

Flood Risk Activity permitting: Checking it is duly made

Operational instruction 184_17

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What's this document about?

This document describes how the permitting officer determines whether the applicant has submitted a valid application for a Flood Risk Activity (FRA) Permit.

Who does this apply to?

This document applies to staff in:

- Area Partnership & Strategic Overview (PSO) teams
- National Permitting Service (NPS) (for awareness)
- Technical Area teams such as Fisheries, Biodiversity and Geomorphology.

Contact for queries and feedback

- Please contact Floodriskpermits@environment-agency.gov.uk for further advice.
- Please give [anonymous feedback](#) for this document.

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Roles and Responsibilities

Permitting officer role

The permitting officer is responsible for:

- Confirming the application is duly made, returning invalid applications;
- Making sure we ask for any additional information needed to determine the duly making test or to make a determination;
- Assessing whether the application is for activities that are likely to cause a significant environmental impact (requiring us to consult the public), are of high public interest and whether we need to consult nature conservation bodies.
- Carry out publication and consulting of the application, where relevant.
- Setting the determination deadline

Keep Records

Important! We must keep good records and keep the Public Register up to date. A permit could contain one or more set of standard rules as well as a bespoke activity. If all the activities are on the same site and undertaken by the same operator(s) then a single permit should be created, containing all the activities.

If the applicant wishes to add a standard rule set or a bespoke activity to an existing permit, a variation should be undertaken to add the activities. See [183_17 Flood Risk Activity Permits: Determination of a permit and notice application](#).

What is the duly Making process

We carry out administrative and, limited, technical checks to make sure the application contains the required information for us to begin to determination of the application. The date we receive a duly made application is the start date for the statutory determination period.

Until the application passes the duly made test, we cannot consult on it, technically assess it, decide confidentiality claims, or determine it.

It is not a detailed technical evaluation. We should not make a judgement about the merits of the operator's proposals at this stage. For example, if it is clear from an application that the flood risk or environmental effects would be unacceptable; the permitting officer should still accept a duly made application. Instead, we would refuse the application or impose conditions to mitigate the impact, when we determine it.

What is a duly made application?

For an application to be duly made:

- The relevant application forms must be complete, including the declaration.
- The applicant has paid the correct application fee.
- What is being proposed, where it is occurring, when the works are being carried out and by whom, must be clearly demonstrated.
- The applicant has supplied all relevant supporting documents, including a site plan. For bespoke applications, they should also provide the relevant risk assessments.

For a Duly made application, you must be able to determine whether a permit is required. Without information on what, where, when and by whom,

you will be unable to determine whether the proposal will require a permit or an exemption.

The application fails the duly making test if anything is missing or the information is insufficient. We must not duly make an application until we have received all relevant information. If you cannot determine whether the works need a permit then you should not enter the information onto FRAP.

In order to request further information, use the Standard Application not duly made letter.

If you are satisfied that a permit (either bespoke or standard rule) is required but some information is missing or unclear, then you can log the application on to FRAP but mark it as Not Duly Made.

See Returning an application that's not duly made

Internal Permit Applications

The permitting officer should carry out the duly making test for Internal applications. We do not require a fee for an application where the Environment Agency are the Operators. The application must meet all other aspects of the duly making test.

Duly Making Times

The permitting officer should carry out the duly making test on an application as soon as possible, our target for this is within working 3 days but no later than 10 working days after receipt. Our ability to meet this timeframe will in part depend on the speed and efficiency with which the operator provides further information we may request. Return the application if significant information is missing. Do not log the application on to FRAP.

Inform the applicant that we consider the application duly made and confirm the date by which we will make our decision. Use the Standard Application duly made letter

See Length of determination period

If the application is complete upon receipt, the duly made date will be the date we received the application at the Environment Agency (not the date we checked it). If we need to ask for more information or for payment, the duly made date is the day we receive all the missing information or payment.

The 'date received' when the application is received by any office or team not just the correct office. If the application is received by the incorrect team, they should return the application using the standard not duly made letter and provide the correct details for the relevant PSO team

Card payments

There is currently no way for applicants to make card payments prior to making the application. In these circumstances, if the payment is made upon first request, then the duly made date can be set to the date received. If multiple requests are made and payment is delayed then the duly made date can be set as the date payment was received.

Length of determination period

The table below shows the statutory maximum determination times for different application types. The overall end-to-end time can be longer if you do something that stops the clock.

See [183_17 Flood Risk Activity Permits: Determination of a permit and notice application](#)

Application type	Statutory determination time
Standard or bespoke permit (without publicising) for a stand-alone flood risk activity	Two months
Bespoke Permits and variations for stand-alone flood risk activities with publicising	Four months
Application for variations for stand-alone flood risk activity (without publicising)	Two months
Flood risk activities combined in a permit application with another type of facility (such as waste or water quality)	The longest of the determination times applicable to the relevant facilities
Application for part or full surrender	3 Months

Deciding whether an application is duly made

What you need to do

The permitting officer is responsible for ensuring the duly made test is undertaken. Carry out all the checks in the following sections that apply to the application. Use a duly made checklist and make sure you note any missing information.

- Confirm that the application is a Flood Risk Activity
- Confirm that a Duly Made application has been made

If the operator sends in a document that is not required by the application, save it against their record but do not assess it.

Further information

If you are unable to duly make an application due to the lack of information you should inform the applicant of this and request that information from the using the Not Duly Made Letter.

You have the option to return the application without allocating it an EPR reference number. Return the application if you cannot confirm, from the information supplied, that a permit will be required. Please see 'returning an application that's not duly made'

Does it require a permit?

Are we the regulator

Confirm Schedule 25 of the Environmental Permitting Regulations covers the proposed activities. The customer may need to speak to another department in the Environment Agency or to another authority. Lead Local Flood Authorities (LLFAs) and Internal Drainage Boards (IDBs) regulate activities on ordinary watercourses. If we are not the regulator, tell the operator whom they need to contact about their proposal and return their application and payment.

Exclusions and savings

A flood risk activity will not require a permit or to register an exemption if its:

- One of the 12 exclusions, Including an emergency activity

Allowed activity

- It's an allowed activity
- It's a protected undertaking

If the proposal has planning permission, and falls under the flood risk activity (g), works within the floodplain, it is an 'allowed activity' and a permit is not required. Any work not specifically approved by the planning permission i.e. temporary or enabling works, will still require a permit.

Protected undertakings

The saving for protected undertakers to obtain a permit only applies when Risk Management Authorities (or others defined by the Water Resources Act) are carrying out their statutory duties and the proposals are for activities e-k. Otherwise, they will need a permit.

Water Resources Act 1991

Paragraph 1(4) of the Water Resources Act 1991 Schedule 22 defines a list of protected undertakers as follows:

- The Civil Aviation Authority
- The Coal Authority
- A universal postal service provider under the Postal Services Act 2011
- A water undertaker appointed under Section 6 Water Industry Act 1991
- A sewerage undertaker appointed under Section 6 Water Industry Act 1991
- A provider of an electronic communications network under the Communications Act 2003
- An airport certified under Part V of the Airports Act 1986
- A public gas supplier licensed under Section 7A Gas Act 1986
- A electricity supplier licensed under Section 6 Electricity Act 1989
- A navigation authority i.e. an authority which has a statutory power to work maintain improve or control any canal or inland navigation , navigable river, estuary harbour or dock
- A harbour authority i.e. an authority which has a statutory power to improve maintain or manage a harbour
- A conservancy authority i.e. an authority which has a statutory power to conserve maintain or improve the navigation of a tidal water
- An internal drainage board established under Section 1 Water Resources Act 1991
- A railway company
- A public utility undertaking carried on by a county council, borough council , district council, London borough council or the Common Council of the City of London
- A coal mining operator licensed under Part II of the Coal Industry Act 1994 (or preceding legislation)
- An air traffic control undertaking licensed under Section 5 Transport Act 2000

FWMA (2010)

The [Flood and Water Management Act \(2010\)](#) also provides Flood Risk Management Authorities (RMAs) with protected undertaker status. The Environment Agency is as a RMA.

Is the FRA an exemption or standard permit?

If a flood risk activity is not an exclusion, or protected undertaking, then the operator will need to either register an exemption or apply for a permit. Go to the gov.uk web-site and check whether the activity:

- falls within one of the [27 exemptions](#), or can be if the operator adjusts their proposal to ensure it fits within the exemption: these don't need a permit but the operator must still [register the exemption](#) with the Environment Agency and comply with the description and conditions of the exemption;
- Meets one of the [12 sets of fixed standard rules](#): if it does, or can be if the operator adjusts their proposal to ensure that it fits one of the fixed sets of standard rules, they can apply for a standard permit. The activity needs to be able to meet all of the conditions or descriptions of the standard rule for it to apply. They need to specify which standard rule they want to apply for when they complete their application form.

Missed exemptions and standard rules

If the flood risk activity does not fall into any of these categories, it will need a bespoke permit.

The applicant should apply for a bespoke permit when the works cannot adhere to a single rule of an exemption or standard rule. In these circumstances, the risk assessments submitted will only have to address the fail criteria, as the generic risk assessments will still be appropriate for the complied with rules.

Pre-determination Process

Procedure table

This section describes the actions the permitting officer should undertake upon receipt of a permit application, up until determination commences. It includes the duly making test and a screening process. There is a separate quick guide that covers logging a record onto the FRAP system.

Step	Action
1	When you receive an application, acknowledge receipt using the Standard Acknowledge - receipt of application
	Carry out the relevant duly make test by application type <ul style="list-style-type: none"> • Standard Rule permit • Bespoke permit • Surrender and Transfer notices See detailed guidance on: <ul style="list-style-type: none"> • Fee • Operator99 • Relevant person
2	Has the application passed the duly making test? Yes: Complete sections 4, 5 and 6, then follow the appropriate determination process for the type of application. No: Go to 3
3	From the information provided, can you determine whether a permit will be required?

	<p>Yes: Draft the Not Duly Made letter, including the details that the application had failed on and what is required to allow the duly making test to be passed.</p> <p>Complete stages 4, 5 and 6 but set the state of the application to 'Returned' on FRAP and the stage as 'complete' after stage 6. Do not determine the application until the application has passed the duly made test.</p> <p>Once the missing information has been provided, reactivate the record in FRAP by updating the stage and state.</p> <p>No: Return the application, with the fee. Do not log the application onto FRAP as the application may not require a permit.</p>
4	<p>Match application with:</p> <ul style="list-style-type: none"> • any pre-application records • any ongoing applications for the site or the operator • existing permits for the site <p>Note: consider whether a variation to the existing permit would be more appropriate than a new application</p>
5	<p>Enter application details on FRAP</p> <ul style="list-style-type: none"> • applicant and agent details • Location of the activities including grid references and watercourse information • brief description of activity • permit type applied for • Permitting Officer and area details • Payment details • Save submitted documents • Maintain the EPR reference, from the pre-application, through to the application. <p>Note: If there are significant aspects of an application missing you may wish to return it without entering record onto FRAP.</p>

Duly Making Tests

Duly Making process

The following sections will provide guidance on how carryout the duly made test. There are separate processes for standard rule and bespoke applications.

Standard Rule Applications

Duly Making and screening process

The duly making process for Standard rules applications has been streamlined, as the permits contain pre-defined conditions

Check	Description
Form Part A	<p>Check Part A of the application :</p> <ul style="list-style-type: none"> • Contains all operator details • Correctly identifies the operator • If the operator a company, confirm it is a legal entity.

	<p>An agent may not be named as operator as they are not in control of operations, but may be the named contact see Defining the operator and relevant person</p> <p>Note: The Operator should be the person completing sections 2-6 i.e. the applicant. Agent working on behalf of the operator should complete section 7</p>
Form Part B11	<p>Check part B11 (standard rules) of the application clearly identifies:</p> <ul style="list-style-type: none"> • The location of the activities • A standard rule set has been identified • The time at which the activities are to be carried out • That a management system declaration is completed
Form Part F3	<p>Check Part F3 of the application:</p> <ul style="list-style-type: none"> • Payment details are provided either with evidence of payment or willingness to pay by card or BACS upon receipt of a reference • It states the correct payment amount for the activities requiring a permit. • Signed by the relevant person at an appropriate level in the organisation. If the applicant is a company, check who signed the declaration against current appointments in Companies House
Site Plan	<p>Check the application includes a site plan, which identifies the location of the activities within the site. The application must include either the postcode or National Grid Reference of the activity(s).</p> <p>The site plan must include all sites (if more than one) and indicate the upstream and downstream limits of works where relevant.</p> <p>For new permits, use EasiMap to check that the grid reference is correct (centre of the site) and relates to the site address and/or location of the activity. If there is no grid reference, undertake a postcode search to verify the address. Identify the National Grid References and ensure the location matches the site plan provided.</p>
Environmental Screening	<p>Run an Easimap2 national permitting report to identify</p> <ul style="list-style-type: none"> • Whether all of the following are in the vicinity of the activity; European sites (SPA, SAC, Ramsar), SSSIs, designations, protected and priority species, other relevant conservation designations, heritage and landscape sites, water bodies sensitive to sediment management, water bodies sensitive to gravel removal, high morphology water bodies; • Whether a salmonid or cyprinid river is nearby. <p>Save report into FRAP once the record is created.</p>

Bespoke permit application

Duly Making process

Confirm that the applicant has submitted sufficient information within the Forms, plans, risk assessments and other documents for you to determine the application.

Application Forms

Review the application forms that have been submitted

Form	Action
Part A	<p>Check Part A of the application :</p> <ul style="list-style-type: none"> • Contains all operator details • Correctly identifies the operator • If the operator a company confirm it is a legal entity. • An agent may not be named as operator as they are not in control of operations, but may be the named contact see Defining the operator and relevant person
Part B10	<p>Check Part B10 of the application clearly identifies:</p> <ul style="list-style-type: none"> • The location of the activities • The scope and scale of the activities • The time at which the activities are to be carried out • That a management system is in place
Part F3	<p>Check Part F3 of the application:</p> <ul style="list-style-type: none"> • Payment details are provided either with evidence of payment or willingness to pay by card or BACS upon receipt of a reference • It states the correct payment amount for the activities requiring a permit. • Signed by the relevant person at an appropriate level in the organisation. If the applicant is a company, check who signed the declaration against current appointments in • The Operator should be the person completing sections 2-6 i.e. the applicant. Agents working on behalf of the operator should complete section 7

Associated information

Review the submitted information to ensure that the applicant has made a valid application.

Type	Action
Site Plan	<p>Check the application includes a site plan, which identifies the location of the activities within the site. The application must include either the postcode or National Grid Reference of the activity(s).</p> <p>The site plan must include all sites (if more than one) and indicate the upstream and downstream limits of works where relevant.</p> <p>For new permits, use Easimap to check that the grid reference is correct (centre of the site) and relates to the site address and/or location of the activity. If there is no grid reference, verify the address by doing a postcode search. Identify the National Grid</p>

	References and ensure the location matches the site plan provided.
Risk Assessments	<p>Check the application includes the relevant risk assessments.</p> <p>Not all required risk assessments will be identifiable at this stage but we should attempt to get as much information submitted with an application as is possible.</p> <p>All risk assessments must be referenced and dated appropriately</p> <p>Note: For applications that miss single criteria of a standard rule or exemption, you will only require the risk assessments that are required by that criterion.</p>
Plans	<p>Check that the application includes all appropriate plans. For example, a proposal for a new in channel structure should include schematic drawings detailing the dimensions of the structure and its position in relation to the channel.</p> <p>Appropriate references, dates and scales should be included on the plans. They must be appropriately annotated so that the determining officer can clearly identify the type and scale of the structure proposed.</p>

Results of the duly made test

Follow these steps once you have reviewed the submitted information against the duly making test criteria.

Stage	Description
1	<p>Has the application passed the duly made test?</p> <p>Yes: Log the application onto FRAP and review Environmental and Additional considerations.</p> <p>No: see stage 2</p>
2	<p>Do you have sufficient information to identify whether a permit is required?</p> <p>Yes: Log the application onto FRAP and review Environmental and Additional considerations.</p> <p>Send the not duly made letter and request the missing information. Do not determine the application until the application passes the duly making test.</p> <p>No: Return the application to the applicant, including the fee</p>

Environmental considerations

To determine the scope of the technical assessment, environmental screening should be undertaken as early as possible.

Consideration	Description
Environmental Screening	<p>Run an national permitting report via Easimap2:Permitting to identify:</p> <ul style="list-style-type: none"> Whether all of the following are in the vicinity of the proposed activity: European sites (SPA, SAC, Ramsar), SSSIs, protected and priority species, other relevant conservation designations such heritage and landscape sites, water bodies sensitive to

	<p>sediment management, water bodies sensitive to gravel removal, high morphology water bodies;</p> <ul style="list-style-type: none"> • Whether a salmonid or cyprinid river is nearby. • See Annex 2: Running an Easimap2 screening report • Save report into FRAP <p>This report is a guide to the type of features that the works may affect. Check with FBG If you are unsure of the environmental impacts of an application or the application is for a large, novel or complex activity and you are unsure whether the environmental risks are adequately covered by the information in the application.</p> <p>Are the activities in the application likely to have a significant environmental impact? If so the applicant should be informed, that consultation will be required on their application.</p>
Water Framework Directive	<p>A WFD risk assessment is required for a bespoke permit application if the flood risk activity could affect a water body that is at high status, high status morphology, or is in any other water body and is one of the following activities:</p> <ul style="list-style-type: none"> • new or replacement culverts • channel widening, deepening, straightening or realigning • new or replacement impoundment structure • bed reinforcement • sediment management (including dredging and de-silting) • bank reinforcement • new or replacement embankments and set-back embankments (over 10m in total length) • new or replacement by-pass channels (over 10m in total length) • bank re-profiling (over 10m in total length) • work to remove or install woody debris (over a length of 20m or greater) • work to install flow deflectors (over a length of 20m or greater) • new or replacement bridges or crossings • new or replacement outfalls

Additional Considerations

Review the situations in the following table and follow any relevant actions before determination commences.

Situation	Action
site of high public interest	Public consultation may be required and you can extend the determination period to 4 months. See RGN 6 Determinations involving sites of high public interest
a claim for confidentiality or national security	Follow the instructions in the relevant operational instruction 201_08 Environmental Permitting: dealing with claims for national security or 202_08 Environmental Permitting: dealing with commercial and industrial confidentiality
undeclared confidential information	Follow the instructions in the relevant operational instruction 201_08 Environmental Permitting: dealing with claims for national security or 202_08 Environmental Permitting: dealing with commercial and industrial confidentiality
a combined application	<ul style="list-style-type: none"> Other permit types We currently do not have the processes in place to combine a FRA permit with other EPR facilities i.e. waste permit. The applicant should submit a separate permit application for each type. Standard Rules and Bespoke Permits We can combine a standard Rule and Bespoke activities onto a single bespoke permit. Exemptions and Permits All exemptions will have to be registered separately from permit applications
applicant is a company	<p>Check company registration numbers through Companies House.</p> <p>Enter all operator details in FRAP i.e. the correct address, company name and company registration number.</p> <p>Ensure the operator name matches the one on the website including any hyphens, full stops and spelling.</p>

Surrender and Transfer applications

Stage	Action
Form Part A	<p>Check Part A of the application :</p> <ul style="list-style-type: none"> Contains all operator details Correctly identifies the operator If the operator a company confirm it is a legal entity. <p>An agent may not be named as operator as they are not in control of operations, but may be the named contact</p>

	<p>see Defining the operator and relevant person</p> <p>The Operator should be the person completing sections 2-6 i.e. the applicant. Agent working on behalf of the operator should complete section 7</p>
Form Part D3 or E3	<p>Check Part D3 or E3</p> <ul style="list-style-type: none"> • Correctly identifies the operator • Identifies which activities the application applies to • Identifies whether a variation (or transfer- Ex only)) is required with the application • Declaration is completed and signed by the relevant person
Form Part F3	<p>Check Part F3 of the application:</p> <ul style="list-style-type: none"> • Payment details are provided either with evidence of payment or willingness to pay by card or BACS upon receipt of a reference • It states the correct payment amount for the activities requiring a permit. <p>Signed by the relevant person at an appropriate level in the organisation. If the applicant is a company, check who signed the declaration against current appointments in Companies House</p>
Original Permit	Operator has sent in a copy of the original permit with their transfer or surrender application.
Condition compliance	Surrender only – confirm that the operator has submitted all the information required to ensure they meet all outstanding compliance conditions.

Application Fee

Calculating the correct fee

The Environmental permitting charging scheme sets out the charges for Environmental permits. For flood risk activities the charges are as follows:

- Category A £170
- Category B £221
- Category C £446
- Category D £968
- Category E £1441
- For multiple activity applications the highest category activity will be charged at 100%, subsequent activities will be charged at 25% of their associated category

For a full list of the activities within the application categories please see Annex 3

- Variations to existing permits will be free of charge for administrative changes (for example change of address on permit)
- Minor variations will be charged at £68 (for example change of working dates)
- Other variations will be charged at £204 (for example changes to method of works, which require additional technical assessment)
- Variations which constitute an additional activity will be charged at 25% of their associated category

- Transfers and Surrender of applications are free of charge
- Exemption are free to register

Determining the number of activities

Many applications will cover more than one activity, so will attract multiple charges. The additional activity fee of 25% of the activity category is to pay for the extra technical assessment associated with the additional activity.

To qualify to be an additional activity (rather than requiring a separate application , activities must:

- Have the same operator. If different parties are involved, such as adjacent landowners, they will need to establish a joint working and liability arrangement between them or apply for separate permits
- Be at the same or nearby locations. The definition of 'nearby' will vary depending on the diversity of the geographic constraints of the particular reach of watercourse.
- Be related hydrologically or by being part of the same project. Generally, assess works on different main rivers via separate applications, but consider linear projects such as highways in a group basis, even if they are on different watercourses.
- Be carried out at a similar time, in particular within the typical time limit conditions (3 years).
- Be fully designed and where it can be assessed. We can only approve finalised proposals, and cannot issue a permit for one part of a scheme where the design or method of work is incomplete.
- In some cases, you may issue a permit for a single activity on a site. It may then be varied to include a second activity on the same site at a later date, which would attract the same additional activity charge (but as a variation rather than additional activity). This can only be done if the operator is the same and the work is on the identical site (not 'nearby' or adjacent) as defined by the site plan in the permit. If work on the ground for the first activity has been satisfactorily completed (or the permit surrendered), then a new application will be required for an activity proposed later.

We should normally treat temporary works as the minimum number of additional activities possible, so as to keep the burden of regulation to be as low as possible, in line with Government aspirations.

Deal with fee

If there is a fee, follow the steps in the table below.

Payment type	Action
Credit/Debit card	Process the payment using WorldPay Once payment is complete shred any hard copy notes of the payment details.
Cheque	We must bank cheques as soon as possible. Confirm the amount agrees with the sum stated in the application and completed correctly Complete the cheque remittance form and send to: SSCL (Environment Agency) PO Box 221

	Blackpool FY1 9JN See OI 635 11 Cheque payments received at local and regional offices (Area banking)
BACs	Confirm with SSCL that payment has been received
Other	Confirm the amount received. Note: The Environment Agency does not accept cash payments

Defining the operator and relevant person

Definition of the operator

The operator is the person or body in control of the activity. For the purpose of environmental permits, we address the permit to the operator. Either the operator can be a named individual or in the case of a public body or limited company, it will be the name of the organisation or company. You can also add the executive responsible on to the permit.

Multiple Operators

You can have multiple operators on a single permit. All named operators on a permit will be responsible for all the activities cover by the permit. In the case where there are multiple operators, the operators can transfer the permit between themselves as the works progress or for each operator to apply for a separate permit for their individual activities. When transferring a permit, the applicant may need to surrender and/or vary parts of the permit

Definition of relevant person

The applicant need to validate all applications by the means of a signed declaration. The relevant person will complete this.

This table details who the relevant person is for the different types of applicants.

Operator	Declaration	Permit
Individuals	The individual that will be the named as operator	Named individual.
Companies	<p>The Environmental Permitting Regulations state that the “relevant person” must sign the declaration. The relevant person can be anyone listed as an employee at Companies House. The named person can delegate the rights to sign a declaration as long as they provide the scheme of delegation (SoD).</p> <p>The officer(s) listed on Companies House are ultimately responsible for any works carried out by the company. The permitting officer must ensure the applicant has completed the declaration accurately to avoid compromising legal action.</p> <p>Therefore it is essential that the correct person signs the declaration or provides the delegation authorisation</p>	Named company

	Note when the SoD relates to the whole company, save it on FRAP and used for future application made by that company.	
Non-registered companies (i.e. not listed on Companies House)	We require confirmation that they are a legal body. This should accompany the declaration. The Companies house register should contain all companies. If they cannot be found on the register then request they confirm their company status and contact your local legal team for advice	Named company
Public bodies	The 'relevant person', can be any person authorised to sign on behalf of the body. This could be either the chief exec, manager or employee. It is the responsibility of the public body to organise their own scheme of delegation for permits and submit it with the application.	Named public body
Charities and Organisations	A named individual. If multiple names need to go on a permit (e.g. environmental group), each individual needs to sign a declaration.	Named individual.

Common Problems

- The most common issues that arise are:
- An agent completes the application in their name but on behalf of the operator of the works. Agents should complete section 7 of Form A, while the operator completes sections 1 to 6 (where relevant) and the relevant person signs the declaration on Form F3.
- A manager or other employee puts their name in the declaration but does not enclose a letter of authorisation from an officer of the company or a partner in the LLP. The permitting officer should not duly make an application until the receipt of delegation authorisation. Use the not duly made letter - delegated example text
- The operator is the subject of any insolvency procedure and the official receiver or appointed insolvency practitioner has not put their name in the declaration. Return the application to the operator and only validated once the insolvency practitioner has completed the declaration.

Confirming an applications Duly Made

Permitting officer confirms duly made

When a permitting officer is satisfied that the application is duly made:

- Consider whether we need to publicise the application (as an activity that will likely have a significant impact on the environment). If so, decide on your publication period and proceed to publicise. Go to Publicising and consulting on applications.
- Issue the Duly made letter to the applicant
- Update or add a record in FRAP.
- Make sure the application is marked as confidential or pertaining to matters of national security.
- Proceed with work to determine the application [183 17 Environmental permitting for flood risk activities, determining an application](#)

Returning an application that's not duly made

We will return a non-duly made application where there is any uncertainty on whether the application will require a permit (i.e. are the works a flood risk activity, are we the regulator, does the proposal pass all the criteria for the standard rule permit) then it should not be recorded on FRAP and returned to the applicant.

Where the missing information is minor i.e. to clarify details of the application, you can log the record on FRAP before returning the application. The Status should be marked as completed and the stage as 'returned'. Once provided, the record can be re-activated.

Situation	Action
Bespoke: the permitting officer is unable to determine what, where, or who is carrying out the works.	Return the application, with the fee, without logging it onto FRAP. Without these key pieces of information, you will be unable to determine whether a permit is required.
Standard Rule: You are unable to determine the location of the proposal	You will not be able to run an environmental screening to confirm that the proposal would pass the geographic criteria of the standard rules. Return the application; you should be able to determine whether a permit is required.
All: The declaration is either incomplete or signed by the wrong person	Return the application but you can log the application onto FRAP. Do not complete the determination until all relevant people supply the full declaration.
Bespoke: Method of Work is not provided	<p>Application for permanent works only:</p> <p>Duly Make the application but request the method of work from the applicant using a schedule 5 notice. The method of work may highlight the need to add Flood Risk Activities to permit application.</p> <p>Application for temporary works:</p> <p>Return the application but you can log the application onto FRAP. The method of work may highlight the need to add Flood Risk Activities to permit application</p>

Return the application using the Not Duly Made Letter. The applicant should collect the missing information and then resubmit the application.

Note: We must contact the operator before we return their application. If we are returning an application because it has failed standard rules criteria we

must let them know they may still apply for a bespoke application, although we can't guarantee that a permit would be granted if they apply.

Related documents

Links

- [183_17 Flood Risk Activity Permits: Determination of a permit and notice application](#)
- [RGN 6 Determinations involving sites of high public interest](#)
- [201_08 Environmental Permitting: dealing with claims for national security](#)
- [202_08 Environmental Permitting: dealing with commercial and industrial confidentiality](#)
- [635_11 Cheque payments received at local and regional offices \(Area banking\)](#)

Annexe 1 – Flood Risk Activities

Does the activity fit one of the following descriptions? If yes, it will be a flood risk activity. It may fall under more than one class of activity.

(a) Erecting any temporary or permanent structure in, over or under a main river.

- Is the proposal for a "structure"? Structure is "anything that is constructed".
- This applies to new structures rather than changes to existing structures (for changes to existing structures see (b) and (c) below).
- Examples include a culvert, outfall, weir, dam, pipe crossing, erosion protection, pontoon, scaffolding or bridge. The definition does not include a boat unless permanently moored in one location.

(b) Altering, repairing or maintaining any temporary or permanent structure in, over or under a main river, where the work is likely to affect the flow of water in the river or affect drainage work

- Is the work be likely to affect the flow of water in the river or affect drainage work?

(c) Constructing or altering any structure designed to contain or divert floodwaters from a main river

- Does the structure contain or diver flood water from a main river? For instance a flood barrier or embankment. Temporary defences along pre-planned routes that are included within this category.
- The installation of existing demountable defences do not require a permit, but the initial construction of temporary defences will.
- Works that involve constructing or altering such structures within the channel would fall under activities (a) or (b) above.

(d) Dredging or removing any material from a main river, including when you are intending to improve flow in the river or use the materials removed

- Any dredging or any other removal of material from or off the bed or banks of the main river (including channel profiling, what is referred to as 'desilting', and hydrodynamic dredging) is a flood risk activity. You do not need to consider whether there is a potential flood risk or drainage impact in order to decide whether the works are a flood risk activity.

(e) Activities likely to divert the flow of water or changing the level of water in a main river

- Are the works likely to divert the flow of water into or out of a main river (including impounding it), or change the level or water in a main river? For instance, pumping from a pond or watercourse separate to the river and discharging into it.

(f) Activities in the 8m of a non-tidal main river, 16 of a tidal main river or within 8m of any flood defence structure or culvert on a main river, or 16m on a tidal river:

- Are the works likely to:
 - cause damage to or affect the stability of the bank or culvert,
 - damage or alter or remove any river control works,
 - divert or obstruct flood water from the river or affect the drainage of the river, or
 - Interfere with the Environment Agency's access to or along the river.
- The tidal limit of the river should be taken as the normal tidal limit as shown on Ordnance Survey maps, as this is the only readily available dataset in the public domain.

(g) Activities in the flood plain outside of the 8m/16m margin and more than 8 metres from a flood defence structure or culvert

- Is the activity likely to divert or obstruct floodwaters, to damage any river control works or to affect drainage?
 - If yes, check whether it is 'allowed activity'
 - If not, it is a regulated flood risk activity.
- The flood plain is FZ3 but excluding areas benefitting from flood defences.
- If there is planning permission in place, there is no need for a permit or exemption. Permitted development does not count as planning permission.
- If the activity is closer than the 8m or 16m specified then it cannot be an 'allowed activity'. If the activity falls within paragraph (f) (h) or (i) then it is a flood risk activity and a permit or exemption may be required in addition to the planning permission.

(h) Activities on or within 16 metres of the base of a sea defence

- Is the activity likely to endanger the stability of the defence, cause damage to it or reduce its effectiveness? Alternatively, would it interfere with the Environment Agency's access to or along the sea defence?
- A sea defence includes hard defences such as a wall, embankment, and counter wall or cross wall, a barrier, or tidal sluice. This definition also includes natural and artificial defences that protect against sea and tidal flooding including high ground, which contributes to the overall effectiveness of the sea defences we operate. This definition does not include defences operated by third parties.
- The regulations do not refer to riding horses, driving vehicles etc. on the sea defence in the way the byelaws did. However, these activities are still subject to the regulations if they are likely to affect adversely the sea defence.
- This definition includes work on both the landward or seaward side of defences. Work on the seaward side may also be subject to a marine licence.
- If the applicant has applied for a marine licence, we should ask MMO to include our concerns in the conditions of a marine licence. Where that happens, we will not require a permit as well. Where the applicant has not applied for a marine licence, or it does not cover our concerns, we can insist the applicant applies for a permit. A permit may still be required if we have concerns regarding work to be undertaken above mean high water spring level as the MMO License will not control this work.

(i) Activities on or within 8 metres of the base of a remote defence

- Is the proposed activity likely to endanger the stability of the defence, damage it, or reduce its effectiveness? Alternatively, will the activity interfere with the Environment Agency's access to or along the defence?
- A remote defence is one that is set back from the bank of the main river. Its function must be the prevention or alleviation of flooding. Road causeways, garden walls or other structures that act as de facto defences are not included. Designation under Schedule 1 of Flood & Water Management Act 2010 regulates de-facto defences.

(j) and (k) quarrying or excavation within 16m of any main river, flood defence (including a remote defence or sea defence) or culvert

- Is the proposed quarrying or excavation be likely to cause damage or endanger the stability or the defence or banks of the river?

Annexe 2 - Running a national permitting report

When determining whether a Standard Rule application has been duly made you will have to carry out a National permitting Report to ensure that the works meet the environmental constraints of the permit.

To run the national permitting report:

Step	Action
1	Open the Easimap2: permitting version
2	Navigate to the site
3	On the 'I want to' list select the 'generate a national permitting report'
4	Select the location of the works by clicking the mouse over the location of the works
5	Select the relevant standard rule from the list
6	Add an appropriate buffer (optional)
7	Add a reference (EPR reference or site name)
8	Select 'start screening'
9	Wait for the tool to run
10	Download report

The report will include a map of all the constraints within the radius stipulated.

Annexe 3 - Application Categories

Activity	Application Category	Application Cost
SR2015 No.26: temporary dewatering affecting up to 20 metres of a main river	A	170
SR2015 No.27: constructing an outfall pipe of 300mm to 500mm diameter	A	170
SR2015 No.28: installing a clear span bridge on a main river	A	170
SR2015 No.29: temporary storage within the flood plain of a main river	A	170
SR2015 No.30: temporary diversion of a main river	A	170
SR2015 No.31: channel habitat structure made of natural materials	A	170
SR2015 No.32: installing a access culvert of no more than 5 metres length	A	170
SR2015 No.33: repairing and protecting up to 20 metres of the bank of a main river	A	170
SR2015 No.34: temporary scaffolding affecting up to 20 metres length of a main river	A	170
SR2015 No.35: excavating a wetland or pond in a main river floodplain	A	170
SR2015 No.36: installing and using site investigation boreholes and temporary trial pits within a main river floodplain for a period of up to 4 weeks	A	170
SR2015 No.38: removing a total of 100 metres of exposed gravel from bars and shoals	A	170
Default flood risk activity		170
Non-commercial activities undertaken for the purpose of environmental improvement	A	170
Works within the curtilage of a dwelling undertaken by or on behalf of the householder under permitted development rights	A	170
An activity not falling within the description of any other activity in this table and which would be an exempt flood risk activity but for the fact that it does not satisfy the conditions set out paragraphs 1(3)(a) or 1(3)(d) of Part 4 to Schedule 3 of the Regulations.	B	221
An activity not falling within the description of any other activity in this table and which would be a standard facility but for the fact that it would not comply with condition 2.2.3 in the relevant standard rules	B	221
Steps, ramps and other similar structures excavated into the existing bank profile	B	221
Activities carried out within 8m of the bank of a non-tidal main river (or within 8m of a culvert or flood defence structure on that river) or within 16m of the bank of a tidal main river (or within 16 metres of any flood defence structure or culvert on that river)	B	221
Installation of cattle gates across a watercourse	B	221
Minor refurbishment and alterations of existing structures	B	221
Excavation of site investigation boreholes and trial pits in the floodplain	B	221
Temporary storage in the floodplain	C	446
Temporary ground level raising	C	446

Creation of new or improved tracks or paths which require land profiling	C	446
The temporary dewatering of a work area	C	446
The construction and use of service crossings within an existing structure	C	446
Installation of outfalls within engineered banks	C	446
Installation of outfalls within natural banks	C	446
Maintenance of raised river or sea defences	C	446
Maintenance of reservoir banks	C	446
Culvert lining	C	446
Construction of jetties (other than jetties likely to endanger the stability of, cause damage to, reduce the effectiveness of or interfere with the Agency's access to or along a flood defence, river control works, sea defence, culvert or remote defence)	C	446
Bank protection works over a total distance of less than 100m	C	446
Installation of temporary floating structures (including pontoons and rafts)	C	446
Construction of service crossings	C	446
Installation of temporary scaffolding	C	446
Construction of footbridge(s)	C	446
Construction of steps, ramps or similar structures on natural banks other than flood defences	C	446
Construction of steps, ramps or similar structures on engineered banks other than flood defences	C	446
Construction of soft engineered bank protection works	C	446
Undertaking bank re-profiling work	C	446
Excavations (other than site investigation boreholes and trial pits) in the floodplain	C	446
Construction of moorings	C	446
Installation of in-channel structures not falling within the description of any other activity and affecting less than 25% of the channel width	C	446
Construction of steps, ramps or similar structures on flood defences	C	446
Installation of a temporary culvert	C	446
Like-for-like replacement of soft engineered bank protection works	C	446
Removal of silt, sand, gravel or other material from the bed of a main river (but excluding the subsequent use, treatment, and recovery or disposal of the dredgings)	D	968
Movement of gravel within a main river channel	D	968
Construction of a temporary bypass channel	D	968
Construction of new bed reinforcements or the replacement or removal of existing bed reinforcements	D	968
Construction of new hard engineered bank protection works	D	968
Like-for-like replacement of hard engineered bank protection works	D	968
Installation of in-channel structures not falling within the description of any other activity and affecting over 25% of the channel width	D	968
Gravel installation	D	968

Construction of bridges for vehicle access	D	968
Alteration or replacement of culverts	D	968
Installation of a permanent bypass channel with a total length of less than 30m	D	968
Installation of a new, permanent culvert with a length of less than 5m	D	968
Alteration of in-channel impounding or flow regulation structures	D	968
Construction of flood defences with a total length less than 100m	D	968
Permanent ground level raising	D	968
Construction of bridges over or on a flood defence	D	968
Works to remove in-channel structures	D	968
Construction of foreshore pipelines and manholes (only if impacting flood defences)	D	968
Construction of a permanent culvert with a length of 5m or more	E	1441
Construction of a bypass channel with a total length of 30m or more	E	1441
Works to widen, deepen or straighten a channel	E	1441
Construction of flood defences with a total length of 100m or more	E	1441
Construction of permanent in-channel impounding or flow regulation structures	E	1441
Construction of reservoir spillways or compensation flow channels	E	1441