Factsheet 2.14 – Horizontal aspects in Permitting

Preamble

Whilst it appears that within the IMPEL community, the uptake of General Binding Rules (Article 17 of the Industrial Emissions Directive) in regulating horizontal aspects is not that popular, such aspects are usually regulated through permit conditions which are most of the time, backed up by national or regional legal instruments. Below, is an overview of the most popular approaches and permit requirements adopted across Europe in addressing a selected number of horizontal aspects. Where relevant, the associated generic article in the IED with that specific horizontal aspect is referred to in the sub-title.

A possible way of utilising the below findings would be to set up a database or list of permit conditions from which the permit writer can opt to include in the permit as relevant. Alternatively permits may contain a specific section with all such generic obligations. Such an approach may be incorporated in an information system so that the permit writing process if facilitated. Notwithstanding the above suggestion, any chosen system adopted with the intention to facilitate the permit writing process, should seriously consider the other stages of the permitting cycle in order to ensure that it suits permitting context of that specific competent authority and without prejudice to the various horizontal aspects already incorporated within the IED such as those in Articles 11 and 12.

Environmental Compliance & Inspections (Art. 23)

Whilst national legislation may stipulate the obligations of the operator for inspections, these provisions may be broader in scope than the environment. Such legislation may require operators to provide any necessary assistance to the inspectors when required to do so. It may thus be useful to set more specific obligations within permit conditions, particularly with regards to general adherence to BAT. Other permit conditions may relate to the permit documentation requirements including the obligation to produce the documentation when requested and to retain it for a specific period of time.

Contact Person

Each operator shall nominate someone within the organisation or with whom s/he has a contractual relationship to act as a reference point for the competent authority on matters regarding the permit. The operator should notify the authority of any change in such a person and provide his/her contact details as appropriate. Such requirement is usually specified as a permit condition, which may also be backed up by a relevant provision in legislation.

Process modifications/extensions (Art. 20)

Should the operator wish to modify or extent any of the permitted processes, s/he will usually be required to undertake a process specified in the legislation for environmental permitting. The permit itself would then specify the various stages and requirements. Such a process, normally commences with the operator notifying the authority so that it assesses the significance of the proposed change.

The legal instrument usually describes which circumstances merit a notification or application to be submitted to the competent authority. These may include but not limited

to changes to the activity's location, the permitted activity itself or the total production capacity of an installation. Legislation may also define the circumstances of a substantial or significant change. The authority would then be required to make a decision on the proposed changes. Proposals for substantial changes usually lead to a detailed assessment by the competent authority, which may at times resemble a full permit application process, and some modification to the existing permit.

Consumption of raw materials, water and energy (Art. 11 (f), 12.1 (b))

In the cases where the operators have such obligations, there is usually a permit condition linking to the information submitted during the application process. The application would usually require a description of how such consumption is minimised and a comparison with BAT, as applicable. Conditions may be introduced in the permit to prescribe a consumption limit value or limit the consumption of certain materials or energy; however, they are mostly used simply to prescribe monitoring for the consumption of raw material, energy and water. A change in the use of raw materials will might require a permit modification.

Maintenance of equipment (Art. 14.1 (e))

Generally, permits have some form of conditions requiring operators to implement and maintain a maintenance system for critical equipment in accordance with any relevant BAT conclusions. The operator would also be required to maintain records of such maintenance systems and procedures. Such procedures may be incorporated in the installation's environmental management system. They may prove useful in the case of environmental accidents, incidents and complaint investigation.

Noise and odour (Arts. 3(2, 4), 11(c))

Noise impact is usually assessed at permit application stage and if the Authority deems that noise may be an issue, it may prescribe appropriate permit conditions intended to minimise noise pollution such as a noise management plan, noise monitoring at sensitive receptors or emission limit values.

When the Authority suspects an odour problem, it carries out further investigation and audit according to published guidance documents. It may then set permit conditions (including a change in operational practices) intended to minimise odour through limit values or an odour management plan.

In case the installation is thought to be generating noise and offensive odour, the permit might require the operator to maintain records of the measures taken to prevent or reduce such pollution and any associated incidents which led to the generation of excessive noise or odour.

Staff safety and Competence

A training program for staff, which may be a part of the Environmental Management System, is usually required by the permit. Conditions are also included to require the implementation of the training program, maintenance of training records and to revise such a program regularly.

Prevention and Management of Accidents (Arts. 7, 11 (g))

Whilst national legislation may provide generic obligations in terms of emergency prevention and response, permit conditions usually require the implementation of an action plan in case of accidents. They may also prescribe specific practices for accident prevention and management. Such practices may be incorporated in the Environmental Management System, particularly when the latter is required by the BAT Conclusions. Other specific conditions such as the implementation and maintenance of a Prevention and Accident Management System (PAMS) may arise from requirements under the Control of Major Accidental Hazards Directive, other regulatory bodies involved in emergency response or in the case of high risk installations.

When the operator is obliged to maintain a PAMS, the system may include:

1. Site specific measures on how to prevent and manage an accident
2. Measures to prevent flood risk,
3. Notification system to the competent authority(ies)
4. Record keeping
5. Employee training.

Environmental Management System (EMS)

An EMS is considered to lower the risk of an installation and may be utilised to justify the favourable decision on permit application. EMSs are particularly effective if they are implemented out of the operator's free will, even though they are many times required by the BAT conclusions or recommended by the Authority. Relevant provisions in the permit would require the operator to abide with the relevant BAT conclusions including EMS.

When an EMS is proposed, this is required to be implemented from the first day of operations and the operator must submit a summary of the management system to the regulator for assessment as part of their permit application. It is also highly important that management review of the EMS and regularly monitoring of its implementation is carried out.

Although an EMS is not required to be accredited say to ISO 14001 or EMAS, such an accreditation is favourably considered by the Authorities through means such as recommendations, lower inspection frequency, and reduction in processing fees. The requirements of an EMS are usually established in the relevant BAT Conclusions unless they are prescribed for specific sectors (e.g. intensive rearing of poultry and pigs, secondary raw materials etc.) by the regulator.

Energy Efficiency (Arts. 11 (f), 12 (1b), 13 (2a))

The permit contains relevant terms to describe the energy used or produced by the installation and any planned measures for ensuring compliance with energy efficiency targets. Such information is obtained from the permit application process during which a comparison is made with relevant BAT conclusions. IPPC permits include measures for economical use of raw material and energy. The permit usually also requires the recording and reporting of energy consumption.

Site closure (Art. 22) (see also factsheet 3.13 – Cessation of operations, bankruptcy and site closure)

When the operator has the intention to close part or whole of the installation, s/he has to notify the Authority of such closure, apply for a partial or full permit surrender, and provide a decommissioning plan through a set procedure. The contents of such a plan is usually included in national guidance and is subject to approval of the competent authority. As required by the IED, the operator has to provide a site surrender report on the condition, relative to the baseline report, of the land on which the installation (or part installation) is located.

In line with the requirements set out in the IED, the permit would also specify that where the installation has caused significant pollution of soil or groundwater by relevant hazardous substances compared to the state established in the baseline report, the operator shall take the necessary measures to address that pollution so as to return the site to its original state. In the cases when the operator was not required to prepare a baseline report, the permit still requires the operator to take all measures to ensure that the installation has no further pollution potential

Although a restoration plan is usually required to be submitted as part of a decommissioning plan, its requirements are not always included in the permit but the content is always subject to the regulator's approval. When a decommissioning plan is approved, the permit is either updated (in the case of a partial decommissioning) or surrendered and closed (in the case of complete closure).

The above requirements may also be included in legal provisions associated with site closure and decommissioning.

Reports (Art. 14.1 (d)) (see also factsheet 3.11 – Operator self-monitoring)

Although legislation may require regular reporting, the permits usually specify what types of reports are required, their contents and reporting frequency. For EPRTR installations reports are to be submitted to the authority, whereas for other installations reports may be submitted upon demand by the regulator. Reports are usually based on a flexible system and the regulator may provide a specific format or template through the permit, website or legislation. Information on water, energy consumption and waste transfer is normally reported, particularly for installations falling within scope of the EPRTR regime. The permit may also require reporting on environmental monitoring, raw materials, product quality and other information on compliance.

Communication

Permits usually specify that in the event of an incident or accident all necessary measures shall immediately be taken:

a) to prevent , or where that is not practicable to reduce, emissions from the permitted installation;

b) to limit the environmental consequences as a result of that incident; and

c) to prevent further possible incidents.

In the event of a breach of any condition of this permit the operator shall immediately take the measures necessary to ensure that compliance is restored in the shortest possible time.

Where a breach of any condition poses an immediate danger to human health, or threatens to cause an immediate significant adverse effect on the environment, the operator shall suspend operation of the installation until it can be operated in compliance with this permit.

These instances are to be reported to the authority immediately or within a set short period of time. Annual reports on such incidents and breaches of permit conditions may also be required by legislation.