

2005 No. 340

ENVIRONMENTAL PROTECTION

**The Pollution Prevention and Control (Scotland) Amendment
(No. 2) Regulations 2005**

<i>Made</i> - - - -	<i>8th June 2005</i>
<i>Laid before the Scottish Parliament</i>	<i>9th June 2005</i>
<i>Coming into force</i> - -	<i>2nd July 2005</i>

The Scottish Ministers in exercise of the powers conferred by section 2 of the Pollution Prevention and Control Act 1999(a), having, in accordance with section 2(4) of that Act, consulted the Scottish Environment Protection Agency, such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses respectively, and such other bodies and persons as they consider appropriate, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Pollution Prevention and Control (Scotland) Amendment (No. 2) Regulations 2005 and shall come into force on 2nd July 2005.

Amendment of the Pollution Prevention and Control (Scotland) Regulations 2000

2. The Pollution Prevention and Control (Scotland) Regulations 2000(b) shall be amended as follows.

3. In regulation 2(1) (interpretation: general) in the definition of “specified waste management activity”, after paragraph (c) insert:—

“(d) the disposal of waste in a waste incineration installation”;

4. In regulation 7 (permits: general provisions)—

- (a) in paragraph (6)(c) after “plant” insert “on the same site”;
- (b) in paragraph (7), omit “(and accordingly, the operation of the plant on a different site shall require a separate permit)”;
- (c) after paragraph (10), insert:—

“(10A) Where a substantial change in the operation of an installation as described in paragraph 4 of Schedule 3 has resulted in the issue of a permit applicable to the part of the installation affected by the change, SEPA may on determination of an application for a permit for the remainder of the installation, replace that permit with a consolidated permit

(a) 1999 c.24; the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46) as read with section 5(3) of the said Act of 1999.
(b) Asp 8, Schedule 2, paragraph 7; S.S.I. 2000/323, as amended by S.S.I. 2002/493; S.S.I. 2003/146, 170, 221, 235 and 411; S.S.I. 2004/26, 110, 112 and 512; and S.S.I. 2005/101.

for the whole installation (including that part) subject to such conditions as SEPA considers appropriate.”.

5. In regulation 12 (proposed change in the operation of an installation)–

(a) for paragraph (1) substitute:–

“(1) Subject to paragraph (4) and (5), where an operator of an installation or mobile plant which is permitted under these Regulations proposes to make a change in the operation of that installation or mobile plant, the operator shall, at least 14 days before making the change, notify SEPA.”.

(b) after paragraph (4) insert:–

“(5) Notwithstanding any notification under paragraph (1), the operator shall not make the proposed change during any period beginning with the date on which notice is served by SEPA under regulation 26(2) and ending on the date on which the applicant furnishes the information specified in the notice.”.

6. In regulation 19(1) (enforcement notices) after “installation” insert “or mobile plant”.

7. In regulation 21(4) (power of SEPA to prevent or remedy pollution) after “installation” insert “or mobile plant”.

8. In Schedule 1, Part 1, Chapter 1, section 1.2 (refining mineral oil and gas, operating coke ovens and coal gasification and liquefaction activities) in Part A–

(a) after paragraph (i) insert:–

“(j) Odourising natural gas or liquefied petroleum gas where that activity is related to a Part A activity.”;

(b) in the sentence after paragraph (i), after “sewage”, insert “sludge”.

9. In Schedule 1, Part 1, Chapter 2 (production and processing of metals)–

(a) in section 2.1(ferrous metals)–

(i) in Part A, paragraph (b)(ii), after “induction” insert “,vacuum, electro-slag”;

(ii) in Part B, paragraph (b)(ii), after “ induction furnace” insert “, vacuum furnace, electro-slag furnace”;

(b) in section 2.2 (non-ferrous materials) Part A, for paragraph (i) substitute:–

“(i) Unless described elsewhere in this Section, melting, including making alloys of non-ferrous metals, including recovered products, refining and foundry casting in a furnace, bath or other holding vessel which has a design holding capacity of 5 tonnes or more”.

(c) in section 2.3 (surface treating metals and plastic materials) for Part A, substitute:–

“Part A

(a) Surface treating metals and plastic materials using an electrolytic or chemical activity where the aggregated volume of the treatment vats exceeds 30m³.

(b) Surface treating materials using cadmium or any compound thereof where the activity may result in the release into the air or water of cadmium and its compounds, as listed in column 1 of the Table in paragraph 13(1) of Part 2 of this Schedule, in a quantity which, in any 12 month period, exceeds the background quantity for cadmium and its compounds by more than the amount specified in relation to it in column 2 of that Table.”

10. In Schedule 1, Part 1, Chapter 4 (the chemical industry)–

(a) in the first paragraph, delete the words from “,but does not include” until the end of that paragraph;

- (b) in section 4.1 (organic chemicals) Part B, for paragraph (a) substitute:–
- “(a) Unless falling within any description in Part A of this section, carrying out any activity involving the use in any 12 month period of:
- (i) 5 tonnes or more of diphenyl methane di-isocyanate or other di-isocyanate of lower volatility than toluene di-isocyanate; or
- (ii) partly polymerised di-isocyanates or prepolymers containing 5 tonnes or more of di-isocyanate monomers, where the activity may result in a release into the air of such monomers.”;
- (c) in section 4.2 (inorganic chemicals) in Part A–
- (i) for paragraph (b) substitute:–
- “(b) Unless falling within a description in any other section of any chapter of this Schedule, any production activity which is likely to result in the release into the air of any hydrogen halides (other than the coating, plating or surface treatment of metal) or which is likely to result in the release into the air or water of any halogens or any of the compounds mentioned in paragraph (a)(vi) (other than the treatment of water by chlorine).”;
- (ii) in paragraph (c) for “manufacturing” substitute “production”;
- (iii) in paragraph (e) for “manufacture” substitute “production”;
- (iv) in paragraph (f) delete sub-paragraph (iv);
- (v) at the end, insert:–
- “(g) Any other activity (except the combustion or incineration of carbonaceous material as defined in section 1.2 of this Schedule) which does not fall within either Part B of this section or a description in sections 2.1, 2.2 or 2.3 of this Schedule; and which may result in the release into the air of any acid forming oxide of nitrogen”;
- (d) in section 4.7 (manufacturing activities involving carbon disulphide or ammonia) for Part A substitute:–
- “Part A
- (a) Unless falling within any description set out in section 6.7 (activities involving rubber) of this Schedule, any manufacturing activity which may result in the release of carbon disulphide into the air;
- (b) Any activity for the manufacture of a chemical which may result in the release of ammonia into the air other than an activity in which ammonia is only used as a refrigerant.”.

11. In Schedule 1, Part 1, Chapter 5 (waste management) in section 5.1 (incineration and co-incineration of waste)–

- (a) (i) in Part A, after paragraph (h)(a) insert:–
- “(i) unless carried out as part of any other Part A activity, the thermal treatment (with or without heat or energy recovery, or production of material products) other than incidentally in the course of burning solid or liquid waste of any gaseous compound containing halogens arising from electrical equipment.”;
- (ii) in Part B(b), in the first paragraph, delete “The following activities if operated at installations not falling under Part A of this Section;”;
- (iii) in the interpretation section of section 5.1, in the definition of “excluded plant”, in paragraph (a)(vii), delete “Directive 90/667/EEC and by”;

(a) Paragraph (h) was inserted by S.S.I. 2005/101.
 (b) Part B was amended by S.S.I. 2005/101.

- (b) in section 5.3 (disposal of waste other than by incineration or landfill) in Part A (interpretation of Part A) for paragraph 3 substitute:–

“(3) Nothing in this Part applies to the treatment of waste soil by means of mobile plant for the treatment of contaminated material, substances or products for the purpose of remedial action with respect to land or controlled waters.”;

- (c) in section 5.4 (recovery activities), in Part A (interpretation of Part A):–

- (i) in Part A, for paragraph (a) substitute:–

“Unless carried on as part of an activity falling within any description in Part B of section 6.4 of Chapter 6 or Part B of Chapter 7 of this Schedule, recovering by distillation any other organic solvent.”;

- (ii) for paragraph (2) substitute:–

“(2) Nothing in this Part applies to the treatment of waste soil by means of mobile plant for the treatment of contaminated material, substances or products for the purpose of remedial action with respect to land or controlled waters.”.

12. In Schedule 1, Part 1, Chapter 6 (other activities):–

- (a) in section 6.4 (coating activities, printing and textile treatments), Part B, paragraph (b), for “1 tonne” substitute “2 tonnes”;
- (b) in section 6.6 (timber activities), Part B, after “drilling”, insert “sanding”;
- (c) in section 6.7 (activities involving rubber), Part B, paragraph (a) delete “if operated at installations not falling within any other description in any Part A of this Schedule”;
- (d) in section 6.8 (the treatment of animal and vegetable matter and food industries), Part A:–

- (i) for paragraph (b) substitute:–

“(b) Disposing of or recycling animal carcasses and animal waste other than for the production of fishmeal or fish oil for food at installations with a capacity exceeding 10 tonnes per day and other than by incineration or co-incineration at installations falling within Section 5.1 of this Schedule.”;

- (ii) for paragraph (c) substitute:–

“(c) Slaughtering animals in slaughterhouses, other than in mobile plant, with a carcass production capacity greater than 50 tonnes per day.”.

13. In Schedule 1, Part 1, Chapter 7, section 7 (SED activities)(a), Part B, paragraph (2), for the definition of “vehicle refinishing” substitute:–

““vehicle refinishing” means any industrial or commercial coating activity and associated degreasing activities performing–

- (a) the original coating of road vehicles as defined in Directive 70/156/EEC, or part of them with refinishing-type materials, where this is carried out away from the original manufacturing line, or
- (b) the coating of trailers (including semi-trailers) (category O);”.

14. In Schedule 1, Part 2 (interpretation of Part 1):–

- (a) for paragraph 3 substitute–

“**3.** An activity shall not be taken to be an activity falling within:

- (1) any section of Chapters 1 to 6 of Part 1 if it is carried out in a working museum to demonstrate an industrial activity of historic interest or if it is carried out for educational purposes in a school within the meaning of section 135(1) of the Education (Scotland) Act 1980(b); or
- (2) subject to paragraph 3A, any section of Chapters 1 to 6 of Part 1 if it is carried out at an installation or mobile plant or in part of an installation or

(a) Chapter 7 was inserted by regulation 18(a) and Schedule 1 of S.S.I. 2004/26.

(b) 1980 c.44.

mobile plant used solely for research, development and testing of new products and processes”;

(b) after paragraph 3 insert:–

“**3A.** Paragraph 3(2) shall only apply to any waste incineration installation if it is used solely for research, development and testing in order to improve the incineration process and if it treats less than 50 tonnes of waste per year.”;

(c) in paragraph 9(1) after “Part A” insert “or Part B”;

(d) for paragraph 9(2) substitute:–

“(2) Where a person carries out several activities falling within the same description in Part A or Part B of any section of Part 1 of this Schedule in different parts of the same stationary technical unit or in different stationary technical units on the same site, the capacities of each part or unit shall be added together and the total capacity shall be attributed to each part or unit for the purpose of determining whether the activity carried out in each part or unit falls within a description in Part A or Part B of that section.”

(e) in paragraph (14)(1) for the words “References” until “substances” substitute:–

“References to, or to the release on to land of, a substance listed in this paragraph are references to any of the following substances”.

15. In Schedule 3, Part 1, paragraph 2(2):–

(a) in Table 1 for the entry relating to section 2.3, substitute:–

“

Section 2.3	
Part A	
Paragraph (a)	May 1st to July 31st 2004
Paragraph (b)	October 1st to December 31st 2005

”;

(b) in Table 1 for the entry relating to section 4.2, substitute:–

“

Section 4.2	
Part A	
Paragraphs (a)(i), (ii), (iii) and (vi) and (b) to (f)	October 1st to December 31st 2004
Paragraphs (a)(iv) and (v)	June 1st to August 31st 2005
Paragraph (g)	October 1st to December 31st 2005

”;

(c) in Table 1 for the entry relating to section 5.1, substitute:–

“

Section 5.1	
Part A	
Paragraphs (a), (b), (c), (d) and (e)	January 1st to March 31st 2005
Paragraphs (f), (g) and (h)	June 1st to August 31st 2005
Paragraph (i)	October 1st to December 31st 2005

”;

(d) in Table 1 for the entry relating to section 5.3 substitute:–

“

Section 5.3	
Part A	
Paragraphs (a) and (b)	November 1st 2006 to January 31st 2007
Paragraph (c)(i)	April 1st to June 30th 2006
Paragraph (c)(ii)	September 1st to November 30th 2006

”;

(e) in Table 2 for the entry relating to section 6.4 substitute:–

“

Section 6.4	
Part A	
Paragraph (c)	October 1st to December 31st 2007

”; and

(f) in sub-paragraph (6) for “3 months” substitute, “28 days”.

16. In Schedule 4, Part 1 (applications for permits)–

(a) in paragraph 1(1)(b) after “site,” where it secondly occurs, insert “and its boundary”;

(b) for paragraph 1(2) substitute:–

“(2) The site report required by paragraph 1(1)(d) shall describe the condition of the site of the installation or Part A mobile plant and shall, in particular identify any pollutants in or on the land.”;

17. In Schedule 4, Part 2 (determination of applications)–

(a) for paragraph 9(e) substitute:–

“(e) in the case of an application for a permit to operate an installation or a Part A mobile plant, the local authority in whose area the installation is situated or the mobile plant is intended to be operated;

(f) in the case of all applications such other persons as the Scottish Ministers may direct.”;

(b) in paragraph 15(2) after sub-paragraph (c) insert–

“(d) where separate applications are made to operate different parts of one installation, any period beginning with the date on which notice is served on any of the applicants under paragraph (4) and ending on the date on which the relevant applicant furnishes the information specified in the notice.”;

(c) after paragraph 15 insert–

“**15A.** Where separate applications are made to operate different parts of one installation, SEPA shall send a copy of any notice served on any of the applicants under paragraph (4) to all of the other applicants in respect of that installation.”.

18. In Schedule 4, Part 3 (national security and confidential information)–

(a) after paragraph 20, insert:–

“**20A.** The requirements of paragraph 9 of this Schedule, other than paragraph 9(f), shall not apply in so far as they would require a person mentioned in any of those provisions to be given information which is not included in the register by virtue of regulation 28.”;

(b) in paragraph 21, omit “28 or”.

19. In Schedule 7, Part 1 (applications for variations of conditions), for paragraph (2) substitute:–

“**2.** If a proposed change in the operation of a Part A installation or Part A mobile plant (but excluding a change in the operation of part of the installation which carries out an SED activity (and any directly associated activities) which does not also fall within any description in any section of Chapters 1 to 6 of Part 1 of Schedule 1 (and any directly associated activities)) will result in additional land being included within the site of the installation or mobile plant or in a change of location of the mobile plant, the application shall also contain a site report for that additional land or that change of location of mobile plant, describing the condition of the land, in particular, identifying any pollutants in or on the land.”.

20. In Schedule 8 (procedures in connection with appeals to the Scottish Ministers) in paragraph 2(1)(c) after “suspension notice,” insert “or a closure notice under regulation 18(1) of the 2003 Regulations”.

21. In Schedule 9 (registers), in paragraph (1), for sub-paragraphs (x) to (z) substitute:–

- “(x) a list which identifies all waste incineration installations which have a capacity of less than two tonnes per hour and which are the subject of a permit or an authorisation granted under section 6 of the Environmental Protection Act 1990 containing conditions which give effect to the provisions of Directive 2000/76/EC of the European Parliament and of the Council of 4th December 2000 on the incineration of waste;
- (y) all particulars of any conditioning plan or notification as referred to in sub-paragraph 1(3)(b) or 5(3)(a) of Schedule 5 to the 2003 Regulations;
- (z) all particulars of any notice requiring a landfill to close (in whole or in part) issued under paragraph 1(3) of Schedule 5 to the 2003 Regulations;
- (za) all particulars of any notification or report required before definitive closure of a landfill under regulation 17(4) of the 2003 Regulations.”.

LEWIS MACDONALD

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
8th June 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Pollution Prevention and Control (Scotland) Regulations 2000 (the “PPC Regulations”).

Regulation 3 amends the definition of “specified waste management activity” in regulation 2(1) (interpretation: general) of the PPC Regulations for the purpose of regulation 4 of the PPC Regulations so as to include “the disposal of waste in a waste incineration installation”.

Regulation 4 amends regulation 7(6)(c) of the PPC Regulations to insert a reference to “on the same site” such that this provision is consistent with regulation 7(6)(b); and regulation 7(7) so as to omit a reference to the operation of a Part A plant on a different site requiring a separate permit. Regulation 4 also inserts a new paragraph (10A) to provide that where a substantial change has resulted in the issue of a permit applicable to the part of the installation affected by the change, SEPA may on determination of an application for a permit for the remainder of the installation issue a consolidated permit for the whole installation.

Regulation 5 amends regulation 12 of the PPC Regulations so as to extend the application of this provision to mobile plant and to provide that the operator shall not make the proposed change in the operation of an installation during any period beginning with the date on which notice is served by SEPA under regulation 26(2) of the PPC Regulations and ending on the date on which the applicant furnishes the information specified in the notice.

Regulations 6 and 7 amend regulation 19(1) and 21(4) respectively of the PPC Regulations so as to extend the application of these provisions to mobile plant.

Regulation 8 amends section 1.2 (refining mineral oil and gas, operating coke ovens and coal gasification and liquefaction activities) of Part A of Part 1 of Schedule 1 to the PPC Regulations to qualify the reference to sewage as sewage “sludge”. Regulation 8 also inserts a new paragraph (j) in that section to regulate odourising natural gas or liquefied petroleum gas where that activity is related to a Part A activity.

Regulation 9 amends section 2.1 (ferrous metals) of Part 1 of Schedule 1 to the PPC Regulations to extend it to the regulation of vacuum and electro-slag furnaces. Regulation 9 replaces paragraph (i) of section 2.2 (non-ferrous materials) of Part A of that Schedule to include a reference to “furnace, bath or other holding vessel” instead of “installation”. Regulation 9 also replaces section 2.3 (surface treating metals and plastic materials) of Part A of that Schedule to regulate activities involving the release of surface treating materials using cadmium or any compound thereof in certain quantities.

Regulation 10 makes various amendments to Chapter 4 (the chemical industry) of Part 1 of Schedule 1 to the PPC Regulations. Regulation 10 replaces paragraph (a) of Part B of section 4.1 (organic chemicals) and paragraph (b) of Part A of section 4.2 (inorganic chemicals); inserts a new paragraph (g) in that section regarding any other activity subject to certain exceptions which does not fall within certain sections of that Schedule; and which may result in the release into the air of any acid forming oxide of nitrogen. Regulation 10 also replaces Part A of section 4.7 (manufacturing activities involving carbon disulphide or ammonia) so as to include (unless falling within any description set out in section 6.7 of that Part of that Schedule) any manufacturing activity involving rubber.

Regulation 11 makes various incidental amendments to Chapter 5 (waste management) of Part 1 to the PPC Regulations. Regulation 11 also inserts a new paragraph (i) in Part A of section 5.1 (incineration and co-incineration of waste) to include (unless carried out as part of any other Part A activity) the thermal treatment of any gaseous compound containing halogens arising from electrical equipment.

Regulation 11 also inserts a new paragraph (1A) in Part A (interpretation of Part A) of section 5.4 (recovery activities) such that Paragraph (a) of that Part applies to recovering by

distillation unless carried on as part of an activity falling within any description in Part B of section 6.4 of Chapter 6 or Part B of Chapter 7 of that Schedule.

Regulation 12 makes various incidental amendments to Chapter 6 (other activities) of Part 1 of Schedule 1 to the PPC Regulations and in particular, amends section 6.6 (timber activities) of Part B so as to provide for sanding activities. Regulation 12 replaces paragraphs (b), Part A of section 6.8 (the treatment of animal and vegetable matter) to exclude the disposal of or recycling of animal carcasses or animal waste associated with the production of fishmeal or fish oil for food.

Regulation 13 replaces the definition of “vehicle refinishing” in paragraph (2), Part B of section 7 (SED activities) so as to omit the reference to the coating of road vehicles as defined in Directive 70/156/EEC, or part of them, carried out as part of vehicle repair, conservation or decoration outside of manufacturing installations.

Regulation 14 replaces paragraph (3) of Part 2 (interpretation of Part 1) of Schedule 1 to the PPC Regulations so as to provide that an activity shall not be taken to be an activity falling within any section of chapters 1 to 6 of Part 1 of that Schedule if it is carried out at an installation or mobile plant used solely for research, development and testing of new products and processes. However, it applies to any waste incineration installation only if it is used solely for research, development and testing in order to improve the incineration process and which treats less than 50 tonnes of waste per year.

Regulation 14 also replaces paragraph 9(2) of Part 2 of that Schedule so as to extend its application to any section of Part A or Part B of Part 1 of that Schedule; and paragraph (14)(1) of Part 2 of that Schedule so as to make provision for releases of substances to land.

Regulation 15 amends Tables 1 and 2 in paragraph 2(2) of Part 1 of Schedule 3, primarily in consequence of amendments in regulations 10(c)(v) and 11(a) above.

Regulation 16 makes incidental amendments to Part 1 (applications for permits) of Schedule 4 to the PPC Regulations as regards information about sites where activities are to be permitted.

Regulation 17 replaces paragraph 9(e) of Part 2 (determination of applications) of Schedule 4 so as to extend the application of that provision to mobile plant; and inserts a new sub-paragraph (d) in paragraph 15(2) of that Part of that Schedule such that for the purpose of calculating the 4 month period in paragraph 15(1) thereof, no account shall be taken of certain time periods where separate applications are made to operate different parts of one installation.

Regulation 17 also inserts a new paragraph (15A) in that Part of that Schedule such that where separate applications are made to operate different parts of one installation, SEPA shall send a copy of any notice served on any of the applicants under paragraph 15(4) to all of the other applicants in respect of that same installation.

Regulation 18 inserts a new paragraph 20A in Part 3 (national security and confidential information) of Schedule 4 to the PPC Regulations so that the requirements of paragraph (9) with the exception of paragraph 9(f) of that Schedule shall not apply in so far as they would require a person mentioned in any of those provisions to be given information which is not included in the register by virtue of regulation 28 of the PPC Regulations.

Regulation 19 replaces paragraph (2) of Part 1 (applications for variations of conditions) of Schedule 7 to the PPC Regulations so as to extend the application of the provision to instances where any proposed change mentioned therein would result in a change of location of Part A mobile plant.

Regulation 20 inserts a reference to a closure notice under regulation 18(1) of the Landfill (Scotland) Regulations 2003 (S.S.I. No. 235) in paragraph 2(1)(c) of Schedule 8 (procedures in connection with appeals to the Scottish Ministers) to the PPC Regulations.

Regulation 21 replaces sub-paragraphs (x) to (z) of paragraph (1) of Schedule 9 (registers) to the PPC Regulations in order to correct an error in the numbering of those provisions.

A full regulatory impact assessment has not been produced for this instrument, which has no significant impact on the costs of business.

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