



Department
for Environment
Food & Rural Affairs



Llywodraeth Cymru
Welsh Government

Consultation on integrating flood defence consents into the Environmental Permitting regime in England and Wales

Annex 2; Proposed exclusions

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Emergencies and licensable marine activities

XC1 - Any activity carried on in an emergency situation.

Proposed conditions;

- (a) the activity is not a pre-planned emergency activity; and
- (b) the person carrying on the activity provides the regulator with notice in writing as soon as practicable of the carrying on of the activity and circumstances in which it was carried on.

A “pre-planned emergency activity” is an activity which has been planned in response to an emergency before it occurs.

The EA/NRW will review such works once they have received notification. If they consider that the structure or modifications present a flood or environmental risk, then they will have the power to serve a remediation notice, requiring that it is removed or modified. If necessary the notice can specify that any detrimental harm to the environment, or detrimental impact on drainage is remedied. There will be a power of appeal against such a remediation notice.

XC2 - A marine activity covered by a marine licence.

Proposed conditions;

- (a) An application for a marine licence has been made in respect of that activity;
- (b) the regulator has received notice of that application having been made;
- (c) , in view of the terms and conditions that will be included in the marine licence the regulator considers that an environmental permit is not necessary; and
- (d) A notice to that effect has been issued by the regulator to the applicant.

“Licensable marine activity” and “marine licence” have the same meaning as in Part 4 of the Marine and Coastal Access Act 2009.

Maintenance work

XC3 - The erection and use of ladders and scaffold towers (“equipment”).

Proposed conditions;

- (a) the suitability of river conditions are reviewed by the operator each working day;
- (b) the equipment is erected on each working day that it is required; and
- (c) the equipment is removed at the end of each working day and is stored outside the river or its banks.

XC4 - The removal of rubbish and debris from structures.

Proposed conditions;

- (a) The removal of rubbish and debris does not involve dredging of the main river.

Bridges and service crossings

XC5 - The construction and use of service crossings within an existing structure.

Proposed conditions;

- (a) the crossing is entirely within the original profile of the existing structure;
- (b) a notification has not been sent by the regulator to the landowner that the structure has been identified for removal or modification in the relevant River Basin Management Plan;
- (c) equipment associated with the works is not stored on the bed or banks of the main river; and
- (d) no works are carried out from the main river or from the banks of the main river.

XC6 - The carrying out of minor works on or affecting bridges and culverts for highways and public rights of way ("minor works").

Proposed conditions;

- (a) the minor works do not affect the bed, banks, water level or flow in the main river;
- (b) equipment associated with the minor works is not stored on the bed or banks of the main river; and
- (c) no works are carried out from the main river or from the banks of the main river.

Floodplain works

XC7 - The attachment of a flood protection device direct to an existing, residential building in order to protect the interior of that building.

Proposed condition;

- (a) the flood protection provided by the device does not include any part of a garden.

XC8 - Erection of notice boards.

Proposed conditions;

- (a) the board is attached to existing fencing or freestanding, permanent posts;
- (b) the board is no more than 2 metres wide;
- (c) the board is more than 2 metres from any culvert, remote defence, flood defence structure or sea defence on the main river; and
- (d) the board is more than 2 metres from the landward side of the bank.

XC9 - The erection of agricultural fencing.

Proposed conditions;

- (a) the fencing is not located on the bed or banks of the main river and does not exceed 1.3 metres in height; and
- (b) the fencing is constructed of—

- (i) post and rail,
- (ii) post and wire mesh with greater than 100 millimetres spacing, or
- (iii) post and wire strands.

XC10 - Site investigation boreholes and trial pits within a flood plain.

Proposed conditions;

- (a) the works are more than 5 metres from any culvert, remote defence, flood defence structure or sea defence on the main river;
- (b) the works are more than 8 metres from the bank of a non-tidal main river;
- (c) the works are more than 16 metres from the bank of a tidal main river; and
- (d) the works are completed, including refilling of the borehole or pit, within a total of 48 hours.

In channel activities

XC11 - The installation of rafts for wildlife surveys.

Proposed conditions;

- (a) the raft has dimensions no greater than 1.5 metres x 1 metre x 0.75 metres;
- (b) the raft is permanently and securely attached to the bank;
- (c) the raft is installed no less than 100 metres from any other raft;
- (d) when the raft is installed, there are no more than four other rafts within a distance of one kilometre;
- (e) the raft is installed for no more than 12 months and removed immediately if, within that period, it is no longer required; and
- (f) the raft is not installed within 100 metres of any non-agricultural building in the floodplain or another man-made structure on or in the main river.

XC12 - The temporary use of fish traps.

Proposed conditions;

- (a) the trap has dimensions no greater than 2 metres x 1 metre x 0.75 metres;
- (b) any trap, or combination of traps, placed in the main river is less than one third of the width of the channel;
- (c) the trap is not used when the main river is in a condition of high flow; and
- (d) the trap is located more than 50 metres up and downstream from any dam or other obstruction.

XC13 - Clearance of purpose-built sediment traps.

Proposed conditions;

- (a) only sand and silt is cleared from the trap; and

(b) where the sand and silt from the clearance is spread on the floodplain, it is spread to a depth of no more than 100mm and no closer than 8 metres from the landward side of the bank.