



Consultation on assessing and scoring permit compliance

Proposed amendments to the Compliance Classification Scheme

September 2018

We are the Environment Agency. We protect and improve the environment.

We help people and wildlife adapt to climate change and reduce its impacts, including flooding, drought, sea level rise and coastal erosion.

We improve the quality of our water, land and air by tackling pollution. We work with businesses to help them comply with environmental regulations. A healthy and diverse environment enhances people's lives and contributes to economic growth.

We can't do this alone. We work as part of the Defra group (Department for Environment, Food & Rural Affairs), with the rest of government, local councils, businesses, civil society groups and local communities to create a better place for people and wildlife.

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Environment Agency
Horizon House, Deanery Road,
Bristol BS1 5AH

Email: enquiries@environment-agency.gov.uk
www.gov.uk/environment-agency

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Foreword

The Environment Agency regulates a range of activities including:

- waste management
- industrial processes
- discharges of treated effluents to the water environment
- flood and coastal risk management
- fish passage
- radioactive substances.

We regulate these under the Environmental Permitting (England and Wales) Regulations 2016 (EPR), which will also include water abstractions from April 2020.

We regulate activities which are considered to be higher risk under a permit, which can either have site specific (bespoke) conditions or standard rules.

We carry out periodic compliance assessments for all sites permitted under EPR to check that the operator is following the conditions of the permit. We categorise and score any permit non-compliances according to their level of actual or potential impact on people and the environment. We tell permit holders about the findings of a compliance assessment and also of actions they need to take to address any non-compliances.

This consultation sets out proposed changes to how we assess and score permit compliance so that we carry it out in a way that is more consistent, clear and proportionate. It also explains how we use the findings of an assessment and what we record on the Compliance Assessment Report (CAR) form. The consultation describes how we use scores from compliance assessments to generate annual subsistence charges for waste operations and installations. The scores are also one of the metrics we use in our Annual Environmental Performance Report for Water and Sewerage Companies.

This consultation is an opportunity to comment on the proposed revisions to how we assess and score permit compliance.

Executive summary

In March 2013, the Environment Agency published the current Compliance Classification Scheme (CCS). We produced guidance for staff that describes how to assess, record and score permit compliance. CCS was developed as part of Operational risk appraisal (Opra), and also before the introduction of the Regulators' Code.

Last year we replaced Opra as part of our Strategic Review of Charges and whilst the CCS methodology for assessing, recording and scoring permit compliance meets the requirements of the Regulators' Code, we feel it could be better aligned.

Last year we ran a series of events for regulated businesses so they could review our current regulatory approaches. Using their feedback, we started work on a five-year strategic programme we call Performance Based Regulation (PBR). This combines new and existing approaches to regulation into four strands:

- information-based regulation
- permit compliance
- incentive-based regulation
- behavioural interventions

This consultation describes our proposals to update the CCS guidance which is the methodology we use to assess, categorise and score permit compliance. The changes we are proposing in this consultation would allow us to take the first major step towards implementing PBR.

We are also proposing to change two of the key principles of the CCS guidance which relate to consolidation and suspension of scores.

We also propose the inclusion of a section to explain how we use the scores from permit compliance to generate the annual subsistence charges (waste operations and installations).

We propose to streamline, simplify and publish our CCS guidance for staff on Gov.uk so a wider audience can access and understand it more easily.

We propose to introduce any revisions from 1 January 2019 at the start of the compliance year. This will not affect subsistence charges for waste operations and installations until 2020.

Later this autumn the Environment Agency will also consult on further amendments to charges. This will describe how the changes to assessing and scoring permit compliance we propose in this consultation will benefit some waste activities and installations through a reduction in their subsistence charges.

This consultation is an opportunity for you to provide comments on the proposed changes to how we assess and score permit compliance.

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1. About the consultation

This document explains why we are consulting and what we are consulting you on. It is designed to help you understand and comment on the proposed changes to how we assess and score permit compliance.

1.1 Why are we consulting?

In March 2013, we published revised guidance for staff on how to use our Compliance Classification Scheme (CCS), which consisted of a series of five principles which staff use to assess and score permit compliance.

<https://www.gov.uk/government/publications/recording-non-compliance-using-the-compliance-classification-scheme-ccs>

Last year we ran a series of events with regulated businesses to give them the opportunity to review our current regulatory approaches. Using their feedback, we started work on a five-year strategic programme known as Performance Based Regulation (PBR). This will combine new and existing approaches to regulation into four strands:

- information-based regulation
- permit compliance
- incentive-based regulation
- behavioural interventions.

The feedback we received included comments about improving consistency and transparency in our regulatory approach, and providing guidance that was clear and simple. We also evaluated our current CCS guidance against the requirements of the Regulators' Code. We uncovered some opportunities for improvement to ensure better alignment of risk posed through to appropriate charge, as shown in the diagram below.



1.2 What are we consulting on?

The consultation covers three areas:

- the principles of the CCS guidance which we think should not change
- the principles of the CCS guidance and explanation of how we use compliance scores which we think should be amended or added to
- general considerations - including whether our revised guidance on how we use CCS to assess and score compliance is clear and easy to understand

1.3 Why we want your views

We think that this consultation will be of particular interest to operators, trade associations and business. This is an opportunity to make sure that the CCS guidance works for you and your industry whilst also protecting human health and the environment. We would like to hear your comments on the proposals and whether you find the CCS guidance clear and easy to understand.

We think this consultation will also be of interest to other regulators, the public, community groups and non-governmental organisations with an interest in human health, quality of life and environmental issues. This is an opportunity to make sure that the guidance provides the necessary protection, whilst still being workable for industry.

2. General considerations and the need for the guidance

This section sets out why we need the CCS assessment and scoring methodology and the six principles that underpin this.

2.1. The need for the CCS guidance

This guidance supports consistent, transparent and proportionate regulation at permitted sites, regardless of location or activity. It allows us to focus resources where there is likely to be the greatest risk to human health, quality of life and the environment.

2.2. Who the guidance applies to

The assessment and scoring of permit compliance applies to all regimes regulated under the [Environmental Permitting Regulations](#) including:

- water discharge and groundwater activities
- installations, including intensive farming
- waste operations
- non-nuclear radioactive substances
- abstraction and impoundment [from April 2020](#).

2.3. What is our approach

This guidance includes:

- six principles which explain how the Environment Agency assesses and scores permit compliance
- an explanation of the outcomes of a compliance assessment
- advice on how staff should use the findings of assessing permit compliance (including how this affects [subsistence charges](#) for waste operations and installations).

Question1: To what extent do you agree that bringing these three areas together in the guidance will be helpful to understanding our regulatory approach?

3. Principles which remain unchanged

Within the current CCS guidance there are five principles we use to assess and score permit non-compliances. We are not proposing to change the following three principles:

- Principle 1 - record all non-compliances
- Principle 3 - assess the reasonably foreseeable impact
- Principle 4 - score the root cause of the original non-compliance

Below are extracts from our guidance covering those principles that will not change. We have revised this guidance to make it simpler and clearer to understand.

3.1 Principle 1: Record all non-compliances

The results of a compliance assessment are recorded on a Compliance Assessment Report (CAR) form. A copy of the form is provided to the permit holder and the law requires it must also be placed on the Environment Agency's public register.

All non-compliances identified during the assessment are recorded on the CAR form. They may be where an operator has not followed directly applicable legislation, for example the Duty of Care. Or they may be non-compliances that relate directly to conditions of the permit. Only non-compliances related to conditions of the permit will be categorised and scored and affect a site's compliance band and subsistence fee (for waste operations and installations).

Permit conditions can include broad general requirements and may also contain several sub-conditions. It is possible to record several non-compliances which all fall under a single permit condition these will only result in one score (Principle 2 - see 4.1).

A permit may contain in the region of 20 – 60 conditions. These are summarised on a CAR form into eight high level areas with twenty eight sub criteria, see below.

Permit Conditions and Compliance Summary	
a) Permitted activities	1. Specified by permit
b) Infrastructure	1. Engineering for prevention & control of pollution
	2. Closure & decommissioning
	3. Site drainage engineering (clean & foul)
	4. Containment of stored materials
	5. Plant and equipment
c) General management	1. Staff competency/ training
	2. Management system & operating procedures
	3. Materials acceptance
	4. Storage handling, labelling, segregation
d) Incident management	1. Site security
	2. Accident, emergency & incident planning
e) Emissions	1. Air
	2. Land & Groundwater
	3. Surface water
	4. Sewer
	5. Waste
f) Amenity	1. Odour
	2. Noise
	3. Dust/fibres/particulates & litter
	4. Pests, birds & scavengers
	5. Deposits on road
g) Monitoring and records, maintenance and reporting	1. Monitoring of emissions & environment
	2. Records of activity, site diary, journal & events
	3. Maintenance records
	4. Reporting & notification
h) Resource efficiency	1. Efficient use of raw materials
	2. Energy

All permit non-compliances are recorded on a CAR form under the relevant sub-criteria. Where this could be recorded under more than one sub-criteria, the one that best describes the non-compliance is chosen.

The completed form explains which of the sub-criteria:

- have been assessed
- have not been assessed
- are not applicable
- have ongoing non-compliances.

Compliance assessments vary in duration, detail and complexity. This depends on the type and scale of the activity and the likelihood of non-compliance. An audit may assess all or the majority of conditions within a permit, whereas an inspection or desktop assessment may only focus on a few, specific conditions.

3.2 Principle 3: Assess the reasonably foreseeable impact

Permit conditions minimise an operation's impact on human health, quality of life and the environment. The score an officer gives to a non-compliance reflects the potential impact it could have were it not addressed promptly and adequately.

The only exception is for non-compliances relating to amenity conditions (odour, dust, noise, pests), which are categorised and scored according to their actual (rather than potential) impact.

The officer will make a realistic assessment of the potential impact rather than one that is overly pessimistic or optimistic. This is known as the 'reasonably foreseeable impact' and it is assessed on a case-by-case basis using knowledge, evidence, professional judgement and common sense.

For example, a non-compliance with a permit condition which has the potential to cause a significant impact in one location may have a lesser impact if it happened somewhere else.

Assessing reasonably foreseeable impact takes account of:

- the proximity and vulnerability of the local population
- the sensitivity of the surrounding environment
- any procedures, resources and infrastructure that the permit holder has in place to mitigate pollution (these are collectively known as 'appropriate measures')
- the responsiveness of the permit holder and site staff

The CAR form explains how these factors have been taken into account when arriving at a category of breach for the reasonably foreseeable impact of a non-compliance.

3.3 Principle 4: Score the root cause of the original non-compliance

A non-compliance can often be the symptom of a wider underlying problem. Compliance assessments will also identify the root cause of a non-compliance.

For example, if an operator's procedures are inadequate or they have not followed them, this could indicate that management control is missing. The root cause is therefore non-compliance with the management system condition (usually condition 1.1.1 in the permit). This root cause non-compliance will also be recorded, categorised according to severity and scored.

For older permits that do not currently have a modern management system condition, we would categorise and score this under a similar condition, for example, the working plan or working procedures condition.

Although the root cause of all non-compliances found during an assessment will be identified and recorded, in accordance with Principle 2 on consolidating scores (see 4.1) only one root cause will be categorised and scored per assessment.

The category of severity and score for a root cause does not have to be the same as that of the original non-compliance. The root cause may have the potential for greater impact than the original non-compliance. For example, an inadequate management system could have a greater reasonably foreseeable impact than the administrative failure that led to its discovery.

4. Principles we think should be amended

4.1 Principle 2: Consolidation: one category and score per permit condition

In the current CCS guidance we consolidate some scores, particularly in relation to reporting periods. However, when permits contain conditions which relate to Emission Limit Values (ELVs) and which have several parts, or which may appear as a number of tables, we currently do not consolidate these scores.

As a consequence, at the end of a compliance year when we add together all of the individual compliance scores to generate a compliance band, this puts some sites in a low compliance band (DEF). This is because we have scored many minor non-compliances against a single permit condition that consisted of several parts or tables.

We believe that in these cases, the compliance band may not be a true reflection of the impact or risk posed by the site, or of the regulatory effort needed.

We are looking to address the issues related to ELVs and revise the guidance to include the proposed text in the box below. We have also included a couple of examples to show how the proposed changes would work in practice.

The remainder of Principle 2 will not change, but we have included all the information from the guidance for completeness.

The compliance assessment takes into account the number of recorded non-compliances which fall under an individual permit condition, as well as their severity and duration.

We record all non-compliances, but we only categorise according to severity and score those non-compliances related to a permit condition.

All permit non-compliances are recorded on a CAR form under the relevant sub-criteria. Where this could be recorded under more than one sub-criteria, the one that best describes the non-compliance is chosen.

During the assessment, non-compliances are consolidated so that an individual permit condition is only categorised and scored once per assessment. This means that several non-compliances which all fall under a single permit condition will only result in one score. A permit condition may have non-compliances for several reasons but it is still only one permit condition non-compliance.

Emission Limit Values (ELVs)

Permits may contain conditions relating to Emission Limit Values (ELVs), which are sometimes presented as several tables within the permit.

Where several non-compliances occur because of either or both of the following, we will summarise each non-compliance in the comments box on the CAR form:

** repeatedly exceeding a single ELV over a period of time,*

** exceeding multiple ELVs in a single event*

All non-compliances which relate to a single permit condition will then be consolidated. This means that only one category of non-compliance will be categorised and scored under the relevant permit condition and sub-criteria, during each quarter.

Where a permit condition requires the operator to submit data or reports periodically, for example quarterly, then any non-compliances are consolidated into one category and score, which is then recorded against the last day of the reporting period.

Example of a non-compliance relating to more than one ELV:

Some installations may have to report ELV breaches, but some may have to monitor more parameters than others. The operator with more parameters to monitor may identify more breaches. But this doesn't mean that the environmental impact will be greater or that we need to invest more regulatory effort.

For example, an installation releases emissions to air via a stack and ELVs have been set in Schedule 3 of the permit for NO_x, SO_x, and CO.

During routine monitoring, all three parameters have been exceeded in a discreet sample, and each individually is considered to have caused a minor, or CCS Category 3 impact. Exceeding these limits is a breach of condition 3.1.2 in their permit, which states:

'3.1.2 The limits given in schedule 3 shall not be exceeded.'

Under the proposed changes, in this example, we will only apply a single CCS score rather than 3, so in this example, it is likely that a single category 3 score will be applied. If there is evidence to show the cumulative effect of more than 1 *parameter* leads to a greater impact, then the category of non-compliance may be more serious, for example, it may be recorded as 'significant' rather than 'minor'.

If one or more parameters are breached during more than one assessment over a period of time, the existing rules of consolidating into 1 non-compliance per quarter apply. If the breach continues over two quarter, two scores will apply, one for each quarter, and so on.

Example of a landfill site identifying several exceedances of ELVs:

A landfill carries out self-monitoring and discovers they have exceeded all of these:

- their leachate trigger levels
- a number determinands in the groundwater sample

- gas emission limits.

These are in three separate tables under the same condition (3.1.1). The groundwater exceedance is considered to be a CCS Category 2, whilst the others are Category 3 in terms of impact.

Exceeding these limits contravenes a single permit condition, which states:

'3.1.1 The limits in schedule 3 shall not be exceeded'

Rather than scoring three separate non-compliances for the breaches of the three types of emissions, we will only apply a single CCS score. The score given will be the highest of the three, so in this case, Category 2.

The following is the remainder of Principle 2 which will not change

Periodic reporting periods

Permits that require operators to submit data or reports may have different reporting periods. To be fair and consistent, we assess these all quarterly. This is so any non-compliances during that quarter which relate to a single permit condition are consolidated into one category and score irrespective of the actual reporting period stated in the permit condition. For conditions which require periodic reporting, we will only score once per quarter per permit condition.

Scores are accumulated during a compliance year, which runs from 1 January – 31 December.

Where periodic submissions take place either every six-months or annually, then the information will be broken down and assessed as if it had been submitted quarterly.

Where reporting quarters have been agreed which do not align with the compliance year, then the non-compliances will be consolidated, categorised and scored against the final day of the reporting period. In some cases this may mean that scores are counted in the following compliance year.

Rolling annual mean concentrations

For water discharges and (point source) groundwater activities, which restrict certain determinands based on a rolling annual mean concentration, a single high measurement could significantly distort the rolling annual mean. This would potentially lead to an ongoing non-compliance for several months. We will consolidate successive non-compliances into a single category and score. The category and score will be based on the reasonably foreseeable impact for the whole twelve month period.

Ongoing amenity non-compliance

An ongoing amenity non-compliance is one which continues for longer than seven days. It does not have to be continuous for 24 hours a day, and it may be a problem that frequently reoccurs due to the same or similar factors.

We consolidate ongoing amenity non-compliances into one category and score per calendar month. For example, if three odour non-compliances were substantiated during a calendar month, then although all three events would be recorded on the CAR form (principle 1), only one non-compliance would be categorised and scored under the relevant permit condition and sub-criteria, during that month. The category and score would reflect the duration and intensity of the impact on the local community, and also whether all appropriate measures were being taken to minimise the odour.

Question 2 Do you agree with the proposed revisions to the way we would consolidate scores for ELVs?

4.2 Principle 5: Suspending scores

Suspending scores means that in certain circumstances where we identify permit non-compliances, we score them but they don't contribute to the operators annual compliance score. So for waste operations and installations, suspended scores do not count towards calculating subsistence charges.

In the current guidance the principle relating to suspending scores is limited to a maximum period of six months, after which scores can no longer be suspended.

We suspend scores in recognition that the operator is taking action on site to address the non-compliance. This could either be through delivering the steps in an enforcement or suspension notice or through following the steps in an agreed action plan.

Sometimes, especially where a non-compliance is being resolved through investment in infrastructure, completing all of the steps in the notice or action plan will take longer than six months. We propose to revise the principle of suspension by removing the six month limit. This reflects that completing steps in an enforcement notice or action plan may take longer than this.

Complex non-compliances can take a long time to resolve, and in certain circumstances it may be appropriate to suspend some scores which relate to that specific permit condition.

Scores are only suspended where a permit holder is actively taking steps to return to compliance. We will only suspend score for more than 6 months where we are satisfied it is appropriate and will decide whether to do so on a case by cases basis.

Scores are suspended when a notice is served. In order to remedy the non-compliance, steps are set out in the notice to explain what action is needed and the timeframe in which the steps are to be completed. If the steps are not completed to a satisfactory standard or within the timeframe set out in the notice, then any suspended scores will be immediately unsuspended and normal scoring applied.

Scores may be suspended where a voluntary action plan has been agreed between the Environment Agency and the permit holder, and is being followed. The voluntary action plan must set out the steps required to remedy the non-compliance and the timeframe in which the steps will be completed. Agreement to a voluntary action plan and to suspending scores is recorded on a CAR form.

Voluntary action plans should not be used at E and F banded sites as these require significant improvement and notices should be used to formalise improvements required to achieve compliance. They should be considered whether or not they are appropriate at D banded sites, especially those close to becoming E banded.

Compliance assessments will continue during the time when the voluntary action plan is in place, in order to monitor progress against the agreed plan. If steps are not delivered on time or to a sufficient standard, then any suspended scores will immediately be unsuspended. In the case of waste activities or installations then these unsuspended scores will be taken into account for the purpose of subsistence charges.

The first score, which is awarded when a non-compliance is originally identified, is never suspended. This first score acknowledges that there is a non-compliance and that as a consequence, regulatory effort is being applied to bring the activity back into compliance.

Initially scores will be suspended for six months, and after this point we will carry out a review in order to consider extending the period of suspension further. This review will be carried out by a panel of specialists. A permit holder may be asked to provide some additional information in support of a request to extend the period of suspension beyond six months.

Question 3 Do you agree that by offering the potential for suspended scores to continue beyond six months, that we are giving operators greater opportunity to address complex non-compliances?

3.4 Principle 6 - Assessing the category of non-compliance

The current guidance discuss the categories of non-compliance under Principle 1: Record all non-compliance. We propose that it would be simpler and clearer to put this into a separate principle: Principle 6. This will allow us to add further explanation about the categories and better link them to the other principles. We propose the following text:

There are four categories of non-compliance score, which represent the severity of the reasonably foreseeable impact, or in the case of amenity conditions, the actual impact.

- Category 1 non-compliances score 60 points and are associated with a significant impact on human health, quality of life or the environment
- Category 2 non-compliances score 31 points and are associated with a major impact on human health, quality of life or the environment
- Category 3 non-compliances score 4 points and are associated with a minor impact on human health, quality of life or the environment
- Category 4 non-compliances score 0.1 points and are associated with no impact on human health, quality of life or the environment

When several non-compliances are identified under one permit condition, they will be consolidated (Principle 2). The category and score given will usually be the most severe category of the non-compliances identified. For example if three Category 3 non-compliances and one Category 2 non-compliance are identified under one permit condition, then all of the non-compliances would be recorded on the CAR form (following principle 1), however only one Category 2 non-compliance would be scored under the relevant permit condition and most appropriate sub-criteria on the CAR form (principle 2).

The only exception is where there is the potential for cumulative impact, for example in the case of emissions to air. If an operator has multiple non-compliances associated with exceeding emission limit values for several irritant gases, it would be appropriate for the officer to consider the potential cumulative impact of the emissions on people, the local community and the environment. This may result in a higher category and score than would otherwise occur under the principles of consolidation.

The duration of a non-compliance is taken into account when assessing the category and score. Duration may be linked to exposure and this may the increase the reasonably foreseeable impact. Or in the case of amenity conditions, the actual impact.

For example, if a fire occurs which cannot be extinguished within four hours and as a consequence people in the local community could be exposed to smoke, then this would be scored as a category 2 non-compliance under the relevant permit condition and appropriate sub-criteria on the CAR form.

Similarly a non-compliance relating to an amenity issue, which continues for longer than seven days would also be scored as a category 2 score non-compliance under the relevant permit condition and appropriate sub-criteria on the CAR form.

Question 4. Do you agree that creating an additional principle to explain the categories of non-compliance will be clearer?

5. New sections we consider should be included in the guidance

In our current guidance we only provide limited information to explain the outcomes of a compliance assessment. We believe we could do more to explain how we respond when we find a non-compliance. We could include information about:

- the details we will provide to a permit holder about the non-compliant item or activity
- the steps we need the permit holder to complete
- any decisions we will take in relation to identifying a non-compliance.

We also want to encourage operators to discuss with us the advice we have provided, and our requirements or decisions, as soon as we identify the non-compliance.

We think that it is important for us to share the evidence we have found which we use to determine the level of risk to human health, quality of life and the environment.

We also want to share how we use compliance data to both:

- inform our analysis of environmental performance
- generate subsistence charges for waste activities and installations.

For these reasons, we propose adding the new information below to the guidance

5.1 Explaining the outcomes of a compliance assessment

If a compliance assessment is carried out on a site when the Site Manager or Technically Competent Manager is present we will tell them about any non-compliances identified and the actions needed to remedy the non-compliance.

Where the non-compliance relates to a permit condition, we will also give them an indication of the category of score for the non-compliance.

We will record the results of the compliance assessment on a CAR form. If, on reflection, the indicative category and score is subsequently changed, we will record the corrections on the form. We will also include an explanation of why these were amended.

If we identify a non-compliance during a compliance assessment, we will record this on a CAR form. It will explain:

- what is wrong
- the steps that need to be taken to correct the problem
- the date when the steps need to be completed by
- what enforcement action (if any) may be taken in response to the non-compliance

Where a permit holder is given a period of time in which to complete steps, we will usually carry out re-inspections during, or at the end of this period, or both, so we can monitor progress and confirm that the operator has addressed the non-compliance. We also record monitoring of progress on a CAR form.

The current guidance explains that we will share a CAR form with the permit holder within 14 days of carrying out a compliance assessment, even if we have not identified any non-compliances.

We propose to add an exception for when we carry out a compliance assessment following the submission of a periodic report containing monitoring data, information or analysis. In this case, we would record results of the assessment on a CAR form and share it with the permit holder within 28 days. This would enable us to manage the workload of assessing many detailed reports which arrive simultaneously.

Question 5. Do you agree with the proposed extension to 28 days to share the CAR form following the assessment of periodic reports containing monitoring data, information or analysis?

In accordance with the Environment Agency's complaints procedure a permit holder has 28 days, in which to challenge the results of a compliance assessment.

A permit holder can also notify the Environment Agency if they wish to appeal a regulatory decision, for example the results of assessing or scoring permit compliance, or a failure to act in accordance with the Regulators' Code. Any appeal should be made promptly, usually within 14 days.

5.2 How data from the assessment of permit compliance is used

Open data

The Environment Agency publishes open data which available to everyone to access, use and share.

Data which relates to assessing and scoring permit compliance includes:

[National Compliance Assessment](#)

[Compliance Classification Scheme](#)

Regulating for people, the environment and growth

The Environment Agency publishes annual reports which include information about:

- assessing permit compliance
- emissions to air from the businesses we regulate
- the number of serious pollution incidents and sectors responsible
- reductions in costs for businesses we regulate
- enforcement action we take when businesses do not comply

<https://www.gov.uk/government/publications/regulating-for-people-the-environment-and-growth>

Water Company Environmental Performance Report

The Environment Agency monitors and reports on the environmental performance of water and sewerage companies in England. We determine their performance by using monitoring data to assess permit compliance along with other data such as the number of pollution incidents and deliver of environmental improvement schemes. You can find out which water companies are the best and the worst performers here.

<https://www.gov.uk/government/publications/water-and-sewerage-companies-in-england-environmental-performance-report>

5.3 Calculating subsistence charges for waste activities and installations

We currently explain the link between compliance and charges in a separate document (<https://www.gov.uk/guidance/compliance-rating-guidance-environmental-permits>). We would like to bring that information into this guidance to create a better link between our compliance assessments and the subsistence fee charged.

Subsistence charges for waste operations and installations (except intensive farming sites that are part of the Farm Assurance Scheme) reflect both the regulatory interventions and the effort applied by the Environment Agency in the previous compliance year.

The subsistence charge is calculated by applying a percentage multiplier to the baseline subsistence charge, based upon the compliance band for last year.

At the end of the compliance year, the scores for non-compliance are added together to generate a compliance band

- Band A = 0 points
- Band B = 0.1 - 10 points
- Band C = 10.1 - 30 points
- Band D = 30.1 - 60 points
- Band E = 60.1 - 149.9 points
- Band F > 150 points

Sites in compliance bands A and B have demonstrated an expected level of permit compliance

Sites in compliance bands C and D are required to improve in order to achieve permit compliance

Sites in compliance bands E and F are required to significantly improve in order to achieve permit compliance. These sites are at risk of having their permit revoked unless there is substantial evidence that they are working towards achieving compliance.

Scores for permit non-compliance that have been suspended, are still categorised and recorded, but do not count towards the annual compliance band

<https://www.gov.uk/government/publications/environmental-permitting-charges-guidance/environmental-permitting-charges-guidance>

Sites in their first year of operation will pay 100% of the baseline subsistence charge. The only exception is for sites in the waste treatment sector (activities in table 2.16 of the [tables of charges](#)) with permits issued after 1 April 2018.

Sites that were in compliance band A last year, pay a subsistence charge which is 95% of the baseline. This reflects that these sites were well-managed and posed a reduced risk to human health, quality of life and the environment throughout the previous year.

Sites that were in compliance band B last year, pay 100% of the baseline subsistence charge. This reflects that baseline regulatory effort was applied to these sites within the previous year, in order to manage occasional, minor non-compliance.

Sites in compliance bands C, D E and F last year, pay and increased subsistence charge. This reflects the increased regulatory effort which was needed during the previous year in order to identify and address an unacceptable risk to human health, quality of life or the environment. This may have included using specialist staff and applying a range of regulatory interventions associated with enforcement.

Subsistence charge (as a percentage of the baseline)

- | | |
|---------------------|------|
| • Compliance band A | 95% |
| • Compliance band B | 100% |
| • Compliance band C | 110% |
| • Compliance band D | 125% |
| • Compliance band E | 150% |
| • Compliance band F | 300% |

Question 6. Do you agree that it is helpful to explain the results of a compliance assessment and how we use this data and information, as well as the link to charges in this guidance?

Question 7. We really value your feedback on our proposals. Please tell us if you have any further comments and provide as much information as possible to support your answer.

6. Responding to this consultation

6.1 Important dates

This consultation will start on 17 September 2017 and will end on 29 October 2018.

6.2 How to respond

You can view the consultation documents and the questions online at URL:

<https://consult.environment-agency.gov.uk/environment-and-business/assessing-and-scoring-permit-compliance> and submit your response. We would prefer you to respond online as it will help us to manage your response more effectively

If you would prefer to submit your responses by email or letter please send your completed response form by the closing date to The Compliance Team at: reg-interventions@environment-agency.gov.uk.

6.3. Publishing our consultation results

We will publish our full response to the consultation in December 2018. It will include summary comments and queries we received in the responses and will outline our recommendations which will take these into account. The report will be on our website and circulated to all consultees and other interested parties.

6.4. How we will use your information

The Environment Agency will look to make all responses publicly available during and after the consultation, unless you have specifically requested that we keep your response confidential.

We will not publish names of individuals who respond.

Throughout the consultation we will look to make all comments (excluding personal information) publicly available on our website. This includes comments received online, by email, post and by fax, unless you have specifically requested that we keep your response confidential. We will not publish personal data. But we will publish the name of the organisation for those responses made on behalf of organisations.

We will also publish a summary of responses on our website in which we will publish the name of the organisation for those responses made on behalf of organisations.

We will not respond individually to responses. After the consultation has closed we will publish a summary of the responses on our website and contact you to let you know when this is available.

In accordance with the Freedom of Information Act 2000, we may be required to publish your response to this consultation, but will not include any personal information. If you have requested your response to be kept confidential, we may still be required to provide a summary of it.

6.5. Consultation principles

We are running this consultation in accordance with the guidance set out in the government's Consultation Principles.

If you have any queries or complaints about the way this consultation has been carried out, please contact:

Emma Hammonds, Consultation Co-ordinator
Environment Agency
Horizon House
Deanery Road
Bristol, BS1 5AH

Email: emma.hammonds@environment-agency.gov.uk

List of abbreviations

CAR - Compliance Assessment Report

CCS - Compliance Classification Scheme

ELVs - Emission Limit Values

Opra - Operational Risk Appraisal

PBR - Performance Based Regulation

Glossary

Non-compliance – A permit non-compliance is where a condition of the permit is not complied with. We record all non-compliances on the CAR form both permit non-compliances and those which relate to directly applicable legislation.

Record – We record all non-compliances on the CAR form whether they are scored or not.

Score – we only score one non-compliance per permit condition, per assessment. There may be more non-compliances recorded on the CAR form than the amount scored.

**Would you like to find out more about us
or about your environment?**

Then call us on

03708 506 506 (Monday to Friday, 8am to 6pm)

email

enquiries@environment-agency.gov.uk

or visit our website

www.gov.uk/environment-agency

incident hotline 0800 807060 (24 hours)

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