



guardians of drinking water quality

DRINKING WATER INSPECTORATE

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DWI Information Letter 03/2003

1 May 2003

To: Board Level Contacts of Water and Sewerage Companies in England and Wales

Dear Sir or Madam

WATER SUPPLY (WATER QUALITY) REGULATIONS 2000 - AUTHORISED DEPARTURES UNDER REGULATIONS 42 AND 20

Purpose

1. To outline the Inspectorate's general approach to authorised departures under the new Regulations, to inform you of the arrangements for submission of applications for authorisations under the provisions of Regulation 42 and to explain how existing programmes of work will be affected.

Background

2. The Water Supply (Water Quality) Regulations 2000¹ (the Regulations) implement the requirements of the Drinking Water Directive - Council Directive 98/83 EC (the Directive). The Directive provides a mechanism for derogation from the standards subject to certain conditions. Any such derogation may not extend for more than three years, though a second derogation may be issued subject notification of the Commission, and a third derogation subject to the Commission's agreement.
3. These provisions are implemented by means of Regulations 20 to 24 of the Regulations, which do not come fully into force until 25 December 2003. In addition Regulation 42 provides for authorisations to be granted prior to 25 December 2003, which in effect become Regulation 20 authorisations as of that date. Regulation 42 comes into force on 1 June 2003 and applications must be submitted by 25 September 2003.
4. Under the current legislation the normal mechanism for securing improvement in water quality is by means of undertakings given under Section 19 of the Water Industry Act 1991.
5. Derogations under the Directive may be granted for any parameter listed in Annex 1, Part B, of the Directive. Whereas authorisations granted under the Regulations

¹ 2001 in Wales

may be granted for parameters listed in Part II of Table A or Table B, this includes a number of parameters to which national mandatory standards apply, in addition to Directive parameters in Annex I Part B. Most of the parameters to which national mandatory standards apply are indicator parameters under the Directive.

General approach

6. The Inspectorate's general approach is to continue the use of Section 19 undertakings for parameters to which national mandatory standards apply (referred to as "national parameters" in this letter) and only to require authorisations for parameters listed in the Annex 1, Part B, of the Directive (referred to as "Directive parameters" in this letter). For clarity, lists of Directive parameters and national parameters have been included as annexes to this letter.
7. An example of the implication of this policy is that existing distribution undertakings for iron, manganese, turbidity and pH will not need to be converted into authorisations. Distribution undertakings that currently include benzo(a)pyrene shall have the Schedule of Works and Annex amended before 25 December 2003 to exclude the parameter: an application for an authorised departure for any zones/sub-zones with benzo(a)pyrene involved shall be submitted by companies no later than 25 September 2003.
8. To put it simply, under this regime, it will be possible to have both a section 19 undertaking and an authorisation for the same site, though obviously for different parameters.

Submission of applications for authorisations under Regulation 42

9. Applications for authorisations under Regulation 42 must be submitted to the Inspectorate between 1 June 2003 and 25 September 2003. No applications under Regulation 42 received after 25 September 2003 will be considered. The information provided with the application should be as detailed in Regulation 20(3). In addition, the applications should specify whether the application arises from an existing improvement programme or a new scheme. A proforma for applications is being placed on the Inspectorate's website.
10. Any references made to zones as part of the application must be references to the zones designated for the year 2004. Equally site references and site names must be the same as those used in the 2004 compliance data. Any changes to zone designations for subsequent years which affect authorisations must be notified to the Inspectorate by 31 December of the year prior to the year the change takes effect.
11. At the same time the application is made, companies must notify the relevant bodies as specified in Regulation 20(4). Companies are strongly encouraged to discuss informally with the Inspectorate the content of its application before making the formal application. The bodies notified have the option to make representations to the Secretary of State up to 30 days after the application is received. Water companies are strongly advised to discuss, through their regular liaison meetings with notified bodies, the background to the applications and

advise them of the number and nature of applications the bodies are likely to receive.

12. When an authorisation has been granted, the water company must publicise it as detailed in Regulation 23. The relevant provisions of Regulations 20 to 23 mentioned above will be in force by virtue of Regulation 42(3).
13. The onus rests with water companies to ensure that it has made all the relevant applications. If a Company makes no application, it should be confident that the water it supplies on and after 25 December 2003 will meet the requirements of Part III of the Regulations (excepting in respect of national parameters where undertakings are in place).
14. The Inspectorate takes the view that for major schemes scheduled for full completion by 31 December 2003, applications for authorisation are unlikely to be required because the Company should be in the final stage of commissioning and the water should be fully compliant on 25 December 2003. Nonetheless it is possible for companies to make applications in these circumstances.

Conversion of existing improvement programmes

15. Regulation 41 regulatory programmes of work are scheduled to be completed by 25 December 2003 and therefore no application need be made for these schemes, unless they unlikely to be completed by the due date. Based on current returns, it should be only a very small number of schemes that are not completed on schedule. Any schemes that do overrun and are converted into authorisations will be subject to the notification and publication requirements for authorisations set in the Regulations and outlined above in paragraphs 11 and 12.
16. Statements of intent are mainly for schemes associated with improvements related to meeting the *Cryptosporidium* standard. The *Cryptosporidium* standard is a treatment standard and is not a requirement of Part III of the Regulations and therefore applications for authorisations need not be made. The remainder of the statements of intent relate to national parameters and therefore the Inspectorate would not normally consider authorisation necessary.
17. Companies should apply for authorisations for existing undertakings for Directive parameters that run beyond December 2003, unless the undertakings are completed ahead of schedule and before 25 December 2003. Likewise companies should apply for authorisations for any undertaking for Directive parameters that are completed behind schedule, on or after 25 December 2003.
18. Any undertaking for a Directive parameter that runs beyond 24 December 2006 will have to be accelerated for completion by that date since authorisations may not extend for more than three years.
19. Existing undertakings for national parameters will remain in place but, where a company is planning changes to its zones, new Schedules and Annexes must be submitted to the Inspectorate by 30 November 2003. All site and zone references must be consistent with those used in the 2004 compliance data. Subsequent


alterations to zones that affect such undertakings must be made by 31 December in the year prior to the change taking place.

20. The Inspectorate proposes to write to each water company shortly outlining the existing programmes of work that it considers will need to be converted into authorisations. The Inspectorate does not envisage any significant number of applications for new schemes will be submitted since AMP3 schemes will be underway and AMP4 schemes can be converted into undertakings or regulation 20 authorisations at a later date. Companies are reminded that the onus rests with them to make all the necessary applications in accordance with Regulation 42.

Enquiries

21. Any general enquiries on this letter, informal enquiries about applications for authorisation and formal applications should be addressed to Pete Marsden (020 7944 5975). Submission relating to changes to the distribution undertaking should be addressed to Peter Halton (020 7944 5986).
22. Copies of this letter are being sent to Pamela Taylor, Chief Executive, Water UK; Rodney Anderson, Water Supply and Regulation Division, Department for Environment, Food and Rural Affairs; Bob Macey, Environment Division, The National Assembly for Wales; Tim Hooton, Water Services Unit, Scottish Executive; Randal Scott, Drinking Water Inspectorate for Northern Ireland; and Rowena Tye, Office of Water Services.
23. This letter is being sent electronically to Board Level contacts. Please acknowledge receipt by email to dwi.enquiries@defra.gsi.gov.uk. Hard copies are not being sent. This letter may be freely copied.

Yours sincerely



Miss C R Jackson
Deputy Chief Inspector

