

# Questionnaire

## Changes in the regulatory framework for abstraction and impoundment licensing - move to Environmental Permitting Regulations

At present, the abstraction and impoundment of water is authorised through the granting of licences. The regulation of abstraction and impoundment of water is intended to move from the Water Resources Act 1991, and subsequent Water Acts, into the Environmental Permitting Regulations 2016. Within the Environmental Permitting Regulations, the main authorisation for activities are called permits, therefore, after the move has taken place, the Environment Agency will grant permits and not licences.

At the Environment Agency we would like to know what you think about some of our ideas on how abstraction and impoundment licensing will move into the Environmental Permitting Regulations.

We are launching this questionnaire now whilst we are still developing our approach to find out your opinions on those areas that are open for discussion. This means there is an opportunity for you to shape our approach; we have to ensure that any ideas we take forwards are legally sound. DEFRA will carry out a formal consultation before any final decisions are made. The consultation is planned to take place in early 2020. This questionnaire is not formal consultation.

Your responses to this questionnaire will be used to gauge support for our current ideas and highlight where we may need to develop further solutions.

We are not planning on producing a summary of the responses to this questionnaire.

## Question 1 - Sector

Please select the group which best represents your interests (select one option only).

<b>Spray Irrigation</b>	<input type="checkbox"/>
<b>Agriculture (excluding spray irrigation)</b>	<input type="checkbox"/>
<b>Hydropower</b>	<input checked="" type="checkbox"/>
<b>Public Water Supply</b>	<input type="checkbox"/>
<b>Private Water Supply</b>	<input type="checkbox"/>
<b>Power Generation (other than hydropower)</b>	<input type="checkbox"/>
<b>Land Drainage</b>	<input type="checkbox"/>
<b>Industry</b>	<input type="checkbox"/>
<b>Canal and Rivers Trust</b>	<input type="checkbox"/>
<b>Other</b> Click here to enter text.	<input type="checkbox"/>

## Question 2 - Multiple Sources of Supply on a single permit

Currently abstraction licences can only be issued for abstractions from a single source of supply. If there are abstractions from multiple sources of supply, such as surface water and groundwater abstractions at the same site, they currently have to be regulated by separate licences with one licence per source of supply.

One of the core principles of the Environmental Permitting Regulations is 'site based regulation' where all activities on a site can be regulated by the same permit.

This may mean that when water resources permissions move into the Environmental Permitting Regulations we could allow abstractions from multiple sources of supply at the same site to be regulated by a single permit.

We would decide on a case by case basis where abstraction from multiple sources of supply could be included on a single permit, where there is a clear benefit to do so.

### **2.1 Do you agree with our approach to consider allowing multiple sources of supply at the same site on a single permit? No**

### **2.2 If not why not?**

The British Hydropower Association [BHA] would support this if it results in:

Lower overall application fees,  
Quicker determination times,  
Reduced paperwork

But it is essential that there is clarity and agreement on what constitutes a 'site'.

## Question 3 - Multiple activities (i.e. abstraction and or impounding) on a single permit

We are considering allowing multiple types of activities to be included on a single permit if carried out at the same site. For example it may make sense at some sites to include abstraction and impounding activities on the same permit. This may work for some hydropower schemes for example.

It may also make sense to include abstraction and impounding activities on permits with other Environmental Permitting Regulation activities, such as water quality discharge activities or waste operations. For example we may considering issuing a single permit for a ground source heating and cooling scheme which includes both an abstraction and groundwater discharge activity.

We would decide on a case by case basis where abstraction and impoundments and other Environmental Permitting Regulation activities could be included on a single permit, where there is a clear benefit to do so.

### 3.1 What are your views on our approach to consider allowing abstraction and impounding activities to be included on a single permit?

The BHA would support this if it results in:

Lower overall application fee,  
Quicker determination times,  
Reduced paperwork.

The BHA will NOT support this if it leads the Environment Agency to request additional activities, if these would not have been requested at present.

### 3.2 What are your views on our approach to consider allowing abstraction and impounding activities to be included on a permit with other non-water resources (abstraction and impounding) activities?

The BHA would support this if it results in:

Lower overall application fee,  
Quicker determination,  
Reduced paperwork.

## Question 4 - Reviewable permits

We will not make changes to existing permanent or time limited licences on the transition into the Environmental Permitting Regulations.

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We are proposing that new abstraction and impounding permits will not receive a time limit. In line with other Environmental Permitting Regulation regimes all abstraction and impounding permits will be reviewable. We are still working on the detail of how the permit review process may work.

Permit reviews are completed on a risk basis and are triggered by different criteria for different regimes. For some regimes permits are reviewed periodically with a maximum time period between reviews. For other regimes permit reviews are triggered by a change in legislation or environmental standard. <https://www.gov.uk/guidance/how-youll-be-regulated-environmental-permits#permit-reviews>

#### **4.1 Do you have any concerns about abstraction and impounding permits being reviewable and not having time limits? Yes**

#### **4.2 If yes then please provide further detail.**

The BHA has very grave concerns about permit reviews. Hydropower installations are long-term investments whose viabilities are predicated on the inability of the Environment Agency [EA] to unilaterally make significant alterations to licence terms, even at renewal after every 12 years.

To alter this principle would make it harder to attract investment and drastically reduce the value of these renewable energy enterprises, which have been undertaken in good faith and on the basis of the current regulatory regime.

What would be the difference between ‘renewing’ (current system) and ‘reviewing’ (under the new regime) if this is going to happen at the same frequency anyway, or potentially more often?

The BHA were told by the EA that the whole point of this regulatory change was so that a ‘review’ would only be triggered in the future by site-specific evidence, rather than an arbitrary timespan – as is the case at present. That is how the industry was initially ‘sold’ this new regime.

Hydropower developers need to be absolutely certain that there continues to be a presumption of ‘no change’ without clear evidence of environmental detriment i.e. just the changing of a national standard or the passing of time should not trigger a permit review.

There need to be site-specific issues, with evidence, which trigger any request for change, followed by a substantial notice period to implement any such request (e.g. 6 years).

**4.3 What criteria do you think we should consider when deciding whether to instigate a permit review for abstraction and impounding permits? (Select all that apply)**

<b>Water availability within a catchment, linked to abstraction licensing strategies</b>	<input type="checkbox"/>
<b>Legislation, for example changes in Water Framework Directive waterbody status and habitats directive reviews</b>	<input type="checkbox"/>
<b>Water efficiency</b>	<input type="checkbox"/>
<b>Justification of need</b>	<input type="checkbox"/>
<b>Permit compliance or non-compliance</b>	<input checked="" type="checkbox"/>
<b>Access to water, where there is unmet demand for water within a catchment</b>	<input type="checkbox"/>
<b>Other</b> The EA should not have the right to alter the terms of abstraction or impoundment permits without either clear evidence of site-specific environmental detriment, repeated non-compliance, or the freely given consent of the permitted entity.	<input checked="" type="checkbox"/>

**4.4 If we were to introduce a maximum time between periodic reviews what do you think would be a good time period between reviews? (Select one option only)**

<b>6 years</b>	<input type="checkbox"/>
<b>8 years</b>	<input type="checkbox"/>
<b>12 years</b>	<input type="checkbox"/>
<b>Other</b>	<input checked="" type="checkbox"/>

**4.5 Please state the reasoning for your answer above.**

There must be a minimum time between reviews to minimise the regulatory burden on the regulator and the regulated industries. This should be at least 12 years so as not to be more onerous than the current regime, nor deter investment decisions, and alterations should still not be possible except with the permit holder's consent or with clear evidence of detriment e.g. if the original 'presumption of renewal' tests are not satisfied.

## Question 5 - Advertising and publicising

Currently water resources regulations require us to advertise abstraction and impoundment applications in newspapers. Applicants pay the cost of this advertising.

When abstraction and impoundments move into Environmental Permitting we propose to adopt their mechanism of advertising applications on the internet through our gov.uk website. We can still decide to advertise applications in local newspapers where they are considered of high public interest.

### **5.1 Do you agree with our approach to adopt the Environmental Permitting Regulation approach to publicising abstraction and impounding applications online?**

Yes

### **5.2 If not why not?**

[Click here to enter text.](#)

## Conclusion

Thank you for taking part in our questionnaire.

No decisions have been made about the approaches included in this questionnaire. The move of abstraction and impoundment licensing into the Environmental Permitting Regulations will be subject to a formal public consultation, planned for early 2020.

Please send your completed questionnaire to the following email address  
[abstraction\\_reform@environment-agency.gov.uk](mailto:abstraction_reform@environment-agency.gov.uk).