do). It appears very much like the EA are trying to hide the inclusion of this very dangerous chemical from the public by not mentioning it in the Consultation document.

The Waste Management Plan (p9) says that ?In sandstone formations the treatment will be composed of a 15% hydrochloric acid (HCl) preflush, a main treating fluid (HCl-**Hydrofluoric acid** (HF) mixtures) and an over flush. In carbonate reservoirs, HCl is the only acid that will be used. In both case the acids

will be neutralised by their interaction with the rock formation and form mineral salts, water and carbon dioxide which will be reverse circulated out of the formation for recovery at surface.?

As you may know, Hydrofluoric acid is among the 10 most toxic chemicals in the oil and gas industry. The United States steel workers union, the USW, has campaigned for its use in oil refining to be banned. The acid manufacturer, Honeywell, says hydrofluoric acid irritates the nose and throat at three parts per million, while one study described how contact with concentrations of 9.5% caused intense pain, swelling and blistering. We strongly object to this chemical being used in the UK and call for this to be banned.

This also feels an appropriate point to mention the transportation and storage of these dangerous chemicals, which does not seem to be covered at all in the consultation. Why is there no mention of this? If a tanker of Hydrofluoric Acid crashed in a village on its way to a site, it would cause an environmental disaster.

In the same section of the Waste Management Plan, it states ?Between 5m3 to 15m3 of HCI may be pumped into the formation during the operation, with all spent acid mixes being recovered to surface.?How can the EA be 100% sure that all spend acid mixes be recovered to surface? There appears to be no indication of how this would be achieved, verified or monitored.

Q4. Are there any barriers to complying with the standard rules?

Don't know

Please explain your answer.

This appears to be a question directed to the oil and gas companies, not other correspondents, so please allow me to answer the question on their behalf . As the industry is being allowed to effectively monitor itself, very little regulation is compulsory, and there appears to be no independent oversight or visits by the EA, there appear to be very few barriers to complying with the standard rules. Which, it appears, is the desired outcome for the oil and gas companies, the EA and the Government.

Q5. Do you think that the introduction of standard rules for these activities will have a significant financial impact overall on your operation?

Don't know

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

The question is clearly directed only to the oil and gas industry ? as shown by the reference to ?your operation? - and is therefore an inappropriate question to ask in a general consultation, to which the public, community groups and environmental protection groups are also invited to respond.

We see this as further evidence that this consultation has been written predominately with the oil and gas business in mind ? to the extent that it seems to be asking ?have we made this easy and cheap enough for you??. If independent observers needed confirmation that these rule changes are being made solely to assist the oil and gas industry, at the expense of community involvement and environmental protection, they need look no further than the wording of this question.

If Standard Permits are ever adopted for these techniques, we feel that the obvious bias of questions such as this, and the Consultation document in general, would be very favourable grounds for a legal challenge.

Q6. Are there any other activities that you think would benefit from the standard permitting approach or future revisions?

No

Please explain your answer.

Again, this appears to be asking the industry ?What else would you like the EA to relax the rules on?? We would therefore answer, nothing!

Q7. Please tell us if you have any other views or comments on these proposed rules that have not been covered by previous questions.

Having worked through the documents in detail, I am shocked at this proposal for a number of reasons. Firstly, these processes are very controversial and potentially dangerous to both human health and the environment. They have little history in the UK unconventional oil and gas industry, and what history they do have is mired in controversy. To even consider allowing these activities to be conducted without rigorous independent oversight, random on-site monitoring and thorough consultation with the local community is reckless and dangerous. The aim of this consultation appears to be to simply reduce the complex and unique aspects of environmental protection to a series of tick-boxes, which will allow the industry to be essentially self-regulating. We therefore strongly urge you to maintain the system of bespoke permits, and not to exclude the public from this process.

The public are constantly being told that the UK will have ?gold-standard? regulations for the unconventional oil and gas industry, yet every law or rule change that has occurred in the last year, including many of the clauses in the Infrastructure Act and the proposed removal of bespoke permits and community consultation for in this Consultation, have removed or loosened regulations that would have provided some environmental and social protection.

It is clear that the rules are being rewritten at the behest of the oil and gas industry to enable the ?dash for gas? to begin, with little or no consideration for local democracy or the precautionary principle. Even if the UK used to have ?gold-standard? regulations for the oil and gas industry -which is a point many people would strongly disagree with - after all the changes in the law and consultations such as these, onshore oil and gas regulations in the UK can only be described as ?cardboard-standard?, at best.

As a final point, it is unacceptable that previous submissions to this consultation are not available to view on your website until the evening before the deadline, and also that this consultation was not adequately publicised in advance.