



SCOTTISH EXECUTIVE



do a little



change a lot

The Pollution Prevention and Control (Scotland) Regulations 2000

a practical guide

for Part B activities

Issue 1

a practical guide

for Part B activities

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1. Introduction

The way that certain industrial activities in Scotland are regulated has changed. A new set of Regulations called 'The Pollution Prevention and Control (Scotland) Regulations 2000' (also known as the PPC Regulations) have been adopted in Scotland to replace Part I of the Environmental Protection Act 1990 and Regulations made under it. This means that some activities that were previously authorised by the Scottish Environment Protection Agency (SEPA) under the Air Pollution Control (APC) regime will now be regulated under PPC.

The guide initially sets out why and how things will change under PPC, including:

- i How to find out if you fall under the PPC Regulations;
- ii How to make an application;
- iii How to vary a permit under PPC;
- iv How your applications will be treated; and
- v What various terms within the Regulations actually mean.

Associated with this guide are a number of supplementary guidance notes covering certain aspects of PPC in more detail. These are:

PPCSGN1 – The PPC Part B Application Procedure

PPCSGN2 – Variation and Transfer of Part B Permits

PPCSGN3 – Required Standards and BAT including factors to be considered in determining BAT.

PPCSGN4 – The meaning of substantial change and triviality for PPC Part B activities.

These notes are available from your local SEPA office, or from the SEPA website at www.sepa.org.uk.

If you have problems with any aspect of this guide, or any other part of PPC please contact your local SEPA office who will be more than happy to help you. A list of contact details is given at the back of this guide.



2. The PPC Regulations – A Brief Introduction

The PPC Regulations represent an evolution of the APC regime previously implemented under Part I of the Environmental Protection Act (also known as EPA). The provisions of this Act were put in place in order to implement an EC Directive commonly known as the Air Framework Directive (84/360/EC). The basic aim of the Directive and the Act was to prevent or minimise pollution from certain industrial processes in the European Community,, including the United Kingdom.

In 1996 the EC adopted a new Directive covering certain activities commonly known as the Integrated Pollution Prevention and Control Directive (96/61/EC) (also known as IPPC). The implementation of this Directive in the UK was achieved through the Pollution Prevention and Control Act 1999, and the Pollution Prevention and Control (Scotland) Regulations 2000 (SI 2000/323) in Scotland (the PPC Regulations). The APC regime is being transferred into PPC from the EPA regime on a rolling programme as a consequence of the new PPC Regulations.

The table below shows the main features of the APC system, and the changes that have been made under PPC in relation to Part B activities.

Feature No.	APC	PPC
1	Certain prescribed processes would not be permitted to carry on without an authorisation by SEPA	PPC now covers 'activities' rather than 'processes', and instead of requiring an 'authorisation' you now require a 'permit'
2	Operators of prescribed processes to submit a detailed application for authorisation by SEPA	Operators of new activities only must submit an application for a 'permit' from SEPA. Existing operators will transfer to PPC under a deemed application process explained in Section 5 of this guide
3	SEPA to set conditions within authorisations to ensure that processes are operated using the Best Available Techniques Not Entailing Excessive Cost (commonly abbreviated to BATNEEC) to prevent and minimise emissions of substances	SEPA must now set conditions to ensure that activities are operated using the Best Available Techniques (now known as BAT) to prevent and minimise emissions of substances and protect human health
4	Process Guidance Notes were issued to SEPA containing the Secretary of State's views on the appropriate techniques required in order to achieve BATNEEC. Such notes covered all activities prescribed under the Act	Process Guidance Notes are presently being revised to take on board the changes required by PPC (such as references to BAT) and will still be referred to as Process Guidance Notes
5	Mobile plants authorised by SEPA could operate under the same authorisation in England and Wales.	Mobile plants with a PPC Permit may only operate in the country in which they were authorised. If you want to operate elsewhere you must apply for another permit from the appropriate regulatory authority.

The PPC Regulations create Part A and Part B (formerly APC) regimes, similar to those of Part I of EPA, which they will replace over time. Broadly speaking, if an operator held an authorisation under the Environmental Protection Act 1990, then the PPC Regulations are likely to apply.

Part I of EPA will be repealed once all of the existing authorisations issued under its regime have been revoked or replaced by permits issued under the PPC Regulations.

The PPC Regulations go into a lot of detail about how PPC will affect an operation. The following pages will provide you with a simplified version of the Regulations, and what they will mean for you as an operator.

3. Objectives of the PPC Regime

The PPC regime, in relation to Part B activities, aims to achieve a high level of protection of the environment by measures designed to prevent or, where that is not practicable, reduce emissions to air. Emissions are defined in the PPC Regulations as 'the direct release of substances or heat from individual or diffuse sources in an installation into the air'. The inclusion of the term 'heat' is a change to the existing regime under LAPC. In short, a Part B permit allows an Operator to discharge to air only. Discharge to land or water will require another type of permission from SEPA.

Within this overall aim, PPC has a number of specific objectives:

- It requires the prevention or reduction of emissions from installations, principally through setting Emission Limit Values (ELVs) based on the assessment of Best Available Techniques (BAT) and the consideration of any relevant site-specific issues. The determination of BAT should consider costs and advantages of different solutions to problems, balancing a range of environmental factors across the entire life of industrial installations. It should consider both the technologies used and the way in which the installation is designed, built, maintained and operated. There is a strong emphasis, therefore, on appropriate and effective systems of management of installations to ensure a high level of environmental protection. A description of what BAT is and how it will affect an operation is provided later in this guide.
- It places the responsibility on operators to find solutions to potential environmental problems;
- It requires Environmental Quality Standards (EQS's) to be taken into consideration, and may demand operational performance beyond the normal standard of BAT to ensure that the EQS's are not breached. An EQS is a requirement that must be fulfilled for a pollutant at a given time, for example, the amount of sulphur dioxide per cubic metre in the air. For Part B installations, relevant Ambient Air Quality Standards¹ are equivalent EQS's. PPC provides for slightly different treatment of EQSs agreed at the EC level compared with those that are purely domestic (derived on a Scottish or UK basis);
- It should streamline and strengthen the regulatory system, clarifying the roles and responsibilities of the regulator, and the regulated;
- It should increase public confidence by providing a regulatory system that is accessible, understandable and clear in operation and in the results of its application;
- It should provide a flexible framework capable of responding both to changing pollution prevention and control techniques and to new knowledge on the effects of pollutants;
- It should provide a means to support fulfilment of certain international and EC obligations relating to environmental protection, for example the IPPC directive.

¹ *Ambient Air Quality Standards are those produced under the DETR's (now DEFRA's) strategy for air quality in the UK 'Working Together for Clean Air'*

4. How to find out if you fall under the PPC Regulations

The PPC Regulations are relevant to installations that undertake one or more prescribed activities. Some examples are provided below. The term installation refers to the stationary technical unit where one or more of the prescribed activities are carried out. It may also refer to any other directly associated activities carried out on the same site, which have a technical connection and could have an effect on pollution. Further explanation of what constitutes an installation can be found in Section 15 of this guide.

- **Energy industries** – e.g. boilers
- **Production and processing of metals** – both ferrous and non-ferrous
- **Mineral industries** – e.g. production of cement and lime, activities involving asbestos, glass and glass fibre manufacture
- **Waste management** – e.g. some incineration
- **Other activities** – e.g. tar and bitumen processes, textiles, coatings, rubber activities, timber processes, food and drink production.

A threshold may have been introduced in the Regulations in order to differentiate between whether an activity is controlled under Part A or Part B of PPC. Part A activities are regulated in terms of releases to air, water and land, whilst Part B activities are controlled only on their potential to release to air.

New sectors of industry, such as food and drink production, will fall under SEPA regulation for the first time as a consequence of the IPPC Directive.

The complete list of Part B activities is set out in Schedule 1 to the Regulations, which can be referred to for more detailed information (Schedule 1 also lists Part A activities subject to the PPC regime, which is covered by a separate practical guide).

The typical format of an activity description is given in Box 1 below. You should identify whether or not you are covered by the Regulations, and if so under what activity. If there is any doubt, you should contact your local SEPA office as detailed at the back of this guide.

It is the Operator's responsibility to determine whether the Regulations apply to their activity, and, if so, whether it is a Part A or Part B activity. Operators should satisfy themselves that they comply with the law.

Box 1

The text below is taken from the Regulations, and shows you what type of process description you can expect to encounter:

"The manufacture of glass at any location where the person concerned has the capacity to make 5,000 tonnes or more in any 12 month period, and any activity involving the use of glass which is carried out at any such location in conjunction with its manufacture."

This may appear to be rather complicated, but in simple terms means that if you are able to produce more than 5,000 tonnes of glass per year then you will fall under PPC.

In order to find out what activity description your operation falls under, you should refer to the PPC Regulations. They are available in hard copy format from The Stationery Office Limited as 'The Pollution Prevention and Control (Scotland) Regulations 2000, (SI 2000/323) ISBN 0 11 059467 3', or they can be viewed free of charge via the internet at www.hms.gov.uk.

5. The impacts of PPC for Existing APC Authorisation Holders

If you hold an authorisation for an APC (Part B) process under Part 1 of the Environmental Protection Act you will ultimately change to holding a PPC Permit. The transfer process is described within the Regulations, and is summarised in this section.

How you will transfer

Under the previous regulatory regime you should have become accustomed to the 4-yearly review of your authorisation. This review was undertaken in order to ensure that the authorisation was up-to-date, that it adequately described the process, and that it covered BATNEEC for the installation. It is the timing of your last review that will ultimately determine when you will transfer across to the PPC regime.

As an APC authorisation holder, you will undergo a deemed application procedure. This means that you do not need to make a formal application, but will be 'deemed' to have applied. SEPA progresses as though an application has been made and will produce a permit on that basis. There is no fee involved in the transfer of existing processes (unless you move from a Part B to Part A activity) and determination of a deemed application. The date upon which you are deemed to have applied to SEPA for a PPC permit is 6 months in advance of your next four-yearly review. SEPA will inform you, in writing, of the date when you are deemed to have made application within 2 months of that date, and SEPA has 12 months in total to either issue a PPC permit, or notify the operator that the permit has been refused.

If SEPA does not notify you within the period, then you can notify SEPA that you treat the failure to determine the application as a refusal.

If all of this seems a little confusing, please see the example in Box 2 below.

Box 2

A process for the manufacture of glass was granted initial authorisation under APC on 1 August 1995. A 4-yearly statutory review was completed on 1 August 1999; the next review date is due 4 years later on 1 August 2003. The deemed application date, ie the date when the operator is deemed to have made application under PPC, is 6 months before that date ie 1 February 2003.

SEPA will notify this operator of their deemed application by 1 April 2003, and SEPA will notify them of the result of the application by 1 February 2004.

If SEPA has not notified the operator of the result of the application by 1 February 2004 then the application will be deemed refused, if they notify SEPA that they treat the failure to determine as a refusal.

In short, if you are an existing APC authorisation holder, you need do nothing at present and SEPA will inform you in writing of when you are deemed to have made application.

The Difference in PPC regulation compared to APC regulation for Part B installations

Given that existing APC holders will go through a deemed application procedure, it is important to understand the actual differences that will come about through being regulated under PPC as a Part B installation.

PPC is a continuation of the APC system of pollution control, and carries with it the same aim of preventing or minimising emissions to air. However, it also covers some important new areas listed below:

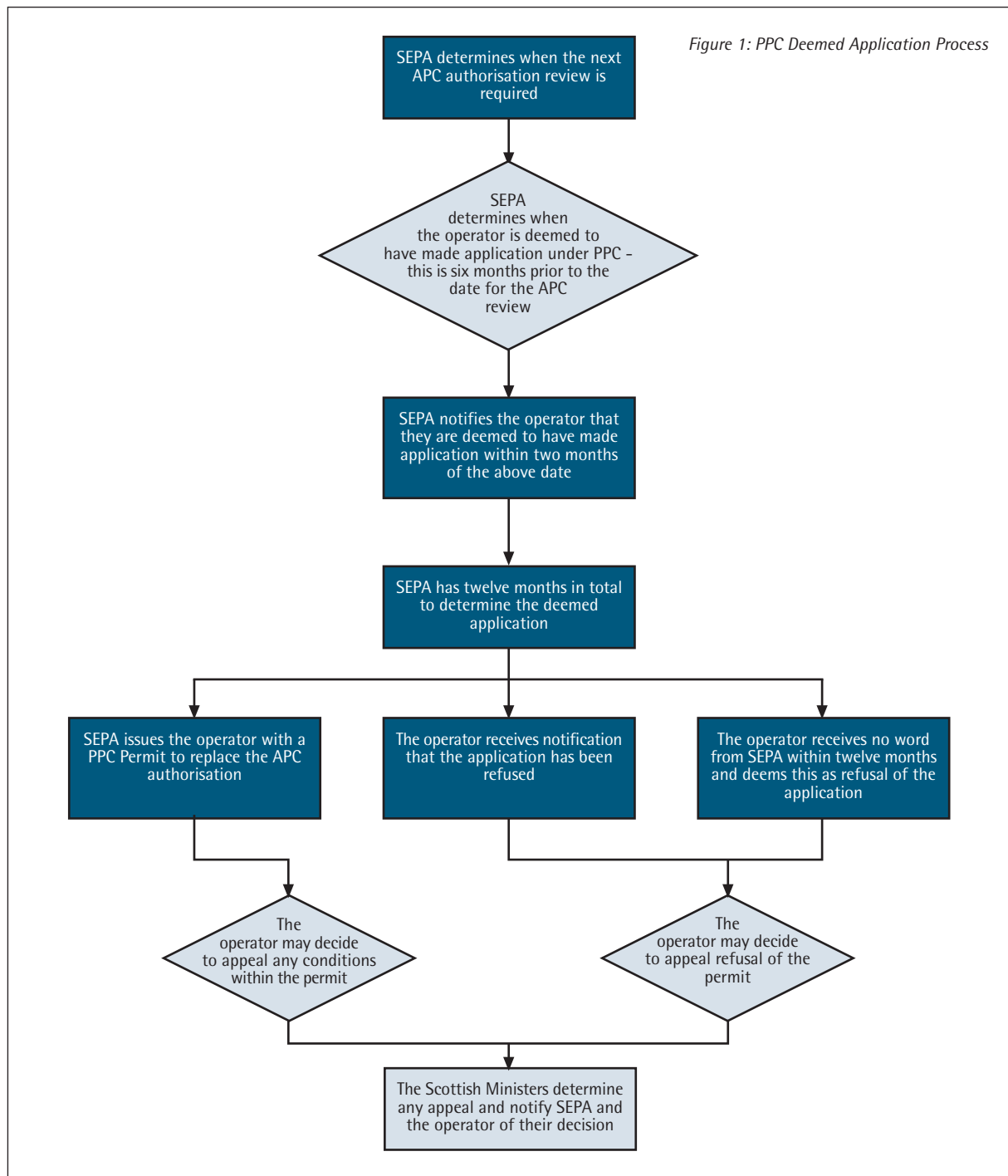
- As well as covering emissions of substances from an installation, the permit will also take into account emissions of heat.
- The permit will take into account your whole installation. This means that not only is the part of your site that undertakes the activity (or activities) covered by PPC, but also any other location on the same site where any

other directly associated activities are carried out. However, these directly associated activities are only regulated if they have a technical connection to the main PPC activity/activities, and they must have the capability to have an effect on pollution.

- The permit must also take into account the effect that the activity (or activities) may have on human health. The new permit will contain conditions to protect human health, and any variations to the permit will also be assessed for their impact on human health.

The actual form of regulation will be very similar to that under APC, and, in effect, you may notice little difference once you fall under PPC.

Figure 1 below shows the deemed application process.



6. The Impacts of PPC for People Wishing to Apply for a Permit for the First Time.

If you wish to start a new activity that is covered by the PPC Regulations then you will have to apply for a PPC Permit before you can begin operation. THREE copies of the application must be sent to SEPA using the appropriate application forms, and subject to the relevant application fee. The application fees are listed in the 'Scheme of fees and charges for air pollution control in Scotland' which is available on the SEPA website, at www.sepa.org.uk or from your local SEPA office.

What happens once we receive your application

If the application is complete (also known as 'duly made' within the Regulations) then SEPA circulates copies to various statutory consultees for review and comment. This includes organisations such as Scottish Natural Heritage (SNH) and the relevant Local Authority. In addition, in most cases, the applicant is also required to advertise the application for public consultation. This process of consultation is required by the Regulations, although SEPA may also choose to undertake additional consultation under their own procedures on a non-statutory basis. The reason behind this type of consultation is that SEPA does not have expertise in every area of environmental protection, and by asking for expert comments on areas such as biodiversity from organisations such as SNH, we can make a better informed decision regarding your application.

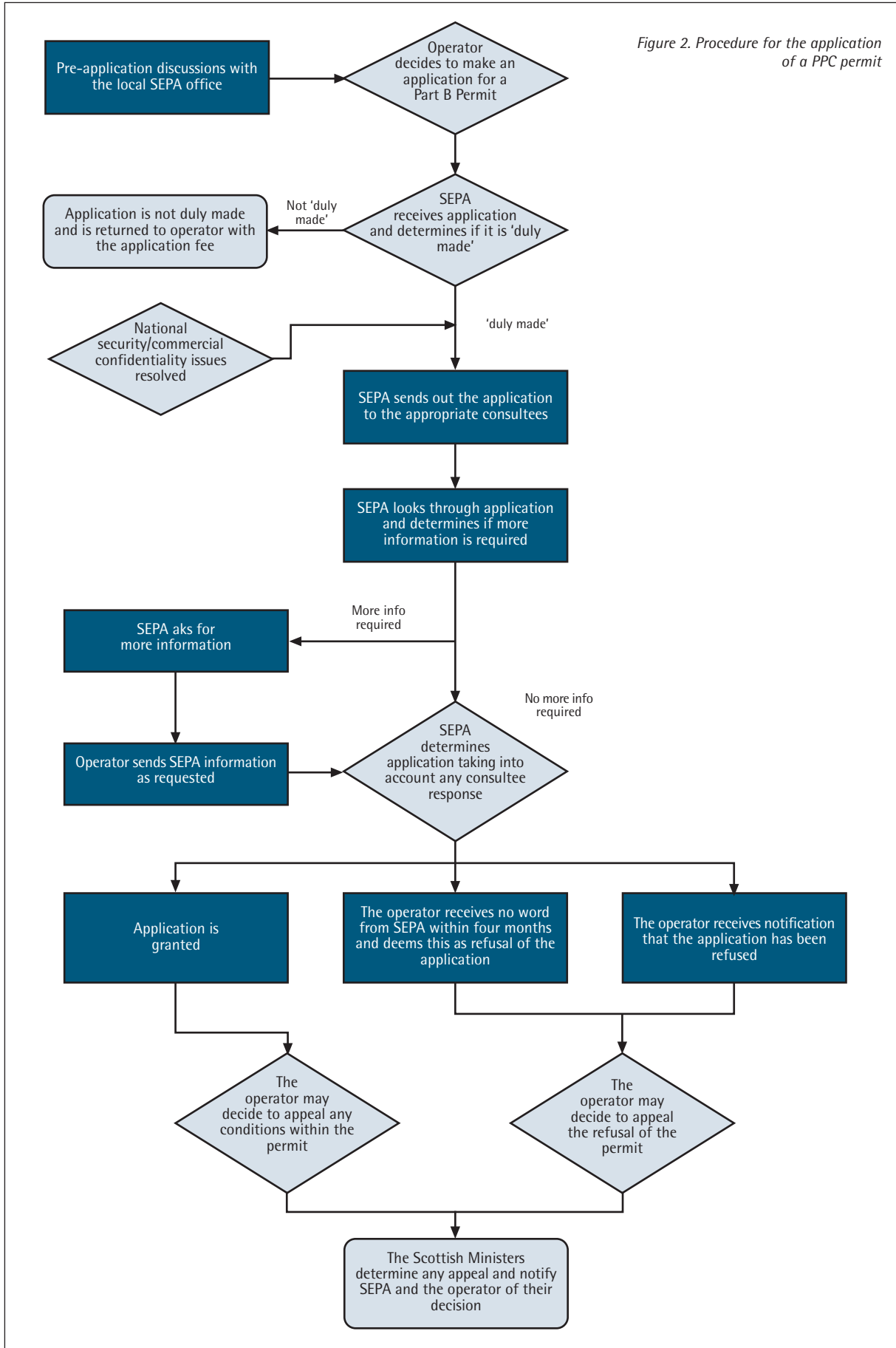
SEPA must also place a copy of the application on a public register. However, the information that is added to the register may be restricted if you decide that any of the information needs to be withheld due to reasons of commercial confidentiality or national security. The supplementary guidance to this document, listed in the introduction, explains how these issues are dealt with (Ref: PPCSGN1 – The Application Procedure).

SEPA will then determine your application using the information you have submitted, and any information received during the consultation. We may also ask you for more information during our determination, and it is in your best interests to supply this information as quickly as possible, because this will speed up the application process. We will then either provide you with a permit or refuse your application. You are entitled to appeal against refused applications.

A summary of the new application procedure is shown in Figure 2:



Figure 2. Procedure for the application of a PPC permit



7. What will be in a PPC Permit?

The permit you receive will depend on the type of activity (or activities) that you undertake. However, there are a number of common elements:

- The permit will place a requirement for you to monitor the emissions from the activity (or activities), and record the results of such monitoring. The monitoring you undertake may be supplemented by SEPA's own monitoring.
- The permit will require you to notify SEPA in case of accidental releases, releases above the limits set for your emissions, and other abnormal occurrences.
- The permit will ask you to keep certain records that may be inspected by SEPA.
- The permit will contain an implied condition requiring the installation to operate in accordance with BAT, although this does not apply to any aspect of the installation covered by explicit permit conditions.
- The permit may contain off-site conditions. As a general rule, most Part B activities should be capable of being operated such that they do not require any off-site conditions to be imposed.
- The permit may contain ELVs for individual pollutants or groups of pollutants where appropriate. An indicative list of pollutants to be controlled is listed in Schedule 5 to the Regulations.

What is BAT?

The search for a solution in any situation – such as the manufacture of an industrial product to a particular standard, or the abatement of an environmental impact from an operation – may reveal different options from which a choice may be made. The essence of PPC is that the option chosen should be the best that is available to achieve a high level of protection of the environment, and the best available technique is termed BAT.

In determining BAT for your own installation there are two main stages to be considered:

1. The first stage requires you to compare the options available at a relatively high level, followed by a decision as to which is the Best Available.
2. The second stage requires a detailed assessment of the chosen option to ensure that it does constitute BAT.

There are no set rules as to what constitutes BAT, but guidance is available to help you decide. The main guidance comes from the Process Guidance Notes (PG Notes) that are produced by the Department of the Environment, Food and Rural Affairs (DEFRA) in collaboration with the Environment Agency, SEPA and the Scottish Executive.

The main questions to consider are:

- How do you undertake your activities at present?
- Why is your method better than anything else you could do?

By answering these questions you will be answering the BAT requirement of the application process.

There are various PG Notes available, but most refer specifically to a particular process such as Plaster Processes, and it is important that you refer to the PG Note that covers your particular activity/activities. The Note will provide basic information about potential releases from your operation, what you can do to prevent such releases and typical emission limits that may be set for your operation. The Notes are available from SEPA, the Environment Agency, and from DEFRA.

What is the Difference between BAT and BATNEEC?

If you have previously been regulated under the APC regime then you will have come across the term BATNEEC. This term referred to the Best Available Techniques Not Entailing Excessive Cost. It is a requirement of BAT that the best available techniques implemented must be done so after taking into account the costs and advantages of the techniques. **It has therefore been determined that BAT and BATNEEC are essentially the same.**

Who determines what is BAT for my Installation?

Although guidance is available on determining BAT for your installation it is essentially up to you as the operator to justify to SEPA that your proposals constitute BAT.

Guidance has been published on a sector specific basis in order to provide an indication of the standards which the Regulator expects you to achieve in operating your activity. A list of these Process Guidance notes is available from the SEPA website.

For more guidance on BAT please refer to PPC Supplementary Guidance Note 3 'Determining BAT for Part B Activities'. This document is available from your local SEPA office, or from our website at www.sepa.org.uk.

Off-Site Conditions

SEPA may put in place off-site conditions as part of your permit. Such conditions mean that you may have to carry out work in relation to land, which isn't classed as part of your 'installation'. This may be land that you don't own and before such work can be undertaken on another persons land, the owner must grant permission. As part of this process, compensation may be paid to the landowner. However, before we set such a condition we will consult with the owner of any land that may be subject to the off-site condition. Such conditions can be appealed by both the operator and the landowner. This type of condition is likely to be the exception rather than the norm.



8. Changing Your Permit

From time to time you may wish to change your PPC Permit. There are many reasons why this may be the case. Some types of change may require you to notify SEPA, and some may require SEPA to change your permit. You will be required to apply for a change to your permit, in a similar fashion to applying for a new permit.

What types of change will require me to notify SEPA?

SEPA must be advised whenever a change in the operation of the installation is proposed. A 'change' in this context is defined by the Regulations as 'a change in the nature or functioning or an extension of the installation or mobile plant which may have consequences for the environment.' It is up to you as the operator to determine whether your proposed change meets these criteria.

If it does then you must notify SEPA in one of two ways:

- You can send us either a letter or an e-mail detailing the change, at least 14 days before you propose to make the change. SEPA will then write back to you stating that they have received your notification.
- You can send us an application to change your permit using a SEPA application form. This is available from your local SEPA office or the SEPA website at www.sepa.org.uk.

Once a notification has been made, SEPA may determine that in order for you to make the change to the process, you will need to make formal application for a variation to your permit. Depending on the type of change there may be a fee associated with this application. In order to avoid unnecessary delay, it is recommended that you discuss any proposed changes in advance with your local SEPA office, who will be able to guide you as to whether an application should be made in the first instance.

You must not make any change to the process in advance of a notification of application for variation.

You will need to provide a number of details including your name and address, the details of the proposed change(s), and the changes that will be required for your permit. This application must be made before you make any changes.

In the case of a 'substantial change' you **must** make an application to SEPA. A 'substantial change' is in essence a change that SEPA believes may have a significant negative impact on humans, or the environment. You must use the application process detailed above, and the application may be subject to consultation as per the application for a new permit. SEPA will then determine whether the change can go ahead, and amend the permit as necessary.

The supplementary guidance to this document, listed in the introduction, provides further information on substantial change (REF PPCSGN 4 – The Meaning of Substantial Change and Triviality for Part B PPC Activities).

9. How to transfer your Permit

SEPA understands that from time to time premises may change owners, and as part of such changes it may be necessary to transfer ownership of the PPC Permit. The way that such transfers take place is a very simple process, and SEPA have designed an application form to make the process even easier. The application form also covers circumstances where you may wish to transfer part of the permit to another operator and keep control of the remainder.

The general aim of the application form is to make sure that the new operator of the installation is able to meet the requirements of the permit in order to prevent or minimise impacts on human health or the environment.

The application form must be completed by both the present and proposed future operator of the installation. This application form is then sent to SEPA, who determines it to ensure that the proposed operator is capable of operating the installation. The permit may then be transferred to the new operator. The whole process can take up to two months, but this may be extended where agreed between SEPA and the Operator. A transfer of a permit may also lead to a change in the appropriate conditions depending on the circumstances of the installation, the operator(s) and the transfer.

10. What is a Permit Review?

Over a period of time a permit can become dated. To prevent this from becoming a problem SEPA periodically reviews each of its PPC permits. SEPA is also required by the Regulations to carry out a review of the permit under the following circumstances:

- Pollution caused by the installation is of such significance that emission limits need to be revised or new limits added;
- Changes in the Best Available Techniques mean that further reductions in emissions are possible without incurring significant cost to the operator;
- The operational safety of the activities carried out requires alternative techniques to be used.

The review will look at:

- Whether the permit conditions reflect the most up-to-date standards in the light of new information or new technology;
- Whether there have been any variation notices granted since the permit was issued/last reviewed, and if so how the separate notices can be combined into one document;
- Whether any changes in BAT have occurred on the basis of new technology/guidance.

Even if none of the above has taken place, a review may still be carried out and the operator will be informed of the outcome of that review.

Revocation of Permits

In some circumstances it may be necessary for SEPA to revoke your permit. In these circumstances SEPA will send you a notice stating the date of revocation, and which aspects of the permit will be revoked (this may be all of the permit). You have right to appeal against any revocation notice served by SEPA.

11. Enforcement

As part of its work, SEPA may be required to take enforcement action against a PPC permit holder. The reasons for such action are to ensure that preventative or remedial action is taken to protect the environment and to secure compliance with the regulatory system. This may come about due to the occurrence of a non-permitted 'incident', a breach of the conditions of a permit, or operating an installation without a permit. SEPA expects that operators of PPC installations will operate in a manner that meets all of the requirements of their permit and the Regulations but where they do not, SEPA will take enforcement action.

Enforcement Tools

Enforcement tools are used in accordance with SEPA's Enforcement Policy, which is available on our website at www.sepa.org.uk. There are a number of tools available for SEPA to take enforcement action, including:

- **Enforcement Notices** – The Regulations allow SEPA to serve an 'enforcement notice' if it believes an Operator has contravened, is contravening, or is likely to contravene any conditions of their permit. 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, as well as be a requirement to bring the installation back into compliance.
- **Suspension Notices** – If SEPA believes that the operation of an installation involves a risk of serious pollution it must serve a 'suspension notice' on the Operator. This provision applies whether or not there is a breach of a permit condition. When such a notice is served, it may provide that the permit ceases to authorise the operation of the entire installation or specified activities until the notice is withdrawn. SEPA will withdraw the notice when the remedial steps specified have been taken.
- **Revocation Notices** – Under the Regulations, SEPA can revoke a permit at any time, in whole or in part, by serving a 'revocation notice' on the Operator. To the extent specified in the notice, this ceases to authorise the operation of the installation or any activity within it. Any post-operation requirements may remain in force. A revocation notice may be used in situations, such as when an operator has not paid a subsistence charge due for the installation. Rarely, revocation may be appropriate where exhaustive use of other enforcement tools has failed to secure proper environmental protection.

The operator has a right of appeal to any of these notices.

- **Remedy of Pollution** – If an operator has committed an offence that has caused pollution, SEPA may arrange for steps to be taken to remedy the pollution and may recover the costs of the action from the operator, unless the operator can show that there was no emergency or costs were incurred unnecessarily.

Prosecutions

If SEPA discovers that the operator of a PPC installation has committed an offence, such as failure to comply with conditions of a permit, failure to hold a permit or failure to comply with a notice, we may refer a case to the procurator fiscal, recommending prosecution. The use of the criminal process to instigate a prosecution is an important part of enforcement. It aims to punish wrongdoing, to avoid a recurrence and to act as a deterrent to others. SEPA may use prosecution in conjunction with other available enforcement tools, for example a suspension notice stopping operation until certain requirements are met.

In making a referral for consideration of prosecution, SEPA will also review any part played in the offence by the officers of the company, including directors, managers and the company secretary. Under the Regulations, action may be taken against such officers (as well as the company) where the offence was attributable to consent, connivance or any neglect on their part. As part of any punishment following successful prosecution, there is the possibility of a fine of up to £20,000 and/or up to six months imprisonment on summary conviction – or an unlimited fine and/or up to five years imprisonment on conviction on indictment.

It is in the operators best interests to make sure that they do not break any permit conditions or fail to comply with the Regulations, in order to ensure that they are not subject to enforcement action or prosecution.

12. How to Appeal

There are a number of occasions where an Operator may be unhappy with a decision made by SEPA. The PPC Regulations allow you to appeal against certain decisions, specifically:

- Where a permit application has been refused, or a permit has been granted but the Operator disagrees with the conditions;
- Where an application to vary the conditions of a permit has been refused, or a notice has been served varying the conditions of a permit and the Operator disagrees with the new conditions;
- Where a revocation, enforcement or suspension notice has been served;
- Where an application to transfer a permit or surrender a permit has been refused; or
- Where there has been a refusal to grant commercial confidentiality to information supplied by the Operator.

The basic system of appeal requires the Operator to write to Scottish Ministers, enclosing certain documentation stating what you are appealing against. A copy of the appeal must also be sent to SEPA.

The Scottish Ministers will then determine the appeal, and once a decision has been made both SEPA and the Operator will be notified. An Operator affected by a decision made by the Scottish Ministers has a further right of appeal to the Sheriff. (This is reflected in the flow chart below). Once the Scottish Ministers' decision has been notified, an application to the Court of Session for judicial review and the setting aside of the decision, can sometimes be justified. In this case, the decision could be quashed and the matter sent back to the Scottish Ministers for reconsideration. Further representations may be invited and the hearing may be reopened.

An outline of the appeal procedure is shown in Figure 3 below:

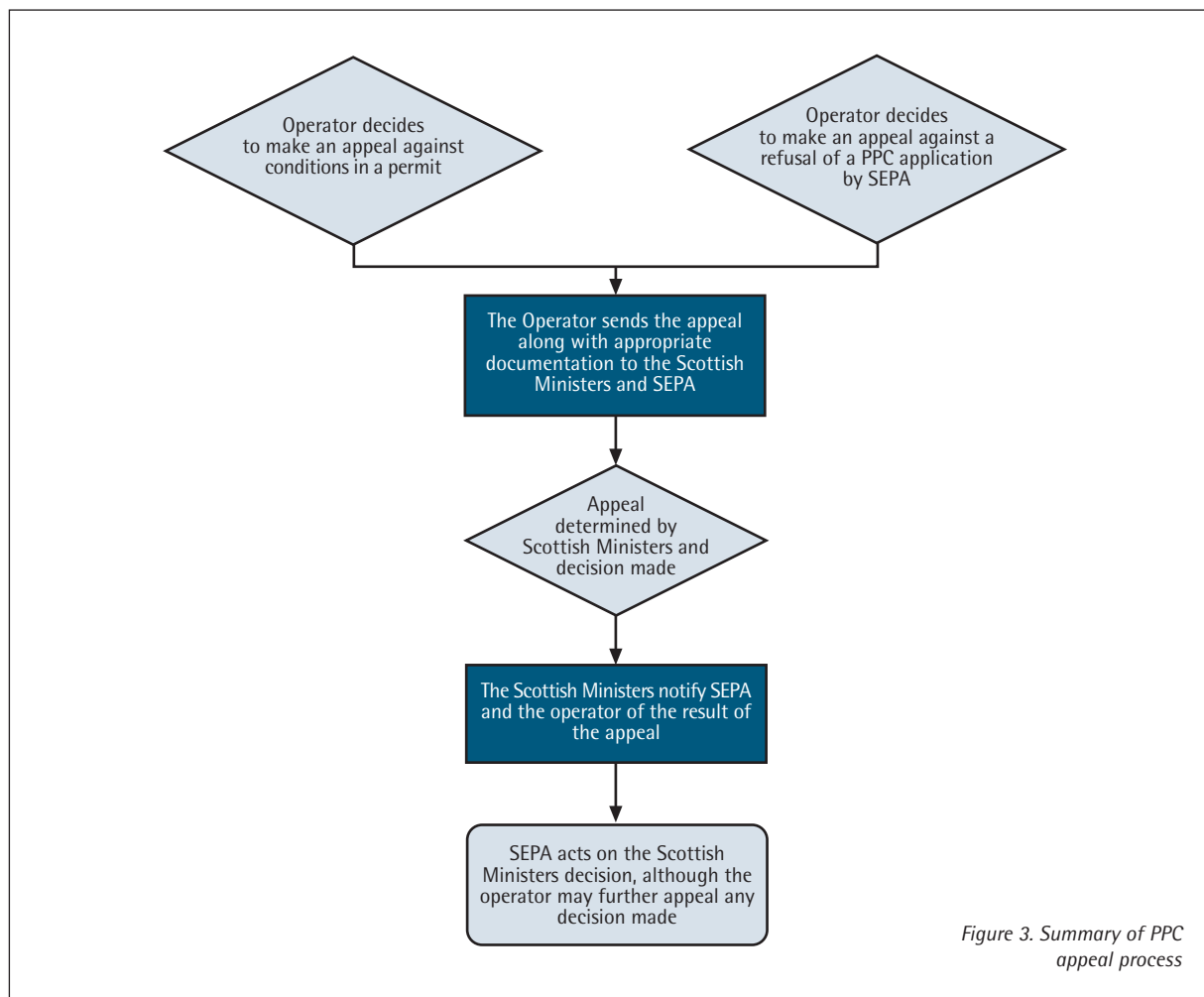


Figure 3. Summary of PPC appeal process

13. Surrender of a PPC Part B permit

If you plan to stop operating your process (or part of it) for any reason, you are required to formally surrender your application.

To surrender your permit or any part of it, you should complete the relevant application form (available from SEPA). The application form requires you to give information such as your name and contact details and the date when the surrender is to take effect. In the case of a partial surrender for an installation or mobile plant, you should also include the details of the parts of the installation or mobile plant that will no longer be operated.

For stationary installations, you will need to include a map or plan identifying the parts of the installation affected by the surrender. In the case of a mobile plant, you will need to supply a list of the mobile plants to which the surrender refers.

The application for surrender must be received by SEPA 28 days in advance of the effective date of surrender – the date you have proposed in your application.

In the case of a partial surrender SEPA may require to amend your permit, for example to remove conditions which are no longer relevant. If a variation notice is to be issued, SEPA will give you notice of this fact and the normal variation procedure described in Section 8 of this guide will be followed.

There is no fee required for a full or partial surrender of your PPC permit.

14. Payments required under PPC for Part B permit holders

SEPA is required to work under the basis of cost recovery. PPC permit holders are, therefore, subject to a charging scheme. The main principle covering such charges is the 'polluter pays' principle i.e. if you pollute then you must pay. Full details of the charges payable are available on SEPA's website at www.sepa.org.uk.

There are three main charges payable under PPC:

- **Application fee for new permits**
A fee is paid to SEPA when an Operator first submits an application for a PPC Permit. SEPA must receive this before the application can be considered duly made.

This does not apply for existing activities already authorised under EPA 1990, where there is no charge for the transfer to PPC.

In order to ensure that your application is progressed as easily as possible SEPA may provide pre-application advice to Operators. A limited amount of such advice generally should be provided free of direct charge, because the charging schemes incorporate an average cost for this, which will be recovered when the application is made.

- **Application fee for 'substantially changing' your permit**
Charges are payable on permit variation, where the variation is deemed to be substantial. These charges cover the cost of changing the permit as a result of the changes the Operator proposes.
- **Subsistence Charges**
Subsistence charges are payable to reflect SEPA's ongoing costs of permit maintenance, for example, in checking monitoring data or carrying out inspections. Failure to pay a subsistence charge may lead to revocation of the permit. Self-monitoring, which is expected to be the norm, will be carried out at the Operator's expense. Any additional monitoring undertaken by contractors acting on behalf of the Regulator will only be chargeable separately to an Operator (in addition to subsistence) where it is directly and solely attributable to a specific installation.

SEPA's ongoing review of charges

The structure of charging schemes for PPC Part B installations will be reviewed when appropriate. The actual charges payable within schemes are set annually. Full public consultation is held on any new or revised scheme, providing Operators with the opportunity to make their views known. As new elements of the regulatory regime are developed and brought into force charging aspects will be consulted on.

In addition to the reviews that SEPA undertakes, the scale of charges will increase every year in line with inflation. The appropriate charges for each year are available on SEPA's website at www.sepa.org.uk.

Cost of Preventative or Remedial Action.

SEPA has powers under the Regulations to arrange for steps to be taken to prevent serious pollution, or to remedy any pollution caused by an offence. SEPA may recover the costs of such steps from the Operator. This is separate to any costs or fines payable as a result of prosecution in relation to any offence, although the same costs could not be recovered twice.



15. The meaning of certain terms within the PPC Regulations

There are a number of terms within the PPC Regulations that have been expanded upon by SEPA in order to make them more understandable. It is likely that you will come across these terms from time-to-time in your dealings with SEPA. Some of the more common terms are clarified below:

'Installation'

The regulated unit in PPC is called the 'installation'. The installation may not be the same as the 'site', as defined under the EPA 1990. Operators of new activities need to ensure that their PPC applications properly identify all parts of their installations and the extent to which they have control over them. The Regulations define an 'installation' as:

- A stationary technical unit where one or more activities listed in Part 1 of Schedule 1 are carried out; and
- 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 effect on pollution.

The definition means that a number of activities may comprise a single installation. It may be that two or more activities, which were licensed separately under EPA 1990, only require a single permit under PPC. The operator should correctly identify the extent of the installation, and contact SEPA where there is any doubt about the identification.

'Production Capacity'

Schedule 1 sometimes refers to the 'production capacity' of Part B activities. When the Operator carries out several activities of the same description in different parts of the same technical unit or in different technical units on the same site, the production capacities must be added together.

It is for operators to determine the maximum capacity in each case, and to establish what regime, if any, they are subject to. It may be that exceeding a certain threshold will require an activity to be regulated under the Part A PPC regime rather than Part B regime. In general, the maximum capacity will be based on design capacity of the installation; however SEPA will take into account legal or actual limitations which may limit the operation of the activity. This may, for example, include a planning condition limiting hours of operation or down time required for cleaning as a result of statutory health codes. SEPA will be reasonable in its approach to this issue, however operators should satisfy themselves that they comply with the law, as any operation that exceeds the capacity on which a permit has been based could constitute an offence. SEPA may be able to offer advice on this issue and, indeed, on the interpretation of other aspects of the definition of a Part B activity. SEPA may also assess whether an Operator's assessment of capacity, as set out in an application, is reasonable. SEPA has powers to require that Operators supply information to demonstrate that they are continuing to operate within the scope of the permit.

Meaning of 'Operator'

'Operator' is defined in the Regulations as meaning 'in relation to an installation or mobile plant, the person who has control over its operation. Where there is no such person, the person who holds the permit which applies to the installation or mobile plant'. Thus an installation need not be in operation for there to be an Operator.

For existing activities, the current authorisation holder is likely to be the operator. Only if additional activities are to be included in the permit, and someone other than the existing authorisation holder controlled those activities, would the operator need to be reassessed. For new PPC activities, it is for applicants to identify the Operator. The Operator may be a legal or natural person and must be an appropriate person to ensure that the conditions of the permit are met. This means that the Operator must be able to demonstrate that they have the authority and ability to ensure compliance with the permit. Installations are subject to inspection by SEPA. If SEPA is not satisfied that an identified Operator will provide satisfactory control, the application will be refused or permit revoked.

Meaning of 'Operation'

The date that an installation is brought into 'operation' is an important factor in determining when an application is required to be made. Operators should note that an application is only required for a new installation – existing operators are referred to the deemed application procedure detailed in Section 5.

The Scottish Ministers consider that 'operation' should be taken to involve the installation 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 combustion plant – when the design fuel is first fed and burned in the main combustion unit.
- b. A cremator – when the first human remains are introduced in to the combustion chamber.
- c. A road stone coating plant – when the first aggregate is coated with bitumen for commercial use.
- d. A vehicle re-spraying operation – when a car is introduced to the booth as part of a customer repair.

The Regulations do not prevent the Operator from proceeding with the construction of an installation before a permit has been issued or even applied for. However, operation cannot begin without a permit. Therefore, any investment or construction before a permit is issued will be at the operator's commercial risk. Moreover, any such investment in construction, which does not accord with SEPA's judgement of required standards, will normally be disregarded in assessing the balance of costs and advantages of alternative options for environmental improvements. It is important, therefore, that the operator discuss such proposals with the Regulator early on in the design and/or construction stage of the plant. (Operators must also satisfy themselves that they have all necessary planning consents).

16. What to do next

If you are not sure about whether you need to make an application – Contact your local SEPA office with details about your activity, and they will help you determine whether you need to make an application or not.

If you need to make an application to SEPA for a Part B permit – It is worth starting your application as soon as possible, and you should consider contacting your local SEPA office with respect to your application at the earliest opportunity. Our staff will help you find the right type of information including application forms, relevant guidance, charging scheme documents and relevant points of contact.

If you are operating an existing process and have an authorisation under EPA 1990 – Wait until SEPA makes contact with you about your operation and consequent application. We will then provide you with the relevant information to keep you informed with our progress of your application.

If you are making a substantial change to your activity – You should contact SEPA as soon as possible, and make your application to change your permit well in advance of the actual change taking place. If in doubt, contact your local SEPA office.

If you need more general information on PPC and how it might affect you – You can find more information on the SEPA website at www.sepa.org.uk, or alternatively contact your local SEPA office as detailed at the back of this guide.

Please remember that the aim of the PPC regime is to protect the environment and human health, and by making sure that you meet the requirements placed on you by a PPC Permit you are contributing to these very important goals.

SEPA OFFICES AND MAP



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POLLUTION REPORT LINE
0800 80 70 60

**24 HRS A DAY,
 7 DAYS A WEEK**

Floodline
0845 988 1188

Please do not call these
 numbers for general enquiries