

Regulatory Decision

Regulatory Decision - RBB-C19-012 Technical Competent Manager Attendance and Continued Competence

This decision applies as a temporary emergency contingency measure only. It is subject to review.

- 1. Technical Competent Manager attendance during COVID-19 restrictions**
- 2. Continued Technical Competence**
- 3. Environmental Permitting Operator Certificate (EPOC)**
- 4. Energy & Utility Skills**

1. Technical Competent Manager attendance during COVID-19 restrictions

We understand that many operators will be concerned about how they can satisfy attendance requirements whilst sites are running on reduced staffing levels and staff may well be ill or self-isolating. We will be pragmatic in our approach.

- There is still a requirement to have a technically competent person as a requirement of the permit.
- The TCM attendance hours are within the guidance on GOV.UK and they are an indication that site activities are in being overseen by a technically competent manager.

Operators should:

- Review their training and capability structure to ensure roles, responsibilities and accident plans are in place and reviewed to ensure that they are fit for purpose.
- Ensure that remote systems are operational. Alarm systems where required, are fully operational.
- Have a responsive duty roster to respond to incidents.
- Notify us where the site cannot be safely monitored.
- Where the TCM (s) is self-isolating and not sick, every effort should be made to attempt “virtual” support to the site through teleconferencing or video links. This input, duration and method of communication must be recorded in the site diary.

- Where the TCM is unable to support communications in self-isolation or is sick every effort should be made to identify a suitable replacement TCM. Record if their current nominated TCM(s) are self-isolating/sick in the site diary.
- Where the TCM is self-isolating or sick (and cannot attend the site) and no TCM cover available. The operator should be able and capable of operating the plant or site safely through both their EMS and operations training using other competent staff for the short time the TCM is unavailable.

Where there has been an inability to make alternative arrangements and a breach of the permit condition occurs then NRW will record the breach on a CAR report and suspend the score.

2. Continued Technical Competence

The following will only apply to an operator who currently complies with the primary qualification and continued competence requirements prior to 16th March 2020.

In view of Pearson VUE test centres now being closed, Continuing Competence tests are not currently available and until the current Government's advice changes, we will not regard the failure to complete a continuing competence assessment that **became due after 16 March 2020** as being a failure to comply with the CIWM/WAMITAB Operator Competence scheme. There will be a requirement to demonstrate you have registered with WAMITAB to undertake this test. If this applies to you or your TCM, please contact both NRW and WAMITAB as soon as possible to let us know. WAMITAB are keeping a log of those who have contacted them. NRW will be checking this list.

Where an application for a permit is made and continued competence was due after 16 March, we won't take that as a failure to prove technical competence and we will determine the application as per normal. There will be a requirement to demonstrate you have registered with WAMITAB to undertake this test and already have the relevant primary qualifications that align with the type of facility you are making an application for.

It is expected that your test is re-booked as soon as the centres re-open.

Where a permit already exists and obtaining continued competence is not possible. The details will be noted on a compliance assessment report, scored but that score held in suspension.

There is the risk to the operator who fails to achieve continued competence following lifting of restrictions on gaining qualification that that operator will be in breach of the permit or this may delay permit issue. In this instance the operator will be expected to provide replacement TCM cover to remain compliant.

3. Environmental Permitting Operator Certificate (EPOC)

Where an operator is relying on the EPOC for permit application or for lower tier risk sites (per WAMITAB tiers). The inability to provide the EPOC for qualification for new permit application or low tier risk sites will not prevent permit application processing.

NRW will continue to process permit applications without the EPOCs providing the applicant is registered with an intent to complete the EPOC.

There will a requirement to demonstrate that you have registered with the Chartered Institution of Wastes Management (CIWM) and that you provide this proof on a permit application. NRW will check validity with CIWM.

Operator will have to endeavour to resolve this as soon as possible following availability of EPOC Courses.

There is the risk to the applicant that if a permit is issued and the applicant fails to achieve the EPOC qualification following lifting of restrictions that that operator will be in breach of the permit.

4. Energy & Utility Skills

Due to the current situation, on site visits for surveillance and auditing purposes may not be possible under the EU Skills scheme. It is usually audited and certificated by accredited Certification Bodies and this includes regular surveillance audits by them to ensure the CMS remains effective.

Where possible, NRW will expect remote auditing for the Competence Management System. All Operators will, therefore, be able to undertake a surveillance schedule which continues to demonstrate an effective CMS and compliance with the technical competence requirements.

Where remote surveillance and auditing is in place NRW expect the Operator to make a record of this and that this is available for inspection.

A CMS recognises that all employees on a site contribute to the overall performance of the site and employees' competence is maintained in real time, so they remain current for their roles. Where this is not possible you are required to inform Natural Resources Wales to assess if there is a non-compliance. If there is this will be recorded on a CAR form and the score held in suspension.

Please note: The CMS does not require a named technically competent manager per site, however, a management representative should be available to deal with any issues that may have an impact on compliance with the conditions of an environmental permit.

There is also no requirement to log site attendance time as it is a holistic approach and recognises that all employees on a site contribute to the overall performance of the site.