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Integrated Pollution Prevention and Control Practical Guide

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A Practical Guide

Edition 4

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Department for Environment, Food and Rural Affairs
Nobel House
17 Smith Square
London SW1P 3JR
Telephone 0207 238 6000
Website: http://www.defra.gov.uk

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Defra Publications
Admail 6000
London
SW1A 2XX
Tel: 08459 556000

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1 INTRODUCTION

1.1 The system of Integrated Pollution Prevention and Control (IPPC) applies an integrated environmental approach to the regulation of certain industrial activities. This means that emissions to air, water (including discharges to sewer) and land, plus a range of other environmental effects, must be considered together. It also means that regulators must set permit conditions so as to achieve a high level of protection for the environment as a whole. These conditions are based on the use of the "Best Available Techniques" (BAT), which balances the costs to the operator against the benefits to the environment. IPPC aims to prevent emissions and waste production and where that is not practicable, reduce them to acceptable levels. IPPC also takes the integrated approach beyond the initial task of permitting, through to the restoration of sites[1] when industrial activities cease.

About this guide

1.2 This Guide is to help those operating or regulating activities prescribed under the terms of the Pollution Prevention and Control (England and Wales) Regulations 2000 (as amended[2]) – these are referred to as "the PPC Regulations" throughout this Guide. It describes the main provisions of IPPC and sets out the views of the Secretaries of State for the Department for Environment, Food and Rural Affairs (Defra) and for Wales ("the Secretary of State") on how IPPC should be applied and how particular terms should be interpreted.

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[1] "Site' throughout this Guide means all of the land on which any of the activities of the installation may take place. This includes any land that is integral to the satisfactory operation of the installation, for example, areas needed for the movement of materials by vehicles or other means, and the area around any associated pipework. See paragraph 14.6.

[2] These Regulations have been amended by SI 2001 No. 503, SI 2002 Nos. 275 and 1702, SI 2003 Nos. 1699 and 3296, SI 2004 Nos. 434 and 3276 and SI 2005 No. 1448 (the Pollution Prevention and Control (Public Participation)(England and Wales) Regulations 2005), all available through http://www.legislation.hmso.gov.uk/stat.htm . The Landfill (England and Wales) Regulations 2002 (SI 2002 No. 1559), the Waste Incineration (England and Wales) Regulations 2002 (SI 2002 No. 2980), the Greenhouse Gas Emissions Trading Scheme Regulations 2003 (SI 2003 No. 3311), the Solvent Emissions (England and Wales) Regulations 2004 (SI 2004 No. 107) and the Hazardous Waste (England and Wales) Regulations 2005 (SI 2005 No. 894) also make amendments to the PPC Regulations 2000 in respect of the activities concerned.

1.3 The Guide explains the main legal provisions of IPPC, but the precise requirements can be only determined by referring directly to the law itself. In addition to this explanatory guide, the Secretary of State may issue specific statutory guidance to regulators under regulation 37 of the PPC Regulations[3].

1.4 This fourth edition of the Guide incorporates several additions, notably those stemming from the amendments to the IPPC Directive[4] made by the "Public Participation" Directive[5]. It reflects further developments through related Regulations and regulatory practice, drawing on the experience since late 2000 of applying the PPC Regulations. It gratefully takes account of comments on previous editions from several interested parties.

1.5 Since the first edition of this Guide was published in August 2000, the Environment Agency, together with the other UK regulators and in consultation with Defra, has produced an increasing range of IPPC-related guidance which builds on and complements what is presented here. This material is available at http://www.environment-agency.gov.uk/business/ . A few components of this material are referred to specifically in this edition of the Guide. There is also now available a comprehensive text book[6] on the IPPC legislation in England and Wales which Defra and the Welsh Assembly Government are happy to commend. And the UK's report[7] to the Commission on the implementation of IPPC in the period to December 2002 contains a useful summary of the UK approach to transposing and implementing the Directive.

1.6 The Web site of the European Commission[8] contains general background information on IPPC. The Commission's IPPC Bureau web

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[3] None has been issued to date.

[4] *Directive 96/61/EC...concerning integrated pollution prevention and control.* OJ L 257, 10.10.96, p 26.

[5] *Directive 2003/35...providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC.* OJ L 156, 25.6.2003, p 17.

[6] *Pollution Prevention and Control – The New Regime.* Farthing, J; Marshall, B; and Kellett, P. LexisNexis UK, 2003.

[7] This report, required under Article 16 of the IPPC Directive, is available at http://www.defra.gov.uk/environment/ppc/ippc-implement.htm .

[8] At http://europa.eu.int/comm/environment/ippc/index.htm .

site[9] contains links to IPPC conference proceedings as well as to the still developing European guidance documents on best available techniques (see Chapter 9).

Setting the legal framework

1.7 The PPC Regulations implement the European Community (EC) Directive 96/61/EC on Integrated Pollution Prevention and Control ("the IPPC Directive"), insofar as it relates to installations[10] in England and Wales. Separate Regulations[11] apply the IPPC Directive in Scotland and Northern Ireland and to the offshore oil and gas industries.

1.8 Prior to the PPC Regulations coming into force, many industrial sectors covered by the IPPC Directive were regulated under Part I of the EPA 1990. This introduced the systems of Integrated Pollution Control (IPC), which controlled releases to all environmental media, and Local Air Pollution Control (LAPC), which controlled releases to air only. Other industrial sectors new to integrated permitting, such as the landfill, intensive farming and food and drink sectors were regulated, where appropriate, by separate waste management licences issued under Part II of the EPA and/or water discharge consents under the Water Resources Act 1991 or Water Industry Act 1991.

1.9 The PPC Regulations create a coherent new framework to prevent and control pollution, with two parallel systems similar to the old regimes of IPC and LAPC. The first of these – the "Part A" regime of IPPC – applies a similar integrated approach to IPC while delivering the additional requirements of the IPPC Directive. "Part A" extends the issues that regulators must consider alongside emissions into areas such as energy use and site restoration. The main provisions of IPPC apply equally to the ex-IPC processes and the other sectors new to integrated permitting. There are also some further requirements that apply solely to waste management activities falling under IPPC as described in chapter 15.

1.10 The IPPC Directive applies to those landfills receiving more than ten tonnes per day or with a total capacity exceeding 25 000 tonnes (but excluding landfills taking only inert waste), the landfill directive applies to all landfills. The PPC Regulations have been amended to include all landfills (see paragraph 15.1). For landfills the technical requirements

[9] See footnote 56.

[10] Throughout this guide, references to "installation' also includes mobile plant unless stated otherwise.

[11] Scottish Statutory Instruments 2000 No. 323, Northern Ireland Statutory Rule 2003 No. 46, and Statutory Instruments 2001 No. 1091. All available at http://www.legislation.hmso.gov.uk/ .

are met through the Landfill Regulations[12]. Defra issued separate guidance on the Landfill Regulations in 2004[13].

1.11 The IPPC Directive applies to installations for the incineration of municipal waste, as defined in two 1989 Directives which will be repealed at the end of 2005 by the Waste Incineration Directive ("WID")[14]. The Waste Incineration Regulations[15] amend the PPC Regulations (notably by replacing Section 5.1 of Schedule 1) so as to include all incinerators, applying WID controls as appropriate. Draft guidance[16] has been issued by Defra and the Welsh Assembly Government.

1.12 The Environment Agency regulates Part A(1) installations. Part A(2) installations are regulated by the relevant local authority – usually the district, London or metropolitan borough council in England and the county or borough council in Wales. However, the local authority will always be a statutory consultee where the Environment Agency is the regulator, and vice versa. Moreover, the local authority and the Environment Agency will work together in the permitting process. Local authorities have expertise in setting standards for noise control, while the Environment Agency will ensure that permit conditions protect water adequately. Annex I describes how IPPC installations are classified into either Part A(1) or Part A(2) installations depending on what activities take place within them.

1.13 The second new regime – the "Part B" regime of Local Air Pollution Prevention and Control (LAPPC) – represents a continuation of the old LAPC regime. LAPPC is similar to IPPC from a procedural perspective, but it still focuses on controlling emissions to air only. Defra provides separate guidance on local authority air pollution control[17].

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[12] SI 2002 No. 1559.

[13] *Government 's Interpretation of the Landfill (England and Wales) Regulations 2002 (As Amended).* September 2004. Available at http://defraweb/environment/waste/topics/landfill-dir/regs2002.htm.

[14] *Directive 2000/76/EC on the incineration of waste.*

[15] SI 2002 No. 2980.

[16] *Guidance on Directive 2000/76/EC on the incineration of waste.* 2nd Edition. August 2004. Available at http://www.defra.gov.uk/environment/ppc/wasteincin/index.htm . A third edition may be published at the end of 2005.

[17] Available at: http://www.defra.gov.uk/environment/ppc/manual/index.htm .

2 OVERVIEW OF THE REGULATORY PROCESS

2.1 The basic purpose of the IPPC regime is to introduce a more integrated approach to controlling pollution from industrial sources. It aims to achieve `a high level of protection of the environment taken as a whole by, in particular, preventing or, where that is not practicable, reducing emissions into the air, water and land'[18] The main way of doing that is by determining and enforcing permit conditions based on BAT.

2.2 The entire regulatory process for IPPC consists of a number of elements. These are outlined below and explained in more detail in later chapters. IPPC applies to specified "installations" – both "existing" and "new" – requiring each "operator" to obtain a permit from the regulator – either the Environment Agency or the local authority. (The glossary in Annex VIII explains the words in quotation marks).

Stage 1 – Permitting

2.3 The procedure begins with the preparation of an application by the operator. Once the regulator receives the application, they will consult various "statutory consultees" (listed in Annex II). Operators should be encouraged to engage the public at the earliest opportunity. Operators are required to advertise in one or more local papers and in the London Gazette details of the activity and its location together with a statement of where public representations should be made. After giving further public participation in the case of applications in respect of "new installations", or "substantial changes" to installations, the regulator will then determine the application, either granting a permit with conditions or refusing it.

2.4 The Landfill Regulations required operators of all existing landfill sites (see section 4.3) to submit a conditioning plan (CP) by 16 July 2002. If a site closed before 16 July 2002, then no plan was required. Otherwise the Environment Agency decides whether a landfill should continue operating on the basis of the conditioning plan. A PPC application building on the conditioning plan will then be required to be submitted by the date notified to the operator.

[18] Article 1 of the IPPC Directive.

2.5 In making an application the operator must cover various environmental issues. These include:

(a) satisfactory environmental management of the installation;

(b) adequate compliance monitoring;

(c) assessment of polluting releases and the identification of BAT;

(d) compliance with other EU Directives, Community and national environmental quality standards (EQSs) and domestic regulations;

(e) energy efficiency, waste minimisation and management;

(f) the prevention of accidents; and

(g) for landfills, alternative requirements are specified by the Landfill Regulations.

2.6 The operator must also consider the condition of the site at the time of the original application. This will contribute to assessing the need for restoration when the installation closes (stage 3).

2.7 In determining the application, the regulator must be satisfied that the operator has addressed the above points appropriately. It is therefore the operator's responsibility to demonstrate that this is the case.

Stage 2 – Operation

2.8 Once the regulator has issued a permit, the operator of an IPPC installation will have to carry out monitoring to demonstrate compliance with the permit conditions. Regulators will also carry out their own monitoring and inspections, and have a range of enforcement powers.

2.9 Over time, regulators may vary permits to reflect changes in how installations are operated, or for other reasons. The regulator may vary permit conditions at either its own or the operator's instigation, with the possibility of consultation in either case. The regulator may also transfer permits from one operator to another, for example when one operator is taken over by another. More generally, regulators must review permits periodically, or whenever circumstances make a review necessary, such as when significant pollution occurs.

Stage 3 – Closure and Surrender

2.10 When an installation closes, an operator should apply to surrender a permit, to end regulation under IPPC and payment of the associated annual charges to the regulator. The application to surrender the permit must include a site report identifying, in particular, any changes in the condition of the site since the time at which the permit was issued. The operator is required to identify any steps that have been taken to avoid any pollution risk resulting from the operation of the installation or return it to a satisfactory state. If on closure the operator satisfies the regulator that they have removed any pollution risks and restored the site to a satisfactory state, the regulator accepts the surrender and gives the operator notice of its determination. The permit then ceases to have effect on the date specified in the notice of determination. If the regulator is not satisfied, it has to give notice of its determination stating that the application has been refused.

2.11 Further guidance on site restoration is given in Chapter 14.There are additional factors to consider when the installation is, or contains, a landfill.

Standard application forms

2.12 The PPC Regulations allow standard forms to be produced for applications for permits, variations, transfers and surrenders. Where these forms are available, operators must use them.

3 IPPC ACTIVITIES, INSTALLATIONS AND OPERATORS

3.1 IPPC is concerned with controlling the environmental impacts of installations in which any activities, listed in Part A of Schedule 1 to the PPC Regulations, are carried out. Annex III summarises the main industry sectors covered by these activities.

3.2 Annex I explains the term "installation". In summary, the installation comprises not only any relevant unit carrying out Part A activities prescribed in Schedule 1 to the PPC Regulations, but also any location where directly associated activities which have a technical connection with the Schedule 1 activities and which could have an effect on pollution are carried out. Once the extent of an installation has been established, each activity within it is subject to permitting.

3.2a The Pollution Prevention and Control (England and Wales) (Amendment) and Connected Provisions Regulations 2004[19] contain an amendment which excludes operators undertaking research, development and testing of new products and processes from the PPC Regulations. The exclusion applies to installations which **only** carry out research and development or testing in a dedicated and separate facility and not where it is carried out as part of a listed activity or a directly associated activity within an installation. It does not apply to the installations carrying out testing of materials for the purposes of quality assurance. It is the responsibility of the operator to determine whether or not an activity meets the definition of this exclusion. Where undertaking research, development and testing on an installation that has a permit issued by the regulator, the undertaking of research, development and testing will be subject to the requirements of the permit.

3.3 Annex I defines "operator". In most cases a single operator will have to obtain a single permit for a single installation. It is fairly common for different operators to run different parts of a single installation. This does not affect the regulator's determination of what constitutes that installation in the first place. This supports the integrated approach of IPPC, since it requires, for example, the identification of BAT for the whole installation rather than for individual activities. Where two or more operators run different parts of a single installation, they will each need a

[19] SI 2004 No. 3276.

separate permit and be responsible for complying with their permit conditions; however operators will need to demonstrate to the regulator that together all aspects of operation are being properly managed and controlled. In such cases, there should be no ambiguity over which operator has responsibility for which part of the installation.

4 TIMEFRAME FOR OBTAINING IPPC PERMITS

New installations

4.1 Operators must apply for a permit for any new installation subject to IPPC. In general terms, "New" means a Part A installation put into operation on or after 31 October 1999 other than an existing installation. Annex I explains in more detail the definition of "new installation" and "operation" in this context.

Existing installations

4.2 Existing installations are being phased into the new regime. So far as IPPC requirements are concerned, "existing" means a Part A installation put into operation before 31 October 1999, or on or after 31 October 1999 and before 31 October 2000, provided that a "relevant authorisation" was either applied for or granted before 31 October 1999. Annex I explains in more detail the definition of "existing installation" in this context.

4.3 However, as outlined in paragraphs 4.4 to 4.6, IPPC installations subject also to related Regulations are defined in those as "existing" at different dates. The relevant Regulations give full details. They also contain other detailed requirements relating to permit applications for the existing installations they cover.

4.4 The Landfill Regulations do not affect the definition of an installation. They do however affect the phase-in timetable for the landfill part of an installation. For the purposes of the Landfill Regulations an existing landfill is one that was either already in operation on 16 July 2001, or that had an authorisation granted before that date.

4.5 Similarly, an IPPC installation subject to the Waste Incineration Regulations is "existing" for those purposes if it was: put into operation by 28 December 2003 subject to a relevant approval granted before 28 December 2002; put into operation by 28 December 2004 subject to a relevant approval granted on the basis of an application before 28 December 2002; or, if it is a co-incineration plant, put into operation before 28 December 2004 subject to a relevant approval.

4.6 An installation subject to the Solvent Emissions Regulations[20] is "existing" for those purposes if it was in operation before 1 April 2001 or was subject to a full application for a permit and put into operation before 1 April 2002.

4.7 Operators of existing installations have to obtain permits according to a transitional timetable unless it undergoes a substantial change. However, any installation may come into IPPC ahead of its scheduled date if the operator and the regulator agree to this.

The transitional timetable for existing installations

4.8 Under the timetable in Part 1 of Schedule 3 to the PPC Regulations, existing installations will be brought under IPPC on an industry sector basis. The timetable specifies "relevant periods" for the different industry sectors. These are periods of time during which operators of existing installations must submit their IPPC applications. The timetable is summarised in Annex III. It should be noted that several changes to the original timetable have been made by various of the Amendment Regulations[21]: Annex III incorporates these.

4.9 Operators may submit their applications at any time during the relevant period for their sector. However, operators are encouraged to submit their applications early to help to avoid bottlenecks in the regulatory workload at the end of each period. It should also lessen the risk of operators missing their application deadlines. It is an offence to operate an existing installation after the relevant period without having submitted a duly made application (see paragraph 5.15 regarding what constitutes "duly made").

4.10 Regulators must review existing IPC authorisations at least every four years. However, to minimise duplication, the IPPC process will replace the IPC reviews where they fall within two years of the beginning of the relevant period for an industry sector as set out in Schedule 3 of the PPC Regulations.

4.11 Where an installation comprises activities from more than one sector, the general rule is that the earliest relevant period will apply. An operator may however apply to the regulator to have the later relevant period of the primary activity apply. Where an existing installation contains a landfill and another Part A activity then they are treated as two separate Part A installations for the purpose of determining transitional dates.

[20] SI 2004 No. 107.

[21] See footnote 2 in Chapter 1.

4.12 If there is more than one operator for the various activities in an installation, then each one should apply for a permit during the same relevant period. This will apply to operators of other Part A activities on the site, who would otherwise have to apply at a different time. It also applies to operators of any non-Part A, but directly associated, activities that form part of the installation.

Permitting installations with activities in different Parts of Schedule 1

4.13 Where several separate activities from different Parts of Schedule 1 are carried out in an installation, the installation will be permitted according to the "highest common denominator". So if Part A(1), A(2) and B activities were carried out at an installation, it would be permitted as an A(1) installation. If Part A(2) and Part B activities were carried out at an installation, it would be permitted as an A(2) installation.

4.14 There will also be some installations comprising Part A(2) activities and a directly associated activity which is a waste management activity licensed under Part II of the Environmental Protection Act 1990. In such cases, the Environment Agency will permit the installation (unless the waste activity is an incineration activity regulated by the local authority, or an exempt activity).

4.15 Regulation 8(8) enables the Secretary of State to transfer regulatory control of a Part A(1) installation to the local authority. So in specific instances where it is considered appropriate, installations comprising Part A(1) and A(2) activities, or Part A(2) and waste management activities could be permitted by the local authority.

Permitting ahead of the transitional timetable

4.16 In exceptional circumstances, an operator may apply for an IPPC permit before the relevant period. If they want to do this, operators must get the regulator to agree first. To get permission, they should demonstrate that, due to other legislative requirements or on grounds of efficiency or reasonableness, they would be significantly disadvantaged if they were not brought into the regime early. One example might be where there are two installations on a site, which would come under control at different times according to the timetable, but the operator wants to bring them both into IPPC in parallel. Another would be where the operator of an IPC process wishes to make a change (but not a "substantial change" as defined for IPPC) that would require a variation to the IPC permit conditions just ahead of the relevant phase-in date for IPPC.

Dealing with a "substantial change" for existing installations

If an operator makes a "substantial change" to an existing installation, they must submit an application under IPPC irrespective of whether or not the rest of the site is regulated under a predecessor regime. This means that at least the part of an installation affected by a proposed substantial change might be brought into IPPC before the normal phase-in date. The rest will then follow the normal timetable. If the operator and the regulator agree, however, the operator may apply to bring the whole installation under IPPC when making a substantial change. In some cases this may be necessary, as the change may affect the whole installation anyway. Annex I explains what "substantial change" means.

5 PERMIT APPLICATIONS

5.1 This chapter concerns the preparation of IPPC permit applications and identifying what they should contain. Chapter 11 describes the possibilities for varying permit conditions.

Preparation of applications before implementation

5.2 Operators must decide for themselves when it would be best to apply for an IPPC permit for a new or substantially changed installation, although it will usually be best for both operator and regulator to do so before construction work commences. Where installations are not particularly complex or novel, the operator should usually be able to submit an application at the design stage containing all information the regulator needs to make a determination. This would include proposals for management of the installation and training of operational staff. If, in the course of construction or commissioning, the operator wants to make any changes which mean that the permit conditions have to be varied, the operator may apply for this in the normal way (see chapter 11).

5.3 There is nothing in the PPC Regulations to stop an operator from beginning construction work before a permit has been issued or even before they have applied for one. However, regulators may not necessarily agree with the operational techniques put in place. In these cases, the costs of replacing any incorrect techniques will not be included in the analysis of costs and benefits for identifying BAT (see chapter 9). Therefore, to avoid any expensive delays and reconstruction work, it is in the operator's interest to submit applications at the initial design stages. Any investment or construction work that an operator carries out before they have got a permit will be at their own risk and in no way will affect the regulator's discretion.

Planning and IPPC applications

5.4 If an IPPC installation also needs planning permission, it is recommended that the operator should make both applications in parallel whenever possible. This will allow the IPPC regulator to start its formal consideration early on, thus allowing it to have a more informed input to the planning process. The regulator must also take account of any

information related to the Environmental Impact Assessment (EIA) Directive[22], which is provided for by the PPC Regulations. Where an operator cannot feasibly submit a full IPPC application at the same time as a planning application, the "staged application" procedure may be appropriate. In the case of specified waste management activities as described in chapter 15 separate requirements for prior planning permission apply.

Staged applications

5.5 For some novel and complex installations, with long lead times and multiple design and construction phases, the regulator will find it difficult to determine an application properly at the design stage. In these cases, the operator and regulator may agree to apply the "staged application" procedure. This is only likely to be needed for a small number of Part A(1) installations. Part A(2) installations should not be complex enough to warrant such an approach, although ultimately this is a matter for the local authority regulator to decide with the operator. If an operator wants to make a staged application, it must first understand and agree beforehand with the regulator that:

(a) the application is to be treated this way;

(b) the information will be submitted in stages, with each stage fully consulted on with the public and statutory consultees;

(c) the application will not be determined within the normal four-month period – the actual time taken will depend on the number of stages involved and their complexity (although the regulator will take account of the operator's desired timetable and make reasonable efforts to accommodate it); and

(d) the operator must pay the regulator's costs –including any additional consultation costs.

5.6 Once the regulator and the operator decide in principle to proceed with a staged application, they should agree a plan for the full application. This will be submitted in stages, as the operator progressively develops the design plans. The operator may submit the first stage either when they have selected the primary process or, perhaps more usually, when they have finished an outline of the process design. The operator will then give

[22] *Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EC.* Transposed mainly by the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 (SI 1999 No.293).

the regulator further stages of the application as they work up more detailed proposals. Each submission will also be placed on the public register and will be open to consultation in the usual way.

5.7 The regulator will finally determine the entire application. The regulator, public and statutory consultees must be provided with a complete, consolidated application rather than simply a bundle of separate submissions from each stage. The regulator cannot predetermine the outcome, and must take account of any new information that emerges from the final consultation.

5.8 Using the staged procedure is no guarantee that the application will not be turned down. However, the chances of refusal at the end of a staged application process should be small, as much of the application will already have been subject to public consultation. Possible objections or technical problems are more likely to emerge at an early stage. The operator therefore runs significantly less risk of an unsuccessful application.

5.9 If an operator wants to set up a major new, innovative process for which there is no guidance or the existing guidance is inadequate, it is their responsibility to assemble expertise and information on available techniques. The regulator should not be expected to provide free consultancy advice, or advice that might prejudice their determination of an application later on. When the operator has developed their idea sufficiently, it should submit an application to be considered under the normal or staged application procedure.

Preparing applications: operators' responsibilities

5.10 Annex IV shows the content of an application as specified by the PPC Regulations. IPPC places the onus on an operator in making an application to assess the effects of their operations, to explore ways of improving them and to make proposals for the regulator's consideration. To get a permit, an operator should demonstrate how they would manage their installations in a way that will meet the requirements of the PPC Regulations. This should cover the full range of activities the operator wants the permit to cover.

5.11 As a result of an amendment to the IPPC Directive made by the "Public Participation" Directive[23], it is now necessary for **all** permit applications (including those in respect of "existing installations") made after the coming into force of the Pollution Prevention and Control (Public Participation) (England and Wales) Regulations 2005 (the "PPCPP

[23] See footnote 5.

Regulations")[24] to include an outline of the main alternatives, if any, studied by the applicant in respect of the issues which will arise in determining BAT-based permit conditions (see Annex IV). This requirement can be met by a brief summary, from the operator's perspective, of the outcome of the sometimes highly detailed considerations which are in any case needed to support the application and which are discussed in Chapter 9. Regulators will give more detailed guidance if necessary in particular cases.

5.12 The level of detail in an application will generally be proportionate to the complexity of the installation and the nature of its likely effects upon the environment locally and further afield.

Pre-application discussions

5.13 Operators and regulators may hold pre-application discussions before the operator makes a formal application. Other parties may be invited to join these discussions – for example, a statutory consultee. Operators and regulators may use the discussions to clarify whether a permit is likely to be needed. The regulator may also give operators general advice on how to prepare their applications, or tell them what guidance is available. Pre-application discussions may also go into more logistical matters, such as the interaction between an IPPC application and an application for planning permission, or whether the staged application procedure would be appropriate. They must not imply any advance agreement as to the outcome of any application.

5.14 Operators should also consider how best to present the application to members of the public and to local or national interest groups representing them. Whilst in many cases the public will have few if any concerns about the industrial activity involved, other cases may give rise to significant concerns which, if not recognised and addressed as far as possible at the outset, will be reflected in representations made in the determination process, leading to a considerably extended determination period and perhaps to continuing controversy thereafter.

Ensuring applications are complete and duly made

5.15 Applications should give all the information a regulator needs to make a determination. If an operator fails to do this, the regulator may have to request additional information, delaying the determination. It may also mean that the application is not "duly made", meaning that it cannot be legally determined. A regulator may conclude that an application is not duly made when, for instance:

[24] SI 2005 No. 1448.

(a) it has not been submitted on a standard form where available;

(b) it is for an installation that falls outside the remit of the IPPC regime;

(c) it has been sent to the wrong regulator;

(d) it is for an existing installation and has been submitted before the relevant period without the regulator's consent and there is no proposal for a "substantial change";

(e) it has not addressed some key points; or

(f) the necessary fee has not been paid.

5.16 When a regulator judges that an application is not duly made, it should return it, along with any fee. Regulators should use normal standards of reasonableness and common sense to assess whether applications are duly made. As a matter of good practice, the regulator should always tell the applicant why it considered that an application was not duly made. If an application is returned as not duly made, and the end of the application window for an existing installation has in the meantime passed, the further operation of that installation will be unlawful until such time as a permit is finally issued. It is therefore clearly in the operator's interests to engage in appropriate pre-application discussions with the regulator and to submit early in the application window.

Using existing data

5.17 Operators may draw upon or attach other sources of information in their applications. These might include documents relating to an installation's regulation under the Control of Major Accident Hazards (COMAH) Regulations[25] (which will cover some, but not all of the requirements of IPPC in respect of accidents); prior investigations for compliance with the Groundwater Regulations[26]; certified environmental management systems; or site reports prepared for planning purposes. Operators may also attach information from previous regulatory regimes. They should make clear which parts of any attachments are relevant to their IPPC applications and should demonstrate how they relate to the IPPC requirements.

[25] The Control of Major Accident Hazards Regulations 1999. (SI 1999 No.743)

[26] The Groundwater (England and Wales) Regulations 1998. (SI 1998 No.2746)

6 CONSULTATION ON PERMIT APPLICATIONS

6.1 The purpose of consultation is to provide the regulator with facts and views from the statutory consultees and the public that it might not otherwise have and which are relevant to its determination of the permit application. Regulators must take into consideration any representations made by consultees during the allowed time periods. However, the regulator may still take account of representations after the formal deadline and as a matter of good practice they should do so whenever they reasonably can.

Consulting the public

6.2 The Regulations provide for consultation with the public on all permit applications. This allows people to bring local or wider issues or concerns to the regulator's attention.

6.3 The regulator must make the application[27] available to the public by placing it on the public register as soon as possible. The regulator should make sure, in particular, that the application is on the public register before the applicant advertises it.

6.4 The PPC Regulations also require the operator to advertise an application in one or more local newspapers, and in the London Gazette[28]. The advertisement must be placed during a 28 day period. This normally begins 14 days after the operator submits the application, which gives the regulator time to check that it is duly made and place it on the public register. However, where the operator argues that information should be protected on the grounds of national security or commercial confidentiality (see chapter 17), the period begins 14 days after the claim is determined.

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[27] Less any information excluded on grounds of national security or commercial confidentiality under regulations 30 or 31 of the PPC Regulations. Note that it is for the applicant to apply to the regulator to have the information excluded on grounds of confidentiality, although there is provision for the regulator to draw the attention of the applicant to information in respect of which in the regulator's opinion, an application might be appropriate. Similarly, it is primarily for the applicant to identify any information with implications for national security and to give notice accordingly to the Secretary of State.

[28] Under the Landfill Regulations, non-IPPC landfills need only advertise locally.

6.5 The advertisement must include the:

(a) applicant's details;

(b) address of the installation;

(c) activities to be carried out;

(d) public register details, where, how and at what times the public can examine the application, including an assessment of the environmental effects;

(e) procedure and timeframe for making representations; and

(f) in the case of applications in respect of new or substantially changed installations, a statement that the application contains a description of specified elements of the information required in support of the application (as summarised in Annex IV)[29].

6.6 Advertisements must state that any person may make representations on the application in writing within 28 days of its appearance. For reasons of transparency, regulators should ask anyone who makes representations by any other medium to put their comments in writing as well.

Consulting statutory consultees

6.7 The regulator must send copies of the application to various statutory consultees. These are listed in Annex II. Normally, the regulator should do this within 14 days of receiving the application. The regulator should not, however, provide information which is protected on grounds of national security or commercial confidentiality to some statutory consultees. Where the question of whether information is protected on these grounds is being determined under the regulations the regulator should wait until the outcome of the determination. If it is determined that the information is not protected it should be provided to statutory consultees within the 14 day period beginning 14 days after the determination[30].

[29] This requirement arises from the "Public Participation" Directive – see paragraph 7.23.

[30] It should be noted that, under regulation 31(4), if a regulator fails to give notice of its determination of an application for exclusion on grounds of commercial confidentiality, the applicant may treat that failure as meaning that the regulator does not consider the information to

6.8 Once statutory consultees have been notified of an application, they have 28 days to make representations. The purpose of statutory consultation is to give the regulator access to expertise that it may otherwise lack. Statutory consultees should provide the regulator with any advice they think would help the regulator to determine the application and set any permit conditions. They may advise on, for example:

(a) the sensitivity of a particular part of the environment;

(b) other local issues, including previous experience of the applicant;

(c) requirements imposed by other regulatory regimes which may affect the IPPC determination; or

(d) specific effects of the proposal, such as the possible effects of releases on health.

6.9 The regulator must take account of statutory consultees' advice.

6.10 The Environment Agency shall justify the occasions when it does not follow any local authority noise proposals. The Environment Agency may give notice to a local authority regulator, specifying conditions to control releases to water from a Part A(2) installation. The Environment Agency may issue this notice at any time, rather than just as a statutory consultee on an application. The local authority regulator must make sure that the permit conditions on releases to water are at least as strict as those specified by the Environment Agency.

6.11 Guidance on the role in England of Primary Care Trusts ("PCTs") and in Wales of Local Health Boards ("LHBs") as statutory consultees is available on the Health Protection Agency website at http://www.hpa.org.uk/chemicals/ippc.htm . In summary, PCTs and LHBs can valuably contribute by:

(a) offering a view on the potential health impact of emissions and activities of the installation, based on the information provided in the application, placing any risks into the local context;

(b) identifying any existing local health issues that may be associated with the installation or its location;

(c) identifying any future health issues that might be associated with the installation or its location; and

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be commercially confidential. It would then be open to the applicant either to appeal to the Secretary of State or to withdraw the application in order to prevent its publication.

(d) providing reassurance to the local community where necessary.

6.12 PCTs may also be able, if they think it worthwhile in individual cases, to undertake surveillance of any local health effects from individual installations, the output from which might, for example, contribute to the periodic review of permits and, in some cases might also inform the revision of national guidance.

Transboundary consultation

6.13 Other EU Member States whose territory may be adversely affected by installations seeking approval have to be consulted. As England and Wales do not share any land borders with other Member States, transboundary consultation is likely to be rare. Should the need for it arise, the Secretary of State will send a copy of the application to whichever Member State may be affected. The Secretary of State may act independently, or on a regulator's advice. Alternatively, another Member State may ask for a copy of the application. The Secretary of State will provide them with it at the same time as the regulator advertises the application domestically, or as soon after as possible. The regulator must not determine the application until the Secretary of State confirms that consultation with the other Member State is complete. The periods allowed for the transboundary consultation are not taken into account for the purposes of calculating the four month period allowed for the determination of an application. The regulator must take account of any representations from other Member States.

6.14 In the case of new applications or variations due to substantial changes, the regulator will be required in most cases to issue and advertise a draft determination. In the case of an application with transboundary effects, the draft determination will also need to be forwarded to the other Member State. The regulator will need to wait for 25 working days as from the time the Secretary of State receives the draft determination, so that it can consider representations from other member States (if any) before it issues its final determination.

7 DETERMINATION OF PERMIT APPLICATIONS

Proportionate regulation

7.1 The Secretary of State expects regulators to apply the PPC Regulations proportionately to the environmental risk presented by the operation of the installation. The regulatory effort needed to determine an application and any permit conditions should be appropriate for the complexity of an installation and its environmental effects.

Site-Specific Permitting

7.2 IPPC requires emission limit values ("ELVs") and other permit conditions set by the regulator to take account of the technical characteristics of the installation concerned, its geographical location and the local environmental conditions. In drawing up their applications, operators may use the indicative standards outlined in guidance notes. However there may be instances where no guidance is available or where the site-specific characteristics of an installation mean that any indicative standards contained in guidance are inappropriate – for example, where the installation is particularly complex or novel. Where this is the case, operators will need to develop their own case to justify the choice of BAT. The regulator will then need to include ELVs or conditions that take account of these site-specific factors.

General Binding Rules

7.3 As allowed by Article 9(8) of the IPPC Directive, regulation 14 enables the Secretary of State to make general binding rules (GBRs) for certain types of installation. If made, these would consist of requirements common to the range of installations subject to them that can be used instead of site-specific permit conditions, but that achieve the same high level of environmental protection. GBRs would, by their nature, be suitable for industry sectors where installations share similar characteristics.

7.4 Operators in sectors for which GBRs have been made may request in their permit application that an installation be subject to the rules if they believe this would be suitable. If the regulator's assessment of the

application were to indicate that this is appropriate a "general binding rules condition" would be included in the permit. The aspects of the operation of the installation covered by the rules would then be subject to the requirements in the rules rather than site-specific conditions. If, however, the regulator's assessment were to indicate that the site is not suitable for regulation under GBRs – for example, because it is located next to a site of special scientific interest (SSSI) – then the permit would need to contain site-specific conditions. Although the methods of imposing permit conditions would thus vary if GBRs were made, the basic principles of determining applications would remain the same as for other applications. All applications will still be subject to the determination procedures set out in Part 2 of Schedule 4 to the Regulations.

7.5 To date (June 2005), no GBRs have been made by the Secretary of State and none is envisaged. However, the Environment Agency has developed "Standard Rules" for the intensive livestock sector[31]. These contain standard permit conditions which, if an individual operator is prepared to accept them, allow the permit application to be dealt with more simply and at a lower cost than may otherwise be the case. In this way the advantages of formal GBRs are provided whilst retaining flexibility in the revision of the rules.

Determination periods: Determination by the regulator

7.6 The regulator should normally determine a duly made application for a permit for an existing installation within four months of its submission. This does not include any time the operator may have taken to supply further information requested by the regulator (see below) or as explained above, the periods allowed for transboundary representations. The regulator and the operator may agree a longer period than four months. If the operator does not agree to a longer period and the four months pass without a determination, the operator may notify the regulator in writing that it is treating this as a deemed refusal. The operator can then appeal against this deemed refusal. If the operator does not explicitly treat non-determination in four months as a deemed refusal, the determination period simply continues until the regulator reaches a decision.

7.7 Similarly, in the case of an application for a permit for a new or substantially changed installation, the regulator should produce a draft determination (see paragraph 7.23) within four months of the application, exclusive of the time taken by the operator for the provision of further information, subject to agreed extension and with the same consequences if an extension is not agreed.

[31] *Standard Farming Installation Rules and Guidance.* Available on the Environment Agency web site at http://www.environment-agency.gov.uk/business/444304/444312/107824/ .

Determination by the Secretary of State

7.8 The Secretary of State can require any application to be sent to her/him for determination, although this would be an exceptional step and likely to be taken only if the application were of national significance and potential controversy or if there were compelling reasons why the regulator should not deal with the matter. Though there is no determination timeframe, the Secretary of State will try to deal with these cases promptly. The regulator must consult as normal, but should send any representations to the Secretary of State. The Secretary of State may choose to arrange a hearing, and would do so in any case if the regulator or the operator asks for one. The Secretary of State may then direct the regulator to grant a permit, stating which conditions should be included. Alternatively, the Secretary of State may direct the regulator to refuse the permit.

Requests for more information

7.9 Even when a regulator concludes that an application is duly made, it may still require the operator to submit additional information. In these cases, the regulator will serve a notice on the applicant, specifying what information it needs and when it must be submitted by. The normal four-month determination period does not include the time the operator takes to reply. The regulator should also consider whether any further information merits additional consultation.

7.10 If the further information is still insufficient, the regulator may repeat the request. The regulator should not determine the application until satisfied with all the information. However, regulators should not repeatedly request information on the same topic. If the regulator has made reasonable atternpts to get information from the operator, but without success, the regulator may refuse the permit or deem the application withdrawn.

Setting permit conditions

7.11 The regulator must either grant a permit with conditions or refuse it. Regulation 12 sets out the specific requirements for the content of permits.

7.12 Permits must contain ELVs or equivalent parameters for pollutants, in particular those listed in Schedule 5 to the PPC Regulations (reproduced as Annex V), likely to be emitted in significant quantities. These must be

based on BAT, taking account of the installation's characteristics, location and the local environment[32 & 33].

7.13 Permits must also contain conditions that, as necessary –

(a) aim to minimise long distance and transboundary pollution;

(b) ensure the protection of soil and groundwater and make sure the operator manages waste properly;

(c) protect the environment when the installation is not operating normally, for example during start up, malfunction, leaks or temporary stoppages;

(d) require the operator to take appropriate steps before and after operation, which may include site monitoring and remediation;

(e) set out how the operator should monitor emissions, specifying the methodology, frequency and evaluation procedures, and requiring the operator to submit reports to the regulator, to check compliance with the permit; and

(f) require the operator to inform the regulator without delay of any incident or accident that may cause pollution.

7.14 Furthermore, permits must contain any other conditions that the regulator considers necessary to ensure a high level of protection for the environment as a whole, taking into account, in particular, the 'general principles' of regulation 11 that:

(a) all the appropriate preventive measures are taken against pollution, in particular through the application of BAT;

(b) no significant pollution is caused;

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[32] However, where an EC environmental quality standard applies, the PPC Regulations require that emission limit values be set accordingly, even if those are stricter than would be required on the basis of BAT, installation characteristics and location and the local environmental conditions.

[33] Where emissions of a pollutant from an installation are subject to the Greenhouse Gas Emissions Trading Scheme Regulations 2003, the permit `shall not include an emission limit value, equivalent parameter or technical measure in respect of those emissions unless the regulator considers that the value, parameter or technical measure concerned is necessary to ensure that no significant local pollution is caused' (regulation 12(8A) of the PPC Regulations as inserted by those "Emissions Trading" Regulations).

(c) waste production is avoided in accordance with the Council Directive on waste[34] and 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;

(d) energy is used efficiently;

(e) the necessary measures are taken to prevent accidents and limit their consequences; and

(f) upon definite cessation of activities in the installation the necessary measures should be taken to avoid any pollution risk and to return the site to a satisfactory state.

7.15 In addition to these meeting requirements, permits relating to waste incineration installations are required[35] to contain such conditions as the regulator considers necessary to give effect to specified provisions of the Waste Incineration Directive. These are set out in full in separate guidance[36] from Defra and the Welsh Assembly Government on that Directive.

7.16 Similarly, permits relating to installations covered by the Solvent Emissions Directive[37] are required[38] to contain such conditions as the regulator considers necessary to give effect to the provisions of that Directive[39].

7.17 Regulations 11 and 12 (1) to (11) and (14) of the PPC Regulations do not apply to landfills. This means that paragraphs 7.12 to 7.14 above do not either. Before granting a landfill permit the Environment Agency must

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[34] *Directive 75/442/EC on waste*, as amended by Directives 91/156/EEC and 91/692/EEC.

[35] By the Pollution Prevention and Control (Waste Incineration Directive) (England and Wales) Direction 2002, made under regulations 12(15) and 36 of the PPC Regulations. This is reproduced in the Waste Incineration Directive guidance document – see footnote 16.

[36] See footnote 16.

[37] Directive 1999/13/EC on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations.

[38] By regulation 8(6) of the Solvent Emissions Regulations - see footnote 20.

[39] Defra issued guidance on the application of the Solvent Emissions Regulations in the Spring of 2004. Available at http://www.defra.gov.uk/environment/airquality/lapc/pdf/sed-intro.pdf .

classify the landfill as suitable for hazardous, non-hazardous or inert wastes. Permits for landfills shall include conditions:

(a) specifying the classification of the landfill, the types and quantity of waste to be deposited and prohibited waste types;

(b) specifying requirements for preparing for landfilling operations, monitoring and control procedures and contingency planning;

(c) ensuring that the financial provision is maintained until the permit is surrendered;

(d) ensuring the landfill is operated in a manner that the necessary measures are taken to prevent accidents and limit their consequences;

(e) requiring the operator to report to the Environment Agency on the types and quantities of waste disposed of, as well as the results of the monitoring programme; and

(f) appropriate for ensuring compliance with the requirements of the Landfill Regulations including:

(g) the prohibition/ acceptance of wastes and waste acceptance procedures;

(h) the control and monitoring of operational landfill sites and closure and aftercare procedures;

(i) initial site inspection by the Environment Agency; and

(j) the costs of disposal of waste in landfills.

7.18 The Environment Agency may include any other conditions that are appropriate, taking into account the IPPC requirements for other activities on some landfills (e.g. landfill gas utilisation, leachate treatment or odour management).

7.19 Any conditions on releases to water that the local authority imposes on a Part A(2) installation must be at least as strict as those specified by the Environment Agency. Permit conditions may also need to reflect other legislation – for example regulations setting maximum permissible release levels (see chapter 20).

7.20 In order to control pollutant emissions, a regulator may also impose limits on the amount or composition of any substance produced or used in the installation.

7.21 The PPC Regulations allow regulators to impose conditions requiring operators to carry out work on land that does not form part of their installation. If the operator needs consent from anyone before starting this work, that person must grant it. The person granting consent may be entitled to compensation from the operator.

7.22 These provisions follow equivalent measures introduced under Part II EPA 1990. Defra has published more detailed advice[40]. They are principally intended to be used where it is necessary to monitor the effects of an activity in another person's land, although they could also be used for other purposes. As a general rule, however, most non-waste IPPC activities should be capable of being operated so that regulators do not need to set any off-site conditions.

Consultation on draft determination and its finalisation

7.23 As a result of amendments to the IPPC Directive made by the "Public Participation" Directive[41] and transposed by the PPCPP Regulations[42], additional consultation of the public is required on the draft determination of applications in respect of "new" or "substantially changed installations", and also in cases where the regulator is prompted by significant pollution to propose revision of ELVs in an existing permit (see paragraph 13.3(a)).

7.24 **This additional consultation is NOT required in the determination of permit applications in respect of "existing" installations where no "substantial change" is involved**[43] or in cases originating from permit reviews for other purposes. However, paragraph 4(2) of Schedule 7 to the PPC Regulations gives the regulator the option of applying the additional consultation requirements to variations to existing permits even if no substantial change is involved or if the need for variation arises from permit reviews for other purposes. It will be for the regulator to decide in what circumstances to use that option.

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[40] *Waste Management Licensing: Guidance on the licensing and supervision of waste recovery and disposal facilities.* Consultation on 4th edition, June 2003. Available at: http://www.defra.gov.uk/environment/waste/management/index.htm .

[41] See footnote 5.

[42] See footnote 24.

[43] The terms "new installation" and "existing installation" are explained in Chapter 4. The definition of "substantial change" is given in Annex I.

7.25 Although it remains open to the regulator to interpret "draft determination" in other ways, the expectation is that in all cases where new installations are concerned the draft determination will take the form of the permit which the regulator proposes to issue, complete in every essential detail. This does not preclude the regulator from showing earlier drafts of the permit to the applicant; indeed, that is desirable, if only to enable the applicant to deal with any factual errors. Neither does it preclude the regulator from showing earlier drafts to other interested parties if the regulator considers that engagement in that way may ease the overall process of determining the application[44].

7.26 In the case of variations to permits, it will remain reasonable for the regulator to interpret "draft determination" as a document showing only the proposed changes to the existing permit rather than the whole permit as it would be after variation, but such a document must nevertheless contain sufficient detail for the effect of the variations to be readily apparent to the public.

7.27 Where the draft determination is to refuse an application, a simple statement to that effect is all that is required, supported by a "decision document" (see paragraph 7.30(d)). But it will require advertisement even so.

7.28 Where a draft determination is required, the regulator has to provide notice of that draft determination to the applicant within four months or such longer period as may be agreed (see paragraph 7.7). Within three working days of providing that notification, the regulator has to advertise that notice on its web site and, if it considers it appropriate, by any other means.

7.29 If it decides that additional advertisement of a draft determination is appropriate in a particular and exceptional case, the regulator should be guided by the number and origins of responses to the advertisement of the application. Where few were received, the regulator might decide to send notification of the draft decision by letter or E-mail to each respondent. Where a greater number was received but all from a well-defined locality, the regulator might consider advertisement by leaflet drop, on bill-boards, in public buildings in a local newspaper or any combination of these. In any case, it should have special regard for residents in the immediate vicinity of the installation.

7.30 In whatever form it takes, the advertisement of the draft determination must state where, how and at what times the draft determination can be

[44] Although the regulator must ensure that any information which will be excluded from the public register under regulations 30 or 31 is not included in earlier-stage drafts. See also footnote 45.

inspected (free of charge). The regulator is required to use its already-established public register for this purpose[45]. The advertisement must also refer to the availability in the same way of:

(a) Any additional information relevant to the determination which has become available since the permit application was advertised[46];

(b) Any guidance[47] from the Secretary of State relevant to the application;

(c) Information on the arrangements for public participation; and

(d) A document (a "decision document") giving the reasons and considerations on which the draft determination is based.

7.31 It will be for regulators to develop their own detailed guidance on what is required in a decision document. However, in the spirit of public participation, it must be in plain English as far as is practicable, avoiding unexplained acronyms and technical terms. Whilst aiming to be reasonably comprehensive, it must also be as brief as possible, consistent with the overriding need for clarity and accuracy, and reasonably comprehensible without frequent reference to the draft decision itself (although cross references may be provided nevertheless).

7.32 The advertisement must also say that representations on the draft decision can be made to the regulator within 20 working days of the advertisement's date, and, in cases where the draft determination is to grant the application, go on to say that:

(a) If no representations are received, the decision will be made final and notified as such to the applicant generally[48] within five working days of the end of the period for representations; and

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[45] Note that the requirement to place the draft determination on the public register makes available the provisions of regulations 30 and 31 on the exclusion of information from the draft determination on grounds of national security or confidentiality.

[46] It will be for the regulator to consider whether in individual cases separate notification of additional information should be made as soon as it comes to hand. This may be desirable in cases already attracting considerable public interest or where the additional information is highly significant to the determination. But in any case the advertisement of the draft determination must state that it has become available.

[47] This encompasses any directions or guidance issued under, respectively, regulations 36 or 37 of the PPC Regulations and also any non-statutory material issued by a Government Department or Devolved Administration. It will therefore include this *Practical Guide*!

(b) If representations are received, the decision will be finalised and notified as such not only to the applicant but also to the public by means of the regulator's web site and any other means the regulator considers appropriate, generally[49] within 15 working days of the end of the period for representations or such longer period as may be agreed with the applicant[50]. These arrangements do not preclude further discussion between the regulator and applicant if the regulator considers it appropriate in the light of those representations.

7.33 In both cases the regulator has to place the finalised decision on the public register, in the form of the issued or revised permit and supported by the "decision document". Where there have been no representations, the decision document made available with the draft decision will remain unchanged but will be supplemented by a statement by the regulator confirming that no representations were made. Where representations have been made, the decision document has to be amended accordingly. But in both cases the regulator's finalised decision may thereafter only be challenged by the applicant in the manner and on the grounds set out in regulation 27 of the PPC Regulations or by the public through the process of judicial review. Chapter 19 gives more information on appeals.

Finalisation where there is no consultation on draft determination

7.34 Where no draft determination is required, the regulator has to notify the applicant of the decision, generally within four months or a longer period agreed with the applicant, as described in paragraph 7.6. A copy of the permit, if one is granted, has to be placed on the public register. The regulator's decision may thereafter only be challenged by the applicant in the manner and on the grounds set out in regulation 27 of the PPC Regulations or by the public through the process of judicial review. Chapter 19 gives more information on appeals.

Refusing the permit

7.35 The regulator must refuse a permit in certain circumstances. There are three main criteria.

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[48] In the unusual case of transboundary consultation being required, the commencement of the specified period is delayed until 25 working days as from the date that the Secretary of State receives notice of the draft determination.

[49] See footnote 48.

[50] The consequences of failing to agree a longer period are as set out in paragraph 7.6.

7.36 Firstly, the regulator has to refuse the permit where it is unable reasonably to `grant the permit subject to the conditions required or authorised to be imposed' as stipulated by regulation 10(2). This might be where:

(a) the environmental impact would be unacceptable. For instance, an operator might propose siting a new installation close to an extremely sensitive environment, but with no known way to provide adequate control;

(b) the information provided by the operator does not provide a reasonable basis to determine the permit conditions. This should include consideration of the operator's responses to requests for additional information; or (if relevant)

(c) the additional requirements of the Landfill Regulations, the Waste Incineration Regulations or the Solvent Emissions Regulations cannot be complied with.

7.37 Secondly, the regulator must not grant a permit if it thinks that the operator will not comply with its conditions[51]. This may be where the regulator has reason to believe that the operator lacks the management systems or competence to run the installation according to the application or any permit conditions.

7.38 Thirdly, the regulator must not grant a permit that would authorise any "specified waste management activities" (explained in Annex I) unless satisfied that the specific pre-requisites for these installations have been met. These are described in chapter 15.

7.39 The applicant has the right to appeal to the Secretary of State if the regulator refuses the permit or if the applicant is dissatisfied with the conditions imposed or where an existing landfill is the subject of action for closure.

7.40 If the regulator treats an application as withdrawn because the operator has not provided further information in the time allowed, there is no right of appeal. In this case, the operator will have to make a fresh application if it still wants a permit.

[51] See regulation 10(3) of the PPC Regulations.

8 MANAGEMENT SYSTEMS AND OPERATOR COMPETENCE

8.1 In order to ensure a high level of environmental protection, effective management systems are required. Regulators should consider the operator's competence and other aspects of the installation's management. Management systems are therefore an integral part of BAT and must also be considered under the Landfill Regulations. Management systems need to cover, appropriate to each installation:

(a) staff numbers;

(b) training;

(c) personnel competencies;

(d) working methods;

(e) maintenance;

(f) records; and

(g) monitoring of any releases.

8.2 A regulator must not issue a permit if it considers that the operator will not comply with its conditions. The regulator might doubt whether the operator would comply with the permit conditions if for example:

(a) it is unclear who has operational responsibility for activities in the installation;

(b) the operator's management system is inadequate;

(c) the operator's technical competence is inadequate; or

(d) the operator has a poor record of compliance with previous regulatory requirements.

8.3 Under IPPC, some operators will apply environmental management systems at their installations, certified to either the EC's Eco-Management and Audit Scheme[52]"EMAS" or to ISO 14001[53] . Regulators should encourage and take account of these standards, as both require that the management system include safeguards for legal compliance and a commitment to continuous improvement in environmental performance which fits well with IPPC. The increased transparency of external certification required by EMAS and ISO 14001, should therefore help to establish and maintain the operator's competence and the adequacy of the installation's management. These systems have relevance to other aspects of regulation, such as determining risk-based inspection frequencies. Recognised quality assurance schemes may also be relevant, and regulators may also take account of non-certified systems to the extent that these fulfil an equivalent role in safeguarding legal compliance and continuous improvement of environmental improvement.

8.4 Operators should maintain the standards of their management systems and competence throughout the installation's life. Regulators may impose permit conditions under the PPC Regulations to ensure this.

[52] *Regulation (EC) No 761/2001 allowing voluntary participation by organizations in a Community eco-management and audit scheme (EMAS)*

[53] International Organization for Standardization standard for environmental management.

9 REQUIRED STANDARDS AND BEST AVAILABLE TECHNIQUES (BAT)

The basis for permit conditions

9.1 It is necessary[54] for **all** permit applications (including those in respect of "existing installations") to include an outline of the main alternatives, if any, studied by the applicant in respect of the issues which will arise in determining BAT-based permit conditions (see Annex IV). The guidance provided in this Chapter is particularly relevant to that requirement, although the requirement is only for a brief summary, from the operator's perspective, of the outcome of the sometimes highly detailed considerations which are set out below. The regulator will provide further advice as necessary on how this requirement can be met in particular cases or types of case.

9.2 The essence of IPPC is that operators should choose the best option available to achieve a high level of protection of the environment taken as a whole. IPPC achieves this by requiring operators to use the best available techniques (BAT). This, together with a consideration of local circumstances, provides the main basis for setting ELVs.

9.3 The BAT approach ensures that the cost of applying techniques is not excessive in relation to the environmental protection they provide. It follows that the more environmental damage BAT can prevent, the more the regulator can justify telling the operator to spend on it before the costs are considered excessive.

9.4 Where an EQS made to implement European legislation would be breached by emissions from an installation although BAT-based permit conditions would be in place, the regulator must impose[55] a stricter ELV. This imposition may in some cases be tantamount to a refusal of a permit. Similar action may in some cases be necessary at the regulator's discretion in order to secure compliance with a domestically-set EQS - see paragraph 10.11.

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[54] Since the coming into force of the PPCPP Regulations – see footnote 24.

[55] As required by regulation 12(7) of the PPC Regulations.

9.5 The regulator may impose additional permit conditions to reflect other provisions in the PPC Regulations, such as the general principles set out in regulation 11. This means that the overall standards may include not only ELVs based on BAT (or stricter ELVs where necessary), but also conditions relating to, for example environmental accident prevention.

9.6 In some cases, the regulator will need to take account of other legislation given effect through IPPC when determining required standards and BAT for an installation. For example, other EC Directives set maximum permissible release levels and other standards for certain activities, such as waste incineration and large combustion plants. These requirements must be met through IPPC permits. However, they do not necessarily reflect what is BAT. In most cases, the constraints imposed by other legislation are minimum obligations, without prejudice to any stricter conditions that may correspond to BAT or the other IPPC requirements.

Meaning of best available techniques

9.7 Regulation 3(1) defines BAT as "the most effective and advanced stage in the development of activities and their methods of operation which indicates the practical suitability of particular techniques for providing in principle the basis for ELVs designed to prevent and, where that is not practicable, generally to reduce emissions and the impact on the environment as a whole".

9.8 Where there is a choice, the technique that is best overall will be BAT unless it is not an 'available technique'. There are two key aspects to the availability test:

(a) what is the balance of costs and advantages? This means that a technique may be rejected as BAT if its costs would far outweigh its environmental benefits; and

(b) can the operator obtain the technique? This does not mean that the technique has to be in general use. It would only need to have been developed or proven as a pilot, provided that the industry could then confidently introduce it. Nor does there need to be a competitive market for it. It does not matter whether the technique is from outside the UK or even the EU.

9.9 The Landfill Regulations disapply regulations 11 and 12(1) to (11) and (14) of the PPC Regulations. Instead the condition making powers in the Landfill Regulations, together with the requirements for technical standards covering the aspects of the construction, operating, monitoring closure an surrender of landfills will apply (see Section 7.10(d)).

Implied BAT

9.10 Under regulation 12(10)-(11), there is an implied duty on the operator to use BAT to prevent or reduce emissions that are not covered by specific permit conditions. This is intended to cover the most detailed level of plant design where the operator will usually be in the best position to understand what pollution control means for an installation in practice.

Basic principles for determining BAT

9.11 The basic principles for determining BAT should be the same irrespective of whether BAT is indicated in guidance or assessed uniquely for a single installation. They involve identifying options, assessing environmental effects and considering economics. The principles of precaution and prevention are also relevant factors for BAT determinations.

Identifying BAT options

9.12 Determining BAT involves comparing the techniques that prevent or reduce emissions and identifying the best one in terms of the one which will have the lowest impact on the environment. For example, determining BAT in the iron and steel industry might involve comparing recently developed methods for reducing iron without using coke and sintered material against traditional blast furnaces. More generally, alternatives should be compared both in terms of the primary techniques used to run the process and the abatement techniques to reduce emissions further.

Environmental assessment

9.13 Once the options have been identified there should be an assessment of their environmental effects. It should focus particularly on the significant environmental effects - both direct and indirect. It should also look at the major advantages and disadvantages of techniques used to deal with them. Account should be taken, in particular, of the various factors listed in Schedule 2 to the PPC Regulations, reproduced in Annex VI. This should help to rank techniques according to their overall environmental effects.

9.14 The main focus of the environmental assessment will be the effects of releases. The assessment should identify and quantify possible releases of polluting substances into any media. It should also quantify their effects. Most attention should be paid to large-scale releases and releases of the more hazardous pollutants. These are likely to have the most significant effects. Conversely, any releases at levels so low that they are unlikely to have any significant effects need not be assessed. A list of the main polluting substances is in Annex V, which reproduces

Schedule 5 to the PPC Regulations. However, as this is just indicative, consideration should be given to other substances capable of causing pollution in the same way.

9.15 IPPC is also concerned with emissions of heat, vibrations and noise. As with substances, however, a detailed assessment is only needed if a preliminary assessment indicates that significant effects may occur.

9.16 Noise from industrial installations has previously been regulated through Part III of the EPA 1990, as well as through waste management licensing and planning controls. Part III of the EPA 1990 is concerned with statutory nuisances and defines noise to include vibrations. The defence against proceedings for a statutory nuisance is that the "best practicable means" (BPM) are being used to prevent the nuisance. Everything else being equal, the measures that an operator should take at an IPPC installation to protect against noise and vibrations will be broadly similar to those for a BPM defence. The aim should be to achieve the underpinning of good practice, the prevention of creeping ambient noise levels, and the prevention of reasonable cause for annoyance to persons in the vicinity. The assessment of reasonable cause for annoyance is dependant on many factors including the type of noise, the times of day or night, the nature of the area, the existing noise climate and the contribution made by the noise source under consideration.

9.17 The environmental assessment of options should also take account of the other issues covered by IPPC as listed in Schedule 2 of the PPC Regulations. These include:

(a) Consumption and nature of raw materials. Consideration should be given to options that use fewer resources, or those that use materials that are less likely to produce hazards or pollution risks. For example, the use of a purer raw material could lead to lower releases of contaminants. Water is also a raw material, and the assessment should consider how much each option needs where appropriate, and the environmental consequences of any abstraction.

(b) Energy efficiency. Consideration should be given to the effect different options would have on energy consumption and efficiency. Care should be taken that the pollution abatement systems do not use excessive energy compared with the emission reductions they achieve. Installations in a CCA or a UK Emissions Trading Scheme Direct Participant Agreement still have to meet basic energy consumption and efficiency requirements; participation in the agreement should provide incentive to go beyond those.

(c) Waste issues. The assessment of options should cover the amount of waste they produce and the possibility of preventing waste, recovering it or disposing of it safely. It may be preferable to permit a slightly higher level of releases if this greatly reduces the volume of waste, especially if the waste is particularly hazardous. However, this should not simply transfer pollution from one medium to another, which is precisely what IPPC is meant to avoid. The main goal should be to identify techniques that minimise all types of waste and releases at source.

(d) Accidents. Consideration should be given to the environmental hazards posed by possible accidents and their associated risks. This should include the practicality of measures to reduce risks and hazards and to respond to any accidents. In comparing the effectiveness of techniques to prevent emissions, consideration should not be limited to looking at normal operations, but also at the possibility of unintentional releases.

(e) Site restoration. Consideration should be given to whether options risk polluting the site. This should include planning ahead for decommissioning and restoring the site upon closure. For example, siting pipelines and storage tanks above-ground rather than underground would make leaks easier to detect and removal of pollution risks more straightforward.

9.18 In some cases, where options have been based on environmental assessments, a judgement will need to be made about the relative significance of different environmental effects, sometimes in different media. In comparing these, certain basic parameters may help to reach a conclusion. For example, long-term, irreversible effects are worse than short-term reversible ones, if all other factors such as immediate severity are equal. However, these comparisons will often be an inexact science. In ranking options, therefore:

(a) all assumptions, calculations and conclusions must be open to examination;

(b) generally using simple numerical analyses to compare or aggregate different types of environmental effects should be avoided, except where there are recognised ways of doing this. Individual effects within options should be assessed quantitatively where possible. However, the overall assessment and comparison of options should normally include significant qualitative elements; and

(c) expert judgement should be used alongside the particular constraints of the appraisal system, so that common sense conclusions are reached.

Economic assessment

9.19 Once the options have been ranked, that which minimises environmental impact from the installation will be BAT unless economic considerations renders it unavailable. The cost assessment should include operating costs as well as capital costs. This should include any cost savings. For example, using a purer raw material may be more expensive at first, but may save money overall by improving quality or producing less waste.

9.20 An objective approach needs to taken to balancing costs and advantages when assessing what are BAT. The lack of profitability of a particular business should not affect their determination. For example, if it has been established that a particular technique is BAT within a certain sector, then the regulator should normally impose the ELVs that correspond to the use of that technique in all permits for that sector. However, there may be some cases where the regulator should set different standards, for example because the balance of costs and benefits is different in the particular local environmental and/or technical circumstances of a particular installation. But it would not be right to authorise lower standards, or to delay the implementation of BAT solely because an operator argued for this narrowly on the basis of its own financial position. Conversely, the regulator should not impose stricter standards than BAT just because an operator can afford to pay more.

Determining BAT and other required standards in practice

9.21 Article 16(2) of the IPPC Directive states that Member States should exchange information on BAT. The Commission is publishing[56] the results as the BAT Reference documents (BREF notes) for each of some 30 sectors. The BREF notes do not constitute binding requirements, but competent authorities in the Member States are to take account of them in their own determinations of BAT.

9.22 Domestic guidance is being produced on required standards and BAT for the individual sectors, drawing on the information contained within BREF notes. This guidance contains clear, indicative standards for both new and existing installations. It also contains timetables for upgrading existing installations. Operators should take account of this when

[56] Both completed and draft BREFs are available for download on the European IPPC Bureau web site at http://eippcb.jrc.es/pages/FEvents.htm .

preparing their applications, and should justify any proposed departure from the indicative requirements. The guidance notes themselves may identify factors supporting such deviations, for example as a result of the site-specific assessment for the installation.

9.23 The regulator will then decide whether to accept any arguments the operator may have made for not following the indicative requirements. Regulators must be able to explain any cases where they have permitted any deviation so that the permitting process remains open and transparent.

9.24 Domestic guidance notes will be updated from time to time, particularly when BREF notes are amended[57]. However, operators and regulators should both take account of any new developments in techniques after a guidance note is published.

9.25 It will not be practical to determine indicative requirements for all aspects of all installations. The more complex or novel an installation is, the more likely it is that indicative standards will not be fully appropriate.

9.26 When there is no domestic guidance available, operators and regulators should refer directly to the relevant BREF notes. This is also the case if a BREF has been updated but the domestic guidance has not. Where the BREF contains clear performance standards, an operator should again justify any proposed deviation from them.

9.27 The minimum standards for landfills are specified by the Landfill Directive and a BREF for the sector is not expected.

9.28 Although indicative standards in BREF notes or domestic guidance may often be expressed in terms of parameters such as ELVs, techniques for achieving those standards may vary. Operators are encouraged to find better ways of operating installations than relying solely on benchmark standards in guidance.

9.29 If neither a BREF note nor domestic guidance has been published when an operator makes an application, operators and regulators will have to assess BAT based on other sources of data. Regulators may be able to advise on whether guidance from previous regulatory regimes is still valid.

[57] The first BREFs to be published will be reviewed by the European IPPC Bureau in a work programme commencing in 2004. However, the European Commission accepted in late 2003 that the review process must be subservient to the need to complete the first edition of each of the 32 BREFs in the work programme.

9.30 In carrying out a site-specific assessment of BAT, operators should present a systematic, reasoned and balanced assessment of the options available and their overall effects on the environment. This should consider the environmental context in which an installation will operate and take account of local factors such as:

(a) existing land use;

(b) abundance, quality and regenerative capacity of natural resources;

(c) sensitivity of environmental receptors; and

(d) absorption capacity of the natural environment.

9.31 Environmental plans, such as local Environment Agency plans and local air quality management plans, may also provide relevant information. Where there is concern or doubt about the sensitivity of the local environment, operators may want to contact the regulator, and possibly statutory consultees, to find out more about the location and nature of protected areas.

Determining BAT for new and existing installations

9.32 New installations will normally be expected to comply with or go beyond indicative BAT. However, site-specific factors may justify a different conclusion from the normal understanding of what technique is BAT in particular cases. For example, if a technique selected as BAT in normal circumstances were to require significant water abstraction, then it might not be right to apply it to an installation in a location where water resources are under stress.

9.33 The principles for determining BAT will be the same for existing installations as for new ones. However, the final standards may be different. In general terms, regulators should be concerned with establishing timescales for upgrading existing installations to new standards, or as near to new standards as possible. How far the new plant standards apply will depend on local and plant specific circumstances. A simple example could be an existing installation that operates very close to the BAT standard for a new installation, but using different plant or processes. Replacing the old plant with the new techniques may produce only a small decrease in releases, but a disproportionate increase in costs. Therefore the change would not be appropriate. However, if the operator were to carry out a major modification anyway, the new plant standards might be applicable.

Improvement programmes for existing installations

9.34 Schedule 2 to the PPC Regulations says that regulators should consider "the length of time needed to introduce the best available technique". It recognises that new techniques cannot be brought into effect overnight. An operator can therefore, with reference to the guidance notes, make a case for making improvements over a specified period of time, but it should justify the measures it proposes, what environmental improvements they would bring and the timescale for making the improvements.

9.35 Regulators may accept these proposals where reasonable. Alternatively, they may impose their own improvement requirements with appropriate deadlines. Either way the improvements specified in permit conditions are legally binding and regulators should enforce them, although it is open to either the operator or the regulator to propose variation of permit conditions if circumstances change. The improvements should be justified on the grounds that their advantages exceed their costs. The timescale should only reflect what is reasonable on availability grounds. For example, a costly new technique might be considered unavailable if it is implemented as one major, immediate improvement. However, it might be available when introduced as a phased programme. Timescales known to be achievable in the sector as a whole should normally be applied unless there are compelling reasons for some delay – for example if several improvements are in progress as part of an overall environmentally-beneficial programme at a complex site.

9.36 Operators may also have to carry out additional environmental assessments as part of their improvement programmes. This might be appropriate where, for example, some uncertainties remain about the environmental effects or improvements in performance even after the regulator has issued a permit. However, these uncertainties should not be too great, as the regulator needs to have made adequate assessment of environmental effects and control techniques before granting a permit. If the regulator has doubts, it should impose interim standards until it has a chance to investigate any uncertainties, or refuse the permit if it has real concerns. Moreover, any such requirements must supplement rather than replace clear operational performance standards based on BAT and the other PPC requirements.

9.37 Permit conditions may, for example, require operators to look into specific issues and report detailed findings and proposals for improvement to the regulator. Reporting conditions should have specific deadlines, reflecting the shortest reasonable period for the operator to provide the information.

Planned closure of existing installations

9.38 If an installation is scheduled for closure and its effects are not excessive in respect of other aspects of the PPC Regulations, it might be appropriate for permit conditions to be set accordingly. This is because releases from the installation over its remaining life might not justify significant expenditure on reductions. Regulators should assess this on a case-by-case basis. In such cases, however, it is important that the installation does in fact close down as scheduled. Therefore, if the operator wants to continue running it, or if it is later reopened, the regulator should treat it as a new installation.

10 ENVIRONMENTAL QUALITY STANDARDS

EC requirements

10.1 For all activities, except landfills, the main basis for setting ELVs under the PPC Regulations will be the application of BAT. However, ELVs must also satisfy regulation 12(7), among other provisions. Regulation 12(7) states that where an environmental quality standard (EQS) as set out in Community legislation requires stricter ELVs than those achievable under BAT, the regulator must impose those stricter limits. (Under regulation 12(8) the stricter ELVs may be supplemented or replaced by equivalent parameters or technical measures).

10.2 The term "environmental quality standard" includes several numerical standards that specify maximum concentrations of named pollutants for air and water. In addition to such numerical EQSs there are also qualitative Community EQSs which may require stricter ELVs. A summary of EC laws and the pollutants concerned can be found in Annex VII. If a Community EQS changes or new ones are introduced, the regulator may need to vary the permit conditions (see chapter 11).

10.3 In setting permit conditions, the regulator must first consider whether any Community EQS is being or may be breached. If so, the regulator will have to set ELVs accordingly, based on how far the installation is responsible for the breach and the likelihood of remedial action elsewhere. This may require ELVs which are even tighter than those which the use of BAT can generally meet.

10.4 Regulators are expected to co-operate so that they use their powers in the most effective way. They should aim to improve areas of poor environmental quality so that Community EQSs are met. However, they should try not to impose a disproportionate burden on IPPC installations compared to other pollution sources.

10.5 For a new installation (or a substantial change to an existing installation, where the effect of the change bears significantly on a Community EQS), if environmental quality before the installation begins to operate meets the requirements of a Community EQS, then this must remain so after the installation comes into operation. If the necessary ELVs cannot be

met then the permit must be refused. However, there may be ways to reduce emissions from other sources in such a circumstance, thus rendering ELVs and other permit conditions for the installation viably achievable. Where a new installation would only make a minor contribution to a breach of a Community EQS, it will normally be more desirable for regulators to work together to control the other, main sources of pollution, thus ensuring the EQS is met.

10.6 If a Community EQS is already being breached in a particular area, then a permit should not be issued to any new installation that would cause anything beyond a negligible increase in the exceedance. Again, however, if it is clear that a combination of controls on the proposed IPPC installation and measures to reduce emissions from other sources will achieve compliance with the EQS, then the installation may be permitted.

10.7 Where an existing installation is the main or only cause of a breach of a Community EQS the regulator must set ELVs accordingly. If those are not viably achievable, the regulator should refuse the permit. If a permit has already been issued when the breach is detected (or arises if a new EQS is set) the regulator should review or revoke the permit.

10.8 Where an existing installation is a significant contributor to a breach of a Community EQS, but other sources such as traffic also make major contributions, regulators should explore all options for securing compliance with that EQS. It may be right for them to restrict releases from the other sources rather than tighten the IPPC limits. How far a regulator can do this will depend on its powers to control the other sources. Alternatively, the regulator may find that there are other things it can do to rectify the breach, such as draw up an action plan for an air quality management area (AQMA) under Part IV of the Environment Act 1995. However, if the regulator does not have powers to control the other sources, and does not believe that other means will bring about compliance with the EQS, it must impose stricter permit conditions, but it should involve the operator in that consideration so that the operator has the opportunity to suggest solutions. A combination of controls on all sources must ensure that Community EQSs are met.

10.9 Where an existing installation makes only a minor contribution to a breach of a Community EQS caused mainly by other, non-IPPC sources, ELVs for the installation should reflect that and would generally be expected not to differ significantly from those which would apply regardless of the applicability of the Community EQS. It will be much more important for the regulator to use whatever other powers it has to control the main sources of the breach.

10.10 A breach of a Community EQS could result from the combined effects of a number of installations. This could occur in an industrial area with elevated concentrations of air pollutants, or in an estuary where high levels of pollutants have accumulated due to releases up-river. In such cases it may be appropriate to review several permits in the area to set slightly stricter ELVs for each installation rather than simply imposing the entire burden of compliance on the last applicant. Regulators should also take care to ensure that all of the available "headroom" for compliance with EQSs is not taken up by the sectors that come into IPPC earlier in the transition timetable (see Chapter 4), causing difficulties for the later sectors.

National requirements

10.11 Regulation 12(7) of the PPC Regulations does not require ELVs even tighter than those which the use of BAT can generally meet solely in order to comply with a national environmental quality standard or objective. Nevertheless, regulators should consider national environmental quality standards or objectives carefully when determining IPPC ELVs. Regulation 12(6) provides that, although ELVs are to be based on BAT, regulators must also take account of local environmental conditions. Where a national EQS or objective applies, local environmental conditions will in important part be characterised by the extent of compliance with it. A significant contribution by an IPPC installation to significant non-compliance will normally be unacceptable. Regulators must also take account of the general principles set out in regulation 11. So regulators and operators alike will need to be alert to the possibility that national environmental quality standards or objectives may in some cases require exceptionally stringent ELVs or other permit conditions.

10.12 Some national EQS such as operational water quality EQS should always be observed to adequately protect the aquatic environment and prevent a significant deterioration in water quality. These include:

(a) river quality objectives approved by Government[58];

(b) Environment Agency national standards to protect the quality of water and aquatic life; and

(c) Environment Agency local standards to control specific sources of substances that may harm water quality and aquatic life.

[58] In accordance with the Surface Water (River Ecosystem) Regulations 1994 (SI 1994 No. 1057).

The Environment Agency should ensure that IPPC permits contain conditions to safeguard these standards.

11 CHANGES TO INSTALLATIONS THAT HAVE ALREADY BEEN PERMITTED

11.1 Once an operator has a permit, it must advise the regulator whenever it proposes a change in the operation of the installation. Annex I explains "change in operation". The operator can tell the regulator about a planned change in one of two ways: a notification under regulation 16 or an application for a variation of the permit under regulation 17. Regulation 17 also allows the regulator to initiate a variation in the permit conditions.

Notifications of proposed changes in operation

11.2 Regulation 16 requires operators to notify the regulator of any proposed change in operation, unless making an application for the change under regulation 17. Usually, these notifications will only be appropriate for changes which are not likely to require the variation of permit conditions. If the change could result in a breach of the existing permit conditions, or if the regulator is likely to want to review the conditions in the light of the proposal, the operator should apply under regulation 17.

11.3 If an operator goes ahead with a change under regulation 16, it must notify the regulator in writing at least 14 days beforehand. The regulator will acknowledge receipt. Unless the regulator acts to prevent it, the operator may then make the change, so long as it does not breach any permit conditions. As a matter of good practice, the regulator should tell the operator if it believes that the change can go ahead as notified.

11.4 If the regulator believes that the change might breach the existing permit conditions, or that the nature of the change requires more detailed reconsideration of the permit conditions under regulation 17, then it should tell the operator. Ideally the regulator should advise the operator either way within the 14-day period. However, if an operator has not had any comment from the regulator after 14 days, it is still responsible for ensuring that the permit conditions are not breached if it decides to go ahead with the change.

Applications to vary conditions

11.5 The operator should apply to the regulator when proposing a change that would require a variation in the permit conditions. This might apply, for example, if the operator wanted to extend the installation or modify the

operating procedures[59]. The procedures for making and determining these applications are broadly similar to those for permit applications. The application must contain a description of the proposed variations and a statement of any changes in respect of the original permit application. The operator must also pay a fee.

11.6 The regulator should ensure the application is duly made. The regulator may also ask for further information. If the operator does not supply it in time, the regulator may give notice that it treats the application as withdrawn.

11.7 The public and the statutory consultees will be given the opportunity to comment on any proposed variation involving a "substantial change" (defined in Annex I). The regulator will notify the operator if this is the case. The consultation process will then be the same as for a permit application (see chapter 6).

11.8 The regulator may also require consultation in cases that do not involve substantial changes. The regulator may decide that consultation is appropriate for some other reason. In these cases, the regulator will notify the operator of its decision and the consultation will proceed as if there were a substantial change.

11.9 The regulator will largely follow the approach set out for a permit application in determining whether to vary the permit conditions, or set conditions if it allows the change. This will include consultation on a draft determination (see paragraph 7.23) if the variation application constitutes a "substantial change" or if the regulator decides that such consultation is appropriate (see paragraph 7.24). The main difference is that the determination should only relate to those parts of the installation affected by the proposed variation.

11.10 If the regulator decides to vary the conditions, it will issue a "variation notice". This will specify the variations and the dates they take effect. Regulators do not have to simply accept operators' proposals. They must impose conditions sufficient to comply with the PPC Regulations. The regulator may decide that some parts of the variation sought by the operator could be reflected in new permit conditions, while others should not be. The regulator may also need to impose conditions that go beyond the operator's proposals. However, the regulator should not do this if it thinks that the operator will not comply with them. In this case it should refuse the application.

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[59] For more guidance on what constitutes a significant change, see Environment Agency IPPC Regulatory Guidance Series No 1, available at http://www.environment-agency.gov.uk/commondata/105385/ippcsub.pdf .

11.11 If the regulator decides not to vary any of the permit conditions, it must notify the operator. The operator may appeal against this. If the regulator does decide to vary the conditions, the operator can appeal against them.

11.12 The PPC Regulations set time periods for determining applications for variations. There are a few exceptions, such as where the Secretary of State makes the determination or where transboundary consultation is needed. The regulator should normally determine applications that require consultation with the public and statutory consultees within four months of receiving them. Where consultation is not needed, the period is three months. These periods do not include any time operators take to respond to requests for additional information. In either case the regulator and the operator may also agree to a longer period. If the operator does not agree to this and the regulator fails to decide within the set time, the operator may give notice that it treats the application as having been refused. The operator may then appeal against this deemed refusal.

Variation of conditions by the regulator

11.13 Under regulation 17(1), the regulator may vary permit conditions at any time, even if the operator has not requested this. It is most likely to do this in response to the findings of a permit review (see chapter 13), or because additional conditions are needed to deal with new matters and in these cases consultation on a draft determination may be required (see paragraph 7.23). However, a variation may be necessary for another reason, such as a new EQS. A local authority regulator will also need to vary the permit conditions on releases to water from a Part A installation regulated by the authority if the Environment Agency requests this under regulation 13.

11.14 Where the regulator decides to vary permit conditions, it will serve a variation notice and may require the operator to pay a fee. The regulator will consult on a proposed variation notice, much the same as when the operator asks for a variation.

Other variations

11.15 The PPC Regulations allow for variations that do not affect permit conditions. This may be, for example, when the operator's name changes but the installation does not change hands, or the operator amends the plan that must accompany the permit. The regulator may also replace a permit with a consolidated permit without varying the conditions. This might be for clarity if a permit has been varied several times.

12 PERMIT TRANSFERS

12.1 IPPC installations may change hands through normal business transactions. The PPC Regulations therefore allows for permit transfers. New operators should have the management systems and the competence to run installations properly.

Applications for transfers

12.2 If an operator wants to transfer all or part of a permit to someone else, they must make a joint application and also pay a fee. For a partial transfer, where the original operator retains part of the permit, the application must include a plan identifying which parts of the site and which installation(s) the operator proposes transferring.

Determining applications

12.3 The regulator must determine whether to allow the transfer. Regulation 18(4) says that the transfer must go ahead unless the regulator considers that the proposed transferee will not comply with the permit conditions. This is the same as for new permit applications, described in chapter 7. The regulator should consider it in the same way. Regulation 18(5) adds a second test for any permit covering a "specified waste management activity". In these cases, the regulator must be satisfied that the proposed transferee is a "fit and proper person" (discussed in chapter 15).

12.4 The PPC Regulations set a two-month period for regulators to determine transfer applications. The regulator and the applicants may agree a longer period. If the regulator has neither effected the transfer nor rejected the application within the time limit, the applicants may treat this as a deemed refusal. They may then appeal against this deemed refusal.

Transferring permits

12.5 Where the regulator effects the transfer of the whole permit, it must endorse it with the proposed transferee's details as the new operator. For partial permit transfers, the regulator must issue a new permit to the proposed transferee. This will cover the parts of the operation that have been transferred. It should contain the same conditions as the original

permit, so far as they are relevant. At the same time, the regulator must return the old permit to the original operator, showing the extent of the transfer and thus which parts of the permit remain applicable.

12.6 Regulators should vary permit conditions where necessary as a result of a partial transfer. For example, ELVs may need to be divided, or further conditions may become necessary upon shared operation. This will ensure that operators continue to co-operate on control of the installation as a whole.

13 PERMIT REVIEWS

13.1 Permit reviews are to check whether permit conditions continue to reflect appropriate standards. Regulators will review permit conditions in the light of new information on environmental effects, available techniques or other relevant issues. If a review shows that new or varied permit conditions are needed, the regulator determines them by the variation procedures described in chapter 11.

13.2 Regulation 15(1) requires regulators to review permits periodically and allows them to do so at any time. This is meant to provide a double-check on the adequacy of the permit conditions. It should guard against permits becoming gradually obsolete, as techniques gradually develop, but without any major innovations that would trigger a review otherwise.

13.3 The PPC Regulations do not define when regulators should carry out permit reviews. It is for regulators to determine when they carry out reviews, having regard to their own experience of regulating the various sectors. Regulation 15(2) also requires permit reviews when:

(a) the installation causes such significant pollution that revised or additional ELVs are needed;

(b) substantial changes in BAT make it possible to reduce emissions significantly without excessive costs; or

(c) operators must switch to other techniques for safety reasons.

13.4 The first of these circumstances might arise if new evidence emerges that at least one emission from a particular installation, although compliant with the ELV in the permit, is nevertheless causing significant pollution[60]. Or the evidence may relate to an emission which is not subject to an ELV in the permit. This evidence may come from improved scientific understanding, from environmental monitoring or from the regulator's investigation of complaints by the public, but whatever the source it will be for the regulator to judge whether it is sufficiently significant for the relevant conditions of the permit to be reviewed. The

[60] Note that "pollution" is defined in regulation 2(1) of the PPC Regulations.

scope of permit reviews in these circumstances should be limited to the pollutant(s) of concern and to the features of the installation giving rise to the pollution. However, permit review will not be required where revision of ELVs is made necessary solely by changes in environmental quality standards which, in accordance with the provisions of regulation 12(7) of the PPC Regulations, have to be incorporated into the permits of all installations to which they are relevant, or by the implementation of a separate Directive.

Links with other Regulations

13.5 Some IPPC permits will contain conditions that fulfil the Groundwater Regulations. The regulator must review those conditions every four years. This need not be the full IPPC permit review. However, regulators may want to carry out joint reviews for reasons of efficiency and integrated control. They may also want to do the same for other regulatory requirements not incorporated into IPPC permits, such as the review of safety reports under the COMAH Regulations.

14 SITE ASSESSMENT, PROTECTION, MONITORING AND RESTORATION

14.1 Regulation 11(3) sets out the general principle that, "upon the definitive cessation of activities, the necessary measures should be taken to avoid any pollution risk and to return the site of the installation or mobile plant to a satisfactory state". To give effect to this, the PPC Regulations set out a regime based on the following:

(a) submission of a site report in the operator's IPPC permit application;

(b) inclusion of conditions in the permit setting out steps to be taken prior to and during the operation of the installation, which may include a site protection and monitoring programme, and after definitive cessation;

(c) submission of a site report in an application to surrender the permit when the operator ceases or intends to cease operating the installation;

(d) regulator either to accept or refuse the surrender if not satisfied that appropriate steps have been taken to avoid any pollution risk resulting from the operation of the installation or return it to a satisfactory state; and

(e) additional powers for the regulator to specify steps that must be taken to restore the site in those cases where the regulator revokes a permit.

14.2 Additional considerations apply to landfills. These are outlined in paragraph 14.31.

14.3 It is essential, however, that regulators do not consider site restoration provisions in isolation from the other requirements of the PPC Regulations. A restoration exercise at closure cannot justify letting the operator pollute the site by breaching a permit condition. Moreover, it will not always be desirable to wait until the installation closes before removing any pollution or remedying any harm at the site. The permit should therefore include conditions requiring the operator to inform the

regulator, without delay, of any incident or accident which may cause pollution. Periodic monitoring of key parameters may also be needed.

Site reports in permit applications: purpose of site reports

14.4 The site report must describe the condition of the site and must, in particular, identify any substance in, on or under the land that may be a pollution risk. It should also record any pollution incidents such as spillages that have occurred at the site and details of measures put in place to mitigate their effects. The site report must identify, either expressly, or by cross reference to other parts of the application, the preventative measures that are in place to protect the land. It must provide an assessment of the potential for on-going or future pollution of the land from the operation of the installation. The site report must also provide information sufficient to enable the regulator to determine appropriate permit conditions to protect the site - for example, by a requirement for a site protection and monitoring programme.

14.5 The site report serves two main purposes. Firstly, it will be a reference point, along with any operating and monitoring records, for measuring any deterioration of the site under IPPC. When the operator wants to surrender the permit upon closure, it must prepare another site report, identifying any changes to the condition of the site since the permit was issued. Secondly, the original site report will give information on the physical attributes and vulnerability of the site, for example whether there is an aquifer close to the surface. This will help the regulator decide whether the site is suitable. It will also aid the process of setting appropriate permit conditions for protection of the environment by providing information relating to local environmental factors, and in particular will be used to inform the operator's site protection and monitoring programme where required (see paragraph 14.13).

14.6 The site report required for a permit application under the PPC Regulations should cover all of the land on which any of the activities of the installation may take place. This should include any land that is integral to the satisfactory operation of the installation, for example, areas needed for the movement of materials by vehicles or other means, and the area around any associated pipework. If the operator subsequently wishes to extend the installation once a permit has been issued, such that a wider area of land is required for satisfactory operation, they will have to apply for a variation to the permit conditions which must include a site report for the additional land, and may in turn have implications for any site protection and monitoring programme.

14.7 The operator must submit separately a map or plan of the site, including the location of the installation on it, as part of a permit application. This

more general map or plan should typically show where the site lies in the surrounding area, where the installation is located on the site and how it is laid out, what else is on the site, and where any foreseeable emissions from the installation into or from the site are proposed or could arise.

14.8 The site report need not necessarily cover the site of a complete industrial complex if the IPPC installation only relates to a small proportion of such a complex. For example, if a boiler plant in a car-manufacturing complex is covered by IPPC, but the rest of the plant is not, the site report may only need to cover the area around the boiler.

Framework for site reports

14.9 The framework for site reports is based on the identification and assessment of:

(a) sources of substances that are already in, on or under the land and which have the potential to cause harm or pollution of controlled waters due to past activities and substances that will be used in or produced by the installation in the future;

(b) receptors – whatever is vulnerable to the adverse effects of the substances that will be used in or generated by the installation – for example, people, animals, ground and surface water, vegetation, building materials, services, etc; and

(c) pathways – the means by which a substance may come into contact with or otherwise affect a receptor on, under or through the site.

14.10 The site report should always give information on the potential or actual presence of substances at the site. It may also need to deal with possible substance pathways on or through the site. The part of the site report that relates to pre-existing pollution should at least give the results of a desk study and a site reconnaissance. These should provide a conceptual model of the site and a preliminary understanding of its likely risk profile. In addition to examining the results of the desk study, the regulator may wish to carry out its own reconnaissance visit to satisfy itself that an application is accurate, and may, in situations where the desk study provides insufficient information to characterise the site, require further investigations.

14.11 The Environment Agency has published further guidance[61] on producing site reports for IPPC applications. The site report, together with information generated by the operator's site protection and monitoring programme (where appropriate), will give the regulator a point of reference for judging whether there has been any additional pollution during operation under an IPPC permit. The regulator should normally attribute any additional pollution to operation under IPPC. This underlines the importance of operators carrying out effective site investigations and putting in place effective site protection and monitoring programmes at the start to limit their potential liability.

14.12 However, it is possible that 'new' pollution might be due to other factors. The original site assessment and subsequent programme may have missed some pollution, or new pollution may have migrated from elsewhere. The regulator should hold the operator responsible for any pollution on the site that was not identified by the original application or site protection and monitoring programme, unless the regulator is convinced that the operator cannot reasonably be held responsible for it. By comparing pollutants identified in the site report with potential further pollutants from the installation, an appropriate monitoring scheme can be developed. This should ensure that pollution arising from the operation of the installation is identified at an early stage.

Purpose of site protection and monitoring programmes

14.13 The permits that the regulator issues must contain conditions designed to protect the site from pollution caused by the operation of the installation. Having assessed the information contained in the application site report, the regulator will normally impose a condition requiring the operator to design and implement a site protection and monitoring programme. The two purposes of the programme are to:

(a) demonstrate that all necessary steps are taken to prevent pollution through the life of the permit, or to identify and deal with it at the earliest opportunity; and

(b) inform the surrender application upon closure

Framework for the monitoring and assessment programme

14.14 Where a condition is included requiring a site protection and monitoring programme, it must cover submission of proposals by the operator to the regulator, determination of appropriate measures and implementation.

[61] Available at http://www.environment-agency.gov.uk/business/444217/444663/298441/horizontal/534710/ .

14.15 In each case, the nature of the programme should be proportionate to the risks. For example, operators will not normally be required to carry out intrusive investigations where installations do not have a history of pollution incidents, have adequate infrastructure, and have integrity testing that continues to demonstrate the pollution prevention measures are intact. Conversely, operators of installations that have infrastructure which leaves some risk that pollution of the site may occur will be required to conduct intrusive investigations to assess the state of the land around such infrastructure.

14.16 The following techniques may be relevant to the programme:

(a) integrity testing of containment measures such as pipes, bunds, hard standing etc;

(b) check monitoring of preventative measures through sampling and monitoring of soil and/or water; and

(c) maintenance of operating records throughout the life of the permit.

14.17 The first stage of monitoring must establish reference data for substances currently, or likely in future to be, in use or produced at the installation which have the potential to cause current or future pollution of the land (whether by themselves or in combination with other substances that are already present).

Restoring sites: restoration while an installation is still in operation

14.18 Where an operator breaches a permit condition, causing pollution, the regulator may issue enforcement notices to make the operator put things right while the installation is still in operation. These notices may specify what the operator must do to remedy the effects of the pollution and to make the installation comply with the conditions.

14.19 For landfills regulators are required to set permit conditions obliging the operator to monitor and report on the condition of the site. This would help to reveal any polluting releases into and off the site at an early stage and thus allow prompt remedial action. This may be particularly appropriate for specific pollution risks, such as underground pipes.

Restoration when a permit is to be surrendered

14.20 When an operator stops or intends to stop operating an installation, it should apply to the regulator to surrender the permit. Once the regulator has accepted a surrender application, the permit ceases to have effect. An operator may also apply for a "partial surrender", where it stops operating part of the installation.

14.21 Special considerations apply to landfill restoration. There are two main factors. The first is that, clearly, the regulator cannot ask for a complete return to the condition set out in the initial site report. The second is that, unlike other sectors where operators may be able to surrender their permits soon after operations cease, a closed landfill may be a pollution risk for some considerable time and the Landfill Regulations provide the procedure for closure and aftercare (see paragraph 14.31).

14.22 The surrender application must include:

(a) a report describing the site conditions and identifying any changes from the condition described in the original site report and by the site protection and monitoring programme; and

(b) a description of any steps that have been taken to avoid any pollution risk on the site and return it to a satisfactory state.

14.23 Regulators may supplement these requirements with permit conditions. For example, they could require an operator to give notice when they stop operating a process, take immediate steps on decommissioning, or submit proposals for assessing the site condition or taking remedial action for review by the regulator. Even where the regulator does not impose these conditions, operators may wish to consult regulators, to lessen the risk of carrying out restoration work that does not meet PPC requirements.

14.24 The regulator will either accept a surrender application, if satisfied that there is no pollution risk and nothing more is needed to return the site to a satisfactory state, or refuse the application. The regulator must give its determination within three months of receiving the application, unless it agrees a longer period with the operator. This does not include time the operator takes responding to requests from the regulator for further information. If the regulator has not determined an application after three months or the agreed period, the operator may treat this as a deemed refusal. The operator may appeal to the Secretary of State against an actual or deemed refusal.

14.25 The site report upon closure should follow the same general framework as the one that went with the original application. It should consider the nature and setting of the site, the installation and the industry sector and the original site condition and other data identified by the site protection and monitoring programme. It should describe what has happened at the site over the period covered by the permit. Regulators will need to judge each case separately, but the essential information to bring out is how

the site has changed since the original application, for example, through the accumulation of any additional pollution. The Environment Agency will issue more detailed guidance on producing site reports.

14.26 On closure, the regulator must ensure that appropriate steps have been taken to avoid any pollution risk and to return the site to a satisfactory state (regulation 19(4)). This can only be achieved if operators aim to restore sites to the condition they were in before the installation was granted a permit and the pollution occurred. As the aim of IPPC is to take preventive measures against pollution to ensure that there is no deterioration of the site during the operation of the plant, where an incident such as a spillage has occurred, where practicable the operator should take steps to address any pollution at the time of the incident. A record of the steps taken to return the site to a satisfactory state should be made available to the regulator as part of the closure site report. As far as practicable, the operator should restore the site to the condition it was in when the permit was issued.

14.27 This may be significantly stricter than the "suitable for use" test of the contaminated land regime in Part IIA of the EPA 1990 and similar controls on redevelopment. While "suitable for use" is appropriate for pre-existing contamination, it is not the right test for the preventive IPPC regime. Its use here would mean that the regulator accepts further significant degradation of soil, land and water. As a result, restoration under IPPC is not constrained by the future use of the land.

14.28 There are potentially three main elements to restoring sites polluted under an IPPC permit. These are:

(a) removing(as far as is practical), treating or immobilising any pollutants;

(b) remedying any harm the pollutants may have caused; and

(c) mitigating the effects of any harm.

14.29 For example, an installation could release pollutants into the ground, which could be removed, treated, or if that is not possible, contained. If left in the ground, the pollutants could leach into an aquifer used as a source of drinking water. Ideally, the pollutants would be totally removed, and the aquifer remediated. However, while it might be possible to remove pollutants from the soil, it might not be feasible to remediate the aquifer. This need not prevent monitoring of the plume, however, which would help make water abstraction safer. This would help to mitigate the

harm. The permit would then remain in force, requiring the operator to monitor the pollution until the regulator was satisfied that it was no longer necessary.

14.30 The requirement to remove any pollution risk must be interpreted in a proportionate way. In practical terms, operators should tackle the risks of any pollution that could occur, unless they are so small that further action is not justified. This might mean removal of tanks containing pollutants, as they could rust or get damaged, so releasing the pollutants. Regulators may want to impose permit conditions on the removal of anticipated risks at closure, where they are not already covered in planning consents. This would be without prejudice to regulators' powers to request further action when a site closes, should they identify additional risks.

Restoration for landfills

14.31 Landfills that were closed before 30 October 1999 are not subject to the IPPC Directive or PPC Regulations and landfills that closed before 16 July 2001 are not subject to the Landfill Directive or Regulations. Surrender of a landfill permit will only be possible when the landfill no longer presents a potential risk to human health and the environment.

14.32 There are several stages in the process of surrendering a landfill permit, broadly: closure, aftercare and surrender.

14.33 Regulation 15 of the Landfill Regulations allows for closure of the whole site or part of it. Closure can be initiated in two ways, by the operator making a request to the Environment Agency, or by the Agency making a "reasoned decision" which is set out in a closure notice.

14.34 Before closure: the Landfill Regulations require the operator to submit reports on the site as required by the Environment Agency; and the Agency to assess the reports, carry out a final on-site inspection and notify the operator in writing that it approves the closure.

14.35 Aftercare procedures shall ensure that the operator remains responsible for the landfill, undertakes necessary monitoring and reports adverse environmental effects to the Environment Agency until surrender of the permit.

Restoration when the regulator revokes a permit

14.36 Where the regulator revokes a permit, site restoration must still be dealt with under regulation 21. If the regulator considers that there are things the operator must do to avoid any pollution risk on the site or to return it

to a satisfactory state, the revocation notice must specify them. The permit will cease to authorise operation of the installation, but will still set any restoration requirements. This will continue until the regulator issues a certificate stating that the operator has taken all necessary steps. Regulators may enforce the restoration requirements by issuing enforcement notices under regulation 24. If necessary they can use their powers under regulation 26 to remedy harm and recover costs (see chapter 16).

Other connections with Part IIA EPA 1990

14.37 The local authority with an IPPC installation in its area will always receive a copy of the permit application for that installation, either as the regulator or as a statutory consultee. The site report in an IPPC application may convince the local authority that the site could already meet the statutory definition of "contaminated land" under Part IIA of the EPA 1990. Under this regime, only the local authority in whose area the land is situated may class it as "contaminated land". Equally, the local authority can only require the operator to remediate pre-existing contamination under the provisions of Part IIA EPA 1990 or development controls, not under the PPC Regulations. The regulator may be able to grant an IPPC permit in parallel.

14.38 A local authority should base a determination of "contaminated land" on full use of all the relevant information in the IPPC application together with any other relevant information it may hold. However, it may need to know more about, for example, the receptors and pathways for pre-existing pollution. If an operator believes that a site may meet the definition of "contaminated land" under Part IIA EPA 1990, it may wish to discuss this with the local authority.

14.39 If the regulator finds that an IPPC site is polluted as a result of activities subject to IPPC after it has come under a permit, it may not seek remedial action under Part IIA EPA 1990 if enforcement action under the PPC Regulations is possible.

14.40 After an IPPC installation has closed and there is no further scope for restoration under the PPC Regulations, the regulator may consider further remediation under Part IIA EPA 1990. This should not normally be needed. The IPPC regime's requirements for site restoration will usually be of a higher standard than that required under Part IIA EPA 1990. However, if the site is heavily polluted with material from pre-IPPC operations, which for some reason was not remediated before IPPC operation began, then it may still be remediated under the Part IIA regime after closure.

14.41 The “enforcing authority” for Part IIA EPA 1990 dealing with any land on which an IPPC installation is operated will be the same as the IPPC regulator for the installation. This will prevent different bodies regulating the same site for restoration under IPPC and remediation under Part IIA EPA 1990.

15 SPECIAL CONSIDERATIONS FOR ACTIVITIES INVOLVING WASTE

Specified waste management activities

15.1 The PPC Regulations place additional requirements on those undertaking specified waste management activities[62] (see Annex I). The Landfill Regulations impose requirements on landfills. This chapter sets out some of these requirements. Other requirements are integrated into the text.

Fit and proper person

15.2 If any "specified waste management activity" (explained in Annex I) is carried on in an IPPC installation, the regulator must not grant or transfer a permit unless the operator is a "fit and proper person" (FAPP) in relation to the carrying out of that activity. This has been largely carried over from equivalent provisions under Part II of the EPA 1990. More detailed guidance is available on Waste Management Licensing[63]. Specified waste management activities do have additional requirements to those of Waste Licensing under FAPP. These are twofold: financial provision is required prior to the commencement of activities; and that professional training and development are provided for staff.

15.3 Under regulation 4 of the PPC Regulations as amended[64], someone is not a FAPP if it appears to the regulator that:

(a) he or any other relevant person has been convicted of relevant offences[65];

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[62] Note that SI 2003 No. 3296 modifies the definition of "specified waste management activity" given in regulation 2(1) of the PPC Regulations so that certain categories of waste activities are excluded where they are carried out at the same installation as any activity falling within Part A(1) of Part I of Schedule 1 to the PPC Regulations and they do not constitute the primary activity of that installation.

[63] See footnote 40.

[64] The relevant amendment here is SI 2003 No. 3296 which came into force on 7 January 2004.

[65] An offence prescribed under Section 74(6) of the EPA 1990 for the purposes of Section 74(3)(a) of that Act.

(b) the management of the specified waste management activity which is to be carried out will not be in the hands of a technically competent person;

(c) he has not made, or will not before commencement of any specified waste management activity consisting of the disposal of waste in a landfill falling within Section 5.2 of Part 1 of Schedule 1 make, adequate financial provision (either by way of financial security or its equivalent) to ensure that:

- the obligations (including after-care provisions) arising from the permit in relation to that activity are discharged; and

- any closure procedures required by the permit in relation to that activity are followed;

(d) he and all staff engaged in carrying out any specified waste management activity falling within sub-paragraph (c) will not be provided with adequate professional technical development and training; or

(e) for specified waste management activities not falling within sub-paragraph (c), the person who holds or is to hold the permit has not made and either has no intention of making or is in no position to make financial provision adequate to discharge the obligations arising from the permit in relation to the specified waste management activity.

15.4 There are four main categories of applicant who would be a "relevant person" in relation to a conviction for a prescribed offence:

(a) employees of the applicant where the offence was committed in the course of their employment;

(b) business partners of the applicant where the offence was committed in the course of their business;

(c) companies where the applicant was a director, manager or similar; or

(d) a director, manager, secretary or other similar officer of the applicant's company who has either been convicted of a relevant offence themselves, or who held a position in another company when it was convicted of a relevant offence.

15.5 However, the regulator may still decide to issue or transfer a permit, even though a relevant person has been convicted of an offence, if it thinks it right to do so.

15.6 The management of the activities should be in the hands of technically competent persons in accordance with regulations 4 and 5 of the Waste Management Licensing Regulations 1994.

15.7 In determining whether an applicant has made adequate financial provision, the regulator will consider how much it would cost to cover the permit obligations for the waste management activity. This will include:

(a) site security;

(b) maintenance of pollution control systems;

(c) restoration;

(d) aftercare;

(e) site clearance; and

(f) post-closure monitoring.

15.8 The amount required will reflect the need to prevent pollution and harm to health and will depend on the risk of pollution and how harmful it is likely to be. The financial provision mechanism should cover the relevant permit conditions, be secure for the life of the permit and be accessible to the operator and regulator. The regulator should determine the mechanisms and amounts in each case based on the principles of proportionality, reasonableness and consistency.

Planning permission

15.9 Some specified waste management activities need planning permission under the Town and Country Planning Act 1990. The planning permission must be in force before the regulator may permit the activity under IPPC. A certificate of lawful use or development or an established use certificate is treated as planning permission.

15.10 The Landfill Regulations require that planning permission only be granted for a landfill site where the following have been taken in to consideration:

(a) distance from the site boundary to various receptors;

(b) the existence of ground water, coastal water or a nature protection zone (either a special site of scientific interest or a European Site under the Conservation (Natural Habitats, &c) Regulations 1994[66];

(c) geology and hydrogeology of the area;

(d) risk of flooding, subsistence, landslides or avalanches on the site; and

(e) the protection of the nature and cultural heritage in the area.

Waste Framework Directive

15.11 The Waste Framework Directive also covers IPPC activities involving the disposal or recovery of waste. This includes all specified waste management activities plus some others. This means that, in the case of such activities, the regulator must apply IPPC in a way that achieves the "relevant objectives" of the Waste Framework Directive. These are set out in Schedule 4 to the Waste Management Licensing Regulations 1994[67]. They include: `ensuring that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment and in particular without –

(a) risk to water, air, soil, plants or animals; or

(b) causing nuisance through noise or odours; or

(c) adversely affecting the countryside or places of special interest'.

15.12 The "relevant objectives" also involve implementing a number of plans, including local planning authorities' development plans and any waste plans made under Section 50 of the EPA 1990.

15.13 Aside from the "relevant objectives", more generally regulators must apply all the relevant provisions of IPPC to waste disposal or recovery activities. They will need to take a common sense approach. Unlike activities that aim to reduce waste and other releases at source, waste disposal or recovery activities treat waste (often produced by someone

[66] SI 1994 No. 2716.

[67] SI 1994 No. 1056.

else). Waste minimisation objectives, for example, will therefore not be very relevant to an installation that is specifically for waste disposal, such as a landfill. Waste Management Papers (WMP) and guidance produced by the Environment Agency give regulators information on how to control activities involving waste disposal or recovery, and in particular specified waste management activities.

Site assessment and restoration

15.14 The general approach to assessing the condition of IPPC sites and restoring them where necessary is set out in chapter 14. However, special considerations apply to waste activities.

16 CHECKING AND ENFORCING COMPLIANCE

Self monitoring and reporting by the operator

16.1 Operators will have significant responsibility for monitoring under IPPC. They must state in their permit applications how they propose to monitor emissions. Similarly, an application for a variation must describe any proposed changes to monitoring. The regulator will assess these proposals. Under regulation 12(9), regulators must impose the conditions they think are appropriate for:

(a) setting out suitable emission monitoring requirements (which may include a site protection and monitoring plan where appropriate), specifying the measurement methodology and frequency and the evaluation procedure, and ensuring that the operator supplies the data needed to check compliance; and

(b) requiring the operator to supply the results of emissions monitoring and to tell the regulator, without delay, of any incident or accident that is causing or may cause significant pollution.

16.2 The conditions should generally require operators not just to provide basic data (for example, the actual results from monitoring equipment), but also to demonstrate whether they are meeting the conditions of the permit. This may include showing that they are not exceeding ELVs, that they are monitoring using the required techniques and that they have the necessary management systems in place.

16.3 Operators of landfills must not commence disposal operations before the regulator has inspected the site. This requirement does not in any way reduce the obligations of the operator to comply with the relevant permit conditions.

Regulator's monitoring and inspections

16.4 Regulation 23 places a duty on regulators to take actions necessary to ensure permit conditions are complied with. This will include reviewing information from the operator and carrying out independent monitoring and inspections.

Enforcement notices

16.5 Regulation 24 allows the regulator to serve an "enforcement notice" if it believes an operator has contravened, is contravening, or is likely to contravene any permit conditions. This will specify the steps required to remedy the problem and the timescale in which they must be taken. Enforcement notices may include steps to remedy the effects of any harm and to bring an installation back into compliance.

Suspension notices

16.6 If the operation of an installation involves an imminent risk of serious pollution, the regulator may serve a "suspension notice" under regulation 25. This applies whether or not the operator has breached a permit condition. When the regulator serves a suspension notice, the permit ceases to authorise the operation of the entire installation or specified activities depending upon what is specified in the notice. When the operator has taken the remedial steps required by the notice, the regulator will withdraw it.

Power of regulators to prevent or remedy pollution

16.7 If an installation gives rise to an imminent risk of serious pollution, a regulator may arrange for the risk to be removed under regulation 26. If an operator commits an offence that causes pollution, the regulator may arrange for steps to be taken to remedy pollution at the operator's expense.

Revocation notices

16.8 Under regulation 21, the regulator can revoke a permit at any time, in whole or in part, by serving a "revocation notice". The permit then ceases to authorise the operation of the installation or an activity within it depending upon what is specified in the notice. Any post-operation requirements, such as site restoration, may remain in force. The regulator may use revocation whenever appropriate. Revocation may be appropriate where exhaustive use of other enforcement tools has failed to protect the environment properly.

Prosecutions

16.9 If an operator has committed a criminal offence under the PPC Regulations, regulators should consider instituting a prosecution. Conviction in a magistrates' court carries a fine of up to £20,000 and up to six months' imprisonment for the most serious offences. Conviction in the Crown court may lead to an unlimited fine and imprisonment for up to five years.

16.10 Where an IPPC regulator and another enforcement body both have the power to prosecute, they should liaise to avoid inconsistencies and make sure that any proceedings are for the most appropriate offence.

16.11 Where a prosecution is not the most appropriate course of action, the regulator should consider issuing a formal caution or a warning. The regulator must place details of any formal caution on the public register.

Application to the Crown

16.12 The Crown is bound by the PPC Regulations, as are people who work for it. However, the Crown is not criminally liable even if it contravenes the PPC Regulations. The regulator cannot take proceedings to the High Court if the Crown does not comply with an enforcement or suspension notice. However, the regulator may apply to the High Court to have something the Crown has done (or failed to do) declared unlawful if it contravenes the PPC Regulations.

17 PUBLIC REGISTERS AND INFORMATION

Duty to maintain public registers

17.1 Regulators are required by regulation 29 to maintain registers containing information on all the installations they are responsible for. Local authorities' registers must also hold information on installations in their areas regulated by the Environment Agency. The registers must be available at all reasonable times, for inspection by the public free of charge. Copies of any entry on a register must be available to any member of the public on payment of a reasonable charge.

Form and content of registers

17.2 The register can be of any form that allows proper public access. Regulators may choose, for example, to maintain computerised registers. If they do, they should make sure that they provide help for members of the public who are unfamiliar with the technology.

17.3 Registers must contain the information set out in paragraph 1 of Schedule 9 to the PPC Regulations. This includes copies of applications, details of the regulator's determinations and monitoring information.

National security

17.4 Regulation 30 allows information to be kept from public registers for reasons of national security. For this to happen, the Secretary of State must determine that placing the information on the register would be against the national interest or the operator may notify the Secretary of State that, in the operator's view, this test applies to certain information. The operator must let the regulator know that it has notified the Secretary of State that the test applies to certain information, but must not exclude that information from any submission to the regulator, such as a permit application. The regulator shall however, keep this information out of the register so long as it is not directed by the Secretary of State to include it.

Commercial confidentiality

17.5 Regulation 31 allows regulators to withhold information from the public registers as commercially confidential. Anyone may apply to have information protected in this way. The regulator normally has 28 days to determine an application. If the regulator does not make a deterrnination in this period, the applicant may simply allow a longer period for the determination or alternatively may notify the regulator that the information is deemed to have been determined as not commercially confidential. If the regulator determines (or is deemed to have determined) that the information is not confidential the operator has 21 days to appeal to the Secretary of State. If the regulator accepts that information is confidential, the Secretary of State may still require it to go on the register in the public interest. If there is no appeal, the regulator will place the information on the register.

17.6 Under regulation 31(12) information is commercially confidential "if its being contained in the register would prejudice to an unreasonable degree the commercial interests" of any person. Operators must clearly explain how this might arise. It will not be enough to say that they are concerned about public opposition, or to assert commercial prejudice without substantiation. Operators should also make sure that any confidentiality claims are complete and readily identifiable within the application. Regulators may only determine confidentiality claims from the information put to them.

17.7 If an application does not clearly demonstrate that information should legitimately be protected, the regulator must determine that it is not confidential. However, the regulator must notify the applicant if it determines that any part of the information in question is not confidential before making that information publicly available as part of the application process, so that the operator has the option of withdrawing the application and thus preventing its release. In practice, it is to be expected that pre-application discussions between regulator and operator would illuminate any difficulties about confidentiality so that a formal determination of confidentiality when the application is submitted does not come as a surprise. See also paragraph 6.7.

17.8 Regulators may grant confidentiality claims for up to four years, although they may specify a shorter period. A person may re-apply before the period ends. Under regulation 29(5), the regulator must state in the register that commercially confidential information is protected. If the regulator withholds monitoring data, Schedule 9 also requires a statement in the register indicating whether the operator has complied with permit conditions.

Withdrawal of information

17.9 If an operator withdraws its application for a permit or variation before it is determined, the regulator should take all references to it off the register between two and three months after the withdrawal. The regulator should include no further information on the application in the register. Similarly, if an installation ceases to fall under IPPC, the regulator should remove the information from the register between two and three months after the amendment is made. The regulator may withdraw monitoring or other information from the register after four years if it has been superseded.

The European Pollutant Emission Register

17.10 Article 15(3) of the IPPC Directive requires the establishment of an EC inventory of principal emissions and their sources known as the "European Pollutant Emissions Register" (EPER). This will provide information to the public, help authorities to assess the effectiveness of IPPC and identify priority areas. EPER was launched in February 2004 as a website[68].

17.11 EPER requires reporting on 50 pollutants released to air and water every three years. The first reporting year was 2003 on emissions from 2001 (or 2000 or 2002 where data from 2001 is not available). This required data to be collected from some existing installations before they have obtained IPPC permits. In preparing EPER data returns (the next, on emissions in 2004, is due in 2006), the Environment Agency is considerably aided by its Pollution Inventory already established under IPC.

[68] www.eper.cec.eu.int

18 CHARGING

18.1 Regulators have to recover the costs of their IPPC operations from permit holders. This follows Government policy and ensures a fair allocation of costs. It also promotes the "polluter pays" principle. Two separate but related sets of charging arrangements apply to IPPC installations:

(a) • charges for Part A(1) installations set and operated by the Environment Agency under Section 41 of the Environment Act 1995 and approved by the Secretary of State; and

(b) • charges for Part A(2) installations set by the Secretary of State under regulation 22 of the PPC Regulations and operated by local authorities.

18.2 Within this overall arrangement, different charges are payable at different regulatory stages. They will also vary across installations and sectors. Further details are available from regulators or from Defra.

Charges for applications

18.3 An operator must pay a charge when submitting any application. The regulator must receive this before the application can be considered duly made. If the regulator judges that an application is not duly made, it shall return the charge to the applicant.

18.4 Operators may make staged applications for permits or permit variations in a limited number of cases (see Chapter 5). There may be separate charging arrangements for this.

Subsistence

18.5 Operators must pay subsistence charges to support the regulator's ongoing costs for such things as checking monitoring data or carrying out inspections. If an operator fails to pay a subsistence charge, the regulator may revoke the permit. Self-monitoring will be at the operator's expense. The regulator will only charge separately for any additional monitoring by its contractors where it is directly and solely attributable to a specific installation.

19 APPEALS

19.1 The operator may appeal to the Secretary of State where:

(a) the regulator has refused an application for a permit;

(b) the regulator has refused an application for a variation of a permit;

(c) the operator disagrees with the conditions imposed by the regulator;

(d) the regulator has served a revocation, enforcement or suspension notice;

(e) the regulator has determined that information is not commercially confidential; or

(f) the regulator has refused an application to transfer or surrender the permit.

19.2 Time limits for appealing vary according to the basis of the appeal. The Secretary of State has the power to extend some of the limits, but would only do so in the most compelling circumstances. The Secretary of State may affirm the regulator's decision or she or he may quash any notice or any permit conditions. She or he may also direct the regulator, for example on what conditions to impose.

19.3 If an operator appeals against a revocation notice, the revocation does not take effect until the appeal has been determined or withdrawn. If the appeal is against a variation, enforcement, or suspension notice, then the notice must be obeyed until the Secretary of State determines the appeal.

19.4 An appeal may be conducted by written representations, or through a hearing under the control of the Secretary of State's appointee. A hearing is compulsory if either the regulator or the appellant asks for one. After a hearing, the appointee will report their conclusions and recommendations to the Secretary of State.

19.5 The court may quash a decision by the Secretary of State and refer the matter back to the Secretary of State for reconsideration. The Secretary of State may then invite further representations and reopen the hearing if necessary.

19.6 An operator may withdraw an appeal at any time by giving notice in writing to the Secretary of State's appointee, copied to the regulator. The regulator should then tell anyone with an interest in the appeal.

20 CONNECTIONS WITH OTHER LEGISLATION

20.1 This chapter explains the main connections between the IPPC regime and other legislation, some of which has featured in other chapters of this guidance.

Health and Safety at Work Act 1974

20.2 This Act provides the foundations for the protection of the workforce and the general public from safety hazards which industrial installations variously present. The Health and Safety Executive enforces those safety requirements. IPPC regulators should take those requirements into account when setting permit conditions, and both parties should in particular ensure that IPPC and Health and Safety requirements do not impose conflicting obligations.

Environmental Protection Act 1990

20.3 The new IPPC regime will replace the IPC regime under EPA 1990 Part I. Until they are due to be phased in according to Schedule 3 to the PPC Regulations, and unless they undergo a substantial change, EPA Part I will continue to be relevant to those installations holding an IPC authorisation. Once the whole transitional period ends in 2007, all installations caught by the PPC Regulations will have become subject to IPPC. Part I of the EPA 1990 will then be repealed.

20.4 Waste management is covered by EPA Part II. This refers to the deposit, treating, keeping or disposing of controlled waste (Section 33). There are some exemptions from the waste management licensing regime in Schedule 3 to the Waste Management Licensing Regulations 1994. Despite these exemptions, EPA Part II covers a wide range of activities, not all of which are among the list of waste management activities in Schedule 1 to the PPC Regulations. This is either because they are different, or they fall below the relevant threshold. Waste management licensing does not apply to activities caught by the PPC Regulations[69] although other provisions such as the Duty of Care will remain valid.

[69] Regulation 16 of the Waste Management Licensing Regulations 1994, as amended by paragraph 32 of Schedule 10 to the PPC Regulations.

Chapter 15 deals with special considerations applying to waste management regulation under IPPC.

20.5 Part III of the EPA 1990 is concerned with "statutory nuisances" and is regulated by local authorities. Unless the Secretary of State has granted consent, a local authority may not begin summary proceedings against a nuisance where proceedings can be brought under the IPPC regime. This is to avoid "double jeopardy" for IPPC operators, and is consistent with previous arrangements under IPC. However, activities that are not covered by IPPC, even though they are on the sites of IPPC installations, may be regulated under the statutory nuisance provisions. The PPC Regulations do not stop members of the public bringing private prosecutions under Section 82 of the EPA 1990.

Water Resources Act 1991

20.6 The Water Resources Act (WRA) 1991 enables the Environment Agency to grant consents for discharges of pollutants into "controlled waters". It is an offence to make certain discharges without this consent. The PPC Regulations specifically state that discharges to water permitted under IPPC cannot be an offence under Section 88 of the WRA. Once an installation comes within IPPC, operators will no longer have to apply for a separate WRA discharge consent. However, there may still be cases where operators need a discharge consent for an activity not covered by IPPC on the site of an IPPC installation.

Radioactive Substances Act 1993

20.7 An activity may be controlled by both IPPC and the Radioactive Substances Act (RSA) 1993. Regulators should ensure that the two regimes do not impose conflicting obligations on the same matter.

Environment Act 1995

20.8 This Act contains the legislation establishing the Environment Agency and conferring upon it various duties and powers. Sections of the Act notable in relation to IPPC are:

(a) section 4, stating the principal aim and objectives of the Environment Agency in terms of environment protection and contributing to sustainable development[70];

[70] Statutory guidance from Ministers to the Environment Agency under section 4 of the Environment Act 1995 was published most recently in December 2002 and is available at http://www.defra.gov.uk/environment/ea/sustain/index.htm .

(b) section 39, giving the Environment Agency the general duty to have regard to costs and benefits in exercising its powers;

(c) sections 41 to 43 concerning financial charging; and

(d) sections 108 to 112, relevant to enforcement and prosecution.

20.9 Part IV of the Act concerns air quality. Section 80 requires the Secretary of State to prepare a national air quality strategy, and section 81 requires the Environment Agency to have regard to that strategy when discharging its pollution control functions.

Conservation (Natural Habitats &c.) Regulations 1994

20.10 These Regulations[71] implement Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora. They require sites of importance to be designated. The Regulations (as amended by the PPC Regulations, Schedule 10) provide that, when determining an application under IPPC which is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, the regulator must carry out an "appropriate assessment of the implications for the site in view of that site's conservation objectives. The assessment may cause the permit application to be rejected, or to be granted subject to stringent conditions to protect the designated site.

Groundwater Regulations 1998

20.11 These Regulations[72] implement the Groundwater Directive (80/68/EEC). An IPPC permit must include any conditions required by these Regulations to stop or limit the discharge of certain listed substances. No application to make such a discharge may be granted without prior investigation. This must include examination of:

(a) the hydrogeological conditions of the area concerned;

(b) the possible purifying powers of the soil and subsoil; and

(c) the risk of pollution and alteration of the quality of the groundwater from the discharge.

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[71] SI 1994 No. 2716.

[72] SI 1998 No. 2746.

20.12 The investigation must also establish whether the discharge of substances into groundwater is a satisfactory solution from the point of view of the environment. In terms of assessing the impact of discharges an authorisation may only be granted if the regulator has checked that the groundwater (and in particular its quality) will undergo the required surveillance. The Environment Agency will need to review conditions relating to the Groundwater Regulations at least every four years.

The Control of Major Accident Hazards Regulations 1999

20.13 These Regulations[73] implement Directive 96/82/EC on the control of major accident hazards involving dangerous substances. They impose requirements with respect to the control of major accident hazards involving dangerous substances. They apply to establishments where dangerous substances are present in quantities equal to or exceeding specified limits. The competent authority for the purposes of the Regulations is the Health and Safety Executive and the Environment Agency acting jointly.

20.14 The Regulations, amongst other things:

(a) impose a duty on the operator of an establishment to take all measures necessary to prevent major accidents and limit their consequences for persons and the environment;

(b) require the operator to prepare an on-site emergency plan for specified purposes and containing specified information;

(c) require the operator to demonstrate to the competent authority that he has taken all measures necessary to comply with the Regulations; and

(d) require the operator to notify major accidents to the competent authority.

Countryside and Rights of Way Act 2000

20.15 Part III of this Act gives greater protection to wildlife and natural features by making provision for the conservation of biological diversity, and by improving protection for Sites of Special Scientific Interest (SSSIs) in England and Wales. The provisions enable the conservation agencies to impose permanent restrictions to prevent damaging operations on SSSIs

[73] SI 1999 No. 743.

in England and Wales. The Act improves procedures for notification and de-notification of SSSIs, and gives various rights of appeal to owners and occupiers of land who are affected by its provisions. There are increased penalties for damage to a SSSI by owners and occupiers and by other persons. The Act places new duties on statutory undertakers and public bodies in respect of SSSIs and imposes restrictions on them when carrying out or authorising activities which affect a SSSI.

Landfill Regulations 2002

20.16 These Regulations[74] implement Directive 1999/31/EC on the landfill of waste. Using the framework of the PPC Regulations, they contain controls and technical specifications that apply to landfills as well as specifying overall limits on the amount of biodegradable municipal waste that may be disposed of to landfill. Most of the landfills covered by the Directive are also covered by IPPC. Full details will be found in separate guidance which Defra expects to issue in the spring of 2004.

Large Combustion Plants Regulations 2002

20.17 Together with Directions to Regulators, these Regulations[75] implement Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants and thus have a bearing on the application of IPPC to such plants. Further information is available on the Defra web site[76].

Waste Incineration Regulations 2002

20.18 Together with Directions to regulators, these Regulations[77] transpose Directive 2000/76/EC on the incineration of waste. In addition to specifying the Directive's ELVs for incineration and co-incineration plant, the transposition incorporates the Directive's technical and operating requirements for the plants it covers. The transposition uses the framework provided by the PPC Regulations and in particular provides a replacement version of Section 5.1 of Schedule 1 to those Regulations. Full details are given in separate guidance[78].

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[74] SI 2002 No. 1559.

[75] SI 2002 No. 2688.

[76] At http://www.defra.gov.uk/environment/airquality/lcpd/index.htm

[77] SI 2002 No. 2980.

[78] *Guidance on Directive 2000/76/EC on the incineration of waste.* Defra and Welsh Assembly Government, 2002. Available at http://www.defra.gov.uk/environment/ppc/wasteincin/index.htm

Water Environment (Water Framework Directive) Regulations 2003

20.19 These Regulations[79] make provision for the purpose of implementing in river basin districts within England and Wales Directive 2000/60/EC establishing a framework for Community action in the field of water policy. They require a new strategic planning process to be established for the purposes of managing, protecting and improving the quality of water resources. The Environment Agency is to prepare river basin management plans. The plans are to set environmental objectives and to set out programmes of measures to fulfil the plans.

20.20 The first cycle of Plans have to be established by 2009, and the programmes of measures commenced by 2012, for completion by 2015. A second Plan and programmes of measures are required for the following six years, and a third one for the six years thereafter. Along with other public bodies, the Agency is then required to have regard to river basin management plans and to any supplementary plans in exercising their functions in relation to river basin districts. Their preparation and execution may influence regulation of industrial installations under IPPC although it is too early to determine those influences. Further information about the implementation of the Water Framework Directive is available on the Defra web site[80].

Greenhouse Gas Emissions Trading Scheme Regulations 2003

20.21 These Regulations[81] provide the framework for a greenhouse gas emissions trading scheme for the purpose of implementing Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the European Union and amending the IPPC Directive. The Regulations control emissions of carbon dioxide from any of the activities listed in their Schedule 1. They amend the PPC Regulations so as to forbid the setting of ELVs, equivalent parameters or technical measures in respect of greenhouse gases emitted by those activities unless the regulator considers it necessary to ensure that no significant local pollution is caused.

Solvent Emissions (England and Wales) Regulations 2004

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[79] SI 2003 No. 3242.

[80] At http://www.defra.gov.uk/environment/water/wfd/index.htm .

[81] SI 2003 No. 3311.

20.22 These Regulations[82] use the PPC Regulations to deliver the requirements of the Solvent Emission Directive (SED). As a result, the transitional provisions in the PPC Regulations are being adjusted to ensure that in the majority of cases the PPC and the SED application requirements are combined. They require the holders of permits under the PPC Regulations 2000 who carry out solvent activities at the time of coming into force of the Regulations to apply for variation of their permits to incorporate the Directive requirements. Those requirements feature an emissions reduction scheme. Permits authorising the operation of an SED installation have to include such conditions as the regulator considers necessary to give effect to the provisions of the Directive.

The Landfill (England and Wales) (Amendment) Regulations 2004

20.23 These Regulations amend the regulatory regime governing landfills in England and Wales for the purpose of implementing Council Decision 2003/33/EC establishing criteria and procedures for the acceptance of waste at landfills pursuant to Article 16 of Annex II to Directive 1999/31/EC on the landfill of waste ("the Landfill Directive") [83]. The Decision supplements the requirements of the Directive by specifying detailed procedures for acceptance of waste for each class of landfill. These Regulations replace the existing waste acceptance criteria and waste acceptance procedures in the Landfill (England and Wales) Regulations 2002 ("2002 Regulations") with those contained in the Decision with effect from 16 July 2005.

[82] SI 2004 No. 107.

[83] SI 2004 No. 1375.

ANNEX I - DEFINITIONS

The following information summarises and interprets some of the key terms that are relevant to IPPC. Where appropriate, reference should also be made to the PPC Regulations and other legislation for precise legal definitions. A more general glossary is provided in Annex VIII.

Definitions relating to installations, mobile plants and operators

"Operator"

Regulation 2(1) defines an "operator" as, "in relation to an installation or mobile plant, the person who has control over its operation". An installation or mobile plant need not be in operation for there to be an operator. Legal obligations may be imposed on an operator during the pre- and post-operational phases as well.

The operator must demonstrably have the authority and ability to ensure the permit is complied with.

Special care is needed where two or more operators run different parts of an installation. The permit application for any part of the installation should demonstrate that an appropriate person has been identified as the operator for that part. Any necessary inter-reliances between the different operators and their parts of the installation should be demonstrated. The operators, between them, must be able to operate the installation in a satisfactory way that meets the requirements of the PPC Regulations.

"Installation"

"installation" means –

(i) a stationary technical unit where one or more activities listed in Part 1 of Schedule 1 to the PPC Regulations are carried out; and

(ii) any other location on the same site[84] where any other directly associated activities[85] are carried out which have a technical connection with the activities carried out in the stationary technical unit and which could have an effect on pollution,

and, other than in Schedule 3 to the PPC Regulations, references to an installation include references to part of an installation.

The following criteria and examples are provided to assist regulators and operators when applying this definition in individual cases[86].

Limb (i) of the definition

Two criteria are proposed for the purpose of determining whether plant or machinery satisfy the first limb of this definition –

(1A) the plant or machinery must be a "technical unit" where one or more activities listed in Part 1 of Schedule 1 to the PPC Regulations ("listed activities") are carried out; and

(1B) the technical unit must be stationary.

For the purpose of criterion (1A), "technical unit" can be taken to mean something which is functionally self contained in the sense that the unit – which may consist of one component or a number of components functioning together – can carry out the Schedule 1 activity or activities on its own.

Where, however, there are two or more such units on the same site those units should be regarded as a single technical unit for these purposes if –

(a) they carry out successive steps in one integrated industrial activity;

(b) one of the listed activities is a directly associated activity of the other; or

[84] As stated in footnote 1, "site' throughout this Guide means all of the land on which any of the activities of the installation may take place. This includes any land that is integral to the satisfactory operation of the installation, for example, areas needed for the movement of materials by vehicles or other means, and the area around any associated pipework.

[85] Note that regulation 8(2)(b) of the Solvent Emissions Regulations (see footnote 20) has inserted a definition of "directly associated activity" into regulation 2 of the PPC Regulations.

[86] The Pollution Prevention and Control (England and Wales) (Amendment) and Connected Provisions Regulations 2004 contains an amendment which excludes operators undertaking research, development and testing of new products and processes from requiring a permit under the Pollution Prevention and Control Regulations. This exclusion relates to facilities solely undertaking research, development or testing activities. See paragraph 3.2a in Chapter Three.

(c) both units are served by the same directly associated activity.

Limb (ii) of the definition

An installation consists of the stationary technical unit identified under the first limb of the definition plus any location on the same site where activities that satisfy the second limb are carried out. Three criteria are proposed for the purpose of determining whether an activity satisfies the second limb-

(2A) the activity must be directly associated with the stationary technical unit;

(2B) the activity must have a technical connection with the listed activities carried out in or by the stationary technical unit; and

(2C) the activity must be capable of having an effect on emissions.

Criterion (2A) requires that the activity is carried out on the same site as the stationary technical unit and that the activity serves the stationary technical unit (i.e. there is an asymmetrical relationship whereby the activity serves the stationary technical unit but not vice versa). If an activity, such as operating a landfill, serves a stationary technical unit carrying out a listed activity and some other industrial unit or units on a different site or carrying out non-listed activities, then the activity will only be directly associated with the stationary technical unit if that unit is the principal user of the activity.

Criterion (2B) gives rise to four types of directly associated activities which may be said to have a technical connection with a stationary technical unit:

a) input activities concerned with the storage and treatment of inputs into the stationary technical unit;

b) intermediate activities concerned with the storage and treatment of intermediate products during the carrying on of the listed activities – this might apply particularly where the stationary technical unit consists of a number of sub-units with the product of one sub-unit being stored or treated prior to being passed on to the next sub-unit in the production chain;

c) output activities concerned with the treatment of waste (or other emissions, like manure) from the stationary technical unit; or

d) output activities concerned with the finishing, packaging and storage of the product from the stationary technical unit.

These activities have a technical connection in the sense that they are integral parts of the overall listed industrial activity. Often there will also be a physical

connection, such as a conveyor belt or pipeline, but this does not have to be the case.

(The need for input, intermediate and output activities to be an integral part of a listed activity before it is caught by limb (ii) is presented as part of criterion (2B). Note, however, that the requirement for associated activities to be "directly" associated in criterion (2A) also emphasises the need for associated activities to be an integral part of a listed activity before they are treated as part of an installation.)

Criterion (2C) covers both activities which have an effect on emissions and pollution from the listed activities with which they are associated and activities which have such an effect in their own right.

The following examples illustrate the application of these criteria.

Example 1: A chemical plant served by an effluent treatment works on the same site

Limb (i): In this example the chemical plant is the stationary technical unit.

Limb (ii): The effluent treatment works will satisfy limb (ii) of the definition in relation to the stationary technical unit because it is a directly associated activity (under criterion (2A)) with a technical connection with the stationary technical unit (under criterion (2B)).

Example 2: Two chemical plants served by the same effluent treatment works

Limb (i): Each chemical plant is functionally self contained given that they can both produce chemicals without being attached to an effluent treatment works (criterion (1A)) (whereas in Example 1 the combustion plants have to operate with a stack). They will therefore generally be treated as two separate stationary technical units. If, however, the two chemical plants and the effluent treatment works are on the same site then the two chemical installations will be treated as one (integrated) stationary technical unit. That unit (plus the treatment works) will form the installation.

Limb (ii): If the effluent treatment works is not on the same site as either of the chemical installations it will not satisfy limb (ii) because of criterion (2A). It will therefore not be part of the installation.

> If the effluent treatment works is on the same site as only one of the installations it will satisfy limb (ii) in relation to that installation if that installation is the principal user of the works.

Example 3: A power station (which is above the IPPC threshold) served by its own landfill (which is below the IPPC threshold for landfills) on the same site

Limb (i): The power station is the stationary technical unit.

Limb (ii): The landfill site will satisfy limb (ii).

> Note that if the landfill is part of the installation it will be regulated under the IPPC regime rather than the waste management licensing regime.

Example 4: A power station (which is above the IPPC threshold) served by its own landfill (which is also above the IPPC threshold) on the same site

Limb (i): This constitutes one single technical unit.

Limb (ii): Any associated activities, such as stockpiling and recovering coal, handling ash and treating and releasing cooling water, which are directly associated with the stationary technical unit will also be part of the installation.

> For purposes of the phase-in timetable, the landfill part of an installation and the power station are treated as two separate installations, they are "decoupled" only until the both activities have made applications after which time they can be covered by a single permit.

Example 5: A power station where coal is stored on site

Limb (i): The power station is the stationary technical unit.

Limb (ii): The storage of coal will satisfy limb (ii) and will thus be a directly associated activity and the storage area will therefore be part of the installation along with the stationary technical unit.

Example 6: An integrated oil refinery

Limb (i): If the oil refinery carries out a number of listed activities using plant that carry out successive steps in one integrated industrial activity limb (i) will dictate that the whole collection is one stationary technical unit.

Example 7: A cement clinker manufacturing plant with an on site chalk quarry

Limb (i): The cement clinker plant is the stationary technical unit.

Limb (ii): The chalk quarry will not satisfy limb (ii) because it will not have a technical connection with the stationary technical unit. Quarrying the chalk is one step further removed than the input activities that may be directly associated activities.

Example 8: Combined heat and power plant (which is above the IPPC threshold) serving a light industrial estate engaged in non-listed activities

Limb (i): The CHP plant is the stationary technical unit.

Limb (ii): None of the units on the industrial estate will be directly associated activities because they do not meet criterion (2A) in that they do not serve the CHP plant; it is the CHP plant which serves them.

Example 9: An IPPC installation for the intensive rearing of pigs or poultry where manure from the installation is spread on adjacent fields

Limb (i): The building or buildings in which the animals are housed will be the stationary technical units. The fields are not part of the stationary technical unit.

> Note that all animal houses which are on the same site in which IPPC activities are carried out by the same operator count towards the threshold.

Limb (ii): Directly associated activities such as a slurry handling system will be part of the installation.

> Note that conditions will be attached to the permit for these installations governing the handling of manure, but these will not apply to third parties who might take the manure.

"Part A(1) Activity", "Part A(2) Activity" and "Production Capacity"

A "Part A(1) Activity" means an activity listed under the heading "Part A(1)" of Part 1 of Schedule 1 to the PPC Regulations.

A "Part A(2) Activity" means an activity listed under the heading "Part A(2)" of Part 1 of Schedule 1 to the PPC Regulations.

In some cases, the question of whether an activity is a "Part A(1) Activity" or a "Part A(2) Activity" will depend on its "production capacity". Part 2 of Schedule 1 to the Regulations contains an aggregate rule for these purposes. It states that where a person carries out several activities falling within the same description in "Part A(1)" or "Part A(2)" in different parts of the same technical unit or in different technical units on the same site, the production capacities of each part or unit are to be added together. The total capacity is then to be attributed to each part or unit for the purpose of determining whether it is a "Part A(1) Activity" or a "Part A(2) Activity".

It is for operators to determine the relevant production capacity in each case, in order to establish what regime, if any, they are subject to and to which regulator they should submit their applications. An operation that exceeds the capacity on which a permit has been based could constitute an offence. Regulators may be able to offer advice on this issue, and indeed on the interpretation of other aspects of the definitions of activities. Regulators may also assess whether an operator's assessment of capacity as set out in an application is reasonable. This may involve considering if, for example, the installation could be run properly at that rate, or alternatively looking at the design capacity.

"Finished food production capacity", as used in paragraph (d) of Section 6.8 of Schedule 1 to the PPC Regulations, should always be assessed on the basis of the overall capacity of the installation to produce any material which can be used as food for human or animal consumption without any further treatment or processing. Where an installation produces materials which are supplied from the installation to serve, through further treatment and processing outside the installation, as ingredients in the preparation of food, the maximum production for that purpose must also be taken into account when assessing the installation's overall capacity.

"Part A Installation", "Part A(1) Installation" and "Part A(2) Installation" .

These terms are defined in paragraph 15 of Part 3 of Schedule 1 to the Regulations.

A "Part A Installation" is an installation which is subject to regulation under IPPC, and means either a "Part A(1) Installation" or a "Part A(2) Installation".

A "Part A(1) Installation" means:

(i) any installation where one or more "Part A(1) Activities" are carried out; or

(ii) any installation where one or more "Part A(2) Activities" are carried out and where any relevant activity mentioned in paragraph (a) or (b) of Section 33(1) of the EPA 1990 is also carried out in the installation.

The consequence of the first of these tests is that if an installation contains both "Part A(1) Activities" and "Part A(2) Activities" it is a "Part A(1) Installation".

The consequence of the second test is that even if an installation does not contain any "Part A(1) Activities" it may still be a "Part A(1) Installation". This will only be the case where it contains one or more "Part A(2) Activities" and one or more of the relevant activities mentioned under Section 33(1)(a) or (b) of the EPA 1990. The relevant activities mentioned under Section 33(1)(a) and (b) of the EPA 1990 involve the deposit, keeping, treatment and disposal of waste other than:

a) the incineration of waste falling within Part B of section 5.1 of Part 1 of Schedule 1 of the PPC Regulations.

b) an exempt activity, as defined in regulation 1(3) and Schedule 3 to the Waste Management Licensing Regulations 1994.

A "Part A(2) Installation" means an installation where one or more "Part A(2) activities", but no "Part A(1) Activities" and no activities mentioned under Section 33(1)(a) or (b) of the EPA 1990, are carried out.

"Existing ", "New" And "Operation" .

The terms "existing" and "new" are defined in Part 1 of Schedule 3 to the PPC Regulations.

"Existing" means a Part A installation or part A mobile plant put into operation:

a) before 31 October 1999; or

b) after 31 October 1999 and before October 2000 provided that a "relevant authorisation" was either applied for or granted before 31 October 1999. The term "relevant authorisation" used here relates to the question of whether or not an activity may be treated as part of an "existing" installation or mobile plant to the pre-IPPC regulatory requirements applicable to the activity. The types of "relevant authorisations" that may have been applied for or granted are:

a) an IPC/LAPC authorisation in the case of a process subject to Part I of the EPA 1990;

b) a waste management licence in the case of an activity subject to Part II of the EPA 1990; or

c) planning permission under the Town and Country Planning Act 1990 in the case of an activity subject to neither of the above.

"New" means a Part A installation or Part A mobile plant put into operation on or after 31 October 1999 other than an "existing " Part A installation or Part A mobile plant. Therefore, an installation or mobile plant that had applied for approval to operate under a predecessor regime before 31 October 1999, but does not receive such approval before 31 October 2000, must by law be treated as "new " for the purposes of IPPC. The same is true if an installation or mobile plant has received such authorisation but does not actually come into operation before 31 October 2000.

New landfills must comply with the requirements of the Landfill Regulations immediately. An existing landfill, for the purposes of the Landfill Regulations, is one that is either already in operation on the commencement date of those Regulations, or that has a relevant authorisation granted before that date.

Non-IPPC Landfills (ie those which come under paragraph (b) of part A(1) of section 5.2 in Part 1 of Schedule 1 to the PPC Regulations) are treated as existing installations under the PPC Regulations.

The determination of whether or not an installation or mobile plant has been brought into "operation" may be an important factor in dictating whether it is "new" or "existing". For example, if an operator applied for a "relevant authorisation" under a predecessor regime before 31 October 1999, then the date on which the installation or mobile plant comes into "operation" will be the decisive factor in respect of its classification under IPPC. If it comes into "operation" before 31 October 2000 then it is "existing " for the purposes of IPPC, and initially may operate under the terms of the authorisation granted under the predecessor regime. If "operation" does not commence before 31 October 2000, however, it is "new " and will have to apply for a PPC permit.

The Secretary of State considers that "operation" should be taken to involve the installation or mobile plant coming into operation intended for beneficial production. This is significantly more than the first stages of commissioning. As a guide, the following are some examples of installations coming into "operation":

a) a large combustion plant – when the design fuel is first fed and burned in the main combustion unit;

b) a landfill site – when the first waste is deposited into the landfill;

c) an intensive livestock installation – when livestock is first introduced.

Definitions relating to waste

"Specified Waste Management Activity"

The term "specified waste management activity" is defined by regulation 2(1). It means any one of the following activities:-

a) the disposal of waste in a landfill

b) the disposal of waste falling within Section 5.3 of that part of that Schedule;

c) the recovery of waste falling within paragraphs (i), (ii), (v) or (vii) of Paragraph (c) of Part A(1) of Section 5.4 of that part of that Schedule.

Landfills

The PPC Regulations do not define "landfill". Under the Landfill Regulations such sites are defined as land, on to or into which waste is deposited in order to dispose of it. Landfills include sites used for more than a year for the temporary storage of waste and internal waste disposal sites where a waste producer disposes of their own waste at the place of production.

Under the Landfill Regulations, the following are not landfills, where waste is:

a)unloaded to permit its preparation for further transport for recovery and disposal elsewhere;

b) stored, for less than three years prior to its recovery or treatment; or

c) stored for less than one year prior to disposal.

The Landfill Regulations also specify activities that they do not apply to, eg the spreading of sludges on soil for the purposes of fertilisation.

Definitions relating to changes to installations

"Change in Operation"

Regulation 2(1) defines a "change in operation" as "in relation to an installation or mobile plant, a change in the nature or functioning or an extension of the installation or mobile plant which may have consequences for the environment". A "change in operation" therefore could entail either technical alterations or modifications in operational or management practices. Many changes will not have consequences on the environment and will therefore not require notification.

"Substantial Change"

According to regulation 2(1), a "substantial change" means "in relation to an installation, a change in operation which, in the opinion of the regulator, may have significant negative effects on human beings or the environment."

This definition[87] means that whether any particular change proposed by an operator would constitute a "substantial change" is something that can sometimes only be determined given the facts of the case. This requires consideration of all impacts of any proposed change rather than just the net environmental effect. Therefore, the potential impacts of proposals on all possible receptors should be examined to inform a judgement on whether, either in combination or in any individual case, there may be a significant negative effect. Such judgements should take account of not only releases of polluting substances, but also other pollutants (heat, noise and vibrations) as well as alternative types of potential impacts such as increased waste production, energy consumption or the risk of accidents.

Some changes bringing about net benefits may have some constituent negative effects. For example, changing a fuel may lead to reductions in some releases but increases in others. If any potential negative effect is identified, the regulator must consider whether it judges this "significant". Regulators should make this judgement by considering whether the effect is of such significance that it justifies requiring the operator to submit proposals that will be subject to consultation with the public and statutory consultees. This should be assessed having regard to:

a) the extent of the potential impact (including geographical area and size of the affected population);

[87] This definition has been extended by regulation 5(2)(b) of the Waste Incineration Regulations (see footnote 15) and regulation 8(2) of the Solvent Emissions Regulations (see footnote 20) to cover SED installations. Regulation 3 of the Large Combustion Plants Regulations (see footnote 75) adds a further provision in relation to the extension of plants covered by those Regulations. Furthermore, regulation 2(2) of the PPCPP Regulations (see footnote 24) provides that any change which in itself meets one of the thresholds specified for a "Part A" activity in Schedule 1 to the PPC Regulations shall be treated as a "substantial change".

b) any effects on specifically protected areas, species or other assets of particular significance;

c) the transboundary nature of the impact;

d) the magnitude and complexity of the impact;

e) the probability of the impact; and

f) the duration, frequency and reversibility of the impact.

The large majority of substantial changes are expected to arise at Part A(1) installations. Part A(2) installations are generally smaller in scale and, as a result, are much less likely to undergo a change which may cause a significant negative effect.

Releases of substances

IPPC is concerned with a range of environmental impacts, all of which must be considered in determining whether there may be a substantial change. However, changes of releases in polluting substances are the most likely causes of substantial changes. In this regard, regulators should consider changes in:

a) The substances released. If a new substance were to be released, consideration should be given to whether this would have a significant negative effect. However, if this new release were to be accompanied by a reduction in releases of another substance, then it would be appropriate to consider any similarity of effects between the two substances. If the effect of the new substance would be broadly similar to that now reduced from the old substance, then the change would not be substantial.

b) The level of releases of any particular substances. An increase in releases would give rise to a substantial change only if it would significantly increase the negative environmental effect. The test of significance should not be based on the relative increase in releases from the site but on the absolute effect those releases will have on the environment. For example, a small factory might seek to increase its capacity by two or three times, yet this would constitute a substantial change only if the resulting increase in releases may cause a significant negative effect. The absolute increase in substances to be released would not in itself be considered significant.

c) The nature of releases of any particular substance. Beyond increases in levels of releases, other changes could include changes in temperature, pressure, viscosity, appearance, phase, size and shape of particle, colour and density. The possibility of such changes having a significant negative effect should be considered. For example, a change in particle size which

does not enter a different environmental pathway is unlikely to be a substantial change, unless it becomes so ultra-fine that it starts to have a different uptake.

Finally, it is important to stress that whether or not a change is substantial is a judgement for the regulator to make. Regulators should be able to demonstrate that their decisions are reasonable based on the facts of the case and the standard of common sense.

ANNEX II -STATUTORY CONSULTEES

As set out in Schedule 4, Part 2 to the PPC Regulations, the statutory consultees on applications for IPPC permits are:

a) the relevant "health authority" [88];

b) the Food Standards Agency;

c) where the installation or mobile plant is in Wales, the Secretary of State for Wales;

d) where there may be a release into a sewer, the sewerage undertaker;

e) where the installation or mobile plant may affect a site of special scientific interest or a European site, English Nature if the site is in England or, if in Wales, the Countryside Council for Wales;

f) the harbour authority where there may be a release into a harbour;

g) the local fisheries committee whose sea fisheries district covers any relevant territorial or coastal waters into which there may be releases;

h) the Local Authority regulator, when the Environment Agency is the regulator, and vice versa;

i) the relevant planning authority where the installation or mobile plant involves a specified waste management activity;

j) the Health and Safety Executive, in the case of an application for an installation on a site in respect of which a nuclear site licence has been granted under the Nuclear Installations 0Act 1965 or a major

[88] Under amendments made in The National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002 (SI 2002 No. 2469) and in SI 2003 No. 3296 (see footnote 2) respectively, these are now in England the Primary Care Trust and in Wales the Local Health Board. See paragraph 6.11.

accident prevention policy or safety report document is required under the COMAH Regulations;

k) such other persons as the Secretary of State may direct.

ANNEX III - IPPC ACTIVITIES AND THEIR APPLICATION WINDOWS FOR EXISTING INSTALLATIONS

Part A Activity	Relevant Section of Schedule 1 to PPC Regulations	Relevant Period for Part A(1) Applications	Relevant Period for Part A(2) Applications
Combustion	1.1	1 January to 31 March 2006	–
Gasification, Liquefaction & Refining	1.2, para. (c)	1 June to 31 August 2001	–
	1.2, remaining paras.	1 June to 31 August 2006	1 June to 31 August 2006
Ferrous Metals	2.1, para. (c)	1 May to 31 July 2003	–
	2.1, remaining paras.	1 June to 31 August 2001	1 May to 31 July 2003
Non-Ferrous Metals	2.2	1 October to 31 December 2001	1 May to 31 July 2003
Surface Treating Metals & Plastic Materials	2.3	1 May to 31 July 2004	1 May to 31 July 2004
Cement and Lime	3.1	1 June to 31 August 2001	1 April to 30 June 2003
Asbestos	3.2	1 June to 31 August 2006	–
Glass & Glass Fibre	3.3	1 May to 31 July 2002	1 May to 31 July 2003
Other Mineral Fibres	3.4	1 May to 31 July 2002	–
Other Mineral Activities	3.5	1 April to 30 June 2003	1 April to 30 June 2003
Ceramics	3.6	1 January to 31 March 2004	1 January to 31 March 2004

Organic Chemicals	4.1, paras. (a)((i), (v), (vi), (vii)), (b), (f) and (g)	1 January to 31 March 2003	–
	4.1, para. (a) ((ii), (iii), (iv))	1 June to 31 August 2003	–
	4.1, paras. (a) ((viii), (ix)), (c), (d) and (e)	1 January to 31 March 2006	–
	4.1, paras. (a) ((x) to (xi))	1 June to 31 August 2006	–
Inorganic Chemicals	4.2, paras. (a) ((i),(ii),(iii), (vi)) and (b) to (g), (i) and (j)	1 October to 31 December 2004	–
	4.2, para. (a)((iv),(v) and (h)	1 June to 31 August 2005	–
Chemical Fertilisers	4.3	1 June to 31 August 2005	–
Plant Health Products & Biocides	4.4	1 January to 31 March 2006	–
Pharmaceuticals	4.5	1 January to 31 March 2006	–
Explosives	4.6	1 January to 31 March 2006	–
Activities using Carbon Disulphide or Ammonia	4.7	1 October to 31 December 2004	–
Disposal of Waste by Incineration[89]	5.1, paras. (a), (b) and (c)	1 January to 31 March 2005	1 January to 31 March 2005
	5.1, paras. (d) and (e)	1 June to 31 August 2005	–
	5.1, para. (f)	1 June to 31 August 2005	–
Disposal of Waste by Landfill	5.2, paras. (a) and (b)	The period specified by the Environment Agency in a notice served on the operator	–
Disposal of Waste other than by Incineration or	5.3, para. (a)	1 June to 31 August 2005	–

[89] Note that a new Section 5.1 was inserted into the PPC Regulations by the Waste Incineration Regulations

Incineration or Landfill	5.3, para. (b)	1 November 2006 to 31 January 2007	–
	5.3, para. (c)(i)	1 April to 30 June 2006	–
	5.3, para. (c)(ii)	1 September to 30 November 2006	–
Recovery of Waste	5.4	1 January to 31 March 2005	–
Production of Fuel from Waste	5.5	1 January to 31 March 2004	–
Paper, Pulp and Board Manufacture	6.1	1 December 2000 to 28th February 2001	1 April to 30 June 2003
Carbon Activities	6.2	1 January to 31 March 2004	–
Tar & Bitumen	6.3, para. (a)(i)	1 January to 31 March 2004	–
	6.3, para. (a)(ii)	1 October to 31 December 2001	–
Coating, Printing and Textile Treatments	6.4, para. (a)	1 January to 31 March 2007	–
	6.4, remaining paras.	1 May to 31 July 2002	1 May to 31 July 2003
Timber	6.6	1 June to 31 August 2006	–
Activities Involving Rubber	6.7	1 April to 30 June 2003	1 April to 30 June 2003
Treatment of Animal & Vegetable Matter & Food Industries	6.8, para. (a)	1 May to 31 July 2002	–
	6.8, paras. (b), (c) and (d)(i)	1 June to 31 August 2004	–
	6.8, paras. (d)(ii), (e), (f)	1 January to 31 March 2005	1 June to 31 August 2004
Intensive Farming (Intensive pig and poultry units)	6.9	1 November 2006 to 31 January 2007	–

ANNEX IV - CONTENT OF APPLICATIONS

Schedule 4 to the PPC Regulations sets out the requirements for the content of applications. These are summarised below:

a) the name, telephone number and address of the applicant;

b) if different to the above, the address to which any correspondence relating to the application should be sent;

c) if the applicant is a body corporate, its company number, address of principal office and details of any holding company of which it is a subsidiary;

d) the address of the installation and its national grid reference, a map or plan showing the site of the installation and the location of the installation on the site;

e) the name of any local authority in whose area the installation is situated;

f) in the case of a Part B mobile plant, the name of the local authority where the applicant has the principle place of work, or if outside England and Wales the name of the local authority in whose area the plant was first operated. If the mobile plant has not been operated in England and Wales, the name of the local authority where the plant will be first operated;

g) a site report describing the condition of the site and, in particular, identifying any substance in, on or under the land which may constitute a pollution risk;

h) a description of the installation and the activities to be carried out in it, and in the case of an installation any other directly associated activities to be carried out on the same site, which will have a technical connection with the activities which could have an effect on pollution;

i) details of the raw and auxiliary materials and other substances and the energy to be used in or generated by the carrying out of those activities;

j) details of the nature, quantities and sources of foreseeable emissions from the installation into each environmental medium, and a description of any foreseeable significant effects on the environment;

k) details of the technologies and other techniques which the operator proposes to use to prevent or, where that it is not practicable, reduce emissions into the environment;

l) details of the measures which the operator proposes to make to monitor emissions;

m) a description of the measures to be taken for the prevention and recovery of waste generated by the installation;

n) a description of any additional measures proposed to comply with the "general principles" set out by regulation 11 that –

- all the appropriate preventive measures are taken against pollution, in particular through the application of BAT;
- no significant pollution is caused;
- waste production is avoided in accordance with the Council Directive on waste, and 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;
- energy is used efficiently;
- the necessary measures are taken to prevent accidents and limit their consequences; and
- upon the definitive cessation of activities in the installation, the necessary measures should be taken to avoid any pollution risk and to return the site to a satisfactory state;

o) any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6 and 7 of the EIA Directive 85/337/EEC;

p) if an installation is covered by general binding rules, a statement by the operator as to whether the operation should be covered by these rules or be subject to the requirements set out in regulation 12;

q) an outline of the main alternatives, if any, studied by the applicant in respect of the issues set out in g) to l) above (this should be as brief and non-technical as possible – see also paragraph 9.1);

r) where a specified waste management activity is carried out, any information the operator wishes the regulator to take into account when considering whether the operator is a fit and proper person;

s) any additional information which the operator of the installation wishes the regulator to take into account in considering the application;

t) a non-technical summary of all of the information outlined above; and

u) for Landfills, the additional information that the Environment Agency requires to ensure the requirements of the Landfill Regulations are met. This includes:

- the types and quantity of waste to be deposited and the proposed capacity of the site;
- a description of the site including its hydrogeological and geological characteristics;
- the proposed operation, monitoring, control, closure and aftercare plans and procedures; and
- financial provision.

ANNEX V - INDICATIVE LIST OF POLLUTANTS

Schedule 5 to the PPC Regulations – Indicative list of the main polluting substances to be taken into account if they are relevant for fixing ELVs

AIR

1. Sulphur dioxide and other sulphur compounds
2. Oxides of nitrogen and other nitrogen compounds
3. Carbon monoxide
4. Volatile organic compounds
5. Metals and their compounds
6. Dust
7. Asbestos (suspended particulates, fibres)
8. Chlorine and its compounds
9. Fluorine and its compounds
10. Arsenic and its compounds
11. Cyanides
12. Substances and preparations which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction via the air.
13. Polychlorinated dibenzodioxins and polycholorinated dibenzofurans

WATER

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment

2. Organophosphorus compounds

3. Organotin compounds

4. Substances and preparations which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction in or via the aquatic environment

5. Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances

6. Cyanides

7. Metals and their compounds

8. Arsenic and its compounds

9. Biocides and plant health products

10. Materials in suspension

11. Substances which contribute to eutrophication (in particular, nitrates and phosphates)

12. Substances which have an unfavourable influence on the oxygen balance (and can be measured using parameters such as BOD, COD, etc)

ANNEX VI - FACTORS TO BE CONSIDERED IN DETERMINING BAT

Schedule 2 to the PPC Regulations states that:

`in determining best available techniques special consideration shall be given to the following matters, bearing in mind the likely costs and benefits of a measure and the principles of precaution and prevention -

(1) the use of low-waste technology;

(2) the use of less hazardous substances;

(3) the furthering of recovery and recycling of substances generated and used in the process and of waste, where appropriate;

(4) comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;

(5) technological advances and changes in scientific knowledge and understanding;

(6) the nature, effects and volume of the emissions concerned;

(7) the commissioning dates for new or existing installations;

(8) the length of time needed to introduce the best available technique;

(9) the consumption and nature of raw materials (including water) used in the process and the energy efficiency of the process;

(10) the need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it;

(11) the need to prevent accidents and to minimise the consequences for the environment;

(12) the information published by the Commission pursuant to Article 16(2) of the Directive or by international organisations.'

ANNEX VII - EC ENVIRONMENTAL QUALITY STANDARDS

RELEVANT TO IPPC

EC Directives setting maximum emission levels

Article 18(2) of the IPPC Directive says that the relevant ELVs in certain other Directives are to be applied as minimum ELVs for IPPC. This means that they set the maximum emission levels of particular substances from particular installations allowed under IPPC. This is without prejudice to the possibility of stricter requirements, for example BAT or an EQS. The table below lists those Directives.

Directive	Subject	Notes
75/439	Waste oils	
76/464	Dangerous substances discharged to the aquatic environment	
82/176	Mercury discharges from the chlor-alkali electrolysis industry	
83/513	Cadmium	
84/156	Mercury discharges from other than the chlor-alkali electrolysis industry	
84/491	Hexachlorocyclohexane	
86/280	DDT, carbon tetrachloride and pentachlorophenol	Subsequently amended by Directives 88/347 and 90/415
87/217	Asbestos	
88/347	The "drins" and three other chlorinated organics	

	chlorinated organics	
88/609	Large combustion plant	Amended by Directive 94/66. Largely repealed from 27 November 2002, but remaining in force until 1 January 2008 for some new plants.
89/369	New municipal waste incineration plant	Repealed from 28 December 2005
89/429	Existing municipal waste incineration plant	Repealed from 28 December 2005
90/415	Chlorinated hydrocarbons	
94/67	Incineration of hazardous waste	Repealed from 28 December 2005
1999/13	Organic solvents	
2000/76	Incineration of waste	In force from 28 December 2002 for new plant and from 28 December 2005 for existing plant.
2001/80	Large combustion plant	Replaces Directive 88/609.

Air Quality

Directive 80/779 on air quality limit values and guide values for sulphur dioxide and suspended particulates. Values are to be found in the Air Quality Standards Regulations (SI 1989/317).

Directive 85/203 on air quality standards for nitrogen dioxide. See SI 1989/317.

Directive 82/884 on limit value for lead in air. See SI 1989/317.

These three Directives will be replaced by Directive 99/30 (OJ L163, 29.6.99) setting limit values for sulphur dioxide, oxides of nitrogen, particulate matter and lead in air. This Directive has been adopted as a daughter Directive to the Air Quality Framework Directive 96/62. The limit values in the consolidating Directive will be phased in over a period of time starting in 2001. Standards for the following additional

substances are also expected to be adopted through further daughter Directives:

benzene

carbon monoxide

ozone

poly-aromatic hydrocarbons

cadmium

arsenic

nickel

mercury.

Water Quality

Under Directive 76/464 on pollution caused by dangerous substances discharged into water the following "daughter" Directives set EQSs for List I substances:

- Directive 82/176 contains quality objectives for mercury discharged by the chloralkali electrolysis industry
- Directive 84/156 contains quality objectives for mercury discharged by other industrial sectors
- Directive 83/513 contains quality objectives for cadmium discharges
- Directive 84/491 contains quality objectives for hexachlorocyclohexane discharges
- Directive 86/280 contains quality objectives for DDT, carbon tetrachloride and pentachlorophenol
- Directive 88/347 contains quality objectives for aldrin, dieldrin, endrin, isodrin, hexachlorobenzene, hexachlorobutadiene and chloroform
- Directive 90/415 contains quality objectives for 1,2-dichloroethane, trichloroethane, perchloroethane and trichlorobenzene

The EQSs set in these Directives are set out as statutory standards in the Surface Waters (Dangerous Substances) (Classification) Regulations 1989 (SI 1989/2286) and the Surface Waters (Dangerous Substances) (Classification) Regulations 1992 (SI 1992/337) in respect of the following substances:

Aldrin, Dieldrin, Endrin and Isodrin

Cadmium and its compounds

Carbon tetrachloride

Chloroform

DDT (all isomers)

para-para-DDT

Hexachlorobenzene

Hexachlorobutadiene

Hexachlorocyclohexane (all isomers)

Mercury and its compounds

Pentachlorophenol and its compounds

1,2-Dichloroethane

Trichloroethylene

Perchloroethylene

Trichlorobenzene

Where "candidate" List I substances, and List II substances, are concerned, it is for Member States to set statutory standards under the provisions for List II substances. National statutory EQSs are set under the Surface Waters (Dangerous Substances) (Classification) Regulations 1997 (SI 2560) and the Surface Waters (Dangerous Substances) (Classification) Regulations 1998 (SI 389) for the following substances:

Arsenic

Atrazine and Simazine

Azinphos-methyl

Dichlorvos

Endosulphan

Fenitrothion

Malathion

Trifluralin
Tributyltin
Triphenyltin and its derivatives
4-Chloro-3-methylphenol
2-Chlorophenol
2,4-Dichlorophenol
2,4-D (ester and non-ester)
1,1,1-Trichloroethane
1,1,2-Trichloroethane
Bentazone
Benzene
Biphenyl
Chloronitrotoluenes
Demeton
Dimethoate
Linuron
Mecoprop
Naphthalene
Omethoate
Toluene
Triazaphos
Xylene

In addition non-statutory EQSs, pursuant to the List II requirements of the Dangerous Substances Directive, are set in Circular 7/89 for the following substances:

lead
chromium
zinc
copper
nickel
sulcofuron
flucofuron
permethrin

boron

iron

pH

vanadium

PCSDs

cyfluthrin

Directive 78/659 on the quality of fresh water supporting fish life. This Directive sets quality standards for two categories of water: suitable for salmonids (salmon, trout) and suitable for cyprinids (coarse fish). An annex sets out parameters which are either imperative (I) or guide (G) values for each type of water. Member states must set standards no less stringent than the I values and must endeavour to comply with the G values. The values are to be found in the Surface Waters (Fishlife) (Classification) Regulations 1997 (SI 1997/1331). The parameters are as follows:

temperature

dissolved oxygen

pH

suspended solids

biochemical oxygen demand

total phosphorus

nitrates

phenolic compounds

petroleum hydrocarbons

non-ionised ammonia

total ammonium

total residual chlorine

total zinc

dissolved copper

Directive 76/160 on the quality of bathing water. This Directive lists various parameters with imperative (I) or guide (G) values. The values are to be found in the Bathing Water (Classification) Regulations 1991 (SI 1991/1597). The parameters are as follows:

total coliforms

faecal coliforms

faecal streptococci

salmonella

enteroviruses

pH

colour

mineral oils

surface active substances reacting with methylene blue

phenols

transparency

dissolved oxygen

tarry residues and floating materials such as wood, plastic, bottles, rubber

ammonia

nitrogen (Kjeldahl)

pesticides

heavy metals eg As, Cd, Cr, Pb, Hg

cyanide

nitrate and phosphate

Directive 78/659 on quality for shellfish waters. This Directive lists various parameters with imperative (I) or guide (G) values or both. The values are to be found in the Surface Waters (Shellfish) (Classification) Regulations 1997 (SI 1997/1332). The parameters are as follows:

temperature

colouration (after filtration)

suspended solids

salinity

dissolved oxygen saturation

petroleum hydrocarbons

organohalogenated substances

metals: Ag, As, Cd, Cr, Cu, Hg, Ni, Pb, Zn

faecal coliforms

substances affecting taste of shellfish

saxitoxin (produced by dinoflagellates)

Directive 75/440 includes values for 46 parameters indicating the quality of surface water for drinking. Values are listed as imperative (I) or guide (G). Values set by Member States must be no less stringent than (I) values. These values are to be found in the Surface Waters (Abstraction for Drinking Water) (Classification) Regulations 1996 (SI 1996/3001).

Directive 80/68 on the protection of groundwater contains two lists of dangerous substances similar, but not identical, to those contained in the Dangerous Substances Directive. List I substances must not be allowed to enter groundwater, and List II substances must not be allowed to pollute groundwater.

Directive 2000/60/EC the Water Framework Directive will require water to be managed on the basis of river basins. See paragraph 20.19 .

ANNEX VIII - GLOSSARY OF TERMS

The following list aims to provide brief explanations of many of the words, phrases and acronyms to which particular meanings are attached in IPPC.

The information given is general and abbreviated in nature. In considering the precise meaning of any of the entries, therefore, the definitive source should be consulted. Some of the more important expressions are also discussed in more depth in Annex I.

Activity	An industrial activity which may form part of an IPPC Installation – see Chapter 3 and Annex I.
Appeal	The opportunity provided for the Operator to dispute certain actions or decisions by the regulator, by appealing to the Secretary of State – see Chapter 19.
Application	A submission made by an Operator to a regulator, for example to seek the grant of a Permit (see Chapter 5), surrender of a permit (see Chapter 14), variation of the conditions of a permit (see Chapter 11 or transfer of a permit (see Chapter 12).
Available Techniques	In connection with BAT, those Techniques developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the cost and advantages, whether or not the techniques are used or produced inside the United Kingdom, as long as they are reasonably accessible to the Operator.
BAT	Best Available Techniques – the main basis for determining standards in IPPC under the PPC Regulations, and defined as the most effective and advanced stage in the development of Activities and their methods of Operation which indicates the practical suitability of particular Techniques for providing in principle the basis for ELVs designed to prevent and, where that is not practicable, generally to reduce Emissions and the impact on the environment as a whole – see Chapter 9 plus separate definitions for Best, Available and Techniques.
BATNEEC	Best Available Techniques Not Entailing Excessive Cost – the main basis for determining standards under IPC – now

	replaced by BAT under IPPC.
Best	In relation to Techniques in BAT, the most effective in achieving a high general level of protection of the environment as a whole.
BREF Notes	BAT Reference Notes – documents published by the Commission of the EC which will follow from an exchange of information on BAT between the Member States – see Chapter 9.
Change in Operation	In relation to an Installation, a change in its nature or functioning or an extension which may have consequences for the environment – see Annex I.
COMAH	Control of Major Accident Hazards – the subject of an EC Directive and domestic Regulations applicable to industrial sites, some of which will also fall under IPPC.
Conditioning Plan	Operators of existing landfills must submit a site conditioning plan (CP) by 16 July 2002. It sets out how the landfill will meet the requirements of the landfill Directive.
Contaminated Land	Land determined to be contaminated under Part IIA of the EPA 1990 – see Chapter 14.
Determination	The process by which a regulator decides whether or not to grant the request sought by an Operator in an Application, for example by issuing a Permit with appropriate conditions or by refusing the permit – see Chapter 7.
Defra	Department for Environment, Food and Rural Affairs.
Duly Made	A condition that an Application must satisfy by being sufficiently complete in a legal sense before Determination is possible – see Chapter 5.
EC/EU	European Community/ European Union.
EIA	Environmental Impact Assessment.
ELV	Emission Limit Value – the mass, concentration or level of an Emission which may not be exceeded over a given period.
Emission	In relation to a Part A Installation, the direct or indirect release of Substances, vibrations heat or noise from individual or diffuse sources in an installation into the air, water and land.
Enforcement Notice	A notice served by the regulator that may enforce compliance with the Permit conditions or require remediation of any harm following a breach of any condition – see Chapter 16.
Environment Agency	A non-departmental public body formed under the Environment Act 1995 – the Agency is the regulator for Part A(1) Installations.
EPA 1990	Environmental Protection Act 1990.
EQS	Environmental Quality Standard – the meaning, depending on the context (see Chapter 10), is either:

	on the context (see Chapter 10), is either: - as defined by the PPC Regulations, a requirement which must be fulfilled at a given time by a given environment as set out in EC legislation; or - a domestic requirement or objective which may be relevant in the determination of BAT.
Existing Installation	See Annex I.
FAPP	Fit and Proper Person – a person meeting specified tests in relation to technical competence, financial provision and previous convictions which are pre-requisites for the grant of any Permit covering any Specified Waste Management Activity – see Chapter 15.
GBRs	General Binding Rules – rules which may establish fixed sets of conditions to be applied to relevant Installations.
Installation	The regulated unit under the IPPC regime as implemented by the PPC Regulations, comprising one or more Part A Activities plus certain associated activities– see Annex I.
IPC	Integrated Pollution Control, as introduced under Part I of the EPA 1990.
IPPC	Integrated Pollution Prevention and Control – a general term used to describe the Regulatory regime applied to Part A Installations under the PPC Regulations which give effect to the IPPC Directive.
IPPC Directive	Directive 96/61/EC concerning Integrated Pollution Prevention and Control.
Landfill permit	is a term used Directive 1999/31/EC on the Landfill of Waste and in the Landfill Regulations. A permit issued under those Regulations is a PPC permit.
LAPC	Local Air Pollution Control – a regime introduced under Part I of the EPA 1990 alongside IPC, and carried over (with some modifications) to co-exist alongside IPPC as implemented under the PPC Regulations.
Local Authority	Where acting as an IPPC regulator for a Part A(2) Installation, this will usually be the District, London or Metropolitan Borough Council in England and the County or Borough Council in Wales.
New Installation	See Annex I.
Operation	A measure of the point at which an IPPC Permit is required – see Annex I.
Operator	In relation to an Installation, the person who has control over the operation of the installation.
Part A Activity	An activity listed for control under IPPC by Schedule 1 to the PPC Regulations.

Part A(1) Activity	An activity listed under Part A(1) of Schedule 1 to the PPC Regulations and regulated by the Environment Agency.
Part A(2) Activity	An activity listed under Part A(2) of Schedule 1 to the PPC Regulations and regulated by local authorities.
Part A Installation	A Part A(1) Installation or a Part A(2) Installation.
Part A(1) Installation	Any Installation comprising one or more Part A(1) Activities, or any Part A Activities plus certain waste activities – see Annex I.
Part A(2) Installation	An Installation comprising one or more Part A(2) Activities which is not a Part A(1) Installation – see Annex I.
PER	Polluting Emissions Register – an inventory of Emissions and sources to be established under a Decision of the Commission of the EC – see Chapter 17.
Permit	A permit granted by the regulator allowing the Operation of an Installation subject to certain conditions.
Pollutant	Any Substance, vibration, heat or noise released as a result of an Emission which may cause Pollution.
Pollution	Any Emission as a result of human activity which may be harmful to human health or the quality of the environment, cause offence to any human senses, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment.
Production Capacity	See Annex I.
Public Registers	Registers maintained by regulators containing information on IPPC Installations – see Chapter 17.
the PPC Regulations	the Pollution Prevention and Control (England and Wales) Regulations 2000 (SI 2000/1973) which implement the IPPC Directive.
Regulator	The body responsible for applying the IPPC regime – the Environment Agency is the regulator for a Part A(1) Installation while the Local Authority is the regulator for a Part A(2) Installation.
Relevant Objectives	Certain objectives derived from the EC Waste Framework Directive that apply to Activities involving the disposal or recovery of waste regulated under the PPC Regulations – see Chapter 15.
Relevant Period	The window of time specified in Part 1 of Schedule 3 to the PPC Regulations within which (in the absence of a preceding Substantial Change) an Application for a Permit for an Existing Installation must be submitted – see Chapter 4.
Revocation Notice	A notice served by the regulator revoking all or part of a Permit – see Chapter 16.
the Secretary of State	The Secretary of State for the Environment, Food and Rural Affairs or the Secretary of State for Wales.

Specified Waste Management Activity	See Annex I.
Staged Application	An Application that is sufficiently complex or novel that it should be subject to extended regulatory procedures – see Chapter 5.
Statutory Consultee	A body which the regulator must consult with in determining an Application for a Permit and in some variations – see Annex II.
Substance	Includes any chemical element and its compounds and any biological entity or micro-organism with the exception of certain radioactive substances and genetically modified organisms.
Substantial Change	A Change in Operation which, in the opinion of the regulator, may have significant negative effects on human beings or the environment or which itself crosses a threshold set for the activities specified in Schedule 1 to the PPC Regulations – see Annex I and also footnote 85.
Suspension Notice	A notice served by the regulator which results in a permit ceasing to authorise the Operation of the entire Installation or specified Activities, until remedial action has been taken against a risk of serious pollution – see Chapter 16.
Techniques	In connection with BAT, includes both the technology used and the way in which the Installation is designed, built, maintained, operated and decommissioned.
Variation Notice	A notice served by the regulator varying the conditions or other provisions of the Permit – see Chapter 11.
WMP	Waste Management Paper – guidance produced for the application of waste management licensing which may be relevant to the regulation of waste activities under IPPC – see Chapter 15 and Annex I.