

# Performance based regulation

July 2017

## Why change the way we regulate?

Earlier this year, work started on replacing OPRA, the risk screening tool used for permitted waste activities and installations. This kick-started a review of the way we do compliance, and whether in 2017 this really worked for us as a regulator, responsible businesses and our other customers?

Gathering feedback, it became apparent that a lot needed to be improved, in order to meet user needs and make the way we regulate fit for the future. And so.....Performance Based Regulation (PBR) was launched!

PBR is being developed to create a fairer and more consistent framework in which we can regulate across all regimes under the Environmental Permitting Regulations. It will enable us to simplify and streamline what we do, and to make better use of digital technology, linked data and shared intelligence.

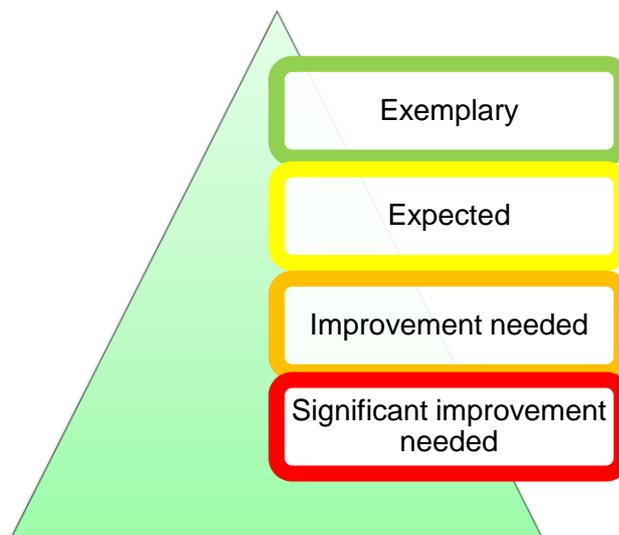
There are many benefits from improving the way we regulate. Through PBR, we will continuously improve the overall standard of environmental performance at permitted sites. We will enhance public protection and reassurance. We can also support responsible businesses by creating a level and stable playing field in which to operate, and as we become more efficient, we can pass on those savings to the businesses we regulate.

PBR will also enable us to acknowledge and reward high performing operators with light-touch regulation, leaving us to focus our regulatory efforts on addressing the poorest performers.

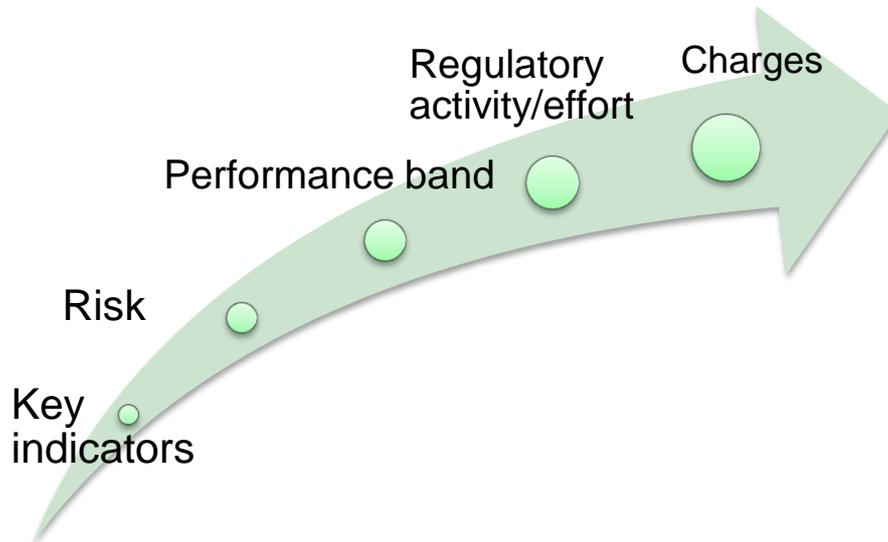
The direction meets the recommendations for improving and evolving how we regulate, made by the Cabinet Office in the [Regulatory Futures Review](#). It also has strong links to our strategic direction for regulation and [Regulating of People the Environment and Growth](#).

## What is Performance Based Regulation?

PBR will replace the current six compliance bands (A-F) with four descriptive performance bands.



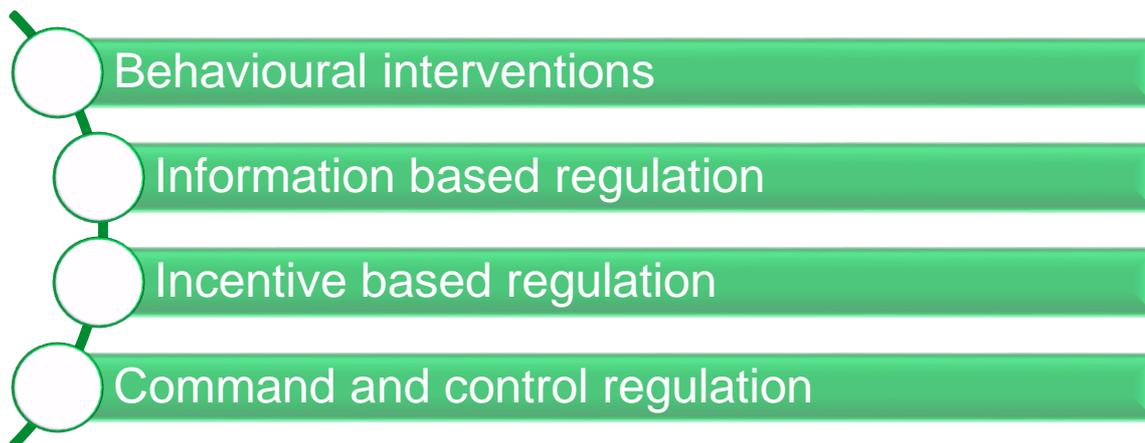
A number of key indicators will be used collectively to describe the risk posed by a site. The risk will determine which performance band the site is in, and consequently the regulatory activities and effort we undertake. The subsistence fee for the site, will be based on the chargeable regulatory elements.



One of the main changes in the PBR approach, is to recognise that risk is composed of both hazard and likelihood. So whilst the hazard is determined by the nature, scale and location of the activity. Likelihood is largely determined by the responsiveness and behaviour of the operator.

When we carry out our assessment we will be looking to achieve a fairer and more accurate reflection of the overall performance of a site.

## The four combined strands of performance



[Behavioural interventions](#) will ensure there is a zero tolerance approach to hostile behaviour towards our staff. It's also about improving how we frame information, so that our messages and reporting has meaning for operators, their competitors and also other parties that we're trying to influence and inform.

An example of this is moving to the four self-explanatory performance bands. This simplicity and clarity of approach will be carried through into the way we score/assess performance (replacing the CAR forms), and how we record and share it (informing decision making and nudging positive behaviours).

[Information based regulation](#), can improve how we predict risk, rather than relying solely on historic permit compliance. Data integration tools would automate how we bring together a wider combination of compliance/enforcement data, which we collect through other regimes, other regulators and competent third parties. By combining these complimentary strands of intelligence, we would have a well-rounded, richer picture of both the risk and the performance of each site.

[Incentive based regulation](#). Our proposals, would include the introducing earned recognition and regulated self-assurance. This would apply to those sites which voluntarily choose to demonstrate sustained and continuing high performance. We would describe these sites as Exemplary performers, and through earned recognition we could reward and publicise their achievements.

## What are some of the benefits of performance based regulation?

For business it would further support a level playing field, and we could recognise those who are responsive and reward those with enhanced environmental performance. PBR will enable us to realise efficiencies in how we do things, and we can pass on these savings to those we regulate. We are also open to exploring what incentives may be attractive to businesses we regulate, and how these can be realised for the highest performers, irrespective of company size or activity.

For local communities it recognises the importance of positive public engagement, making them feel better protected, informed and reassured.

For the Environment Agency it would help us to become a more efficient, effective and intelligence-led regulator. Better predictions of risk and performance will enable us to respond more quickly to emerging issues and prevent them from escalating. PBR will also enable us to focus our interventions more quickly and more appropriately especially when dealing with poor performing sites.

## How will this impact what I pay?

PBR is currently de-coupled from the Strategic Review of Charges, and so as an interim solution we will continue to use current compliance bands A-F and the associated multipliers. In the future, we aim to link performance to charges for all EPR sites.

## How can I get involved?

- Sign up to our e-bulletin where we highlight ways for you get involved ([sign up here](#))
- Follow us as we share ideas and seek feedback via social media such as Twitter, Facebook and LinkedIn (be sure to follow the Environment Agency account on these platforms)
- Respond to our full external consultation in the New Year
- Participate in ongoing engagement opportunities via trade associations and professional bodies

## What are the timescales?

- Autumn 2017, there are a range of stakeholder meetings which are being arranged through trade associations and professional bodies
- Early in 2018, we plan to formally consult on the proposals for Performance Based Regulation
- Preliminary indications suggest that we may be able to implement subsistence charges which are linked to Performance Based Regulation from April 2021.