

Environmental Permitting Programme: Third Consultation on a Streamlined Environmental Permitting and compliance system.

Response of the Environmental Services Association

General Issues

1. The Environmental Services Association (“ESA”) is the sectoral trade association representing the UK’s managers of waste and secondary resources, a sector with an annual turnover of around £5 billion. ESA’s Members seek to align economic and environmental sustainability through delivering compliance with relevant waste and environmental legislation.
2. ESA has for some time clearly advocated smarter outcome-focussed, environmentally justifiable regulation and we therefore support the principles of the Environmental Permitting Programme (EPP). We hope the proposals will result in fewer, simpler rules and clearer guidance in order to allow industry, regulators and the public to focus more on environmental outcomes and less on how they are achieved.
3. Consistent, transparent and more scientifically prioritised regulation of environmental outcomes could help our sector to develop in both an economically and environmentally sustainable manner and ensure that it remained innovative. However, it is important that the Government does not underestimate the scale of change required by the Environment Agency in order for the EPP vision to become reality.

Q1 Does the *booklet* contain sufficient information, and if not what should be included?

4. The booklet provides a good summary of the EPP Regime and is written in easy to understand language. It provides a good basic introduction which is helpful to those who are new to the system or do not fully understand it.

Q2 Does the style and content of the Environmental Permitting Guidance meet your needs, and if not why not? Does it strike an appropriate balance between specifying what is expected of regulators and leaving enough flexibility to regulate in the most appropriate way within the requirements of the legislation?

5. ESA supports the style and content of the EPP guidance. However, the key measurement of the success of the EPP will be how the Agency revises its own guidance with regard to standard rules permits and general binding rules. It is essential that both are developed with full industry involvement.
6. ESA would welcome further clarification on how Defra will decide on the cut off between an exemption and a standard rules permit, when the review of exemptions will not be concluded until at least April 2008.

Operator Competence

7. ESA supports the Government’s proposals for a high level test of operator competence in legislation and for this to be supported with guidance setting out how and when regulators should assess operator competence. We are unaware of

any other industry where the requirement for technical competence is set out prescriptively in primary legislation.

8. Operator competence is crucial to ensure facilities are run properly and any reform of the current system must not undermine current standards of environmental protection.
9. ESA recognises the contribution made by the introduction of Certificates of Technical Competence (CoTCs) and we do not suggest the abandonment of COTCs. Some operators will want to continue to use them as one means of demonstrating operator competence.
10. However today's waste management industry is very different to that when COTCs were developed. The sector must now demonstrate higher operational standards, a more skilled workforce, and greater use of independently audited management systems. COTCs require a very narrow development of employees and ESA believes the Government should encourage a more balanced approach that will equip industry for the future rather than the past. Focusing on 8000 COTCs risks marginalising thousands of other employees who can impact on operations and improve standards given the right framework. In this context the current COTC system remains inefficient, inflexible and places unnecessary administrative burdens on waste management operators and the Environment Agency.
11. We therefore support the principles outlined in the draft guidance consultation (Paragraphs 8.1. to 8.4 and 8.9 to 8.12), in particular the statement that *"the development of additional; competence schemes that would advance standards of environmental protection is strongly encouraged. Schemes should reflect national occupational standards, where these exist, and should be delivered by an independent body to ensure awards are appropriate and consistently and fairly administered"*
12. As an alternative to the current COTC system, Operator Competence should be demonstrable by an operator having an independently audited competency management system which meets a recognised standard, supported by relevant personal competencies. This would reflect current recruitment, development and training within companies, and provide a more flexible approach to ensure the right people with the right training and competencies are doing the right job at the right time. Such an approach would retain the benefits of the present arrangements but would offer operators and the regulator a more effective and efficient system of demonstrating competence.
13. In such a system explicit technical and managerial competences would be determined for each type of facility based on functional and operational maps derived from National Occupational Standards.
14. Individual competence within the Competence Management System would be demonstrated by either vocational qualifications, unit certificates or recognised professional qualifications.

Environmental Management Systems

15. Whilst paragraphs 8.5 to 8.8 adequately describe the function and role of existing Environment Management Systems (EMS) in ensuring a high level of environmental protection, the guidance should specify that existing EMS alone won't be able to demonstrate operator competence. Existing EMS will need to be modified to include the criteria necessary to demonstrate operator competence.

Q3 Do you think the form and model for the directive guidance is helpful, and if not why not?

16. ESA agrees that the form and model for the directive guidance is helpful. However, the introductory paragraphs should explain more clearly the purpose of the Directive guidance and how it fits under the umbrella of EPP and how it differs/overlaps from the existing guidance on IPPC.
17. The introduction should also more clearly state how the guidance should be used and who the guidance would be applicable to.