

Transposition of the Industrial Emissions Directive in Scotland: Consultation

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Introduction

1. The Industrial Emissions Directive¹ is a Recast of seven existing Directives: those concerning integrated pollution prevention and control ('IPPC') (2008/1/EC), large combustion plants (2001/80/EC), waste incineration (2000/76/EC), solvent emissions (1999/13/EC) and three concerning waste from the titanium dioxide industry². Material from those Directives is to be found in Chapters II to VI respectively of the Industrial Emissions Directive.
2. These 'component Directives' are currently transposed in Scotland through the Pollution Prevention and Control (Scotland) Regulations 2000 (SSI 2000/323)³ – usually abbreviated in this consultation as 'the PPC Regulations'. In this paper and its accompanying material, the Industrial Emissions Directive is generally referred to simply as 'the IED'.
3. As much of the material in the recast Directive remains substantively unchanged from the component Directives, we consider that the PPC Regulations provide the most appropriate vehicle through which to transpose the IED.
4. However the PPC Regulations have already been amended by no fewer than 25 other pieces of legislation, up to and including the Waste (Scotland) Regulations 2012. These have ranged from significant amendments dealing with large combustion plants, waste incineration, solvent emissions, and petrol vapour recovery, to more minor amendments updating cross-references and the like. The result is a very complex patchwork of legislation, making it difficult for all users – Government, SEPA and permit holders alike – to determine what the current requirements are.
5. Transposition of the IED will inevitably require a large number of further amendments to the PPC Regulations, compounding the difficulties of use. We have therefore taken the opportunity to consolidate the PPC Regulations, incorporating the changes required to transpose the Directive. While this makes it a little more difficult to see precisely what has changed, the end result will be a single clear set of Regulations. The draft Regulations are on the Scottish Government website at <http://www.scotland.gov.uk/Topics/Environment/waste-and-pollution/Pollution-1/Industrial-Pollution>, together with a partial Business and Regulatory Impact Assessment. These remain a work in progress and there are substantial sections still to be prepared, for example on transitional arrangements and consequential amendments. However they do illustrate the shape of the new Regulations and the changes that have been made to incorporate the requirements of the IED.
6. The Scottish Government and SEPA are also consulting on proposals for an integrated framework of environmental regulation⁴, which is expected to involve the integration and alignment of the main regulatory regimes operated by SEPA – PPC, the Radioactive Substances Act 1993, the Water Environment (Controlled Activities)

¹ A short summary of the industrial emissions Directive, containing a link to the Directive itself, is at http://europa.eu/legislation_summaries/environment/air_pollution/ev0027_en.htm.

² Directives 78/176/EEC, 82/883/EEC and 92/112/EEC.

³ At <http://www.legislation.gov.uk/ssi/2000/323/contents/made>.

⁴ <http://www.scotland.gov.uk/Publications/2012/05/6822>

(Scotland) Regulations 2011 and waste management licensing. This is similar to changes which have already taken place in England and Wales in establishing the Environmental Permitting Regulations. It is therefore likely that the draft Regulations will be short-lived, being overtaken in time by the outcome of this Better Environmental Regulation work.

7. For further background to the IED, please see the partial Business and Regulatory Impact Assessment (BRIA) available at <http://www.scotland.gov.uk/Topics/Environment/waste-and-pollution/Pollution-1/Industrial-Pollution> . Your comments on this partial BRIA are welcome alongside responses to the questions raised in this consultation paper.
8. The remaining sections of this paper generally follow the structure of the IED and set out the particular points upon which the Scottish Government would be particularly grateful to receive comments. Other points to note about the effect of the draft Regulations are set out in Appendix A to this consultation paper. Although specific questions are put to you below, please consider the draft Regulations as a whole and comment on any perceived deficiencies or uncertainties.

IED Chapter I – ‘Common Provisions’

9. Please note that Articles 1 to 9 of the IED apply to the Directive as a whole. This consultation paper highlight particular points amongst those Articles, but respondents – particularly those with installations not currently subject to the IPPC provisions⁵ in the Directive’s Chapter II - should examine Chapter I as a whole in some detail.

Permits for operators of parts of an installation

10. Article 4(3) provides the option for a single permit to cover ‘several parts of an installation operated by different operators’, provided that the permit specifies the responsibilities of each operator.
11. Under the current PPC Regulations, a permit can be granted only to a person who will have control over the operation of the installation, or a part of the installation. So where there:
- is a sole operator of an entire installation, one permit is issued to that operator;
 - are joint operators of an entire installation (i.e. more than one person operating in partnership), one permit for the entire installation is issued to the legal entity of the joint operators as defined in the partnership or joint enterprise agreement;
 - are sole operators of different parts of an installation (for example, one person operates the main activity, another directly associated activity forming part of the installation), a permit is issued to each of the sole operators in respect of the activity or activities they operate.
12. However, the PPC Regulations do not provide for a single permit to be issued to operators who are not acting in partnership or other form of joint enterprise. A permit covering the activities of more than one distinct operator would still need to make the responsibilities of each operator within the installation completely clear, so that appropriate conditions could be included and, in the event of non-compliance, enforcement action could be taken in the same way as would be the case if the permit covered only a single operator. Only in that way could environmental protection be satisfactorily provided. A permit covering different operators would be highly complex in terms both of its content and the processes needed in making and determining the application.
13. The Scottish Government is therefore currently not minded to adjust the PPC Regulations so as to accommodate the option contained in Article 4(3) of the IED.
- Q1: Are you content with that? If not, can you demonstrate from a real example that allowing a permit to cover several parts of an installation operated by different operators will reduce overall regulatory burden whilst maintaining the environmental protection required by the IED?**

⁵ Integrated pollution prevention and control (IPPC); the subject of a previous directive but used in this paper and more widely now as a term for a comprehensive, cross-media approach to pollution control.

Incidents and accidents

14. Article 7(c) requires the competent authority, in the event of any incident or accident significantly affecting the environment, to require 'the operator to take any appropriate complementary measures that the competent authority considers necessary to limit the environmental consequences and to prevent further possible incidents or accidents'. This Article applies to all activities covered by the IED, not only those which are subject to IPPC.
15. Regulation 19 of the PPC Regulations already provides SEPA with the power to serve an enforcement notice which can specify steps to be taken if an operator 'has contravened, is contravening, or is likely to contravene' a permit condition. Those steps may be directed towards limiting environmental consequences and the prevention of further incidents or accidents.
16. However, it is conceivable that an incident or accident significantly affecting the environment may arise in circumstances where there is no breach or likely breach of a permit condition. Regulation 45 of the draft Regulations therefore empowers SEPA to issue enforcement notices in those circumstances. **Q2: Do you agree with this approach. If not, why not?**

Energy efficiency requirements upon installations in the EU-Emissions Trading Scheme

17. Article 9(2) continues the provision in the IPPC Directive that energy efficiency requirements need not be applied in the case of installations which are also subject to the EU emissions trading system (EU-ETS). The provision in the IPPC Directive is not currently transposed in the PPC Regulations, although regulation 9(9A) and (9B) implement the related requirement in Article 9(1) to not include emission limit values in respect of greenhouse gases emitted from installations subject to that system.
18. Regulation 9 of the draft Regulations therefore provides that SEPA will be able to exercise discretion on the application of energy efficiency requirements to EU-ETS installations. **Q3: Are you content with the proposed way of transposing Article 9(2)?** Note that Article 23(4) of the Waste Framework Directive requires the incineration or co-incineration of waste with energy recovery to take place with a high level of energy efficiency. This requirement, implemented through regulation 22, will still apply.
19. It should be noted that Article 9(2) applies not only to Chapter II (IPPC) requirements but also to Chapters III (Combustion Plants), IV (Waste Incineration and Co-Incineration Plants), V (Solvents) and VI (Titanium Dioxide), although its relevance may be limited.

IED Chapter II – installations subject to IPPC

Preamble

20. Chapter II of the IED contains requirements which apply to the conduct of any of the industrial activities listed in the Directive's Annex I. They are largely very similar to those in the current IPPC Directive, but some clarify or extend those existing requirements.

Emission limit values

21. Article 15(3) requires the competent authority to set emission limit values that ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with the Best Available Techniques (BAT) as laid down in the decisions on BAT conclusions. Article 15(4) enables the competent authority, in specific cases, to set less strict emission limit values, but only where an assessment shows that the achievement of emission levels associated with the best available techniques as described in BAT conclusions would lead to disproportionately higher costs compared to the environmental benefits due to (a) the geographical location or the local environmental conditions of the installation concerned; or (b) the technical characteristics of the installation concerned. Article 24(1)(c) applies public participation requirements to the exercise of the derogation provided by Article 15(4) and the reasons for the derogation have to be documented in an annex to the permit.

22. We propose to transpose the requirements of Article 15(3) and (4) through the proposed regulation 16.

23. Please note that Article 24(1)(c), requiring public participation in respect of the proposed application of Article 15(4), will be transposed through the requirements in Schedule 4.

General binding rules

24. Taken together, Articles 3(8), Article 6 and Article 17 allow Member States to set 'general binding rules' (GBRs). The Scottish Government considers that regulations 10-10F of the existing PPC Regulations on 'standard rules' already provide a framework which is consistent with these GBR provisions, and these are carried over as regulations 29 to 36 of the draft Regulations. It should be noted that Article 17(1) maintains the requirement of Article 9(8) of the IPPC Directive by requiring Member States to 'ensure [through the use of GBRs] an integrated approach and a high level of environmental protection equivalent to that achievable with individual permit conditions'. **Q4: Do you consider that, in particular sectors, further use of this approach could be made?**

Baseline reports and site closure

25. Article 3(1)(f) of the IPPC Directive requires that installations are operated in such a way that 'the necessary measures are taken upon definitive cessation of activities to avoid any pollution risk and return the site of operation to a satisfactory state'. The existing PPC Regulations require a 'site report' to be submitted at application for, and surrender of, a permit in order to demonstrate this. Article 11(h) of the IED

maintains that requirement and so in principle no change is brought about by the latter. However, that Article refers to 'satisfactory state' defined in accordance with Article 22.

26. Much of Article 22 reflects the already-established practice, as required by the existing PPC Regulations. Guidance already exists from SEPA⁶ on site condition reports. Article 22(2) explicitly requires the preparation of a 'baseline report', as defined in Article 3(19), but only where 'the activity at the installation involves the use, production or release of relevant hazardous substances and having regard to the possibility of soil and groundwater contamination at the site of the installation'. That means that a baseline report will not necessarily be required for every installation subject to the IPPC requirements in Chapter II: even if 'relevant hazardous substances' are involved, SEPA has to take a view on whether they could actually cause contamination.
27. The site condition report, dating from the time the IPPC permit was first applied for, should generally remain valid even when the permit is subsequently updated. There should therefore be no need for submission of a completely new baseline report when an existing permit is updated for the first time after 7 January 2013. But it must be noted that Article 22(2) requires the baseline report to contain the information necessary to enable a quantified comparison to be made between the state of the site at cessation of activity and the baseline state. SEPA will need to check this when permits receive their first review under the requirements of Article 21. **Q5: Do you envisage it being necessary to strengthen existing site condition reports? If so, in what way or ways, and at what cost?** Operators should in any case bear in mind that it is in their interests to have a report which contains detail sufficient to minimise the risk of their being held responsible for contamination which in fact predated their permitted activity.

Emerging techniques

28. Article 3(14) defines 'emerging techniques' as 'a novel technique for an industrial activity that, if commercially developed, could provide either a higher general level of protection of the environment or at least the same level of protection of the environment and higher cost savings than existing best available techniques'. Article 27(1) requires Member States, where appropriate, to encourage the development and application of emerging techniques.
29. The proposed regulation 4 would require SEPA, where appropriate, to exercise its functions so as to encourage the application of emerging techniques, in particular for those identified in BAT reference documents. We consider that SEPA can do this primarily through its dealings with operators who seek either new or varied permits for an activity in which an emerging technique is to be employed: SEPA will note that Articles 14(5) and (6) provide the basis for their permitting decisions in such situations. **Q6: Do you have views on how SEPA can encourage the development and application of emerging techniques?**

Waste management activities

⁶ Available at

http://www.sepa.org.uk/air/process_industry_regulation/pollution_prevention_control/sepa_guidance.aspx

30. Point 5.3(b) of the IED's Annex I extends the coverage of non-hazardous waste management activities by IPPC to include specified recovery activities. Point 5.1 of that Annex specifies hazardous waste management activities by direct description rather than by reference to Annex II of what is now Directive 2008/98/EC on waste. These descriptions are in the proposed new Section 5.4 in Schedule 1 to the draft Regulations.

31. The IED's definition of 'waste' in Article 3(37) uses that in Article 3(1) of the Waste Framework Directive⁷: 'waste' means any substance or object which the holder discards or intends or is required to discard. Please note that there is no reference in IED to Article 2 of the Waste Framework Directive, which excludes certain specified wastes from the scope of that Directive. Therefore technical units treating any material which is waste according to Article 3(1) of the Waste Framework Directive are subject to IPPC if their capacity exceeds the relevant threshold, even if the material is covered by the Waste Framework Directive's exclusions. The wastes concerned are listed in paragraph 3 of Appendix A to this consultation paper. **Q7: Do you have any uncertainties about which waste management activities are now subject to IPPC requirements?**

Activities newly subject to IPPC – the '2015 installations'

32. Article 82(2) lists, by reference to the IED's Annex I, activities which need to be permitted only from 7 July 2015 if they are carried out at installations which were in operation before 7 January 2013. Such installations are referred to here as the '2015 installations'. The activity descriptions concerned would be, in Part 2 of Schedule 1 to the draft Regulations, as follows:

IED Annex I point:	PPC Part 2 of Schedule 1, Section:	Affecting installations carrying out:
1.4(b) – gasification or liquefaction of coal and other fuels	1.2 A (c)	gasification insofar as fuels other than coal and carbonaceous material are concerned
4.1-4.6 – chemical industry	4.1 – 4.4 and 4.6	chemical production but only insofar as any biological processing activities are not already permitted.
5.1 – disposal/recovery of hazardous waste	5.3 A (a) to (d) and (k)	only recovery operations involving one or more of the following treatments of hazardous waste: biological treatment; physico-chemical treatment; blending or mixing or repackaging prior to submission to any of the other activities listed in Section 5.3 or in Part A of Section 5.1; or surface impoundment.
5.2 – disposal/recovery of waste in waste incineration or co-	5.1	waste incineration or co-incineration above the relevant thresholds if not already permitted.

⁷ Directive 2008/98/EC.

incineration plants		
5.3(a)(iii) to (v) – disposal of non-hazardous waste (pre-treatment for incineration/co-incineration; treatment of slags and ashes; shredding of metal waste)	5.4 A (a)(iii) to (v)	only one or more of the following disposal activities for non-hazardous waste: pre-treatment of waste for incineration or co-incineration; treatment of slags and ashes; and treatment in shredders of metal waste.
5.3(b) – recovery, or mix of recovery and disposal, of non-hazardous waste	5.4 A (b)	recovery or a mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day (or 100 tonnes per day if the only waste treatment activity is anaerobic digestion) involving one or more of the following activities and excluding activities covered by Directive 91/271/EEC: biological treatment; pre-treatment of waste for incineration or co-incineration; treatment of slags and ashes; or treatment in shredders of metal waste.
5.5 – temporary storage of hazardous waste pending other waste management activities	5.6 A (a)	temporary storage of hazardous waste with capacity above 50 tonnes (excluding on the site where the waste is generated).
5.6 – underground storage of hazardous waste	5.6 A (b)	underground storage of hazardous waste with a total capacity exceeding 50 tonnes.
6.1(c) – production of various wood-based panels	6.1 A (c)	manufacturing board if not already permitted.
6.4(b) – treatment and processing of animal and vegetable raw materials	6.8 A (d)(iii)	food production from mixed animal and vegetable materials if not already permitted.
6.10 - preservation of wood and wood products	6.6 A	wood preservation.
6.11 – independently operated treatment of waste water	5.7 A	independently operated treatment of waste water not covered by Directive 91/271/EEC and discharged by an installation carrying out any other Part A activity.

33. Note that, for several of the activities tabulated above, some installations may already have IPPC permits as a result of interpretations already in place within Scotland, or because the installations concerned are already carrying out other Part A activities.

34. As explained in paragraph 31 and paragraph 3 of Appendix A, the definition of 'waste' in the IED is wider than in its predecessor because the exclusion of certain wastes from the Waste Framework Directive has not been carried over. As a result some waste activities that were not covered by the PPC Regulations because of the types of waste involved will now be included. Existing installations carrying out these activities will also be dealt with as '2015 installations'.

IED Chapter IV – waste incineration

Preamble

35. With the small exception noted in paragraph 10 of Appendix A to this consultation paper, Chapter IV and Annex VI of the IED generally maintain the requirements of the Waste Incineration Directive. These are currently implemented by the Pollution Prevention and Control (Waste Incineration Directive) (Scotland) Directions 2003⁸, issued by the Scottish Ministers directing SEPA to include conditions in permits to give effect to these requirements. In the interests of greater transparency, and bringing all of the relevant requirements together in one piece of legislation, regulation 26 in the draft Regulations will transpose those requirements, largely through reference to the relevant Articles.
36. Note that, as under the current Waste Incineration Directive, the Chapter IV requirements apply to all waste incineration and co-incineration activities other than those specifically excluded by Article 42(2). There is no lower capacity threshold. Note also that the Chapter IV requirements are self-contained: they do not bring in any IPPC requirements from Chapter II. But activities above the relevant threshold in point 5.2 of Annex I of the IED are additionally subject to IPPC and that may possibly drive more stringent permit conditions.

Requirements for incineration and co-incineration installations not subject to IED

37. Activities subject to the current Waste Incineration Directive are assigned to Part A in Part 1 (chapter 5) of Schedule 1 to the PPC Regulations. These plant will thus be subject to the principles of BAT listed in Schedule 3 to the draft Regulations, as already implemented in permits under the current Regulations. However, incineration and co-incineration installations that do not exceed the relevant thresholds⁹ in Annex I of the IED will not be subject to the BAT reference document or associated BAT conclusions but will require a permit under regulation 26. There are some 10 installations in this position. **Q8: Do you agree with this proposal? What environmental consequences and compliance cost savings may arise?**

PCB and PAH monitoring

38. Paragraph 2.1(c) of Part 6 of Annex VI of the IED maintains the requirement of Article 11(2)(c) of the Waste Incineration Directive in respect of monitoring for heavy metals and furans. However, in transposing these requirements of the Waste Incineration Directive through the Pollution Prevention and Control (Waste Incineration Directive) (Scotland) Directions 2003, the words 'dioxin-like polychlorinated biphenyls and poly-cyclic aromatic hydrocarbons' were added to this requirement. The effect is to require monitoring of dioxin-like PCBs and PAHs at least twice yearly (and every 3 months during the initial 12 months of operation).
39. It is normally for SEPA to take a view on what pollutants are likely to be emitted in significant quantities and to set permit and monitoring conditions accordingly. While the emissions of these substances are normally very low, the proposed regulation 26 retains an explicit requirement in respect of monitoring for dioxin-like polychlorinated biphenyls and poly-cyclic aromatic hydrocarbons. These

⁸ Available at <http://www.scotland.gov.uk/Publications/2003/04/16964>

⁹ See the footnote to paragraph 7 of Appendix A.

substances are normally monitored by the same method and at the same time as the other pollutants for which monitoring is required by the IED, so the additional cost of doing so is marginal. We consider that this provides valuable reassurance to the public. **Q9: Do you agree with this proposal? If not, why not?**

IED Chapter V – activities using solvents

Preamble

40. Chapter V and Annex VII of the IED maintain without significant change the requirements of the current Solvent Emissions Directive.
41. The Chapter V requirements are self-contained: they do not bring in any IPPC requirements from Chapter II. To better reflect this, the provisions on solvents now appear as separate regulations (27 and 28) and in Schedule 2 rather than being dealt with alongside installations subject to IPPC in Schedule 1. Where activities using solvents – even if they lie below the solvent consumption thresholds in Part 2 of Annex VII - are also covered by an activity description in Annex I of the IED, the resulting IPPC requirements may possibly drive more stringent permit conditions.

Registration option for solvent activities

42. Article 4(1) of the IED maintains an option available in the Solvent Emissions Directive by stating that 'by way of derogation from the first subparagraph, Member States may set a procedure for the registration of installations covered only by Chapter V'. That Chapter contains the provisions of the current Solvent Emissions Directive virtually unchanged.
43. We have considered again whether it would be any less onerous for operators and SEPA if the current permit system for solvent activities were to be replaced by a registration system. As a general rule, the Scottish Government and SEPA consider that a tiered system of permissioning is an important step forward, as set out in our joint consultation on Proposals for an Integrated Framework of Environmental Regulation¹⁰ which envisages a three-tier structure of permits, registrations and general binding rules similar to that which already exists under the Water Environment (Controlled Activities) (Scotland) Regulations 2011. However it is not clear that the introduction of a registration system at this stage for solvent activities alone would lead to any significant benefits for operators or SEPA. We therefore propose not to implement this derogation now, but to deal with it as part of the outcome of the wider consultation on environmental regulation, at which point solvent emissions activities might be a prime candidate for application of a registration system.

44. Q10: Do you consider that the introduction of a registration system for solvent activities would be worthwhile in longer term?

Removal of BAT requirement from solvent activities

45. Solvent activities are currently regulated as a 'Part B' activity, meaning that they are subject to BAT-based requirements in respect of any emissions to air which are likely to be significant, whether or not they are of volatile organic compounds (VOCs). This goes beyond what is required by the current Solvent Emissions Directive and also by Chapter V of the IED: the use of BAT is mentioned only in relation to item 19 of the table in Part 2 of Annex VII of the IED and in the context of the derogations provided by Article 59(2) and (3) of the IED.

¹⁰ <http://www.scotland.gov.uk/Publications/2012/05/6822>

46. Initial indications from operators and regulators are that, in general, the BAT requirement does not add much or anything by way of compliance costs which would not in any case be necessary to meet the relevant solvent emission limit values. There is also a possibility that the removal of the BAT requirement could result in businesses taking less care in controlling emissions of some pollutants (mainly particulate matter, oxides of nitrogen, and carbon monoxide) other than solvents from the installations in question. However, there may be savings to some operators, were the BAT requirement to be removed.
47. The draft Regulations would remove BAT requirements from installations carrying out nothing but solvent activities. **Q11: Do you agree with this proposal? What are your views on the environmental consequences and compliance cost savings which may arise?**

IED Chapter VII - transitional arrangements

Transitional arrangements and timetable for permit applications

48. The draft Regulations do not yet contain transitional provisions. These will be required to ensure a smooth transition from the existing Pollution Prevention and Control (Scotland) Regulations 2000 to the new Regulations and the introduction of the IED requirements as straightforwardly as possible.
49. The following paragraphs set out our proposed arrangements for existing permits and for new applications.

Existing Permits

50. All PPC Part A Permits determined and issued before 7 January 2013 will be considered to be existing Permits for the purposes of the IED, provided the permitted installation is operational by 7 January 2014. SEPA will determine whether a permitted installation is operational.
51. Permits for existing PPC Part A activities must comply with the requirements of IED by 7 January 2014. It is intended that as at 7 January 2014 the majority of existing permits at operational sites will be made IED compliant through the use of a transitional provision to dis-apply some old conditions and add in their place new conditions relating to incident reporting and monitoring requirements. These changes will be standard and, as SEPA's permits are already largely IED compliant, will not make any radical change to the content of permits.
52. Where a PPC Part A Permit was issued before 7 January 2013 (or a complete application was submitted before that date) but the permitted installation has never been operational as at 7 January 2014, it will no longer be considered to be existing installation after 7 January 2014. Such installations must then be considered to be new for the purposes of IED. Under these circumstances, these installations must not be brought into operation until such time as any relevant additional information has been submitted and, if necessary, the permit has been varied. It is not anticipated that these installations will need to reapply for an entirely new permit.
53. Some existing permits may have to be individually varied before 7 January 2014 to be made IED compliant due to increased complexity of the changes needed. These permits are likely to be in the minority and include:
- sites which are regulated by the Waste Incineration Directive;
 - installations which are determined to be non-operational as of 7 January 2014.
 - permits for installations which will be regulated under Chapter 3 (special provisions for combustion plant) of IED, which will need to be individually varied prior to 1 January 2016.
54. SEPA will identify which installations will need to have permits individually varied.
55. All other permitting activities (SEPA and operator-initiated variations, including substantial changes, permit reviews, revocations, information requests or enforcement) in relation to existing permits which are begun prior to 7 January 2014

will be determined under the existing PPC permitting arrangements and will not be subject to any additional requirements introduced by the IED.

56. All applications to surrender existing permits made before 7 January 2014 will be determined under the existing arrangements and will not be subject to any additional requirements introduced by the IED.

Applications under determination / new permits

57. All applications for new PPC Part A installations that are under determination as at 7 January 2013 will continue to be determined under the existing PPC arrangements and will not be subject to any additional requirements introduced by the IED. Once determined, these processes will be deemed to be existing installations, and be subject to the transitional arrangements for existing permits detailed above. However this is dependent on the installation being in operation prior to 7 January 2014.

58. It should be noted that where either-

- (i) the application determination is incomplete by 7 January 2014; or
- (ii) the permit is issued but the installation is determined to not be in operation by 7 January 2014,

such installations will be considered to be 'new' for the purposes of IED. Under these circumstances the applicant may need to submit further information to SEPA as part of the application process or otherwise prior to receiving a permit or prior to beginning operations. Under these circumstances installations will not be permitted to operate until such time as the appropriate additional information is submitted and determined by SEPA. SEPA will determine whether a permitted installation is operational.

59. All new applications for PPC Part A installations received after 7 January 2013 will be determined under the new PPC Regulations, with reference to the full requirements of IED. This will include some previously unregulated activities and in some circumstances impose some new regulatory and application requirements, for example the submission of a baseline report.

Determinations under appeal

60. Any appeal to a permit determination/enforcement will be made under the requirements of the regime under which the permitting/enforcement action was carried out.

Legacy activities

61. The proposals set out at paragraph 75 below would result in removal of the need for PPC regulation from a small number of installations, with their activities either falling completely out of regulation or being regulated under other legislation such as the Water Environment (Controlled Activities) (Scotland) Regulations 2011, the Waste Management Licensing (Scotland) Regulations 2011 or as a Part B Activity under the Pollution Prevention and Control (Scotland) Regulations. The Scottish

Government and SEPA will make contact with the operators concerned to determine the best way to implement this.

Determination of applications for '2015 Installations'

62. As described at paragraph 32 above, the IED brings into regulation for the first time a number of new activities and also expands the scope of a number of existing activities. Operators of installations carrying out activities which are new to PPC or have an expanded scope and are already operating prior to 7 January 2013 must operate in compliance with a PPC permit from 7 July 2015. These sites are called '2015 installations'.
63. Many '2015 installations' activities represent areas in which SEPA has had little or no prior regulatory involvement. SEPA is currently gathering data on the number of these installations.
64. To obtain a permit, operators of '2015 installations' must prepare and submit an application to SEPA. The permitting of '2015 installations' represents a significant area of work. To avoid SEPA becoming overwhelmed by applications, and to ensure that all '2015 installations' have a permit by 7 July 2015, a proposed timetable for submission of applications has been prepared. This will be set out in the transitional provisions.
65. This approach has the benefit that common sectors can apply together thereby allowing SEPA to prepare them as a group and streamline the permitting process, ensuring that all '2015 installations' have a permit by 7 July 2015.
66. The proposed application timetable is detailed below. The application blocks aim to ensure that those activities for which SEPA anticipates receiving the greatest number of applications are submitted earliest, thus giving SEPA greater opportunity to resolve any problems with an individual application ahead of the 7 July 2015 deadline.

Block 1 Applications - consisting of food and drink sector sites (IED annex I, chapters 6.4 b (ii) and b (iii) for activities not covered by Directive 2008/1/EC)) **must be received between 7 January 2014 and 7 April 2014.**

Block 2 Applications - consisting of waste sector sites (IED annex I, chapters 5.1 and 5.2 for activities for activities not covered by Directive 2008/1/EC, chapters 5.3(a)(iii) to (v), 5.3 (b), 5.5 and 5.6) **must be received between 7 March 2014 and 7 June 2014.**

Block 3 Applications - consisting of wood preservation sites (IED annex I, chapter 6.10) **must be received between 7 May 2014 and 7 August 2014.**

Block 4 Applications - consisting of independently operated waste water treatment sites (IED annex I, Chapter 6.11), sites gasifying or liquefying fuels other than coal in installations with a total rated thermal input of 20MW or more (IED annex I, Chapter 1.4 b), sites in the chemical industry concerning production by biological processing (IED annex I, Chapters 4.1-4.6), sites producing oriented strand board, particleboard or fibreboard with a

production capacity exceeding 600m³ per day (IED annex I, Chapter 6.1 c)
must be received between 7 July 2014 and 7 October 2014.

67. All '2015 installations' applications will be required to be submitted by the end date of the relevant application block in line with the recommended timetable. Permits will be issued as soon as determination is completed but will include a condition (an activation condition) stating that the permit does not come into force until 7 July 2015.
68. Securing early applications from '2015 installations' will enable SEPA to manage the workload involved in dealing with a significant number of new permits. This approach will ensure that applicants receive permits as soon as possible after their application date, thereby giving operators regulatory certainty and allowing them preparation time prior to 7 July 2015. This approach will also allow installations that receive a permit early to be proactive in terms of compliance.
69. SEPA will accept applications for all '2015 installations' from 7 January 2014, though it should be noted that the application may not be determined until the relevant application block.
70. Upon submission of a permit application, applicants will pay an application fee. SEPA will include fees in its charging scheme, and is likely to provide that applications made after the relevant application block will be subject to late submission charges to reflect the additional administrative burden placed upon SEPA. Holders of PPC Part A Permits will also need to pay annual subsistence charges. Subsistence charges for '2015 installation' permits will commence only from 7 July 2015.
71. Permits for '2015 installations' will not be enforced until 7 July 2015. The continued operation of a '2015 installation' without a permit after 7 July 2015 will constitute an offence under the 2012 Regulations. In these circumstances the '2015 installation' must cease operation.
72. It is proposed that if an application for a permit has been made within the relevant application timetable detailed above then the installation will be able to continue to operate after 7 July 2015, even where the application has not been determined by 7 July 2015. If an application is submitted late then this would not apply, and the installation may need to cease operation.
- 73. Q12: Are you content with the proposed approach to transitional provisions? Have you any comments upon this proposed means of incentivising timely permit applications in respect of new IPPC activities?**

Activities not subject to the IED

'Legacy' activities

74. Part 1 of Schedule 1 to the PPC Regulations lists industrial activities, with those in Part A subject to IPPC whilst those in Part B are generally subject only to controls upon emissions to air. As well as covering all the activities specified in Annex I of the IED, Part A also includes a number of activity descriptions which have no foundation in EU requirements. They originate from the system of integrated pollution control which was set up under the Environmental Protection Act 1990 (and which was influential upon the making of the IPPC Directive in 1996). For the purposes of this consultation they are referred to as 'legacy activities'.

75. An assessment of these legacy activities has been carried out., In summary, four categories have been identified:

- There are 15 instances of **moribund** descriptions meaning that no extant Part A permits contain them and that it is considered very unlikely that any instances of these activities un-associated with other IED Annex I activities will arise in future. These descriptions are tabulated in Appendix B.
- There are 23 instances of descriptions which are **superfluous** because they are in fact covered by IED Annex I activities for which a permit is needed in any case. These descriptions are separately tabulated in Appendix B.
- There may be a case for removal of controls under PPC Schedule 1 Part A from seven activity descriptions, currently accounting for 8 permits. These descriptions, together with a short commentary, are listed in Appendix D. In some cases it is proposed that the activity would still be **regulated in another way**.
- In 14 cases, involving 31 permits, the activities are not covered in IED Annex I, but there are considered to be **sound environmental protection reasons** for maintaining Part A regulation. These descriptions, together with a short justification for retention, are listed in Appendix C. The justifications for retention are informed by SEPA, drawing upon its regulatory experience and concerns about the risks which might arise if Part A regulation ceased. It is of course not possible to quantify what would happen if that regulation were removed.

76. The draft Regulations therefore omit the descriptions tabulated in Appendices B and C and adjust the descriptions tabulated in Appendix D.

77. Q13: Do you consider that any of the descriptions proposed for deletion or adjustment should in fact be retained? If so, please provide reasons.

78. Please note that, if consultation responses support deletions of activity descriptions which are included in extant Part A permits, suitable transitional arrangements will be provided.

79. Please note that the Climate Change Agreement (CCA) scheme¹¹ relies upon the current Part A activity descriptions set out in the Environmental Permitting (England and Wales) Regulations 2010 for defining the industry sectors for which CCAs are available. While those Regulations do not apply to Scotland, for the purposes of CCA those activity descriptions are used UK-wide, even though similar descriptions are to be found in the PPC Regulations. There are 40 sectors whose eligibility for Climate Change Agreements (CCAs) is based on such processes. Defra's analysis suggests that, on this basis, their proposals to delete various activity descriptions would result in one sector (slag grinders – described in Section 3.1 A(2) (a) and (b) of the Schedule 1 to the Environmental Permitting Regulations) no longer remaining eligible for a CCA and associated climate change levy discount. Additionally, there may be a number of facilities holding CCAs in a small number of other sectors which may be at risk of losing eligibility. If these facilities do not also undertake another Part A activity, they would not be able to hold a Climate Change Agreement in the future. Any changes made to the Scottish PPC Regulations will not affect the CCA scheme.

80. The draft Regulations are such that the descriptions tabulated in Appendix D are be retained within Part A regulation.

81. **Q14: Do you agree that the retention of the 'legacy' descriptions tabulated in Appendix D is justified? Have you any evidence which either supports or refutes the need for retention?**

82. The assessment of legacy activities has concentrated on Part A activities. Most of the activities listed in Part B, like the legacy activities described above, have their origins in the integrated pollution control regime under the Environmental Protection Act 1990. We have taken the opportunity to remove gas odorisers, currently covered by Section 1.2 B (a). **Q15: Are there any other Part B activities that are similarly moribund, superfluous or otherwise unnecessary, and which should be considered for removal?**

Mobile plant

83. The PPC Regulations currently require the application of IPPC to any mobile plant carrying out Part A activities. But the IED applies only to installations which, by the definition in its Article 3(3), are stationary. In practice, there are no instances of Part A mobile plant permits in Scotland. The draft Regulations therefore remove any reference to Part A mobile plant. The Regulations will continue to apply to mobile plant carrying out Part B activities. **Q16: Do you agree with the proposal to remove reference to Part A mobile plant?**

¹¹ See <http://www.decc.gov.uk/en/content/cms/emissions/ccas/ccas.aspx>

Consultation questions

84. Listed below are all the specific questions raised in this consultation paper. We would be grateful for responses to any or all of the questions, preferably supported by evidence drawn from practical experience. We would also be grateful to receive any more general questions or comments on the proposed transposition arrangements and on the Business and Regulatory Impact Assessment.

Q1 – single permit for different operators

The Scottish Government is currently not minded to adjust the PPC Regulations so as to accommodate the option contained in Article 4(3) of the IED. Are you content with that? If not, can you demonstrate from a real example that allowing a permit to cover several parts of an installation operated by different operators will reduce overall regulatory burden whilst maintaining the environmental protection required by the IED?

Q2 – enforcement

Regulation 45 of the draft Regulations empowers SEPA to issue enforcement notices. Do you agree with this approach. If not, why not?

Q3 – energy efficiency

Are you content with the proposed way of transposing Article 9(2)?

Q4 – general binding rules

Do you consider that, in particular sectors, further use of this approach could be made?

Q5 – site condition reports

Do you envisage it being necessary to strengthen existing site condition reports? If so, in what way or ways, and at what cost?

Q6 – emerging techniques

Do you have views on how SEPA can encourage the development and application of emerging techniques?

Q7 – waste management

Do you have any uncertainties about which waste management activities are now subject to IPPC requirements?

Q8 – removal of BAT requirements from incineration and co-incineration installations not subject to IPPC

Do you agree with this proposal? What environmental consequences and compliance cost savings may arise?

Q9 – retaining PCB and PAH monitoring

Do you agree with this proposal? If not, why not?

Q10 – registration system for solvent activities

Do you consider that the introduction of a registration system for solvent activities would be worthwhile in longer term?

Q11 – removal of BAT requirement from solvent activities

Do you agree with this proposal? What are your views on the environmental consequences and compliance cost savings which may arise?

Q12 – transitional provisions

Are you content with the proposed approach to transitional provisions? Have you any comments upon this proposed means of incentivising timely permit applications in respect of new IPPC activities?

Q13 – removal of legacy activities

Do you consider that any of the descriptions proposed for deletion or adjustment should in fact be retained? If so, please provide reasons.

Q14 – retention of legacy activities

Do you agree that the retention of the 'legacy' descriptions tabulated in Appendix D is justified? Have you any evidence which either supports or refutes the need for retention?

Q15 – Part B activities for removal

Are there any other Part B activities that are similarly moribund, superfluous or otherwise unnecessary, and which should be considered for removal?

Q16 – mobile plant

Do you agree with the proposal to remove reference to Part A mobile plant?

APPENDIX A - Other points to note about the IED

IPPC 'general principle' on waste prevention

1. Article 11(e) modifies the IPPC Directive's general principle concerning waste from IPPC installations so as to align with Directive 2008/98/EC. Whereas they previously had to be operated such that-

'where waste is produced, it is recovered or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any impact on the environment',

under the IED, installations must be operated such that-

'where waste is generated, it is, in order of priority and in accordance with Directive 2008/98/EC, prepared for re use, recycled, recovered or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any impact on the environment'.

2. This is implemented through regulation 14 of the draft Regulations.

Wastes not excluded from subsection to the IED

3. As described in paragraph 31 of this document, wastes excluded from the scope of the Waste Framework Directive (2008/98/EC) by its Article 2 are not excluded from the relevant requirements of the IED. Those requirements are in Chapter II – through the inclusion of waste management activities in Annex I – and in Chapter IV on waste incineration and co-incineration. The wastes concerned are:

In all cases:

- (a) gaseous effluents emitted into the atmosphere;
- (b) land (in situ) including unexcavated contaminated soil and buildings permanently connected with land;
- (c) uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in its natural state on the site from which it was excavated;
- (d) radioactive waste;
- (e) decommissioned explosives; and
- (f) faecal matter, if not covered by paragraph (b), straw and other natural non-hazardous agricultural or forestry material used in farming, forestry or for the production of energy from such biomass through processes or methods which do not harm the environment or endanger human health.

To the extent that they are covered by other EU legislation:

- (a) waste waters;
- (b) animal by-products including processed products covered by Regulation (EC) No 1069/2009, except those which are destined for incineration, landfilling or use in a biogas or composting plant;

- (c) carcasses of animals that have died other than by being slaughtered, including animals killed to eradicate epizootic diseases, and that are disposed of in accordance with Regulation (EC) No 1069/2009; and
- (d) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries covered by Directive 2006/21/EC on the management of waste from extractive industries.

Without prejudice to obligations under other relevant Community legislation, sediments relocated inside surface waters for the purpose of managing waters and waterways or of preventing floods or mitigating the effects of floods and droughts or land reclamation if it is proved that the sediments are non-hazardous.

Site closure

4. Article 22(3) requires the operator to remediate contamination identified as such by reference to the baseline report, although no deadline for remediation is given. Article 22(4) applies where the operator has not been required to produce a baseline report (for example, because the activity was deemed not to involve relevant hazardous substances) and similarly requires remediation to deal with contamination resulting from the permitted activities.
5. These Article 22(3) and (4) requirements are already embodied in current regulatory practice in Scotland. Regulation 41(1) of the draft Regulations provides that an operator may apply to SEPA to surrender a permit, in whole or in part. Regulation 41(5) provides that SEPA must accept the surrender if it is satisfied that such steps (if any) as are appropriate have been taken (a) to avoid a pollution risk resulting from the operation of the installation or mobile plant; and (b) to return the site to a satisfactory state, having regard to the state of the site before the facility was put into operation. So the permit remains in force – and with it the enforceable obligation to comply with all its conditions and to pay annual subsistence charges – until the regulator is satisfied that any necessary remediation is complete.

Disposal or recovery of non-hazardous waste – exclusion of activities covered by the Urban Waste Water Treatment Directive

6. Point 5.3(a) and (b) of Annex I of the IED each exclude activities covered by the Urban Waste Water Treatment Directive¹². Our view is that this excludes all activities conducted at sewage works for the treatment of ‘domestic waste water or the mixture of domestic waste water with industrial waste water and/or run-off rain water’¹³ and ‘residual sludge, whether treated or untreated, from urban waste water treatment plants’¹⁴ so long as they are dedicated to that treatment. Anaerobic digestion plants used for sludge treatment will therefore be covered by the exclusion, unless those plants also treat other waste material not derived from the sewage treatment process. However, the European Commission may express a view on this issue.

¹²Directive 91/271/EEC.

¹³The definition of ‘urban waste water’ in Article 2(1) of the Urban Waste Water Treatment Directive.

¹⁴The definition of ‘sludge’ in Article 2(10) of the Urban Waste Water Treatment Directive.

Installations producing foodstuffs

7. Point 6.4(b) of Annex I clarifies how the threshold for such installations must be determined. There are changes to how the 'product production capacity' is calculated for vegetable processing. What is prescribed is very similar to the approach SEPA already takes for other industries such as the meat sector, i.e. the theoretical maximum design capacity of the installation¹⁵. There is also a threshold for seasonal vegetable processing and for combined animal/vegetable processing.

Definition of poultry

8. Under Article 3(23) of the IED, 'poultry' is defined, by reference to other EU legislation¹⁶, as 'fowl, turkeys, guinea fowl, ducks, geese, quails, pigeons, pheasants, partridges and ratites reared or kept in captivity for breeding, the production of meat or eggs for consumption, or re-stocking supplies of game'. The inclusion of that definition plainly has no consequences for the current application of IPPC to the rearing of chickens, laying hens and broilers, turkeys, ducks or guinea fowl, where there are more than 40,000 places in a technical unit. But it is necessary to consider whether the game birds mentioned in this definition are subject to IPPC through point 6.6(a) of Annex I of the IED.
9. Initial investigations indicate that in most instances of the rearing of game, a combination of an exceptionally short season (typically some seven weeks in late spring/early summer), stocking densities that are significantly lower than any covered by animal welfare recommendations, and limited access to housing which is in nearly all cases only temporary in nature, make it unlikely that any significant environmental pollution would result. We therefore take the view that only those game bird farms which are similar in nature (in terms of length of rearing season, stocking density, and nature of housing) to poultry farms already regulated by SEPA as Part A installations, may become subject to the IED. We understand that very few (if any) game bird farms are of such similar nature.

Waste incineration

10. Article 42(1) removes the waste incineration provisions from gasification and pyrolysis plants 'if the gases resulting from this thermal treatment of waste are purified to such an extent that they are no longer a waste prior to their incineration and they can cause emissions no higher than those resulting from the burning of natural gas'. It should be noted that such plants may still be subject to the IPPC requirements in Chapter II of the IED if the activity they carry out falls within Annex I – for example, point 1.1 (combustion with a rated thermal input of 50 MW or more), 1.4(b) (gasification in an installation with a rated thermal input of 20 MW or more) or points 5.1(a) or 5.3(a)(ii) (physico-chemical treatment of waste).

¹⁵ SEPA guidance indicates the theoretical capacity is the capacity at which the plant could operate if it ran 24 hours a day, 7 days a week. SEPA will acknowledge real, physical or legal restrictions to this maximum value. Therefore when calculating capacity for activities it is the design capability (or where that is not known proposed future output) as assessed over a 24 hour day and a 7 day working week subject to real physical or legal restrictions. Such restrictions might include for example, a planning condition limiting the number of hours an installation may operate. It should be noted that where an operator chooses not to use an available production line this would **not** be considered as a real physical or legal restriction.

¹⁶ Point 1 of Article 2 of Directive 2009/158/EC, which replaces Directive 90/539/EEC.

Large combustion plants – transitional national plan

11. The establishment of a transitional national plan for the United Kingdom is being taken forward separately by Defra¹⁷, in consultation with the Scottish Government and the devolved administrations in Wales and Northern Ireland.

Large combustion plants – limited life time derogation

12. Operators of existing large combustion plants which qualify for the derogation provided by Article 33 are reminded that they have until January 2014 to provide a written declaration to the Scottish Environment Protection Agency of their intention to take it.

Large combustion plants – aggregation rules

13. Article 29(3) changes the aggregation rules so that plants with a rated thermal input below 15 MW shall not be considered when calculating the total rated thermal input of a candidate large combustion plant. However, it should be noted that such plants will still need to be taken into account by the regulator when determining the aggregate rated thermal input to establish whether a combustion plant has a rated thermal input of 50 MW or more and so subject to the IPPC requirements of Chapter II of the IED, in accordance with the first introductory sentence to Annex I.

Titanium Dioxide

14. Chapter VI and Annex VIII of the IED contains special provisions for installations producing titanium dioxide. These replace the requirements of Directives 78/176/EEC, 82/883/EEC and 92/112/EEC which all relate to the titanium dioxide industry.
15. While titanium dioxide installations would be covered by the PPC Regulations, the specific requirements of these existing Directives are not currently expressly transposed in Scots law, there being no titanium dioxide industry nor any realistic likelihood of one being established. Nevertheless, this represents a technical non-compliance with the requirement to transpose these Directives. Regulation 19 of the draft Regulations therefore contains requirements which give effect to the special provisions of articles 66 to 70 of the IED dealing with installations producing titanium dioxide. It is not expected that these will have any practical impact in Scotland.

Use of Directions

16. A number of aspects of the existing Directives have been implemented not through the PPC Regulations but by means of Directions issued by the Scottish Ministers to SEPA, for example requiring SEPA to include certain conditions in permits for particular types of installation. While these are available on the Scottish Government website, they are not particularly accessible, and add to the number of pieces of legislation that need to be consulted. We have therefore taken the

¹⁷ A letter to operators participating in the current National Emission Reduction Plan and to representatives of other large combustion plant interests was sent by Defra on 28 December 2011. This is available at <http://www.defra.gov.uk/environment/quality/industrial/eu-international/lcpd/> under the heading 'Recent developments'.

opportunity to incorporate the material from these Directions into the draft Regulations – in particular see regulations 18 and 26.

APPENDIX B – legacy activities – remove from PPC Part A because they are ‘moribund’ or ‘superfluous’

1. The activity descriptions tabulated here are proposed to be removed from Part A in Part 2 of Schedule 1 to the PPC Regulations because the activities are-
 - (i) not practiced and are considered unlikely to be (‘moribund’), or
 - (ii) in practice covered by other Part A activity descriptions (‘superfluous’).
2. Except where a number of permits is stated, there are no extant permits under these activity descriptions.
3. References to the PPC Regulations are to the existing Regulations rather than the new draft Regulations (from which these activities have already been omitted).

PPC Sch. 1, Part 2, Section...	‘Moribund’ activities - short description (The section heading under which the activity is listed is quoted in <i>italics</i>)
1.2 A (d)	<i>Refining Mineral Oil and Gas, Operating Coke Ovens and Coal Gasification and Liquefaction Activities</i> - producing gas from oil or other carbonaceous material &c. Reference to coal and lignite would be retained.
1.2 A (f)(iii)	<i>Refining Mineral Oil and Gas, Operating Coke Ovens and Coal Gasification and Liquefaction Activities</i> - loading/storage/treatment etc of crude shale oil. NB this has no effect on the reference to refining of mineral oils.
1.2 A (f)(v)	<i>Refining Mineral Oil and Gas, Operating Coke Ovens and Coal Gasification and Liquefaction Activities</i> - loading/storage/treatment etc of emulsified hydrocarbons intended for use as a fuel.
1.2 A (g)	<i>Refining Mineral Oil and Gas, Operating Coke Ovens and Coal Gasification and Liquefaction Activities</i> - further refining or conversion. [1 permit but installation also has another activity so will still be covered as a Directly Associated Activity]
2.1 A (i)	<i>Ferrous Metals</i> – Handling slag
2.2 A (g)	<i>Non-Ferrous Metals</i> - mining zinc or tin-bearing ores where the activity may result in the release into water of cadmium or any compound of cadmium in concentrations in water above background concentrations.
3.2 A (c)	<i>Activities Involving Asbestos</i> - destroying a railway vehicle by burning.
4.1 A (e)(i)	<i>Organic Chemicals</i> - recovering carbon disulphide.
4.2 A (f)(i)	<i>Inorganic Chemicals</i> – recovering etc. sulphuric acid.
4.2 A (f)(ii)	<i>Inorganic Chemicals</i> – recovering etc. nitric acid.
4.2 A (f)(v)	<i>Inorganic Chemicals</i> - recovering ammonia.
4.2 A (f)(vi)	<i>Inorganic Chemicals</i> - extracting any magnesium compound from sea water.
4.5 A (b)	<i>Pharmaceutical Production</i> - formulating if there may be releases of specified substances to water.
5.1 A (f)	<i>Incineration and Co-incineration of Waste</i> – incineration of hazardous waste in an excluded plant.
5.1 A (g)	<i>Incineration and Co-incineration of Waste</i> – incineration of non-hazardous waste in an excluded plant.
6.3 A (ii)	<i>Tar and Bitumen Activities</i> – manufacture of electrodes or carbon-based refractory materials.

PPC Sch. 1, Part 2, Section...	'Superfluous' activities - short description (The section heading under which the activity is listed is quoted in <i>italics</i>)
1.2 A (b)	<i>Refining Mineral Oil and Gas, Operating Coke Ovens and Coal Gasification and Liquefaction Activities</i> - reforming natural gas.
1.2 A (e)	<i>Refining Mineral Oil and Gas, Operating Coke Ovens and Coal Gasification and Liquefaction Activities</i> - purifying or refining products. [1 permit but installation also has another activity so will still be covered as a Directly Associated Activity]
1.2 A (f)(iv)	<i>Refining Mineral Oil and Gas, Operating Coke Ovens and Coal Gasification and Liquefaction Activities</i> - handling etc. any gas or condensate associated with crude oil etc. [2 permits but installations also have another activity so will still be covered as a Directly Associated Activity]
1.2 A (j)	<i>Refining Mineral Oil and Gas, Operating Coke Ovens and Coal Gasification and Liquefaction Activities</i> - odorising gas where related to a Part A activity.
2.2 A (c)	<i>Non-Ferrous Metals</i> – refining any non-ferrous metal, other than electrolytic refining of copper.
2.2 A (d)	<i>Non-Ferrous Metals</i> – melting etc. lead.
2.2 A (e)	<i>Non-Ferrous Metals</i> – recovering gallium, <i>indium, palladium, tellurium or thallium</i> .
2.2 A (h)	<i>Non-Ferrous Metals</i> - use of beryllium or selenium.
2.2 A (j)	<i>Non-Ferrous Metals</i> – pelletising etc. any non-ferrous metal ore.
3.1 A (b)(ii) – second leg	<i>Production of Cement And Lime</i> - producing lime with input >5,000 tonnes in 12 months.
4.1 A(a)(xii)	<i>Organic Chemicals</i> - producing any other organic compounds not described in paragraphs (a)(i) to (xi).
4.1 A (b)	<i>Organic Chemicals</i> - polymerising etc. unsaturated hydrocarbons. [2 permits. 1 installation also has another activity so will still be covered as a Directly Associated Activity.]
4.1 A (c)	<i>Organic Chemicals</i> – use of toluene di-isocyanate.
4.1 A (e)(ii)	<i>Organic Chemicals</i> - recovering pyridines.
4.1 A (f)	<i>Organic Chemicals</i> - recovering or purifying designated acrylates.
4.2 A (c)	<i>Inorganic Chemicals</i> – activities using or likely to release hydrogen cyanide or hydrogen sulphide. [2 permits. 1 can be permitted as 1.2 A (e). Other installation has another activity so will still be covered as a Directly Associated Activity]
4.2 A (f)(iii)	<i>Inorganic Chemicals</i> - purifying phosphoric acid.
4.3 A (b)	<i>Chemical Fertiliser Production</i> - converting into granules.
4.7 A (a)	<i>Manufacturing activities involving carbon disulphide or ammonia</i> – activities which may release carbon disulphide. [1 permit but installation also has another activity so will still be covered as a Directly Associated Activity.]
5.4 A (b)	<i>Recovery activities</i> - cleaning/regenerating carbon, charcoal or ion exchange resins.

6.1 A (b)	<i>Paper and pulp manufacturing activities</i> – making or recycling paper with possible release of scheduled substances to water.
6.4 A (d)	<i>Coating activities, printing and textile treatments</i> – treating textiles with possible release of scheduled substances to water. [1 permit but registration under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 considered sufficient]
6.8 A (f)	<i>The treatment of animal and vegetable matter and food industries</i> - processing, storing or drying with possible release of scheduled substances.

APPENDIX C – legacy activities – remove from PPC Part A for other reasons

1. The activity descriptions tabulated here are proposed to be removed from Part A of Part 2 of Schedule 1 to PPC.
2. References to the PPC Regulations are to the existing Regulations rather than the new draft Regulations (from which these activities have already been omitted).

PPC Sch. 1, Part 2, Section...	Activities to be removed - short description (The section heading under which the activity is listed is quoted in <i>italics</i>)
3.1 A (a) and (c)	<i>Production of Cement and Lime</i> – grinding cement clinker or metallurgical slag. 1 permit (cement clinker) – grinding of cement clinker is proposed for insertion in Part B of Section 3.1. Note that production of cement clinker would remain in Part A.
3.3 A(a)	<i>Glass and Glass Fibre Manufacture</i> – manufacturing glass fibre in an installation with a capacity of 20 tonnes/day or less. 2 permits – however the installations concerned operate above the threshold in the IED and would continue to be regulated.
3.3 A(b)	<i>Glass and Glass Fibre Manufacture</i> – manufacturing glass frit or enamel frit where the aggregate quantity of such substances is likely to be 100 tonnes or more in any 12-month period. No current permits – this activity, and the use of frit in an activity related to its manufacture, is already listed under Part B of Section 3.3 without the capacity threshold.
3.4 A(b)	<i>Other mineral activities</i> – manufacturing any fibre from any mineral. No current permits – installations with minimal impact.
4.1 A (d)	<i>Organic Chemicals</i> – flame bonding and hot wire cutting of polyurethane foams or polyurethane elastomers. No current permits – activity similar to that described in 4.1 B (b) which is amended to cover this.
4.4 A (b)	<i>Biocide Production</i> - formulating plant health products and biocides if this may result in the release to water of specified substances. No current permits - regulation solely as water discharge activities (under the Water Environment (Controlled Activities) (Scotland) Regulations 2011) is considered sufficient.
6.4 A (c)	<i>Coating activities, printing and textile treatments</i> – applying or removing organo-tin compounds. 7 permits – organo-tin compounds no longer applied, but still present on paint being removed. SEPA are satisfied that this can be regulated under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 where necessary.

APPENDIX D – legacy activities – retain in PPC Part A because they are environmentally justified

1. The activity descriptions tabulated here are proposed to be retained in Part 2 of Schedule 1 to the draft Regulations.
2. References to the PPC Regulations are to the existing 2000 Regulations and the new draft Regulations.

Sch. 1, Part 2, Section...		Environmentally justified activities
2000 Regs	Draft Regs	(The section heading under which the activity is listed is quoted in <i>italics</i> . Justification for retention is given in bold italics after each description.)
1.2 A (f)(i)	1.2 A (d)(i)	<i>Refining Mineral Oil and Gas, Operating Coke Ovens and Coal Gasification and Liquefaction Activities</i> – loading, unloading, handling or storage, or the physical, chemical or thermal treatment of crude oil. 10 permits – large scale operations with high pollution potential. Significant releases of methane, non-methane volatile organic compounds and other organic compounds to air, and of toluene and benzene to water. Obvious potential for environmental damage if not regulated.
1.2 A (f)(ii)	1.2 A (d)(ii)	<i>Refining Mineral Oil and Gas, Operating Coke Ovens and Coal Gasification and Liquefaction Activities</i> – loading, unloading, handling or storage, or the physical, chemical or thermal treatment of stabilised crude petroleum. 1 permit – large scale operations with high pollution potential. Activity very similar to that involving crude oil
1.2 A (h)	1.2 A (e)	<i>Refining Mineral Oil and Gas, Operating Coke Ovens and Coal Gasification and Liquefaction Activities</i> – pyrolysis, carbonisation, distillation, liquefaction, gasification, partial oxidation or other heat treatment of coal, lignite, oil or other carbonaceous material. 3 permits – large scale operations with high pollution potential, in view both of the raw material and the intensive treatment applied to it.
2.1 A (d)	2.1 A (d)	<i>Ferrous Metals</i> – loading, unloading or otherwise handling or storing more than 500,000 tonnes in any 12-month period of iron ore. No current permits – the activity can potentially given rise to considerable local concern.
2.2 A (f)	2.2 A (c)	<i>Non-Ferrous Metals</i> – producing, melting or recovering cadmium or mercury or any alloy containing more than 0.05% of either metal or of both in aggregate. No current permits – significant releases of cadmium to air. There is no other suitable environmental control upon these activities which use very notorious pollutants.

3.2 A (b)	3.2 A (b)	<i>Activities Involving Asbestos</i> – stripping asbestos from railway vehicles No current permits – no other suitable means of environmental regulation in respect of this highly notorious pollutant.
4.2 A (b)	4.2 A (b)	<i>Inorganic Chemicals</i> – activity (other than water treatment and other specified activities) likely to release halogens (chlorine <i>et al.</i>), interhalogens or hydrogen halides to air. 10 permits – chlorine and the other halogens are notoriously toxic and they and the compounds covered are potentially damaging to all three media if released.
4.2 A (d)	4.2 A (d)	<i>Inorganic Chemicals</i> – production, use or recovery of any compound of a range of metallic elements (including arsenic and lead) where the activity may result in releases of the elements or their compounds to air or to water. 3 permits – significant releases to both air and water. The elements covered and their compounds are toxic.
4.2 A (e)	4.2 A (e)	<i>Inorganic Chemicals</i> – use or recovery of mercury or cadmium or any compound thereof which may result in releases to air. 1 permit – large scale operation with high pollution potential. significant releases of cadmium to water and the need to maintain regulation of activities involving these notorious substances justify retention of IPPC.
4.2 A (g)	4.2 A (f)	<i>Inorganic Chemicals</i> – any activity, other than combustion or incineration of carbonaceous material, which is likely to result in the release to air of any acid-forming oxide of nitrogen. No current permits – potentially significant releases of nitrogen oxides to air are controlled under present arrangements.
4.7 A (b)	4.7 A (b)	<i>Manufacturing activities involving carbon disulphide or ammonia</i> – any activity for the manufacture of a chemical which may result in the release of ammonia into the air (other than where used as a refrigerant). No current permits – potentially significant releases of ammonia to air controlled under present arrangements.
5.1 A (i)	5.1 A (e)	<i>Incineration and co-incineration of waste</i> – thermal treatment other than incidentally in the course of burning solid or liquid waste of any gaseous compound containing halogens. No current permits, but needed to cover the possibility that the activity might arise from removal of CFCs and similar compounds from refrigeration and air conditioning plant – particularly since the requirements concerning

		waste incineration of Chapter IV of the IED do not apply to gaseous waste.
5.5 A	5.5 A	<i>The production of fuel from waste</i> - making solid fuel from waste by using heat. 3 permits for sewage sludge drying – energy intensive and liable to produce significant odour
6.3 A (i)	6.3 A	<i>Tar and Bitumen Processes</i> – distilling tar or bitumen in connection with any process of manufacture. No current permits – highly significant releases of naphthalene to air: no other suitable means of environmental regulation.

APPENDIX E

We invite written responses to this consultation by 24 October.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>.

How to respond

It is helpful to us if you can respond to individual questions, but you are also invited to respond more generally on the proposals as a whole. In your response, please clearly indicate which questions or parts of the consultation paper you are responding to.

How you wish us to handle your response

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public.

Please complete the **Respondent Information Form** provided. This form **must** be returned to us with your response to ensure that we handle your comments appropriately. It is available as a Word document under 'other downloadable documents'. You can download it from the website and save it on your PC (click 'File - Save as - and give it a new name).

If you ask for your response not to be published we will regard it as confidential and treat it accordingly. Because the Scottish Government and the Scottish Environment Protection Agency (SEPA) are working closely together on this transposition process and subsequent implementation, confidential responses will be shared with SEPA. However SEPA will treat them as confidential in the same way as the Scottish Government does.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and so would have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

How to send your response

Please send your response by email to: EQCAT@scotland.gsi.gov.uk

Or by post to:
Susan Scott
Environmental Quality Division
Scottish Government
Victoria Quay
Edinburgh
EH6 6QQ

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library. You can make arrangements to view responses by contacting the SG Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us prepare a final set of draft Regulations and BRIA.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to: EQCAT@scotland.gsi.gov.uk

Or by post to:
Susan Scott
Environmental Quality Division
Scottish Government
Victoria Quay
Edinburgh
EH6 6QQ

TRANSPOSITION OF THE INDUSTRIAL EMISSIONS DIRECTIVE (IED) CONSULTATION AND PARTIAL BUSINESS REGULATORY IMPACT ASSESSMENT

RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately.

1. Name/Organisation

Organisation Name

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

Forename

2. Postal Address

Postcode	Phone	Email
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3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. We will also share it with colleagues within the Scottish Environment Protection Agency (SEPA) with whom we are working closely on this process. Either the Scottish Government or SEPA may wish to contact you again in the future, but we require your permission to do so. Are you content to be contacted again in relation to this consultation exercise?

Please tick as appropriate

Yes

No



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The Scottish Government
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Edinburgh
EH1 3DG

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