

## Technical Annex: Permit Review

Defra has proposed that water abstraction and impounding activities shall adopt the EPR approach of having permits that will be subject to periodic review. There will no longer be a system based on granting time-limited licences with the associated licence renewal process. There will be a transitional process in place to manage existing time limited licences.

### Statutory requirement to review

The Environmental Permitting (England & Wales) Regulations 2016 (EPR) require all environmental permits to be periodically reviewed and inspected: Regulation 34 of EPR 2016 states:

Review of environmental permits and inspection of regulated facilities

- (1) The regulator must periodically review environmental permits.
- (2) The regulator must make appropriate periodic inspections of regulated facilities.

Having reviewable permits is an effective way of managing water resources. A permit review is undertaken to assess the permit in its current form and whether any changes need to be made to it (these changes could be either administrative or technical).

The process of permit review provides the mechanism to review permits in the light of any changed circumstances since they were issued. The scope and scale of the review can be flexible based on need.

### What permits are included in the programme of review?

Defra has proposed that all existing abstraction and impounding licences will become environmental permits on the transition to EPR and all permits will be subject to periodic reviews. All abstraction and impounding licences are currently reviewable under the WRA 1991 irrespective of whether they have a time limit or not. If a licence is reviewed and varied, and this causes the licence holder to incur loss or damage, they are potentially able to claim compensation from the Environment Agency. Defra does not propose to change any existing rights of licence holders when they become permits. As such, when the Environment Agency conducts a review and considers the need to vary or revoke a transitional permit, there could be compensation payable if loss or damage can be demonstrated so long as the following exceptions do not apply:

- the permit is causing serious damage;
- the permit is held by a water company;
- the authorised abstraction has not been used for a period of 4 years; or
- an applicable minimum value condition has been included on the permit.

## Purpose of the review

Permits will be reviewed to ensure that they remain up to date and fit for purpose, reflecting current standards. Reviews will either be part of a rolling programme or may be targeted at specific sites or groups of sites.

The review process will ensure that abstractions continue to be environmentally sustainable, that water can be properly allocated, abstractors use water efficiently, and water resources can be managed better in response to a changing environment and climate.

The Environment Agency may request information from the permit operator to help inform the review process and any changes that may be necessary to their permit. The review will determine what (if any) changes are required and those will be incorporated into the permit through a permit variation. In some situations it may be necessary for the Environment Agency to revoke the permit. This could be for reasons related to a proven unacceptable environmental impact or serious examples of non-compliance with permit conditions.

Permit operators will be notified that a review will take place and be informed of the purpose of the review. Permits will not contain the 'review date', instead the Environment Agency will provide information and guidance to permit operators via other mechanisms such as the Abstraction Licensing Strategies (ALS), digital service and Managing Water Abstraction.

## Types of review

All permits will be periodically reviewed. The frequency of the periodic reviews will be dictated by a regime specific permit review programme. These reviews are referred to as programmed reviews.

There could also be site specific reasons for a permit to be reviewed, for example compliance issues. Reviews of specific sites outside of the relevant permit review programme, are referred to as Individual site reviews.

## Programmed periodic reviews

Programmed reviews will be periodic planned reviews that are primarily based on catchment sustainability and an assessment as to whether abstraction is sustainable. Each catchment review will encompass all permits with a water abstraction activity and/or water impounding activity regardless of whether it has a time limit or is a transitional permanent permit with compensation provisions. Permits containing only groundwater investigation abstraction activities or temporary abstraction activities will be excluded from the review.

The Environment Agency already has a well-established process for abstraction licence review based on ALS dates. The current process is, in effect, a periodic catchment review process except licences have an end date. In the future, permits will be subject to review and the dates of the reviews will be published in the ALS and in Managing Water Abstraction. It is proposed that the programmed reviews will be very similar in nature to the existing process for licences. Water availability in catchments will be reviewed every six years and the Environment Agency will engage with abstractors in advance of any permit reviews. The Environment Agency is proposing that it will aim to give abstractors six years

advance warning of any permit changes following a catchment review so that businesses can adapt to the new conditions or reductions in volume. As an example, if a catchment was reviewed in 2031 the permit changes would take effect in 2037. Permit reviews will also consider who is using the water, whether there is a need for that water and whether the water is being used efficiently.

At the time of the review, the Environment Agency would expect to vary any unsustainable permits or, for transitional permits with a time limit, renew on different terms. An unsustainable permit would be characterised as one that:

- is related more to site-specific unsustainable abstraction, and was not in the Restoring Sustainable Abstraction (RSA) programme (RSA programme closed to new licences since 2011);
- is adversely affecting or could affect the conservation status of a European site (Habitats Regulations site) or a SSSI;
- contributes to a failure to achieve the flow objective, Good Ecological Status, Good Ecological Potential or Good Quantitative Status for groundwater for the related water bodies;
- is causing deterioration against the current river basin management plan baseline;
- risks causing deterioration because of some degree of increased use of the licences above recent actual rates; or
- could compromise the achievement of Biodiversity 2020 objectives (including the salmon five-point action programme).

## Individual reviews

It may be necessary in some cases for the Environment Agency to review and potentially vary a permit outside of the periodic review programme. These reviews are called Individual reviews and are for specific reasons. These reviews provide the flexibility within the review programme to respond to events without needing to wait until the next programmed periodic review to make the necessary changes. In all cases the review will aim to reappraise the risk that the activity poses to the environment.

Examples of situations that could require an individual permit review include:

- the risk of, or an actual, environmental incident;
- a significant change in the way the site is operated;
- the appropriateness of the permit conditions.

Water efficiency and justification may also be considered under individual reviews if there is a case of significant under use or inefficient use.