



# Processing applications to use herbicides in or near water and aerial spraying of pesticides near water

Operational instruction 231\_10

Issued 21/02/2011

This document is for staff at level 2/3 capability to carry out administrative tasks and level 3 capability for technical tasks in the technical development framework.



Document details

## What's this document about?

This document describes how we receive and process applications for the use of herbicides in or near to water or pesticides for aerial spraying near to water. It describes how we carry out GIS screening, classify applications as simple or complex applications and send out agreement letters.

**! Important** - If we receive a request for herbicide to be applied by aerial application directly to a watercourse or its banks to control aquatic weeds this is **not** covered in this document. A request of this nature needs an Environment Agency **consent**. These requests are very rare, in such instances contact the National Technical Advisor in the Water quality technical services team for further guidance.



Related documents

## Who does this apply to?

This document applies to Permitting Support Centre (PSC) staff and BASIS qualified officers.



Feedback

## Contact for queries

Pete Baker/  
Belinda  
Steward

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## Introduction

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### Our aim

The Environment Agency must be consulted by anyone wishing to apply pesticides by aerial spraying near to water or use herbicides in or near water. This includes our staff who use herbicides in or near water. See the [following guidance](#) for more detail on what 'in' or 'near' water is, for example to control aquatic weed or vegetation on flood embankments.

**! Important** For aerial spraying applications, such as bracken spraying all upland areas are considered near to water because of the many small streams and rivulets that run across these areas.

Our aim is to ensure that when we receive applications to carry out these activities our response:

- complies with our statutory duty to regulate the use of pesticides;
  - protects the environment;
  - prevents the contamination of water for drinking water supply.
-

**Guidance for 'in water' use**

The definition of "in water" includes the following water bodies:

- drainage channels
- streams
- rivers
- ponds
- lakes
- reservoirs
- canals
- dry ditches including moor land grips, that run for more than three months of the year.

**! Important** These conditions apply only to non-tidal water bodies

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**Guidance for 'near water' use**

- The definition of "near water" will include the control of vegetation growing on the banks or areas immediately adjacent to water bodies, within 1m of break of slope where there is a clearly defined bank top.

**! Important** Where there is no clearly defined bank top this is taken as the first major break in the slope where cultivation or development would be possible. This does not apply to the control of vegetation growing on nearby cropped or amenity land. It should remain at the discretion of the determining BASIS officer to increase these distances if they consider that the operation constitutes a threat to the water body.

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**Areas not needing Environment Agency agreement**

The table below indicates areas that do not need Environment Agency agreement.

Area	Definition
<b>Amenity areas</b>	<ul style="list-style-type: none"><li>▪ These include areas such as hard surfaces and road verges. These areas have herbicides that are approved for amenity use. Users of these herbicides must follow the directions on the label and Code of Practice for using plant protection products. We encourage organisations using herbicides in these areas to be aware of the risks of potential contamination of waterbodies and to consult with us if there is potential for contamination.</li></ul>
<b>Network Rail</b>	<ul style="list-style-type: none"><li>▪ The Environment Agency has a memorandum of understanding (protocol) with Network Rail identifying herbicides and buffer zones for the protection of ground water and other water bodies and does not require additional consultation/ agreement. This agreement is updated yearly.</li></ul>
<b>Agricultural use</b>	<ul style="list-style-type: none"><li>▪ The use of agricultural pesticides does not require Environment Agency approval. All users of agricultural pesticides should comply with the label instructions and the Code of Practice for using plant protection products. LERAPS (Local Environmental</li></ul>

	<p>Risk Assessment for Pesticides) can be used for some pesticides to reduce the aquatic buffer zone. This information can be found on the product label. (See Defra leaflet “Local environmental risk assessments for pesticides” available from the Pesticide Safety Directive (PSD) website).</p> <ul style="list-style-type: none"> <li>▪ Cross compliance agri-environment schemes require a 1 m buffer strip from the top of the bank of a watercourse or dry ditch when using agricultural herbicides to treat land.</li> </ul>
<b>Tidal waters</b>	<ul style="list-style-type: none"> <li>▪ Tidal waters are not covered in relation to agreement from the Environment Agency regarding controlling aquatic and bankside weeds by aerial spraying (para. 2 (1) © of schedule 4 to COPR) as this only refers to watercourses and lakes rather than surface water generally.</li> </ul>
<b>Aerial spraying</b>	<ul style="list-style-type: none"> <li>▪ Consents to aerial spray in order to control aquatic weeds only applies to watercourses or lakes and not tidal waters.</li> <li>▪ <b>! Important</b> There has to be consultation if application of pesticide is within 250 metres of water.</li> </ul>

### Our process

When we receive an application for our agreement to the aerial spraying of pesticides or the use of herbicides in or near water we need to assess it, to decide whether or not it is complete and contains all the information we will need to process it.

Once we have decided the application is complete we record the application, assess whether it is simple or complex and allocate to a Permitting Support Advisor or an area BASIS officer, respectively.

The application is then processed together with a full audit trail, and will either be agreed or returned to the applicant with reasons explaining why it has not been agreed.

### Pesticides

‘Pesticide’ is a broad term, covering a range of products that are used to control pests. Many of which are used in everyday life, for example:

- insect killers (insecticides);
- mould and fungi killers (fungicides);
- weed killers (herbicides);
- slug pellets (molluscicides);
- plant growth regulators;
- bird and animal repellents;
- rat and mouse killers (rodenticides).

## Herbicides

Herbicides are used to control problematic plants, with only a few being approved on the product label, for use on bank sides and in water. Our agreement is required before herbicides are used in or near water, to control and eradicate problem and invasive plant species.

We also have to be consulted when an aerial application of a pesticide / herbicide is planned in or near to water, to protect against the risk of damage to the water environment.

Our Operations Delivery teams also apply such herbicides, mainly to control problem non-native plant species such as Japanese Knotweed, as part of flood risk management operations

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## What are herbicide applications?

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### Application types

Some pesticide products have a requirement on their labels for users to ask for our agreement, if they are to be used in or near to water.

There are two application forms which allow users to do this.

**Form AqHerb01** is an application for our agreement to:

- use herbicides in water;
- use herbicides near water.

**Form AerHerb02** is to give notice and apply for our agreement to:

- the aerial spraying of pesticides near to water.
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### Simple and complex applications

We will treat applications as simple or complex, depending on their potential to have an environmental impact.

**Simple** applications are:

- the use of herbicides to control plants near water (bankside) which are not close to sensitive habitat or protected species features.

**! Important** – Use Easimap for National Permitting to identify nature conservation sites, habitats and species within hydrological continuity.

**Complex** applications are:

- all applications for the aerial spraying of pesticides;
  - all applications to use herbicides in water;
  - the use of herbicides near water (bankside) close to sensitive habitat or protected species features.
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### **Who can use herbicides?**

To use pesticides or herbicides, applicants must hold a National Proficiency Test Council (NPTC) certificate to apply pesticides or aquatic herbicide, as required by the Control of Pesticides Regulations 1986 and the Plant Protection Product Regulations 1995.

All Environment Agency staff who are using herbicides must hold the relevant National Proficiency Test Council (NPTC) certificate for that type of herbicide use. For example PA6 – ‘hand held applications’ certificate. These are available from external examiners.

“ Grandfather rights” are when an applicant was born before 31 December 1964. In this situation the operator does not need a certificate of competence nor supervision by person who has such a certificate.

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## **Who does what?**

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### **Permitting Support Centre (PSC) staff**

The following sections summarise the tasks for Permitting Support Advisors before passing complex applications to BASIS qualified officers.

The Permitting Support Advisor:

- carries out administrative checks;
  - carries out distance checks to sensitive features;
  - assesses complexity;
  - sends complex applications to BASIS qualified officers;
  - updates log and track, and EDRM databases;
  - processes simple applications for PSC team leader agreement;
  - sends simple agreement letters to applicant.
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### **Permitting Support team leader**

Signs simple application agreement letters.

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## **BASIS qualified officers**

These are staff who have BASIS training and accreditation in aquatic herbicides, and are listed on the BASIS professional register. BASIS qualified officers must maintain their registered status through continued professional development.

The BASIS qualified officer will:

- respond to pre-application enquiries;
  - conduct site visits where necessary;
  - review applications deemed complex by PSC;
  - assess the appropriate herbicide use;
  - decide on internal/ external consultees and follow up responses;
  - consult with Natural England/Countryside Council for Wales if needed;
  - add copies of complex agreement letters to EDRM;
  - sends complex agreement letters to applicant;
  - contact PSC when letters are sent to applicant so that the log and track register can be updated.
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## **Pre application**

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### **Site visits**

BASIS qualified officers may conduct a site visit, which can be useful to identify:

- which is the most suitable method of control, mechanical, biological or herbicide use;
- if other options of physical or biological treatment may be suitable;
- particular site issues;
- site management after herbicide use, such as replanting to avoid algal blooms or replanting to prevent erosion.

If visiting the site follow the suitable [Generic Risk Assessments](#).

Alternatively, plant material for identification may be sent by post to the BASIS qualified officer.

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**BASIS  
qualified  
officer advice**

If a herbicide is to be used, provide advice on:

- types of herbicide available;
- what the different herbicides do and how they work;
- how long the effects last;
- specific requirements of their use, such as leaving a time interval before using for water irrigation;
- buffer zones when aerial spraying.

Explain where further information can be acquired, such as:

- <http://www.water-land.co.uk/information%20sheets.htm>;
  - [Environment Agency website](#);
  - [Centre for Ecology and Hydrology](#);
  - Chemical Regulations Directorate.
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**Risk to nature  
conservation  
sites**

It is the applicants responsibility to ensure the pesticide / herbicide use will not affect a nature conservation area or nationally protected species.

They must consult with [Natural England](#) or [Countryside Council for Wales](#) if the application may pose a risk to any of the following:

Marine Nature Reserve (MNR), National Nature Reserve (NNR), Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar site, or Ancient woodland.

They must consult with local authorities if the application poses a risk to a Local Nature reserve (LNR) or Local Wildlife Site.

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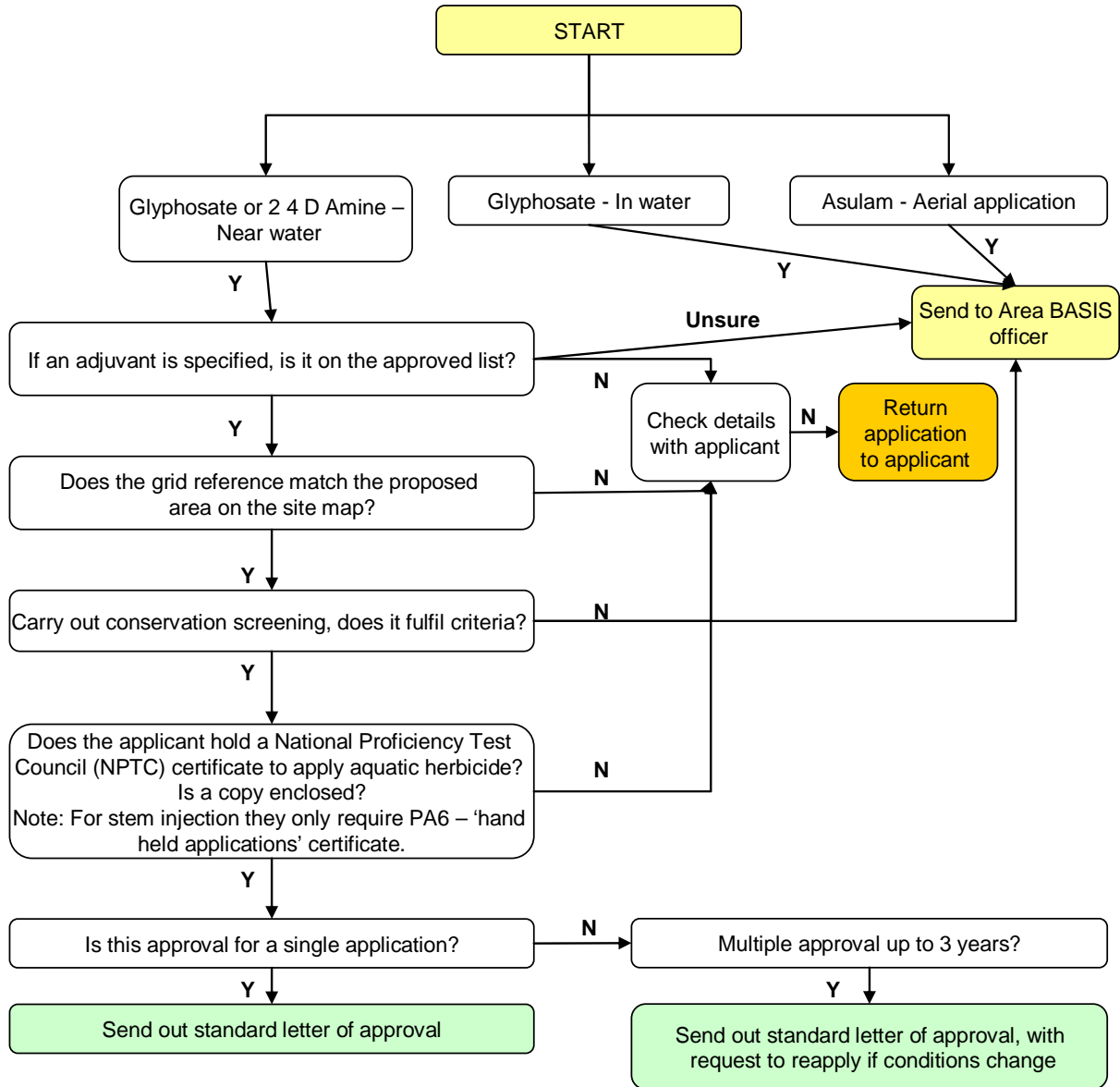
**Further  
advice**

Discussion with the applicant should also include:

- their responsibility to not affect anyone else using the site or the water downstream from an application. This could be for example livestock, crop irrigation, fisheries or drinking water abstractions.
  - the applicant's responsibility to consult with the local **Environmental Health Department** for information on private water supplies if they are aerial spraying pesticides or using herbicides in water.
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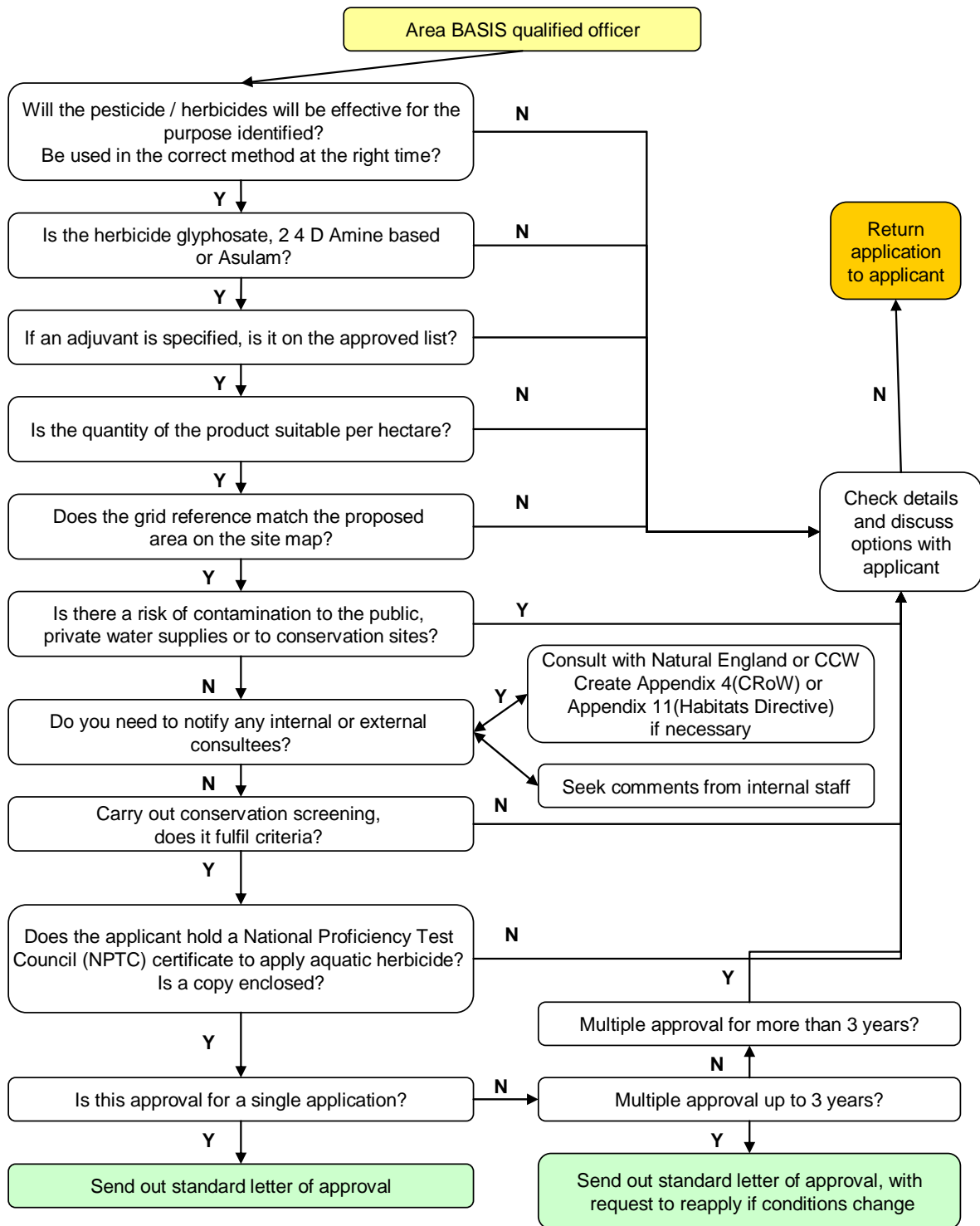
# Pesticide/herbicide application process diagrams

**PSC process** The following diagram illustrates the steps that PSC staff must take in the pesticide/herbicide application process.



**BASIS  
qualified staff  
process**

The following diagram illustrates the steps that BASIS qualified staff must take in the pesticide/herbicide application process.



## Application checking and timescales

### Checking process and timescales

The table below outlines the overall process and timescales.

Stage	Description
1	PSC must complete application checks as soon as possible from the day the Environment Agency receives the application.
2	The Permitting Support Advisor completes the checks within <b>two working days</b> of receiving the application using the <a href="#">herbicide applications checklist</a> .
3	If there is information missing from the application we give the applicant <b>10 working days</b> to provide this.
4	<p>Although there is no statutory time to agree to an application <b>PSC staff must aim to agree to an application within 10 working days from receipt.</b></p> <p>For complex applications the BASIS qualified officer needs to send our response:</p> <ul style="list-style-type: none"> <li>▪ within 10 working days of the date the application was received;</li> <li>▪ within 10 working days of the date we received further information if requested by us;</li> <li>▪ after receiving comment from Natural England/CCW or other relevant external organisations if they have requested additional time to respond.</li> </ul> <p><b>! Important</b> We must keep the applicant informed if we expect a determination to take more than 10 working days.</p>

### Application received date

This is the date we receive the application in the Environment Agency, unless we need to ask for more information. In those cases the received date is the day when the missing information is received.

### PSC staff checking the form

Once the application is logged PSC staff need to check the form is complete and carry out some administrative tasks, as follows:

Step	Action
1	Check that the application is on the correct form.
2	Check that all parts relevant to the application are complete and readable. If there is any information missing include this on the checklist.
3	Check that the declaration in the application form has been completed.
4	<p>Check that any supporting documents enclosed agree with those listed in the application form checklist.</p> <p>Note any missing documents on the application received checklist.</p>
5	Check that the herbicide is from the approved list, and that the adjuvant is approved for use in water (There are some common

	approved adjuvants but there maybe others that are approved please check with area BASIS officer if uncertain)
6	Use Easimap for National Permitting to check that the grid reference is correct and relates to the site address and site map and that the correct protected habitats or species are identified.
7	Check the NPTC certificate information provided is appropriate for the activity using the list of qualifications. Where the applicant has not provided certification information because they have already provided it in a previous application check against the stored applicants certificate list held in log and track.
8	Check that the proposed herbicide is on the list of herbicides approved for use in or near water. If it is not an available selection from the log and track system, then it is not approved. Consult with the relevant local area BASIS qualified officer before returning the application.

### Missing information

If anything is missing from the application then:

- List all missing information in the [herbicide application checklist](#).
- If the application is very poor, for example illegible or missing a lot of information, then you must return the application to the applicant. Follow the instructions in the section about returning an application.
- If parts of the application have not been filled in, try to resolve these omissions by phone call or email to the Application Contact. Note all contact made with them on the [herbicide application checklist](#).
- If you phone the Application Contact to resolve basic omissions explain that we have more checking to do and may need to contact them again for more information.

### Receiving missing information

When you receive missing information then:

- record the date the information was received on the [herbicide application checklist](#);
- if the information is adequate enter the date the information was received as the date the application was received in log and track;
- if not follow the same procedure below.

### Missing information not received or it is inadequate

If we have not received the missing information within 10 days the Permitting Support Advisor will chase up the missing information, following the steps below.

Step	Action
1	Phone the applicant to ask if the information has been sent.
2	Tell them the date on which we will return the application.
3	If we haven't received the information by this time we must return the application.

## Returning applications

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### Returning an application

PSC staff will return an application if:

- it is very poor;
- an applicant has not responded to a request for more information or within 10 days of that request.

**Note:** We will contact the applicant before we return their application.

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### Permitting Support Advisor

If we need to return an application, the Permitting Support Advisor will:

- send all submitted copies of application and supporting information back to the applicant with a letter. Save the letter to EDRM.
  - update the [herbicide application checklist](#) to show that the application has been returned. Save this to EDRM.
  - record on the log and track system the reasons the application has been returned.
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## Keeping records

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### How we keep records

PSC staff will keep records up to date by following the steps:

Step	Action
1	Allocate the application the next available number from the Herbicide application log and track system.
2	Create <a href="#">herbicide application checklist</a> and logs progress of each application on log and track.
3	Once you are satisfied that it is complete then record the application on the Herbicide application log and track system.
4	Create an EDRM file for the application using the number provided by the log and track system.
5	Scan paper applications and supporting information and save them on to the EDRM file for the application. Save electronic applications and supporting information on to the EDRM file for the application
6	File all documents, such as application forms, correspondence and checklists on the electronic document management system EDRM to store records  <b>Note:</b> If there is already a file open in EDRM for an application make sure you add to this rather than creating a separate one.

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### Weekly lists to areas

PSC sends a list of all applications received and in progress to areas every two weeks to the BASIS qualified officer area email accounts.

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## Assessing if an application is simple or complex

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### Simple and complex applications

We will treat applications as simple or complex, depending on their potential to have an environmental impact.

**Simple** applications are:

- the use of herbicides to control plant species near water (bankside) which are not close to sensitive habitat or protected species features.

**! Important** – Use Easimap for National Permitting to identify nature conservation sites, habitats and species within hydrological continuity.

**Complex** applications are:

- all applications for the aerial spraying of pesticides;
  - all applications to use herbicides in water;
  - the use of herbicides near water (bankside) close to sensitive habitat or protected species features.
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## GIS screening

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### Easimap for National Permitting

Permitting Support Centre staff carry out the checks in the table below for applications to use herbicides.

Step	Action
1	Use the <a href="#">Easimap</a> screening tool to check the distance from the site to the relevant search criteria for herbicide applications.
2	Store the pdf report onto EDRM.
3	If the report identifies a habitat or protected species sensitive feature in hydraulic continuity; then classify the application as complex and pass it on to the area BASIS qualified officer. Otherwise the application is classified as simple.
4	Record the outcome of the GIS screening on the <a href="#">herbicide application checklist</a> and save a copy of the screening output on to EDRM.

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## Simple applications

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### Agree simple applications

Permitting Support Centre staff will follow the steps in the table below for simple applications.

Action	Who
Complete the <a href="#">near water simple application agreement letter</a> .	Permitting Support Advisor
Agreement letter signed.	Permitting Support Team Leader
Agreement letter posted to applicant and if available also confirmed electronically	Permitting Support Advisor
Application recorded as complete on date letter signed on log and track and copy scanned and stored on EDRM record for application.	Permitting Support Advisor

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### How long do we have to agree

Agreements need to be signed and sent to applicants within 10 days of receiving the application or further information if we have requested it.

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### How long can an agreement cover

Agreements can cover specified treatment dates or periods for up to three years, the [near water simple application agreement letter](#) allows a specified treatment period covering up to three years to be agreed.

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## Complex applications

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### PSC notification

Permitting Support Advisors will notify the BASIS qualified officers that a complex application is ready and available for them to process.

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### BASIS qualified officer checks

The BASIS qualified officer needs to determine:

- whether use of herbicide will be effective for the purpose identified and that it is to be used in the correct method and at the correct time.
- if the pesticide/herbicide is from the approved list?
- if an adjuvant is to be used, is it approved for its use? (check PSD website)
- is the application rate suitable?
- does the grid reference match the proposed area on the site map?
- is there a risk of contamination to the public, private water supplies or to conservation sites?
- Decide if internal/external consultees need to be consulted
- Does the applicant hold a National Proficiency Test Council (NPTC) certificate to apply aquatic herbicide? Is a copy enclosed or do PSC already have a copy on file?
- Is this approval for a single application, or multiple years.

**! Important** – We do not allow applications for more than three years due to the risk that a herbicide may be withdrawn from use.

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### Internal and External consultations

**Internal consultees** can include:

- Environment Management for pollution and water quality issues;
- Fisheries, Recreation and Biodiversity for nature conservation issues;
- Environmental monitoring (Analysis & Reporting) teams, for concerns about the ecology of water bodies or land;
- Water Resources for information on abstractors at the site and downstream (particularly potable water abstractions);

**External consultees** can include:

- Natural England/Countryside Council for Wales;
- Water Companies should be consulted where necessary to determine if they have any objections to the proposed use of herbicide, or need to impose buffer zones to protect drinking water supplies that are different to any buffer zones required by the Environment Agency.

**! Important** It is the applicant's responsibility to consult with the local **Environmental Health Department** for information on private water supplies.

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## Natural England/CCW

If the site is within or close to designated nature conservation sites such as SAC/SPA or SSSI then, it is the **applicant's responsibility** to consult with Natural England or Countryside Council for Wales (CCW) is required.

We only consult with Natural England or CCW if we require more information from them to help us decide whether we should give our agreement to the application or not.

**! Important** - Aerial applications to control bank side or aquatic weeds strictly need our **consent**; in these cases part of the consultation will include consultation with CCW/Natural England, you must send an appendix 4 or 11 to CCW/Natural England.

To do this the area BASIS qualified officer should ask PSC to create the draft Appendix 11 (Habitats Directive) and Appendix 4 (CRoW) forms for the BASIS qualified officer to add more detail.

The processes and guidance is available at:

- [Habitats Directive \(Appendix 11\)](#)
  - [Countryside Rights of Way \(CRoW\) \(Appendix 4\)](#)
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## Aerial spraying

Agreement for aerial spraying is usually only given when it is believed that there will be little or no risk of contamination by the herbicide to public or private water supplies, or to conservation sites.

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## Complex applications – PSA

Permitting Support Advisor needs to:

- save copies of response letters and extra information to the EDRM record for the application if not already saved;
  - records the outcome of the determination and date of response on herbicide log and track.
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## Complex applications - BASIS qualified officer

BASIS qualified officer needs to:

- sign and send the letter to the applicant;
  - confirm to PSC by e-mail, that the letter has been sent, the date signed and either save a scanned copy of the signed letter onto the EDRM record or send a copy to PSC to save on to EDRM;
  - send any extra information not already saved on the EDRM file for the application to PSC.
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## Related documents

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### Links

#### Regulatory forms

- 88\_10 Form AqHerb01 [Near and in water application form](#)
- 89\_10 Ffurflen AqHerb01 [Near and in water application form](#) (Bi-lingual)
- 92\_10 Form AerHerb02 [Aerial near water application form](#)
- 93\_10 Ffurflen AerHerb02 [Aerial near water application form](#) (Bi-lingual)

#### Regulatory guidance

- 90\_10 Guidance AqHerb01 [Near and in water application form guidance](#)
- 91\_10 Canllawiau AqHerb01 [Near and in water application form guidance](#) (Bi-lingual)
- 94\_10 Guidance AerHerb02 [Aerial near water application form guidance](#)
- 95\_10 Canllawiau AerHerb02 [Aerial near water application form guidance](#) (Bi-lingual)

#### Operational instructions

- 231\_10 [http://ams.ea.gov/ams\\_root/2010/201\\_250/231\\_10.doc](http://ams.ea.gov/ams_root/2010/201_250/231_10.doc)

#### Standard letters and forms

- [231\\_10\\_SD05 Letter to agree simple application for near water herbicide use](#)
- [231\\_10\\_SD03 Letter to request further information](#)
- [231\\_10\\_SD04 Letter to return inadequate application](#)
- [231\\_10\\_SD01 Herbicide applications checklist](#)

#### Other publications

- [The Food and Environment Protection Act 1985 \(Control of Pesticides Regulations 1986\)](#)
  - [Water land management](#)
  - [Aquatic plant management](#)
  - [Chemical Regulations Directorate](#)
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