Phase 2 report **Project ER13**

Description of regulatory approaches to assessing the effectiveness of regulatory activities at low-risk sites and proposed good practice framework: Phase 2 report

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EXECUTIVE SUMMARY

ER13: Description of regulatory approaches to low-risk sites and development of a good-practice framework

Phase 2: Validation and refinement of the Good Practice Framework (July 2011)

Project funders/partners: SNIFFER, Northern Ireland Environment Agency, Environment Agency (England and Wales), Scottish Environment Protection Agency, and the Environmental Protection Agency (Ireland).

Background to research

The overall objective of this project is to develop and test a framework for assessing the effectiveness of regulatory action at low-risk' sites, and to provide regulators with a tool for reviewing existing practices and shaping future interventions.

The specific objectives of the overall project are to:

- Describe approaches used by regulators at low-risk sites.
- Develop a framework for identifying good practice.
- Identify how the agencies can increase the efficient and justifiable regulation of low-risk sites. (This objective will be addressed in the agency-specific workshops which comprise Phase 3 of this project.)

In the Phase 1 report the project team proposed a Good Practice Framework (the Framework) for regulating low-risk sites. The Framework consists of two parts: Part I, the Good Regulatory Intervention Design (GRID) and accompanying 'Intervention Guide', and Part II, the Good Regulatory Assessment Framework (GRAF). The GRID and the Intervention Guide provide a structured framework for making decisions as to how to regulate low-risk sites and activities in a good practice manner. Together they provide a systematic method for decision making; they are not a prescriptive set of measures. The GRAF provides a method for assessing the agencies' current strategic performance with respect to the regulation of low-risk sites.

This document covers Phase 2 of the project. The objective of Phase 2 was to test and refine the Framework. This document describes the methodology used and offers a framework that has been revised in the light of the Phase 2 research findings.

Objectives of the Phase 2 research

The objectives of Phase 2 of this project are twofold: to validate and refine the Framework; and to develop recommendations for better practice. These aims demand that particular attention is paid, *inter alia,* to: the suitability of the framework and whether it is 'fit for purpose'; its practicality and ease of application; and how the Framework might be used. This report covers the activities of Phase 2 only.

In Phase 2 of the project, the project team conducted two rounds of consultation interviews with the agencies and representatives of organisations from several selected lower risk sectors/types of activities to test and validate the Framework. Revisions were then made in the light of those interviews. Overall, the research for Phase 2 affirmed the value of the Framework. It confirmed that by integrating the two elements of risk and behaviour, a broad

range of intervention tools can be applied in a consistent and sensitive manner. The Framework provides an innovative matrix and a framework for 'structured flexibility' in decision making about how to regulate low-risk sites. In other words, it provides decision makers with the flexibility to determine exactly which strategies to adopt in different instances, but within a framework that guides and structures that decision making process.

Further, the research for Phase 2 also established that the Framework offers potential utility beyond the project's initial focus in so far as it provides agencies with a valuable strategic tool that could be applicable across all areas of agency activities and which might be applicable to some higher risks (in addition to lower risks).

In particular, the value of the Framework was seen to lie in its providing:

- A platform for discussion within the organisation (and more broadly for framing policy-level conversations with government)
- A framework for strategic decision making at different levels within the organisation
- A basis for a systematic process for developing intervention strategies at the sector and possibly field officer level
- An audit trail for decision making
- Improved transparency and justification for regulatory decision making
- A level of consistency not currently in place for low-risk sites

Key findings and recommendations

The Phase 2 report concludes with a number of suggestions to be considered by the agencies when they begin to implement the Framework. These include the:

- Use of pilots
- Use of peer panels
- Development of robust, necessary IT systems
- Development and use of a resource calculator to accompany the Intervention Guide
- Use of inter- and intra-agency strategic reviews of performance

However, the report recognises that *how* the Framework is implemented is a matter for each agency to decide for itself.

Keywords: risk-based regulation; low-risk sites; better regulation

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1 INTRODUCTION

1.1 Project background

The environment agencies of the UK, including the devolved administrations and the Republic of Ireland, are all striving to find ways to match their applications of resource to the risks posed by activities, and to streamline their compliance assessment activities without compromising environmental protection. In order to enhance the targeting of their resources on their key priorities, each has developed a risk-based approach. Their main focus to date has been on developing approaches for tackling the highest risk sites. Less attention has been given to identifying the best ways to deploy limited regulatory resources in relation to lower risk sites. This project seeks to redress that imbalance and to ensure that all the environment agencies have a methodology for gaining information on the appropriate type and level of oversight for low-risk sites, and to assist them in developing their regulatory approaches with respect to such sites.

1.2 Objectives

The overall objective of this project is to develop and test a framework for assessing the effectiveness of regulatory action at low-risk sites and to provide regulators with a tool for reviewing existing practices and shaping future interventions.

The specific objectives of the overall project are to:

- Describe approaches used by regulators at low-risk sites.
- Develop a framework for identifying good practice.
- Identify how the agencies can increase the efficiency and effectiveness of regulation of low-risk sites in a manner that is justifiable and defensible. (This objective will be addressed in the agency-specific workshops which comprise Phase 3 of this project.)

This document covers Phase 2 of the project and offers a framework that has been revised in the light of the work subsequent to the research conducted for Phase 1.

The objectives of Phase 2 of this project are twofold:

- Validate and refine the Framework.
- Develop recommendations for better practice.

These aims demand that particular attention is paid to the suitability of the framework and whether it is ‘fit for purpose’; its practicality and ease of application; and how the Framework might be used.

2 PHASE 2: VALIDATION AND REFINEMENT OF THE GOOD PRACTICE FRAMEWORK (THE 'FRAMEWORK')

In the Phase 1 report, a Good Practice Framework (the Framework) for regulating low-risk sites was proposed. The Framework consists of two parts: Part I, the Good Regulatory Intervention Design (GRID) and accompanying 'Intervention Guide', and Part II, the Good Regulatory Assessment Framework (GRAF). The GRID and the Intervention Guide provide a structured framework for making decisions as to how to regulate low-risk sites and activities in a good practice manner. The GRAF provides a method for assessing the agencies' current performance with respect to the regulation of low-risk sites.

In Phase 2 of the project, two rounds of consultation interviews were conducted with the agencies and interested parties from selected regulated lower risk industries or activities to test and validate the framework. This report sets out the methodology for the interviews, the main findings from that research, a summary of the revisions made to the Framework and explanations for them, and the revised Good Practice Framework. It concludes by offering some suggestions for how the agencies could take the Framework forward.

2.1 Methodology and findings

The research for Phase 2 consisted of two rounds of consultation and validation interviews. The first round of interviews (Task 4a interviews) took place in February 2011 and involved country-specific meetings / interviews between the research team and representatives from the agencies, regulated sectors and other interested parties. The Framework was then revised and sent round to the agencies prior to the second round of interviews. In agreement with the SNIFFER sponsoring agencies, the second round of interviews (Task 4b interviews, which took place in May 2011) consisted of individual meetings between the research team and representatives from each of the agencies to assess the potential of the GRID and the GRAF across a broader range of the agencies' activities.

2.1.1 Task 4a interviews

In the first round, the interviews focused on the application of the GRID to low risk areas in general, as well as to particular areas of low risks selected by the agencies in consultation with the research team. These selected areas were low-risk agricultural discharges, peat harvesting, low-risk industrial discharges, septic tanks and other domestic waste, and waste transfer stations. One round of interviews was held at each of the four sponsoring agencies. In each case interviews were held with inspectors, programme or regional managers, representatives of the regulated sector, representatives of any relevant NGOs and a representative from the relevant government department where possible.

The findings from this first round of interviews were that the Framework would provide a strategic planning tool that would be very useful at a number of levels within each agency, from the sector / regional level up to agency level, and even further up into the policy / legislative level. A modified version of the Framework could also be useful at field officer level. The main strength of the Framework, however, was that it would provide a strong strategic planning tool. For example, the GRID could be used to design a sector intervention plan with concise guidance and a summary of the main options for field officers to implement at the sub-sector level. Most interviewees thought that the GRID could be used as part of an annual, or a two- to three-year planning cycle, or as part of a periodic strategic review.

All of those interviewed were asked whether they preferred a 'framework' or a 'single strategy' approach – where the former offers a broad strategy for considering intervention tools and the latter offers precise guidance on the tools that might be useful in given,

generally described, contexts. A preference for the framework approach was expressed by all those interviewed. The range of sites, sectors, agency practices and the task environments of the agencies were said to be so different that it was felt that a 'single strategy' approach would be unlikely to be suitable to all circumstances. Instead, the combination of the 'structured flexibility' of the GRID and accompanying Intervention Guide was preferred. In other words, it provides decision makers with the flexibility to determine exactly which strategies to adopt in different instances, but within a framework that guides and structures that decision making process. This approach offered the GRID's structured approach to decisions on strategy but it allowed the agencies to consider the specific issues raised by deploying given intervention tools in a particular context.

Some concern was raised as to how agencies would map their regulated sites or activities onto the GRID, and whether they should perform the categorisation on a site or activity basis. In particular, it was recognised that for low-risk sites, the mapping of activities or sites would have to be quite 'broad brush' as the risk levels did not warrant the expenditure of significant resources on analysis. It was considered that targeting the GRID was a matter of judgement best left to the implementing agencies. It was noted that agencies could allow sector-level categorisations to be refined by field-level officers if necessary. In particular, the GRID could be the basis for useful discussions between field-level officers and those in decision-making roles on the types of intervention strategies that could best be adopted in different circumstances. In addition, it was important to recognise that regulatees could move between categorisations, and that the aim should be to be moving them up the GRID over time.

On the whole, those working within the agencies took the view that the Framework could map onto their existing risk-based approaches for categorising regulatees. In particular, interviewees from all regulators, regulatees and NGOs thought the combination of behavioural and risk characteristics in the GRID framework provided a structured approach which could be very helpful in enabling agencies to target their resources and intervention strategies appropriately. Further, the Framework could help the agencies to (1) ensure a consistent approach, (2) provide a good audit trail for decision making internally, and (3) explain their regulatory strategies to those being regulated and to other interested parties.

A number of very useful comments were made relating to the detailed wording of the GRID and the GRAF, the organisation of the intervention strategies and the presentation of the GRID. These comments have been incorporated into the revised Framework. A number of detailed comments were also made on the different strategies provided in the Intervention Guide. Regulatees and other interested parties also welcomed the emphasis on engagement strategies and stressed the need for agencies to recognise good compliance records. A number of suggestions were made for additional strategies that could be used, including incentive strategies and a greater role for NGOs in providing information, advice and assistance to regulatees.

Interviewees were asked whether the range of strategies included in the Intervention Guide was appropriate and several strategies were discussed in detail. Although not all the strategies are currently used by the agencies, the potential for using different strategies was confirmed, particularly given the recognised need to move away from relatively high frequency, routine inspections in some areas. Interviewees were asked whether the number of options for strategies should be reduced and, in particular, whether the 'screening and rule-based' strategies should be part of the GRID since agencies were often bound by legislative stipulations on the strategies they could use. All interviewees, however, responded that the range of strategies should not be reduced, and that it helped them to think more broadly and innovatively about the strategies to adopt, and how to combine different strategies. With respect to the issue of screening and rule-based strategies, interviewees responded that even if a strategy was set in legislation, the Framework helped them to

evaluate whether or not it was the best strategy. The Framework would provide a useful basis for a conversation with decision makers on whether to change the legislative framework in particular areas and how this might be done.

With respect to the GRAF, the general view was that, although the agencies would have to monitor the use of the GRAF to ensure that it did not become a 'tick-box' exercise, it provided, overall, a helpful way of checking whether or not the GRID had been used appropriately and, notably, whether the categorisations of regulatees continued to be valid and the selection of strategies was appropriate. Some useful comments were made on the wording of the GRAF. It was agreed that all the questions were relevant, including those relating to areas where an agency may not have any discretion to change its approach (for example with respect to the screening and rule-based strategies used), as the GRAF could highlight problems the agencies may have with legislation and be a basis for discussions with government. Overall, the view was that the GRAF could be a useful on-going management tool which could be used periodically as part of a strategic review process. It could also be used to encourage greater responsiveness by the agencies and prioritise the use of resources.

2.1.2 Task 4b interview meetings

The Framework was revised to incorporate the findings from the first round of interviews, and then the revised framework was circulated to the agencies prior to a second round of interviews. The second round of interviews focused on the potential broader application of the GRID to lower risk sites within the agencies. Again, four rounds of meetings were held, one with each agency. Present at these meetings were between 7-12 senior executive officers from each agency, covering a broad spectrum of the agencies' responsibilities.

In the second round of interviews, the Framework received widespread support from all agencies. Moreover, all agencies separately agreed that the Framework had considerable potential as a strategic planning tool across all their activities, and not only for low-risk sites.
The agencies agreed that the Framework approach did have the potential for possible application beyond low-risk sites into higher risk areas and applied as appropriate at the sector, sub-sector, or site level for all categories of risk. All agencies agreed that the Framework provides a way of asking how an agency does its work and at what intensity. As such, it would provide a valuable tool for developing regulatory strategy, reviewing strategy and planning strategy change.

It was agreed, furthermore, that the Framework could also be used at a pre-regulatory stage when discussing strategies with decision makers, or when discussing possible changes to existing legislation. In particular, the Framework could help to highlight the impacts of legislative decisions on regulators by making the regulators' intervention choices clearer to decision makers in government.

Flexibility of the Framework

The Framework was agreed to be sufficiently flexible to interface with the agencies' own existing risk-based systems. It was also agreed, however, that the details and management of such interfacing were outside the scope of this project and should be considered as part of each agency's individual implementation strategy.

Regarding the use of the GRID, it was recognised that, with respect to low-risk sites in particular, there was a potential difficulty in that a considerable amount of resource could be expended in order to determine the behavioural attitude of regulatees. Categorisations could therefore be done for lower risk sites on a sector or sub-sector basis, even though these

would be 'broad brush'. However, if the GRID was used for higher risk sites, it would be justifiable to spend more resources analysing the behavioural aspects of individual sites or operators running a number of sites. The amount of resources put into analysing behaviour had to be proportionate to the risks. It was agreed, nevertheless, that the 'ranking' of regulatee types on the GRID was appropriate – and, notably, that those who were less motivated with a low capacity to comply required regulating at a greater intensity than those who were less motivated but with a higher capacity to comply. The reason was that with respect to those who had an existing capacity to comply, the agencies' main challenge was to make them motivated, whereas those with a lower motivation combined with a lower capacity required the relevant agency to address both motivation and capacity (for example through technical capacity building) and that this would demand more resources.

In implementing the GRID, all agencies agreed that their decision makers could determine a pre-selected set of strategies that could be the 'default' position to apply in each sector. Field officers could have a prescribed set of strategies but could be able to escalate up if things went wrong and adjust strategies accordingly, though they would have to justify this decision. It was also noted by the agencies that policy-level determination of the strategies that should be used, and of the appropriate regulatory intensity to be adopted, could give protection to field officers if they were to be criticised for changes in regulatory action and priority.

Wording of the GRID

A number of useful comments were made regarding the detailed wording of the GRID and descriptions of the intervention strategies. In particular, it was noted that although criminals were not explicitly identified in the GRID, they would be extreme forms of those who were 'low capacity and less motivated to comply'. On the GRID description of risk types, it was recommended that the words 'low risk' should be changed to 'lower risk' as this would fit with an approach that sought to be consistent for different levels of risk. The term 'lower' risk also avoided the possibility of tensions between low and high risk strategies and it avoided both threshold effects and the need to define 'low risk' precisely. In addition, 'good management' should be changed to 'good risk management' in the description of 'net risks' associated with the GRID. These changes have been incorporated into the GRID, below.

With respect to the list of strategies set out in the Intervention Guide, there was consensus that all had a potential role to play. It was agreed, however, that the strategies in the Intervention Guide could be further grouped to help communicate the differences between them. In addition, it was suggested that the Intervention Guide should explain the relationship between the intervention strategies it contains and field enforcement strategies, and to indicate why formal enforcement strategies were not included in the Intervention Guide. Sanctions can be an incentive, for example. (Some of the strategies included in the Intervention Guide were also identified as informal enforcement tools in the agencies' enforcement guides (e.g. advice and assistance). It is important to ensure that these identical tools (strategies) are used consistently.) This explanation has been added to the Framework. With regard to the role of the Framework, it was agreed that the scope of the project did not include re-visiting the agencies' enforcement policies, but that it would be necessary at the implementation stage to ensure that enforcement policies and the GRID were used in a manner that avoided any possible tensions.

The range of tools

With respect to the range of intervention tools identified in the Intervention Guide, the agencies agreed that options should be given for screening and rule-based strategies. (The reasons for this echoed those offered in the Task 4a interviews.) In particular, it was noted that uniform and standardised methods, such as general binding rules (GBRs) or standard

permits / licences were most suitable for inherent low-risk sites where the risks were stable, or net low-risk sites where there was not a need for bespoke provisions in a licence relating to particular management and control systems that might be required on a more individualised basis.

Interviewees were also asked to comment, in particular, on whether 'routine inspections' should continue to be an option available on the GRID. The consensus was that they should. In some cases there were legislative requirements mandating them and sometimes they were needed to keep regulatees informed and aware of regulation. It was also agreed, however, that there was a need to adjust the frequency of inspections in line with the risk level and that this could be emphasised by re-naming them 'frequency adjusted inspections'. It was also agreed that the 'incentives' tool (tool 22) might refer more explicitly to issues of 'earned recognition' (of good practice). There was a role for non-monetary incentives to comply, such as reports which emphasised the positive aspects of a regulatee's performance, not just those aspects that needed correction, or for some kind of published evaluation. For sites with multiple activities, however, the reports may need to distinguish levels of performance where they differed between activities. In addition, mandatory training could be added as a valuable strategy for improving the capacities of regulatees to comply. It was also suggested that compliance visits should be described as 'advice and guidance' or 'advice and assist' visits to differentiate them from inspection / audit type tools, and some clarification of the words 'monitoring' and 'inspection' were necessary due to different usages between the agencies. These comments have all been incorporated into the revised Framework.

Interviewees were also asked whether it would be useful to offer a 'compatibility coding' of the GRID to advise on harmonious combinations of tools. It was agreed, however, that, as the nature of such combinations (and the resource costs of tools) would vary according to risk, sector, agency, and so forth it was best left to be dealt with as an aspect of the agencies' customising processes. The guidance on compatibility which was currently offered in the Intervention Guide was sufficient and agencies could tailor this during the implementation process if required.

In order to prompt discussion, interviewees in both rounds of interviews were provided with a sample GRID, which had been populated by the research team who had identified which strategies appeared to have particular value regarding the sites / activities in each different GRID box. This populated GRID provided a useful basis for discussion but it was agreed that the research team should not provide a prescriptive, completed GRID framework. The GRID is a method or process for decision making; it is not a prescriptive set of measures. The value of the GRID was recognised to be threefold:

- As a platform for discussion within the organisation (and more broadly for framing policy-level conversations with government).
- As a framework for strategic decision making at different levels within the organisation.
- As a basis for a systematic process for developing intervention strategies at the sector level and possibly field officer level.

The GRID could also be used to provide an audit trail for decision making and so help to explain why an agency has not taken action with respect to certain sectors or activities. Agencies could populate the GRID themselves and choose to do so sector by sector or in another fashion, e.g. site by site or activity by activity.

The GRID's value would decrease if it was merely a set of prescriptions for the agencies to follow, and the appropriateness of the tools (and their respective costs) would vary too much

across risks and sectors. To help convey the value and usefulness of the GRID, a populated GRID is provided for illustrative purposes only in Annex 2.

Implementation

In implementing the GRID, it was agreed that peer panels could serve a useful role, particularly in the first instance, in assessing the categorisations and selection of tools used. Over time, a more consistent set of categorisations and intervention strategies could then be developed across each agency. There was also a need to consider how to build in a system for categorising and monitoring new entrants, and recognising that they may need more intensive supervision in the early stages. Furthermore, it should be recognised that sites / licence holders could move between the boxes. (It may be that it is the inspection process which is keeping them low risk. That could shift if there is a withdrawal of agency activity.)

Agencies could also consider adding a resource calculator to the GRID to help focus minds on the level of regulatory intensity appropriate for different categories of risk and behaviour.

With respect to the GRAF, a number of useful detailed comments were made on the wording of different questions, which have been incorporated into the revised GRAF set out below, but overall the agencies agreed that the GRAF was a useful way to reflect on whether the GRID had been used appropriately. The GRAF was more subjective than the GRID but could usefully be developed by the agencies, and again peer panels could play a valuable role in developing a consistency of approach. It was recognised that the GRAF was a framework for assessing the quality of consideration that was being given to different tools and strategies and their appropriateness in different cases. However, it was not a tool for evaluating the quality of front-line regulation. All agreed that it was important that the GRAF was not a 'tick-box' exercise. It would not have to be performed frequently, but it could be completed as part of a strategic review within an agency. The GRAF could also be part of a cross-sector peer review or cross-agency peer review process to help establish a consistent view of risk within and across sectors and develop consistent strategy.

Overall, the Framework was recognised to have an important policy role to play beyond low-risk sites into higher risk areas. The Framework would help the agencies with planning and allocating resources, documenting their decision making, and explaining these decisions to the regulated community and other interested parties, particularly when these decisions involve an agency reducing the level of its regulatory intensity with respect to lower-risk sites or activities.

The Framework could also be used as a regulatory tool to inform changes in practice, especially when considering changes to site and management practice in a new or changing sector, and to evaluate any regulatory changes that might be needed. Furthermore, it could provide a valuable basis for discussions with government over broader legislative strategies with respect to environmental goals.

It could also improve transparency of decision making, for example by being placed on the agencies' websites and / or forming part of a 'decision letter' or an open decision and decision communication tool.

2.2 Outcomes

The primary objective of the project was to develop a framework for regulating low-risk sites that could be adopted by all four of the SNIFFER agencies. One of the challenges in developing such a framework is that it has to fit with a wide range of different sectors and activities, the very different task environments of each of the agencies, and with four very different sets of existing practices with respect to risk analysis, risk scoring and enforcement.

In providing for a wide range of intervention strategies, and a matrix which combines risk and behavioural characteristics, the Framework is designed to be a flexible decision-making tool and to occupy the 'middle ground' between risk analysis and formal enforcement action. The agencies' risk analysis processes provide the categorisations of the risk level of a site or activity, but do not provide a plan for intervention. The agencies' enforcement guides provide guidance on when to use formal as opposed to informal enforcement actions, but do not provide information on what broader intervention strategies may be used as part of the regulatory process. However, the risk analyses and the enforcement guides are similar in emphasising both risk and behavioural characteristics in their analytical frameworks, though with more weight given to risk characteristics than behaviour in the risk analysis frameworks, and slightly more weight given to behavioural characteristics in the enforcement guides.

The research for Phase 2 affirmed the value of the Framework. It confirmed that in integrating the two elements of risk and behaviour, and in providing a broad range of intervention tools that can be used with respect to those in each category, the Framework provides an innovative matrix and a framework for 'structured flexibility' in decision making about how to regulate low-risk sites. In other words, it provides decision makers with the flexibility to determine exactly which strategies to adopt in different instances, but within a framework that guides and structures that decision making process. Further, as the research for Phase 2 also established, the Framework offers potential utility beyond the project's initial focus in so far as it provides agencies with a valuable strategic tool which is applicable at all levels, including governmental, and across all areas of their activity.

Therefore, the Framework has not had to undergo fundamental revision in the light of the Phase 2 research. The key issues that were raised by both the research team and interviewees in the course of that research are noted in the discussion of the research findings above. The interviewees offered valuable suggestions for amending the detailed wording of the Framework's various components. These comments, together with more detailed comments on drafting changes (which have not been separately reported), are reflected in the revised Framework presented in Annex 1.

2.3 Taking the Framework forward – some considerations

The agencies asked the research team to provide some suggestions as to how the agencies could take the Framework forward.

The team's own research and experience, combined with the research conducted for both phases of the project to date, points to the following suggestions:

1. It should be left to each agency to select strategies which are best suited for their own environments. A particular agency, for example, might decide that it needs to maintain a minimum level of routine inspections in order to keep contact with the regulatees, even if these are not useful for detecting environmental harm. However, agencies should consider using a range of strategies that have the potential to replace the information gathering and advice giving functions of routine inspections in a range of different ways. A sample GRID is provided in Annex 2 purely for illustrative purposes.

2. It should be for each agency to determine who within that agency will decide which strategies should be considered for use (i.e. how the GRID should be populated) and who should use the GRAF. However, the Framework may best be used as a strategic planning tool by senior decision makers within an agency and to frame recommendations and dialogue with its board. The agencies may consider that, in some contexts, it is be beneficial to allow some room for 'local discretion' for those at field officer level. Those at a senior level could specify a range of strategies which can be used, for example, and allow those lower down the organisation to determine exactly which to use in respect to specific sites or sectors / activities, subject to review. Alternatively, an agency might want to specify a much narrower set of strategies at a senior level which it requires those lower down the organisation to deploy with respect to particular sites or activities.

3. Each agency could consider fostering a wide-ranging internal conversation regarding the strategies to be used with respect to lower risks in different sectors, and then feed that conversation into the agency's decision and policy making processes that relate to lower risks. It could be beneficial if this discussion involved field officers as well as senior policy officials.

4. Where new strategies are to be deployed, the agency should conduct a pilot (which is then reviewed) before the strategy is rolled out more widely.

5. Each agency could consider introducing peer panels for both the GRID and GRAF, particularly in the early stages, to facilitate the development of a consistent approach to assessing risks across and within sectors and / or regions.

6. Each agency could consider developing a resourcing index tool to accompany the GRID that provides an indication of the cost of each tool to the agency. For example, the GRID tool list might be coded by agencies to indicate whether tools are high, medium or low cost. One way of managing the allocation of resources could be to give regional managers a budget so that this can be used as a basis for determining which strategies to use within the given constraints, and using the resourcing index as a guide.

7. In implementing the Framework, consideration could be given to developing an IT system which would facilitate the use of the GRID, e.g. by containing links to the specific tools, resourcing index, and any 'best practice' comments that accumulate across the agency over time.

8. Each agency could consider using the GRAF as part of an intra- or inter-agency peer review process. The agencies involved could extend beyond the SNIFFER agencies to include those active in IMPEL or other networks.

ANNEXES

Annex 1 The revised Good Practice Framework (the 'Framework')

Part 1 The Good Regulatory Intervention Design (GRID)

The GRID provides a framework for developing a strategy for the regulation of low-risk sites. Accompanying the GRID is a Tool Guide: a list of tools or strategies, together with an assessment of their strengths and weaknesses and an indication of the time frame required for their development, to aid planning. These tools are divided into three types: screening and rule-based strategies, inspection / monitoring and proxy strategies, and engagement and incentive strategies.

The aim of the GRID is to provide a framework for deciding systematically which strategies should be used for which types of risk and which type of regulatee. It operates in two stages. In Stage 1, the regulator identifies the broad set of intervention tools which are appropriate for a site, sector or activity based on a categorisation of:

(1) The kinds of low-risk sites and activities at issue and
(2) The characteristics of the parties that are to be regulated.

This allows the regulator to identify, in the first instance, the broad set of tools that can be expected to be useful with respect to particular sites, sectors or activities. In Stage 2 the regulator then refines the choice of tools, using the Tool Guide as an aid.

In some cases (particularly for screening and rule-based strategies), an agency may not have any discretion as to the strategy that it is to adopt as this is prescribed by legislation. However, in some cases, an agency may be able to decide, for example, to exempt low-risk sites completely without the need for registration. However, with respect to monitoring and proxy, and engagement and incentive strategies, an agency is likely to have greater ability to exercise a choice regarding the strategies that it will adopt. The Tool Guide does not include formal enforcement tools, though some of the strategies included may also be used as informal enforcement tools, for example advice and assistance. It will be important in implementing the Framework to ensure consistency between the agencies' enforcement guides and the intervention strategies selected using the GRID, particularly where the same strategies are covered by both.

The GRID operates on the basis that a broad set of potential intervention tools should normally be selected on the basis of two key factors. The first is the **nature of the risk**. Different regulatory strategies are likely to be appropriate for inherent and stable low-risks as opposed to unstable, net low-risks, for example. Here, the notion of stability is related to the period that each agency sets for reviewing strategy, since the relevant issue is whether the risk is liable to change character between reviews. Therefore it is important that each agency is clear about its intended review period before it attempts to categorise risks. (The same point applies in categorising regulatees.)

The breakdown of risk types employed is:

Inherent lower-risk – stable	The activity is not capable of producing major harms/impacts and operations are not likely to change in the periods between an agency's strategic reviews.
Net lower-risk – stable	The activity is capable of producing major harms/impacts in the periods between an agency's strategic reviews, but

	risks are reduced by good risk management.
Inherent lower-risk – but may change or cumulate	The activity is not capable (as presently organised) of producing major harms/impacts in the periods between an agency's strategic reviews, but operations (e.g. chemicals used) may change or there may be numbers of such risks being created that create a cumulative problem (e.g. because absorption capacities are exceeded).
Net lower-risk – but may change or cumulate	The activity is capable of producing major harms/impacts in the periods between an agency's strategic reviews but, at present, risks are reduced by good risk management. However, this good risk management may change, or several such risks may be created that lead to a cumulative problem (e.g. because absorption capacities are exceeded).

The threshold of what constitutes a 'lower' risk and what is a 'higher' risk will vary between agencies. Furthermore, the Framework as set out here refers to lower risks but it has the potential to be extended to higher risks if the agencies see fit.

The second key factor is the **nature of the regulatee.** Some low-risk intervention strategies work well with well motivated firms who have a high capacity to comply (eg self-certification systems) but would not prove successful where firms have low capacity to comply.

The breakdown of regulatee types employed is:

Well-motivated with high capacity to comply	Regulatees are willing to comply (judged on their records and/or officers' estimations) and are sufficiently well-informed, resourced and organised to allow compliance.
Well-motivated with low capacity to comply	Regulatees are willing to comply but are not sufficiently well-informed, resourced and organised to foster compliance.
Less motivated with high capacity to comply	Regulatees are less willing to comply but they are sufficiently well-informed, resourced and organised to allow compliance if their motivation is improved.
Less motivated with low capacity to comply	Regulatees are less willing to comply and are not sufficiently well-informed, resourced and organised to foster compliance even if their motivation is improved.

The characteristics of regulatees may also change, and so the relevant period for assessing characteristics is, again, the period between the relevant agency's strategic reviews.

The horizontal axis of the GRID involves a progression in types of lower-risk activity – from those on the left that require the least intensive interventions to those on the right that call for more urgent attention. The vertical axis involves a similar 'progression of intensity' from firms who are well motivated with a high capacity to comply at the top to those who are less motivated with a low capacity to comply at the bottom. An important aspect of capacity to comply is the ability of the regulatee to devise and give effect to the necessary risk management measures.

Table 1: The GRID

Intensity of intervention increases according to risk type

Intensity of intervention increases according to regulatee type

Nature of the regulatee	**Nature of the low-risk site / activity**				**Options for regulatory activity and intensity**
	Inherent lower-risk – stable	*Net lower-risk – stable*	*Inherent lower-risk – but may change or cumulate*	*Net lower-risk – but may change or cumulate*	
Regulatees are well motivated with high capacity to comply					*Screening*
					Inspection / monitoring
					Engagement and incentives
	Low	Low	Low	Low	*Regulatory intensity*
Regulatees are well motivated with low capacity to comply					*Screening*
					Inspection / monitoring
					Engagement and incentives
	Low	Low	Low	Low	*Regulatory intensity*
Regulatees are less motivated with high capacity to comply					*Screening*
					Inspection / monitoring
					Engagement and incentives
	Medium	Medium	Medium	High	*Regulatory intensity*
Regulatees are less motivated with low capacity to comply					*Screening*
					Inspection / monitoring
					Engagement and incentives
	Medium	Medium	High	High	*Regulatory intensity*

The boxes of the GRID are then populated with those regulatory interventions that the evidence suggests are best suited to these particular 'risk type' / 'firm type' combinations. The tools are organised under the categories:

- Screening and rule-based strategies
- Inspection / monitoring and proxy strategies
- Engagement and incentive strategies

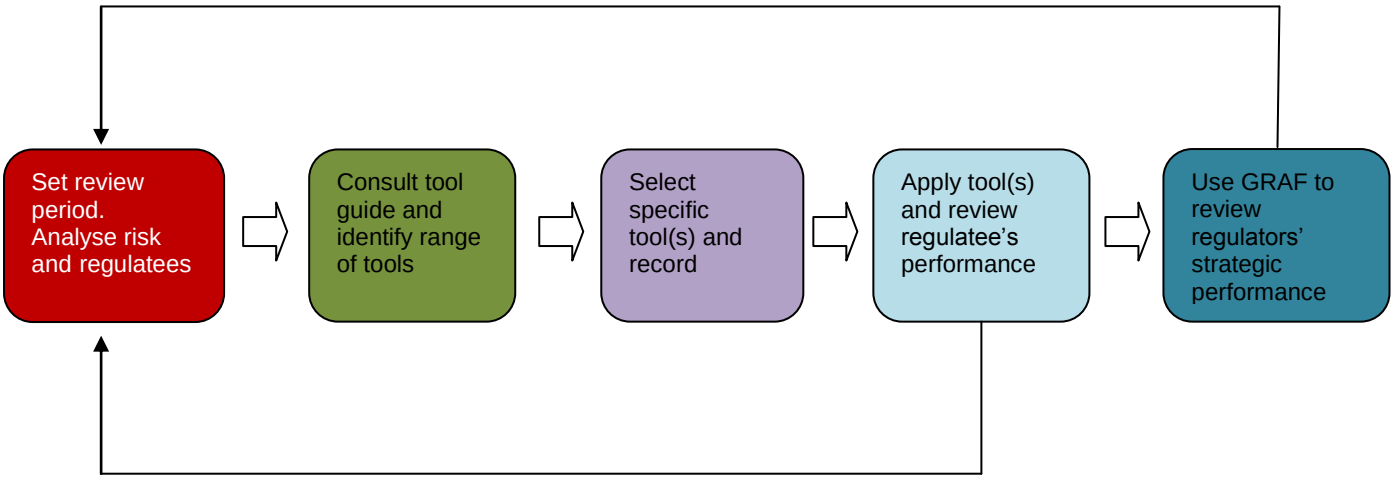
The right hand column of the GRID breaks down the intervention tools into these three categories and it also indicates the suggested intensity of regulation – the amount of regulatory resource and effort that should be applied to specific combinations of regulatee and risk type. Regulatory 'intensity' refers here to both frequencies of interventions and their severity, as well as to the level of resources applied.

The rationale for this four part breakdown within each GRID box is that once the regulator has established its objectives, regulation involves a further number of different tasks: screening out of those risks and firms that need little regulation, detection and monitoring performance of those being regulated, engaging third parties who can assist in achieving good regulatory outcomes, and taking enforcement action against non-compliers. The Intervention Guide is designed to help regulators to refine their choices of which intervention strategies to adopt (excluding formal enforcement action) with reference to the criteria of targeting and cost-effectiveness, transparency and accountability, adaptability, and additional best practice considerations.

The GRID and Intervention Guide do not deal with formal enforcement strategies. Nor does the GRID provide guidance on the enforcement tactics to be used; whether, for instance they should be used in a 'zero-tolerance' or 'deterrence' fashion or according to an 'educative and compliance' strategy. This is to avoid conflict with the guides to enforcement and compliance that already apply to the UK's environmental regulators. The broad implication of the GRID, nevertheless, is that it will normally be appropriate to increase enforcement intensity as risk–types move east on the GRID and firm-types move south.

Use of the GRID can be displayed in the following chart:

Figure 1: The GRID and GRAF flowchart for regulators



Key to the GRID strategies

Screening and rule-based strategies (can in principle apply to all categories, dependent on legislation)

1. Exemptions without notification or registration
2. Exemptions with notification or registration
3. Registration plus conditions/rules; permit and licensing systems
4. Application of general binding rules without notification/registration

Inspection / monitoring and proxy strategies (frequency of application indicated on the GRID)

Frequency adjusted inspection and/or monitoring by the agency

5. Frequency-adjusted inspections or monitoring
6. Regulatory audits
7. Themed inspections or monitoring
8. Random inspections or monitoring
9. Advice and assistance visits
10. Reactive investigations, responding to complaints, whistle-blowing or post-incident investigations
11. Surveillance

Proxy measures

12. Benchmarking or 'yardsticking' strategies
13. Measuring indirect/proxy outcomes

Firm-based measures

14. Self monitoring and self certification by regulated firms
15. Management-based strategies including mandatory performance disclosure by regulated firms

Using third-party monitors

16. Third-party monitoring
17. Information and inspection sharing regimes

Engagement and incentive strategies (frequency of application indicated on the GRID)

18. Information campaigns, generic advice and recommendations (including codes and guidance)
19. Dialogue with interested parties
20. Industry or NGO / interested party-led solutions
21. Multi-agency approaches
22. Incentive strategies

Regulatory intensity

Suggested regulatory intensity refers to the amount of regulatory resources and severity of approach to be applied to those in the different GRID boxes, relative to one another, and is rated ‘high’, ‘medium’ or ‘low’.

Part 1 The GRID Intervention Guide

The following comments review the strengths and weaknesses of the different intervention tools contained in the GRID. They are designed to be used by regulatory practitioners who are reviewing current strategies and planning ahead over the next 1-5 years or more. The numbering of the tools follows that in the **Key to the GRID,** above.

1. Exemptions without notification or registration

Your organisation may or may not have the legal powers to exempt low-risk activities from regulation. If it does have the powers to use exemptions, this strategy is an effective way to minimise regulation, particularly for risks/activities with inherent low risks which are stable and do not have significant cumulative impacts.

If your organisation does not have the powers to exempt, then it may want to consider raising the matter with the relevant government department.

Planning horizon
Long term: five years or more.

Strengths	• A low-cost strategy which can work well for inherent and stable low-risks • Transparent to regulatees and stakeholders.
Risks	• May be difficult to monitor illegal activities and to assess whether the scope of exemptions remains appropriate. • Exemptions may be inappropriately defined. • The risks of the activity may change without you knowing, for example cumulative impacts emerge which need to be addressed.
Possible ways to address the risks	• If you are not confident in your assessment of the risk as inherently low and stable, with low cumulative impacts, then consider combining an exemption with notification or registration to help you monitor the relevant sites and activity or activities. • Consider using a monitoring strategy to detect illegal activity or review the scope of exemptions, in particular Tools 6-9, 11, 12, 15-17. In particular, use surveillance strategies (Tool 15) to monitor illegal activities and 'free riders'. Consider conducting surveillance in conjunction with other agencies where appropriate.

2. Exemptions with notification or registration

You may or may not have the legal powers to adopt this strategy and in some cases may be legally required to do so.

If you do have the power to exempt and require registration, this strategy is an effective way to minimise regulation for low-risk sites whilst still knowing who is engaging in the activities concerned. As the activity is low risk, the notification or registration requirements should be focused on gathering only the core information that is needed. The information requirements should normally not be very onerous for the regulatee to complete and the amount of information requested should require only a minimal time to collate and analyse.

If you do not have the legal powers to adopt this strategy but consider it an appropriate one to use, then you may want to consider raising the matter with the government department.

Planning horizon
Long term: five years or more.

Strengths	• Imposing a minimal level of regulation is often appropriate where the risks are low and stable. • An advantage is that they enable the regulator to know who is engaging in the activities by requiring registration or notification.
Risks	• The information given is inaccurate or out of date. • The data is not collated or stored in a way which enables it to be analysed easily, for example is not linked to information on non-compliance. • The risks of the activity change, for example if there are cumulative impacts which need to be addressed. • There is a significant amount of illegal activity (i.e. the activity carried on does not reflect the activity that is registered).
Possible ways to address the risks	• One way to ensure that the information is up to date is to require regulatees to notify you of significant changes. However, this does not ensure that the information is reliable. • Consider using a common database within the agency and sharing information with other agencies. This will reduce your costs for collecting and updating information as well as the costs borne by the regulatees for providing this information. • Try to ensure that the relevant data storage and IT systems are compatible with each other. • Use surveillance strategies to monitor illegal activities and 'free riders'. Consider conducting surveillance in conjunction with other agencies where appropriate.

3. Registration subject to conditions / general binding rules; permit and licensing systems

Registration subject to conditions or rules resembles a permit or licensing system in so far as compliance can be made an *ex ante* requirement of obtaining the registration / permit. This offers greater control than, say, general binding rules, where there is no general requirement to demonstrate compliance and competence before becoming eligible to engage in an activity. Permit and condition-making regimes also have the further advantage that the regulator may make demands (e.g. to supply information or file returns or write policies) which facilitate monitoring and enforcement.

Planning horizon
Long term: five years or more.

Strengths	• Enables regulators to get information it needs from regulatees. • Regulators can require applicants to demonstrate their ability to comply before becoming eligible to engage in an activity. • Facilitates enforcement action as regulatees are subject to binding rules as a condition of the registration, licence or permit. • Clearly transparent to regulatees and the public.
Risks	• The regulator requires information which is unnecessary, leading to high costs in processing and analysing the information and to compliance costs for regulatees which are disproportionate to the risks. • May prove unpopular with regulatees in fast moving sectors if they are required to notify or seek a new permit for every non-major change in activity. • Relatively static unless you review the requirements periodically to ensure that information requirements remain relevant and regulatory provisions remain appropriate. • Difficult to change provisions across all licences unless the regulator has the power to make sector-wide changes to the licensing / permit requirements.
Possible ways to address the risks	• Ensure that the requirements are accessible, expressed in plain English, and proportionate to the low risks. • Periodic review of requirements is necessary to ensure that they remain proportionate and targeted, and to ensure new risks are not emerging.

4. Application of general binding rules to activities that do not need to be notified

General binding rules or general mandatory standards are applicable to all those engaging in particular activities or to particular sites without those persons having to notify the regulator or register with them. They can be particularly appropriate for stable risks with common characteristics.

This strategy shares many of the weaknesses of exemption without registration, as the regulator has no notification of who is engaging in an activity to which the rules apply. However in imposing general rules it is similar to a licensing or permitting regime which uses standardised conditions, giving the advantage that sanctions can be imposed for breach of the rules.

Planning horizon
Long term: five years or more.

Strengths	• The expenses of such a regime are relatively low and restricted to the tasks of formulating the general rules. • The presence of a set of rules that stipulates what compliant behaviour involves can have a positive impact on the behaviour of regulatees who are well motivated with a high capacity to comply. • Clearly visible and transparent to regulatees, politicians and other interested parties. • Having general binding rules means it is easier to change the requirements applicable to a whole sector of activity as there is no need for individual licence amendments.
Risks	• The absence of any requirement to notify or register can increase the costs of monitoring. • Regulatees' knowledge and understanding of the rules may be poor. • Relatively static unless the regulator monitors regime to ensure that the rules remain relevant and appropriate.
Possible ways to address the risks	• Strongest role is likely to be where risks are static and known to be inherently low given difficulties of monitoring in the absence of registration or notification. • You need to ensure that the rules are accessible, expressed in plain English, and proportionate to the low risks. • Periodic review necessary to ensure that the requirements remain proportionate and targeted, and to ensure new risks are not emerging.

5. Frequency-adjusted inspections or monitoring

Inspections which cover all of a site or all aspects of an activity are the most common way of monitoring and securing compliance. They can be preannounced or unannounced.

The frequency with which full inspections are performed should be proportionate to the risk. Thus low-risk sites or activities might be inspected every two or three years instead of the six-monthly period employed in relation to higher risk operations. The suggested monitoring frequency applicable to particular types of risks and regulatees is indicated on the GRID by the regulatory intensity (low, medium, high).

Planning horizon
Short-medium term: use in the one- to five-year planning cycle ('low' frequency could be once every five years, for example).

Strengths	• Full inspections enable regulators to monitor the whole of a site or activity on a regular basis, though the frequency should vary with the risks. • Allows regulators to assess risk managers first hand, and to sustain both communications and awareness of regulation. • Enables regulators to pick up things which may not be part of a themed inspection or to inspect firms not selected for inspection in random or sampling approaches.
Risks	• Costs of performing inspections may be disproportionate to the risks. • Changes in risks may not be detected in between inspection cycles, particularly as periods between inspections may increase. • Less well motivated regulatees may take advantage of reduced frequency inspections and compliance levels may deteriorate. • Inspections may focus on 'tick-box' compliance with the rules / conditions, not on whether the non-compliance poses a risk to the environment. • Interested parties may perceive that the regulator is 'backtracking' and not performing its duties properly.
Possible ways to address the risks	• Perform a baseline assessment of current expenditure on full inspections, where undertaken, to enable you to compare them to the risks posed by low-risk sites and activities, and to the resources spent on higher risk sites or activities. • You should consider adopting alternative monitoring and / or engagement strategies to supplement any reductions in full inspections when these are made. • Ensure that inspection focuses on minimising risks and not 'tick-box' compliance. • Communicate your overall strategy clearly to regulatees and all other interested parties in order for them to understand why your chosen frequency of full inspections is justified.

6. Regulatory audits

Monitoring strategies which focus on appraising the risk management systems and compliance processes of the regulatee can produce benefits that carry across numbers of risks and can serve as ways to improve practices generally within regulated firms. When dealing with low-risk sites or activities, however, you need to consider whether the costs of auditing are proportionate to the risks.

The frequency with which audits are performed should be proportionate to the risk. Thus low-risk sites or activities might be audited every two or three years instead of the six-monthly period employed in relation to higher risk operations. Audits can focus on particular themes or issues rather than be a complete review of an operator's systems. (The latter are likely to be more resource intensive than inspections and so could be used at a lower frequency.) The suggested monitoring frequency (low, medium or high) applicable to particular types of risks and regulatees is indicated on the GRID.

Planning horizon
Short-medium term: use in the one- to five-year planning cycle ('low' frequency could be once every five years, for example).

Strengths	• Audits enable regulators to monitor the risk management system as it applies to a number of risks and activities. • They enable regulators to detect systemic problems and potential solutions. • They allow regulators to foster general improvements in risk management and these may deal with new risks as they arise. • They avoid dealing with the minutiae of particular risks and look at the bigger picture.
Risks	• Costs of performing audits may be disproportionate to the risks. • Low-capacity regulatees may fail to develop good risk management systems even when audited. • Less motivated regulatees may fail to develop good risk management systems even when audited. • Interested parties may perceive that the regulator is taking a 'back seat' and not performing its duties properly.
Possible ways to address the risks	• Perform a baseline assessment of current expenditure on audits, where undertaken, to enable you to compare them to the risks posed by low-risk sites and activities, and to the resources spent on higher risk sites or activities. • You should consider adopting alternative monitoring and / or engagement strategies to supplement any reductions in routine inspections when these are made. • Ensure that auditing focuses on improving management systems and not 'tick box' compliance. • Communicate your overall strategy clearly to regulatees and all other interested parties in order for them to understand why you are overseeing their systems and adopting the chosen frequency of audits.

7. Themed inspections or monitoring

In many sectors themed and special monitoring strategies, such as inspections, audits or sampling, have been used successfully as a way of reducing full scale, routine inspections or full audits. Regulators identify particular themes or issues that they want to focus on, and monitor, audit or inspect firm's activities in those areas alone.

Themes and risks can be prioritised within annual compliance and enforcement programmes Themed inspections can also be used as a way of responding to particular issues or risks as they emerge during the course of the annual cycle.

Planning horizon
Short term: use in the annual planning cycle or more frequently if appropriate.

Strengths	• Themed inspections enable regulators to target resources either at the most sensitive issues and / or on those activities which are easiest to control at a given cost. • They can help regulators to identify new risks and respond to concerns as they arise. • Clear communication of the reasons why the themes have been chosen can help regulatees and the public to understand the regulators' priorities.
Risks	• The choice of themes may be inappropriate, either creating 'blind spots' where no inspection occurs or resulting in repeat inspections for the same low-risk site with respect to different themes in a short period of time. • The risks that are the least cost to control may not be the most important risks. • Inspectors may not know how to respond to issues that they find when conducting a themed monitoring visit which are of concern but which fall outside the theme. • Monitoring may focus too much on compliance with existing rules and not on minimising risks to the environment. • Particular sites or activities may feel 'victimised' when the target of a themed monitoring visit.
Possible ways to address the risks	• Use a range of sources of information to determine which issues are of concern with respect to a particular set of low-risk activities or sites, including complaints, whistleblowers and reports from third-parties, or use statistical analysis to determine the themes based on an analysis of risk indicators. • Consider the risk-benefit trade-off in determining the level of resources to be put into themed investigations. • Communicate clearly with inspectors so that they know what to do with information that they find in the course of the inspection that is of concern but falls outside the theme. • Ensure that inspectors focus on minimising risks and not 'tick box' compliance. • Communicate the reasons for the choice of theme clearly to regulatees and the wider public, providing evidence to justify the choice where possible.

8. Random inspections or monitoring

Random inspections differ from thematic or sampling strategies in so far as minimal resources are devoted to selecting which sites or activities to inspect. The case for random approaches in relation to low risks is that it provides a statistically robust way of monitoring risks and compliance where the level of risk does not justify the expenditure of any further resources on the analysis needed to identify themes, for example. Statistical analysis can also be used to break down the generic category of 'low-risk sites', analysing them according to various risk indicators which are usually associated with higher than average risk for the category.

Planning horizon
Short term: use over the annual planning cycle or more frequently as appropriate.

Strengths	• Minimal resources are devoted to selecting sites for inspection. • Can be effective in deterring non-compliance across the sector if infractions are accompanied by well publicised and severe enforcement action. • Can be useful in uncovering new issues, risk and activities. • No unfairness in selecting sites for inspection. • Has an important communicative role in showing some action being taken. • Keeps communication open with regulatees. • Identifies new risks as not locked into risk framework/ thematic framework.
Risks	• Infrequent inspections may appear tokenistic or regulatees may feel victimised. • Identifying new risks is a matter of chance. • Inspection may focus too much on 'tick box' compliance with existing rules and not on minimising risks to regulatory objectives. • Strategy may conflict with legal framework: the Compliance Code, for example, discourages their use.
Possible ways to address the risks	• Communicate strategy clearly to regulatees and other interested parties. • Consider accompanying with other monitoring and engagement strategies to 'fill gaps' or check progress against objectives. • Use a range of sources of information to determine which issues are of concern with respect to a particular set of low-risk activities or sites, including complaints, whistleblowers and reports from third parties, or use statistical analysis based on risk indicators. • Combine with strategy which publicises enforcement actions to enhance deterrence effect. • Ensure that inspection focuses on minimising risks and not 'tick box' compliance.

9. Advice and assist visits

*'*Advice and assist' visits can be distinguished from inspections that are oriented to securing compliance through enforcement. However, like full inspections, they can be resource intensive and only offer cost savings in so far as they tend to lead to compliance actions by regulatees without the need to take more costly enforcement action. You could consider using third parties such as local interest groups, industry bodies or NGOs as advisers to help operators improve performance.

Planning horizon
Short-medium term: use over the annual planning cycle or longer to ensure that use of the strategy is proportionate to the risks.

Strengths	• Regulators can foster a good relationship with regulatees and encourage a positive approach to compliance. • Beneficial for SMEs in particular as can reduce costs of finding out what their obligations are and how to comply. • Facilitates good communication with regulatees – assuming advice given is consistent across inspectors. • Visits may yield information about the emergence of new risks. • Useful where advice with make a difference to compliance (e.g. where there are technical challenges and where businesses involved are highly motivated to comply).
Risks	• Resource intensive, particularly if done on a 'blanket' basis across all low-risk sites. • Regulators run the risk of 'capture' or the perception of capture (i.e. excessive identification with regulatees through co-operative, 'non-enforcing' relationships). • May be open to accusations of unfairness and inconsistency unless there is clear communication and agreement within the agency as to what conduct is expected from regulatees. • The 'advice and assist' stance may make it difficult to take enforcement action where infringements are found without regulatees complaining of inconsistency and mixed messages. • May focus too much on compliance with existing rules and not on minimising risks to regulatory objectives.
Possible ways to address the risks	• Consider using an alternative monitoring strategy such as proxy measuring or random inspections to target where to spend resources on advice and assist visits. • Consider using an engagement strategy such as information campaigns to perform the same function. • Communicate clearly about when enforcement action would be taken. • Ensure advice focuses on minimising risks not 'tick box' compliance.

10. Reactive investigations, responding to complaints, whistle-blowing or post-incident investigations

With regard to some activities, it is more efficient to intervene after harm has occurred rather than at an earlier stage when the potential for harm exists but no harm has yet occurred. This strategy may be particularly relevant in the case of low-risk activities, as the frequency with which the risk produces a harmful outcome is low and the expense involved in intervening in high numbers of instances at the pre-harm stages may not be justified by the expected costs of the harm, particularly if the harm is minimal and / or reversible.

Complaint and 'hotline' systems allow the costs of regulation to be kept down by reducing the need for, or supplementing inspections – complainants, consumers and the public become the (unpaid) eyes and ears of the regulator. They also have the potential to uncover new risks and risk creators.

The number of complaints may be such that you need to introduce a system of 'triage' to prioritise which complaints are responded to and by what means.

Whistleblowers may prove more useful as regulatory informants than consumers and other complainants in so far as they tend to be in possession of better information concerning non-compliance.

Planning horizon
Short term: quick to implement but consider developing a system for prioritising responses over the annual planning cycle.

Strengths	• Low costs to both regulated firm and regulator. • Regulator is responsive to public concerns and can feed information into the public domain. • Can be good indicators of new risks or concerns. • Clearly targeted on risks. • Can be more efficient to intervene when harm has occurred than spend resources on preventative measures. • Can demonstrate that the regulator is fair and responsive to public concerns if reacts strongly when an incident occurs. • Investigation can throw up information on previously unknown risks or problems.
Risks	• May be ad hoc and unreliable indicators unless significant trends can be discerned. • Complaints or reports may be distorted, unfair or unrepresentative, or may be too driven by fashions or fads. • Employer's power over employment relationship may stand in the way of fault reporting. • Disclosures may be intermittent. • Disclosures may relate to a narrow agenda. • Regulator may appear as incompetent in not preventing the risk from occurring. • May be seen as fostering interventions that are driven by incidents rather than agency pursuit of statutory aims. • Public may not agree with regulator's risk tolerance, particularly if the strategy is used with respect to risks which are low 'net' risk rather than inherently low risk. • May lead to retroactive and retrospective stance from regulator.

Possible ways to address the risks	• Consider developing a 'triage' system to prioritise responses to complaints. • Consider supplementing with other strategies to improve targeting, to avoid excess reactivity and to pick up risks which are not visible to the public. • Ensure protection and incentivising of whistleblowers. • Use as a supplementary tool (to most other tools). • Communicate strategy clearly to regulatees and the interested public. • If used as the sole method of inspection then best used with respect to inherently low risks where harm is small, contained and the effects are reversible / remediable.

11. Surveillance

Surveillance can involve the use of recording equipment such as cameras at known sites of illegal activity. Customised surveillance or reporting systems can also be put in place, as in 'corporate probation' arrangements. Information can be obtained through use of specific information gathering powers, such as powers to see computer records and documents or to be supplied with specified information on demand.

Planning horizon
Short term: can be used over the annual planning cycle.

Strengths	• Powers allow regulators to collect information without the need for regulatee co-operation. • Bespoke and targeted data can be collected. • Where the information is simple to gather and process, it can be an effective proxy for use in risk assessments. • Can be used for targeted reviews.
Risks	• May be costly to analyse if firms do not collect and record data in consistent ways. • Those firms who may be in most need of regulation are likely to have poor management systems, making data collection costly. • May be open to charges of unfairness as it is used selectively. • Data protection concerns may have to be addressed. • Information may be outdated or inappropriate.
Possible ways to address the risks	• Ensure that information gathering powers are adequate. • Use tool selectively and combine with monitoring tools (e.g. tools 16, 17) and more routine tools (e.g. tools 5, 7). • Use where the relevant information is simple to gather and process. • Restrict use to detailed investigations that are triggered by use of other tools.

12. Benchmarking or 'yardsticking' approaches

'Yardsticking' or benchmarking strategies are commonly used in the utility industries to compare performance across operators. They can be used in conjunction with reporting requirements in order to identify the need for further regulatory intervention. For example, levels of discharges can be compared in different areas and this may indicate which regulatees are under-performing. Such comparisons may even prove useful where the involved parties are all compliant but some firms could still lower their levels of pollution to the commonly achievable standard for that activity.

Planning horizon
Medium term: needs time to construct benchmarks and gather information over time period to allow comparisons between sites/activities and over time.

Strengths	• Low cost where measuring is cumulative. • Enables the regulator to compare levels of discharge or emissions, for example, highlighting under-performance. • If published, can give transparency to the regulatory regime. • Can be used to assess performance across areas of particular concern, akin to themed inspections. • Can facilitate comparison of performance between sites / activities in the same or different locations, and so feed into other strategies, such as themed inspections or engagement strategies.
Risks	• May be insufficient numbers of operators for valid comparisons to be made. • Resources necessary to collect data and make comparisons may not be justified by the risks. • Inconsistencies in data collection may undermine the strategy as makes comparison difficult. • New risks may not be picked up without site visits.
Possible ways to address the risks	• Benchmarks need to be carefully chosen and objective. • Ensure that data is collected and collated on a consistent basis. • Adequate resources need to be devoted to analysis otherwise risks becoming a mechanistic exercise in collecting data which is under-utilised. • Consider using benchmarking or 'yardsticking' strategies to target other monitoring strategies, such as themed inspections or engagement strategies.

13. Measuring indirect / proxy outcomes

Measuring indirect or proxy outcomes, for example, using downstream water quality as an indicator of discharges can be a low-cost way of assessing performance and deciding where further action needs to be taken (e.g. a series of themed inspections or using an engagement strategy). Note that a proxy is an indirect measure of an activity, whereas 'yardsticking' involves a comparison of activities across sites.

There are significant advantages to monitoring outcomes as a proxy for compliance, particularly where the evidence is easily obtained and based on objective measurement (such as analysis of water quality, in contrast to a more subjective measurement such as quality of management). However, a central issue in relation to proxy outcomes is the quality of the proxy – the tightness of the linkage between the outcome and the regulated activity. The causal connection, for example between the measured water quality and the relevant discharge, has to be clearly quantifiable and demonstrable by the regulator.

Planning horizon
Medium term: needs time to identify and validate proxies and gather information to allow comparisons between sites/activities and over time.

Strengths	• Can be very cost effective. • Outcomes-based strategy which focuses on ensuring that environmental objectives are being achieved. • Can be easily justified if the proxy is clearly and easily validated. • Can be used to assess performance across areas of particular concern (akin to themed inspections). • Can facilitate comparison of performance between sites / activities in the same or different locations, and so feed into other strategies, such as themed inspection or engagement strategies.
Risks	• There may only be a weak causal connection between the proxy and the risk. • Inconsistencies in data collection may undermine the strategy as makes comparison difficult. • New risks may not be picked up without site visits.
Possible ways to address the risks	• Ensure proxy has good causal connection with risk and outcome sought. • Ensure that data is collected and collated on a consistent basis. • Adequate resources need to be devoted to analysis otherwise risks becoming a mechanistic exercise in collecting data which is under-utilised. • Consider using results of proxy measuring to target other monitoring strategies, such as themed inspections or engagement strategies.

14. Self monitoring and self certification by regulated firms

Self monitoring, reporting and certification systems include self-administered questionnaires, self assessments, and duties to write risk control policy / guidance on risk assessments, where the results of self monitoring are reported to the regulator.

Planning horizon
Medium-long term: need to identify appropriate regulatees, agree responsibilities, develop questionnaires / assessment forms and any associated guidance, and establish reporting arrangements by the firm to the regulator.

Strengths	• Systems of self monitoring, questionnaire and certification go further than disclosure regimes in so far as the regulator is able to engage in a level of interrogation concerning risk management. • Processes of formulating compliance and risk-management policies and completing self certification can, in themselves, improve compliance. • Where guidance is supplied by the regulator, this allows the regulator to assist the regulated firm to comply and to devise better risk management systems. Such systems are more modest than auditing procedures (discussed below) which involve more continuous and detailed scrutiny of the regulatees' approaches to risk management. • Puts the onus clearly on the regulated firm to manage its own risks. • Systems are transparent. • Can work well if regulatee is highly motivated and well resourced, and can identify and respond to changes in risks.
Risks	• May be treated as a purely process-based, box ticking exercise by firms and regulators. • Regulated firms may give false or misleading information in the absence of any systems of validation. • Firms may have an overly optimistic view of the quality of their systems / level of risks they pose. • Firms may be ill-placed or incapable of conducting self-reviews and assessments, particularly SMEs. • If things go wrong, regulator may be accused of relying too much on firms and on abdicating responsibility for regulation. • Regulator may be slow to detect implementation problems. • Regime may be locked into process-based review which focuses on existing risks. • Regulatee may be slow to update the regulator on changes in challenges or in performance.
Possible ways to address the risks	• Use system where confident that regulatees' levels of expertise, organisation and commitment are high and risks are low and static. • Consider associated use of suitable monitoring tool (e.g. tools 5-9, 11, 12, 15-17).

15. Management-based strategies

Under management-based strategies, sometimes referred to as 'enforced self regulation' or 'meta-regulation', the firm is required to put in place systems for managing its risks or complying with regulatory requirements. These systems are then approved and overseen by the regulator. These schemes could include a requirement for mandatory training of certain personnel, for example those occupying key risk management functions.

In a simpler regime of mandatory performance disclosure, firms or operators can be required to disclose their performance against various regulatory measures, for example discharges or water quality. Performance disclosure can act as a positive reinforcement for compliant operators, providing them with a 'reward' for compliance, as well as having a deterrent effect for those operators concerned about their reputation.

Planning horizon
Medium-long term: need to identify appropriate regulatees, agree responsibilities and appropriate risk management systems, and establish reporting arrangements by the firm to the regulator.

Strengths	• Low cost to the regulator and taxpayer. • Outcomes and performance focused. • Puts the onus clearly on the regulated firm to manage its own risks. • Regulators review the systems and so may pick up on new risks or changes in risk profile.
Risks	• May become 'tick box', process based regulation. • Small firms may protest that they find the self-generation of control systems to be burdensome. • Regulatees may protest that the expenses of measurement and reporting are out of proportion to the risks involved. • The quality of information supplied to the regulator may be poor, misleading, and false or slow in supply. • Regulatees may play the system – especially if they see the reporting system as merely an obstacle to be circumvented. • May be quite opaque if firms are not committed to disclosures of their risk management regimes. • Regulatees may see the processes of public disclosure as outside their core functions. • Outcomes being measured may not relate closely to regulatory obligations. • Regulatees may not update regulator on relevant changes to risks or management and control systems. • Disclosure and reporting requirements may be locked onto a given set of risks and may not provide information on new risks and risk creators.
Possible ways to address the risks	• Only use system where confident that regulatees' levels of expertise, organisation and commitment are high. • Consider associated use of suitable monitoring tool (e.g. tools 5-9, 11, 12, 15-17).

16. Third-party monitoring

The task of assessing performance and detecting incidents in low-risk areas can be delegated to another public or commercial organisation, as long as legislation allows this. Third parties who are 'enrolled' in monitoring or assessing performance can include other regulators; assurance scheme operators; business partners; trade unions; pressure groups; trade associations; local authorities; or contracted parties such as auditors or accredited certification bodies.

Planning horizon
Medium-long term: need to identify appropriate third parties, agree responsibilities, train third parties where relevant and establish reporting arrangements by third party to the regulator.

Strengths	• Can reduce costs. • Can take advantage of specific expertise of third party. • Third parties can be assiduous and may be better placed to keep up to date on changing risks than the regulator. • Where third-party schemes are already in operation for other purposes (e.g. supply chain / contractual reasons), then using the same auditors can remove duplication for the agency and the regulatee. • Third parties may already have a trusted relationship with the regulatee and thus be capable of delivering the regulator's message in a more acceptable and effective manner.
Risks	• Regulator may lose control over assessments and divergent approaches may be taken between regulator and third-party agent, and between agents. • Level of risk may not justify cost of expensive third-party monitoring. • Strategy may result in cost-shifting within the regulator rather than overall reduction of costs. • Reputational issues and lines of accountability are blurred – if risks occur in a site that was inspected by a third party the public may blame the regulator, not the third party. • Agent may not alert regulator to new risks that are outside the terms of the contract or monitoring arrangement. • Loss of relationship between regulator and regulatee and increased gulf in mutual understanding due to lack of direct contact.
Possible ways to address the risks	• Choose third-party agents with care and train if necessary. • Set clear expectations of what is required from the agent and establish a system of periodic monitoring. • Use tool only where low-cost monitoring and control of the agent is possible over the longer term.

17. Information and inspection sharing regimes

Regulators who act concurrently in relation to a given area of activity can reduce their costs and the costs imposed on businesses by avoiding duplications of effort. Information and inspection sharing regimes can bring obvious benefits and can be a valuable tool in intelligence gathering, but for them to work effectively they require high degrees of coordination, both operationally and culturally.

Planning horizon
Medium-long term: need to identify appropriate regulatory partners, agree responsibilities and methods, and establish reporting and information sharing arrangements between the partners.

Strengths	• Can reduce costs for regulators. • Can reduce costs for firms, who only have to provide the information once. • Can foster consistency between regulators in collecting and using data. • Can pool expertise amongst regulators, improving understanding of risks more generally. • Sharing may spread awareness of new issues and new risks effectively.
Risks	• Regulator may suffer loss of control over the resources put into the task. • Differences of approach may reduce effectiveness, as can differences in priorities, values and objectives. • Quality control may be an issue. • It may be difficult to train inspectors in the intricacies and demands of different regimes. • Lines of accountability and responsibility may become blurred. • It may be difficult to adjust a collaborative regime rapidly. • There may be legal obstacles to information sharing.
Possible ways to address the risks	• Ensure that the regulators share sufficiently common priorities and approaches.

18. Information campaigns, generic advice and recommendations (including codes and guidance)

Information campaigns and systems for giving guidance to particular sectors or groups of regulatees can be a cost effective way to foster compliance and improve performance. They can deliver higher compliance levels than under-resourced inspection regimes.

Information and guidance can be published 'bare' on websites or, as is common, can be disseminated through workshops.

You should consider carefully how to structure and deliver an information campaign. Passive strategies, in which the regulator puts information on its website and expects regulatees to read it, are less likely to be successful on their own than active strategies, in which the regulator actively puts the information in places where the regulatee is likely to come across it as part of their daily activity (not many have the regulator's website as their homepage). Targeted campaigns, using techniques similar to those used for marketing, have proven to be more effective strategies for improving compliance.

Planning horizon
Short-medium term: information campaigns can be quick to introduce but may need time to take effect; may take some time to develop the content of any guidance.

Strengths	• Information can be targeted to particular sites or activities at relatively low cost. • Gives clear information and advice about the regulatory requirements. • Can be easily modified as risks or priorities change.
Risks	• Passive information strategies can be ineffective unless part of a set of wider, active strategies of engagement. • Information strategies may not change incentives to comply.
Possible ways to address the risks	• Maximise their effectiveness: targeted public information, supplemented by workshops and 'webinars' and underpinned by 'how to comply' information or best practice guidelines. • Consider using websites of trade associations and other relevant organisations as well as the regulator's own website to disseminate information.

19. Dialogue with interested parties

Engagements with interested parties can be used to determine the risk categorisation of certain activities or sites which are of public concern. Alternatively, or in addition, once the agency has performed its risk categorisation, stakeholder engagement can be used to agree what types of approaches the regulator should adopt to particular low-risk sites in the locality. Informal controls can be used as substitutes for, or in the shadow of, legal constraints.

Planning horizon
Medium term: need to identify appropriate stakeholders or interested parties; need to develop sustainable and reliable relationships.

Strengths	• Can be closely targeted on specific risks or particular localities. • Clear engagement with stakeholders. • Can identify new risks.
Risks	• Setting up engagement activities can impose short-term costs on time and resources of the agency. • Regulator may still be open to criticism if dialogue is not supplemented by enforcement action.
Possible ways to address the risks	• Ensure that there is a clearly identifiable group of affected stakeholders and that contention is low or can be resolved.

20. Industry or NGO / interested party-led solutions

In some cases, the best ways to mitigate the risk are not through an agency pursuing greater levels of compliance as such, but through encouraging stakeholder or industry-led solutions. One area where this has been used with success is in the development of 'design' strategies, particularly for equipment and technology, for minimising risk. Focusing on the design of equipment and technology has long been a central part of environmental regulation, as it can be an effective way of minimising risks. In particular, this focus can be a cost effective way of dealing with low-risk sites, at least for the agency, and can have pay-offs for industry.

Planning horizon
Medium term: need to identify appropriate stakeholders or interested parties; need to develop sustainable and reliable relationships and generate trust.

Strengths	• Can be closely targeted on specific risks or particular localities. • Clear engagement with stakeholders. • Industry is often best placed to identify and (with encouragement) to address new risks.
Risks	• May still be open to criticism if not supplemented by enforcement action • Industry may take some time to develop and adopt appropriate designs.
Possible ways to address the risks	• Ensure that there is a clearly identifiable group of affected stakeholders and that contention is low or can be resolved.

21. Multi-agency approaches

Multi-agency approaches can be a particularly beneficial strategy with respect to low risks which cause public concern, such as noise and odours (it is accepted that there will be occasions when odour presents a higher environmental risk and agencies will have to adapt their regulatory approach accordingly). Multi-agency approaches can be used both to design out higher levels of risk (such as by judicial locations of potential polluters) or to create incentive structures that will serve to increase compliance, such as where farm subsidies are linked to levels of compliance.

Planning horizon
Medium-long term: need to identify appropriate partners, agree responsibilities, and develop coherent and coordinated strategies.

Strengths	• Can be closely targeted on specific risks or particular localities. • Can be used to avoid the need for traditional regulation. • Coordination demands may drive information into the public domain. • Other agencies may be better placed to address risks.
Risks	• No one agency assumes 'ownership' of the problem and this may lead to gaps in control. • Lines of accountability may be blurred. • Other agencies may take some time to develop and adopt appropriate designs. • May take time to shift agreed positions once commitments to a particular strategy have been negotiated.
Possible ways to address the risks	• Ensure that agency responsibilities are clear, that agencies have compatible objectives and capacities and that they are well-coordinated or well-disposed to coordinate.

22. Incentive strategies

The incentive strategies envisaged here reward the regulatee for good performance. They may do so by enhancing the regulatees' reputation or by providing financial benefits. In the former case the regulator may award the regulatee an accreditation or some other 'earned recognition' of good performance. In the latter case, the regulator may, for example, trigger an exemption from payment, a reduction of charges or a tax advantage.

These strategies can be particularly beneficial with respect to low risks that cause public concern – especially where reputational gains of a valuable kind can be distributed at low cost to the regulator. Incentives also encourage the regulatee to think positively about environmental protection and to focus on outcomes rather than boxes that need to be ticked to keep the regulator at bay.

Planning horizon
Medium-long term: need to identify appropriate partners, agree responsibilities, and develop coherent and coordinated strategies.

Strengths	• Can be closely targeted on specific risks or particular localities. • Can be used to avoid the need for traditional regulation. • Can create considerable pressure to comply. • Low administration cost since it relies on positive incentives rather than compulsion or sanction. • Can encourage focus on environmental outcomes, not boxes to tick.
Risks	• May be seen as 'going soft' on non-compliers if the only consequence is that they forego a gain rather than incur enforcement action. • Value may be limited to areas where reputations have value (e.g. to consumers). • May be resourcing implications where financial concessions are made. • May be difficult to combine with sanctioning approaches.
Possible ways to address the risks	• Ensure that agency policies on incentives are clear. • Make plain the separation between the incentives regime and other enforcement approaches.

Part 2 The Good Regulatory Assessment Framework (GRAF)

Regulators have to be able to assess whether the tasks identified by the GRID are carried out in a satisfactory manner. This means that they should be able to characterise risk-types and regulate-types accurately and that they should think methodically about the intervention tools that they use. They should also be able to assess their performance and to modify their approaches where necessary.

This Good Regulatory Assessment Framework (GRAF) provides a step-by-step process for assessing the performance of the agencies with regard to their choice of suitable intervention strategies.

The following scoring system is used:

- 1 = very good
- 2 = good
- 3 = average
- 4 = poor
- 5 = very poor

Characterising risks and regulatees

1. Is your organisation able to characterise accurately the type of low risks that you monitor and control (notably whether they are inherent or net, and liable to change or not, and if so in which direction) during the period between strategic reviews.
   (I would rate our performance here as: 1, 2, 3, 4, 5)

2. Is your organisation able to characterise accurately the type of regulatees that you are concerned to monitor and control (notably their motivation and capacity to comply) during the period between strategic reviews.
   (I would rate our performance here as: 1, 2, 3, 4, 5)

If your score for Question 1 or Question 2 is 4 or 5, please identify, in the box below, possible ways to improve performance. (See note below on **Follow up actions to improve scores**.) (Please feel free to suggest possible improvements whatever scores you have given.)

Use of screening and rule-based strategies

3. Is your organisation aware of the respective strengths and weaknesses of the following screening and rule-based strategies? (See Appendix II of the report for details.)
   (I would rate our performance here as: 1, 2, 3, 4, 5)

- Exemptions without notification or registration
- Exemptions with notification or registration
- Registration with conditions/rules; permit and licensing systems
- Application of general binding rules without notification/registration

If your score for Question 3 is 4 or 5, please identify, in the box below, possible ways to improve performance. (See note below on **Follow up actions to improve scores**.)
(Please feel free to suggest possible improvements whatever scores you have given.)

Inspection / monitoring and proxy strategies

4. Is your organisation able to identify the low-risk sites and activities that you are required to monitor and control?
   (I would rate our performance here as: 1, 2, 3, 4, 5)

5. Is your organisation able to identify those low-risk sites that may develop into higher risk sites? (This involves distinguishing between low-risk sites that are stable and those that are liable to change into higher risks during the period between strategic reviews.)
   (I would rate our performance here as: 1, 2, 3, 4, 5)

6. Does your organisation have strategies for detecting activities that are carried out illegally or by unauthorised persons?
   (I would rate our performance here as: 1, 2, 3, 4, 5)

7. Does your organisation regularly consider ways to monitor performance at low-risk sites without using routine visits and inspections?
   (I would rate our performance here as: 1, 2, 3, 4, 5)

8. Does your organisation regularly consider whether the frequency with which you apply any monitoring or proxy strategies to individual sites is appropriate to the nature of the risk and the regulatee?
   (I would rate our performance here as: 1, 2, 3, 4, 5)

If your score for any of Questions 4-8 is 4 or 5, please identify, in the box below, possible ways to improve performance. (See note below on **Follow up actions to improve scores**).
(Please feel free to suggest possible improvements whatever scores you have given.)

9. Does your organisation regularly *consider* the possible value of using the following intervention strategies and is it familiar with their respective strengths and weaknesses (see Appendix II of the report for details)?
   (I would rate our performance here as: 1, 2, 3, 4, 5)

- Frequency adjusted inspections or monitoring
- Regulatory audits
- Themed inspections or monitoring
- Random inspections or monitoring
- Advice and assist visits
- Reactive investigations, responding to complaints, whistle-blowing or post-incident investigations
- Benchmarking or 'yardsticking' strategies
- Measuring indirect/proxy outcomes
- Surveillance
- Self monitoring and self certification by regulated firms
- Management-based strategies, including mandatory performance disclosure by regulated firms
- Third-party monitoring
- Information and inspection sharing regimes

If your score for Question 9 is 4 or 5, please identify, in the box below, possible ways to improve performance. (See note below on **Follow up actions to improve scores**.)
(Please feel free to suggest possible improvements whatever scores you have given.)

Engagement and incentive strategies

10. Does your organisation regularly consider the potential of the following engagement strategies and consider their respective strengths and weaknesses (see Appendix II of the report for details)?
    (I would rate our performance here as: 1, 2, 3, 4, 5)

- Information campaigns
- Dialogue with interested parties
- Industry- or interested party-led solutions
- Multi-agency approaches
- Incentive strategies

If your score for Question 10 is 4 or 5, please identify, in the box below, possible ways to improve performance. (See note below on **Follow up actions to improve scores**.)
(Please feel free to suggest possible improvements whatever scores you have given.)

Enforcement strategies and regulatory intensity

11. Does your organisation's enforcement strategy allow you to use the appropriate intervention tools?
    (I would rate our performance here as: 1, 2, 3, 4, 5)

12. Are you able to use your intervention tools with the appropriate degree of intensity?
    (I would rate our performance here as: 1, 2, 3, 4, 5)

If your score for Question 11 or 12 is 4 or 5, please identify, in the box below, possible ways to improve performance. (See note below on **Follow up actions to improve scores**.)
(Please feel free to suggest possible improvements whatever scores you have given.)

Assessing the overall approach to low-risk sites

13. Is your organisation able to assess your performance in regulating low-risk sites – and, if it cannot, is it able to justify this lack of evaluation?
    (I would rate our performance here as: 1, 2, 3, 4, 5)

If your score for Question 13 is 4 or 5, please identify, in the box below, possible ways to improve performance. (See note below on **Follow up actions to improve scores**.)
(Please feel free to suggest possible improvements whatever scores you have given.)

Modifying the approach

14. Does your organisation have the capacity and motivation to meet new and emerging challenges by performing strategic reviews at appropriate and defined periods and by adapting and developing its approach to low-risk sites?
    (I would rate our performance here as: 1, 2, 3, 4, 5)

15. Where modification is prevented due to the legal framework, is your organisation committed to, and organised for, engaging with national or EU legislators to amend the law?
    (I would rate our performance here as: 1, 2, 3, 4, 5)

If your score for Question 14 or 15 is 4 or 5, please identify, in the box below, possible ways to improve performance. (See note below on **Follow up actions to improve scores**.)
(Please feel free to suggest possible improvements whatever scores you have given.)

Note: follow up actions to improve scores

If your scores for any of the questions are 4 or 5, then with respect to each assessment you should consider ways to address outstanding issues. In particular, consider whether any of the following matters could be addressed:

- Clarifying objectives.
- Securing more adequate legal powers.
- Improving data collection.
- Overcoming staff resistance to the regulatory strategy for low-risk sites.
- Addressing the challenges that flow from limitations of resources and skills.
- Increasing senior management support for the proposed approach.
- Other – please specify.

You should indicate in each of the relevant comment boxes above what steps could be taken to secure any of the above improvements and propose a timeframe for action and review.

Annex 2 A sample GRID (stage 1): Matching tools to the characteristics of risks and regulatees – options

Table 2: A sample GRID

Intensity of intervention increases according to risk type

Intensity of intervention increases according to regulatee type

Nature of the regulatee	**Nature of the low-risk site/activity**				**Options for regulatory activity and intensity**
	Inherent low-risk – stable	*Net low-risk – stable*	*Inherent low-risk – but may change or cumulate*	*Net low-risk – but may change or cumulate*	
Regulatees are well motivated with high capacity to comply	All	All	All	All	*Screening*
	7,8,10, 13,	7, 8, 10, 13, 14, 15	6-8, 10, 13, 14-17	6-8, 10, 13, 14-17	*Monitoring*
	18-20	18-20	18-20	18-20	*Engagement and incentives*
	Low	Low	Low	Low	*Regulatory intensity*
Regulatees are well motivated with low capacity to comply	All	All	All	All	*Screening*
	7, 8, 10, 13	7, 8, 10, 13, 14, 15	6-8, 10, 13	7, 8-10, 13, 14-17	*Monitoring*
	18-20	18-20	18-20	18-20	*Engagement and incentives*
	Low	Low	Low	Low	*Regulatory intensity*
Regulatees are less motivated with high capacity to comply	All	All	All	All	*Screening*
	7, 8, 10, 13	7, 8, 10, 13, 14, 15	6-8, 10, 13	6-13, 15, 16	*Monitoring*
	All	All	All	All	*Engagement and incentives*
	Medium	Medium	Medium	High	*Regulatory intensity*
Regulatees are less motivated with low capacity to comply	All	All	All	All	*Screening*
	6-13	6-13, 15	6-13	6-13, 15	*Monitoring*
	All	All	All	All	*Engagement and incentives*
	Medium	Medium	High	High	*Regulatory intensity*

Annex 3 Questions used for the task 4a interviews: validating and refining the Good Practice Framework

The key questions asked during the Task 4a interviews covered the following issues, tailored as appropriate to those being interviewed.

Questions for regulators

Improving practice – the Good Regulatory Intervention Design (GRID)

1. Is the GRID framework well targeted?
2. Does the GRID framework propose measures which are proportionate to the nature of the risk and available regulatory resources?
3. Are some essential issues omitted?
4. Are some issues wrongly included?
5. Is the GRID framework sufficiently intelligible and accessible?
6. Is the GRID framework sufficiently easy to use given the constraints of resources, skills, timescales, etc., that regulators face?
7. Is the GRID framework applicable across all types of low risk and business sectors, or is it limited in scope?
8. Is the GRID framework durable?
9. Can the GRID framework be used consistently across regulators and agencies or is it vulnerable to divergent interpretations and uses?
10. Is use of the GRID framework consistent with a general emphasis on applying resources to the highest risks?
11. Does use of the GRID framework encourage more robust evidence-based regulation?
12. Will use of the GRID framework improve regulators' ability to respond to change or will it inhibit adaptation to new developments?
13. Can use of the GRID framework be justified to the public and to stakeholders?
14. What changes are needed to improve the GRID framework as a guide to intervention?

Evaluating performance – the Good Regulatory Assessment Framework (GRAF)

1. Is it possible, in practice, to score the elements of best practice as the GRAF proposes?
2. Is the scoring system understandable and useable?
3. Does the GRAF allow evaluation at a reasonable resource cost?
4. Is the GRAF applicable as an evaluative tool across all types of low risk and business sectors, or is it limited in scope?
5. Can the GRAF be used consistently across regulators and agencies?
6. Can the marking scheme produce results that can usefully serve as foundations for valuable reforms?
7. Will the evaluative use of the GRAF framework enhance the responsiveness of regulators to change or inhibit adaptation to new developments?
8. Are there dangers that evaluation via the GRAF will become a "box-tick" exercise of little value? How could these be mitigated?
9. Is it reasonable to expect that regulators will be able to modify their approaches to low-risk sites in light of the GRAF's evaluations?
10. Would using the GRAF to evaluate the regulator's performance be easy to justify to the regulated sector, the public and other interested parties?
11. What changes are needed to improve the GRAF as an evaluative tool?

Questions for non-regulators

Improving practice – the Good Regulatory Intervention Design (GRID)

1. Is the GRID well targeted?
2. Is the GRID applicable across all types of low risk and business sectors, or is it limited in scope?
3. Is the GRID robust, or will it have to change as circumstances or risks change?
4. Can the GRID be used consistently across all regulated sites by different inspectors, or is it open to different interpretations and uses? In what circumstances would such differences be a concern?
5. To what extent do you think that using the GRID would have the following effects:
    - Make it easier or harder to know and understand the regulator's inspection and enforcement policies?
    - Increase or reduce compliance costs?
    - Make it easier or harder to make the regulator accountable?
    - Make it easier or harder for the regulator to adopt a consistent set of practices between different regulatees and over a period of time?
    - Make it easier or harder for businesses to respond to new market developments?
6. Are there any aspects of the GRID that would particularly affect SMEs?
7. Are there any other implications of using the GRID of which we should be aware?
8. Can the GRID framework be justified to the regulated sector, to the public and to other interested parties?
9. What changes are needed to improve the GRID framework as a guide to intervention?

Evaluating performance – the Good Regulatory Assessment Framework (GRAF)

1. Is it possible, in practice, for regulators to score the elements of best practice as the framework proposes?
2. Is the scoring system easy to understand?
3. Can the assessment framework be used for all types of low risks and business sectors or is its scope limited?
4. Are there dangers that evaluation via the framework will become a "tick-box" exercise of little value? How could these be mitigated?
5. Can the marking scheme produce results that can usefully serve as foundations for valuable reforms?
6. To what extent would the assessment framework make regulators' decisions more open and justifiable?
7. To what extent would the assessment framework enable regulators to respond to changing risks or circumstances?
8. Is it reasonable to expect that regulators will be able to modify their approaches to low-risk sites in light of the assessments made using the GRAF?
9. What changes are needed to improve the assessment framework as a tool for helping the regulator evaluate its own policies and performance?

Annex 4 Questions used in the task 4b meetings with agency officials

The aim of the meeting is to discuss the utility of the Framework and how it might be used by the individual agencies. There are six key points we would like the meeting to address.

1. The structure and lay out of the GRID and Tool Guide
    a. How user-friendly is the GRID and accompanying Tool Guide? What changes, if any, would you recommend?
2. The overall list of strategies
    a. Are there strategies in the Tool Guide which should never be used for low-risk sites?
    b. Are there strategies which are not in the Tool Guide but which could be appropriate for low-risk sites?
    c. Do you have any comments on the individual guides to the different tools, e.g. on our assessments of their planning horizon, strengths, risks, and ways to address the risk?
    d. Would it be helpful to have a 'compatibility guide' for the tools or examples of 'menus' to use for different GRID boxes?
    e. Are there any other changes you would recommend?
3. The selection of strategies for particular risks and regulates, i.e. which strategies to put in which GRID box
    a. Which tools do you think are best suited to different types of risk and regulatees?
    b. Do you agree with the selection provided in the sample GRID?
4. The GRAF
    a. How useful do you think that the GRAF would be as a tool to review the agency's approach to regulating low-risk sites? What changes, if any, would you recommend?
5. Using the GRID and the GRAF within your agency
    a. Who do you think would best be placed within your organisation to decide which strategies should be used with respect to low-risk sites and activities?
    b. Who do you think would best be placed to review the framework?
6. Are the provisional recommendations supportable?