



The Environment Agency and the Health and Safety Executive

November 2012

Working together on Environmental Permitting (England and Wales) Regulations 2010

What do we want to achieve by working together on permitting decisions?

- Protection of the environment, employees and the general public in relation to activities prescribed under the Environmental Permitting (England and Wales) Regulations 2010.
- Sharing of information on permitted activities where it relates to environmental outcomes and health and safety on site.
- A risk based approach to permitting and to requests for further information.
- Better public awareness of the good working relationship between the Environment Agency and the Health and Safety Executive.

Areas that need to be managed

- Measures described within permits under the Regulations must not conflict with requirements to ensure health and safety.
- Health and safety compliance must not be used as a reason for not achieving environmental compliance.

Roles and Responsibilities of each participating organisation:

- The Environment Agency is one of the regulators under the Environmental Permitting Regulations in England and Wales and has responsibility for issuing permits for certain industrial, farming, waste management, surface water and groundwater discharge activities, radioactive substances and mining waste activities.
- Under the Regulations, the Environment Agency has responsibility for regulatory measures contributing to the implementation of European Directives, listed in Annex 1.
- Although the Health & Safety Executive is not involved in 'permitting' decisions for activities regulated under Environmental Permitting Regulations, they work together with the Environment Agency to regulate onshore unconventional oil and gas developments.
- Under the Health and Safety at Work Act, the Health and Safety Executive has the primary expertise on health and safety issues. They are responsible for the inspection and regulation of duty holders to ensure the health and safety of the workforce and others affected by work activities, such as those under the Environmental Permitting Regulations.
- Under the Nuclear Installations Act, the Health and Safety Executive, through the Office of Nuclear Regulation, is responsible for licensing, inspection and regulation of duty holders at nuclear installations to ensure protection of people and society from the hazards of the nuclear industry.
- Under the Environmental Permitting Regulations, storage of radioactive waste is excluded from the Environment Agency's responsibilities under the specified radioactive substances activities on nuclear licensed sites. Joint guidance sets out how HSE and the Environment Agency will work together on the regulation of higher activity wastes on nuclear licensed sites.

- Under the Control of Major Accident Hazard Regulations 1999 (COMAH), the Environment Agency and Health and Safety Executive are the competent authority in England and Wales for the implementation of European Council Directive 96/82/EC on the control of major accidents involving dangerous substances. Both parties work, together with the Scottish Environmental Protection Agency, through a Competent Authority Strategic Management Group to provide strategic leadership and operational co-ordination for COMAH activities.

How we will work together:

Generally we will:

- Work to the principles described in the Memorandum of Understanding between the Environment Agency and the Health and Safety Executive.
- Share information where appropriate.

The Environment Agency will:

- Consult with the Health and Safety Executive when developing the risk criteria and standard rules to be met for standard permits.
- For installations, consult with the Health and Safety Executive on applications for new bespoke permits and variations involving substantial change¹.
- For radioactive substances activities on nuclear licensed sites, consult with the Health and Safety Executive on applications for new bespoke permits and variations that could possibly affect nuclear safety.
- On a six monthly basis, provide the Health and Safety Executive with a list of sites that have been issued with a standard permit, until such time as these are routinely published on the Environment Agency website.
- Take account of comments that are received within the agreed timescale.
- Alert the Health and Safety Executive where further information is submitted in connection with an application, if we consider that information may be of interest to them.

The Health and Safety Executive will:

- Respond in writing within 20 working days outlining its concerns about permit applications or indicating it sees no reason on health and safety grounds to advise against, except for licensed nuclear sites where assessment of safety concerns may take longer than 20 working days.
- Continue to consult with the Environment Agency on the conditioning of higher activity wastes specified under the Environmental Permitting Regulations.

Signed November 2012

David Jordan
Director of Operations

Gordon MacDonald
Director Hazardous Installations
Directorate

Mike Weightman
HM Chief Inspector of Nuclear
Installations Inspectorate
Office for Nuclear Regulation
Health and Safety Executive

Environment Agency

Health and Safety Executive

¹ As defined in the Regulations at Schedule 5, Part 1, para 5(5). This refers specifically to substantial change at installations.

Annex 1

Directives which are implemented² through the EP Regulations 2010

Asbestos Directive (2003/18/EC)
Bathing Waters Directive (2006/7/EC)
The Basic Safety Standards Directive (96/29/Euratom)
Birds Directive (79/409/EEC)
Large Combustion Plants Directive (2001/80/EC)
Dangerous Substances Directive (2006/11/EC)
Freshwater Fish Directive (2006/44/EC)
Groundwater Directives (80/68/EEC & 2006/118/EC)
Habitats Directive (92/43/EC)
High-Activity Sealed Radioactive Sources and Orphan Sources Directive (2003/122/Euratom)
IPPC Directive (96/61/EC)
Landfill of Waste (1999/31/EC)
Management of Waste from the Extractive Industries (2006/21/EC) - the 'Mining Waste Directive'
Shellfish Waters Directive (79/923/EEC)
Titanium Dioxide Directive (92/112/EEC)
Urban Waste Water Treatment Directive (91/271/EEC)
Waste Framework Directive (1975/442/EC & 2000/60/EC)
Waste Incineration Directive (2000/76/EC)

² See regulatory guidance RGN 4 *Setting environmental standards* for an explanation of how these and other Directives are implemented through the Regulations