

## *Chapter 10*

### **Guidance on environmental regulation of SMEs with a low level of environmental risk in Ukraine**

*This chapter provides guidance on how Ukraine can reform its environmental regulation of low-risk SMEs, and where possible move to a regulatory regime based on general binding rules (GBRs). The chapter begins with an exploration of the current state of play in Ukraine and the legacy of Soviet regulation. It also explores some of the weaknesses and inefficiencies that currently face the permitting based system. The chapter draws upon the standards and experiences of EU countries and the EU as a whole as a basis for the guidance it provides. It explores the advantages and disadvantages of GBRs, the costs of developing GBRs, the estimated number of GBRs that would need to be developed in Ukraine, and the challenge of applying GBRs to existing and new facilities.*

## Introduction

The objective of the guidance in this chapter is to help Ukraine reform its permitting system with regard to regulating SMEs, drawing upon good practices from the EU and other OECD countries. It aims to streamline and simplify regulatory requirements for installations with low environmental impact while emphasising the integrated approach to their environmental management.

The Guidance contains general information about simplified regulatory tools, a review of current environmental regulatory practices in Ukraine, recommendations for environmental regulatory reform with respect to SMEs in Ukraine, and two sectoral case studies that provide practical examples of designing and implementing of key instruments to promote environmental compliance and green business practices among SMEs. The target audience of this document includes key government stakeholders (first of all, the Ministry of Ecology and Natural Resources and the Ministry of Economic Development and Trade), business associations as well as non-governmental and academic institutions in Ukraine.

The Guidance is broadly based on the analysis and recommendations of the EU-funded project “Air Quality Governance in the ENPI East Countries” (EU 2014) which had a special activity on regulation of installations beyond the scope of Annex I of the EU Industrial Emissions Directive and which was completed in 2014.

## Current environmental regulatory framework in Ukraine

Ukraine’s system for environmental regulation of economic activities was introduced in the early 1990s with air emissions permitting, which still remains its most demanding and widespread part. One of its main shortcomings is the absence of links between permitting and measurable environmental quality goals or other reliable indicators of environmental performance.

Instead of encouraging technological innovation, this environmental regulatory regime effectively sells indulgences to pollute, as it is extremely challenging for businesses to comply with overly complex and often unrealistic requirements. Environment-related permits are mostly concerned with air emissions, wastewater discharges and solid waste disposal, although Ukraine’s air legislation remains the most developed and complex one with its demand of a special permit for each and every point source of emissions. For example, direct instrumental measurements of air emissions are obligatory for all point sources (except petrol stations) while for most installations it has no sense for permitting or monitoring purposes. As a result, enterprise managers focus on keeping their papers in order instead of dealing with business development and cleaner technologies.

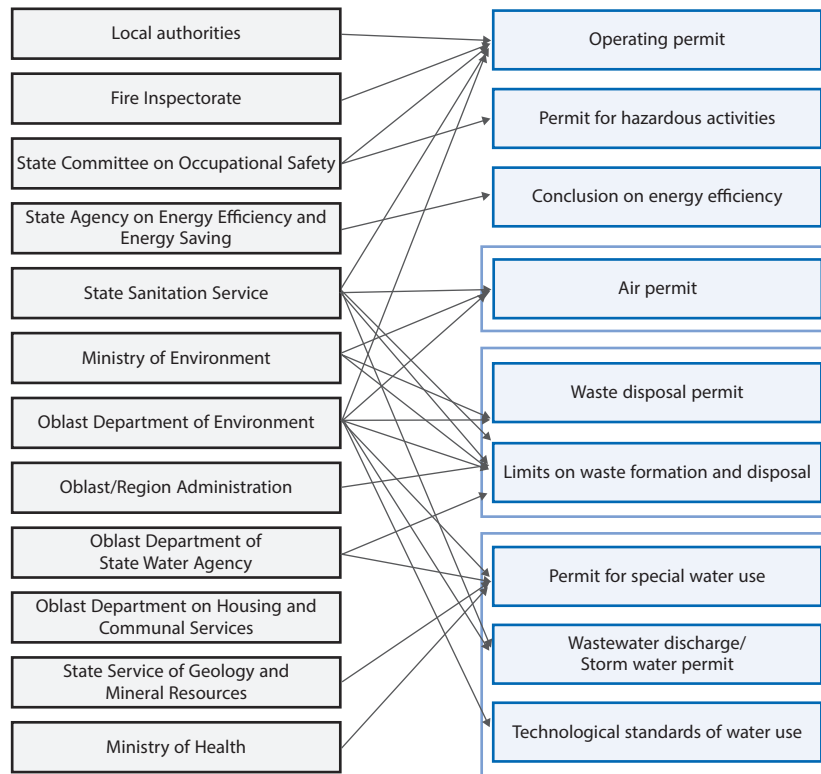
The regulations that were originally designed for detailed technical evaluation have been transformed, with the help of a controversial system of pollution charges on thousands of parameters, into an instrument for creating and channeling financial streams. Every new piece of legislation becomes an additional argument in negotiations and fixing the price of non-compliance.

Another commonly recognised problem is the absence of appropriate differentiation between major polluters and low-risk installations. The scope of application of the permitting requirements allows certain discretion of environmental authorities, so SMEs in one sector may be subject to thorough permitting in one region but completely ignored in another.

The institutional framework for environmental permitting in Ukraine is very complex and requires approvals from a large number of government stakeholders (Figure 10.1).

The MENR has gone through a drastic institutional reform when its 27 regional offices (which had been in place from the very first days of independent Ukraine) were abolished as of 17 May 2013. This change was justified by the simplification goals of the administrative reform and by citing the experience of EU countries where regional governments deal with environmental permits. The function of permitting authorities was transferred from the oblasts (regions) to the headquarters in Kyiv for all major polluters (roughly corresponding to the IED Annex I categories), without any additional staff allocations to the Ministry. Regional administrations found themselves responsible for the environmental regulation of SMEs, without having the appropriate technical capacity.

Figure 10.1. **Main institutional responsibilities for environment-related permitting in Ukraine**



### *Air emissions regulation*

A 2006 instruction of the Ministry of Ecology and Natural Resources divided regulated installations into three groups, the first one of which corresponds to the list in Annex I of the IPPC (IED) Directive. SMEs or installations without significant environmental impact fall into the second and third group. The second group consists of the installations that are part of the Ukrainian State Register for Air Emissions but are not included in the first group. The thresholds for the inclusion in the State Register for the listed 131 pollutants are fairly low (Ukraine Ministry of Ecology and Natural Resources 2002). For example, for particulates it is 3 t/year, and for NO<sub>2</sub>, 1 t/year (for comparison, a similar threshold in the Czech Republic for NO<sub>2</sub> is much higher, 20 t/year).

The third group is only specified as “other installations”, which in most cases are non-industrial facilities. However, a permit is obligatory for any of them, even though it can be obtained in a simplified procedure.

Importantly, operators cannot get the air permit without involving an authorised consulting firm whose employees have been trained at paid courses of the environment ministry. This creates a big market for consulting services and ample opportunities for corruption, which SMEs suffer from most.

### Box 10.1. Nationwide and sectoral ELVs in Ukraine

In a permitting system inherited from the Soviet Union, any stationary source of air pollution is assessed based on dispersion modelling for comparison with sanitary standards developed for ambient air of populated areas. A few technology-based standards for boilers and gas turbines were an exception to this rule.

The Ministry of Ecology and Natural Resources Order “On approval of emission limit values for stationary sources” No. 309 of 27 June 2006 introduced nationwide, cross-sectoral emission limits values for dozens of pollutants broadly in line with the European Best Available Technique (BAT) recommendations. Its extensive tables contain a number of norms which in some sectors are impossible to comply with.

Industries were given an option to develop sector-specific technological emission standards. To date, they have been approved for 10 types of installations:

- thermal power plants with a total rated thermal input exceeding 50 MW (22 October 2008)
- production of cement clinker in rotary kilns with capacity exceeding 500 tonnes per day (20 January 2009)
- coke batteries (29 September 2009)
- production of normal corundum in ore-smelting three-phase electric arc furnaces (5 October 2009)
- sunflower husk fired boilers (13 October 2009)
- manufacture of glass (19 January 2012)
- metal ore roasting and sintering (21 December 2012)
- production of ferro-alloys (21 December 2012)
- steel production (primary and secondary smelting) with capacity exceeding 2.5 tonnes per hour (1 July 2015)
- production of lime in kilns with production capacity exceeding 50 tonnes per day (1 July 2015).

Source : Ukraine Ministry of Ecology and Natural Resources (2006), <http://zakon4.rada.gov.ua/laws/show/z0912-06>.

### ***Wastewater discharges regulation***

Wastewater discharges are regulated in Ukraine in line with the same principle of zero health risk norms, without taking account of their technical and economic feasibility. The methodology is aimed at ensuring water quality required for fisheries, with all water bodies

of the country being designated for such water use. The permitting system for special use of water is based on provisions of the Water Code of Ukraine<sup>1</sup> (Law No. 213/95-BP of 6 June 1995) and Government Resolution No. 459 of 10 August 1992.<sup>2</sup>

Until the changes described in Section 2.3, the water permit required approvals from multiple government authorities, including the Ministry of Health, the State Water Agency, water supply and sanitation utilities (“vodokanals”), and even sometimes from large industrial installations with their own wastewater treatment plants if those also serve as communal water utilities. The approval process also involved regional departments of the State Emergency Service and the State Committee on Housing and Communal Services and, in case of groundwater sources, of the State Geology Committee. The approval procedure could vary from one region to another.

Contrary to the EU, environmental authorities in Ukraine do not regulate industrial discharges into centralised sewer systems; they issue permits only for discharges into water bodies. Moreover, Article 70 of the Water Code bans discharges on soil surface (into quarries, ravines, etc.). For factories located away from water bodies or towns, this requirement is impossible to comply with in principle, while soil contamination is not regulated by environmental authorities in Ukraine, contrary to the common regulatory practice in the EU.

Although the requirements for the quality of wastewater discharged in Ukraine are much tougher than in the EU, the actually used temporary discharge permits (issued in view of the technical infeasibility of regulatory requirements) are, on the contrary, considerably laxer than the comparable EU standards.

### ***Recent changes in the permitting requirements***

In 2011, an administrative reform was declared in Ukraine. The resulting amendments to the Law of Ukraine “On the list of documents allowing character in the sphere of economic activity” (No. 3392-VI of 19 May 2011)<sup>3</sup> attempted to simplify the permitting requirements, but this was not done systematically, and many references to them remained in force in different pieces of legislation.

In 2014, the State Regulatory Service of Ukraine announced the cancellation of 83 categories permitting documents<sup>4</sup>. In relation to environmental protection, those included, among others:

- permits for high-risk operations
- licences for the development and adoption of standards for the discharge of pollutants into water bodies
- approval of location of plants and facilities whose activities are related to the use of water resources and can adversely affect their status
- endorsement of a permit for special water use by state water agency in the case of surface water, by state geology authorities in the case of groundwater
- permits for construction or modification of waste management facilities
- permits for waste storage and disposal
- approval of limits on generation, storage and disposal of wastes
- permits for the production of electricity and heat from alternative energy sources
- approval of location of plants and facilities that adversely affect the condition and reproduction of forests.

As can be seen from this list, Soviet-style limits on the generation and disposal of waste were suspended, while numerous restrictions on the handling of hazardous waste remain in place. The water permitting procedure has been significantly simplified under the single window concept where the permitting authority communicates itself with the relevant state institutions. This radical simplification of Ukraine's permitting system clearly reduces the administrative burden on SMEs but does not negate the need for the development and application of new regulatory standards where necessary.

## Concept and scope of simplified environmental regulation

### *General approaches to environmental regulation of industries*

Each group of industries should be regulated by a system that will be effective in protecting the environment without entailing an excessive administrative burden. The following regulatory approach is consistent with best practices in EU member states and other OECD countries:

- The largest and potentially most polluting industries should be regulated under an integrated pollution prevention and control (IPPC) system through individual (bespoke) integrated permits with conditions based on BAT in line with the EU IED Directive.
- Low-risk industries should be regulated in the first phase of reform by the existing system of medium-specific permits and gradually proceed sector by sector towards regulation by permits based on general binding rules (GBRs) that allow cross-media integration.
- Facilities with negligible environmental risk would not need any permit, but their regulation should be ensured by an environmental registration system with simple notification.

The proportionate regulation would be achieved by introducing an IPPC regulatory system for large polluting enterprises on the one hand, and by simplifying and streamlining the regulatory requirements for SMEs with low or negligible environmental impact on the other hand.

### *Risk-based differentiation of the regulated community*

In Ukraine, Resolution of the Cabinet of Ministers No. 212 of 19 March 2008<sup>5</sup> defined criteria for determining the degree of risk of installations as a basis the frequency of their inspection (Table 10.1).

In contrast, in the EU, the list of priority installations for IPPC regulation was formed on the basis of existing practice of member countries, e.g. the United Kingdom, where a similar system had been introduced earlier. In one way or another, the task of ranking industries depending on their environmental impact requires an expert assessment of data available. A formalised method of economic sector prioritisation has been proposed by the OECD to countries of Eastern Europe, Caucasus and Central Asia with use of a ranking system of conditional scores and weights (OECD 2005).

Table 10.1. Differentiation of installations in Ukraine by degree of environmental risk

Degree of risk	Criteria for determination	Frequency of planned inspections
High	Installations with high environmental hazard or potentially dangerous ones that deal with of I and II class hazardous substances, or transport of dangerous goods or utilities, in particular, water supply and wastewater treatment, and waste management  Activities that causes air emissions more than 5 000 tonnes/year, water consumption and sewage – over 25 000 m <sup>3</sup> /year, generation and disposal of I and II class waste – more than 100 tonnes/year, or other waste – more than 1 000 m <sup>3</sup> /year; associated with deforestation, the use of aquatic resources, game management and the nature reserves	Annually
Medium	Installations with high environmental hazard or potentially dangerous ones that deal with of III and IV class hazardous substances	Every 2 years
Minor	Activities that causes air emissions up to 5 000 tonnes/year, water consumption and wastewater – up to 25 000 m <sup>3</sup> /year, generation and disposal of I and II hazard class waste – up to 100 tons/year or other waste – up to 1 000 m <sup>3</sup> /year	Every 3 years

### *Practical examples from EU member states and useful international experience*

Activities which could be subject to simplified regulation may be defined in one of the following ways:

1. compiling a list of activities with relevant capacity thresholds below which the environmental impact is considered low
2. establishing environmental criteria that define low environmental pollution and thus impact
3. combining the two approaches using partly a definition of activities and related capacity thresholds and partly environmental criteria.

The first approach is used, for example, in Sweden and the UK. In Sweden, activities that have intrinsically low environmental impact need only to notify local authorities. Examples of activities regulated by such a notification are:

- fish farming with production between 500 kg and 10 tonnes/year
- quarries with production below 25 000 tonnes/year
- slaughterhouses with capacity between 5 and 5 000 tonnes/year
- vegetable preparation with capacity between 10 and 1 000 tonnes/year
- mixing and bottling of liquor and wine
- textile dyeing with capacity of up to 200 tonnes/year
- tanneries with capacity between 1 and 100 tonnes of hides/year
- asphalt plants
- glass production with capacity of up to 100 tonnes/year
- motor sport tracks
- gasoline stations.



In the UK, there is a special list of waste treatment activities which are exempt from permitting requirements and which need to be registered with the local authority.

The Netherlands has extensive experience in the use of GBRs, applying them to all or some aspects of operation of installations. The rules contain an overall package of provisions and are issued by the national government, but inspection and enforcement is undertaken by local authorities. This type of regulatory approach has been positively received by both competent authorities and industry. It applies to several types of installations, including:

- construction companies
- dairy farms
- crop farms
- dry cleaning companies
- petrol stations.

In addition to these, the following types of installations under threshold values of Annex I of IED may be considered for simplified permitting under GBRs:

- combustion installations with rated thermal input of no more than 50 MW
- furnaces producing small quantities of pig iron, 2.5 tonnes per hour or less
- ferrous metal foundries melting 4 tonnes per day or less
- installations for bulk storage, blending and mixing of cement
- small scale electrolytic plating baths
- ceramics manufacturing installations with production capacity below 75 tonnes per day
- small-scale municipal solid waste incinerators (with capacity of 3 tonnes/hour or less)
- other industrial installations outside the integrated permitting regime.

An example of the low impact activities defined by the environmental criteria is given in the OECD Guidelines (OECD, 2005):

- *Air emissions*: Releases of any particular substance from the whole installation into the air should not be significant. For example, the U.S. Environmental Protection Agency defines “minor” sources of air pollution (which usually do not require a permit) as those that have no toxic air emissions and emit less than 100 tonnes per year of non-toxic air pollutants.
- *Wastewater discharges*: The installation should not release more than 20 m<sup>3</sup> of treated wastewater on any one day into surface waters and no direct discharges into groundwater.
- *Waste generation*: The installation should not generate any hazardous waste or more than 1 tonne of non-hazardous solid waste per day, averaged over a year, and no more than 20 tonnes of solid waste on any one day.
- *Energy consumption*: The installation should not consume energy at a rate greater than 1 MW.
- *Noise*: The noise levels arising from processes and measured at the border of the installations should not exceed the existing noise level (both expressed as LAeq) by more than 3 dB.



- *Odour*: A low-impact installation should not have the potential to give rise to an offensive odour noticeable outside the premises where the installation is operated.

In Latvia, there are three categories of polluting activities that are regulated outside the scope of the EU IED Directive (category A): categories B (subject to simplified permits) and C (require a declaration) as well as those that do not fall under any of the three categories, yet are still being at least partly covered by the GBRs. The categories cover activity sectors (with some volume/size limitations). There are several regulations that prescribe ELVs for specific activities and a general procedure for determining ELVs for other activities.

### ***Implications for compliance monitoring***

The verification of compliance with all cross-media environmental permits requires cross-media inspections that would consider all relevant operational and management techniques of an installation. The differentiation of the regulated community based on environmental risk should be reflected in the frequency and depth of inspections of individual installations.

Inspectors would have to be well informed of the applicable GBRs and should be consulted when setting up permit conditions to make them more realistic and enforceable. In some cases it may be necessary to invite specialists from other agencies, especially if sectoral GBRs cancel specific permits that those agencies were in charge of. The inspection of installations that will be regulated by the registration system should be simplified, made less frequent and random.

### **Permitting through general binding rules**

The objective of the GBR-based permitting is to regulate activity sectors rather than consider each installation individually. The following features are desirable in a permitting system for SMEs:

1. Operators should be encouraged to move away from end-of-pipe technologies for reducing discharges to air or water and adopt integrated operation and maintenance solutions, including effective environmental management techniques.
2. The permitting procedure should reduce the amount of information the permitting authority has to review and the degree of detailing needed in each case.
3. The permitting process should be transparent and easy for the operator and the general public to understand, by reference to published guidance or rules for particular classes of installations. Operators should be able to see that they are being treated fairly compared to others. The process of producing pertinent general rules or guidance must be open to comments by the public and other stakeholders.
4. A simplified system has to offer the same approach between sectors and should be proportionate to the level of environmental risk.
5. Permit conditions should, wherever possible, be consistent with business practices for a given category of installations. For example, monitoring and reporting requirements based on process data (energy or water consumption, materials use, etc.) should be reasonably preferred to instrumental measurements, as the latter are much more expensive.
6. Permit conditions must be clear, and the permitting authority must have powers to inspect its compliance.

The EU IED (Article 3, paragraph 8) defines GBRs as “emission limit values or other conditions that are adopted with the intention of being used directly to set permit conditions”. These criteria could refer to a specific sector or have broader applicability.

### *Advantages and disadvantages of GBRs*

Key advantages of GBRs include:

- adoption of uniform emission standards (statutory ELVs)
- a simplified application procedure and forms, resulting in reduced bureaucracy
- transparency, predictability and consistency
- uniform monitoring requirements, facilitating compliance assurance
- no potential to distort competition within an industrial sector
- reduced costs for the regulator (although the development of GBRs requires initial resource investment) and the operator
- limited opportunities for corruption through reduced discretion for the regulators.

At the same time, GBRs bring a number of disadvantages compared with site-specific permits:

- GBRs are not as flexible as site-specific permits with individual conditions (e.g. they cannot easily take into account local environmental conditions).
- Public participation takes a different form, as permit conditions are not site-specific and the consultation occurs only at the GBR design stage, where the possibility of changes forced by the public is less than for individual permits.
- The prescribed techniques are fixed until the GBR is reviewed, and permitting authorities can do little to impose further improvements.
- GBRs may not fit well with the implementation of economic instruments of environmental protection, such as emissions trading. Those instruments, to have an incentive impact, require the operator to have some flexibility in establishing operating conditions, whereas GBRs specify conditions precisely.

### *Types and coverage of GBRs*

There are a number of practical criteria that should be met for the development of GBRs to be feasible:

- A GBR must cover a sufficient number of installations in a given sector for the resources used to develop it to be outweighed by the benefits from reduced effort on individual permit determinations. It is difficult to suggest specific thresholds for appropriate use of a GBR under this criterion, as in each particular country they will depend on the geographical distribution of such installations, their size, the capacity and costs of designing GBRs, etc.
- GBRs can cover all environmental aspects or they can be specific for individual media – e.g. air protection issues or waste issues.
- GBRs can only apply to well-defined categories of installations that use similar, widely accepted technologies that are unlikely to change rapidly. A GBR establishes

standard requirements for technologies and techniques to be followed. In cases where GBRs need to be frequently revised in order to accommodate changes in technology, there is no advantage to their use. At the same time, a GBR may be an effective method for introducing technological improvement in a sector.

- Installations within each category subject to a GBR should have a relatively uniform impact on the environment. If the installations' environmental impact is largely site-specific (i.e. depends significantly on local conditions), the imposition of standard conditions is unfeasible.
- It is important that the operators of installations targeted by a GBR be well organised so that their views are coherent and well expressed. GBRs will need to be developed in negotiation between the national environmental authority and the industrial sector's representatives. An industry (trade) association can be a good partner in this case.

GBRs can be developed as:

- generic (for example, general emission limit value for dust for various/all air emission sources) – these are often too general and poorly adapted to individual industries
- sector-specific, which may not cover all the sectors but only those with many installations and fairly standard processes, e.g. combustion installation or farms
- activity-specific, which applies a cross-cutting approach, e.g. GBR for fuel combustion, cooling, waste management, etc.

The most widely used GBRs are the generic and sector-specific ones. They should address in a comprehensive way the sources of environmental impact and the techniques to minimise it.

Sector-specific GBRs should cover the following issues:

- currently applied processes and techniques
- current emissions and resource consumption levels
- production and management techniques to be used in installations subject to that GBR
- numerical limits for releases of particular substances (ELVs), where appropriate
- self-monitoring and reporting requirements.

The GBR may include an application form tailored to fit the particular type of installations under consideration.

The priority in developing first GBRs should be given to industry sectors with the biggest number of installations (to achieve the biggest reduction of administrative costs upfront) and with the strongest industry associations (to facilitate the GBR development process).

It is important to distinguish between GBR requirements for existing and for new installations. GBR may set out “new plant standards” and incorporate upgrade requirements for existing installations, in which case they would act as a stimulus for improved environmental performance. If the GBRs do not differentiate between requirements for new and existing installations, existing ones should be given a grace period of up to three years to comply with the GBR requirements, depending on the sector (this grace period should be specified in the GBR itself).

A key issue is whether a GBR is absolutely binding for the regulator and/or the operator. This should be clear in the statutory document that establishes the GBR. To be absolutely binding, the GBR must address the full range of technologies used within the given category of installations, and local environmental concerns should not be expected to raise a problem.

An alternative approach is to allow for an opt-out to the use of a GBR in favour of a full integrated permit. This might be initiated by the operator (e.g. when alternative techniques are preferred that are not addressed by the GBR) or by the regulator (e.g. to ensure that sensitive local environment is protected). If fully integrated permitting is undertaken, all the advantages (especially cost savings to the operator and the regulator) of a GBR would be lost. So it is not feasible to have a GBR for a category of installations, if their significant share would opt-out. However, if opt-outs are allowed, the operator must not be able to seek exemption from individual GBR requirements and would have to follow the full integrated permitting procedure (which may well result in stricter permit conditions).

#### **Box 10.2. Example of GBR conditions: UK guidance for small combustion units**

For small combustion units less 20 MW T.I. (in aggregate for multiple units) the following conditions should be set, unless there is a reason to set specific conditions (e.g. within an Air Quality Management Area).

1. No limit values on air emissions;
2. For natural gas firing: a minimum monitoring requirement of once per year for NO<sub>x</sub> (mg/m<sup>3</sup>); O<sub>2</sub> (%); CO (mg/m<sup>3</sup>), except that for very small units (< 3 MW T.I.) forming part of the aggregation the monitoring may be waived. Performance of such units would normally be managed through the requirement to adequately maintain plant;
3. For oil firing as a standby fuel:
  - Heavy fuel oil: a fuel sulphur limit of 3% (1% after 31 December 2002);
  - Gas oil: a fuel sulphur limit of 0.2% (0.1% after 31 December 2007);
4. For oil firing as primary fuel: as for (1), (2), (3) plus additional monitoring requirement of articulates;
5. For Coal firing as primary fuel: as for (4) plus a limit on sulphur in the coal burnt of 1% by weight as certified by the supplier;

This note does not apply to any units that are burning waste as a fuel.

*Source* : Environment Agency, England and Wales.

### ***Procedure for developing GBRs***

The environment ministry, in collaboration with ministries responsible for industry, agriculture, and other concerned sectors, should identify categories of industrial activities where within each installation the same activities are carried out, or where there are few alternative methods of carrying out these activities and where the best practices are clearly identified.

The development of GBRs can be undertaken by sector-specific institutions on the basis of:

- EU BREFs, in parts relevant to installations outside the scope of integrated permitting
- existing industry standards of good practice published either by government bodies or by industry associations (where such standards are seen as appropriate), both domestically and internationally
- national statutory ELVs, other norms and operational requirements.

A draft GBR should be sent for comments to the stakeholder authorities and discussed with representatives of the industry concerned, and their comments should be taken into account. In fact, it is useful to involve industry representatives in the drafting process already in the early stages.

The production of a GBR should also include public consultation. However, the nature of such consultation is different from that for an individual permit. Comments on a draft GBR (at the national level) would most likely come from environmental NGOs. The draft GBR should be posted on the environment ministry's website, and a notice to that effect published in a general distribution newspaper as well as in relevant industry journals. It is important that the process be seen as transparent by the general public. After public consultation, the GBR needs to be promulgated in a regulation (secondary legislation).

The introduction of a GBR system will also require that national authorities prepare technical rules for a number of categories of installations. For each category of industrial installations identified to be suitable for GBR regulation (the identification process itself is likely to take several months), the development of a GBR is likely to take between six months and one year. Therefore, the entire process may take between 3 years for the first categories of SMEs and 10 years for the full intended coverage of the system.

As techniques improve, the GBRs will need to be reviewed and amended using the same procedure as outlined above. A revised GBR must include an upgrade timetable for installations permitted under the old GBR. There can be no fixed review periods for GBRs, but they should not be revised more frequently than the term of permits issued under those rules (5-7 years). Amending GBRs could require considerable resources both from the national environmental authority and industry, as all respective permits would have to be reviewed as well. This is why this method of regulation is most suitable where techniques are likely to improve only slowly.

### ***Legal framework for GBRs***

As changes are made to the existing primary environmental legislation concerning the regulation of large pollution sources, it would also be appropriate to provide for simplified permitting regimes for other installations. The applicability criteria for each option (GBR-based and medium-specific permits) should be laid out either in a separate law on permitting of SMEs (which must appropriately define this term for the purposes of environmental regulation), or in a section of a law on integrated permitting (if a country chooses to adopt one), and/or in amendments to other environmental laws. The same laws should be used to set transitional periods for the introduction of GBRs, stipulate general requirements for self-monitoring and reporting, and the terms of validity and revision of the respective authorisations.

The competent authority for permitting SMEs should also be designated in the legislation. It is likely to be different for different permitting schemes. For GBR-based and

media-permitting, the permitting authority should be the same competent environmental authority (regional or, in some cases, national) that is responsible for integrated permitting so as to avoid the existence of parallel permitting authorities. Since GBRs are themselves products of a multi-stakeholder process, decisions on individual GBR-based permits should be made exclusively by the permitting authority. Media-permitting should also be the prerogative of environmental authorities, as is currently the practice.

### ***Permitting procedure***

The procedure should designate internal responsibilities and step-by-step actions of permitting authority staff as well as stipulate interactions with the applicant, statutory stakeholders, and the public. A simple standard application form should also be designed.

Developers of a permitting procedure must make sure that it does not come into conflict with any primary or secondary legislation. The permitting procedure should also complement and not contradict existing procedures for environmental assessment, building permit issuance, and compliance assurance (inspection) and enforcement. The basic procedure can be based on the steps outlined below (the description provides also indicative number of days for different tasks).

### ***Pre-application activities***

It is important that not too much time be allotted to this stage. However, the operator may ask the permitting authority for a pre-application meeting to discuss any applicable rules and binding limits and issues to be addressed in the application.

### ***Application***

A permit application under a GBR (which may include a specific application form) serves to justify that the installation complies with all the requirements of the GBR. It should include the main items of an integrated permit application but to a lower degree of detail:

- identification of the installation
- identification of the operator
- description of the installation's activities
- operational and management techniques (to show that they conform to the specific GBR requirements)
- emissions (to demonstrate compliance with statutory limits stipulated in the GBR)
- environmental impacts (brief description or reference to the findings of an environmental impact assessment (EIA) if one has been performed for the installation)
- other relevant information.

There may be an administrative fee required to be paid with the application to cover the costs of processing it by the permitting authority.



### *Receipt and initial check of application*

The Designated Administrator at the permitting authority should check that the application has addressed all the required questions and open a working file. Then the Responsible Official should look at the basic adequacy of the answers presented. For applications based on a GBR both checks should be fairly quick, as the GBR determines a limited number of issues that should be addressed. These checks are intended to ensure only that an application meets at least minimum requirements before the determination process begins. It is in no sense a determination of whether to issue a permit or what conditions ought to apply. The initial check of the application should take no longer than 5 days.

If an application is found not to be valid at this stage, it should be returned immediately. The Designated Administrator should attach a note to indicate where the application falls short of what is required.

Within 5 days of the application being deemed valid, the Responsible Official should decide if any major pieces of additional information are needed to ensure that the environmental quality standard will be complied with. The Designated Administrator would advise the applicant in writing and give him 10 days to respond. If this information is not received, the application should be refused. Requests for additional information should only be made in exceptional cases, as the application should respond to the requirements clearly stated in the GBR.

### *Consultation*

The consultation process in permitting under a GBR regime is generally confined to issues of local environmental quality (consultation with the local authority) and prior compliance record by the applicant (consultation with the environmental inspectorate and local public health authorities). These stakeholder authorities may have information that could help the permitting authority to judge whether the application is truthful and accurate. They may also comment on the past performance of the operator or on possible challenges to the environment in the general vicinity of the installation (e.g. the presence of other significant sources of pollution). However, comments on the technique to be used will not be relevant as they have been decided in the GBR.

Within 10 days from the date the application was deemed valid, the Designated Administrator should send copies of the application to the stakeholder authorities with a cover letter specifying the inputs that would be helpful and asking to provide their responses within 15 days. There is normally no general public consultation for applications of GBR-governed installations, although eventually the permit itself should be put in the permitting authority's permit register.

The Designated Administrator should note all responses from the stakeholder authorities in the Working File and inform the Responsible Official. If a body fails to respond, the Responsible Official may use his judgment to decide either to seek such a response or proceed without it.



## *Assessment of application and determination of permit conditions*

### Determination

For a simple application that is in accordance with the GBR it is unlikely that it would need to be considered by a “permit team” at the permitting authority, as the different cross-media issues will have been addressed during the development of the GBR. However the Responsible Official may need to seek advice from other permitting authority colleagues where the application is for an installation in a sensitive location where compliance with the environmental quality standard is or maybe under threat.

For the application’s assessment it is recommended to develop a checklist for compliance with GBRs and local environmental quality standards.

There is no need for the permitting authority to consider the merits of any alternative techniques, as all this work has been done in designing the GBR. This will substantially reduce the permitting authority’s effort compared with integrated permitting. Usually, a GBR-based application should be assessed within 10 days of the receipt of the consultation responses.

### Issuance

Once the application has been considered for compliance with the GBR and there are no serious objections by permitting and stakeholder authorities during consultation, the permit should be written and signed by the Responsible Official. The Designated Administrator would then send the permit to the operator and place a copy of it in the permit register. The effective date would usually be the same as requested in the application. The validity of the permit is recommended to be at least 5 years. The permit should be renewed under a simplified procedure if the original characteristics of the installations have not changed.

As the permit reflects the GBR, it is possible to include some of the rules as conditions or, simply refer to the GBR and thus produce a standard, highly simplified, permit for the sector. The permit should include numerical limits from the GBR (ELVs, limits on the use of water and/or other resources) and contain requirements to monitor and report the actual releases and any accidental discharges beyond these limits. Compliance with GBR-based permit conditions should be verified through regular environmental inspections which would, however, be much less frequent than those of large industrial installations.

### Refusal

If the application’s assessment (using the check-lists mentioned above) results show that further conditions are needed to protect local environmental quality, the Responsible Official may decide to refuse the application under the GBR and instruct the operator to submit another permit application. Such an opt-out by the permitting authority should only be possible if allowed by the applicable regulations and would require an approval by the head of the permitting authority’s permitting department.

If the application fails to show compliance with the GBR, the Responsible Official should refuse the application. The criteria for refusal include the following:

- The environmental impact would be unacceptable within the conditions specified in the GBR (a full integrated permitting process may be required).
- The operator’s proposals do not comply with specific GBR requirements.
- It is apparent that the operator cannot comply with the permit conditions because his inability to demonstrate the appropriate management systems or competence.

If the application is refused, the Designated Administrator should advise the applicant, noting the details and deadline for appeal, and copy this notice to the permit register and the stakeholder authorities, specifying the reasons for refusal.

## Appeal

The applicable regulations may provide that any person or body, including the applicant for a permit, can make an appeal to the national environmental authority or to an arbitration court either against a refusal to grant a permit or against a decision to grant a permit (on the grounds that the operator cannot comply with local environmental quality standards). However, there can be no appeal against specific conditions that are set by reference to the statutory GBR.

The regulation may specify that an appeal must be made within 30 days of the permitting authority's decision on the permit and may require it to describe the grounds for the objection and the reasons, considerations, and arguments on which they are based and be accompanied by whatever documents the objector considers necessary. The permit should not enter into force until the appeal is settled. The operator should be advised of this without delay.

### *Timeline of the procedure*

It is good practice to set out a period within which the permitting authority will normally determine a valid application. The permitting authority would normally determine a valid GBR-based application within days of its submission. The following Table 10.2 illustrates the timeline for the simplified permitting process under a GBR. However, an appeal of the decision may more than double the length of the process.

Table 10.2. **The timeline for the issuing of GBR based permit**

Period	Application review
5 <sup>th</sup> day	Initial check of application is completed by the Designated Administrator and the Responsible Official *
15 <sup>th</sup> day	Application is accepted and delivered by the Designated Administrator to stakeholder authorities
30 <sup>th</sup> day	Consultation responses are received from stakeholder authorities
40 <sup>th</sup> day	Assessment of the application is completed by the Responsible Official
45 <sup>th</sup> day	Permit or refusal notice is issued
75 <sup>th</sup> day	Possible appeal(s) is received by [national environmental authority] against the decision
105 <sup>th</sup> day	Appeal(s) is determined
110 <sup>th</sup> day	Final decision is issued by the permitting authority to the applicant. End.

\* If significant additional information is needed, and the Responsible Official sends to the applicant a request that delays the process by up to 10 days.

The recommendations are derived from experience with implementation of GBR regulatory systems in EU. It is assumed that functions and responsibilities of the GBR permitting authority will cover only permitting under the GBR permitting regime. The enforcement of GBR permits will be carried out by specialised enforcement authority (e.g. environmental inspectorate), and GBR development will be arranged by specialised external experts or institutions.

### *Institutional requirements for the GBR-based permitting regime*

The GBR-based permitting regime should complement both the proposed integrated permits and the existing media-based system. The aim of GBR system is to cover industrial and agricultural sectors with significant number of plants and operators in order to decrease the administrative burden both for facility operators and for the authorities. So, the GBR permitting authority can be the same as the integrated permitting authority or modified existing permitting authorities.

As for the organisation within the competent environmental authority itself, the task of handling of different permitting schemes for large and smaller installations favours the establishment of media-permitting departments within the permitting authority. This would allow environmental authorities to pool human and technical resources and better organise the processing of permit applications. For example, while there may be different responsible officials for handling integrated, GBR-based and media permits, the support staff (designated administrators) may be shared. In cases where for political reasons the existing media departments' structure are kept, one of these departments would have to be made responsible for processing GBR-based permit applications.

#### *Work scope of GBR authority*

The permitting authority will be responsible for:

- administration of the GBR permitting procedure
- conducting regular, planned permit review and variation of permit conditions
- maintain and operate a system for publication and storage of documents from permitting procedure
- co-operation with the inspection and enforcement authority (if separate)
- collect a fee for issuing a GBR permit (if any).

In cases where the permit writers have insufficient technical knowledge and experience to assess the accuracy of proposed permit conditions and compliance with the GBR, it may be useful to require technical support in the form of an application review by technical experts from the relevant environmental authority. The result of the review can be comments on proposed permit conditions which will be in the form of recommendations to the permit writer.

#### *Organisational and staff requirements*

The management and organisation of the GBR authority will depend on whether GBRs will cover more than one environmental medium and if the GBR authority will be set up along with the integrated permitting authority. This will infer from the current distribution of permitting functions and shall be specially stipulated in the environmental permitting. Generally there are the following possibilities where to place the GBR permitting function:

- a. environment ministry at the central level
- b. environment ministry at the regional level
- c. environmental inspectorate
- d. regional authorities
- e. local authorities.

Placing the GBR permitting in the central office of the environment ministry is recommendable for small countries where the current permitting is ensured by the Ministry's central office and where the number of installations falling under the GBR permitting regime will be up to 500.

Placing the GBR permitting in regional offices of the environment ministry is recommended for bigger countries where the regional offices ensure currently environmental permitting and where the number of installations falling under the GBR permitting regime will be more than 200 per region.

Placing the GBR permitting in the environmental inspectorate is recommendable for countries where either the current permitting is ensured by the inspectorate or where environmental inspectors are the only technically capable resources to cope with GBR permitting.

Placing the GBR permitting in regional authorities is recommended for bigger countries where the regional authorities already have some experience with environmental permitting and where the number of installations falling under the GBR permitting regime will be more than 200 per region.

Placing the GBR permitting in local authorities is recommended for large countries where municipalities ensure currently some environmental permitting/approvals and where the number of installations falling under the GBR permitting regime will be over 400 per region.

There is no need for special organisational set up. The organisation can be the same for any decentralised level (i.e. regional offices of the environment ministry, regional or local authorities, or the inspectorate). Based on the experience in EU countries, there is a need of approximately one permitting officer per 50-80 installations. Thus the GBR authority on regional or county level shall be part of either the existing permitting departments or part of the integrated permitting department. The GBR permitting team shall include permitting officers and a co-ordinator/manager. There should be established co-operation with media departments which are responsible for air protection, water and waste permits in case of need for consultations.

## **Registration of installations with low environmental impact**

For installations with insignificant environmental impact, registration can act as permission to perform their activities. Such registration can be seen as simple notification procedure for local municipal or environmental authorities. The choice of registration authority will depend on each country's institutional structure.

In case of registration, the information about such installations would be available to environmental authorities at a minimal administrative cost (for example, by using online registration services). By contrast, exempting small polluting installations from regulation altogether may bear a risk that environmental authorities are unaware of their existence, which would leave significant scope for uncontrolled pollution.

The legislation has to specify clear criteria for classification/determination of relevant installations. The criteria/thresholds can determine the amount and nature of emissions in general or provide specific values for different sectors or activities as well as include capacity thresholds. In case the criteria are sector-specific, it is necessary to consult the representatives of this industrial sector in order to understand the actual and potential impact from installations and activities in question.

### ***Designation of the administrative body for issuing the registration***

The administrative body responsible for the registration procedure has to be designated in the environmental permitting legislation with a list of all main powers and functions of the registration authority. The following responsibilities and tasks are proposed for the registration authority for implementation of the registration system:

- perform the registration procedure and establish relevant administrative mechanism within the authority
- ensure the use of electronic registration system in order to enable a national database of registered installations.

Detailed provisions for the registration procedure can be included in the implementing legislation.

### ***Requirements for operators***

The operator should be able to demonstrate to the regulator that, given the nature of the installation's activities, the criteria of insignificant environmental impact will be met without having to rely on a significant management effort. If the installation depends, for example, on abatement equipment (scrubbers, filters, etc.), it is unlikely that it can be treated as having only a low potential for impact as failure of these could clearly result in significant releases. It should be able to meet the criteria differentiating small polluting installations from medium polluting installations.

New small polluting installations should be required to submit an environmental registration form at the same time as they apply for an operating licence. Existing small polluting installations that are currently required to obtain environmental permits should be notified by the competent authority that they no longer need to have a permit but have to submit a registration form. Existing installations that presently do not need a permit should be also registered.

The registration should not have a validity limitation, but the operator should be required to notify the competent authority of any changes to the installation's activities or their cessation. If the installation does not meet some criteria for intrinsically low impact, the official should notify the operator about a need to apply for an environmental permit without which it cannot continue to operate the installation.

### ***Information and methodological support for the registration system at the central level***

The registration system has little requirements for methodological support and information, nevertheless some basic information and guidance is needed. The support should be provided at the central level by the environment ministry and its regional offices where relevant.

The appropriate functioning of the registration system requires the following information and tools:

- legal provisions for the registration procedure and related issues, criteria for small polluting installations, requirements for operators, duties of registration authorities and possible sanctions
- an electronic database for registration of small polluting installations
- a registration form
- a checklist for verification of the filled registration forms.

The registration form for small polluting installations has to be very simple, while making specific reference to the regulation authorising such registration. It should normally include the following:

- name and address of the operator
- location of the installation
- brief description of activities carried on it
- the nature and amount of any polluting releases from the activities (solid, liquid or gaseous) and a statement that they comply with the criteria for intrinsically low impact
- the maximum rate at which energy is used by the activities carried on
- a statement that no offensive odour from its activities is present outside the installation
- a statement that noise levels outside the installation arising from the activities do not increase background levels by more than 3 dB Leq.

### ***Registration procedure***

The registration procedure has to be outlined in the environmental permitting legislation, and details can be specified either in an implementing regulation, or some procedural steps can be applied based on the administrative code.

A registration officer of the competent environmental or municipal authority should check completeness of the application. If some information is missing, the form should be returned immediately indicating in written where additional information is required. If the form is complete, the official should decide whether it the installation meets all criteria for intrinsically low impact. In some cases the simplified public consultation can be held.

The registration procedure shall be a simple check of compliance with the inclusion criteria for registration based on the registration form with necessary annexes confirming for example the scope of air emissions or wastewater contamination. On regular basis the state of registrations shall be reported to the relevant oblast environmental offices and inspectorate.

In case of a positive conclusion, the officer should make a respective record in an appropriate database. If the registration is managed by the municipal authority, there should be a procedure to share the information from this database with the relevant environmental authority.

The removal of low polluting installations from the existing permitting and approval system will result in a certain decrease of the workload of the existing permitting authorities.

### ***Institutional requirements for the registration regime***

Registration authorities shall have the following functions and responsibilities:

- administration of the registration procedure for existing and new installations
- recording new and updated registrations in the national electronic register and reporting on the progress
- communication with environmental inspectors in case of unclear categorisation of a low-risk installation.



The environmental registration of enterprises or activities with low environmental impact does not require extensive technical expertise and thus the registration procedure can be carried out either at the local level of state administration or at the regional level. The registration could be running parallel to business registration. Generally, there are the following possibilities where to place the registration function:

- a. the registration authority can be in the same authority as the existing permitting authority (e.g. within departments of the environment ministry at the central or regional level).
- b. the registration function can be delegated to regional or municipal authorities which are not issuing any environmental related permits in the existing system, but which are issuing business registration.

In case the registration function is within the existing permitting authority, some of the permitting officers which have been dealing with issuing permits or approvals will be responsible for administering registration. This solution has the advantage of technical and administrative knowledge in checking the correctness of the registration form. Nevertheless, in case this authority is not at the same time responsible for the business registration, the simplification of the administrative burden for the relevant operators will be limited, since the operator of low polluting installation will have visit another authority apart from business registration.

In case the registration function is in a municipal authority, it will be more convenient for the operators, but the staff of the authority will need to be more thoroughly trained in order to assess the information in the environmental registration form. Nevertheless, this can be overcome by proving the low environmental impact by existing operators through the last environmental or operational permits and arrange possible consultations with the relevant department at the environment ministry responsible for the registration system.

It is envisaged that there will be no need for any additional staff in the municipal/local authorities to ensure the registration function in case of connecting this registration with existing business registration.

## **Implementation of simplified environmental regulation in Ukraine**

As discussed in Section 3.1, two different regulatory regimes for low-risk installations that represent the vast majority of SMEs are proposed: introduce a notification procedure for registration of installations with negligible risk and gradually substitute medium-specific permits by sector-specific or nationwide GBRs. The details of the design of each regime are presented in Sections 4 and 5.

Although the simplification of permitting for SMEs will be less resource-intensive than the establishment of an integrated permitting system for high-risk installations in line with the EU IED, it will also require certain legal and institutional adjustments that will take time.

### ***Scope of legal review***

The MENR, in collaboration with the MEDT, the Ministry of Fuel and Energy, the Ministry of Health, the State Agency on Energy Efficiency and Energy Saving, other government agencies should identify categories of industrial activities where within each installation the same activities are carried out, where there are few alternative methods of carrying out these activities and where the best practices are clearly identified.



The MENR should consider industrial activities listed in Annex I of the IED but below the production capacity thresholds listed there, as well as other activities currently regulated by media-based environmental legislation. Such comprehensive assessment based on best practices would require a significant effort. The MENR of Ukraine would also need to undertake an analysis of the impact of introduction of GBRs from the legal, procedural, institutional and financial points of view in order to establish the necessary prerequisites for its smooth implementation. A government regulation should also establish criteria to be used to assess the level of environmental risk of any particular installation to determine its eligibility for registration. Tables 10.3 and 10.4 provide suggestions for specific categories of installations to be subject to GBR permitting and registration regimes based on a review (EU Neighbours East 2014) of practical experience of Latvia and other EU member-countries' best practices.

The proposed streamlining and simplification changes are connected with third-level legal documents of ministries and state agencies. But the legal review should be undertaken in the overall context of the ongoing harmonisation of the national legislation with that of the EU, in particular of the implementation of IPPC, preferably in the framework of a law on environmental permitting. Such “codifying” of requirements for operators in one piece of legislation would also require corresponding amendments to media legislation and other regulations stipulating permits related to environmental protection.

The legal review should also determine which permits and approvals would be cancelled with the implementation of GBRs specific sectors.

### ***Costs and benefits of introducing a simplified regulatory system***

#### *Costs of adaptation to a simplified regulatory system*

The institutional transformation towards the registration system shall impose the following costs:

- a. reorganisation costs related to the preparation of the GBR permitting system at the MENR (similar costs related to the preparation of the registration system would be minimal)
- b. costs of training of permitting officers in issuing GBR permits
- c. costs of information campaigns (via the internet or by local authorities) to inform low-risk enterprises about the registration system.

There are no significant costs related to the adaptation to a simplified regulatory system for low-risk enterprises. There should be no significant impact on employment in the SME community.

The appraisal of the costs of the development of GBRs can be made only based on the determination of the list of sectors which would be covered by GBRs. A preliminary estimation could be made based on the costs of developing BAT guidance and experience with GBR development in several EU countries.

It is possible to estimate that the number of sectors covered by GBRs will equal at a minimum the number of EU BREFs, as they would cover the same activities as the IPPC regulation but with lower capacity thresholds, as well as other activities with significant pollution to any of the environmental media. The cost of preparing GBRs for one sector would range from EUR 10 000 to EUR 20 000 depending on the complexity of the sector concerned.

As it is proposed to assign the function of registration to local authorities in conjunction with business registration, environmental authorities would have less work, while for local authorities the new registration responsibility would not bring excessive work load or require additional financial resources.

### *Benefits of regulatory simplification*

The introduction of a GBR permitting system will increase the transparency of the administrative permitting procedure and, as a result, will likely reduce opportunities for corruption. The simplified one-window permitting procedure would make small entrepreneurship more attractive.

SMEs will benefit from a substantial reduction of administrative burden in terms of costs of environmental consulting services and those related to obtaining or renewing the multiple permits and approvals that are currently required. Those SMEs that will only be subject to notification requirements will see even bigger economies.

### *Implementation scenarios*

The period needed for the development of GBRs depends on the number of sectors brought under the GBR system and the availability of financial resources. The time schedule for GBR development will determine the timeline of the phase-in of GBR-based permitting in different sectors. Operators of eligible installations should be required to submit applications for GBR permits within two years after the approval of the relevant sectoral GBR. Furthermore, it would be practical to link the submission of a GBR permit application with the deadline for renewal of existing permits during the two-year transition period.

It is expected that the registration regime will not cause any significant administrative burden, especially if it is administered by local authorities in conjunction with business registration. A one-year transition period may be set, during which all existing low-risk enterprises will be obliged to fill a registration form and submit it to the relevant authority. The deadline for registration of existing enterprises should be set at one year after the approval and publication of the relevant implementing legislation.

In the context of an ongoing IPPC reform, the preparation of a GBR permitting system should ideally take place only after the start of the integrated permitting system implementation in order to have available staff and experts for the preparatory activities, such as drafting implementing regulations and developing GBRs. The preparation of the registration system should start as soon as possible.

As large industrial installations gradually convert to integrated permitting, the country's national environmental authority will have to choose appropriate permitting regimes for the installations that are not covered by the integrated permitting system. While installations with intrinsically low impact can be transferred to a registration scheme fairly quickly, the introduction of GBRs will take time and may not be appropriate for a significant number of installations. Therefore, for a number of years media-permitting will remain the default option for regulating SMEs that are either unsuitable for a GBR or scheduled to be covered by GBR at a later date.

However, once the development of all appropriate GBRs has been completed and a GBR scheme is fully operational, the MENR may consider whether it would be feasible to choose one of the three options for regulation of economic sector in question:

1. Incorporate these installations into the integrated permitting system. This may be appropriate for installations that affect more than one environmental medium but would require the development of technical guidance for them, which is a time-consuming and expensive process.
2. Develop or adjust national generic statutory ELVs that would directly apply to installations not covered by any other permitting scheme, making them a simplified version of a GBR. However, they would necessarily cover only a limited range of polluting substances and, in the absence of technique and environmental quality considerations in permitting decisions for such installations, would fall short of ensuring a high level of environmental protection.<sup>6</sup>
3. Keep a certain number of SMEs under a media-permitting scheme.<sup>7</sup> This would be feasible especially for installations that have an impact on only one environmental medium and that are technologically diverse (like medium-sized bricks production). In this case, media-permitting should be procedurally simplified, as it would at that point be used exclusively for selected categories of SMEs.

The first two options would mean a gradual phase-out of media-permitting in the country, while the third would retain it for limited use after the integrated permitting system has been fully established (which may take up to 15 years). Phasing out media-permitting may look attractive from the perspective of reducing the number of permitting schemes, but regulating the “remaining” installations under either integrated permitting or statutory ELVs will also have serious drawbacks, as mentioned above. On the other hand, keeping media-permitting as a regulatory option is likely to increase the administrative burden on the permitting authorities, as they would have to handle three different permitting processes: full integrated permitting, simplified GBR-based permitting, and media-permitting. Ultimately, a decision on the fate of the media-permitting system will be based on the medium-specific impacts and sectoral distribution of the SMEs that were deemed unsuitable for GBR.

## Conclusion

Reforming Ukraine’s environmental regulatory regime for SMEs is an ambitious undertaking. It will involve co-ordination and co-operation among the wide range of government actors who are currently responsible for different environment-related permitting procedures. It will also require the development of general binding rules that can remain stable for extended periods of time without being updated, and can be applicable across industries. To succeed, it will necessitate an extensive communications campaign and the establishment of effective information tools. SMEs are by definition an incredibly heterogeneous as a group, and sectoral strategies will have to be deployed to ensure that the new approach to regulating low risk facilities is understood. In some cases, SMEs that have never applied for a permit before will now have to self-report their activity.

However, the benefits are commensurate to the effort. Although Ukraine has strict environmental regulations on paper, they are not effective and difficult to enforce, and the system has resulted in confusion amongst enterprises and significant potential for corruption. Moving from a permitting system to a rules based system for SMEs could go a long way in reducing regulatory burden on SMEs, reducing the burden on the regulators themselves, and enhancing environmental performance.

Table 10.3. Activities and installations requiring GBR-based permits

Sector and type of activity
<b>1. Energy industry:</b>
1.1. Combustion installations with rated thermal input:
1.1.1. from 5 to 50 MW, if biomass (also wood and peat) or gaseous fuels are used in the combustion installation
1.1.2. from 0.5 to 50 MW, if liquid fuels are used in the combustion installation, except fuel oil (heavy fuel oil)
1.1.3. from 5 to 50 MW, if liquid fuel or fuel oil, is utilised in the combustion installation that is used in a grain dryer
1.1.4. from 0.2 to 50 MW, if coal is utilised in the combustion installation
1.2. Combustion installations in which fuel oil (heavy fuel oil) is utilised
1.3. Oil depots and terminals with 5 000 or more tonnes of fuel per year (the largest total amount of fuel pumped per year during the last three years)
1.4. Petrol stations with 2 000 or more m <sup>3</sup> of fuel per year (the total largest amount of fuel pumped during the last three years)
1.5. Gas storage installations with a capacity of 100 m <sup>3</sup> or more and underground storage sites of natural gas
1.6. Coal and brown-coal briquetting equipment
1.7. Production of charcoal
<b>2. Production and processing of metals:</b>
2.1. Installations for the production of pig iron or steel, also for continuous casting, with a capacity not exceeding 2.5 tonnes per hour
2.2. Installations for the processing of ferrous metals;
2.2.1. hot-rolling mills which process less than 20 tonnes of crude steel per hour
2.2.2. installations for the application of protective fused metal coats, which treat less than 2 tonnes of crude steel per hour
2.3. Ferrous metal foundries with a production capacity of up to 20 tonnes per day
2.4. Installations for smelting, also fusion, of non-ferrous metals, including metals to be used for recycling, the melting capacity of which does not exceed four tonnes of molten lead or cadmium per day or 20 tonnes of other metals per day, except installations that are used in crafts and sculpture, including for the processing of gold and silver
2.5. Installations in which electrolysis or chemical processes are used for surface treatment of metals and plastic materials and the total volume of the treatment vats of which does not exceed 30 m <sup>3</sup>
2.6. Installations for surface treatment during the operation of which dust is created, including the polishing of iron, steel or other metallic objects, cleaning by sand blasting and powder painting, if the total discharge of the installation is 10 000 m <sup>3</sup> per hour or more
2.7. Floating docks and dry docks of a steel shipyard
2.8. Other installations for industrial processing of iron, steel or other metals with a production area of 1 000 m <sup>2</sup> or more
2.9. Installations for the production of cables
2.10. Installations for the production of accumulators and batteries
2.11. Electro-technical equipment for the production of transformer and printed circuits
<b>3. Production of mineral products:</b>
3.1. Installations for the production of cement clinker in rotary kilns the production capacity of which does not exceed 500 tonnes per day or installations for the production of lime in rotary kilns with a production capacity that does not exceed 50 tonnes per day, or in other furnaces with a production capacity that does not exceed 50 tonnes per day
3.2. Installations for the manufacture of glass, including glass fibre, with a melting capacity that does not exceed 20 tonnes per day, except craftsmanship
3.3. Installations for melting mineral substances, including the production of mineral wool, with a melting capacity that does not exceed 20 tonnes per day
3.4. Installations for the manufacture of ceramic products by firing, including roofing tiles, bricks, refractory bricks, tiles, stove tiles, pottery, faience or porcelain, in which up to 75 tonnes of finished products may be manufactured per day, except for craftsmanship
3.5. Cement production units with a production capacity of 20 000 or more tonnes per year and installations for the production of concrete and concrete products with a capacity of 20 000 m <sup>3</sup> per year or more
3.6. Installations for the production of plaster products, except craftsmanship

### Sector and type of activity

#### 4. Chemical industry and activities with chemical substances and chemical products:

- 4.1. Installations for the production of organic and inorganic substances, products or intermediary products, including enzymes, in which physical production processes (for example, dilution and mixing) are utilised
- 4.2. Installations for the storage of unpacked organic or inorganic chemical substances, chemical products or intermediary products, if 1 tonne or more is stored, for the storage of enzymes – 20 tonnes or more
- 4.3. Installations for the production of pharmaceutical products, in which physical processes (for example, dilution and mixing) are utilised
- 4.4. Installations for the production of explosives, in which physical production processes (for example, mixing) are utilised
- 4.5. Installations for the production of munitions
- 4.6. Installations for industrial production of colorants, additives and ancillary substances (also usable in food industry), in which physical processes are utilised (for example, dilution and mixing), except retail trade
- 4.7. Installations for the production of chemical substances and chemical products and also for the production of plant protection products and biocides using physical methods (for example, dilution and mixing), packing and filling
- 4.8. Installations for the production of soaps, detergents and cleaning agents with a production capacity of 1 tonne per year or more
- 4.9. Installations for the production of paints, varnishes or glue
- 4.10. Installations for the production of goods with teflon thermo-coating, thermoplastic materials moulded by extrusion or by performing recycling of fibrous thermoplastic composite materials, if 100 kg of plastic or more are used per day
- 4.11. Installations for the production of plastic goods, using injection moulding from alloy, the extrusion process, including calendaring or thermal moulding, if 5 or more tonnes of plastic are used per day. Installations for the production of plastic goods from expanded polystyrene, if 5 or more tonnes of plastic are used per day
- 4.12. Installations for the production of goods of rubber with a production capacity above 500 tonnes per year
- 4.13. Installations for the production of regenerated pulp
- 4.14. Installations for the production of gelatine and glue from the skin and bones of animals
- 4.15. Installations for the production of organic chemical products via chemical, biological or physical process (that are not subject to regulation in accordance with Annex I of Directive 2010/75/EU)
- 4.16. Installations for the production of asphalt and road surfacing materials
- 4.17. Installations for the production of roof covering, using tar and bitumen
- 4.18. Installations for the distillation of tar
- 4.19. Gas and coke plants
- 4.20. Weaveries, spinneries and knitwear production units, if the production capacity is 100 kg per day or more
- 4.21. Dry-cleaners
- 4.22. Laundries with a capacity exceeding 1 000 kg per day

#### 5. Waste management:

- 5.1. Installations for the disposal or processing of hazardous waste, including petroleum product waste, the capacity of which does not exceed 10 tonnes per day
- 5.2. Installations for the incineration or co-incineration of municipal waste and other waste that may not be classified as hazardous waste, if the capacity of the installation does not exceed three tonnes per hour
- 5.3. Installations for the incineration or co-incineration of hazardous waste, the capacity of which does not exceed 10 tonnes per day
- 5.4. Installations for biological or physico-chemical treatment of municipal waste, the capacity of which does not exceed 50 tonnes per day, except composting installations with an intake capacity not exceeding 100 tonnes per year and composting installations for animal manure
- 5.5. Installations for the treatment of municipal waste for purposes of disposal in which the biological or physico-chemical treatment method is not utilised
- 5.6. Landfills for the processing of municipal waste with capacity not exceeding 75 tonnes per day
- 5.7. Landfills that can receive up to 10 tonnes of waste per day or with a total capacity not exceeding 25 000 tonnes, excluding landfills of inert waste
- 5.8. Landfills of inert waste
- 5.9. Places for the disposal, storage or composting of wastewater sludge and waste that may not be classified as hazardous waste in accordance with legislation

<b>Sector and type of activity</b>
5.10. Installations for the processing of discarded vehicles with capacity not exceeding 75 tonnes per day and for the recycling and storage of ship wrecks
5.11. Installations for the sorting or temporary storage of municipal waste, including reloading stations with a receiving capacity of 30 tonnes of waste per day or more
5.12. Installations for the storage of, recycling or treatment of waste of animal origin, also installations for composting and biogas installations with a receiving capacity of waste of animal or vegetable origin, including animal droppings and waste from slaughterhouses, of 30 or more tonnes per day
5.13. Installations for the storage of hazardous waste (including at the places of creation) for more than one year
5.14. installations for temporary (not more than one year) storage of hazardous waste with a total capacity not exceeding 50 tonnes, for example, reloading stations and container warehouses, excluding storage of waste for such a short period of time or in such an insignificant amount that the waste does not cause a risk to human health or the environment
5.15. Installations for the recycling of electric and electronic waste with capacity not exceeding 75 tonnes per day
<b>6. Agriculture, forestry and wood processing:</b>
6.1. Slaughterhouses with a carcass production capacity from 5 to 50 tonnes per day
6.2. Installations for the disposal or recycling of animal carcasses and waste of animal origin, the capacity of which is from 1 to 10 tonnes per day
6.3. Slaughterhouses with a production capacity of products of poultry origin of 5 000 or more tonnes per year
6.4. Production of matches
6.5. Production of oriented plywood panels, plywood panels or fibre plywood panels (separate types of panels or different types of panels together) with a production capacity not exceeding 600 m <sup>3</sup> per day
6.6. Production of furniture, if the production area is 1 000 m <sup>2</sup> or more
<b>7. Food industry:</b>
7.1. Installations for the collection, pre-treatment and processing of milk, in which the quantity of milk received is from 10 to 200 tonnes per day (average value on an annual basis)
7.2. Installations for the production of food products, in which products of animal origin (other than milk) are treated and processed and which produce from 1 to 75 tonnes of finished product per day, or which treat and process vegetable products and produce from 10 to 300 tonnes of finished product per day (average value on a quarterly basis), including:
7.2.1. the production of oils and fats of vegetable and animal origin
7.2.2. the production of beer and malt
7.2.3. the production and bottling of non-alcoholic beverages
7.2.4. installations for industrial production of starch and potato starch
7.2.5. fish meal and fish oil production units
7.2.6. sugar production units
7.2.7. the production of coffee, tea and food additives
7.2.8. grain processing
7.2.9. the production of yeast
7.2.10. the production and bottling of alcohol and alcoholic beverages
7.2.11. the conservation, filling and packaging of products of animal and vegetable origin
7.2.12. other food product production installations in which vegetables are treated and processed
7.2.13. installations for the production of fish and crustacean products, including for the production of canned, smoked and frozen products
7.3. Facilities for the production of meat meal, including bone meal, blood meal, blood plasma and feather meal production units
7.4. Production of protein and pectin
7.5. Installations for the production of tobacco products



Sector and type of activity
<b>8. Other sectors:</b>
8.1. in manufacturing:
8.1.1. installations for the production of paper and cardboard with a production capacity not exceeding 20 tonnes per day
8.1.2. installations for the pre-treatment of fibres and fabric (washing, bleaching, mercerisation) or dyeing, the treatment capacity of which is from 0.5 to 10 tonnes per day
8.1.3. installations for the tanning of hides and skins, in which less than 12 tonnes of finished products are produced per day
8.1.4. volatile organic compounds emitting installations, where the use of organic solvents in the installation emitting volatile organic compounds exceeds prescribed thresholds
8.2. Crematoria
8.3. Airports and airfields
8.4. Railway depot and stations that perform the functions of a freight station, marshalling station or district station
8.5. Berths of ports for the loading and unloading of cargoes into ships with gross tonnage not less than 450 tonnes
8.6. Hospitals with the number of beds above 100
8.7. Washing installations intended for the cleaning of storage and transportation receptacles and containers of chemical substances
8.8. Wastewater treatment plants with capacity of 20 m <sup>3</sup> per day or more that drain the treated wastewater in the environment

Table 10.4. **Activities and installations to be subject to a registration procedure**

Sector and type of activity
<b>1. Power industry:</b>
1.1. Combustion installations with rated thermal input of more than 0.2 MW (if a permit is not required for the combustion installation in accordance with regulations on Annex I activities or non-Annex I activities requiring permit-based regulation)
1.2. Wind power stations or power station parks with the total capacity of more than 125 kW
1.3. Petrol stations with fuel amount of up to 2000 m <sup>3</sup> per year (the total largest amount of fuel pumped during the last three years)
1.4. Gas filling stations
1.5. Oil depots with fuel amount of less than 5000 tonnes per year
1.6. Installations for the production of heating fuel from the remains of timber
1.7. Installations for the production of heating fuel from peat
<b>2. Production and processing of metals:</b>
2.1. Installations for surface treatment that create dust during operation, including the polishing of iron, steel or other metallic objects, sand blasting (cleaning by sand blasting) and powder painting, if the total emission of the installation is from 300 to 10 000 m <sup>3</sup> /hour
2.2. Other installations for the processing of iron, steel or other metals with a production area from 100 m <sup>2</sup> to 1 000 m <sup>2</sup>
2.3. Foundries usable in craftsmanship, also for the casting of gold and silver
2.4. Production facilities for electro-technical products, except installations for the production of transformers or printed circuits
2.5. Bonding of plastic products
<b>3. Manufacturing of mineral products (processing of mineral substances):</b>
3.1. Cement production units with a production capacity from 2 to 20 000 tonnes per year and installations for the production of concrete and concrete products with a capacity from 2 to 20 000 m <sup>3</sup> per year
3.2. Installations for the production and mixing of gravel or lime mortar and installations for the crushing of stones, which are not installed at the places where the stones are obtained
3.3. Stationary installations for the production of aerated concrete, coal dust or lime-and-sand bricks



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**Sector and type of activity**
**4. Agriculture, forestry and wood processing:**

- 4.1. Animal housings in which 10 or more animal units are bred for commercial purposes (including the storage, collection and drainage of solid manure, liquid manure, slurry and silage juice); animal housings are located in a highly sensitive territory and in which five or more animal units are bred for commercial purposes (if the animal housing does not require permit in accordance with regulations on Annex I activities)
- 4.2. Sawmills and wood-processing installations in which timber-cutting machinery is utilised and which process 2 000 m<sup>3</sup> or more round wood and timber per year; installations in which industrial chemical treatment of timber is performed, also pressure impregnation (high-pressure impregnation), vacuum impregnation (low-pressure impregnation) and protection of timber against blue stain and mould
- 4.3. Fish farms

**5. Food industry:**

- 5.1. Installations for the collection, pre-treatment and processing of milk, in which the quantity of milk received is from one to ten tonnes per day (average value on an annual basis)
- 5.2. Installations for the production of food, in which products of animal origin (excluding milk) are processed and which produce from 0.1 to 1 tonne of finished products per day, and in which products of vegetable origin are processed and from 0.5 to 10 tonnes of finished products are produced per day (average value on a quarterly basis)
- 5.3. Installations for the production of fish and crustacean products, including for the production of canned, smoked and frozen products, in which less than one tonne of finished products is produced per day
- 5.4. Smoke-houses, meat and gastronomy production units (also in shops) in which 500 kg of food products or more are produced per day
- 5.5. Installations for the baking of bread and industrial production of confectionery products with production capacity that exceeds 2 tonnes per day
- 5.6. Slaughterhouses with a production capacity of carcasses less than 5 tonnes per day

**6. Other sectors:**

- 6.1. Repair and maintenance shops for mechanical land vehicles, mobile agricultural machinery and mobile non-road machinery, and other movable aggregates, where the following activities are performed:  
 diagnostics, maintenance and repair of motor  
 maintenance and repair of power system  
 installation, diagnostics and repair of electric devices and alarm systems  
 diagnostics, maintenance and repair of transmission and elements  
 diagnostics, maintenance and repair of suspension and steering equipment  
 diagnostics, maintenance and repair of brake system  
 assembly, adjustment and repair of tires and wheels  
 body diagnostics, geometry reconstruction and repair  
 anti-corrosion treatment of body  
 preparation for painting and painting  
 car wash and body maintenance.
- 6.2. Chemical and biological laboratories (except study laboratories)
- 6.3. Wastewater treatment plants with a capacity from 5 to 20 m<sup>3</sup> per day, if wastewater is drained in the environment
- 6.4. Installations and photographic laboratories in which 1 000 m<sup>2</sup> or more of photographic films are processed per year
- 6.5. Installations for the storage of salt and salt mixtures, if 1 tonne or more of salt or salt mixtures is stored, installations for obtaining salt and salt mixtures (with a capacity of 1 tonne or more per day) for scattering on roads during winter conditions
- 6.6. Installations for the production of casement windows and doors
- 6.7. Installations for the storage of packed organic and inorganic chemical substances, chemical products or intermediary products, if more than 10 tonnes of chemical substances, chemical products or intermediary products are stored
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## Notes

1. <http://zakon4.rada.gov.ua/laws/show/213/95-%D0%B2%D1%80>.
2. <http://zakon4.rada.gov.ua/laws/show/459-92-%D0%BF>.
3. <http://zakon4.rada.gov.ua/laws/show/3392-17>.
4. Official note of the State Regulatory Service of Ukraine of 10 April 2014, [www.dkrp.gov.ua/info/3339](http://www.dkrp.gov.ua/info/3339).
5. Official note of the State Regulatory Service of Ukraine of 10 April 2014, [www.dkrp.gov.ua/info/3339](http://www.dkrp.gov.ua/info/3339).
6. For example, a regulation of small polluting sources in the Czech Republic sets national ELVs for 10 pollutants.
7. In many EU countries that had media-permitting before the implementation of the IPPC Directive in 2007 as well as in part of the new Member States, this system has remained in place for installations that are not subject to integrated permitting.

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