

3. Environmental Permitting Regulatory approach

We want to have a common framework and consistent approach to define all the charge-funded activities that we need to deliver via the Environmental Permitting (England and Wales) Regulations 2016 (EPR).

These activities currently are:

- flood risk activities
- groundwater activities
- installations
- mining waste operations
- radioactive substances activities
- waste operations
- water discharge activities
- medium combustion plant (expected to be included in EPR before 1st April 2018).

Our regulatory functions are strongly influenced by the specific risks posed by each regulated activity. These risks are usually a combination of:

- the nature of the activity
- the scale of the activity and the materials involved
- the location of the activity including the sensitivity of the receiving environment, and
- the way in which the activity is undertaken

3.1. Common Regulatory framework

We have taken a consistent approach to determine our proposed charges in that we have split permitted activities into categories that reflect the regulatory effort needed for the group of customers carrying on that activity. We have:

- assessed our desired level of activity in each regime including on-site and off-site regulatory work
- considered the value of the desired activity in delivering our regulatory duties, our role and in optimising outcomes
- explored any simplification opportunities available that could make our desired activity even more cost-beneficial
- determined which of the desired activities formed our baseline activity, as they were predictable and consistent, and which were supplementary, as activities that were not always required or were difficult to quantify
- worked out the costs of that desired level of activity
- developed charges for new services

By introducing this new charging proposal. We will:

- significantly simplify the way customers work out their charges - our current system is very complicated and done in a different way for different regimes; the new one will be the same basis for everyone

- make sure people pay for the regulatory service they receive - this is not always the case at the moment, and this is what will cause the most change in costs for our charge payers
- offer optional enhanced services that customers may want to use
- reduce reliance on taxpayer funds currently needed to support our regulatory work

3.1.1. Applications

When we receive an application we undertake a number of administrative checks to ensure that the application is complete. We:

- check that all sections of the application form is complete
- check that all required risk assessments and hazard management plans have been included
- compile additional information to assist in the subsequent technical determination - this includes location screening, Companies House checks, and previous convictions checks

We then start the technical assessment of the application, checking that the technical information submitted is sufficiently complete to allow the technical determination of the application to commence.

Throughout this process any errors or shortcomings are notified to the applicant and an opportunity is provided for them to be remedied.

We will assess the application for the inclusion of appropriate technical controls and standards. We will consult internal experts and, where appropriate, consult external partners.

Risk assessments and risk management plans for hazards such as noise, odour or fire risk will also be assessed. For some activities, an assessment of operator competence is also carried out to verify that they are likely to conduct the operation in accordance with the requirements of the permit.

Where additional information is required we will issue notices to obtain this.

Once we are satisfied that appropriate technical standards have been incorporated into a draft permit, and the applicant has provided sufficient evidence to give us confidence that they will operate the site in accordance with the permit and without causing pollution or harm, the draft will be shared with the applicant. Where appropriate we will carry out public consultation.

When this work is completed, the application is determined and the permit issued (or if necessary, refused). All necessary records are made, including updating the external public register.

3.1.2. Compliance

When a permit is in place we will undertake a number of different activities to check on the compliance with the conditions of that permit. In common with our permitting service approach, we consider both the activity within our teams which face the operators and deliver the most visible aspects of our regulation, but also the other teams which are contributors within the Environment Agency and the Defra family.

Our regulatory effort includes:

Inspection activities

Inspection is one of the most visible and tangible regulatory interventions. This includes the preparatory time spent by our officers (familiarising themselves with the permit conditions, the recent compliance history, compiling materials to pass onto and discuss with the operator).

The time on site may include undertaking visual observation, review of site operations and environmental systems, maintenance activities, training and competence of staff, measurement, sampling, discussion with and advising the operator.

There is post-inspection work too: recording the findings from the visit; recording any specific compliance issues raised; carrying out follow-up communication on any issues raised on-site with or by the operator; and placing of the necessary records on the public register.

Audit activities

More in-depth scrutiny of all or part of the activities on site is pivotal. The subject of the audits may be driven by site specific issues (complaints or other compliance history) or by learning from other similar sites giving rise to preventative programmes of work. Audits can require a team of officers so that different parts of processes can be scrutinised simultaneously. As with inspections there will be preparatory, on-site and post-audit activity.

Incident prevention, readiness and compliance response

Anticipating, advising on prevention, and providing an out-of-hours standby arrangement to respond to incidents, should they occur, is an important part of our role. This will often not be on site, and may be regime specific, a sectoral initiative or operator specific. If incidents occur our officers could be alerted by the operator, the emergency services or the public. Our response would depend on the significance and severity of the incident. In calculating baseline charges we have assumed that no serious incidents occur at the sites and that our regulatory effort for non-serious incidents would be suitably low-key.

Monitoring and data analysis

Most permits require monitoring by operators and the submission of data to us. That data is analysed in desk-based activity by our staff, with follow up contact with operators as required. We undertake a programme of environmental monitoring, so that the operator's results (which are usually restricted to the immediate vicinity of the activity) can be set in the context of the wider environment and so the continuing acceptability of the permitted operation in that locality can be confirmed.

Permit maintenance

We have regulatory obligations to ensure that information concerning permits is placed on public registers. We need to keep records up to date, which includes dealing with notifications from operators that they have changed their company name or changed address for example. We also need to ensure that invoices are raised to provide operators with charging information and that bills are paid (or reminders sent and debts pursued). We also have to maintain records of inspections/audits, incidents, site communications and ensure these are recorded on our systems, and where appropriate placed on the public register.

Sector wide liaison

We aim to provide a nationally consistent service, so that operators of similar sites in different parts of the country have a level playing field in their market. Our national sector based approach, with groups of officers (Sector Groups), planning and delivering interventions across the sectors, informed by national engagement with respective Trade Associations, is our preferred means of delivering such consistency since we implemented this way of working in 2013.

Standard setting

One aspect of permit review that may require changes to permits is when expected standards of operation change. This may be driven by shifts in the local environment (for example. change in river flow trends due to climate change) or improved technology or scientific understanding (for example. when EU Commission 'Best Available Techniques Reference Documents' are revised for different regulated activities) that means it is economically feasible or otherwise imperative to reduce impacts of existing activities. Our officers advise operators of forthcoming changes to standards, so that they can make appropriate preparations.

Local Engagement

There is often a degree of local interest in the activities at the sites we regulate. Even at compliant sites, operating as we would expect, there is benefit to the operator in maintaining local liaison groups, which we are invited to attend. Where this is the norm within a permit category we have included this cost within our proposed charges.

On-demand services

Finally, we will also have considered the use and costs of our 'on-demand' services, such as our customer service centre, that can be telephoned at any time by operators or the public with queries

about the sites we regulate, or when operators require assistance in locating guidance or standards.