

Street Works UK Utility Waste Classification: Proposed timeline for developing and rolling out the risk assessment methodology

# This document summarises to SWUK, the Environment Agency’s position with regards to your proposed plan and timeframes for the development of a risk assessment methodology for utility waste.

**Background**

The final deadline of Regulatory Position Statement (RPS) 211 was reached in April 2023 and shortly prior to that time we reviewed the results of the study undertaken by you and your members. Our conclusion was that the risk assessment was not sufficiently accurate to be used for waste classification. You agreed with this assessment, however you indicated that you were confident that you could significantly improve the accuracy of the risk assessment. We agreed to a further study (in principle) and over the last few months we have been working closely with you to agree the parameters and timelines, as well as agree two new RPSs to cover this period.

We are aware that the definition of ‘unplanned’ in RPS 211 was misinterpreted by some, as the

intention was for the RPS to apply to only ‘reactive’ work, with the remaining works being assessed in line with WM3. We have worked closely with you to understand the operational needs of your members. The new RPSs we are proposing to replace RPS 211 will allow more waste to be covered, offering greater flexibility to industry. Major works will be outside the scope of the RPS and will need full sampling and analysis in line with WM3.

# Proposed timeline

We have considered the information SWUK have provided and the work you have undertaken so far, as well as the fact that we need to allow time for the Risk Assessment to be trialled once it is revised so that we have enough data to make a final decision on its suitability for use. See **Appendix A** for the proposed timeline shared in June 2023; the headings were written by Ed Everall, with bullet points and timescales added by Mark Whittaker.

You asked for a period of 18 months to carry out this work. It is our position that a **15-month timeline** for this work is appropriate. This is because some of the work has already commenced and is not contingent on the publication of a new RPS to begin. Furthermore, most of the development of the Risk Assessment has already happened during the ~5 years that RPS 211 has been in place.

We feel this timeline is ambitious, but achievable. This timeline will commence from the publication of the new RPS that will replace RPS 211. See **Appendix B** for the revised timeline we are proposing.

# What happens when the RPS expires?

At the end of this timeline the new RPS will be withdrawn and either an agreed risk assessment methodology will be used, or members will need to revert to compliance with WM3. We will need your final report submitted to us 7 months prior to the RPS expiry date. This will provide the EA with one month to review your submission and decide on whether we accept the revised risk assessment methodology. If we accept, it will provide you and your members with **6 months** to ensure staff are adequately trained and the processes are in place. If we cannot reach an agreement, it will provide you and your members **6 months** to prepare for the operational and financial implications of complying with WM3.

# Limitations to the risk assessment approach and long-term approach

It should also be noted that agreement to the risk assessment methodology will likely be granted on a time limited basis, with the expectation that SWUK and its members will move to using real analytical results and waste assessments held on the central database.

You have begun steps to investigate the use of the central database to act as a platform for members to upload classification results from their street works. These results will supersede the RA methodology (when available).

# Sampling requirements during continued study and development of Risk Assessment

We are happy to accept the proposed regime of 2000 samples during the next stage of the study. As discussed, these samples should be distributed across England to ensure the results are representative of the wider picture of the waste arisings.

# Sampling requirements once the risk assessment is in use

Once the risk assessment is in use, members will need to carry out a percentage of compliance testing to demonstrate the risk assessment is being used correctly. We are currently working with you to agree a suitable starting percentage. This will likely increase as time moves on to achieve the secondary objective of populating the Central Register database.

# QED/PAK study highlights to share with SWUK

During the last stage of your study, you identified that PAK was used in some cases, but proved to be unreliable. We believe this tool could form a useful part of the risk assessment, provided it is used in the right way.

The following is the extracted highlights from the study we have mentioned previously regarding the comparison of QED, PAK spray, and Laboratory analysis. We are not able to share the full study with you because we have not been able to establish whether the study is publicly available.

Please note that the extracts are quite supportive of the QED onsite testing equipment, however the study focused on a relatively small sample size and, based on the evidence we have seen to date,

there are questions remaining on whether it can match the accuracy of accredited lab-based assessments.

The report highlights that PAK markers can play a valuable role in identifying coal tar, however users need to be trained and the sample needs to be adequately prepared before using the spray.

## Trial 1

* *27 cores and 82 individual layers of asphalt from upcoming structural maintenance resurfacing schemes were all assessed with both PAK spray and the QED. 30 of these layers were also sent to a UKAS accredited lab for independent analysis.*
* *QED and laboratory results were consistent for 53% of samples (16/30).*
* *PAK spray results were consistent with the QED in 77% of samples (63/82). However, in samples that were screened by both methods and tested by the lab, the PAK spray generated a negative indication for coal tar on 4 occasions, whereas QED and lab results both indicated a hazardous result.*

## Trial 2

* *Over the course of this trial, the QED identified positive results for coal tar where PAK spray had given a negative indication in 33% of samples (2/6).*
* *PAK spray is a valuable tool for validating an initial visual and olfactory assessment for coal tar. However, as illustrated during the trials within this case study, supplementing this with QED analysis to provide a more robust quantitative assessment can provide a pragmatic, repeatable, and low risk solution to classifying asphalt waste streams in lieu of undertaking laboratory-based analysis on every individual asphalt sample.*

## Trial 3

* ***…****PAK spray was valuable as an initial indication that coal tar was present, however, the QED provided the data needed to support instant decision making through a more robust quantitative waste classification assessment.*

## Trial 4

* *The operational team were undertaking a significant highways infrastructure project on behalf of [REDACTED] when they encountered visual and olfactory evidence of coal tar within recycled asphalt chips, imported by a third party.*
* *QED was utilised to verify the initial assessment performed by the project team, which confirmed hazardous levels of coal tar contamination.*

## Summary

* *PAK spray is a valuable tool for validating an initial visual and olfactory assessment for coal tar. However, as illustrated during the trials within this case study, supplementing this with QED analysis to provide a more robust quantitative assessment can provide a pragmatic, repeatable, and low risk solution to classifying asphalt waste streams in lieu of undertaking laboratory-based analysis on every individual asphalt sample.*
* *If this technology [QED] is used, it is recommended that 25% of asphalt samples processed should also be tested by a laboratory for quality assurance purposes.*

# Appendix A – SWUK proposed timeline

***Timeline (risk assessment method only)***

***Month 1-3: SWUK refine and prepare risk assessment approach for use***

* *SWUK will set up working groups to review each risk assessment type, sampling documentation, results reporting format and the necessary training on how to complete each document (two months is more realistic, groups will meet once per week).*
* *SWUK will start research into possible route for industry training to an accredited standard.*
* *Engagement with possible providers (joined up approach with EA – Graham Winter)*
* *A new RPS issued (possibly two?, one for non-SWUK members, one for SWUK protocol).*

## Month 4-10: SWUK trial the use of the improved risk assessment and compare against lab samples.

* *Improved RA’s shared with SWUK members.*
* *RA’s are implemented with x percent of sites being lab sampled to confirm accuracy of RA’s.*
* *Lab Sample results will be entered in to ‘\*central register’ to aid improved desktop RA’s.*
* *Trial work of Rapid testing kits where lab samples will be taken so that we can start to confirm accuracy of rapid testing capabilities.*
* *The data will be provided.*

## Month 11: SWUK present the improved approach to the EA

* *EA consider data and decide whether we can agree to RA being used to classify waste and if so, in what capacity.*

## Month 11: EA confirm in writing whether we accept the approach.

* *We agree any limitations/conditions on how it can be used.*

## Month 12-18: Implementation phase - SWUK members prepare to move to using the risk assessment methodology.

* *Central register available to drive continued improved Desktop RA’s accuracy****.***
* *3 months to train and prepare staff. This is longer term and will be linked to research findings, but initial thoughts are to go down the EUSR skills route where most utilities have SHEA water, gas, electric cards etc.*

## Month 19: RPS removed and SWUK members start using the risk assessment approach to classify their waste arisings.

* *Companies will be expected to take routine compliance tests.*
* *Risk assessment approach agreed on time-limited basis.*

# Appendix B – EA proposed Timeline

**Current activity (est. Jul-Nov 2024): SWUK refine and prepare updated risk assessment approach for use**

* SWUK will set up working groups to review each risk assessment type, sampling documentation, results reporting format and the necessary training on how to complete each document.
* SWUK will start research into possible route for industry training to an accredited standard.
* Engagement with possible providers.

**Mid-September –** EA consults industry on proposed new RPSs

**Mid-October –** EA reviews responses and incorporates any necessary changes into the RPSs

**Late October –** EA submits RPSs to internal panel for approval, followed by review by internal legal and publishing teams.

**Early November – New** RPSs published, timeline below commences.

# Month 1-6 (est. Dec-May 2024): SWUK trial the use of the improved risk assessment and compare against lab samples.

* Improved RA’s shared with SWUK members.
* RA’s are trialled at 2000 sites across the country, with all sites being lab sampled and

assessed to determine accuracy of improved RA’s.

* Lab Sample results will be entered in to ‘central database’ to aid improved desktop RA’s.

(Optional - Trial work of Rapid testing kits where lab samples will be taken so that we can start to confirm accuracy of rapid testing capabilities.)

# Month 7 (est. Jun 24): SWUK present the improved approach to the EA

* EA consider data and decide whether we can agree to RA being used to classify waste and if so, in what capacity.

# Month 7 (est Jun 24): EA confirm in writing whether we accept the approach.

* We agree any limitations/conditions on how it can be used OR
* We reject RA methodology and request SWUK and their members to prepare for compliance with WM3.

# Month 8-14 (est Jul- Feb 25):

**If RA agreed: Implementation phase - SWUK members being using the risk assessment methodology.**

* 3 months to train staff and roll out the RA to all members.
* Central database available to drive continued improved Desktop RA’s accuracy**.**

# IF RA rejected: Prepare phase – SWUK members prepare to comply with WM3 technical guidance for the classification of their utility waste arisings.

* 3 months to prepare SWUK members and the waste industry.

# Month 15 (est Jan 25): RPS removed and SWUK members either use the risk assessment approach to classify their waste arisings or follow WM3.

* Companies will be expected to take routine compliance tests.
* Routine tests and their interpretation will be uploaded to the central database.
* Risk assessment approach agreed on time-limited basis.