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Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros
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Deputy First Minister and Cabinet Secretary for Climate
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Llywodraeth Cymru
Welsh Government

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Llŷr Gruffydd MS
Chair
Climate Change, Environment and Infrastructure Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

27 February 2025

Dear Llŷr,

During the evidence session on 12 December 2024, I offered to share summary guidance to assist the Committee with its scrutiny of the Disused Mine and Quarry Tips (Wales) Bill.

On 6 February, I sent summary guidance on: Monitoring; Appeals against Demands for Costs; Compensation Claims; Cost Recovery and Management Plans.

I now attach the following summary guidance on assessments for the Committee's consideration.

It provides a broad outline of the key areas which will be covered in guidance together with an indication of policy direction.

Yours sincerely,

Huw Irranca-Davies AS/MS

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Disused Mine and Quarry Tips (Wales) Bill – Indicative Guidance in respect of the Authority’s duty to assess disused tips

Introduction

The Bill establishes a regime which includes the assessment of all disused tips in Wales. This is to ensure that each disused tip is assessed and categorised where appropriate. Each tip in the register will be subject to ongoing monitoring by the Authority. This document provides an outline of the guidance that will be given to the Authority by the Welsh Ministers in respect of its duty to assess disused tips.

The approach to preliminary and full assessments will be the same for disused coal and non-coal tips – the reports of each assessment should record, appraise and evaluate every characteristic of a disused tip which may influence its stability, and assess any potential threat to human welfare by reason of instability.

The Bill requires the Authority to compile and maintain an electronic register of disused tips. As part of the process of determining whether to include a tip in the register, the Authority must:

- carry out a preliminary assessment in relation to every disused tip, to identify tips that may need to be included in the register;
- produce a report for each preliminary assessment;
- carry out a full assessment of those tips identified by a preliminary assessment as ones that may meet the criteria for registration and therefore, may need to be included in the register;
- in certain circumstances, carry out a full assessment of tips that are already in the register; and
- carry out an additional preliminary assessment in relation to a disused tip where it is considered appropriate, because of a change in circumstances, or if information becomes available that was not available during the previous assessment,
- produce a report for each assessment.

This document sets out an outline of the areas we expect guidance in relation to assessments to cover. Further technical guidance will be issued by the Authority to cover operational matters.

In exercising its functions, the Authority must have regard to guidance given to it by the Welsh Ministers.

Aim of the guidance

This section will note that the guidance will have been developed in partnership with relevant stakeholders, experts etc, to ensure that it has been informed by relevant best practice, ongoing operational experiences and learning.

It will also explain the aims and purpose of the guidance on assessments. It will include detail on, but not be limited to:

- how, in practice, the Authority will be expected to fulfil its duty to assess disused tips in Wales
- methodology for preliminary and full assessments.

The Bill sets out what is meant by “preliminary assessment” and “full assessment”. It lists what must be considered as part of the full assessment.

Preliminary Assessment of a disused tip

The Bill requires the Authority to prepare a programme setting out its proposed approach to, and a timetable for, carrying out preliminary assessments. The Authority will be required to send the programme to the Welsh Ministers for approval before the end of March 2028. Once the programme has been approved by the Welsh Ministers, the Authority must publish the programme. Revisions to the programme can only be made with the approval of Welsh Ministers, and the revised programme must be published as soon as practicable.

The guidance will set out the expectation that when carrying out preliminary assessments, the Authority will initially prioritise tips that currently fall within categories C and D - the tips with a higher risk potential. This approach would expedite the inclusion of those tips which pose a potentially higher threat to human welfare, into the new regime. The guidance will set out that existing data from the Mining Remediation Authority (MRA) on disused coal tips will inform decisions on prioritisation for preliminary assessments. It is expected that, before April 2027, all Category A, B, C and D disused coal tips (currently totalling 2,272) will have been inspected at least once by the MRA as part of the national programme of tip inspections.

The Authority will be required to undertake a preliminary assessment of all disused tips. What this means is that the Authority will assess whether it appears that the criteria for registration may be met in relation to each disused tip.

A preliminary assessment will generally be a desk-based exercise to enable the Authority to identify which tips potentially pose a risk to human welfare. This will inform whether a full assessment will be required.

The guidance will set out what a preliminary assessment will involve, and what each assessment will be expected to include, such as a review of:

- review of information provided by the MRA following their inspection
- any historical mining activity, including mine plans and abandonment records, relevant to the site;
- historical mapping products relevant to the site;
- topographical survey records relevant to the site;
- appraisal of any relevant information relating to monitoring or management activities at the site; and
- potential receptors to be considered in the assessment, such as residential or commercial property, utilities infrastructure or transport routes which could be impacted in the event of tip instability.

Preliminary assessments will assess whether it appears that the criteria for registering a disused tip may be met. By the time the Authority is operational in April 2027, the expectation is that the Mining Remediation Authority will have finished its physical inspection of all disused coal tips in Wales. The reports from those inspections will be available to the Authority when it carries out preliminary assessments. It is not envisaged that a new physical inspection of disused tips will be conducted at preliminary assessment stage. A physical inspection of the disused tip will be conducted at the full assessment stage. A full assessment is conducted if, based on a preliminary assessment, it appears to the Authority that the criteria for registration of the tip may be met.

Additional Preliminary Assessment of a disused tip

The Authority will be required to carry out additional preliminary assessments where it is considered necessary because:

- there are changes in circumstances at the site or in the vicinity. Examples include instances where:
 - land or property development adjacent to the site which introduces or increases the potential impact on receptors
 - changes in land use which may influence the engineering performance of the site
- information becomes available that was not available during the previous assessment.

The assessment will be the same as outlined above for a preliminary assessment.

Full Assessment of a disused tip

Following a preliminary assessment, if it appears to the Authority that the criteria for registration may be met, the Authority must carry out a full assessment on a tip and produce a report of the assessment.

An assessment will not only consider what could potentially be impacted by a tip failure but will also consider whether a potential threat of instability exists. An assessment will analyse whether there are factors that may influence or impact the stability of a tip, including those located off the body of the tip itself.

The guidance will set out advice on what a full assessment should involve, and what each assessment will be expected to include, such as:

- a detailed geotechnical appraisal and, where necessary, a stability assessment of the tip;
- an assessment of the potential impacts in the event of instability;
- matters affecting or with the potential to affect the stability of the tip, this could include land use, any proposed development or the proximity of a water course;
- whether any interdependencies between the tip and another disused tip could affect the stability of the other tip (e.g. where there is shared drainage infrastructure across multiple tip sites); and
- whether the criteria for registration are met.

Not all disused tips will require the more extensive full assessment. This follows the Bill's principles of proportionality and ensures resource is prioritised to those disused tips that pose a threat, or could pose a threat, to human welfare.

Additional Full Assessment of a disused tip already in the register

The Authority can also carry out an additional full assessment in relation to a disused tip that is already in the register where this is considered appropriate because of a change in circumstances or because information has become available since the tip was previously subject to a full assessment. Examples include instances where:

- monitoring activities have identified significant deterioration in the performance of safety critical infrastructure on the tip;
- land or property development adjacent to the site introduces or increases the potential impact on receptors; and
- changes in land use which may influence the engineering performance of the site.

The assessment will be the same as outlined above for a full assessment.

Reports

The Bill requires the Authority to produce a report following each assessment as soon as practicable. The guidance will set out an expectation that following an assessment, the assessor should produce the report promptly. The guidance will provide further detail on

what is meant by promptly and what that will look like in relation to different types of reports, for example a report on a more complex assessment. If the report can't be completed within a practicable timeframe, the guidance will set out the expectation that the Authority should keep landowners informed of developments, including why there is a delay and advise when the report is expected to be completed.

The guidance will advise that reports should be quality assured to ensure that (while not limited to):

- conclusions are supported by relevant data/evidence;
- a summary of the available data considered is provided as part of the assessment; and
- good practice regarding the maintenance of a disused tip is highlighted.

In addition to quality assuring reports, the guidance will explain the expectation that reports should be signed off by a senior officer of the Authority. It will be for the Authority to determine who that should be, considering the operational/technical knowledge and or expertise and responsibilities of the officer.

Preliminary Assessment Report

The guidance will set out the requirement in the Bill that when the Authority carries out a preliminary assessment it must set out the conclusions of the preliminary assessment in a report (a "preliminary assessment report"). In addition, the guidance will set out that the Authority can include any other information it considers appropriate.

The guidance will set out the expectation that, as a minimum, a preliminary assessment report should include:

- Administrative information:
 - unique Identifier (UID)
 - location of the disused tip including mapped boundary
 - name of assessor
 - date of assessment
- Technical Information.

Table 1 – Examples of the type of technical information

1. Geotechnical	Tension cracking, hummocking, subsidence, erosion
2. Drainage	Channels, culverts, headwalls, trash screens
3. Engineering Infrastructure	Retaining structures, retention systems
4. Instrumentation & Monitoring	Rain Gauge, flow meter, survey points
5. Contamination & Geo-environmental	Pollution, hazardous materials, invasive species

Additional Preliminary Assessment Report

The guidance will set out the expectation that when the Authority carries out an additional preliminary assessment, it must set out the conclusions of the additional preliminary assessment in a report (an "additional preliminary assessment report"). In addition, the guidance will clarify that the Authority can include any other information it considers appropriate.

Full Assessment Report

The guidance will set out the expectation that when the Authority carries out a full assessment it should set out the conclusions of the full assessment in a report (a “full assessment report”). The guidance will set out the expectation that, as a minimum, a full assessment report should include:

- **Administrative information:**
 - unique Identifier (UID)
 - tip category
 - location of the disused tip including mapped boundary
 - name of assessor
 - date of assessment and preliminary assessment, and additional preliminary assessment.

In addition, the guidance will clarify that the Authority can include any other information it considers appropriate.

The Authority will be required, as soon as practicable, to issue a notice of the conclusions of a full assessment to every owner and every occupier of the land on which a tip is situated.

Additional Full Assessment Report of a disused tip already in the register

The guidance will set out the expectation that when the Authority carries out an additional full assessment on a disused tip already in the register it should set out the conclusions of the additional full assessment in a report (an “additional full assessment report”).

The administrative information in the report will be the same as set out above for the full assessment report.

In addition, the guidance will clarify that the Authority can include any other information it considers appropriate.

Competency

An assessment should only be conducted by an individual who has sufficient training, knowledge and experience to carry out the activity. The guidance will recommend that the Authority prescribes the necessary skills and qualifications needed in this regard and the expectation that the Authority will take the lead in skills development and build the necessary resource capacity and capability in Wales.

Future Review and Consultations

Welsh Ministers will periodically review the guidance to ensure it remains fit for purpose.

This section could also include information about how the guidance will be reviewed and updated. This will be done following discussion and engagement with relevant stakeholders.

FAQs

This section would set out an expectation that the Authority will publish an FAQ document on the approach it takes to assessments.

Welsh Language

The Authority will be added to Schedule 6 of the Welsh Language (Wales) Measure 2011. The intention is for it to be added to Schedule 6 to the Welsh Language Standards (No. 2)

Regulations 2016, and for the Authority to be subject to Welsh language standards. The Authority will be expected to promote and encourage the use of Welsh throughout all of its work in Wales. It will welcome correspondence in Welsh, bi-lingual or English format and will correspond in the stated language preference.