

The European Union's IPA 2010 programme for Albania

***Technical Assistance for Strengthening the
Capacity of the Ministry of Environment in Albania
for Law Drafting and Enforcement of National
Environmental Legislation***

(EuropeAid/I 30987/C/SER/AL)

**Environmental Permitting
Guidance Note
Activity C.3**

Final Document



This project is funded by
the European Union



Project title: Technical Assistance for Strengthening the Capacity of the Ministry of Environment in Albania for Law Drafting and Enforcement of National Environmental Legislation
Project number: Europe Aid/130987/C/SER/AL;
Contract no. 2011/275-693
Country: Republic of Albania

	Beneficiary	Contractor
Name:	Ministry of Environment	Grontmij A/S
Address:	Durresi Str, Nr 27, Tirana, Albania	Granskoven 8 DK-2600 Glostrup
Contact Person:	Ardiana Sokoli	Paolo Bacca
Phone:	+355 4 2270622	+355 4 2226493
E-mail:	Ardiana.Sokoli@moe.gov.al	Paolo.Bacca@selea.al

Date of Report: June 2014
Title: **Environmental Permitting Guidance Note**
Authors: Kurt Terpgaard-Jensen & Erjola Muka
QA/QC: Paolo Bacca

Acknowledgement

The project team wishes to express its gratitude to all resource persons and experts from all institutions and stakeholders involved in the collection of data and information and to all persons and bodies that have supported the development of this Working Paper. Special thanks are extended to the directors of the Ministry of Environment and the National Environment Agency.

This report has been prepared by a project team working for Grontmij. The findings, conclusions and interpretations expressed in this document are those of Grontmij alone and should not in any way be taken to reflect the opinions and policies of the European Commission.

Table of Contents

1	INTRODUCTION	3
1.1	PURPOSE OF GUIDELINE	3
1.2	PERMITTING AND EIA	3
1.3	APPLICATION FOR TYPE A, B OR C?	4
2	THEORY AND FRAMEWORK	5
2.1	SCOPE OF PERMITTING	5
2.2	SYSTEM OF PERMITTING	5
2.3	INSTITUTIONAL ASPECTS OF PERMITTING	5
3	THE PERMITTING PROCEDURE	7
3.1	APPLICATION BY THE OPERATOR	7
3.2	RECEIPT AND INITIAL CHECK OF APPLICATION	7
3.3	CONSULTATION	7
3.5	GRANTING OF PERMIT OR NOTIFICATION OF REFUSAL	8
3.6	PERMIT REVISION OR CESSATION	8
3.7	PERMIT REVOCATION OR SUSPENSION	8
4	SETTING ENVIRONMENTAL PERMIT CONDITIONS	10
4.1	TYPE A ENVIRONMENTAL PERMIT	10
4.2	TYPE B ENVIRONMENTAL PERMIT	10
4.3	TYPE C ENVIRONMENTAL PERMIT	11
4.4	TRANSITION PERIOD	11
4.5	REVIEW OF PERMITS	11
	ANNEX A - CONTENT OF APPLICATION FOR AN ENVIRONMENTAL PERMIT	12
	ANNEX B – TECHNICAL CONTENT OF AN ENVIRONMENTAL PERMIT	14
	ANNEX C - SETTING EMISSION LIMIT VALUES	15
	ANNEX D - TERMINOLOGY AND DEFINITIONS	15

List of Abbreviations

BAT	Best Available Technique
BREF	BAT Reference Documents
CSP	Compliance Schedule Plan
ELV	Emission Limit Value
EQS	Environmental Quality Standard
EIA	Environmental Impact Assessment
EU	European Union
GBR	General Binding Rule
IPPC	Integrated Pollution Prevention and Control
LEP	Law on Environmental Permitting
LGA	Local Government Authority
MoE	Ministry of Environment
NEA	National Environmental Agency
NLC	National Licensing Centre
REA	Regional Environment Agency
SEI	State Environmental Inspectorate

1 INTRODUCTION

1.1. PURPOSE OF GUIDELINE

The purpose of the present Environmental Permitting Guideline for Albania is to provide a brief document for a wider audience, the staff of the Albanian National Environment Agency (NEA) and the Regional Environmental Agencies (REAs) with a tool that will make it easy to understand the Environmental Permitting process.

The EIA Guidance Note also in brief clarifies the difference between Environmental Permitting and the EIA Process as part of the Development Consent.

An **Environmental Permit** is a legal instrument for reducing, minimizing or avoiding environmental impacts from operation of polluting installations, ensuring compliance with environmental requirements and promoting environmental friendly techniques. The environmental permit also cares about the rehabilitation or after-care after termination of an activity.

An **Environmental Declaration** is a legal instrument for having a new development project assessed to minimize or avoid environmental impacts. EIA is part of an overall assessment process to result in a Development Consent (environmental impacts assessment, spatial planning assessment, construction consent, etc.).

The Guideline describes the key elements of the environmental permitting system, including:

- The **basic principles** of environmental permitting (for NEA and REAs)
- The permitting **procedures in general** (for NEA and REAs)
- Brief guidance on **Type A and B permitting process (for NEA)**
- Brief guidance on **Type C permitting process (for REAs)**

The present Guidance Note is supplemented with a Guidance for the Applicant – how to prepare an application for an environmental permit. If more information will be needed a lot of valuable information might be found in the Permitting Manual that contains most information and checklists, etc.

Similar to the permitting process a Manual and a Guidance Note are prepared for the EIA process.

1.2. PERMITTING AND EIA

EIA is a process only for NEW development projects (including polluting installations but mainly for infrastructure projects). Environmental Permits are issued for OLD and NEW polluting installations.

The result of the EIA process is the Environmental Declaration – the result of the permitting process is the Environmental Permit.

The Environmental Permit is prepared by NEA, signed by the Minister and issued by NLC. Environmental permits are checked for compliance with conditions for operation and rehabilitation by the State Environmental Inspectorate.

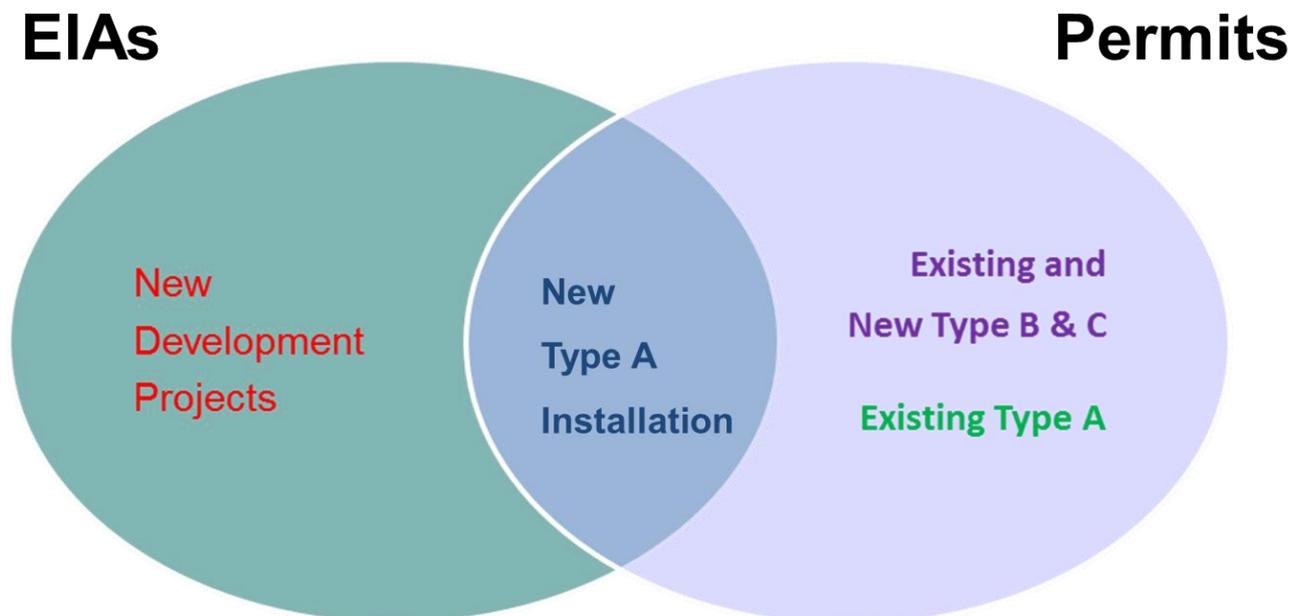
The Environmental Declaration is prepared by NEA and signed by the Minister. It is the planning authority that issues the Development Consent. The environmental conditions related to the construction of the development project (as part of the Environmental Declaration) are compliance checked by the State Environmental Inspectorate.

The EIA process is prior to the processing of a possible Environmental Permit.

If a developer is going to establish a new polluting installation (Type A or selected Type B) as well an Environmental Declaration as an Environmental Permit might be needed.

The EIA process is conducted primarily to justify the best environmental location of a new infrastructure project or a new polluting installation.

The difference and similarities between the EIA process and the permitting process are illustrated in the figure below:



Lists are annexed to the respective Laws on EIA and Law on Permitting. The processing of an application for an EIA or a permit depends if an installation is listed on one or both of these lists?

1.3. APPLICATION FOR TYPE A, B OR C?

When applying for an Environmental Permit it is important to clarify which type of Permit (Type A, B or C?) needs to be processed.

The legislation on environmental permitting clearly distinguishes between three types of Environmental Permits:

- Type A – for polluting installations listed in the column entitled “Capacity threshold class A” in Annex I of the Law No. 10048, dated 14.07.2011 on “Environmental Permitting”.
- Type B – for polluting installations listed in the column entitled “Capacity threshold class B” in Annex I of the Law No. 10048, dated 14.07.2011 on “Environmental Permitting”.
- Type C – for installations listed in the column entitled “Capacity threshold class C” in Annex I of the Law No. 10048, dated 14.07.2011 on “Environmental Permitting”.

The applicant must use the appropriate application form corresponding to the type of environmental permit that has to be applied for (Type A, B or C).

2 THEORY AND FRAMEWORK

2.1. SCOPE OF PERMITTING

Permits are developed as integrated permits.

Permits set out conditions (standards are listed in Annex B) for e.g.:

- Emission limit values for air and water
- Waste Management
- Noise emissions
- Efficient use of Raw materials
- Monitoring

In addition, environmental permits deal with the technique applied to minimise emissions, the way the installation is managed in normal situations, communication in case of accidents, communication with the institutions and the public and how cease of operations, decommissioning and restoration of the site is planned.

Details of these provisions depend on the type of the installation. Some environmental conditions are standardised while several are designed on case by case for a specific installation.

2.2. SYSTEM OF PERMITTING

The system of permitting in relation to environment protection is established by Law (“On Environmental Permitting No. 10488 Dated 14.7.2011”) which provides the basic principles for all types/categories of permitting and also for environmental permitting.

The main features of the Law are as follows:

- A system of three types of environmental permitting is established– **Type A, B and C** -the three are distinguished from each other by the category of industrial activity and production capacity
- Applications are received and distributed by NLC
- **NEA/REA prepares proposals for Environmental Permits**
- Permits for industrial installations is issued **considering local conditions**
- **Public participation and access to information** (the public have an opportunity to comment on permit applications before the relevant authority reaches its decision and have access to the permit-related information after the permit has been awarded)
- The use of **Best Available Techniques (BAT) for Type A** (consumption of resources (water and other raw materials) and the efficient use of energy)
- The focus on **pollution prevention and reduction** rather than end-of-pipe control.
- The return of the site to a satisfactory condition when the installation is closed.

2.3. INSTITUTIONAL ASPECTS OF PERMITTING

The National Licensing Centre (**NLC**) is the “One-stop-shop” authority for receiving all applications. NLC is the authority where the request is made and where the environmental permit of type A, B and C is issued. NLC distributes the application to the relevant competent authority.

The application is processed by the National Environmental Agency (**NEA**) (Type A and B) and the Regional Environmental Agencies (**REAs**)(Type C). The environmental authority checks that all technical information is provided.

Type A and B permits are managed by NEA that provides the technical opinion to the **Minister** for granting or not the environmental permit (with detailed conditions). NLC issue the permit.

Type C permits are prepared by the relevant REA and issued by NLC.

3 THE PERMITTING PROCEDURE

The issuing of an environmental permit involves the following general stages:

1. Preparation of application by the **Operator**
2. Initial administrative compliance check of application made by **NLC**
3. Initial technical check by **NEA/REA**
4. Consultation of other relevant authorities and the public by **NEA/REA**
5. Technical assessment of the application by **NEA/REA**
6. Setting permit conditions by **NEA/REA**
7. **NEA** make proposal to Minister (Type A and B)
8. **Minister** to sign for permit or refusal (Type A and B)
9. **NLC** to forward the permit or refusal
10. Eventual appeal

3.1. APPLICATION BY THE OPERATOR

Applications are prepared by the operator of the installation. The operator is responsible for making a permit application. A standard application form is available and is expected to be mandatory by Law to ensure comprehensive technical information.

There are **three types of application forms**:

1. Application Form for Environmental Permit of Type A;
2. Application Form for Environmental Permit of Type B; and
3. Application Form for Environmental Permit of Type C.

3.2. RECEIPT AND INITIAL CHECK OF APPLICATION

This procedure sets out a two-step process to determine the validity of the application:

1. The *initial administrative check* by **NLC**
Confirmation of application as administrative valid by **NLC**
2. The *initial technical check* by **NEA/REA**
Confirmation of application as technical valid by **NEA/REA** or
Request for more technical information

3.3. CONSULTATION

When an application is considered (administratively and technically) valid NEA/REA shall:

- Consult other relevant institutions
- Consider if granting a permit could compromise or conflict with the requirements of other authorities
- Take into consideration the views of the public

3.4. TECHNICAL ASSESSMENT OF THE APPLICATION

The technical assessment is done by NEA/REA that:

- Assesses in details the technical information provided
- assesses the environmental impact
- assess possible cumulative effects from other installations
- consider the necessary mitigation measures
- consider the integrated effect from one media to another (cleaning of air with water may result in hazardous waste water)
- assess possible BAT (Type A)
- consider the necessary conditions for operating the installation
- consider ELVs for emissions in question
- consider the environmental investments needed for the existing installation to comply with BAT environmental requirements over time (Type A)

After environmental assessing of the application, NEA must decide either to propose to grant a permit or to refuse the permit.

3.5. GRANTING OF PERMIT OR NOTIFICATION OF REFUSAL

The Minister endorses the approval or the notification of refusal of the environmental permit of Type A and B on the request of NEA.

The relevant REA approves or notifies the refusal of the environmental permit of Type C.

NEA/REA submits to the NLC the permit documents or the notification of refusal. The final issuance of the environmental permit or notification of refusal is done by NLC.

NLC publishes the permit in the National Register of Licences and Permits available for the public.

3.6. PERMIT REVISION OR CESSATION

A permit might be revised or ceased in case of:

- the operation of an installation in Albania is likely to have significant negative effects on the environment of another State
- by law a revision is deemed needed
- on request of the operator if changes are envisioned to the regulated process or if there are changes to the operator's ownership or contact information
- the relevant authority find that the applicable environmental quality objectives and/or standards have been modified

The operator may cease the permit voluntarily if ceased for commercial or other personal reasons, but has to do so through a formal application to the relevant authority.

3.7. PERMIT REVOCATION OR SUSPENSION

A permit might be revoked where an operator of an installation has failed to pay a fee due in respect of the Law. The Minister/NEA shall make a formal request to NLC for the revocation of the environmental permit.

On request of NEA the Minister may temporary suspend or revoke an environmental permit when:

- a) a request is submitted by the operator;
- b) conditions foreseen in environmental permit are not complied with;
- c) the operator is convicted of a criminal offense;
- d) the operator many times has violated the environmental legislation;

Revocation or temporary suspension of a permit is used only where exhaustive use of other enforcement tools has failed to protect the environment.

Environmental Inspectors also have powers to suspend or revoke a permit, in whole or in part, by presented a formal notice to the operator.

4 SETTING ENVIRONMENTAL PERMIT CONDITIONS

No person should operate an installation without an environmental permit.

A permit must contain conditions that are:

- **S**imple (S)
- **M**easurable (M)
- **A**ccurate (A)
- **R**ealistic (R)
- **T**imebound (T)

The **SMART** principle is important to ensure conditions that are enforceable.

The key to simple, effective and consistent permitting is to base permit conditions on standards and technical guidance that have been agreed by all relevant parties and that are available to all stakeholders, including the public.

4.1. TYPE A ENVIRONMENTAL PERMIT

The Type A permit shall take into account the environmental performance of the installation or activity as a whole and include control of all emissions to all media.

Therefore, permit conditions must include:

- **description of the installation** and its activities, site, topography, and vicinity
- **use of raw materials** and chemicals, water and energy consumption
- the source of **emissions** to air, water or land
- **waste** generation and the need for waste minimisation through recycling
- **noise** and **vibration** effect
- proposed technology and other techniques (**BAT**) to prevent or reduce emissions
- **self monitoring** (monitoring the efficiency of the process equipment, the equipment and the emissions)
- measures to be taken when the **activity ceases**, including remedial action.

The permit shall set emission limit values for pollutants according to Best Available Techniques. Any emission limit values and any other provisions shall be minimum values.

The permit shall also include provisions for:

- obligation for the operator or person-in-charge to immediately report situations of breach of permit conditions (non-compliance)
- to immediately undertake actions to minimise or prevent any environmental impact in case of an accident or incident,

A Standard Type A Permit is developed to facilitate the desk officer to prepare the necessary conditions.

4.2. TYPE B ENVIRONMENTAL PERMIT

The type B environmental permit is somewhat similar to Type A environmental permit except that it is not based on BAT. The Type B environmental permit must ensure compliance with any minimum technical standards and with any environmental quality standards.

4.3. TYPE C ENVIRONMENTAL PERMIT

The type C permit is a simple permit with limited conditions if any.

4.4. TRANSITION PERIOD

It is recognised that existing Type A installations (that is to say those installations that are already operating at the date the Law on Environmental Protection came into force) might need a transitional period before they can fully comply with all environmental requirements.

For that reason a specific management tool – the compliance action plan (CAP) – has been developed. The CAP describes the necessary actions over time to fully comply with all conditions. The CAP enables the operator to plan for the necessary changes and to secure the necessary funds for implementation.

Type A and Type B installations must comply with the new Law on Environmental Permitting no later than 8 years after the law came into effect (June 2019). Type C installations must comply with the law. No Compliance Schedule Plan is required for Type C industrial activities.

Form: Compliance Schedule Plan and Deadline

COMPLIANCE SCHEDULE PLAN						
Table 1. Activities for compliance with the Type A Environmental Permit or Type B Environmental Permit						
No.	Activities	Investments (EUR)	Start of activity (date)	End of activity (date)	Activity results	Method of control
<p>Activities: Description of the activity/activities which shall be conducted in order to achieve compliance for the installations with the environmental legislation</p> <p>Investments: Investments for the activity (financial means indicator necessary for the realization of each phase of the operational plan and the indicator of general equipments necessary for the achievement of the plan</p> <p>Start: Date (month/year) for which the start of the activity has been planned</p> <p>End: Date (month/year) for which the termination of the activity or the launching into operation has been planned</p> <p>Result from the activity: The specific result shall be described (example: emission reduction)</p> <p>Method of control: Description of the way in which the performed activity can be controlled</p>						
Table 2. Deadlines for implementing the activities in Table 1 and annual investments						
No.	Activities	Costs by years - EUR				
		Year	Year	Year	Year	Year
<p>Year: Cost-benefit analysis by the operator providing the annual expenditure necessary for implementing each of the activities of Table 2</p>						

4.5. REVIEW OF PERMITS

Environmental permit conditions should be periodically reviewed by NEA/REA. The purpose is to assess if any change is required in the permit conditions. The review may require site visit to the industrial activity or information from the inspectors.

All changes will be formally notified to the operator.

ANNEX A - CONTENT OF APPLICATION FOR AN ENVIRONMENTAL PERMIT

Standard mandatory application forms must be applied.

There are three types of standard application forms mandatory to be utilised by the applicant by law:

- Application Form for a Type A Environmental Permit
- Application Form for a Type B Environmental Permit
- Application Form for a Type C Environmental Permit

The information required in the Application Form for Type A and B are very similar and include among others the following:

Category A and B - Environmental Permit Application Form

1. Identity of the Installation.
2. Identity of the Operator, contact details and legal status of the operator in order to establish clearly who is responsible for securing compliance with the permit and who is liable in case of enforcement action for any non-compliance.
3. Scope of Installation. A clear description is required of all the relevant activities and facilities comprising the installation to be permitted description of site.
4. Operational and Management Techniques. Application must demonstrate that the techniques to be employed at the installation to minimise the creation of waste and prevent emissions are BAT compliant. The techniques to be addressed might typically include the following:
 - Use of raw materials and water
 - Prevention and control of emissions and waste
 - Waste management
 - Energy use and efficiency
 - Emergency response plan
 - Monitoring systems
 - Decommissioning and remediation
 - Environmental management system
5. Proposed Emissions. Details must be provided on all the emissions resulting from operation of the installation and compliance with relevant sector-based BAT on which ELVs will be based must be demonstrated.
6. Impact of Emissions on the Environment. Information should be given on the results of assessment of any potentially significant environmental impacts of the above emissions. The purpose of this assessment is to demonstrate that the impacts will be acceptable, by way of compliance with relevant EQSs. Inability to demonstrate such acceptability may lead to a rejection of the application. Furthermore where an installation requires an Environmental Impact Assessment Report in accordance with the Law on Environmental Impact Assessment, the application shall also include any relevant information obtained or conclusions reached in relation to the installation from that Environmental Impact Assessment.
7. Non-technical summary written by applicant who can be used on public register. This should follow the structure of the application and be in sufficient detail and in such language as to allow members of the public to understand the proposal and to make a sensible response.

Category C - Environmental Permit Application

- Name and address of operator

- Location of activity
- Description of activity
- Nature and amount of any polluting release (wastewater discharge <20m³ treated wastewater per day) (air emission - no toxic air pollutants, <100 tonnes per year non-toxic)
- Waste generation (no hazardous waste, waste <534 tonnes per year)
- Maximum rate at which energy is used
- Statement of any offensive odours
- Statement of any noise levels
- Safe storage of hazardous materials

ANNEX B – TECHNICAL CONTENT OF AN ENVIRONMENTAL PERMIT

An integrated environmental permit should contain at the least the following technical conditions:

- | | |
|--------------|--|
| Condition 1 | Scope |
| Condition 2 | Management of the Installation |
| Condition 3 | Operation and Infrastructure |
| Condition 4 | Compliance Programme |
| Condition 5 | Interpretation |
| Condition 6 | Notifications |
| Condition 7 | Emission |
| Condition 8 | Waste Management |
| Condition 9 | Noise |
| Condition 10 | Raw materials and energy utilization |
| Condition 11 | Monitoring |
| Condition 12 | Documenting and reporting to the competent authority |
| Condition 13 | Incidents and responses during emergencies |
| Condition 14 | Decommissioning, remediation and control after cessation of operations |

ANNEX C - SETTING EMISSION LIMIT VALUES

Setting ELVs in integrated permits should be based on a combination of the environmental quality standards (EQS) approach and – if Type A - the best available technique based approach.

ELVs for large industrial installations must be based on a combined assessment of environmental quality objectives and the current state of technology for reducing harmful releases. In using the combined approach, the permitting authority has to go through the following steps:

- Assess which permit Type the installation is, if A, B or C
- Assess the possible cumulative effect from other installations
- Consider the applicable ELVs as defined in the legislation, and if so, ELVs in the permit must as a minimum comply with these ELVs
- For Type A - set ELVs in the permit based on Best Available Technique (may be stricter than national standard ELV)
- If an EQS cannot be achieved even by the use of BAT at a particular installation, the regulator must either take measures to reduce discharges from other installations in the area (thereby ensuring compliance with the EQS) or refuse the permit in question