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Statutory Periodic Permit Reviews

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IMPORTANT NOTE - PLEASE READ

This explanatory note is intended for SPECIFIC INTERNAL Natural Resources Wales use to assist officers to interpret and enforce the Environmental Permitting (England and Wales) Regulations 2010. The explanatory note is based on information contained in the EP Regulations and on current understanding. This explanatory note may be subject to change in the light of regulatory changes, future Government guidance or experience of applying the EP Regulations. However, in the interests of transparency, this explanatory note is available to others. It must be stressed that the explanatory note has no status other than as internal Natural Resources Wales guidance to its staff, and that it remains the responsibility of operators to comply with any obligations placed upon them under the EP Regulations.

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1. Introduction

About this guidance

- 1.1 This guidance sets out how we will meet our statutory duty to periodically review environmental permits. It includes indicative review timescales for different groups of permits and the common principles that we use to plan and carry out reviews. It does not provide detailed implementation plans; these will be produced separately, as needed.

Statutory Requirements

- 1.2 The Environmental Permitting (England & Wales) Regulations 2010 (EPR) require us to periodically review environmental permits. Defra, DECC and Welsh Assembly Government EPR Core Guidance says:
“permit reviews are required to check whether permit conditions continue to reflect appropriate standards and remain adequate in light of experience and new knowledge. Reviews should guard against permits becoming obsolete as techniques develop.”
- 1.3 In addition, there are some Directive requirements for certain activities that set out particular circumstances or time periods which trigger a review.
- 1.4 However, the legislation does not further prescribe how we should carry out this task. Under the Environmental Permitting Regulations we administer many thousands of permits for a wide range of regulated activities. We need to plan how we will deliver this statutory requirement so that we do the work efficiently and get the best environmental outcomes from permits.

What is a permit review ?

- 1.5 The permit review process includes two stages:
 1. checking a permit or group of permits to see whether they ‘remain adequate’ in ensuring the operator achieves the relevant environmental and regulatory objectives. It is not always necessary - and may not be cost-efficient - to check each individual permit to assess whether it ‘remains adequate’. Where appropriate, we will do high level performance checks on groups of similar permits and target effort on those that need attention.

and

2. revising individual permits if necessary. Some permits will not require any changes if they already deliver expected levels of performance.

2 Key principles of permit reviews

- 2.1 We will follow the principles below when preparing permit review implementation plans to ensure that permit reviews deliver the regulatory and environmental outcomes we seek. To use resources efficiently, reviews should focus on these priorities and avoid time tidying up minor formatting or administrative issues. Reviews should not normally be used to make changes to permits sought by the operator. Natural Resources Wales Head of Business for the relevant group of permits is responsible for the implementation plan.
- 2.2 Permits focus on environmental priorities:
 - conditions are designed to optimise contributions to our corporate environmental priorities and sector objectives; and
 - permit conditions allow us to measure, monitor and, where relevant, compare operator performance so that we capture the environmental outcomes they deliver and can target our effort to improving poor performance.
- 2.3 Permits fulfil statutory obligations:
 - conditions continue to reflect appropriate measures to protect people and the environment;
 - where there are indicative environmental standards, we have justification for any conditions that deviate (higher or lower) from these standards; and
 - conditions meet mandatory EU Directive and international standards, UK legislative requirements and Government policy that apply to the permitted activities, as a minimum.
- 2.4 Permits are consistent with broader sector, media- and better regulation objectives where applicable:
 - monitoring and reporting requirements are risk-based;
 - conditions securing protection of land, surface and groundwater, river basin management, air quality management and pollutant reduction objectives are in place;

- permits reflect appropriate flood resilience and climate change mitigation and adaptation measures;
- migration to modern permit conditions is considered (where not already in place) and justification provided where it is not implemented; however this will not usually be the primary reason for revising a permit
- uptake of standard permits is encouraged where they are applicable;
- permit reviews and permit conditions reflect the regulators compliance code.

2.5 We target resources spent on permit reviews efficiently:

- we focus on environmental priorities and improved regulatory efficiency whilst avoiding gold-plating; and
- we plan strategic reviews in good time so that the resources and tools required, delivery timescales and funding mechanism are clear

3. Timescales and triggers for permit reviews

3.1 Regulations and Government guidance set out some general triggers for permit reviews, but do not define time periods (with the exception of permits for groundwater activities that are subject to the requirements of the Water Framework and Groundwater Daughter Directives). This section sets out indicative time-periods for reviews of different permit groups as well as exceptional circumstances which would trigger the need for an immediate unplanned review.

What influences the timing of a review

3.2 We aim to review permits within a timescale that reflects the speed at which environmental, technological or economic changes take place, as these are the factors which affect whether permits are continuing to deliver the intended outcomes of environmental legislation. For instance:

- new pollution control techniques may emerge over time that can reduce risks to the environment more cost-effectively, or
- better techniques for evaluating environmental risk may be developed which change the degree of control needed, or
- the ability of the environment to absorb or mitigate pollution may change.

3.3 The timing of reviews for certain types of permits will also be influenced by any related programmes for updating performance standards, monitoring of the environment or achieving deadlines for legislative requirements.

Indicative review periods for different groups of permit

3.4 Indicative review periods are given in Table 3.1 together with the key factors that influence the review period.

Table 3.1 Indicative Permit Review timescales

Permit Group	Review period (years)	Key influences
Groundwater (land spreading eg. waste sheep dip discharges)	6	River Basin Planning cycles / Groundwater Directive requirements;
Groundwater (point source eg. sewage effluent to ground)	6	River Basin Planning cycles / Groundwater Directive requirements;
Water discharge activities	Not fixed	River Basin Planning cycles; Periodic Reviews of Water Prices; Ministerial directions relating to new or changed EC Directives
Radioactive substances: Nuclear	Annual	Government policies, NDA strategy and funding
Radioactive substances: Non-nuclear	4	
Sets of standard rules	8	Change to environmental risk or activity specific legislation.
Bespoke waste operations	8	Techno-economic change; change to environmental risk;
Bespoke installations (non landfill)	8	Techno-economic change; change to environmental risk; change in indicative BAT standards.
Bespoke installations (landfill)	6	Techno-economic change; change to environmental risk; Groundwater Directive requirements

Permits for a groundwater activity

- 3.5 By 22nd December 2012 we will review all EPR permits for a groundwater activity that were previously permits for the purposes of the Groundwater Regulations 2009 (GWR 2009) and were granted before the GWR 2009 came into force. Following on from this we will continue to regularly review permits for groundwater activities in line with the relevant implementation plan, for example at least once every six years for land spreading permits.

Water discharge activities

- 3.6 Timescales are not fixed by the legislation but will be influenced by the river basin planning cycle (6 yearly), improvements identified in planning for the periodic review of water company prices (5 yearly) and in response to Ministerial directions relating to new or revised EC Directives.

Radioactive Substances

- 3.7 Generally we review performance of the nuclear sites, the relevance of environmental objectives and the continuing adequacy of their permits annually. For very small nuclear sites the review period may be extended to every 3 years.
- 3.8 We will review non-nuclear permits every 4 years: this review will normally be restricted to review of the permit conditions in relation to any changes in legislation and Government policy.
- 3.9 These reviews will include review of GW issues where a GW activity is carried on as part of a radioactive substances activity.

Standard permits

- 3.10 We will review standard rules sets every 8 years after original production as a minimum. The key driver for change will be whether any environmental circumstances have changed or evidence of environmental impact has emerged which would affect the generic risk assessment.

Bespoke Waste Operations Permits

- 3.11 We will review bespoke waste operations permits every 8 years as a minimum. Key drivers are environmental risk and techno-economic changes affecting the cost-effectiveness of measures to control environmental risk.

Bespoke Installation Permits

- 3.12 Permit reviews for installations will normally follow production of revised Best Available Techniques (BAT) standards in EU BAT Reference (Bref) documents for each sector. This is the key driver for major environmental improvements and sets a level playing field for installations across the EU. The revised Industrial Emissions Directive will specify the time period for reviews.
- 3.13 If a revised Bref is not available in time for us to update permits within 8 years, we will consider carrying out an interim review of the sector if necessary. This will focus on improvements to any poorer performing installations in relation to existing standards and the rest of the sector.
- 3.14 We will review permits for landfill installations, which do not have a Bref, within around 6 - 8 years of issue and 6 yearly thereafter, aligned with groundwater review requirements.
- 3.15 Before we review individual installation permits, we will review the performance of a sector as a whole and produce an implementation plan setting out the scope and priorities for reviews.

Multiple activity permits

- 3.16 Where the permit includes more than one activity, the primary activity i.e. that which has the greatest potential risk to the environment will usually be the trigger for the review of the permit as a whole. However, it may be appropriate in some cases for different activities to be reviewed separately according to their respective programmes.

Exceptional circumstances

- 3.17 In some specific circumstances we may need to review individual permits or groups of permits outside of a planned programme. These situations include:
- when the pollution caused by the permitted activities is found to be of such significance that the existing permit conditions need to be revised; or
 - when the operator is persistently poor at complying with existing permit conditions; or
 - when there is a major environmental incident with implications for particular permits and/or major public concerns.