

[REDACTED] (Defra)

From: [REDACTED] (Defra)
Sent: 21 March 2013 14:27
To: [REDACTED] (Defra)
Subject: Smarter Environmental Regulation Review

[REDACTED]
Attached is the guidance about the Smarter Environmental Regulation Review and moratorium on new guidance. I would recommend that you speak to [REDACTED] about your proposal of making a statutory guidance code, to replace an existing voluntary code.

If you were to amend secondary legislation to implement a statutory code which imposes a burden on business or civil society groups, this would be classified as an IN under the One in, Two out budget constraint applied to Regulation. Only direct impacts on business are counted in the Equivalent Annual Net Cost to Business (EANCB) calculation. An economist would work with you to calculate these costs.

At this early stage, you can start developing a Policy Appraisal Sign-on proposal which summarises why government intervention is necessary, behaviour issues involved, and consider the effects of the policy on small and micro businesses. The PAS form can be found on the [Better Regulation Teamsite](#). I can steer you in the direction of Better Regulation requirements, should you gain agreement from Ministers to undertake a legislative route.



MORATORIUM
ON GUIDANCE -...

SMARTER ENVIRONMENTAL REGULATION REVIEW

GUIDANCE MORATORIUM

Purpose of note

This note is to provide further background on the rationalisation of environmental guidance within the Defra network and the need for a moratorium on the production of all but essential guidance. This is primarily for environmental guidance but the same principles should apply to guidance across Defra policy areas. It also sets out the proposed structure within which any essential guidance must sit and the format that should be adopted.

Background

Environmental guidance is being rationalised across the Defra network as part of the Smarter Environmental Regulation Review (SERR) to tie in with the migration of all of this content to the new www.gov.uk platform by March 2014. This will involve:

- Producing clear, succinct, consistent 'everyman' guidance on environmental regulatory obligations
 - Retaining technical or specialist material only where there is a clear rationale
 - Removing duplication and obsolete material
 - Working with the Government Digital Service (GDS) to make information easily and quickly accessible to both non-technical and technical users
-

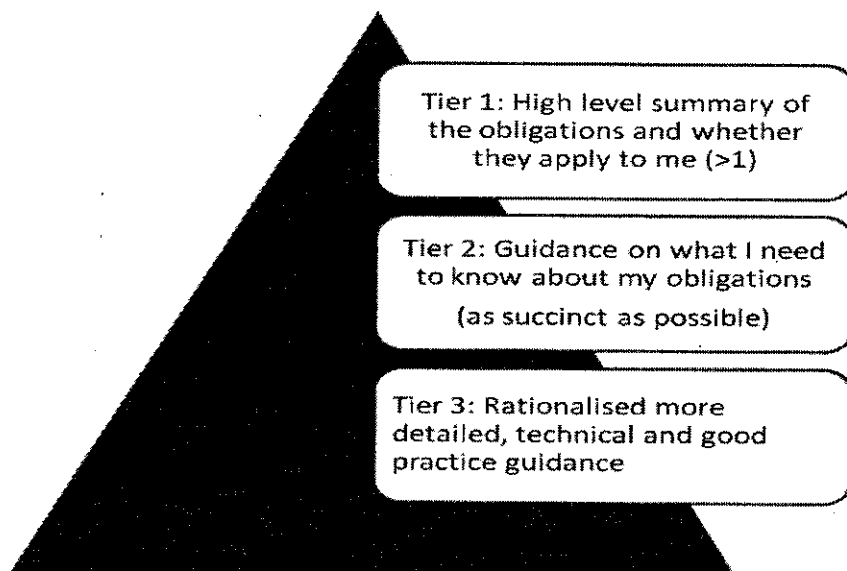
A pilot phase is underway to establish the 'model' for guidance and the plan to manage the rationalisation exercise across all areas of guidance over the period to March 2014. This will report at the end of January 2013 and we will let you know further details at that stage.

In order to avoid spending time on guidance which is quickly superseded and sending mixed messages to the public, we should therefore avoid producing new environmental guidance in the interim unless essential – for example, that we have a legal obligation to do so.

Within Defra, policy teams should seek the Better Regulation team's advice on whether the guidance can be classed as 'essential'. Parallel approval arrangements are being set up within the Defra agencies. The expectation is that this approach will subsequently be extended to other Defra policy areas so teams producing guidance in other policy areas are also advised to avoid producing new guidance unless essential.

Proposed structure of environmental guidance

It is proposed that environmental guidance should be restructured into three tiers to provide a clear, easy to navigate structure through which businesses – and the members of the public if they are interested – can find out about their environmental obligations. Tier 1 should provide enough information to enable a business to know whether it needs to read material in Tier 2. Tier 3 will provide a further level of detail.



This structure is currently being developed further as part of a pilot phase running until end January. The annex gives an initial overview of the subjects likely to be included.

Format of all essential guidance

It is proposed that any essential guidance produced should:

- fit within this proposed tiered structure
- follow the GOV.UK style guide:
<https://www.gov.uk/designprinciples/styleguide>
- take account of the Code of Practice on Guidance on Regulation (BIS, 2009) eight golden rules:
<http://www.bis.gov.uk/files/file53268.pdf>
- in line with the Code Rule 5, provide a 'safe harbour', i.e. explain clearly how a business can tell when it is doing everything it needs to do to comply with its environmental obligations
- distinguish clearly between what is required by law and what is voluntary good practice

Further information

Further information on SERR can be found at:

<http://www.defra.gov.uk/corporate/about/how/regulation/>

If you would like to discuss the exercise to rationalisation and restructuring of guidance please contact: [REDACTED] [defra.gsi.gov.uk](mailto:[REDACTED]@defra.gsi.gov.uk)
or [REDACTED]
[REDACTED]@defra.gsi.gov.uk.

Version 1: 7 January 2012

ANNEX A: DRAFT TIERED ENVIRONMENTAL GUIDANCE STRUCTURE

Purpose: to provide a clear, easy to navigate structure through which businesses can find out about their environmental obligations. Tier 1 should provide enough information to enable a business to know whether it needs to read material in Tier 2. Tier 3 will provide a further level of detail.

Draft structure

Tier 0

Tier 1

Tier 2

Industrial environmental management

- Obtaining an environmental permit
- Emissions monitoring and reporting (e.g. MCERTS, pollution inventory)
- Local authority controls on air pollution (e.g. smoke control zones, dark smoke)
- Controlling noise, vibration, dust, odour and other nuisances
- Activity-specific rules
 - e.g. rock crushing
 - dry cleaning
 - surface treatment
- Environmental incidents, damage and civic sanctions
- COMAH

Chemicals management

- REACH
- COSHH
- POPs and PCBs
- Solvents and other volatile organic compounds
- Pesticides (authorisation and manufacture)
- Biocides

Climate change

- Greenhouse gas emissions
 - EU ETS
 - CCA, CCL
 - CRC EES
 - F-gas and ODS
- Renewable energy sources
- Energy efficiency
- Climate change adaptation

Waste

- Waste management obligations for waste producers
- Waste processing
 - Recycling
 - Incineration
 - Anaerobic digestion
- Handling specific types of waste

- Agricultural waste
- Electrical and electronic waste
- Packaging waste
- Mining waste
- Construction waste
- Hazardous waste
- End of life vehicles
- Waste exemptions

Water

- Water abstraction and storage
- Supplying water (e.g. guidance specific to water companies, water quality)
- Using water (e.g. water efficiency)
- Discharging effluent to the sewer and to surface and ground water

Biodiversity

- Wildlife protection requirements in England
 - European protected species requirements
 - Nationally protected animals and plants
 - Wild birds species protections
 - European sites
 - Nationally protected sites (SSSIs) and other designated conservation areas
- Wildlife management and licensing
 - e.g. rabbits
- ~~Invasive non-native species and injurious weeds~~
 - ~~e.g. Japanese knotweed~~

Land management

- Nutrient management
- Pesticides management
- Soil management
- Contaminated land
- Flood risk management
- Coastal erosion management
- Allowing public access to your land
- SPS cross-compliance
- Environmental Stewardship
- Forests and woodlands