

# The Environmental Permitting (England and Wales) Regulations 2016

<b>Lead department</b>	Department for Environment, Food and Rural Affairs
<b>Summary of measure</b>	The Environmental Permitting Regulations (EPR) 2016 for England and Wales, provides an integrated framework for the regulation of activities that could harm the environment or human health. It covers six areas of environmental activity: waste regulation, emissions to the environment from industrial processes (air, water and land), water discharges, radioactive substances, energy efficiency and flood risk activities.
<b>Submission type</b>	Post-implementation review (PIR)
<b>Implementation date</b>	tbc
<b>Department recommendation</b>	Amend
<b>RPC reference</b>	RPC-DEFRA-5005(2)
<b>Opinion type</b>	Formal
<b>Date of issue</b>	16 June 2022

## RPC opinion

<b>Rating<sup>1</sup></b>	<b>RPC opinion</b>
<b>Fit for purpose</b>	The PIR presents a proportionate and sufficient level of evidence and analysis to support the Department's recommendation to amend, to allow scope to improve the regulations. It makes good use of a range of qualitative and quantitative evidence. The PIR would benefit from further analysis to illustrate how the benefits and business savings have impacted small and micro businesses (SMBs). The RPC notes that its previous initial review notice has assisted the Department in undertaking a subsequent robust review to support this PIR.

<sup>1</sup> The RPC opinion rating is based on whether the evidence in the PIR is sufficiently robust to support the departmental recommendation, as set out in the [better regulation framework](#). The RPC rating will be fit for purpose or not fit for purpose.

## RPC summary

<b>Category</b>	<b>Quality<sup>2</sup></b>	<b>RPC comments</b>
Recommendation	<b>Green</b>	The PIR concludes that the EPRs have reduced the regulatory burden on businesses and delivered most of the anticipated benefits. However, it recognises outstanding concerns around the flexibility of the framework, consistency, and exploitability of 'exempt' activities, which supports the recommendation to amend the regulation.
Monitoring and implementation	<b>Satisfactory</b>	The PIR clearly sets out how the regulation has evolved since 2008 and associated anticipated impacts. It makes use of a range of qualitative evidence gathered from consultation with stakeholders, and quantitative evidence gathered from existing regulatory impact assessments and permit data from the Environment Agency (EA), to inform estimates.
Evaluation	<b>Good</b>	The PIR clearly sets out evidence and data against the regulation objectives and success criteria. It uses an appropriate baseline as the counterfactual to assess impacts of the EPR. The PIR concludes that the regulations appear to be functioning effectively and does not identify any unintended consequences from the regulations, although it does recognise areas for improvement. Further annual evaluations, by the EA, are expected and the RPC welcomes this approach.

<sup>2</sup> The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. Please find the definitions of the RPC quality ratings [here](#).

## Response to initial review

As originally submitted, the IA was not fit for purpose as the Department was unable to determine definitively or quantitatively the impacts on businesses and did not interview local authority regulators or businesses that have been affected by the regulations. The Department has now undertaken a fuller assessment of the regulations, quantified the impacts on business, and consulted stakeholders to inform its assessment. The RPC acknowledges the extensive resources that have been applied to the PIR in order for it to provide a sufficiently evidenced based review.

## Summary of proposal

The Environmental Permitting (EPR) Regulations 2016 (England and Wales) provides an integrated framework for the regulation of activities that could harm the environment or human health. It requires operators of “regulated facilities” to obtain standardised permits, where previously businesses had to comply with a number of separate environmental consenting regimes. It covers six main areas of environmental activity: waste regulation, emissions to the environment from industrial processes (air, water and land), water discharges, radioactive substances, energy efficiency and flood risk activities.

The EPR 2016 is the latest version of a cross-cutting environmental permitting and compliance framework which was first introduced in 2008. The review concludes that the EPRs have reduced the regulatory burden on businesses and have delivered most of their anticipated benefits as set out in the impact assessment accompanying the 2016 regulations. However, feedback from regulated businesses suggests that there may be scope to explore further operational streamlining and introduce more flexibility into the regime, on which the Department intends to take forward via the recommendation to amend the regulations.

The PIR suggests the introduction of EPR has created business savings between £28 million and £33 million in total from 2009 to 2020. Since 2008, more than 100,000 environmental permits have been issued and more than 600,000 exemptions have been registered (mostly waste-related).

The Department has taken note of the RPC’s previous initial review points, improving this review through ensuring sufficient discussion of impacts upon business and the intended monitoring and evaluation programme of the regulations.

## Recommendation

The PIR recommends amending the EPR framework to address concerns around the flexibility of the framework, consistency, and exploitability of ‘exempt’ activities. The PIR sets out sufficient argument, supported by evidence, that there may be further scope to expand the regime and deliver more business benefits.

## Monitoring and implementation

The PIR clearly sets out how the regulations have evolved since 2008, when the first Environmental Permitting Programme (EPP1) was established, as well as previous reviews of the regulations. The PIR clearly sets out the aims of the EPR, to unify and streamline the process of permits to reduce the regulatory burden on businesses. This PIR only considers the establishment and development of EPR as a vehicle for delivering substantive environmental policy outcomes in a more efficient way.

The PIR outlines the anticipated benefits of EPR, which include:

- Integration of previously separate systems;
- Hierarchy of permitting and risk-based regulation;
- Simplification and flexibility;
- Simplified and standardised guidance; and
- Platform for expansion.

The PIR uses data and evidence to quantify:

- £29 million (lower estimate) and £34 million (upper estimate) of savings from reduced fees and moving from bespoke permits to Standard Rules Permits (SRPs); and
- £0.9 million savings from reduced application times.

### ***Range of evidence***

The PIR sets out and describes the sources of data and evidence that have been used to inform the analysis. It makes use of a range of qualitative evidence gathered from consultation with stakeholders, and quantitative evidence gathered from existing regulatory impact assessments and permit data from the EA. The PIR also includes feedback from the end-user, which captures satisfaction by regulated businesses.

## Evaluation

### ***Counterfactual***

The analysis establishes a baseline, when EPR was not implemented in 2018, and uses the baseline as the counterfactual to assess the impact of the changes to EPR.

### ***Impacts***

The RPC commends the Department for presenting analysis of how the impacts of the regulations compare to those presented in the original impact assessment. The analysis transparently sets out how estimates of impact have been calculated, highlighting trends in the data, and summarises all the total benefits estimated as a result of EPR (page 52).

The IA highlights that qualitative stakeholder feedback found that there was no clear consensus view regarding the differential impacts of EPR on small and large businesses. The PIR would benefit from providing further breakdowns of the benefits (business cost savings) to illustrate the specific impact on small and micro businesses (SMBs).

### ***Unintended effects***

The PIR concludes that the regulations appear to be functioning effectively and does not identify any unintended consequences from the regulations, although it does recognise areas for improvement. Stakeholder feedback highlighted four main areas for improvement:

- There were mixed views on whether the introduction of EPR regulation has made processes simpler or more complex, and a general view that administration of EPR is slow;
- The provision of EPR exemptions has reduced costs for business but highlighted how consistently and fairly these are applied;
- There is a need for greater flexibility in the system to support innovation; and
- There were mixed views about how effectively the environmental benefits of permitting are communicated and suggestions for exploring alternative approaches to regulation.

### **Regulatory Policy Committee**

For further information, please contact [regulatoryenquiries@rpc.gov.uk](mailto:regulatoryenquiries@rpc.gov.uk). Follow us on Twitter [@RPC\\_Gov\\_UK](https://twitter.com/RPC_Gov_UK), [LinkedIn](#) or consult our website [www.gov.uk/rpc](http://www.gov.uk/rpc). To keep informed and hear our views on live regulatory issues, subscribe to our [blog](#).