

TTE GUIDE 1: An Introduction to the Environmental Permitting Regime



tt environmental ltd

helping industry protect the environment

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What's EPR about?

The Environmental Permitting Regulations (EPR) came into effect on 6th April 2008 throughout England and Wales, and were replaced by a new set of Environmental Permitting Regulations in 2010, with subsequent updates.

These regulations join together industrial regulation (previously under the IPPC regulations), with the waste regulations (Waste Management Licencing), and also include the requirements of numerous European Directives including the Industrial Emissions Directive (IED) the Combustion Large Plant Directive (to be superseded by IED on 1st January 2016), the Solvents Emission Directive, as well as several others.

Environmental Permitting is still referred to as IPPC in Scotland and Northern Ireland, but the requirements are essentially the same.

Purpose of Environmental Permits

Environmental Permits are designed to control activities which may have an adverse impact on the environment.

In order to manage the environmental impact of an installation to an acceptable standard, the regulations govern:

- The amounts and type of emissions permitted from site, including emissions monitoring (where necessary), and emissions reduction.
- Energy and raw materials minimization.
- Waste production and disposal.
- Control and prevention of environmental nuisances, such as noise, odour, dust and litter.

How does the Permitting system work?

As a company or individual who is going to carry out Permitted activities, you need to apply for a Permit before you start operations (where any level of activity needs to be permitted); or before you reach the Permit threshold, for activities with threshold levels (where a minimum level of activity needs to be exceeded).

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Example – if you intend to make chemicals by reaction, you will need a permit before you begin operations; but if you make meat pies, you will only need a permit if you are going to exceed the manufacturing threshold of 75 tonnes per day.

Once you have obtained your Permit, operations can commence. The Environment Agency will visit you to ensure that you are operating within the “envelope” of your Permit. For potentially hazardous sites, the HSE may visit separately.

You can expect regular EA visits throughout the Permit lifetime, depending on how potentially hazardous your operations are – a large power station can expect more visits than a small biodiesel manufacturer.

There are annual returns which must be completed for the EA's records, including wastes produced and resources consumed. Annual returns are based on the complexity and hazardous potential of the site – if you hold a Standard Permit, the requirements are less than for a Bespoke Permit.

You must also report environmental accidents and incidents to the EA using a special notification form, including details of why they happened, what actions were taken to mitigate the incident, and any preventative measures taken to ensure that this type of accident does not recur. (n.b. this is separate from any statutory reporting to HSE e.g. for RIDDOR).

If you make any major changes to your operations (eg start a different process which also requires a permit), you must apply for a Variation, which is chargeable.

If you stop Permit operations, you must surrender the permit back to the Environment Agency, this is also chargeable.

At Permit Surrender, you need to demonstrate that the land and groundwater under your site have not been adversely affected by your operations. There are various methods for demonstrating this, ranging from checking the infrastructure to a full site investigation.

If you sell the site, the permit can be transferred to the new operator (again chargeable).

Living with an Environmental Permit

If you've not operated a business which has been regulated by the Environment Agency and/or HSE before, it can take a lot of getting used to.

Businesses which are operated under Environmental Permit have to define what their operations are for the regulators, and then ask permission before they make changes.

This level of regulatory control can be very frustrating, and seem like "business prevention". It is particularly difficult for businesses which are based on customer service, eg the personal care sector/ Fast Moving Consumer Goods (FMCG). After all, it's your business – why can't you make a decision to change something, then just implement it?

The reason for this control mechanism is to ensure that you, the operator, understands how the proposed changes affect the risks on site, and that you're prepared for any incidents which may occur.

An example might be deciding to make a new product which uses kerosene as a solvent – if you haven't any other highly flammable materials on site, you might need to review your fire alarms, sprinklers, and fire water handling system to ensure that you are prepared for the higher risks from kerosene.

The good news is that the EA take a proportionate approach – sometimes, all your Inspector needs is an email to let them know what's happening. For larger changes, a Variation to the Permit may be required, which would be chargeable.

One of the key factors affecting how easy it is to run under an Environmental Permit can be your working relationship with your Inspector. For a white paper on this topic, [click here](#) (no email or other information required).

Types of Environmental Permit

There are many types of activity which could theoretically be covered by an Environmental Permit:

- a) Some of the lowest risk activities are completely exempt, as long as you follow the rules.
- b) Other low risk activities require you to apply for an Exemption.
- c) As the risks increase, you may require a Standard Rules Permit.

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- d) Finally, for the most potentially environmentally harmful, a Bespoke Environmental Permit may be required.

Further details on permit activities:

- a) List of business activities you don't need a permit or exemption for:
<https://www.gov.uk/government/collections/basic-rules-environmental-permitting-regulatory-positions#using-waste>

Activities where an Exemption must be applied for

Waste use exemptions

<https://www.gov.uk/government/collections/waste-exemptions-using-waste>

Waste treatment exemptions

<https://www.gov.uk/government/collections/waste-exemptions-treating-waste>

Waste disposal exemptions

<https://www.gov.uk/government/collections/waste-exemptions-disposing-of-waste>

Waste storage exemptions

<https://www.gov.uk/government/collections/waste-exemptions-storing-waste>

Water discharge exemptions

<https://www.gov.uk/guidance/water-discharge-exemptions>

- b) Activities where you need a Standard Rules Permit

<https://www.gov.uk/government/collections/standard-rules-environmental-permitting>

These include:

- keeping or transferring waste
- biological treatment of waste
- metal recovery or scrap metal
- materials recovery and recycling
- recovery or use of waste on land
- treatment to produce aggregate (crushed material used in building eg to make concrete) or construction materials
- low impact installation (which would otherwise be bespoke permits)
- water discharges
- other installations

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In order to meet the Standard Rules Criteria, you need to abide by those Standard Rules. If, for some reason, you can't meet those rules, you may need a Bespoke Permit.

c) Activities where you need a Bespoke Permit

<https://www.gov.uk/environmental-permit-check-if-you-need-one/permits>

- chemicals
- clinical waste
- discharges to surface water and groundwater - point source activities
- gasification, liquefaction and refining industry
- food and drink
- intensive farming - pigs and poultry
- metals
- mining waste
- paper, pulp and cardboard manufacturing
- printing and textiles - coating activities
- radioactive substances activities - non-nuclear sites
- radioactive substances - nuclear sites
- waste - incineration and energy recovery

About Bespoke Permits

Bespoke Permits are more complicated to apply for than Standard Rules Permits, and can contain site-specific conditions.

In some sectors, such as food processing, there is a minimum size of operations before a permit is required, and in others such as the chemical sector it depends on the details of your operations (in chemical companies, you need to have a reaction to come under permit, so formulators may be exempt).

Bespoke Permits usually require more information in the application than Standard Permits, including a Site Report to demonstrate land condition at Permit Entry. There is more information about making an Environmental Permit application on our website, <http://www.ttenvironmental.co.uk/ippc-environmental-permit/application/>, and on Site Reports, <http://www.ttenvironmental.co.uk/ippc-environmental-permit/ippc-site-reports/>

How can you tell which type of Environmental Permit you need?

There is only one way to tell if you need a Bespoke Permit (which may either be Full or Low Impact), which is to carefully read through Schedule 1 to the Environmental Permit Regulations 2010 (as amended).

A full list of the Environmental Permitting Regulations can be downloaded from <http://www.legislation.gov.uk/all?title=environmental%20permitting> (if you really want to know).

The good news is, at the time of writing, October 2015, Schedule 1 has not been amended, and is the same version as in the 2010 regulations, which means it can be downloaded as a stand-alone document here:

http://www.legislation.gov.uk/ukxi/2010/675/pdfs/ukxi_20100675_en.pdf

although there is also a “correction slip” which you should look at here:

http://www.legislation.gov.uk/ukxi/2010/675/pdfs/uksics_20100675_en.pdf .

You may also find the sector-specific guidance on the .gov.uk website helpful, at <https://www.gov.uk/environmental-permit-check-if-you-need-one/permits> .

The reason we recommend you check the actual regulations first is because sometimes a site’s activities come under more than one heading, and if you only look at the sector-specific guidance, you might not realise you have extra obligations (and probably extra costs).

One example would be a chemical manufacturer, who makes products by reaction, which brings them into Permit scope regardless of activity size. If the chemical manufacturer also formulates products using solvent, this could also come into Permit scope for solvent use. (Note that formulation/ making mixtures without a reaction is not within Permit scope per se, but manufacturing by reaction is Permittable).

If you have a small operation which would normally attract a Full Bespoke Permit, but have low environmental emissions, you may be eligible for a Low Impact Permit, either under Standard Rules, or as a Bespoke Permit.

About Low Impact Permits

At TT Environmental Ltd, we really like Low Impact permits – they are cheaper to apply for, to hold, and to surrender than full Bespoke permits, and there's less "regulatory oversight" i.e. visits from the EA. Over the years, we've helped many businesses achieve Low Impact status successfully.

The key thing is to make sure your operations can meet the Low Impact criteria. It used to be fairly straightforward, with one document which you needed to use as a checklist.

Things are slightly more complicated these days. You need to meet the general Low Impact checklist which is included in Appendix 1, page 8 of Part B2 of the Environmental Permit Application document see,

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310935/LIT_6773.pdf.

You may also find the information on pages 6 to 7 of the associated guidance document "Guidance notes on part B2 – General – New bespoke permit" helpful

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/305326/LIT_6750.pdf.

There are extra rules for a Low Impact Standard Rules permit, as opposed to a Low Impact bespoke permit. These relate to your site's proximity to certain types of protected environmental sites, and also to whether you discharge direct to waters upstream of these types of site, see the front page of

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/296704/geho0412bumr-e-e.pdf.

To help you, we have brought all of the requirements together in one factsheet, which you can download from here (name and email required).

Environmental Permit Costs

As mentioned earlier, there are charges to apply for a permit; annual charges while you are under permit; and charges for surrendering your permit – see

<https://www.gov.uk/government/publications/environmental-permitting-ep-charges-scheme-april-2014-to-march-2015> .

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Charges for Standard Permits are fixed, and generally fairly low, and Low Impact Permits are also relatively low-cost. However, charges for Full Bespoke Permits are usually much higher. They are calculated on a site specific basis using the OPRA methodology and spreadsheet, see

<https://www.gov.uk/government/publications/opra-for-epr-operational-risk-appraisal> . This is based on a site-specific assessment of the level of emissions; the sensitivity of the receiving environment; and how well the operator manages the risks.

How do you obtain an Environmental Permit?

- Check Schedule 1 to the Environmental Permit Regulations to see whether you think you are liable (see links above)
- Contact the EA on the General Enquiry Number 03708 506506), and ask to speak to a Pollution Inspector covering your area (other contact details will apply for Scotland, Northern Ireland and Wales)
- Ask to speak to the Inspector covering your area, and discuss your position with them.
- They will confirm whether you are, or are not, EPR liable (if you're NOT liable, get confirmation in writing or via email).
- The inspector may also send out application forms/ guidance documents on CD, or direct you to the relevant part of the EA website for your situation.
- Start making your application. The documents are available to download from <http://www.environment-agency.gov.uk/business/topics/permitting/117626.aspx> – but don't start Permitted operations until you have your permit, as it's a criminal offence.
- If you think you need outside help, talk to a consultant early on in the process

You may find the document "How to comply with your permit" by the EA useful: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/298102/LIT_7123_79744e.pdf

Need help?

If you need advice on whether you are liable for EPR, whether you may be Low Impact, help with discussing your case with the regulators, or assistance with making an application, TT Environmental Ltd can help. Contact Janet or Sandra on 01422 24 22 22, or email janet@ttenvironmental.co.uk .