

Annex A

Core Guidance

We are consulting on draft Core Guidance for the draft EP Regulations of [2010] which propose to incorporate radioactive substances, water discharge activities and groundwater activities into the Environmental Permitting system (but see paragraph below on groundwater activities). The Local Authorities' General Guidance Manual will be updated as necessary to take account of any amendments to the Core Guidance.

In the Core Guidance for consultation, additions relating to the draft EP Regulations 2010 are highlighted in yellow (i.e. **inserted text**); deletions are marked with strikethrough and highlighted in yellow (i.e. ~~deleted text~~). These are not listed in the table of revisions, but the table will list all revisions in the post-consultation version of the Core Guidance.

This consultation version of the Core Guidance also includes the changes that are required due to the inclusion of Batteries in the EP Regime, and those changes that we anticipate will be required in the event that Mining Waste is included in the EP Regime⁴. These changes are listed in the table of revisions of the Core Guidance, but are not flagged in the text as they are minor changes on which we do not propose to consult.

- Q1 Does the guidance adequately explain the relevant requirements of the Regulations – and if not, how should it be amended?
- Q2 Do you think that the format and structure of the guidance are helpful in explaining the requirements of the Regulations – and if not, why not?

Radioactive Substances Guidance and Water Discharge Activities Guidance

The Radioactive Substances and Water Discharge Activities guidance available as part of this consultation is based on the policy proposed in the consultation draft of the Regulations⁵. Any changes in policy resulting from the responses to that consultation will be reflected in the post-consultation guidance.

- Q3 Does the Radioactive Substances guidance adequately explain the relevant requirements of the Regulations – and if not, how should it be amended?
- Q4 Do you think that the format and structure of the Radioactive Substances guidance are helpful in explaining the requirements of the Regulations – and if not, why not?
- Q5 Does the Water Discharge Activities guidance adequately explain the relevant requirements of the Regulations – and if not, how should it be amended?

⁴ The regulations transposing the Mining Waste Directive are subject to affirmative resolution procedure in both Houses of Parliament before coming into force in England and Wales.

⁵ <http://www.defra.gov.uk/corporate/consult/env-permitting/index.htm>

- Q6 Do you think that the format and structure of the Water Discharge Activities guidance are helpful in explaining the requirements of the Regulations – and if not, why not?

Groundwater activities

In order to implement the new Groundwater Directive (2006/118/EC) in a timely manner, interim Groundwater Regulations are being made. We propose to incorporate the content of these Regulations as Schedule 22 in the Environmental Permitting (England and Wales) Regulations 2010. A separate consultation will run on Government guidance for the interim Groundwater Regulations. The final version of the Groundwater Guidance will then be amended as necessary to Environmental Permitting guidance style. The substance of the Groundwater Regulations and guidance will not change. We do not propose to consult further on the Environmental Permitting Groundwater Guidance and will make it available well in advance of the coming into force date of the EP Regulations (proposed April 2010).

Mining Waste Directive Guidance

The Government is extending the Environmental Permitting system to implement Directive 2006/21/EC of the European Parliament and of the Council on the management of waste from the extractive industries (“the Mining Waste Directive”).

We are not seeking further comment on the Regulations that implement the Mining Waste Directive, as the Government has previously consulted on policy and Regulations for these⁶. This guidance relates to the Regulations resulting from this consultation, which have been laid⁷.

The Mining Waste guidance reflects current Government policy at the time of publication of the consultation. Readers should note that paragraph 4.5 is in square brackets as Government officials are currently working on agreeing the provisions of Article 6, on external emergency plans for Category A facilities.

- Q7 Does the Mining Waste Directive Guidance adequately explain the relevant requirements of the Regulations – and if not, how should it be amended?
- Q8 Do you think that the format and structure of the Mining Waste Directive Guidance are helpful in explaining the requirements of the Regulations – and if not, why not?

Batteries Directive Guidance

The Government is extending the Environmental Permitting single system to implement the European Community Directive 2006/66/EC on batteries and accumulators and waste batteries and accumulators (“the Batteries Directive”). New permits will include the treatment requirements of the Batteries Directive and the Batteries regulations amend existing permits for the same purpose.

⁶ <http://www.communities.gov.uk/archived/publications/planningandbuilding/wastemanagement>

⁷ Prior to these Regulations coming into force in England and Wales, they are subject to affirmative resolution procedure in both Houses of Parliament.

The guidance on which we are asking your views refers to the permitting parts of the Waste Batteries and Accumulators Regulations 2009⁸.

There is separate Government guidance on the producer responsibility aspects of the Batteries Directive, which will be published on the BERR website⁹.

Q9 Does the Batteries Directive Guidance adequately explain the relevant requirements of the Regulations – and if not, how should it be amended?

Q10 Do you think that the format and structure of the Batteries Directive Guidance are helpful in explaining the requirements of the Regulations – and if not, why not?

⁸ SI 2009 No 890

⁹ <http://www.berr.gov.uk/whatwedo/sectors/sustainability/batteries/page30610.html>

Annex B

The form and content of the guidance on the European Directives

This consultation is on draft guidance for the Environmental Permitting Regulations. Figures 1 and 2 show the types of guidance and their relation to each other and explain how these sit with other elements of the new permitting system.

Figure 1: framework of guidance to support the EPP.

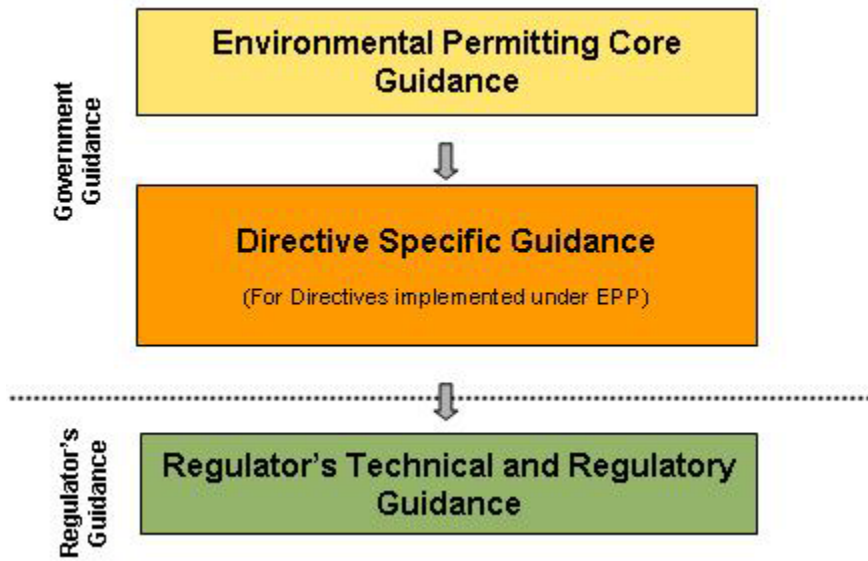
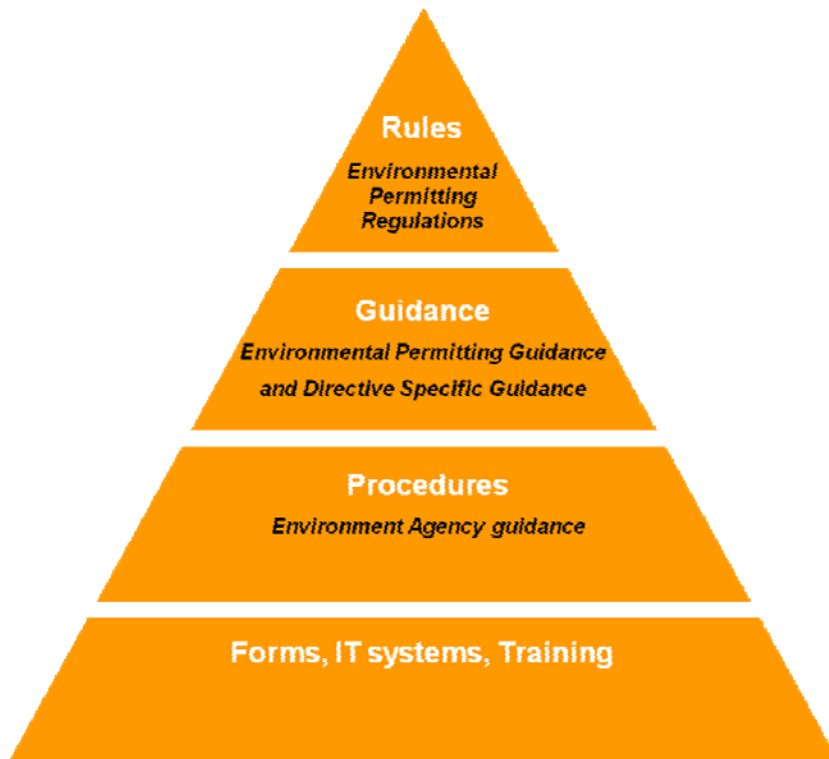


Figure 2: how it all fits together



The Core Guidance

The Core guidance provides comprehensive help for those operating, regulating or simply interested in facilities covered by the Environmental Permitting Regulations.

The structure of guidance on EU Directives etc.

The broad structure of each Directive guidance document follows a common format:

- an introductory chapter;
- a second chapter on the scope of application of the relevant Directive (e.g. what is a Part A(1) installation; what is a landfill; what is a waste battery);
- a third chapter on permitting requirements of environmental permits (e.g. what are the Directive requirements that the permit must deliver for removal of fluids etc); and
- where applicable, a fourth chapter on other requirements which would explain any additional requirements relating to e.g. application forms or permit reviews.

Each guidance document also contains a full copy of the relevant Directive and the relevant Schedule from the Environmental Permitting Regulations.

We intend to update the environmental permitting guidance to introduce a short summary chapter, to meet the requirements of the Anderson review of Government guidance on regulation¹⁰.

Other EPP Government guidance is available from our website¹¹

Environment Agency guidance

The Environment Agency is revising its documents, including guidance, to support this second phase of the Environmental Permitting Programme.

¹⁰ <http://www.berr.gov.uk/whatwedo/bre/reviewing-regulation/The%20Anderson%20Review/page45278.html>

¹¹ www.defra.gov.uk/environment/epp/guidance.htm

Annex C

Consultation criteria

This consultation aims to follow the criteria set out by Cabinet office for public consultations¹²:

Consultation criteria

1. Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Ensuring your confidentiality

In line with Defra's policy of openness, at the end of the consultation period copies of the responses we receive may be made publicly available through the Defra Information Resource Centre, Lower Ground Floor, Ergon House, Horseferry Road, London SW1P 2AL.

The information they contain may also be published in a summary of responses. If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request. You should also be aware that there may be circumstances in which Defra will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations.

The Information Resource Centre will supply copies of consultation responses to personal callers or in response to telephone or e-mail requests (tel: 020 7238

¹² www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html

6575, e-mail: defra.library@defra.gsi.gov.uk). Wherever possible, personal callers should give the library at least 24 hours notice of their requirements. An administrative charge will be made to cover photocopying and postage costs.

Responses provided to WAG will be published. Normally, the name and address (or part of the address) of its author are published along with the response, as this gives credibility to the consultation exercise. If you do not wish to be identified as the author of your response, please state this expressly in writing to us, and your response will be published anonymously.

Consultee list

A full list of consultees is available from the EPP consultation website¹³.

¹³ <http://www.defra.gov.uk/corporate/consult/env-permitting-guidance>