

## Environmental permitting of pre-existing onshore oil and/or gas facilities

### Background

We have previously granted installation permits to operators of onshore oil and gas production facilities for crude oil unloading, handling or storage, or treatment under the Pollution Prevention and Control (England and Wales) Regulations 2000. During 2008, these permits automatically became environmental permits under the environmental permitting regime. This regime was expanded in 2010 and is now covered by the Environmental Permitting (England and Wales) Regulations 2016 (the 2016 Regulations).

Since 1 October 2013 we have taken the view that operators of new onshore oil and/or gas exploration or appraisal facilities require environmental permits where activities include:

- the management of extractive waste, whether or not this involves a waste facility (as a mining waste operation)
- flaring of waste gas using a flare which has the capacity to incinerate over 10 tonnes a day (as an installation)
- a water discharge activity
- a groundwater activity, such as an indirect discharge of pollutants as part of high pressure high volume hydraulic fracturing<sup>1</sup>
- waste being managed that meets the thresholds for radioactivity set out in the 2016 Regulations (as a radioactive substances activity)

We now consider that the same environmental permits should be required for existing onshore oil and/or gas facilities, in addition to the permit required for crude oil unloading, handling or storage, or treatment.

### Our Approach

We have commenced a project to update the permits granted before 1 October 2013 to operators of existing onshore oil and gas facilities, in a manner consistent with our regulatory approach for new onshore oil and/or gas exploration or appraisal facilities. In addition, we have invited applications for new permits from operators of other existing onshore oil and/or gas facilities that did not previously require permits.

Following an information gathering exercise completed in 2016, we wrote to the operators advising them whether they needed to apply to vary their existing permits, to add activities/operations, and/or whether applications for new permits were required. These applications have been requested on a phased basis from December 2016 to September 2017. The existing permits will be reviewed at the same time as determining the respective permit variation applications, and consolidated permits will then be issued.

The permit review project is expected to run until the end of March 2018.

## Enforcement

We have changed our regulatory approach to pre-existing onshore oil and/or gas facilities. As a result, we will not normally take enforcement action against operators of pre-existing facilities, for the period prior to the determination of their application(s), for not having the necessary environmental permit(s), provided the following requirements are complied with:

- 1) A duly made application for the required variation or permit is made by the date specified in a letter, which will be sent to operators (or other timescale otherwise agreed in writing with the Environment Agency), and thereafter progressed without any undue delay by the applicant.
- 2) The activities on the site are operated in such a way that they pose no risk of pollution of the environment or harm to health.
- 3) All permit conditions are complied with unless otherwise agreed in writing by the Environment Agency.
- 4) Hydraulic fracturing is not taking place (see note i).

If any of the requirements above are not complied with in full, we may take enforcement action in line with our Enforcement and Sanctions policy and guidance. This can be found in the 'Publications' section of the GOV.UK website at <https://www.gov.uk/government/organisations/environment-agency>

This regulatory position statement relates only to the regulation of pre-existing onshore oil and/or gas facilities in England which began operation, and/or were permitted, before 1 October 2013 and are subject to the 2010 Regulations.

Please note, should an operator of an existing onshore oil and/or gas facility choose to make changes to that facility which would require a permit variation and/or new permit application, the operator should not wait for the notified application submission date, as part of the permit review project, before submitting the necessary application.

We will notify an operator in writing should we refuse their application to vary or grant an environmental permit. We might refuse an application for a number of reasons, including where the environmental impact is, or would be, unacceptable.

## Review

This regulatory position statement will be reviewed on 31 March 2018. However, we may review the position before that date if we feel that is appropriate. Triggers for review will include, but are not limited to, a misuse of the position and or a pollution incident.

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<sup>i</sup> means hydraulic fracturing of shale or strata encased in shale which -

- (a) is carried out in connection with the use of the relevant well to search or bore for or get petroleum, and
- (b) involves, or is expected to involve, the injection of -
  - (i) more than 1,000 cubic metres of fluid at each stage, or expected stage, of the hydraulic fracturing, or
  - (ii) more than 10,000 cubic metres of fluid in total.

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