

# INSTALLATION PERMIT

Ref. EP2008/17



Pollution  
Prevention and  
Control Act 1999

Environmental  
Permitting  
Regulations 2010

**Asda Hartlepool Petrol Filling  
Station  
Marina Way  
Hartlepool  
TS24 0XR**

**HARTLEPOOL BOROUGH COUNCIL**

**THE POLLUTION PREVENTION AND CONTROL ACT 1999**

**ENVIRONMENTAL PERMITTING (ENGLAND AND WALES)**  
**REGULATIONS 2010 (as amended)**

<b>Permit Holder:</b>	<b>Asda Stores Limited</b>
B)Installation:	Marina Way, Hartlepool. TS24 0XR
A)Registered Address of Company:	Asda Stores Limited Asda House, Southbank, Great Wilson Street, Leeds. LS11 5AD

<b>Provenance</b>	<b>Date</b>
Authorisation issued	17 <sup>th</sup> November 1998
PPC Permit transferred automatically to EP Permit	6 <sup>th</sup> April 2008
Permit updated to reflect new simplified permit format.	4 <sup>th</sup> June 2014

**Permit Reference No:EP2008/17**

Asda Stores Limited, Asda House, Southbank, Great Wilson Street, Leeds LS11 5AD is hereby permitted to carry out an Installation in accordance with the following conditions.

**1. Address of Permitted Activity**

ASDA Stores PLC  
Marina Way,  
Hartlepool.  
TS24 0XR

**Signed on behalf of Hartlepool Borough Council**

.....

**Date**.....

**Louise Wallace**  
**Director of Public Health**  
**An authorised officer of the Council**

### **Description of Permitted Activity**

The unloading of petrol into stationary storage tanks at a service station within the process boundary at Grid Reference NZ4510. 5328. The service station has 4 storage tanks. This falls within the definition contained in Part B of Section 3.1 of Schedule 1 to the Environmental Permitting (England and Wales) Regulations 2010 (as amended).

### **Conditions**

Arrowed bullet points denote specific guidance inferred in the Process Guidance Note 1/14(13) – “Statutory guidance for unloading of petrol into storage, and motor vehicle refuelling, at service stations” that are not included in the DEFRA model permit but are either specified or inferred in the guidance note or other relevant industry guidance. These conditions must be met to prevent or, where that is not practicable, reduce emissions from the installation and reduce the likelihood of air pollution from this permitted activity.

The person **(A)** is authorised to operate the activity at the installation **(B)** subject to the following conditions.

### **Petrol Delivery**

1. Vapours displaced by the delivery of petrol into storage tanks shall be returned through a vapour-tight connection line to either the mobile container delivering the petrol or a container on the site.
2. Petrol delivery shall only be carried out using the Stage I petrol vapour recovery system and deliveries shall only be made when the system is fully operational.

- A. The operator shall take all reasonable & practicable steps to prevent uncontrolled leaks of petrol vapour from vents, pipes, connectors and manholes from occurring.
- B. The operator shall display a notice nearby the vapour return connection points reminding operators to connect the vapour return line before off-loading petrol; and identifying the maximum number of tanker compartments that may be unloaded at the same time.
- C. The fittings for delivery and vapour return pipes must be different to prevent miss-connection.
- D. The vapour tight connection line shall be taken to include the hoses and connectors used to return vapour to the road tanker.

- E. If dip testing storage tanks or tanker compartments before or after delivery, the dip openings must be securely sealed prior to the delivery taking place and once it's completed.
- F. Tanker compartment dip testing must not be performed whilst the vapour hose is connected, except in the case of split compartment deliveries although these should be kept to a minimum.
- G. The operator shall ensure effective preventative maintenance by following a schedule of maintenance is followed and having spares & consumables available without delay.
- H. The operator shall ensure vent and vapour return lines are tested in accordance with the maintenance schedule.
- I. A competent person shall remain near the tanker and keep a constant watch on hoses and connections during unloading. A competent person is one who has received training for deliveries. Delivery drivers may be trained as the competent person.
- J. All road tanker compartment vent and discharge valves shall be closed on completion of the delivery.
- K. All connection points shall be securely sealed after delivery.
- L. Manhole entry points to storage tanks shall be kept securely sealed except when maintenance and testing are being carried out which require entry to the tank.
- M. The operator shall ensure that pressure vacuum relief valves or other similar devices on the petrol storage tank vents are checked for correct functioning, seating and corrosion at least once every 3 years.
- N. The design or assessment shall not account for diesel if the storage tank is separately vented, but shall be included if it utilises the same vent pipe as the petrol storage tanks.
- O. Storage tank vent pipes shall be fitted with a pressure vacuum relief valve to reduce vapour loss or a similar device which is at least as effective in minimizing emissions during unloading and storage. Orifice plates shall not be permitted. Pressure vacuum relief valves shall be sized and weighted to prevent vapour loss and potentially hazardous pressurisation. Operators should note that the sizing, sitting and safety features associated with fitting pressure vacuum relief valves may be subject to health and safety legislation.

- P. Vent pipes shall normally discharge not less than 3 metres above the ground, nor within 3 metres of any opening windows or ventilation air inlets.

### **Motor Vehicle Refuelling**

3. Motor vehicle refuelling with petrol shall only take place when the Stage II petrol vapour recovery system is fully operational and operating in accordance with the requirements of Condition 4.

4. The petrol vapour capture efficiency of the Stage II petrol vapour recovery system shall be equal to or greater than 85% but less than 115% as certified by the manufacturer in accordance with relevant European technical standards or type approval procedures.

5. Where the recovered petrol vapour is transferred to a storage tank, the vapour/petrol ratio shall be equal to or greater than 0.95 but less than or equal to 1.05.

- A. The operator is permitted to use Torex Clean Air CA40/80 – ‘Active’ recovery system of vapours as petrol at the dispenser.

6. Where an automatic monitoring system has been installed, the petrol vapour capture efficiency shall be tested and the results recorded at least once every three years by checking that the vapour/petrol ratio under simulated petrol flow conditions, or by any other appropriate methodology. Any such automatic monitoring system shall automatically detect faults in the proper functioning of the Stage II petrol vapour recovery system and in the automatic monitoring system itself, indicate faults to the operator and automatically stop the flow of petrol from any faulty dispenser if the fault is not rectified within seven days.

7. Where automatic monitoring systems have not been installed the in-service petrol vapour capture efficiency of the Stage II petrol vapour recovery systems shall be tested the results recorded at least once a year by checking that the vapour/petrol ratio under simulated petrol flow conditions, or by any other appropriate methodology.

8. Where automatic monitoring systems have not been installed a weekly functionality check shall be undertaken to verify the operation of the vapour recovery system.

9. A sign, sticker or other notification shall be displayed on, or in the vicinity of, the petrol dispenser, informing consumers that a Stage II petrol vapour recovery system is in use.

## **Incident Reporting**

10. In the event of any incident at the site which could have an impact beyond the site boundary, the operator shall notify Hartlepool Council by telephone without delay on 01429 266522.

## **Management**

11. A copy of this permit shall be kept at the permitted installation. All staff who should be aware of its content shall be told where it is kept.

12. All relevant staff shall receive the necessary training and instruction to enable them to comply with the conditions of this permit.

13. The operator shall notify the Council of any changes to the persons nominated in the application as the primary point of contact.

14. Maintenance and testing of vapour recovery systems shall be recorded.

15. All records made in compliance with this permit shall be kept in a written or computer log book or by using some other systematic method, and shall be clear and legible. If any entry is amended, a clear statement of the reason for doing so shall be included. Unless otherwise stated in this permit, all records required to be taken shall be kept available for inspection for at least 4 years from the date of its being made. A copy of the manufacturer's certification referred to in this permit shall be available for inspection on request.

- A. The operator shall maintain a log book to record details of: installation, maintenance and repairs of all PVR systems; examination & testing; petrol inventory, deliveries & throughputs; training given to staff; instances of vapour lock; and any suspected and actual vapour or petrol leaks / spillages & action subsequently taken.
- B. The operator shall provide sufficient training and practical instruction for service station staff to enable them to use (or supervise the use of) and maintain the petrol vapour collection controls where required; and also in the actions to be taken in the event of a petrol vapour leak e.g. undue petrol odour; chattering pressure vacuum relief valve.
- C. The operator shall arrange for test of the vehicle refuelling petrol vapour recovery system for:
  - C.(i) Vapour containment integrity at least once every three years and after any repairs to the system.

- C (ii) Effectiveness of the petrol vapour recovery system at least once every year, or every three years where an automatic monitoring system is in place.
- D. If the vehicle refuelling petrol vapour recovery system has an automatic monitoring system, it must:
  - D (i) Automatically detect and indicate faults. A fault is where the V/P ratio averaged over the duration of filling has fallen below 85% or has exceeded 115% for ten consecutive filling operations. Only applies to filling operations of at least 20 seconds duration & where the rate of petrol dispensed reaches at least 25 litres/min.
  - D (ii) Automatically cut off the flow of fuel if the fault is not rectified within 1 week.
- E. The operator shall undertake and record a weekly check of the vehicle refuelling petrol vapour recovery system including:
  - E(i) Functionality test of the vapour recovery system using appropriate equipment;
  - E (ii) Inspection for torn, flattened or kinked hoses & damaged seals on vapour return lines.

**Best available techniques**

16. The best available techniques shall be used to prevent or, where that is not practicable, reduce emissions from the installation in relation to any aspect of the operation of the installation which is not regulated by any other condition of this permit.

**Process changes**

17. If the operator proposes to make a change in operation of the installation, he must, at least 14 days before making the change, notify the regulator in writing. The notification must contain a description of the proposed change in operation. It is not necessary to make such a notification if an application to vary this permit has been made and the application contains a description of the proposed change. In this condition 'change in operation' means a change in the nature or functioning, or an extension, of the installation, which may have consequences for the environment.

**Signed on behalf of Hartlepool Borough Council**

..... **Date**.....

**Louise Wallace**  
**Director of Public Health**  
**An authorised officer of the Council**

## **Definitions and further information**

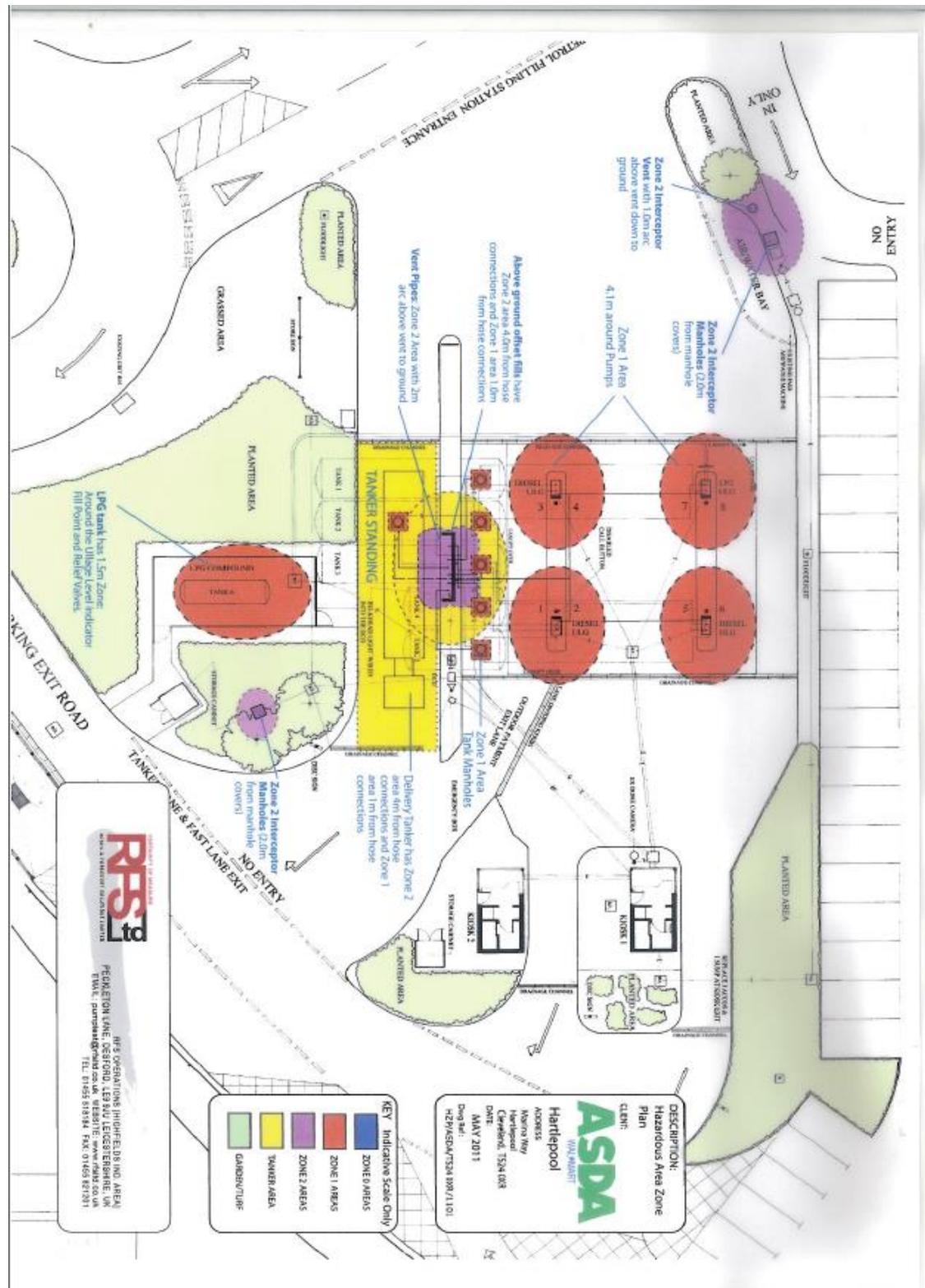
This guidance	Process Guidance Note 1/14 (13)
Previous guidance	Process Guidance Note 1/14(06) Process Guidance Note 1/14(97) and 1/14(04)
LAPC	Explained in the Introduction of this guidance note.
LAPPC	Explained in the Introduction of this guidance note.
Permit	The written permission to operate an installation prescribed for LAPPC – (the replacement for authorisation under LAPC)
Local enforcing authority	Is replaced by the word ‘regulator’ in LAPPC
Regulator	Replaces the phrase ‘local enforcing authority’ from LAPC
Authorised person	Under section 108 of the Environment Act 1995, “authorised person” has replaced the term “inspector”.
Installation	Should be interpreted in accordance with the guidance contained in the General Guidance Manual on Policy and Procedures for A2 and B Installations. <a href="http://www.defra.gov.uk/environment/ppc/manual/index.htm">www.defra.gov.uk/environment/ppc/manual/index.htm</a> .
Petrol	Is defined in Directive 94/63/EC as any petroleum derivative with or without additives, having a Reid vapour pressure of 27.6kPa or more, which is intended for use as a fuel for motor vehicles, except liquefied petroleum gas (LPG). In addition the Government's view is that the definition of petrol includes leaded, unleaded and lead replacement gasoline and excludes diesel motor fuel, kerosene and aviation fuels (some aviation fuels exceed the vapour pressure but aircraft are not motor vehicles for the purposes of the definition) The

	<p>Government's view is not definitive as it is ultimately the courts that interpret legislation.</p>
Vapours	<p>Means any gaseous compound which evaporates from petrol.</p>
Mobile container	<p>Means any tank, transported by road, rail or waterways used for the transfer of petrol from one terminal to another or from a terminal to a service station.</p>
Service station	<p>Means any installation where petrol is dispensed to motor vehicle fuel tanks from stationary storage tanks. This includes both retail and non-retail sites.</p>
Existing	<p>Means service stations which are in operation, or for the construction of which planning permission is granted, before 31st December 1995. For Stage II controls, existing means service stations which are in operation before the date of publication of this note.</p>
New	<p>Means service stations which are not covered by the definitions of "existing" stations.</p> <p>The Government are of the opinion that the grant of outline planning permission for the construction of a service station prior to 31 December 1995 would bring that station into the definition of "existing", though it should be noted that such permissions are time limited under section 92 of the Town and Country Planning Act 1990. The Government do not consider that the subsequent approval of reserved matters affects this position</p> <p>The Government's general view and opinion are not definitive as it is ultimately the courts that interpret legislation</p>
Throughput	<p>Means the largest total annual quantity of petrol unloaded from mobile containers into a service station during the three years preceding the relevant date. This means that the compliance deadline will apply if the</p>

	<p>throughput figure is exceeded in any of the three immediately preceding years, which will always include the most recent year. For example, if the throughput exceeds 500m<sup>3</sup> at a service station for the first time in 2005 then that service station should be regarded as having "a throughput greater than 500m<sup>3</sup> " in the year 2006.</p>
Target reference value	<p>Means the guideline given for the overall assessment of the adequacy of technical measures in the note and is not a limit value against which the performance of individual installations at service stations would be measured.</p>
Vapour collection system	<p>Includes a system of delivery of petrol whereby the vapours displaced from the storage tank are returned to the road tanker by a vapour balance pipe.</p>
Hydrocarbon capture efficiency of vapour recovery system	<p>Equipment for vapour recovery should be designed to ensure a vapour recovery efficiency of 85% measured during an appropriate type approval test. The efficiency is defined as:</p> $\text{Eff (\%)} = ((\text{BE} - \text{RE}) / \text{BE}) \times 100$ <p>(where Eff is efficiency; BE is base emissions of petrol vapours to atmosphere without Stage II petrol vapour recovery in place; RE is the residual emissions of petrol vapours to atmosphere with Stage II measures in place).</p> <p>For vapour recovery systems with type approval from another European Union, European Economic Area or European Free Trade Association country, the hydrocarbon capture efficiency required by that country should be taken as being equivalent to the above.</p>
Type approval test	<p>A test undertaken to gain approval for use. In the context of this note, this term is used</p>

	<p>in relation to approval for use of a vapour recovery system in petrol dispensers for compliance with national regulations. The test will typically include leakage tests and metrology tests as well as tests on hydrocarbon capture efficiency and volumetric efficiency (P/V ratio).</p>
Vapour/Petrol (V/P) ratio	<p>The ratio between the vapour volume at atmospheric pressure passing through the vapour recovery system and the volume of petrol dispensed.</p>
Exempt service station	<p>Exempt service station means a service station at which the total quantity of petrol unloaded into stationary storage tanks does not exceed 500m<sup>3</sup> in any 12-month period.</p> <p>Additionally, in relation to provisions for Stage II controls only, exempt service station means an existing service station where the throughput of petrol does not exceed 3500m<sup>3</sup> in any 12-month period.</p>
Vapour lock	<p>Is a phenomenon that can occur during a road tanker delivery and is identified by a stoppage in the flow of product before the road tanker's compartment is fully discharged. There are two possible causes of vapour lock:</p> <p>i) Where there is an insufficient head of product in the road tanker compartment to force the air/vapour mixture in the delivery hose and fill pipe through the residual product in the storage tank. This cause of vapour lock can affect both atmospheric (free venting) and vapour balanced deliveries.</p> <p>ii) Where there is a back flow of vapour into the delivery hose from a leak in the storage tank's internal fill pipe. This cause will only arise during vapour balanced deliveries.</p>

**Site Location Map EP 2008/17**



Hartlepool Borough Council

***The Pollution Prevention Control Act 1999***

Environmental Permitting (England & Wales) Regulations 2010 (as amended)

**EXPLANATORY NOTE**

***These notes are provided for the operator of an installation or mobile plant to assist in the interpretation of their duties under the provisions of the above-mentioned legislation, with particular reference to the permit issued by Hartlepool Borough Council. These notes do not form part of the Permit or conditions attached to it.***

**1. BAT CONDITION**

Article 2(10) of the Industrial Emissions Directive defines “best available techniques” as follows:

“Best available techniques’ shall mean the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle the basis for emission limit values designed to prevent and, where that is not practicable, to reduce emissions and the impact on the environment as a whole.

- **BEST** shall mean most effective in achieving a high general level of protection of the environment as a whole.
- **AVAILABLE** techniques shall mean those developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages, whether or not the techniques are used or produced inside the Member State in question, as long as they are reasonably accessible to the operator,
- **TECHNIQUES** shall include both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned.

The installation and mobile plant should be operated such that -

- (a) all the appropriate preventative measures are taken against pollution, in particular through application of the best available techniques; and
- (b) no significant pollution is caused.

In relation to the Permit you should be aware that, amongst other aspects of the installation operation and management, this residual duty will apply to:-

- the control of emissions to ensure that offensive odours are not caused beyond the installation boundary,
- maintenance, service and repair of equipment,
- keeping of spares and consumables,
- the training of installation operators, and supervision of workers
- management of the installation in relation to maintenance of a high standard of housekeeping.

## **2. STATUTORY REQUIREMENTS**

This Permit does not detract from any of the following statutory requirements where applicable:-

- (a) The requirement to obtain Planning Permission for the installation and any new construction.
- (b) The requirement to obtain discharge consent from the Environment agency.
- (c) The requirement to obtain Building Regulation approval for any construction work.
- (d) The requirement of a Waste Disposal Licence.
- (e) The requirement to comply with the Health and Safety at Work etc Act 1974.

## **3. PUBLIC REGISTER**

Local authorities are required by EP regulation 46 to maintain a Public Register containing information on all the installations and mobile plant they are responsible for. The register is available for inspection by the public free of charge during office hours (Monday to Friday 9.00am to 5.00pm) at

**Hartlepool Borough Council,  
Public Health Department  
Public Protection  
Victoria Road  
Civic Centre  
Hartlepool  
TS25 8AY**

Subject to exclusions of commercially confidential information and information affecting national security, registers will contain the following:

- a. Applications for a permit;
- b. Notices asking for information and responses to such;
- c. Advertisements and representations in response to such (unless requested not to by the person responding)
- d. In the case of c) above, a statement to the effect that representations were made but have been omitted – must not identify the person making the representation;
- e. Statutory consultee responses to applications or applications for variations;
- f. Permits;
- g. Notifications of changes in the operation of installations;
- h. Applications for variations, transfers or surrenders of permits;
- i. Variations, transfers and surrenders granted;
- j. Revocations;
- k. Enforcement or suspension notices;
- l. Notices withdrawing enforcement and suspension notices;
- m. notice of an appeal including the grounds of the appeal, relevant correspondence between the appellant and the regulator, and the decision/notice which is the subject of the appeal;
- n. Representations in response to appeal (unless requested not to by the person responding);
- o. In the case of n) above, a statement to the effect that representation were made but have been omitted – must not identify the person making the representations;
- p. The appeal decision and any accompanying report;
- q. Convictions, formal cautions; to include the name of the person, date of conviction/caution, and (where appropriate) penalty and name of court. This requirement does not override the Rehabilitation of Offenders Act 1974 regarding spent conditions, and authorities must take care to remove relevant entries at the appropriate time;
- r. Monitoring data obtained by the authority from its own monitoring, or sent to the authority on accordance with a permit condition or regulation 28(2) notice;
- s. If any monitoring information is omitted because it is commercially confidential, the authority must put a statement on the register indicating whether relevant permit conditions are being complied with, based on the withheld information;

### **Commercial Confidentiality**

An operator may request certain information to remain confidential i.e. not be placed on the public register. The operator must request the exclusion from the public register of commercially confidential information at the time of supply of the information requested by this notice or any other notice. The operator should provide clear justification for each item wishing to be kept from the register. The amount of

information excluded from the register should be kept to the minimum necessary to safeguard the operator's commercial advantage.

The general principle is that information should be freely available to the public. An operator may request certain information in relation to a permit to remain confidential, i.e. not be placed on the public register. The onus is on the operator to provide a clear justification for each item he or she wishes to be kept from the register. EP regulation 45 defines 'commercial information' as "information that is commercially or industrially confidential in relation to any person".

Local authorities will also take into account whether the information at issue could be obtained or inferred from other publicly accessible sources.

The local authority will determine this request within 28 days of the date of such an application and will issue a Determination Notice detailing their decision. The notice may specify a time period over which the information is to remain commercially confidential (if not specified, it will be four years beginning with the date of the determination). The operator may appeal to the Secretary of State within 21 days of the notification of the decision.

If the application is granted the local authority will place a statement on the public register stating that certain information has been withheld and stating the reasons why, plus whether this information is relevant to a permit condition, and whether the permit condition has been complied with.

Further guidance on commercial confidentiality can be found in the DEFRA general guidance manual.

### **National Security**

EP regulation 47 allows for information to be kept from public registers for reasons of national security. For this to happen, the Secretary of State must determine that placing the information on the register would be contrary to the interests of national security. An operator who believes any information meets this test may apply to the Secretary of State.

The operator must notify the local authority that he or she has asked for this determination, but must not exclude the information from any submission to the authority, such as a permit application. The Secretary of State may direct the authority on what information, if any, to exclude from the register.

Any such applications must be made to:

Secretary of State for Environment,  
Food and Rural Affairs  
Nobel House  
17 Smith Square  
LONDON  
SW1P 3JR

and should be marked "application under the Environmental Permitting Regulations".

#### 4 **UPGRADING PROGRAMMES**

The following information does not comprise part of the Permit, but contains guidance, which should be noted when considering the upgrading programme.

##### **Aim of Upgrading Programme**

To identify the areas where the existing installation does not meet the required standards ("new process" standards), as detailed in the relevant Secretary of State's Process Guidance Note, the steps to be taken to meet these standards, and the time-table of dates by which these steps are to be implemented. (You are advised to refer to the Department of Environment, General Guidance Note 4 - Interpretation of terms used in Process Guidance Notes (available from H.M. Stationery Office)).

##### **Content of Upgrading Programme**

There is not a specified format for an upgrading programme but, wherever possible, it should identify reasonably precise actions to be taken and the dates on which these actions will be instigated. If abatement plant is to be installed technical specifications and schematic drawings along with operational procedures should be detailing in the upgrading plan.

##### **Council Action upon receipt of Upgrading Programmes**

It is an offence not to submit the upgrading programme by the date specified in the Permit.

The Council will assess the adequacy of the submission and if satisfied with the content, will place it on the Public Register (operators may apply for matters which are considered to be commercially confidential to be excluded from the Register).

The Council will bring the upgrading programme within the terms of the Permit by issuing a Variation Notice to add the programme as a condition to the initial Permit. This will ensure that commitments given are made into enforceable conditions (this may not preclude changes to the programme where there are sound reasons for such a change).

#### 4. **FEES**

(EP regulation 65).

Operators must pay an annual subsistence charge to cover local authorities' continuing regulatory costs once a permit has been issued. It will cover such things as checking monitoring data or carrying out inspections. The level of subsistence charge is contained in the relevant charging scheme and will become due on 1st April each year. The operator is liable for the full subsistence charge for the year of operation. You are advised that if you fail to pay the fee due promptly, the Council may revoke the Permit.

The risk-based charging scheme was introduced in 2006/7 for all standard activities. The risk-based method applies a low, medium or high risk rating to activities

operating at an installation. The resulting subsistence fees are proportionate to the risk rating. This risk-assessment method uses a “point scoring” approach which combines the indicative environmental impact assessment (EIA) of the activity itself and the Operator Performance Assessment (OPA) covering the operational aspects of the installation. This is outlined in the Risk-Based Inspection Methodology which is available on the DEFRA web pages

## **5. TRANSFER OF PERMITS**

Installations may change hands through normal business transactions. EP regulation 21 therefore allows for permit transfers either for the whole installation, or for one or more parts of it through partial transfer arrangements. New operators should have the appropriate management systems and the competence to run installations properly in compliance with the conditions of the existing permits.

When an operator wants to transfer all or part of a permit to someone else, he/she and the proposed transferee must make a joint application and also pay a fee. They must both sign the application form. The joint application should contain their telephone numbers and addresses plus any additional correspondence address. The application should be accompanied by the current permit document and must include the appropriate transfer fee.

## **6. PROCESS VARIATIONS**

A local authority may decide that the existing permit conditions require amendment without receiving any notification or application from the operator (EP regulation 20(1)). This is most likely to occur when the authority decides that the conditions need varying having conducted a periodic review in accordance with EP regulation 34, or in the light of revised guidance from Defra/WAG, or because of the transfer of a permit to another operator. Other instances could be the revision of a relevant environmental quality standard, the declaration of an area as an air quality management area, or a requirement from the Environment Agency to revise a water-related condition.

If there is no such condition included in their permit, operators should be aware that there are risks to them should they fail to notify the relevant local authority of a change. The risks are that the authority decides that the change means that the operator is either carrying on the activity beyond the extent authorised by the existing permit, or is doing so in contravention of an existing permit condition. Both are offences under EP regulation 38. On the positive side, some changes could result in a lowering (as well as, potentially, raising) of an installation’s risk rating. These could include alterations to management or training practices, or technical changes such as the use of less toxic chemicals.

Many changes will not have consequences for the environment and notification will be unnecessary; although there may be cases where it is nonetheless good practice for an operator to do so in order to keep the authority informed. It is also good practice to notify authorities of any administrative changes, such as the name or address of the operator (where the installation has not changed ownership), and

authorities can simply amend the permit without going through any formal procedures.

The Industrial Emissions Directive definition of 'substantial change', which is incorporated by the EP Regulations, is "a change in the nature or functioning, or an extension, of an installation or combustion plant, waste incineration plant or waste co-incineration plant which may have significant negative effects on human health or the environment;". For installations subject to the Industrial Emissions Directive, further criteria may be relevant.

If an operator has any doubt over whether a particular change is substantial, he/she should ask the opinion of the relevant local authority.

## **7. APPEALS**

Under EP regulation 31 operators have the right of appeal against the enforcing authority in the following circumstances:

- 1 refusal or deemed refusal to grant a permit;
- 2 refusal of an application to vary a permit;
- 3 if the operator disagrees with the conditions imposed by the authority as a result of a permit application or an application for a variation notice;
- 4 refusal of an application to transfer a permit, or if the operator disagrees with the conditions imposed by the authority to take account of such a transfer;
- 5 refusal of an application to surrender a permit, or if the operator disagrees with the conditions imposed by the authority to take account of the surrender;
- 6 the service of a variation notice (not following an application by the operator), a revocation notice, an enforcement notice, or a suspension notice on the operator;
- 7 the deemed withdrawal by a local authority of a duly-made application because the operator has not provided further information (paragraph 4 of Schedule 5 to the EP Regulations).

Under EP regulation 53(1) operator has the right of appeal against a decision that information will not be withheld from the public register for reasons of commercial confidentiality.

The rights to appeal listed in 1-6 above do not apply where the decision or notice implements a direction given by the Secretary of State or Welsh Ministers. There is also no right of appeal if a revocation notice has been served for non-payment of subsistence fees (EP regulation 31(3)).

Appeals under 3-6 above do not stop the conditions coming into effect. Appeals against variation, enforcement and suspension notices do not stop the notices coming into effect. However, appeals against revocation notices suspend the operation of the notices coming into effect until the appeal is decided or withdrawn.

Notice of appeal against the conditions attached to the permit must be given within six months of the date of the notice, which is the subject matter of the appeal. The Secretary of State may in a particular case allow notice of appeal to be given after the expiry of this period, but would only do so in the most compelling circumstances.

## How to appeal

There are no charges for appealing and there is no statutory requirement to submit an appeal form. However, an appeal form has been prepared and is available for use at <http://www.planning-inspectorate.gov.uk/pins/environment/environment/index.htm>. For an appeal to be valid, appellants (the person/operator making the appeal) are legally required to provide all of the following (see EP Regulations Schedule 6, paragraph 2(2)):

- written notice of the appeal
- a statement of the grounds of appeal
- a statement indicating whether the appellant wishes the appeal to be dealt with by written representations procedure or at a hearing - a hearing must be held if either the appellant or local authority requests this, or an appointed person or the Secretary of State/Welsh Ministers decide to hold one (appellants must copy the above three items to the local authority when the appeal is made)
- a copy of any relevant application
- a copy of any relevant permit
- a copy of any relevant correspondence between the appellant and the regulator
- a copy of any decision or notice, which is the subject matter of the appeal.

Appellants should state whether any of the information enclosed with the appeal has been the subject of a successful application for commercial confidentiality under EP regulation 49 and provide relevant details. Unless such information is provided all documents submitted will be open to inspection.

## Where to send your appeal documents

Appeals should be despatched on the day they are dated, and addressed to:

**The Planning Inspectorate  
Environment Team, Major & Specialist Casework  
Room 4/04 Kite Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
Tel: 0117 372 8726  
Fax: 0117 372 8139**

On receipt of an appeal and during the appeal process both main parties will be informed by the Inspectorate about the next steps, which will explain the procedures and submission timetable for representations. To withdraw an appeal – which may be done at any time - the appellant must notify the Planning Inspectorate in writing and copy the notification to the local authority who must in turn notify anyone who has expressed an interest in the appeal.

## **Costs**

The operator and local authority will normally be expected to pay their own expenses during an appeal. Where a hearing or inquiry is held as part of the appeal process, by virtue of paragraph 5(6) of Schedule 6, either the appellant or the authority can apply for costs. Applications for costs are normally heard towards the end of the proceedings and will only be considered if the party claiming them can show that the other side behaved unreasonably and put them to unnecessary expense. There is no provision for costs to be awarded where appeals are dealt with by written representations.

Following an application for costs, the Inspector or the Secretary of State/Welsh Ministers will act in the spirit of DOE Circular 8/93 – The Award of Costs in Planning and Other Proceedings. Schedule 6, paragraph 5(6) of the EP Regulations applies section 250 (as modified) of the Local Government Act 1972 to hearings and inquiries. Under section 250, persons may be summonsed to appear to give evidence, the appointed person may seek recovery of his or her certified costs from either party and may make a costs order so that one party pays part of the other side's costs.

## **8. Secretary of State's Guidance**

This permit is covered by Secretary of State's Guidance:

<b>Process Guidance Note 1/14(13) Statutory guidance for unloading of petrol into storage, and motor vehicle refuelling, at service stations</b>	<b><a href="http://www.defra.gov.uk/industrial-emissions/las-regulations/guidance/">http://www.defra.gov.uk/industrial-emissions/las-regulations/guidance/</a></b>
<b>Pollution Prevention and Control Act 1999</b>	<b><a href="http://www.defra.gov.uk/environment/index.htm">www.defra.gov.uk/environment/index.htm</a></b>
<b>Environmental Permitting (England &amp; Wales) Regulation 2010 (as amended)</b>	<b><a href="http://www.legislation.gov.uk/uksi/2010/675/contents/made">http://www.legislation.gov.uk/uksi/2010/675/contents/made</a></b>
<b>General Guidance Manual on Policy and Procedures for A2 and B Installations</b>	<b><a href="http://www.defra.gov.uk/industrial-emissions/las-regulations/guidance/">http://www.defra.gov.uk/industrial-emissions/las-regulations/guidance/</a></b>

## **9. Reporting Requirements and Contact Details**

Where a Permit condition imposes a requirement to forward documents to the Local Authority or to report a specified occurrence the following address and telephone number shall be used:

### **By Post**

**Hartlepool Borough Council,  
Public Health Department  
Public Protection  
Victoria Road  
Civic Centre  
Hartlepool  
TS25 8AY**

**By Telephone**

During office hours: 01429 266522

**By email**

[environmental.protection@hartlepool.gov.uk](mailto:environmental.protection@hartlepool.gov.uk)