

**Advice to SEPA personnel on how to identify waste facilities that fall to be regulated as an installation listed under Section 5.3 of the Pollution Prevention and Control (Scotland) Regulations 2000, as amended.**

## **1. Introduction**

The objective of this advice note is to assist SEPA staff in determining whether waste operations (other than incineration and landfilling) should be regulated under a permit issued under the Pollution Prevention and Control (Scotland) Regulations 2000, as amended (PPC Regulations), a licence issued under the Waste Management Licensing Regulations 1994, as amended (WML) or a combination of licences, permits and possibly waste management licensing exemptions.

More specifically, this document looks at the identification of waste operations that fall to be regulated as an activity listed under section 5.3 (s5.3) of Chapter 5, Schedule 1 of the PPC Regulations. General guidance on the PPC regulatory process and associated terminology, some of which is used in this advice note, can be found in issue 2 the SE/SEPA guidance document entitled 'A Practical Guide'.

### **1.1 Transitional timetable**

The law requires operators of existing waste facilities that fall into one or more of the categories of activity listed in s5.3 to apply for a PPC permit within a specified timescale. The timetable for submitting permit applications for s5.3 activities is:

- Section 5.3 A(a) and (b) applications must be submitted to SEPA between 1 November 2006 and 31 January 2007.
- Section 5.3A(c)(i) applications must be submitted to SEPA between 1 April 2006 and 30 June 2006
- Section 5.3(c)(ii) applications must be submitted to SEPA between 1 September 2006 and 30 November 2006.

### **1.2 Terms commonly used in this advice note**

#### **Installation**

Is defined in Regulation 2(1) of the PPC Regulations. It means:

- (a) a stationary technical unit where one or more activities listed in Part I of Schedule 1 are carried out; and
- (b) 'any other location on the same site where any other directly associated activities are carried out which have a technical connection with the activities carried out in the stationary technical unit and which could have an affect on pollution, ...'

#### **Activity**

For the purposes of this advice note, activities are those listed in Part 1 of Schedule 1 of the PPC Regulations ie. s5.3A(a) is an activity.

#### **Operation**

For the purposes of this advice note, operation generally means any of the operations listed in Annex IIA and IIB of the Waste Framework Directive (Council Directive 75/442/EEC) (although these lists are not considered to be exhaustive and some methods of disposal and recovery may not be expressly mentioned in the operations listed.)

## 2.0 Methodology

The general approach to be used is to consider the waste streams handled at a site and split them down into component streams. After identifying the different operations being undertaken on the different waste streams, compare them with the activities listed in s5.3 to establish whether or not a PPC permit is required.

If a PPC permit is not required, the waste operations may need to be regulated in accordance with either a waste management licence or a waste management licensing exemption.

### Stage One

Identify the waste streams being handled (See Note 1)

### Stage Two

Break each waste stream down into component streams or parts (See Note 2)

### Stage Three

Identify the different operations being undertaken and determine whether each different operation is a recovery or disposal operation (See Note 3)

### Stage Four

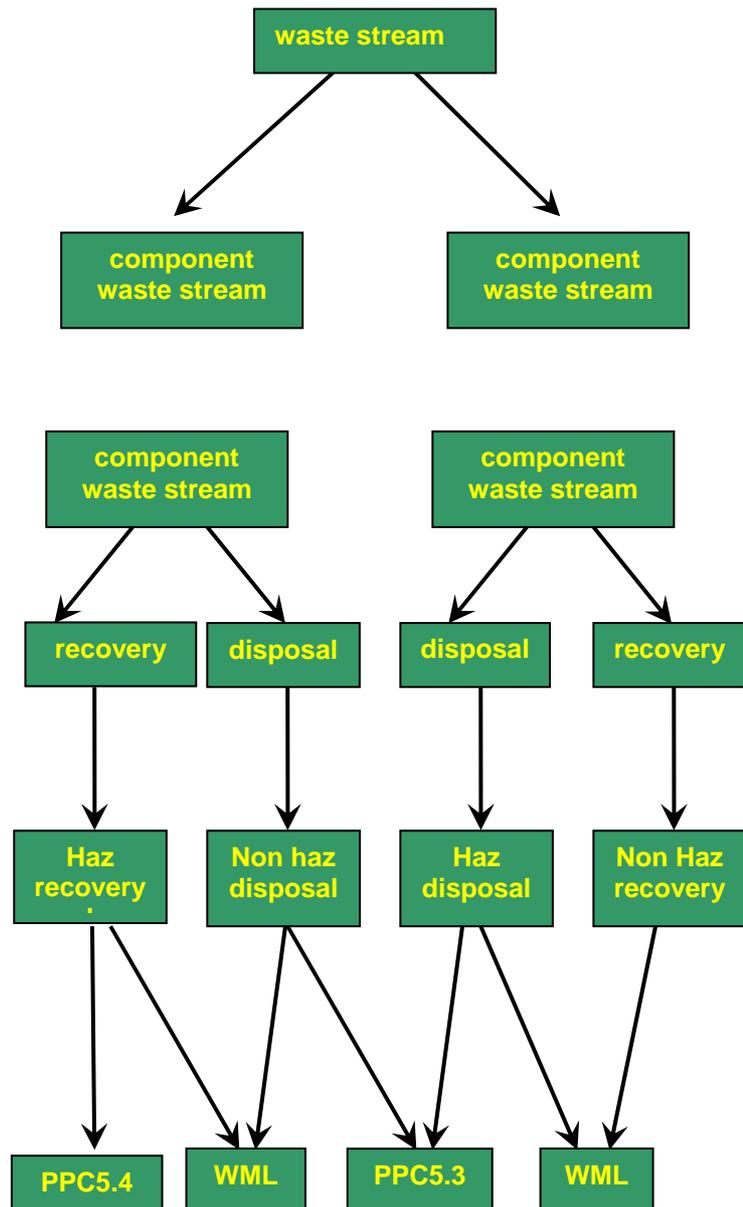
Classify each component waste stream as hazardous or non hazardous waste (See Note 4)

### Stage Five

Consider threshold capacities for each operation (See Note 5)

### Stage 6

Consider the relationship between activities and operations carried out on site and determine permits /licences/ exemptions required (See Note 6)

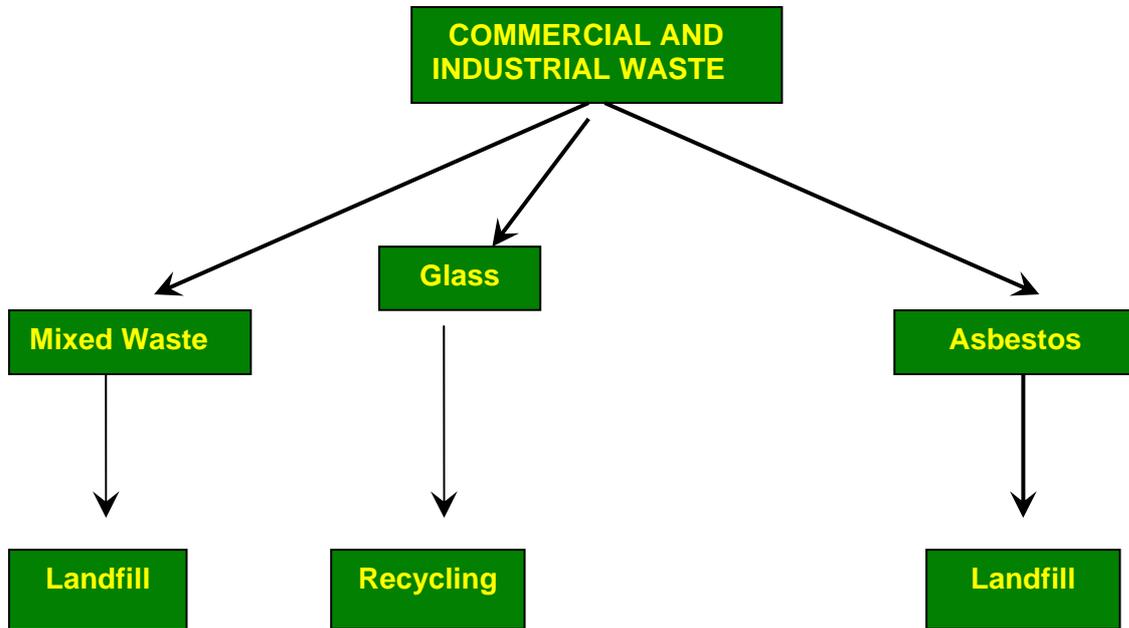


### Note 1

All waste streams accepted and handled at a facility should be considered and described using a schematic (see example below for an installation accepting commercial and industrial waste).

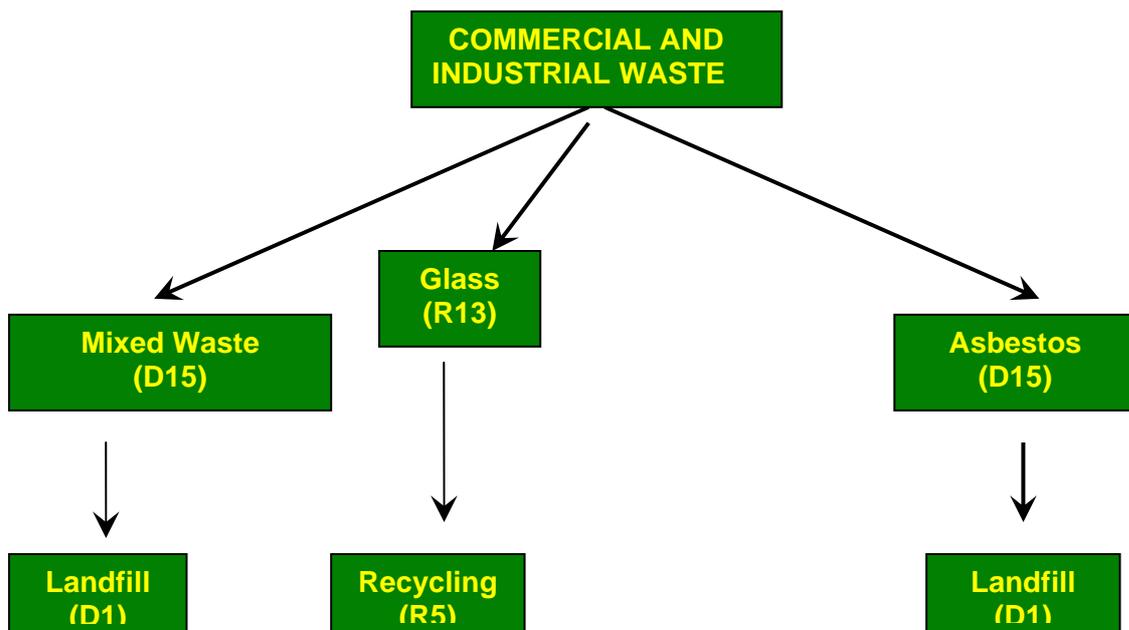
**Note 2**

The waste streams accepted at the site should be broken down into component streams as shown below:



**Note 3**

Define each operation as a Disposal (D) or Recovery (R) operation as shown



**Note 4**

The different wastes accepted and handled should already have been defined by the waste producer as hazardous or non-hazardous waste using technical guidance WM2 on the 'Interpretation of the definition and classification of hazardous waste'. The different wastes should have been assigned 6-digit EWC codes in accordance with legislative requirements.

**Note 5**

The capacity of an installation will be dependent on a number of factors and SEPA guidance on capacity is available in the PPC manual on the SEPA website ([link](#))

**2.1 Capacity**

The view of the Scottish Executive is that:

The capacity of an installation is to be determined by the regulator on a case by case basis. The starting point is the operator's description of the installation. The regulator must be satisfied that any application is duly made and then process the application on the basis of the operator's description, recognising that there are mechanisms in the legislation that enable the operator to be held to his description. There are also powers to require the supply of information by the operator to demonstrate that he continues to operate within the scope of his permit.

**2.2 Liquid waste**

In terms of Section 5.3 of the PPC Regulations, where capacities are expressed as "exceeding xx tonnes per day " the steps detailed below should be taken:

- establish that the operation being undertaken is a disposal operation;
- establish that some or all of the wastes under consideration are liquid wastes;
- determine the fixed storage capacity for liquid wastes at the site (ie permanent tanks or storage vessels);

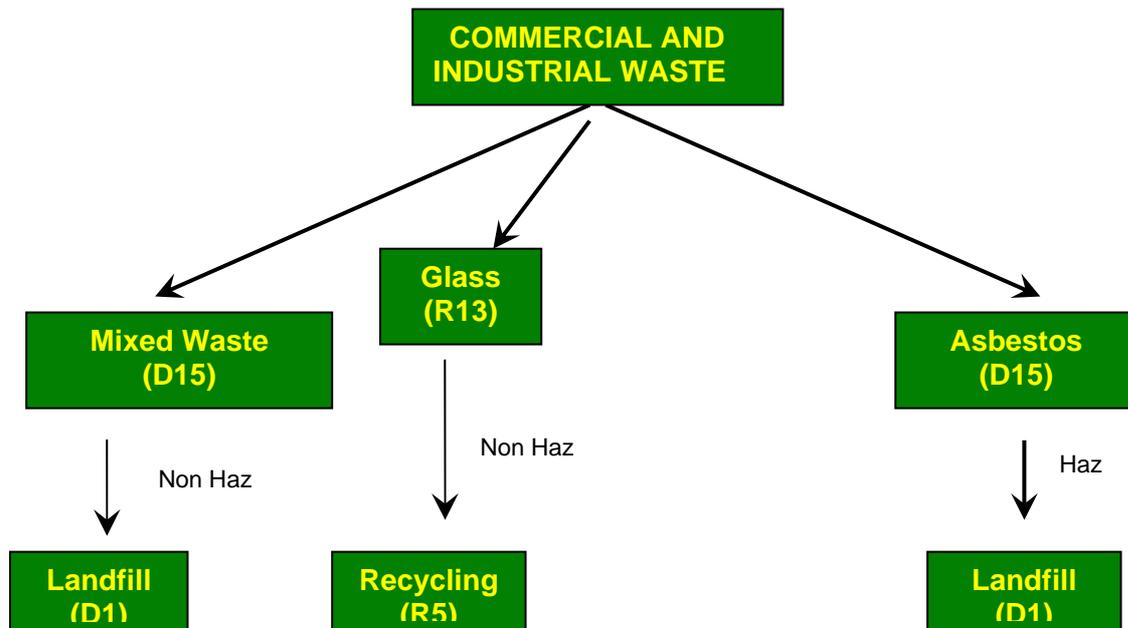
where fixed storage capacity for liquid wastes exceeds the stated daily capacity, the operation should be considered to be an activity under the PPC regime.

e.g. Section 5.3A(a) - where liquid hazardous waste is being 'disposed of' and the fixed storage tanks for the hazardous waste have a capacity of more than 10 tonnes, this will be considered by SEPA to be an activity under the PPC regime.

In cases where liquid waste is imported to a site in drums or other mobile tanks, and is not discharged into fixed tanks, the capacity of the site will be determined by the daily capacities specified by the applicant/operator or other limiting factors.

**2.3 Solid waste**

The physical storage of solid waste at a site is not usually the limiting factor at such sites and as a result storage capacity of solid waste should not be the prime consideration in determining whether a site is covered by the PPC Regulations. In such cases the daily tonnage specified by the applicant/operator can be used to determine the capacity if the activity has no other relevant limiting factor (eg a key piece of plant with a maximum engineering throughput).



**Note 6**

The philosophy behind the PPC regime is that environmental regulation should be addressed in an integrated way. It is preferable for a site to be regulated by as few permits, licences and authorisations as possible, subject to compliance with the Regulations.

It is possible for one PPC permit to cover more than one listed activity in schedule 1 of the PPC Regulations. Where operations are undertaken at a site that do not comprise the listed activity (or activities) at a site, consideration should be made as to whether these other operations can be reasonably shown to be directly associated. General guidance on directly associated activities is available as Annex II to the PPC Practical Guide.

Waste treatment facilities are not generally comparable with traditional process industries and therefore do not lie easily with the general guidance referred to above. In most cases where waste treatment is carried out, a variety of operations will be conducted on the site. One or more of these operations may singly or collectively make up an activity that falls to be regulated under Section 5.3 of Schedule 1 of the PPC Regulations. Other operations may not however, fall within this category, but must still be regulated in accordance with the requirements of the Waste Framework Directive (WFD).

SEPA may consider an installation to be the whole of the waste treatment facility where:

- The operator carries out all the waste operations on site;
- The site is comprised of one facility with shared infrastructure, staff, plant and a common boundary;
- The functions carried out can be shown to be part of a listed activity or to be directly associated

If an activity cannot be shown to be directly associated with a listed activity, PPC permit conditions are unlikely to be enforceable for that operation and therefore the requirements of the WFD would not be met. In this situation, a site may need to undertake some operations in accordance with a waste management licence or waste management licensing exemption.

Where the whole of a waste treatment facility is considered to be an installation covered by a PPC permit, the operator will be required to demonstrate that the techniques to be utilised will

be the best available techniques (BAT) for preventing or, where that is not practicable, reducing emissions. In most cases, the techniques already required under the waste management regime are likely to satisfy this requirement but the operator will be required to demonstrate this on a site specific basis.

**In the example given, if the operator intends to accept more than 10 tonnes per day of asbestos at the facility, then a PPC permit under Section 5.3 (a) will be required. If the other functions carried out at the facility are not directly associated then they will require to be licensed separately under a waste management licence/ exemption.**

### **3. Recovery and Disposal**

The terms 'disposal' and 'recovery' are defined by reference to Council Directive 75/442/EEC on waste [otherwise known as the Waste Framework Directive (WFD)]. Disposal operations are listed in Annex IIA to the WFD and recovery operations are listed in Annex IIB.

These lists are not considered to be exhaustive and some methods of disposal and recovery may not be expressly mentioned in the operations listed

Waste processes have evolved since the drafting of Annex II of the WFD and a review of the current list of recovery and disposal activities is under consideration. SEPA's current position will therefore be subject to review in due course. The approach detailed here should not also be used to make determinations in relation to packaging or the transfrontier shipment of waste.

Decisions on the classification of an operation as recovery or disposal should not be influenced by the regime under which it may fall to be regulated.

The European Court of Justice has made it clear that it is not possible for a single waste operation to be classified simultaneously as both a disposal operation and a recovery operation and that the classification of an operation must be considered on a case by case basis. There may also be several stages leading up to the final disposal or full recovery of a waste and some of these stages may occur at different sites.

When determining whether an activity is a recovery or disposal operation, the following principles should be considered:

- All waste operations (other than temporary storage, pending collection, on the site where it is produced) must be capable of being classified as either disposal or recovery operations.
- Temporary storage of waste, pending collection, on the site where it is produced, is not a disposal or recovery operation. Once waste has entered the waste management system, or is generated as part of a waste operation carried out within that system, it is subject to regulatory control. Waste will enter the waste management system when it is collected from the site where it is produced or when the producer of the waste subjects it to a disposal or recovery operation.
- A waste 'operation' should be seen as referring to what happens to a specific waste stream within a facility. There may be more than one operation being carried on within a facility eg. a materials recycling facility, and each distinct operation should be assessed separately.
- The European Court has stated that the essential characteristic of a waste recovery operation is that its principal objective is that waste serve a useful purpose in replacing other materials which would have had to be used for that purpose, thereby conserving natural resources.

- A recovery operation can generate a significant amount of residue for disposal. In some cases the quantity of the waste recovered will be relatively small in relation to the quantity of a load (e.g. precious metal recovery), but, having regard to all of the circumstances, the assessment in these cases should be made that the true objective of the operation is the recovery of waste. For the purposes of this advice, where there is any doubt about whether an operation is a recovery or disposal operation, it should be assumed to be a disposal operation.

#### **4.0 Recovery and Disposal - General Approach**

Under the WFD, a permit is required when undertaking disposal or recovery operations, except where there are specific exemptions set in national legislation. For the purposes of the WFD a 'permit' can mean a waste management licence or a PPC permit.

It is possible for more than one disposal or recovery operation to occur on one site and each of the operations must be classified with the most appropriate 'D' or 'R' categorisation having regard to the nature of the operation as a whole.

The carrying out of a recovery operation is likely to involve the storage of waste before the operation is undertaken and the storage of the residues from the actual process itself. In some cases these residues will be subjected to a further recovery operation and in others they will be sent for disposal.

Unless storage immediately prior to, or following a recovery operation can properly be described as a distinct operation, it should not be categorised separately. It should be regarded as an integral part of the main recovery operation. The exception to this is waste oil, as defined by the Waste Oils Directive. If for example, metal is to be sorted and graded for recycling (an R4 operation), the temporary storage prior to sorting and the storage of any residues resulting from the sorting should be considered to be part of the R4 operation. Where asbestos arrives at a site and is simply bulked and/or stored prior to its disposal to landfill, this is a distinct operation.

Section 5.4 defines specific recovery operations with associated R numbers. Section 5.3 A (a) and (b) refer to any of the disposal operations listed in Annex IIA including D15 - storage pending any of the other disposal operations listed, and as a result the proposed route for the waste is critical in determining whether specific treatments fall to be described as recovery or disposal operations. Section 5.3 A (c) refers only to D8 and D9 operations which make reference to treatments producing final mixtures and compounds discarded by any D1 to D12 operations.

#### **5. Waste Oils – Recovery and Disposal**

Council Directive 87/101/EEC on the disposal of waste oils amends Directive 75/439/EEC (WOD).

Under this Directive, "waste oils" means any mineral-based lubrication or industrial oils which have become unfit for the use for which they were originally intended, and in particular used combustion engine oils and gearbox oils, and also mineral lubricating oils, oils for turbines and hydraulic oils;

Furthermore, it should be noted that under this Directive:

'disposal' means the processing or destruction of waste oils as well as their storage and tipping above or under ground; and

'processing' means operations designed to permit the re-use of waste oils, that is to say, regeneration and processing.

It is clear therefore, that oil storage is often an operation in its own right and does not fit under an Annex II code, except when associated with a specific operation such as 'R9' - oil re-refining or other reuses of oil.

With the exception of R9 operations involving in excess of 10 tonnes per day, waste oil (as defined by the WOD), that is not incinerated, will fall to be regulated under section 5.3 Part A (b) of Schedule 1 of the PPC (Scotland) Regulations 2000, if it involves plant with a capacity exceeding 10 tonnes per day. Waste oils that have not been used, may fall under section 5.3 Part A (a). In addition, an installation already falling under PPC 5.3 A(a) due to other hazardous waste disposal, may include waste oil disposal as part of the 5.3 A(a) activity (as waste oil is also normally a hazardous waste).