

Moving from low risk and regulatory positions to an environmental permit (ER003)

As a result of the exemption review, some waste operations that currently benefit from a low risk or regulatory position will require an environmental permit. This position explains how we will manage the transition to environmental permitting.

Background

As a result of the exemption review we will remove some low risk waste positions and regulatory positions. Details can be found on our [low risk waste](#) page and our [regulatory positions](#) page.

Regulations coming into force on 6 April 2010 mean that some operators currently benefiting from an exemption will need to obtain an environmental permit. The regulations provide transitional arrangements for operators who have registered an exemption but do not apply to operators who currently benefit from our low risk or regulatory positions.

The Environment Agency's position

We recognise that as a result of the exemption review some operators who benefit from our low risk and regulatory positions will require a permit. We believe these operators will benefit from time to comply with this change and will adopt the following approach:

We will not take action against existing operators moving from a low risk or regulatory position for operating without an environmental permit if:

- you make an application for the appropriate permit by 1 October 2010, and actively pursue that application;
- you comply with the low risk or regulatory position until the application is determined;
- you meet the relevant objectives of the Waste Framework Directive;
'... ensuring that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment and in particular without –
 - (i) risk to water, air, soil, plants or animals; or
 - (ii) causing nuisance through noise or odours; or
 - (iii) adversely affecting the countryside or places of special interest.'

This position continues until the permit application has been determined unless the operation risks causing pollution or harm to health.

This position does not apply to new operations and from 6 April 2010 new operations that are not exempt will need an environmental permit before they begin.

Enforcement

Where an operator falls within one of the above categories we will not take action for failing to have an environmental permit.

Where we would not normally pursue an application for a permit, we will not normally take enforcement action where the operation continues unless it has caused, or is likely to cause, pollution or harm to health. For a more detailed explanation of this enforcement position, reference should be made to the Public Interest Factors as described in the **Guidance to the Enforcement and Prosecution Policy**. This can be found on the [‘How we regulate you’](#) page in the Business & Industry section of our web site.

Further advice

Guidance on all the waste exemptions can be found on our website at: www.environment-agency.gov.uk/exemptions .

Further information on the review of waste management exemptions can be found on Defra’s [exemption review webpage](#).

This regulatory position will be reviewed before the next exemption review takes place.

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