



The manufacturers' organisation

DEFRA  
Environment Permitting Consultation  
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Ashdown House  
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19 May 2006

Dear Mr Atkinson,

### **EEF/UK Steel Response to the Environmental Permitting Programme Consultation**

Thank you for the opportunity to comment on the second consultation on proposals for creating a streamlined environmental permitting and compliance system.

EEF, the manufacturers' organisation, has a membership of 6,000 manufacturing, engineering and technology-based businesses and represents the interests of manufacturing at all levels of government. Comprising 11 regional Associations, the Engineering Construction Industries Association (ECIA) and UK Steel, EEF is one of the UK's leading providers of business services in employment relations and employment law, health, safety and environment, manufacturing performance, and education and skills.

#### **Summary of Key Points**

- We agree with the broad goal of combining the Waste Management Licence (WML) and Integrated Pollution Prevention & Control (IPPC) permitting regimes
- The benefit of such an initiative lies in producing guidance that effectively supports implementation. It is important that the disruption and additional workload/costs to industry does not outweigh the benefits of combining the regulations
- We would encourage further consultation from Environment Agency (EA) on detailed implementation plans and their role as both regulator and adviser.

#### **Q 1. To what extent do consultees agree that the written consultation criteria have been adhered to?**

The widespread support Government received in response to its first consultation on EPP is testament to the success of the consultation criteria. Engaging with stakeholders as part of a pre-consultative process helped to focus the debate on key issues. Undoubtedly, future proposals would benefit from a similar approach.



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Government must continue to engage with stakeholders during the subsequent development and implementation of EPP. EEF recommends that Government support its existing efforts by developing workshops, seminars and guidance to aid affected parties participating in the stages of implementation. It is imperative that what was meant in theory is not lost in application. For example, EEF is mindful that the transfer process for sites from IPC to IPPC was supposed to be a relatively seamless operation. However, in reality this was not the case.

## **Q 2. Do consultees have any further views upon the above revised proposals?**

EEF supports the Government's view that the streamlined system for Waste Management Licensing and PPC must be shown to work effectively before other systems are included. We welcome the decision that a full public consultation, including detailed cost benefit analysis, would be carried out before a particular system was brought into the common platform. Other proposals we wish to comment on include:

**Applications** EEF raised concerns during the first EPP consultation with the proposal to remove the right of appeal for companies who fail to provide additional information requested by regulators. Our objection centred upon concerns that companies would be exposed to the subjective decisions of regulators. EEF therefore welcomes the Government's decision to reverse its initial proposal and allow appeals against deemed withdrawals so that the "reasonableness" of further information requests can be determined by an independent appeals mechanism. We agree that such appeals should be limited to information requests and not be an opportunity to resubmit applications.

**Scope of permitted site/installation** The Government's decision to continue with the proposals to simplify permitting and compliance through a single site based permit is supported. It seems sensible, wherever possible, to aim for one single site based permit in the long term. However, it is right that the concerns of multi operator sites and mobile plants are realised. The proposals put forward by government in response to these concerns would appear to satisfy all affected parties.

**Standard rule permits** EEF's position in response to standards rules permits is provided to question 3.

**Operator & regulator competence** Any tests for competence should reflect the level of environmental risk posed by an operation. Without compromising the protection that the current system provides, EEF advocates that any new system should be less burdensome and more flexible in its approach. We welcome the Government's decision to consult with industry to provide clarity and certainty on the proposed system, and look forward to influencing this debate.

The consultation promises that new internal guidance for frontline regulators is being prepared to help drive consistency of approach which will be further improved by organisational change. We would request that the roles and responsibilities of the regulator (as both adviser and enforcer) be clearly outlined in EPP guidance to industry and that measures to ensure accountability and consistency of regulator decisions are defined.

EEF supports the recommendation from the first consultative process which stressed that to ensure a clear understanding of guidance, both regulators and operators should work from the same guidance document.

**Variation** Both steelmakers and downstream steel users have raised concerns to EEF over the cost of variations. For example, under IPC there were charges for both improvements and increases in emissions. With IPPC, operators were told that improvements would not be subjected to charges. However, this has not been the case for many. There appears to be lack of consistency in the way that variations are applied in different regions and are subject to the opinion of the regulator. Penalising companies for making environmental improvements is extremely bad policy. There are no proposals to change this presented in the consultation document. We ask that this issue be reviewed.

**Q 3. Do consultees agree that the use of standard rules with its focus on outcomes rather than detailed requirements is a good approach for many Environment Agency regulated business?**

In its response to the first EPP consultation EEF outlined that it was in favour of a voluntary system of standard rules (SR) permits as an option to business. We also pressed for greater flexibility when small changes to an activity have been made. We therefore welcome the Government's proposal to include these approaches as part of the second consultation. However, we would reiterate the necessity for business (e.g. SMEs) to be fully aware of both the costs and benefits of a bespoke permit versus an SR permit in order to allow them to make the best decision for their business, particularly since SR permits cannot be appealed against.

An outcome-based approach to SR permits can offer benefits to businesses and regulators and, as stipulated in the consultation, the approach also contributes to one of the goals of better regulation which EEF supports. An outcome-based approach to SR permits will prove superior to 'detailed requirements' only if the guidance that supports it clearly illustrates the responsibilities of the permit holder and where there is flexibility.

**Q 4. Do consultees consider that the EPP Regulations described in this chapter and set out in Annex I deliver the policy proposals in Chapter 2?**

We generally agree that the EEP Regulations described in chapter 4 and set out in Annex I deliver the policy proposals in Chapter 2. However, as indicated in response to question 2, further policy changes should be considered and could therefore require regulatory changes. We would ask that all consultative recommendations for further changes are fully considered.

**Q 5. Do consultees agree with this proposed model for guidance? If not, why, and what alternative options are suggested which might increase simplification or otherwise improve guidance?**

The proposed model for delivering a single, streamlined model for guidance is supported. We agree that the document could be based on the *Integrated Pollution Prevention Control – A practical Guide*, and welcome the opportunity to engage in the Government's 12 week public consultation on the proposed guidance document in spring 2007.

We would recommend that the guidance clearly defines the role of the EA as regulator and adviser if it is to successfully engage with businesses, especially SME's. Furthermore, guidance should be clear and concise and developed in good time to ensure businesses, both large and small, have sufficient time to familiarise themselves with the document and procedures prior to implementation.

**Q 6. Do consultees agree with the forecasts of the costs and benefits given in the partial RIA, and with the way in which those forecasts were arrived at?**

It is unsurprising that EPP has the potential to offer industry administrative savings of £89.3m (option cii). However much of this saving could be lost if the transition to a single environmental permitting and compliance scheme is not implemented successfully. As mentioned earlier in this consultative response, the transition for businesses from IPC to IPPC was often difficult and burdensome. It is important that potential savings for industry are not lost because of poor implementation and guidance.

**Q 7. Do consultees have any other relevant observations upon this consultation?**

EEF members are broadly in favour of the EPP initiative, combining the two permitting regimes is a welcome move in the direction of better regulation. The main impact of this initiative lies in how it is implemented and how much extra work, cost and disruption this causes for both industry and the regulators. The Government must ensure that industry is aware of and understands the implications of the changes. Good communication of what this initiative is and what it means for business is therefore essential.

Finally, we would like to see EPP adopted by the devolved administrations in Scotland and Northern Ireland. This would make environmental permitting far simpler for firms operating sites across the UK.

Yours sincerely,



Kevin Considine  
***Environmental Policy Advisor***