

# Integrated Pollution Prevention and Control

(Northern Ireland)

A Practical Guide

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# CHAPTER ONE

## Introduction

### What is integrated pollution prevention and control?

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

### About this guide

- 1.2 This Guide is to help those operating or regulating activities prescribed under the terms of the Pollution Prevention and Control (PPC) Regulations Northern Ireland 2003. It describes the main provisions of IPPC and sets out the views of the Department of the Environment on how IPPC should be applied and how particular terms should be interpreted.
- 1.3 The Guide explains the main legal provisions of IPPC, but the precise requirements can be only determined by referring directly to the law itself.

### Setting the legal framework

- 1.4 This Guide deals with the operation of IPPC under the Pollution Prevention and Control Regulations (Northern Ireland) 2003, ("the PPC Regulations"). These were made under the Environment (Northern Ireland) Order Part II 2002, and will eventually replace the Industrial Pollution Control (Northern Ireland) Order 1997. The Regulations implement the European Community (EC) Directive 96/61/EC on Integrated Pollution Prevention and Control ("the IPPC Directive"), in so far as it relates to installations in Northern Ireland. Separate systems have been introduced to apply the IPPC Directive to Scotland, England and Wales and the offshore oil and gas industries.
- 1.5 At present, industrial pollution control in Northern Ireland is governed by the Industrial Pollution Control (Northern Ireland) Order 1997 (the 1997 Order) which provides for a three tier approach:
  - Processes with the greatest potential to cause pollution ( Part A processes) are subject to a system of integrated pollution control by the Chief Inspector (a separate statutory appointment located within the Department's Environment and Heritage Service). An

integrated approach means that the capacity of a process to pollute air, water and land is taken into account.

- Processes with less pollution potential (Part B and C processes) are subject to air pollution control only. Part B processes are regulated by the Chief Inspector and Part C processes by district councils.

In addition, some sectors which will be subject to the new regime were regulated under other statutory controls relating to waste and water.

- 1.6 The PPC Regulations create a coherent new framework to prevent and control pollution, with a system similar to the old regime of IPC (outlined in Paragraph 1.5 above). The 'Part A' regime of IPPC applies a similar integrated approach to IPC while delivering the additional requirements of the IPPC Directive. 'Part A' extends the issues that the enforcing authority (in this case the Chief Inspector) must consider alongside emissions into areas such as energy use and site restoration. The main provisions of IPPC apply equally to the ex-IPC processes and the other sectors new to integrated permitting. There are also some further requirements that apply solely to waste management activities under IPPC as described in chapter 15.
- 1.7 The new controls provided for in the PPC regulations will share a number of features with the current arrangements set out in the 1997 Order. In particular, they will retain the regulatory structures of that Order with a Chief Inspector assuming responsibility for regulation as Part A activities of those installations listed in Annex 1 to the Directive.
- 1.8 The Air Pollution Control regime (Part B and C Installations) which is a continuation of the 1997 Order controls is designed to control emissions to air only. Part B installations are regulated by the Chief Inspector. Part C installations are regulated by the district councils.

# CHAPTER 2

## Overview of the regulatory process

- 2.1 The basic purpose of the IPPC regime, which applies to Part A installations, is to introduce a more integrated approach to controlling pollution from industrial sources. It aims to achieve:

**“a high level of protection of the environment taken as a whole by, in particular, preventing or, where that is not practicable, reducing emissions into the air, water and land” (Regulation 7(2)).**

The main way of doing that is by determining and enforcing permit conditions based on BAT.

- 2.2 The entire regulatory process for IPPC consists of a number of elements. These are outlined below and explained in more detail in later chapters. IPPC applies to specified ‘installations’, (both ‘existing’ and ‘new’), requiring each ‘operator’ to obtain a permit from the enforcing authority – either the Chief Inspector (a separate statutory appointment located within the Department’s Environment and Heritage Service) or district councils. (The glossary in Annex VIII explains the words in quotation marks).

### Stage 1 – Permitting

- 2.3 The procedure begins with the preparation of an application by the operator. Once the Chief Inspector receives the application, he will consult with various ‘statutory consultees’ (listed in Annex II). Operators should be encouraged to engage the public at the earliest opportunity. Operators are required to advertise in at least two local papers and in the Belfast Gazette details of the activity and its location together with a statement of where public representations should be made. The Chief Inspector will then determine the application, either granting a permit with conditions or refusing it.
- 2.4 In making their application the operator must cover various environmental issues. These include:
- satisfactory environmental management of the installation;
  - adequate compliance monitoring;
  - assessment of polluting releases and the identification of BAT;
  - compliance with environmental quality standards (EQSs), other EU Directives and domestic regulations;
  - energy efficiency, waste minimisation and management; and
  - the prevention of accidents.
- 2.5 The operator must also consider the condition of the site at the time of the original application. This will provide a basis for assessing the need for restoration when the installation closes (stage 3).

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

## Stage 2 – Operation

- 2.7 Once the Chief Inspector has issued a permit, the operator of an IPPC installation will have to carry out monitoring to demonstrate compliance with the permit conditions. The Chief Inspector will also carry out his own monitoring and inspections, and have a range of enforcement powers.
- 2.8 Over time, the Chief Inspector may vary permits to reflect changes in how installations are operated, or for other reasons. The Chief Inspector may vary permit conditions at either his own or the operator's instigation, with the possibility of consultation in either case. The Chief Inspector may also transfer permits from one operator to another, for example when one operator is taken over by another. More generally, the Chief Inspector must review permits periodically, or whenever circumstances make a review necessary, such as when significant pollution occurs.

## Stage 3 – Closure

- 2.9 When an installation closes, an operator should apply to surrender a permit, to end regulation under IPPC. The application to surrender the permit must include a site report identifying, in particular, any changes in the condition of the site as described in the site report contained in the application for the permit. The operator is required to identify any steps that have been taken to avoid any pollution risk resulting from the operation of the installation or return it to a satisfactory state. If on closure, the operator satisfies the Chief Inspector that they have removed any pollution risks and restored the site to a satisfactory state the Chief Inspector shall accept the surrender and give the operator notice of its determination. The permit shall then cease to have effect on the date specified in the notice of determination. If the Chief Inspector is not satisfied, he shall give notice of his determination stating the application has been refused.

## Standard application forms

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

## CHAPTER 3

### IPPC activities, installations, and operators

- 3.1 IPPC is concerned with controlling the environmental impacts of installations in which any activities, listed in Part A of Schedule 1 to the PPC Regulations, are carried out. Annex III summarises the main industry sectors covered by these activities.
- 3.2 Annex I explains the term ‘installation’. In summary, the installation comprises of not just any relevant unit carrying out Part A activities prescribed in Schedule 1 to the PPC Regulations, but also any location where directly associated activities which have a technical connection with the Schedule 1 activities and which could have an effect on pollution are carried out. Once the extent of an installation has been established, each activity within it is subject to permitting.
- 3.3 Annex I defines ‘operator’. In most cases a single operator will have to obtain a single permit for a single installation. It is fairly common for different operators to run different parts of a single installation. This does not affect the Chief Inspector’s determination of that installation in the first place. This supports the integrated approach of IPPC, since it requires, for example, the identification of BAT for the whole installation rather than for individual activities. Where two or more operators run different parts of a single installation, they will each need a separate permit and be responsible for complying with their permit conditions; however operators will need to demonstrate to the Chief Inspector that together all aspects of operation are being properly managed and controlled. In such cases, there should be no ambiguity over which operator has responsibility for which part of the installation.

# CHAPTER 4

## Timeframe for obtaining IPPC permits

### New installations

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

### Existing installations

- 4.2 Existing installations will be phased into the new regime. In general terms “Existing” means a Part A installation put into operation:
- a) before 31 October 1999; or
  - b) on or after 31 October 1999 and before 31 October 2000, provided that a “relevant authorisation” was either applied for or granted before 31 October 1999.

Annex I explains in more detail the definition of “existing installation” in this context.

- 4.3 Operators of existing installations will have to obtain permits according to a transitional timetable unless it undergoes a substantial change (see section 4.13). However, any installation may come into IPPC ahead of its scheduled date if the operator and the Chief Inspector agree to this.

### THE TRANSITIONAL TIMETABLE FOR EXISTING INSTALLATIONS

- 4.4 Under the timetable in Part 1 of Schedule 3 to the PPC Regulations, existing installations will be brought under IPPC on an industry sector-by-sector basis. The timetable specifies ‘relevant periods’ for the different industry sectors. These are periods of time during which operators of existing installations must submit their IPPC applications. The timetable is summarised in Annex III.
- 4.5 Operators may submit their applications at any time during the relevant period for their sector. It is an offence to operate an existing installation after the relevant period without having submitted an application.
- 4.6 The Chief Inspector must review existing IPC authorisations at least every four years. However, to minimise duplication, the IPPC process will replace the IPC reviews where they fall within two years of the beginning of the relevant period for an industry sector as set out in Schedule 3 of the PPC regulations.

- 4.7 Where an installation comprises activities from more than one sector, the general rule is that the earliest relevant period will apply. An operator may however apply to the Chief Inspector to have the later relevant period of the primary activity apply.
- 4.8 If there is more than one operator for the various activities in an installation, then each one should apply for a permit during the same relevant period. This will apply to operators of other Part A activities on the site, who would otherwise have to apply at a different time. It also applies to operators of any non-Part A, but directly associated, activities that form part of the installation.

#### PERMITTING INSTALLATIONS WITH ACTIVITIES IN DIFFERENT PARTS OF SCHEDULE 1

- 4.9 Where several activities from different Parts of Schedule 1 are carried out in an installation, the installation will be permitted according to the “highest common denominator”. So if Part A and B or C activities were carried out at an installation, it would be permitted as an A installation.

#### PERMITTING AHEAD OF THE TRANSITIONAL TIMETABLE

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

#### DEALING WITH A ‘SUBSTANTIAL CHANGE’ FOR EXISTING INSTALLATIONS

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

### Intermediate cases

- 4.12 The IPPC Directive takes effect from 30 October 1999. However, the PPC Regulations did not come into force until 31<sup>st</sup> March 2003. During this intermediate period, some new installations may have started up and some existing installations may have undergone substantial change without the permit required by the IPPC Directive. To make sure that the IPPC Directive is fully implemented, therefore, the PPC Regulations require operators of such installations to apply for a permit by 1 January 2004. This is irrespective of whether or not the operator sought or had

already been granted approval for the change under a predecessor regime on or before 30 October 1999.

- 4.13 This only applies to installations, which have started operation for the first time or undergone a substantial change, from the 30 October 1999. Substantial changes on or after 1 January 2004 may only be made where a permit authorising the change has been granted. All other existing installations will be phased into the regime according to the relevant period for their industrial sector as set out in Schedule 3 in the PPC Regulations.

# CHAPTER 5

## Permit applications

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

### Timing of applications

#### PREPARATION OF APPLICATIONS BEFORE IMPLEMENTATION

- 5.2 In normal cases, operators should apply when they have drawn up full designs, but before starting construction work (whether on a new installation or changes to an existing one). Where installations are not particularly complex or novel, the operator should usually be able to submit an application at the design stage containing all information the Chief Inspector needs to make a determination. This would include proposals for management of the installation and training of operational staff. If, in the course of construction or commissioning, the operator wants to make any changes which mean that the permit conditions have to be varied, the operator may apply for this in the normal way (see chapter 11).
- 5.3 There is nothing in the PPC Regulations to stop an operator from beginning construction work before a permit has been issued or even before they have applied for one. However, the Chief Inspector may not necessarily agree with the operational techniques put in place. In these cases, the costs of replacing any incorrect techniques will not be included in the analysis of costs and benefits for identifying BAT (see chapter 9). Therefore, to avoid any expensive delays and reconstruction work, it is in the operator's interest to submit applications at the initial design stages. Any investment or construction work that an operator carries out before they have got a permit will be at their own risk and in no way will affect the Chief Inspector's discretion.

#### PLANNING AND IPPC APPLICATIONS

- 5.4 If an IPPC installation also needs planning permission, it is recommended that the operator should make both applications in parallel whenever possible. This will allow the Chief Inspector to start his formal consideration early on, thus allowing him to have a more informed input to the planning process. The Chief Inspector must also take account of any information related to the Environmental Impact Assessment (EIA) Directive, which is provided for by the PPC Regulations. In the case of specified waste management activities as described in chapter 15 separate requirements for prior planning permission apply.

### Preparing applications

#### OPERATORS' RESPONSIBILITIES

- 5.5 Annex IV shows the content of an application as specified by the PPC Regulations. IPPC places the onus on an operator in making an application to assess the effects of their operations, to explore ways of improving them and to make proposals for the Chief Inspector's consideration.

To get a permit, an operator should demonstrate how they would manage their installations in a way that will meet the requirements of the PPC Regulations. This should cover the full range of activities the operator wants the permit to cover.

- 5.6 The level of detail in an application should be proportionate to the approach by which it will be determined. As explained in chapter 7, the two main ways that this will happen are through:
- general binding rules (GBRs); and
  - site-specific determination.

## PRE-APPLICATION DISCUSSIONS

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

## ENSURING APPLICATIONS ARE COMPLETE AND DULY MADE

- 5.8 Applications should give all the information the Chief Inspector needs to make a determination. If an operator fails to do this, the Chief Inspector may have to request additional information, delaying the determination. It may also mean that the application is not ‘duly made’, meaning that it cannot be legally determined. The Chief Inspector may conclude that an application is not duly made when, for instance:
- a) it has not been submitted on a standard form where available;
  - b) it is for an installation that falls outside the remit of the IPPC regime;
  - c) it has been sent to the wrong enforcing authority;
  - d) it is for an existing installation and has been submitted before the relevant period without the Chief Inspector’s consent and there is no proposal for a ‘substantial change’;
  - e) it has not addressed some key points; or
  - f) the necessary fee has not been paid.
- 5.9 When the Chief Inspector judges that an application is not duly made, he should return it, along with any fee. The Chief Inspector should use normal standards of reasonableness and common sense to assess whether applications are duly made. As a matter of good practice, the Chief Inspector should always tell the applicant why he considered that an application was not duly made.

## USING EXISTING DATA

- 5.10 Operators may draw upon or attach other sources of information in their applications. These might include documents relating to an installation's regulation under the Control of Major Accident Hazards (COMAH) Regulations(NI) 2000 (which will cover some, but not all of the requirements of IPPC in respect of accidents); prior investigations for compliance with the Groundwater Regulations<sup>4</sup>; certified environmental management systems; or site reports prepared for planning purposes. Operators may also attach information from previous regulatory regimes. They should make clear which parts of any attachments are relevant to their IPPC applications and should demonstrate how they relate to the IPPC requirements.

## CHAPTER 6

### Consultation on permit applications

- 6.1 The purpose of consultation is to provide the Chief Inspector with facts and views that he might not otherwise have, to help with his determination. The Chief Inspector must take into consideration any representations made by consultees during the allowed time periods. However, the Chief Inspector can still take account of representations after the formal deadline and as a matter of good practice he should do so whenever he reasonably can.

### Consulting the public

- 6.2 The regulations provide for consultation with the public on all permit applications. This allows people to bring local or wider issues or concerns to the Chief Inspector's attention.
- 6.3 The Chief Inspector should place the application on the public register as soon as possible (less any information excluded on grounds of national security or commercial confidentiality). The Chief Inspector should make sure, in particular, that the application is on the public register before the applicant advertises it.
- 6.4 The PPC Regulations also require the operator to advertise an application in one or more local newspapers, and in the Belfast Gazette. The advertisement must be placed during a 28 day period. This normally begins 14 days after the operator submits the application, which gives the Chief Inspector time to check that it is duly made and place it on the public register. However, where the operator argues that information should be protected on the grounds of national security or commercial confidentiality (see chapter 17), the period begins 14 days after the claim is determined.
- 6.5 The advertisement must include the:
- applicant's details;
  - address of the installation;
  - activities to be carried out;
  - register where the public can examine the application, including an assessment of the environmental effects; and
  - procedure and timeframe for making representations.

Advertisements must state that any person may make representations in writing within 42 days of its appearance. For reasons of transparency, the Chief Inspector should ask anyone who makes representations by any other medium to put their comments in writing as well.

## Consulting statutory consultees

- 6.6 The Chief Inspector must send copies of the application to various statutory consultees, listed in Annex II. Normally, the Chief Inspector should do this within 14 days of receiving the application. The Chief Inspector should not, however, provide information which is protected on grounds of national security or commercial confidentiality to some statutory consultees. Where the question of whether information is protected on these grounds is being determined under the regulations the Chief Inspector should wait until the outcome of the determination. If it is determined that the information is not protected it should be provided to statutory consultees within the 14 day period beginning 14 days after the determination.
- 6.7 Once statutory consultees have been notified of an application, they have 42 days to make representations. The purpose of statutory consultation is to give the Chief Inspector access to expertise that he may otherwise lack. Statutory consultees should provide the Chief Inspector with any advice they think would help him to determine the application and set any permit conditions. They may advise on, for example:
- a) the sensitivity of a particular part of the environment;
  - b) other local issues, including previous experience of the applicant;
  - c) requirements imposed by other regulatory regimes which may affect the IPPC determination;  
or
  - d) specific effects of the proposal, such as the possible effects of releases on health.
- 6.8 The Chief Inspector must take account of statutory consultees' advice.
- 6.9 Special considerations apply to noise and water. Currently, district councils are responsible for monitoring noise. Under IPPC the Chief Inspector will be required to consult with district councils about the noise aspects of a Part A installation and any departure from the district council's approach will need to be explained and justified. The Department can direct the Chief Inspector regarding releases into water.

## TRANSBOUNDARY CONSULTATION

- 6.10 Other EU member states whose territory may be adversely affected by installations seeking approval have to be consulted. Northern Ireland shares a land boundary with the Republic of Ireland and a need for Transboundary Consultation may arise. Where the Department receives information that the operation of an installation in Northern Ireland may have significant negative effect on the environment of another member state the Department will send a copy of the application to whichever member state may be affected. The Department may act independently, or on the Chief Inspectors advice. Alternatively, another Member State may ask for a copy of the application. The Department will provide them with it at the same time as the Chief Inspector advertises the application domestically, or as soon after as possible. The Chief Inspector must not determine the application until the Department confirms that consultation with the other Member State is complete. Only then does the nine month (six months for new installations) period normally allowed to determine an application begin. The Chief Inspector must take account of any representations from other member states.

# CHAPTER 7

## Determination of permit applications

### Proportionate regulation

- 7.1 The Department expects the the Chief Inspector to apply the PPC Regulations proportionately. The regulatory effort needed to determine an application and any permit conditions should be appropriate for the complexity of an installation and its environmental effects.

### SITE-SPECIFIC PERMITTING

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

### GENERAL BINDING RULES

- 7.3 As allowed by Article 9(8) of the IPPC Directive, regulation 14 enables the Department to make general binding rules (GBRs) for certain types of installation. These will consist of requirements that can be used instead of site-specific permit conditions, but that achieve the same high level of environmental protection. GBRs will, by their nature, be suitable for industry sectors where installations share similar characteristics.
- 7.4 Operators in sectors for which GBRs have been made can request in their permit application that an installation be subject to the rules if they believe this would be suitable. If the Chief Inspector’s assessment of the application indicates that this is appropriate a “general binding rules condition” will be included in the permit. The aspects of the operation of the installation covered by the rules will then be subject to the requirements in the rules rather than site-specific conditions. If, however, the Chief Inspector’s assessment indicates that the site is not suitable for regulation under GBRs – for example, because it is located next to an area of special scientific interest (ASSI) – then the permit will need to contain site-specific conditions.
- 7.5 Although the methods of imposing permit conditions may vary, the basic principles of determining applications should be consistent. All applications will still be subject to the determination procedures set out in Part 2 of Schedule 4 to the Regulations.

## Determination periods

### DETERMINATION BY THE CHIEF INSPECTOR

- 7.6 The Chief Inspector should normally determine a duly made application within nine months of its submission for existing installations and six months for new installations. This does not include any time the operator may have taken to supply further information requested by the Chief Inspector (see below). The Chief Inspector and the operator may agree a longer period than nine/six months. If the operator does not agree to a longer period and the nine/six months pass without a determination, the operator may tell the Chief Inspector that it is treating this as a deemed refusal. The operator can then appeal against this deemed refusal. If the operator does not treat non-determination in nine/six months as a deemed refusal, the determination period simply continues until the Chief Inspector reaches a decision.

### DETERMINATION BY THE DEPARTMENT

- 7.7 The Department can require any application to be sent to it for determination. Though there is no determination timeframe, the Department will try to deal with these cases promptly. The Chief Inspector must consult as normal, but should send any representations to the Department. The Department may choose to arrange a hearing, and will do so in any case if the Chief Inspector or the operator asks for one. The Department may then direct the Chief Inspector to grant a permit, stating which conditions should be included. Alternatively, the Department may direct the Chief Inspector to refuse the permit.

### REQUESTS FOR MORE INFORMATION

- 7.8 Even when the Chief Inspector concludes that an application is duly made, he may still require the operator to submit additional information. In these cases, the Chief Inspector will serve a notice on the applicant, specifying what information he needs and when it must be submitted by. The normal determination period (nine months for existing installations and six months for new installations) does not include the time the operator takes to reply. The Chief Inspector should also consider whether any further information merits additional consultation.
- 7.9 If the further information is still insufficient, the Chief Inspector may repeat the request. The Chief Inspector should not determine the application until satisfied with all the information. However, the Chief Inspector should not repeatedly request information on the same topic. If the Chief Inspector has made reasonable attempts to get information from the operator, but without success, the Chief Inspector may refuse the permit or deem the application withdrawn.

## Outcome of determination

### GRANT OF A PERMIT WITH CONDITIONS

- 7.10 The Chief Inspector must either grant a permit with conditions or refuse it. Regulation 12 sets out the specific requirements for the content of permits. There are some issues that the Chief Inspector is obliged to include conditions on. The Chief Inspector must consider all of the following and must impose any conditions he considers appropriate.

- a) Emission Limit Values (ELVs) or equivalent parameters for pollutants, in particular those listed in Schedule 5 to the PPC Regulations (reproduced as Annex V), likely to be emitted in significant quantities. These will normally be based on BAT, taking account of the installation's characteristics and the local environment.
- b) Conditions that –
- minimise long distance and transboundary pollution;
  - ensure the protection of soil and groundwater and make sure the operator manages waste properly;
  - protect the environment when the installation is not operating normally, for example during start up, malfunction, leaks or temporary stoppages;
  - require the operator to take appropriate steps before and after operation, which may include site monitoring and remediation;
  - set out how the operator should monitor emissions, specifying the methodology, frequency and evaluation procedures, and requiring the operator to submit reports to the Chief Inspector, to check compliance with the permit; and
  - require the operator to inform the Chief Inspector without delay of any incident or accident that may cause pollution.
- c) Any other conditions that the Chief Inspector thinks are needed to ensure a high level of protection for the environment as a whole, taking into account, in particular, the 'general principles' of Regulation 11 that:
- all the appropriate preventive measures are taken against pollution, in particular through the application of BAT.
  - no significant pollution is caused.
  - waste production is avoided in accordance with the Council Directive on waste and where waste is produced it is recovered or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any impact on the environment.
  - energy is used efficiently.
  - the necessary measures are taken to prevent accidents and limit their consequences.
  - upon definitive cessation of activities in the installation, the necessary measures should be taken to avoid any pollution risk and return the site to a satisfactory state.

7.11 Permit conditions may also need to reflect other legislation – for example regulations setting maximum permissible release levels (see chapter 20).

7.12 The Chief Inspector may also impose limits on the amount or composition of any substance produced or used in the installation.

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

- 7.14 These provisions are principally intended to be used where it is necessary to monitor the effects of an activity in another person's land, although they could also be used for other purposes. As a general rule, however, most non-waste IPPC activities should be capable of being operated so that the Chief Inspector does not need to set any off-site conditions.
- 7.15 According to Regulation 12(16), the Chief Inspector can only rely on arrangements referred to in the Department's guidance to secure a particular result in place of permit conditions that would achieve the same result.

## REFUSING THE PERMIT

- 7.16 The Chief Inspector must refuse a permit in certain circumstances. There are three main criteria.
- 7.17 Firstly, the Chief Inspector is to refuse the permit where he is unable to reasonably "grant the permit subject to the conditions required or authorised to be imposed" as stipulated by Regulation 10(2). This might be where:
- a) the environmental impact would be unacceptable. For instance, an operator might propose siting a new installation close to an extremely sensitive environment, but with no known way to provide adequate control; or
  - b) the information provided by the operator does not provide a reasonable basis to determine the permit conditions. This should include consideration of the operator's responses to requests for additional information.
- 7.18 Secondly, the Chief Inspector must not grant a permit if he thinks that the operator will not comply with its conditions. This may be where the Chief Inspector has reason to believe that the operator lacks the management systems or competence to run the installation according to the application or any permit conditions.
- 7.19 Thirdly, the Chief Inspector must not grant a permit that would authorise any 'specified waste management activities' (explained in Annex I) unless satisfied that the specific pre-requisites for these installations have been met. These are described in chapter 15.

## APPEALS

- 7.20 The applicant has the right to appeal to the Planning Appeals Commission if the Chief Inspector refuses the permit or if the applicant is dissatisfied with the conditions imposed. Chapter 19 gives more information on appeals.
- 7.21 If the Chief Inspector treats an application as withdrawn because the operator has not provided further information in the time allowed, there is no right of appeal. In this case, the operator will have to make a fresh application if it still wants a permit.

# CHAPTER 8

## Management systems and operator competence

8.1 In order to ensure a high level of environmental protection effective management systems are required. The Chief Inspector should consider the operator's competence and other aspects of the installation's management. Management systems are therefore an integral part of BAT.

8.2 BAT covers both the plant in the installation and how it is used. Operation of the installation includes:

- management;
- management systems;
- staff numbers;
- training;
- personnel competencies;
- working methods;
- maintenance;
- records; and
- monitoring of any releases.

This means that it's not enough for an operator to have adequate technical controls on, for example, polluting releases. Managers must ensure that operating staff are properly trained and adhere to procedures.

8.3 The Chief Inspector must not issue a permit if he considers that the operator will not comply with its conditions. The Chief Inspector might doubt whether the operator would comply with the permit conditions if for example:

- a) it is unclear who has operational responsibility for activities in the installation;
- b) the operator's management system is inadequate;
- c) the operator's technical competence is inadequate; or
- d) the operator has a poor record of compliance with previous regulatory requirements.

8.4 Under IPPC, some operators will apply environmental management systems at their installations, certified to either the EC's Eco-Management and Audit Scheme "EMAS" or the International Standards Organisation's standard ISO 14001. The Chief Inspector should encourage and take account of these standards, as both require that the management system include safeguards for legal compliance and a commitment to continuous improvement in environmental performance which fits well with IPPC. The increased transparency of external certification required by EMAS and ISO 14001, should therefore help to establish and maintain the operator's competence and the adequacy of the installation's management. Recognised quality assurance schemes may also be relevant, and the Chief Inspector may also take account of non-certified

systems to the extent that these fulfil an equivalent role in safeguarding legal compliance and continuous improvement of environmental performance.

- 8.5 Operators should maintain the standards of their management systems and competence throughout the installation's life. The Chief Inspector may impose permit conditions under the PPC Regulations to ensure this.

# CHAPTER 9

## Required standards and best available techniques (BAT)

### The basis for standards

#### PERMIT CONDITIONS

- 9.1 The essence of IPPC is that operators should choose the best option available to achieve a high level of protection of the environment taken as a whole. IPPC achieves this by requiring operators to use the best available techniques (BAT). This, together with a consideration of local circumstances, provides the main basis for setting emission limit values (ELVs).
- 9.2 The BAT approach ensures that the cost of applying techniques is not excessive in relation to the environmental protection they provide. It follows that the more environmental damage BAT can prevent, the more the Chief Inspector can justify telling the operator to spend on it before the costs are considered excessive.
- 9.3 If emissions would cause serious harm even after applying BAT, the Chief Inspector may impose stricter permit conditions or refuse the permit altogether. This would be the case where, for example, an EQS made to implement European legislation would be breached and should be considered carefully where any other EQS was threatened. Stricter emission limit values are always required in this case. (See Chapter 10).
- 9.4 The Chief Inspector may impose additional permit conditions to reflect other provisions in the PPC Regulations, such as the general principles set out in Regulation 11. This means that the overall standards may include not only emission limit values (ELVs) based on BAT (or stricter ELVs where necessary), but also conditions relating to, for example accident prevention.
- 9.5 In some cases, the Chief Inspector will need to take account of other legislation given effect through IPPC when determining required standards and BAT for an installation. For example, other EC Directives set maximum permissible release levels and other standards for certain activities, such as waste incineration and large combustion plants. These requirements must be met through IPPC permits. However, they do not necessarily reflect what is BAT. In most cases, the constraints imposed by other legislation are minimum obligations, without prejudice to any stricter conditions that may correspond to BAT or the other IPPC requirements.

### Meaning of best available techniques

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

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

- a) what is the balance of costs and advantages? This means that a technique may be rejected as BAT if its costs would far outweigh its environmental benefits; and
- b) can the operator obtain the technique? This does not mean that the technique has to be in general use. It would only need to have been developed or proven as a pilot, provided that the industry could then confidently introduce it. Nor does there need to be a competitive market for it. It does not matter whether the technique is from outside the UK or even the EU.

## IMPLIED BAT

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

## Basic principles for determining BAT

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

## IDENTIFYING OPTIONS

9.10 Determining BAT involves comparing the techniques that prevent or reduce emissions and identifying the best one in terms of the one which will have the lowest impact on the environment.

## ENVIRONMENTAL ASSESSMENT

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

9.12 The main focus of the environmental assessment will be the effects of releases. The assessment should identify and quantify possible releases of polluting substances into any media. It should also quantify their effects. Most attention should be paid to large-scale releases and releases of the more hazardous pollutants. These are likely to have the most significant effects. Conversely, any releases at levels so low that they are unlikely to have any serious effects need not be assessed. A list of the main polluting substances is in Annex V, which reproduces Schedule 5 to the PPC Regulations. However, as this is just indicative, consideration should be given to other substances capable of causing pollution in the same way.

- 9.13 IPPC is also concerned with emissions of heat, vibrations and noise. As with substances, however, a detailed assessment is only needed if there is a potential problem.
- 9.14 Noise is one of the range of environmental impacts which will be taken into account when an industrial installation is being permitted under IPPC. Noise will be included within the definition of “emission” in relation to Part A installations, i.e. installations which will be subject to the full integrated approach under IPPC. Currently, Articles 37-54 of the Pollution Control and Local Government (NI) Order 1978 provide powers for district councils to control noise nuisances, including the control of noise on construction sites, in streets, from plant and machinery and also to designate noise abatement zones. It is proposed that in Northern Ireland the arrangements for IPPC noise regulation should follow the GB arrangements. The Chief Inspector would be required to consult with district councils before authorisation and permit conditions would have regard to council recommendations. Any departure from council recommendations would need to be justified and explained. After authorisation, district councils would have no more noise enforcement role in respect of the IPPC activity, i.e. noise emitted from an installation as a direct result of the industrial process being carried out at the installation. Non-IPPC noise problems within the installation would, as in GB, remain the responsibility of the council under its public nuisance responsibilities.
- 9.15 The environmental assessment of options should also take account of the other issues covered by IPPC as listed in Schedule 2 of the PPC regulations. These include:
- a) Consumption and nature of raw materials. Consideration should be given to options that use fewer resources, or those that use materials that are less likely to produce hazards or pollution risks. For example, the use of a purer raw material could lead to lower releases of contaminants. Water is also a raw material, and the assessment should consider how much each option needs where appropriate, and the environmental consequences of any abstraction.
  - b) Energy efficiency. Consideration should be given to the effect different options would have on energy consumption and efficiency. Care should be taken that the pollution abatement systems do not use excessive energy compared with the emission reductions they achieve.
  - c) Waste issues. The assessment of options should cover the amount of waste they produce and the possibility of preventing waste, recovering it or disposing of it safely. It may be preferable to permit a slightly higher level of releases if this greatly reduces the volume of waste, especially if the waste is particularly hazardous. However, this should not simply transfer pollution from one medium to another, which is precisely what IPPC is meant to avoid. The main goal should be to identify techniques that minimise all types of waste and releases at source.
  - d) Accidents. Consideration should be given to the environmental hazards posed by possible accidents and their associated risks. This should include the practicality of measures to reduce risks and hazards and to respond to any accidents. In comparing the effectiveness of techniques to prevent emissions, consideration should not be limited to looking at normal operations, but also at the possibility of unintentional releases.
  - e) Site restoration. Consideration should be given to whether options risk polluting the site. This should include planning ahead for decommissioning and restoring the site upon closure. For

example, siting pipelines and storage tanks above-ground rather than underground would make leaks easier to detect and removal of pollution risks more straightforward.

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

- a) all assumptions, calculations and conclusions must be open to examination;
- b) generally using simple numerical analyses to compare or aggregate different types of environmental effects should be avoided, except where there are recognised ways of doing this. Individual effects within options should be assessed quantitatively where possible. However, the overall assessment and comparison of options should normally include significant qualitative elements; and
- c) expert judgement should be used alongside the particular constraints of the appraisal system, so that common sense conclusions are reached.

## ECONOMIC ASSESSMENT

9.17 Once the options have been ranked, the best techniques will be BAT unless economic considerations mean that they are unavailable. The cost assessment should include operating costs as well as capital costs. This should include any cost savings. For example, using a purer raw material may be more expensive at first, but may save money overall by improving quality or producing less waste.

9.18 An objective approach needs to be taken to balancing costs and advantages when assessing what is BAT. The lack of profitability of a particular business should not affect their determination. For example, if it has been established that a particular technique is BAT for certain types of installation, then the Chief Inspector should normally impose the ELVs that correspond to the use of that technique in all permits. There may be some cases where the Chief Inspector should authorise different standards, for example because the balance of costs and benefits is different. However, it would not be right to authorise lower standards, or to delay the achievement of BAT standards, just because an operator argued for this on the basis of its own financial position. Conversely, the Chief Inspector should not impose stricter standards than BAT just because an operator can afford to pay more.

## Determining BAT and other required standards in practice

9.19 Article 16(2) of the IPPC Directive states that member states should exchange information on BAT. The Commission will publish the results as the BAT Reference documents (BREF notes). The BREF notes will not contain any binding requirements, but member states are to take account of them in their own determinations of BAT.

- 9.20 UK technical guidance will be produced on required standards and BAT for the individual sectors, drawing on the information contained within BREF notes where applicable. This guidance should contain clear, indicative standards for both new and existing installations. It should also contain timetables for upgrading existing installations. Operators should take account of this when preparing their applications, and should justify any proposed departure from the indicative requirements. The guidance notes themselves may identify factors supporting such deviations, for example as a result of the site-specific assessment for the installation.
- 9.21 The Chief Inspector will then decide whether to accept any arguments the operator may have made for not following the indicative requirements. The Chief Inspector must be able to explain any cases where he has permitted any deviation so that the permitting process remains open and transparent.
- 9.22 UK technical guidance notes will be updated from time to time, including whenever BREF notes are amended. However, operators and the Chief Inspector should both take account of any new developments in techniques after a guidance note is published.
- 9.23 It will not be practical to determine indicative requirements for all aspects of all installations. The more complex or novel an installation is, the more likely it is to depart from any indicative standards.
- 9.24 When there is no UK technical guidance available, operators and the Chief Inspector should refer directly to the relevant BREF notes. This is also the case if a BREF has been updated but the UK technical guidance has not. Where the BREF contains clear performance standards, an operator should again justify any proposed deviation from them.
- 9.25 Of course, although indicative standards in BREF notes or UK technical guidance may often be expressed in terms of parameters such as ELVs, techniques for achieving those standards may vary. Operators are encouraged to find better ways of operating installations than relying solely on benchmark standards in guidance.
- 9.26 If neither a BREF note nor UK technical guidance has been published when an operator makes an application, operators and the Chief Inspector will have to assess BAT based on other sources of data. The Chief Inspector may be able to advise on whether guidance from previous regulatory regimes is still valid.
- 9.27 Where a site-specific assessment is carried out, operators should present a systematic, reasoned and balanced assessment of the options available and their overall effects on the environment. This should consider the environmental context in which an installation will operate and take account of local factors such as:
- existing land use;
  - abundance, quality and regenerative capacity of natural resources;
  - sensitivity of environmental receptors; and
  - absorption capacity of the natural environment.

9.28 Local air quality management plans drawn up under Part III of the Environment Order 2002 may also provide relevant information. Where there is concern or doubt about the sensitivity of the local environment, operators may want to contact the Chief Inspector, and possibly statutory consultees, to find out more about the location and nature of protected areas.

9.29 Where GBRs are applied no further determination of BAT is required.

## DETERMINING BAT FOR NEW AND EXISTING INSTALLATIONS

9.30 For a new installation, the best technique will normally be BAT. However, site-specific factors may justify a different conclusion from the normal understanding of what technique is BAT. For example, if a technique selected as BAT in normal circumstances were to require some water abstraction, then it might not be right to apply it to an installation near a particularly sensitive river.

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

## IMPROVEMENT PROGRAMMES FOR EXISTING INSTALLATIONS

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

9.33 The Chief Inspector may accept these proposals where reasonable. Alternatively, he may impose his own improvement requirements with appropriate deadlines. Either way the specified improvements will be legally binding and the Chief Inspector should enforce them. The improvements should be justified on the grounds that their advantages exceed their costs. The timescale should only reflect what is reasonable on availability grounds. For example, a costly new technique might be considered unavailable if it is implemented as one major, immediate improvement. However, it might be available when introduced as a phased programme. The timescale should not be delayed just because of the economic circumstances of a particular company.

9.34 Operators may also have to carry out additional environmental assessments as part of their improvement programmes. This might be appropriate where, for example, some uncertainties

remain about the environmental effects or improvements in performance even after the Chief Inspector has issued a permit. However, these uncertainties should not be too great, as the Chief Inspector needs to have made adequate assessment of environmental effects and control techniques before granting a permit. If the Chief Inspector has doubts, he should impose interim standards until he has a chance to investigate any uncertainties, or refuse the permit if he has real concerns. Moreover, any such requirements must supplement rather than replace clear operational performance standards based on BAT and the other PPC requirements.

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

#### PLANNED CLOSURE OF EXISTING INSTALLATIONS

- 9.36 If an installation is scheduled for closure and its effects are not excessive in respect of other aspects of the PPC Regulations, it might be appropriate for the Chief Inspector to impose only limited BAT controls. This is because releases from the installation over its remaining life might not justify significant expenditure on reductions. The Chief Inspector should assess this on a case-by-case basis. In such cases, however, it is important that the installation does in fact close down as scheduled, since this is part of the BAT determination. Therefore, if the operator wants to continue running it, or if it is later reopened, the Chief Inspector should treat it as a new installation.

# CHAPTER 10

## Environmental quality standards

### EC requirements

- 10.1 The main basis for setting emission limit values under the PPC Regulations will be the application of BAT. However, emission limit values must also satisfy Regulation 12(7), among other provisions. Regulation 12(7) states that where an environmental quality standard (EQS) as set out in community legislation requires stricter emission limit values (ELVs) than those achievable under BAT, the Chief Inspector must impose those stricter limits. (Under regulation 12(8) the stricter emission limit values may be supplemented or replaced by equivalent parameters or technical measures).
- 10.2 The term ‘environmental quality standard’ includes several numerical standards that specify maximum concentrations of named pollutants for air and water. In addition to such numerical EQSs there are also qualitative Community EQSs which may require stricter emission limit values. A summary of EC laws and the pollutants concerned can be found in Annex VII. If an EQS changes or new ones are introduced, the Chief Inspector may need to vary the permit conditions (see chapter 11).
- 10.3 In setting permit conditions, the Chief Inspector must first consider whether any EQS is being or may be breached. If so, the Chief Inspector will have to consider whether stricter emission limit values are needed beyond BAT. This will involve assessing the practicality and reasonableness of going beyond BAT, based on how far the installation is responsible for the breach and the likelihood of remedial action elsewhere.
- 10.4 Enforcing authorities are expected to co-operate so that they use their powers in the most effective way. They should aim to improve areas of poor environmental quality so that EQSs are met. However, they should try not to impose a disproportionate burden on IPPC installations compared to other pollution sources.

### NEW INSTALLATIONS

- 10.5 For a new installation (or a substantial change to an existing installation, where the effect of the change bears significantly on an EQS), if environmental quality before the installation begins to operate meets the requirements of an EQS, then this must remain so after the installation comes into operation. Stricter measures beyond BAT may be necessary to achieve this. If this cannot secure compliance then the permit must be refused. However, there may be ways to reduce emissions from other sources in such a circumstance, making it possible to authorise the IPPC installation (with or without conditions beyond BAT). Where a new installation would only make a minor contribution to a breach of an EQS, rather than going beyond BAT or refuse the IPPC permit, it will normally be more desirable for enforcing authorities to work together to control the other, main sources of pollution, thus ensuring the EQS is met.

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

## EXISTING INSTALLATION

- 10.7 Where an existing installation is the main or only cause of an EQS breach the Chief Inspector must impose conditions beyond BAT on the installation to comply with the EQS. If this is not enough, the Chief Inspector should refuse the permit. If a permit has already been issued when the breach is detected (or arises if a new EQS is set) the Chief Inspector should review or revoke the permit.
- 10.8 Where an existing installation is a significant contributor to an EQS breach, but other sources such as traffic also make major contributions, under these circumstances a range of enforcing authorities may have a role to play. The relevant enforcing authorities should explore all options for rectifying these sort of breaches. It may be right for them to restrict releases from the other sources rather than tighten the IPPC limits. How far the relevant enforcing authorities can do this will depend on their powers to control the other sources. Alternatively, the enforcing authorities may realise that there are other things they can do to rectify the breach, such as draw up an action plan for an air quality management area (AQMA) under Part III of the Environment Order 2002. However, if there are not appropriate powers to control the other sources, and the Chief Inspector does not believe that other means will bring about compliance with the EQS, he must impose stricter permit conditions. The combination of controls on all sources must ensure the EQS is met.
- 10.9 A third scenario is where an existing installation makes only a minor contribution to an EQS breach caused by other, non-IPPC sources. In this case it would not normally be appropriate for the Chief Inspector to impose stricter conditions beyond BAT. They would only have a minor effect on the problem anyway. It will be much more important for the relevant enforcing authorities to use their other powers to control the main sources of the breach.
- 10.10 A fourth scenario is where a breach of an EQS results from the combined effects of a number of installations. This could occur in an industrial area with elevated concentrations of air pollutants like sulphur dioxide, or in an estuary where high levels of pollutants have accumulated due to releases up-river. In such cases it may be appropriate to review several permits in the area to determine slightly stricter ELVs for each installation rather than simply imposing the entire burden of compliance on the last applicant. The Chief Inspector should also take care to ensure that all of the available “headroom” for compliance with EQSs is not taken up by the sectors that come into IPPC early in the transition timetable (see Chapter 4), causing difficulties for the later sectors.

## National requirements

- 10.11 Regulation 12 of the PPC Regulations does not explicitly require the Chief Inspector to impose stricter emission limit values beyond BAT to comply with a national EQS. Nonetheless, the

Chief Inspector should still consider domestic standards in determining required emission limit values. Regulation 12(6) provides that although emission limit values are to be based on BAT they must also take account of local environmental conditions and there is a general requirement to ensure a high level of protection for the environment as a whole.

10.12 The Chief Inspector should thus look at domestic EQSs to help him decide whether to permit an installation and if so, what emission limit values to include in the permit. The Chief Inspector should normally judge any significant contribution to a breach of a domestic EQS as unacceptable. The main difference between EC and national EQS is that stricter emission limit values have to be imposed where this is necessary to comply with an EC EQS whereas the Chief Inspector may have a margin of discretion in relation to national EQS.

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

- Environment and Heritage Service national standards to protect the quality of water and aquatic life; and
- Environment and Heritage Service local standards to control specific sources of substances that may harm water quality and aquatic life.

The Chief Inspector should ensure that IPPC permits contain conditions to safeguard these standards.

# CHAPTER 11

## Changes to installations that have already been permitted

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

### Notifications

- 11.2 Regulation 16 requires operators to notify the Chief Inspector of any proposed change in operation, unless making an application for the change under Regulation 17. Usually, these notifications will only be appropriate for changes which are not likely to require the variation of permit conditions. If the change could result in a breach of the existing permit conditions, or if the Chief Inspector is likely to want to review the conditions in the light of the proposal, the operator should apply under Regulation 17.
- 11.3 If an operator goes ahead with a change under Regulation 16, it must notify the Chief Inspector in writing at least 14 days beforehand. The Chief Inspector will acknowledge receipt. Unless the Chief Inspector acts to prevent it, the operator may then make the change, as long as it does not breach any permit conditions. As a matter of good practice, the Chief Inspector should tell the operator if he believes that the change can go ahead as notified.
- 11.4 If the Chief Inspector believes that the change might breach the existing permit conditions, or that the nature of the change requires more detailed reconsideration of the permit conditions under Regulation 17, then he should tell the operator. Ideally the Chief Inspector should advise the operator either way within the 14-day period. However, if an operator has not had any comment from the Chief Inspector after 14 days, it is still responsible for ensuring that the permit conditions are not breached if it decides to go ahead with the change.

### Applications to vary conditions

- 11.5 The operator should apply to the Chief Inspector when proposing a change that would require a variation in the permit conditions. This might apply, for example, if the operator wanted to extend the installation or modify the operating procedures. The procedures for making and determining these applications are broadly similar to those for permit applications.
- 11.6 The application must contain a description of the proposed variations and a statement of any changes in respect of the original permit application. The operator must also pay a fee.
- 11.7 The Chief Inspector should ensure the application is duly made. The Chief Inspector may also ask for further information. If the operator does not supply it in time, the Chief Inspector may give notice that he treats the application as withdrawn.

- 11.8 The public and the statutory consultees will be given the opportunity to comment on any proposed variation involving a “substantial change” (defined in Annex I). The Chief Inspector will notify the operator if this is the case. The consultation process will then be the same as for a permit application (see chapter 6).
- 11.9 The Chief Inspector may also require consultation in cases that don’t involve substantial changes. The Chief Inspector may decide that consultation is appropriate for some other reason. In these cases, the Chief Inspector will notify the operator of his decision and the consultation will proceed as if there were a substantial change.
- 11.10 The Chief Inspector will largely follow the approach set out for a permit application in determining whether to vary the permit conditions, or set conditions if he allows the change. The main difference is that the determination should only relate to those parts of the installation affected by the proposed variation.
- 11.11 If the Chief Inspector decides to vary the conditions, he will issue a ‘variation notice’. This will specify the variations and the dates they take effect. The Chief Inspector does not have to simply accept operators’ proposals. The Chief Inspector must impose conditions sufficient to comply with the PPC Regulations. The Chief Inspector may decide that some parts of the variation sought by the operator could be reflected in new permit conditions, while others should not be. The Chief Inspector may also need to impose conditions that go beyond the operator’s proposals. However, the Chief Inspector should not do this if he thinks that the operator will not comply with them. In this case he should refuse the application.
- 11.12 If the Chief Inspector decides not to vary any of the permit conditions, he must notify the operator. The operator may appeal against this. If the Chief Inspector does decide to vary the conditions, the operator can appeal against them.
- 11.13 The PPC Regulations set time periods for determining applications for variations. There are a few exceptions, such as where the Department makes the determination or where transboundary consultation is needed. The Chief Inspector should normally determine applications that require consultation with the public and statutory consultees within six months of receiving them. Where consultation is not needed, the period is three months. These periods do not include any time operators take to respond to requests for additional information. In either case the Chief Inspector and the operator may also agree to a longer period. If the operator does not agree to this and the Chief Inspector fails to decide within the set time, the operator may give notice that it treats the application as having been refused. The operator may then appeal against this deemed refusal.

## Variation of conditions by the Chief Inspector

- 11.14 Under Regulation 17(1), the Chief Inspector may vary permit conditions at any time, even if the operator has not requested this. It is most likely to do this in response to the findings of a permit review (see chapter 13), or because additional conditions are needed to deal with new matters. However, a variation may be necessary for another reason, such as a new EQS (see chapter 10). The Chief Inspector will also need to vary the permit conditions on releases to water from a Part A installation if the Department requests this under Regulation 13.

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

## Other variations

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

# CHAPTER 12

## Permit transfers

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

## Applications for transfers

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

## Determining applications

- 12.3 The Chief Inspector must determine whether to allow the transfer. Regulation 18(4) says that the transfer must go ahead unless the Chief Inspector considers that the proposed transferee will not comply with the permit conditions. This is the same as for new permit applications, described in chapter 7. The Chief Inspector should consider it in the same way. Regulation 18(5) adds a second test for any permit covering a 'specified waste management activity'. In these cases, the Chief Inspector must be satisfied that the proposed transferee is a 'fit and proper person' (discussed in chapter 15).
- 12.4 The PPC Regulations set a two-month period for the Chief Inspector to determine transfer applications. The Chief Inspector and the applicants may agree a longer period. If the Chief Inspector has neither effected the transfer nor rejected the application within the time limit, the applicants may treat this as a deemed refusal. They may then appeal against this deemed refusal.

## Transferring permits

- 12.5 Where the Chief Inspector effects the transfer of the whole permit, it must endorse it with the proposed transferee's details as the new operator. For partial permit transfers, the Chief Inspector must issue a new permit to the proposed transferee. This will cover the parts of the operation that have been transferred. It should contain the same conditions as the original permit, so far as they are relevant. At the same time, the Chief Inspector must return the old permit to the original operator, showing the extent of the transfer and thus which parts of the permit remain applicable.
- 12.6 The Chief Inspector should vary permit conditions where necessary as a result of a partial transfer. For example, ELVs may need to be divided, or further conditions may become necessary upon shared operation. This will ensure that operators continue to co-operate on control of the installation as a whole.

# CHAPTER 13

## Permit reviews

- 13.1 Permit reviews are to check whether permit conditions continue to reflect appropriate standards. The Chief Inspector will review permit conditions in the light of new information on environmental effects, available techniques or other relevant issues. If a review shows that new or varied permit conditions are needed, the Chief Inspector determines them by the variation procedures described in chapter 11.
- 13.2 Regulation 15(1) requires the Chief Inspector to review permits periodically and allows him to do so at any time. This is meant to provide a double-check on the adequacy of the permit conditions. It should guard against permits becoming gradually obsolete, as techniques gradually develop, but without any major innovations that would trigger a review otherwise.
- 13.3 The PPC Regulations do not define when the the Chief Inspector should carry out permit reviews. Rather, the expectation is that guidance notes will set out the normal periods for reviewing permits in each sector. It will then be for the Chief Inspector to determine when he carries out reviews, having regard to the guidance and any other relevant information.
- 13.4 Regulation 15(2) also requires permit reviews when:
- a) the installation causes such significant pollution that the Chief Inspector must change or supplement existing ELVs;
  - b) substantial changes in BAT make it possible to reduce emissions significantly without excessive costs; or
  - c) operators must switch to other techniques for safety reasons.

## Links with other Regulations

- 13.5 Some IPPC permits will contain conditions that fulfil the Groundwater Regulations (NI) 1998. The Chief Inspector must review those conditions every four years. This need not be the full IPPC permit review. However, the Chief Inspector may want to carry out joint reviews for reasons of efficiency and integrated control. He may also want to do the same for other regulatory requirements not incorporated into IPPC permits, such as the review of safety reports under the COMAH Regulations (NI) 2000.

# CHAPTER 14

## Site assessment and restoration

- 14.1 Regulation 11(3) sets out the general principle that, “upon the definitive cessation of activities, the necessary measures should be taken to avoid any pollution risk and to return the site of the installation or mobile plant to a satisfactory state”. To give effect to this, the PPC Regulations set out a regime based on the following:
- a) submission of a site report in the operator’s IPPC permit application;
  - b) inclusion of conditions in the permit setting out steps to be taken prior to and during the operation of the installation, and after definitive cessation;
  - c) submission of a site report in an application to surrender the permit when the operator ceases or intends to cease operating the installation;
  - d) the Chief Inspector either to accept or refuse the surrender if not satisfied that appropriate steps have been taken to avoid any pollution risk resulting from the operation of the installation or return it to a satisfactory state; and
  - e) additional powers for the Chief Inspector to specify steps that must be taken to restore the site in those cases where the Chief Inspector revokes a permit.
- 14.2 It is essential, however, that Chief Inspector does not consider these site restoration provisions in isolation from the other requirements of the PPC Regulations. A restoration exercise at closure cannot justify letting the operator pollute the site by breaching a permit condition. Moreover, it will not always be desirable to wait until the installation closes before removing any pollution or remedying any harm at the site. The permit should therefore include conditions requiring the operator to inform the Chief Inspector, without delay, of any incident or accident which may cause pollution. Periodic monitoring of key parameters may also be needed.

## Site reports in permit applications

### PURPOSE OF SITE REPORTS

- 14.3 The site report must describe the condition of the site and must, in particular, identify any substance in, on or under the land that may be a pollution risk. It should also record any pollution incidents such as spillages that have occurred at the site and details of measures put in place to mitigate their effects.
- 14.4 The site report serves two main purposes:
- a) firstly, it will be a reference point, along with any operating records, for measuring any deterioration of the site under IPPC. When the operator wants to surrender the permit upon closure, it must prepare another site report, identifying any changes to the condition of the site from that described in the original report.
  - b) secondly, the original site report will give information on the physical attributes and vulnerability of the site, for example whether there is an aquifer close to the surface. This will

help the Chief Inspector decide whether the site is suitable. It will also aid the process of setting appropriate permit conditions for protection of the environment by providing information relating to local environmental factors.

- 14.5 The site report required for a permit application under the PPC regulations should cover all of the land on which any of the activities of the installation may take place. This should include any land that is integral to the satisfactory operation of the installation, for example, areas needed for the movement of materials by vehicles or other means, and the area around any associated pipework. If the operator subsequently wishes to extend the installation once a permit has been issued, such that a wider area of land is required for satisfactory operation, they will have to apply for a variation to the permit conditions which must include a site report for the additional land.
- 14.6 The operator must submit separately a map or plan of the site, including the location of the installation on it, as part of a permit application. This more general map or plan should typically show where the site lies in the surrounding area, where the installation is located on the site and how it is laid out, what else is on the site, and where any foreseeable emissions from the installation into or from the site are proposed or could arise.
- 14.7 The site report need not necessarily cover the site of a complete industrial complex if the IPPC installation only relates to a small proportion of such a complex. For example, if a boiler plant in a car-manufacturing complex is covered by IPPC, but the rest of the plant is not, the site report may only need to cover the area around the boiler.

## FRAMEWORK FOR SITE REPORTS

- 14.8 The framework for site reports is based on the identification and assessment of:
  - a) sources – substances that are already in, on or under the land and which have the potential to cause harm or pollution of waterways or underground strata due to past activities and substances that will be used in or produced by the installation in the future. This will allow the establishment of baseline conditions which, in conjunction with properly maintained operating records, will provide a basis for assessing any future deterioration;
  - b) receptors – whatever is vulnerable to the adverse effects of the substances that will be used in or generated by the installation – for example, people, animals, ground and surface water, vegetation, building materials, services, etc; and
  - c) pathways – the means by which a substance may come into contact with or otherwise affect a receptor on, under or through the site.
- 14.9 The site report should always give information on the potential or actual presence of substances already at the site. It may also need to deal with possible substance pathways on or through the site. To find out enough about the site, a phased approach should be taken to investigation. The phased approach keeps the cost of investigation and analysis down by avoiding attempts to ‘prove a negative’ – and thus allowing the effective targeting of resources. If the first phase shows no cause for concern, then there is no need to investigate any further. If the Chief Inspector or operator suspects there are problems, investigations can be targeted more effectively.

- 14.10 Further guidance on producing site reports for IPPC applications is available from the Chief Inspector. However, the part of the site report that relates to pre-existing pollution should at least give the results of a desk study and a site reconnaissance. These should provide a conceptual model of the site and a preliminary understanding of its likely risk profile. In addition to examining the results of the desk study, the Chief Inspector may wish to carry out his own reconnaissance visit to satisfy itself that an application is accurate.
- 14.11 The site report will give the Chief Inspector a point of reference for judging whether there has been any additional pollution during operation under an IPPC permit. The Chief Inspector should normally attribute any further pollution that was not in the original application to operation under IPPC. This underlines the importance of operators carrying out effective site investigations at the start to limit their potential liability. However, it is possible that ‘new’ pollution might be due to other factors. The original site assessment may have missed some pollution, or new pollution may have migrated from elsewhere. The Chief Inspector should hold the operator responsible for any pollution on the site that was not reported in the original application, unless the Chief Inspector is convinced that the operator cannot reasonably be held responsible for it. By comparing pollutants identified in the site report with potential further pollutants from the installation, an appropriate monitoring scheme can be developed. This should ensure that pollution arising from the operation of the installation is identified at an early stage.

## Restoring sites

### RESTORATION WHILE AN INSTALLATION IS STILL IN OPERATION

- 14.12 Where an operator breaches a permit condition, causing pollution, the Chief Inspector may issue enforcement notices to make the operator put things right while the installation is still in operation. These notices may specify what the operator must do to remedy the effects of the pollution and to make the installation comply with the conditions.
- 14.13 The Chief Inspector should consider whether he needs to set permit conditions obliging the operator to monitor and report on the site. This would help to reveal any polluting releases into and off the site at an early stage and thus allow prompt remedial action. This may be particularly appropriate for specific pollution risks, such as underground pipes.

### RESTORATION WHEN AN INSTALLATION CLOSES

- 14.14 When an operator stops or intends to stop operating an installation, it should apply to the Chief Inspector to surrender the permit. Once the Chief Inspector has accepted a surrender application, the permit ceases to have effect. An operator may also apply for a ‘partial surrender’, where it stops operating part of the installation.
- 14.15 The application must include:
- a) a report describing the site conditions and identifying any changes from the condition described in the original site report; and
  - b) a description of any steps that have been taken to avoid any pollution risk on the site and return it to a satisfactory state.

- 14.16 The Chief Inspector may supplement these requirements with permit conditions. For example, they could require an operator to give notice when they stop operating a process, take immediate steps on decommissioning, or submit proposals for assessing the site condition or taking remedial action for review by the Chief Inspector. Even where the Chief Inspector does not impose these conditions, operators may wish to consult the relevant Chief Inspector, to lessen the risk of carrying out restoration work that does not meet PPC requirements.
- 14.17 The Chief Inspector will either accept a surrender application, if satisfied that there is no pollution risk and nothing more is needed to return the site to a satisfactory state, or refuse the application. The Chief Inspector must give his determination within three months of receiving the application, unless it agrees a longer period with the operator. This does not include time the operator takes responding to requests from the Chief Inspector for further information. If the Chief Inspector has not determined an application after three months or the agreed period, the operator may treat this as a deemed refusal. The operator may appeal to the Planning Appeals Commission against an actual or deemed refusal.
- 14.18 The site report upon closure should follow the same general framework as the one that went with the original application. It should consider the nature and setting of the site, the installation and the industry sector and the original site condition. It should describe what has happened at the site over the period covered by the permit. The Chief Inspector will need to judge each case separately, but the essential information to bring out is how the site has changed since the original application, for example, through the accumulation of any additional pollution. Further guidance on producing site reports for IPPC applications is available from the Chief Inspector.
- 14.19 On closure, the Chief Inspector must ensure that appropriate steps have been taken to avoid any pollution risk and to return the site to a satisfactory state (Regulation 19(4)). This can only be achieved if operators aim to restore sites to the condition they were in before the installation was granted a permit and the pollution occurred. As the aim of IPPC is to take preventive measures against pollution to ensure that there is no deterioration of the site during the operation of the plant, where an incident such as a spillage has occurred, where practicable the operator should take steps to address any pollution at the time of the incident. A record of the steps taken to return the site to a satisfactory state should be made available to the Chief Inspector as part of the closure site report. As far as practicable, the operator should restore the site to the condition described in the initial report.
- 14.20 There are potentially three main elements to restoring sites polluted under an IPPC permit. These are:
- removing (as far as is practical), treating or immobilising any pollutants;
  - remedying any harm the pollutants may have caused; and
  - mitigating the effects of any harm.
- 14.21 For example, an installation could release pollutants into the ground, which could be removed, treated, or if that is not possible, contained. If left in the ground, the pollutants could leach into an aquifer used as a source of drinking water. Ideally, the pollutants would be totally removed, and the aquifer remediated. However, while it might be possible to remove pollutants from the soil, it might not be feasible to remediate the aquifer. This need not prevent monitoring of the plume, however, which would help make water abstraction safer. This would help to mitigate the

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

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

#### RESTORATION WHEN THE CHIEF INSPECTOR REVOKES A PERMIT

- 14.23 Where the Chief Inspector revokes a permit, site restoration must still be dealt with under Regulation 21. If the Chief Inspector considers that there are things the operator must do to avoid any pollution risk on the site or to return it to a satisfactory state, the revocation notice must specify them. The permit will cease to authorise operation of the installation, but will still set any restoration requirements. This will continue until the Chief Inspector issues a certificate stating that the operator has taken all necessary steps. The Chief Inspector may enforce the restoration requirements by issuing enforcement notices under Regulation 24. If necessary they can use their powers under Regulation 26 to remedy harm and recover costs (see chapter 16).

# CHAPTER 15

## Special considerations for activities involving waste

### Specified Waste Management Activities

#### FIT AND PROPER PERSON

- 15.1 If any 'specified waste management activity' (explained in Annex I) is carried on in an IPPC installation, the Chief Inspector must not grant or transfer a permit unless the operator is a 'fit and proper person' (FAPP) in relation to the carrying out of that activity. The test for determining if someone is a FAPP considers:
- a) whether the person or any other relevant person has been convicted of environmental offences;
  - b) whether the person responsible for managing the activity is technically competent; and
  - c) whether the person who holds or is to hold the permit has made, or intends or is in a position to make, financial provision adequate for discharging the obligations that might arise from the permit in relation to the waste activity.
- 15.2 These FAPP provisions parallel similar arrangements in the forthcoming Waste Management Licensing Regulations.
- 15.3 There are four main categories of applicant who would be a 'relevant person' in relation to a conviction for a prescribed offence:
- a) employees of the applicant where the offence was committed in the course of their employment;
  - b) business partners of the applicant where the offence was committed in the course of their business;
  - c) companies where the applicant was a director, manager or similar; or
  - d) a director, manager, secretary or other similar officer of the applicant's company who has either been convicted of a relevant offence themselves, or who held a position in another company when it was convicted of a relevant offence.
- 15.4 However, the Chief Inspector may still decide to issue or transfer a permit, even though a relevant person has been convicted of an offence, if he thinks he right to do so.
- 15.5 The management of the activities should be in the hands of technically competent persons in accordance with similar provisions to be included in the Waste Management Licensing Regulations which will be brought in late 2003.

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

- site security;
- maintenance of pollution control systems;
- restoration;
- aftercare;
- site clearance; and
- post-closure monitoring.

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

## PLANNING PERMISSION

15.8 Some specified waste management activities may require planning permission under the Planning (NI) Order 1991. The planning permission must be in force before the Chief Inspector may permit the activity under IPPC.

## Waste Framework Directive

15.9 The Waste Framework Directive also covers IPPC activities involving the disposal or recovery of waste. This includes all specified waste management activities plus some others. This means that, in the case of such activities, the Chief Inspector must apply IPPC in a way that achieves the ‘relevant objectives’ of the Waste Framework Directive. These are set out in Schedule 2 to the Waste Management Licensing Regulations which will be brought in late 2003. They include:

“ensuring that waste is recovered or disposed of without endangering human health and without using processes or methods which could harm the environment and in particular without –

- (i) risk to water, air, soil, plants or animals; or
- (ii) causing nuisance through noise or odours; or
- (iii) adversely affecting the countryside or places of special interest”.

15.10 The ‘relevant objectives’ also involve the implementation of waste management plans made by district councils under Article 23 of the the Waste and Contaminated Land (NI) Order 1997

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

minimisation objectives, for example, will therefore not be generally very relevant to an installation that is specifically for waste disposal, such as a landfill. WMPs and guidance give the Chief Inspector information on how to control activities involving waste disposal or recovery, and in particular specified waste management activities.

## Site assessment and restoration

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

### SITE REPORTS IN PERMIT APPLICATIONS – ROLE OF WASTE MANAGEMENT PAPERS

15.13 In some installations that dispose of or recover waste, WMPs set out how the Chief Inspector should tackle pre-authorisation monitoring and investigation. Some examples are WMP4 on waste management licensing and WMP27 on landfill gas. The Chief Inspector should refer to these where he needs to.

### RESTORATION – LANDFILLS

15.14 Special considerations apply to closed landfill restoration. There are two main factors. The first is that, clearly, the Chief Inspector cannot ask for a complete return to the condition set out in the initial site report. The second is that, unlike other sectors where operators may be able to surrender their permits soon after operations cease, a closed landfill may be a pollution risk for some considerable time. The Chief Inspector should keep a closed landfill operator responsible under a permit until the site is in a satisfactory state, with no further need for monitoring or control. This will be when the landfill has stabilised physically, chemically and biologically so that the undisturbed contents are unlikely to cause pollution. WMP26A on landfill completion should be referred to.

15.15 The above provisions only apply to landfills that are brought under IPPC while still operating and then closed. Landfills that were closed before 30 October 1999 are not subject to the IPPC Directive.

# CHAPTER 16

## Checking and enforcing compliance

### Monitoring, reporting and inspections

#### SELF MONITORING AND REPORTING BY THE OPERATOR

16.1 Operators will have significant responsibility for monitoring under IPPC. They must state in their permit applications how they propose to monitor emissions. Similarly, an application for a variation must describe any proposed changes to monitoring. The Chief Inspector will assess these proposals. Under Regulation 12(9), A permit authorising the operation of a Part A installation or Part A mobile plant shall also include conditions:

- setting out suitable emission monitoring requirements, specifying the measurement methodology and frequency and the evaluation procedure, and ensuring that the operator supplies the data needed to check compliance; and
- requiring the operator to supply the results of emissions monitoring and to tell the Chief Inspector, without delay, of any incident or accident that is causing or may cause significant pollution.

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

#### CHIEF INSPECTOR'S MONITORING AND INSPECTIONS

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

## Enforcement

#### ENFORCEMENT NOTICES

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

## SUSPENSION NOTICES

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

## POWER OF THE CHIEF INSPECTOR TO PREVENT OR REMEDY POLLUTION

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

## REVOCAION NOTICES

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

## PROSECUTIONS

16.8 If an operator has committed a criminal offence under the PPC regulations, the Chief Inspector should consider instituting a prosecution. Conviction in a magistrates' court carries a fine of up to £30,000 and up to six months' imprisonment for the most serious offences. Conviction in the Crown court may lead to an unlimited fine and imprisonment for up to five years.

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

## APPLICATION TO THE CROWN

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

# CHAPTER 17

## Public registers and information

### Public registers

#### DUTY TO MAINTAIN PUBLIC REGISTERS

- 17.1 The Chief Inspector is required by Regulation 30 to maintain registers containing information on all the installations he is responsible for. District council's registers must also hold information on installations in their areas regulated by the Chief Inspector. The registers must be available at all reasonable times, for inspection by the public free of charge. Copies of any entry on a register must be available to any member of the public on payment of a reasonable charge.

#### FORM AND CONTENT OF REGISTERS

- 17.2 Registers must contain the information set out in paragraph 1 of Schedule 10 to the PPC Regulations. This includes copies of applications, details of the the Chief Inspector's determinations and monitoring information.

#### NATIONAL SECURITY

- 17.3 Regulation 31 allows information to be kept from public registers for reasons of national security. For this to happen, the Secretary of State must determine that placing the information on the register would be against the national interest. An operator who believes any information meets this test may apply to the Secretary of State. The operator must notify the Chief Inspector that it has asked for this determination, but must not exclude the information from any submission to the Chief Inspector ,such as a permit application. The Secretary of State will direct the Chief Inspector on what information to exclude from the register.

#### COMMERCIAL CONFIDENTIALITY

- 17.4 Regulation 32 allows the Chief Inspector to withhold information from the public registers as commercially confidential. Anyone may apply to have information protected in this way. The Chief Inspector must give his determination within 28 days or he will be deemed to have determined that the information is not confidential. If the Chief Inspector determines (or is deemed to have determined) that the information is not confidential the operator has 21 days to appeal to the Planning Appeals Commission. If the Chief Inspector accepts that information is confidential, the Department may still require it to go on the register in the public interest. If there is no appeal, the Chief Inspector will place the information on the register.
- 17.5 Under Regulation 32(12) information is commercially confidential "if its being contained in the register would prejudice to an unreasonable degree the commercial interests" of any person. Operators must clearly explain how this might arise. It will not be enough to say that they are concerned about public opposition, or to assert commercial prejudice without substantiation. Operators should also make sure that any confidentiality claims are complete. The Chief Inspector may only determine claims from the information put to him. If an application does not

clearly demonstrate that information should legitimately be protected, the Chief Inspector must determine that it is not confidential.

- 17.6 The Chief Inspector may grant confidentiality claims for up to four years, although he may specify a shorter period. A person may re-apply before the period ends. Under Regulation 30(4), the Chief Inspector must state in the register that commercially confidential information is protected. If the Chief Inspector withholds monitoring data, Schedule 10 also requires a statement in the register indicating whether the operator has complied with permit conditions.

## WITHDRAWAL OF INFORMATION

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

## The polluting emissions register

- 17.8 Article 15(3) of the IPPC Directive requires the publication of an EC inventory of principal emissions and their sources, known as the “European Pollutants Emissions Register” (EPER). This will provide information to the public, help authorities to assess the effectiveness of IPPC and identify priority areas. The EPER adopted by the European Commission requires reporting on 50 pollutants released to air and water every three years. The first reporting year is 2003 on emissions from 2001 (or 2000 or 2002 where data from 2001 is not available). This will require data to be collected from some existing installations before they have obtained IPPC permits.

## CHAPTER 18

### Charging

- 18.1 The Chief Inspector has to recover the costs of his IPPC operations from permit holders. This follows Government policy and ensures a fair allocation of costs. It also promotes the ‘polluter pays’ principle. A charging scheme to enable this has been made by the Department under Regulation 22.
- 18.2 Within this overall arrangement, different charges are payable at different regulatory stages. They will also vary across installations and sectors. For example, there may be different charges for installations that qualify for regulation via general binding rules (see chapter 7). Further details are available from the Chief Inspector or from the Department.

### Charges for applications

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

### Subsistence

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

# CHAPTER 19

## Appeals

- 19.1 The operator may appeal to the Planning Appeals Commission where:
- a) the Chief Inspector has refused an application for a permit;
  - b) the Chief Inspector has refused an application for a variation of a permit;
  - c) the operator disagrees with the conditions imposed by the Chief Inspector;
  - d) the Chief Inspector has served a revocation, enforcement or suspension notice;
  - e) the Chief Inspector has determined that information is not commercially confidential; or
  - f) the Chief Inspector has refused an application to transfer or surrender the permit.
- 19.2 Time limits for appealing vary according to the basis of the appeal. The Planning Appeals Commission has the power to extend some of the limits, but would only do so in the most compelling circumstances. The Planning Appeals Commission may affirm the Chief Inspector's decision or it may quash any notice or any permit conditions. It may also direct the Chief Inspector, for example on what conditions to impose.
- 19.3 If an operator appeals against a revocation notice, the revocation does not take effect until the appeal has been determined or withdrawn. If the appeal is against a variation, enforcement, or suspension notice, then the notice must be obeyed until the Planning Appeals Commission determines the appeal.
- 19.4 An appeal may be conducted by written representations, or through a hearing under the control of the Planning Appeals Commission. A hearing is compulsory if either the Chief Inspector or the appellant asks for one.
- 19.5 The court may quash a decision by the Planning Appeals Commission and refer the matter back to the Planning Appeals Commission for reconsideration. The Planning Appeals Commission may then invite further representations and reopen the hearing if necessary.
- 19.6 An operator may withdraw an appeal at any time by giving notice in writing to the Planning Appeals Commission. The Chief Inspector should then tell anyone with an interest in the appeal.

## CHAPTER 20

### Connections with other legislation

- 20.1 This chapter explains the main connections between the IPPC regime and other legislation not described elsewhere.

#### Industrial Pollution Control (NI) Order 1997

- 20.2 The new IPPC regime is intended to replace the Industrial Pollution Control (NI) Order 1997 regime. Until they are due to be phased in according to Schedule 3 to the PPC Regulations, and unless they undergo a substantial change, the Industrial Pollution Control Order will continue to be relevant to those installations holding an authorisation. Once the whole transitional period ends in 2009, all installations caught by the PPC Regulations will have become subject to IPPC. The Industrial Pollution Control (NI) Order 1997 will then be repealed.

#### Waste and Contaminated Land (NI) Order 1997 – Part II

- 20.3 Waste management is covered by Waste and Contaminated Land Order (NI) Part II. This refers to the deposit, treating, keeping or disposing of controlled waste (Article 4). There are some exemptions from the waste management licensing regime in Schedule 1 to the Waste Management Licensing Regulations which will be introduced late 2003. Despite these exemptions, Part II of the Waste and Contaminated Land Order covers a wide range of activities, not all of which are among the list of waste management activities in Schedule 1 to the PPC Regulations. This is either because they are different, or they fall below the relevant threshold. Waste management licensing will not apply to activities caught by the PPC Regulations although other provisions such as the Duty of Care will remain valid. Chapter 15 deals with special considerations applying to waste management regulation under IPPC.

#### Pollution Control and Local Government (Northern Ireland) Order 1978

- 20.4 Part III of the Pollution Control and Local Government (NI) Order 1978 is concerned with ‘noise’ and is regulated by district councils. Unless the Department has granted consent, a district council may not begin summary proceedings against a noise where proceedings can be brought under the IPPC regime. This is to avoid ‘double jeopardy’ for IPPC operators, and is consistent with previous arrangements under IPC. However, activities that are not covered by IPPC, even though they are on the sites of IPPC installations, may be regulated by district councils under the 1978 Order.

#### Radioactive Substances Act 1993

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

## Water (NI) Order 1999

- 20.6 The Water (NI) Order 1999 enables the Department to grant consents for discharges of pollutants into ‘waterways and underground strata’. It is an offence to make certain discharges without this consent. The PPC Regulations specifically state that discharges to water permitted under IPPC cannot be an offence under Article 10 of the Water Order. Once an installation comes within IPPC, operators will no longer have to apply for a separate Water Order discharge consent. However, there may still be cases where operators need a discharge consent for an activity not covered by IPPC on the site of an IPPC installation.

## Water Framework Directive

- 20.7 In granting permits under IPPC, the Chief Inspector will have to take account of any emission limits or water quality standards set under the Directive which are to be introduced in December 2003. They will also have to consider any river basin management plans.

## Groundwater Regulations (NI) 1998

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

- a) the hydrogeological conditions of the area concerned;
- b) the possible purifying powers of the soil and subsoil; and
- c) the risk of pollution and alteration of the quality of the groundwater from the discharge.

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

## EC Directives setting maximum emission levels

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

Directive 87/217 on the prevention and reduction of environmental pollution by asbestos

Directive 76/464 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community

Directive 82/176 on limit values and quality objectives for mercury discharges by the chlor-alkali electrolysis industry

Directive 83/513 on limit values and quality objectives for cadmium discharges

Directive 84/156 on limit values and quality objectives for mercury discharges by sectors other than the chlor-alkali electrolysis industry

Directive 84/491 on limit values and quality objectives for discharges of hexachlorocyclohexane

Directive 86/280 on limit values and quality objectives for discharges of certain dangerous substances included in List 1 of the Annex to Directive 76/464 subsequently amended by Directives 88/347 and 90/415 amending Annex II to Directive 86/280

Directive 89/369 on the prevention of air pollution from new municipal waste incineration plants

Directive 89/429 on the reduction of air pollution from existing municipal waste incineration plants

Directive 75/442 on waste as amended by Directive 91/156

Directive 94/67 on the incineration of hazardous waste

Directive 91/689 on hazardous waste

Directive 92/112 on procedures for harmonizing the programmes for the reduction and eventual elimination of pollution caused by waste from the titanium oxide industry

Directive 88/609 on the limitation of emissions of certain pollutants into the air from large combustion plants as last amended by Directive 94/66

## Solvent Emissions Directive

20.10 The Solvent Emissions Directive introduces controls designed to reduce emissions of volatile organic compounds from certain industrial sectors. It will do this by applying emission limit values, setting reduction schemes for individual installations, or developing national plans. Some of the installations this Directive applies to are also covered by IPPC.

## Landfill Directive

20.11 The Landfill Directive will introduce controls that apply to landfills on an individual basis as well as overall limits on the amount of biodegradable municipal waste that may be disposed of to landfill. Some of the landfills this Directive applies to are also covered by IPPC.

## Conservation (Natural Habitats etc) Regulations (NI) 1995

20.12 These Regulations implement the EC Directive on conserving natural habitats and wild fauna and flora. They require sites of importance to be designated. The Regulations (as amended by the PPC Regulations, Schedule 10) provide that the Chief Inspector must carry out an “appropriate assessment” when determining an application under PPC if there may be a significant risk of a significant effect on a designated site. The Chief Inspector will not permit the activity if it would adversely affect the site’s integrity.

# ANNEX I

## Definitions

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

### 1. Definitions relating to installations, mobile plants and operators

#### 1.1 “OPERATOR”

Regulation 2(1) defines an “operator” as, “in relation to an installation or mobile plant, the person who has control over its operation”. An installation or mobile plant need not be in operation for there to be an operator. Legal obligations may be imposed on an operator during the pre- and post-operational phases as well. The operator must demonstrably have the authority and ability to ensure the permit is complied with.

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

#### 1.2 “INSTALLATION”

“installation” means –

- (i) a stationary technical unit where one or more activities listed in Part 1 of Schedule 1 to the PPC Regulations are carried out; and
- (ii) any other location on the same site 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,

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

The following criteria and examples are provided to assist the Chief Inspector and operators when applying this definition in individual cases.

#### LIMB (I) OF THE DEFINITION

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

- (1A) the plant or machinery must be a “technical unit” where one or more activities listed in Part 1 of Schedule 1 to the PPC Regulations (“listed activities”) are carried out;
- (1B) the technical unit must be stationary.

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

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

- (a) they carry out successive steps in one integrated industrial activity;
- (b) one of the listed activities is a directly associated activity of the other; or
- (c) both units are served by the same directly associated activity.

## LIMB (II) OF THE DEFINITION

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

- (2A) the activity must be directly associated with the stationary technical unit;
- (2B) the activity must have a technical connection with the listed activities carried out in or by the stationary technical unit; and
- (2C) the activity must be capable of having an effect on emissions.

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

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

- a) input activities concerned with the storage and treatment of inputs into the stationary technical unit;
- b) intermediate activities concerned with the storage and treatment of intermediate products during the carrying on of the listed activities – this might apply particularly where the stationary technical unit consists of a number of sub-units with the product of one sub-unit being stored or treated prior to being passed on to the next sub-unit in the production chain;
- c) output activities concerned with the treatment of waste (or other emissions, like manure) from the stationary technical unit; or
- d) output activities concerned with the finishing, packaging and storage of the product from the stationary technical unit.

These activities have a technical connection in the sense that they are integral parts of the overall listed industrial activity. Often there will also be a physical connection, such as a conveyor belt or pipeline, but this does not have to be the case.

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

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

## EXAMPLES

The following examples illustrate the application of these criteria.

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

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

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

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

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

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

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

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

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

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

### Example 4: A power station where coal is stored on site

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

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

**Example 5: Combined heat and power plant (which is above the IPPC threshold) serving a light industrial estate engaged in non-listed activities**

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

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

**Example 6: CHP (over 50MW) within an organic chemical manufacturing complex which uses electricity from the CHP and also uses steam from it as a feed for chemical reactions. The CHP also provides heat and electricity to the onsite office block.**

Limb (i): The stationary technical unit consists of the combustion activity and the chemical manufacturing activity. The CHP is an integral part of the organic chemical manufacturing complex and both types of listed activity (from Part 1 of Schedule 1) can together be described as one technical unit.

Limb (ii): The office block is not an associated activity, because it is served by the CHP rather than the reverse and therefore criterion 2A is not met.

**Example 7: An IPPC installation for the intensive rearing of pigs or poultry where manure from the installation is spread on adjacent fields**

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

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

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

### 1.3 "PART A ACTIVITY", "PART B ACTIVITY" AND "PART C ACTIVITY"

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

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

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

### 1.4 "PART A INSTALLATION", "PART B INSTALLATION" AND "PART C INSTALLATION"

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

"Part A Installation" means an installation where a Part A activity is carried out (including such an installation where a Part B or Part C activity is also carried out)

"Part B Installation" means an installation where a Part B activity is carried out, not being a Part A installation (including such an installation where a Part C activity is also carried out)

“Part C installation” means an installation where a Part C activity is carried out, not being a Part A or Part B installation.

## 1.5 “EXISTING”, “NEW” AND “OPERATION”

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

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

- a) before 31 October 1999; or
- b) on or after 31<sup>st</sup> October 1999 and before 31 October 2000, provided that a “relevant authorisation” was either applied for or granted before 31 October 1999.

The term “relevant authorisation” means, in relation to the operation of a Part A installation or Part A mobile plant-

- (a) where the operation of the installation or mobile plant immediately before 31<sup>st</sup> October 1999 requires an authorisation under the Industrial Pollution Control (Northern Ireland) Order 1997, an authorisation under that order;
- (b) where the operation of the installation or mobile plant immediately before 31<sup>st</sup> October 1999 requires a disposal licence under the Pollution Control and Local Government (Northern Ireland) 1978, a disposal licence under that Order;
- (c) in any other case, planning permission granted under the Planning (Northern Ireland) Order 1991;

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

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

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

- a) a large combustion plant – when the design fuel is first fed and burned in the main combustion unit;
- b) a landfill site – when the first waste is deposited into the landfill;

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

## 2. Definitions relating to waste

### 2.1 “SPECIFIED WASTE MANAGEMENT ACTIVITY”

The term “specified waste management activity” is defined by Regulation 2(2). It means any one of the following activities:-

- a) the disposal of waste in a landfill, whether or not the disposal falls within Section 5.2 of Part 1 of Schedule 1;
- b) the disposal of waste falling within Section 5.3 of that part of that Schedule;
- c) the recovery of waste falling within paragraphs (i), (ii), (v) or (vii) of Paragraph (C) of Part A of Section 5.4 of that part of that Schedule.

## 3. Definitions relating to changes to installations

### 3.1 “CHANGE IN OPERATION”

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

### 3.2 “SUBSTANTIAL CHANGE”

According to Regulation 2(1), a “substantial change” means “in relation to an installation, a change in operation which, in the opinion of the Chief Inspector, may have significant negative effects on human beings or the environment.”

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

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

- a) the extent of the potential impact (including geographical area and size of the affected population);
- b) any effects on specifically protected areas, species or other assets of particular significance;
- c) the transboundary nature of the impact;
- d) the magnitude and complexity of the impact;
- e) the probability of the impact; and
- f) the duration, frequency and reversibility of the impact.

The large majority of substantial changes are expected to arise at Part A installations.

## RELEASES OF SUBSTANCES

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

- a) The substances released. If a new substance were to be released, consideration should be given to whether this would have a significant negative effect. However, if this new release were to be accompanied by a reduction in releases of another substance, then it would be appropriate to consider any similarity of effects between the two substances. If the effect of the new substance would be broadly similar to that now reduced from the old substance, then the change would not be substantial.
- b) The level of releases of any particular substances. An increase in releases would give rise to a substantial change only if it would significantly increase the negative environmental effect. The test of significance should not be based on the relative increase in releases from the site but on the absolute effect those releases will have on the environment. For example, a small factory might seek to increase its capacity by two or three times, yet this would constitute a substantial change only if the resulting increase in releases may cause a significant negative effect. The absolute increase in substances to be released would not in itself be considered significant.
- c) The nature of releases of any particular substance. Beyond increases in levels of releases, other changes could include changes in temperature, pressure, viscosity, appearance, phase, size and shape of particle, colour and density. The possibility of such changes having a significant negative effect should be considered. For example, a change in particle size which does not enter a different environmental pathway is unlikely to be a substantial change, unless it becomes so ultra-fine that it starts to have a different uptake.

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

## ANNEX II

### Statutory consultees

As set out in Schedule 4, Part 2 to the PPC Regulations the statutory consultees of IPPC installations are:

- a) in the case of an application for a permit to operate an installation or Part A mobile plant, the Health and Social Services Board in whose area the installation or mobile plant will be operated;
- b) in the case of an application for a permit to operate a Part A installation or Part A mobile plant-
  - (i) the Food Standards Agency;
  - (ii) where the operation of the installation or mobile plant may involve the release of any substance into a sewer vested in the Department for Regional Development, that Department;
  - (iii) where the operation of an installation or mobile plant may involve an emission which may affect an area of special scientific interest or a European site, the Department of the Environment;
  - (iv) where the operation of the installation or mobile plant may involve the release of any substance into a harbour managed by a harbour authority, that harbour authority;
  - (v) where the operation of the installation or mobile plant may involve the release of any substance directly into sea fisheries waters, the Department of Agriculture and Rural Development;
  - (vi) where the operation of the installation or mobile plant may involve the release of any substance directly into inland fisheries waters, the Department of Culture, Arts and Leisure;
  - (vii) where the operation of the installation or mobile plant may involve the release of any substance directly into waters under the control of The Loughs Agency or Waterways Ireland, The Loughs Agency or Waterways Ireland as the case may be;
  - (viii) where the application will be determined by the Chief Inspector, the district council in whose district the installation or mobile plant will be operated;
  - (ix) where the operation of an installation or mobile plant will involve the carrying out of a specified waste management activity, the Department of the Environment (Planning Service);
- c) in the case of an application for a permit to operate a Part B or Part C installation where the operation of the installation may involve an emission which may affect an area of special scientific interest or a European site, the Department of the Environment;
- d) in the case of an application for a permit to operate an installation on a site in respect of which a major accident prevention policy document is required under Regulation 5 of the Control of Major Accident Hazards Regulations (Northern Ireland) 2000 or a safety report is

required under Regulation 7 of those Regulations, the Health and Safety Executive for Northern Ireland;

- e) in the case of an application for a permit to operate a Part C installation involving only the carrying out of an activity falling under paragraph (b) of Part C of Section 1.2 of Part 1 of Schedule 1 (unloading of petrol at service stations), the petroleum licensing authority for that installation;
- f) in the case of all applications, such other persons as the Department may direct.

## ANNEX III

### Outline of the main IPPC activities and the transition timetable for existing installations

<b>Part A Activity Sectors</b>	<b>Relevant Section of Schedule 1 of PPC Regulations</b>	<b>Relevant Period for Part A Installation Applications</b>
Combustion	Section 1.1	1st to 30 <sup>th</sup> April 2006
Gasification, Liquefaction & Refining	Section 1.2	1 <sup>st</sup> to 31 <sup>st</sup> July 2004
Ferrous Metals	Section 2.1	1 <sup>st</sup> to 31 <sup>st</sup> July 2004
Non-Ferrous Metals	Section 2.2	1 <sup>st</sup> to 31 <sup>st</sup> July 2004
Surface Treatment Metals & Plastic Materials	Section 2.3	1 <sup>st</sup> to 30 <sup>th</sup> April 2006
Cement and Lime	Section 3.1	1 <sup>st</sup> to 31 <sup>st</sup> July 2004
Asbestos	Section 3.2	1 <sup>st</sup> to 30 <sup>th</sup> April 2006
Glass & Glass Fibre	Section 3.3	1 <sup>st</sup> to 31 <sup>st</sup> July 2004
Other Mineral Fibres	Section 3.4	1 <sup>st</sup> to 31 <sup>st</sup> July 2004
Other Mineral Activities	Section 3.5	1 <sup>st</sup> to 31 <sup>st</sup> July 2004
Ceramics	Section 3.6	1 <sup>st</sup> to 31 <sup>st</sup> July 2004
Organic Chemicals	Section 4.1	1 <sup>st</sup> to 30 <sup>th</sup> April 2006
Inorganic Chemicals	Section 4.2	1 <sup>st</sup> to 30 <sup>th</sup> April 2006
Chemical Fertilisers	Section 4.3	1 <sup>st</sup> to 30 <sup>th</sup> September 2005
Plant Health Products & Biocides	Section 4.4	1 <sup>st</sup> to 30 <sup>th</sup> April 2006
Pharmaceuticals	Section 4.5	1 <sup>st</sup> to 30 <sup>th</sup> April 2006
Explosives	Section 4.6	1 <sup>st</sup> to 30 <sup>th</sup> April 2006
Activities using Carbon Disulphide or Ammonia	Section 4.7	1 <sup>st</sup> to 30 <sup>th</sup> September 2005
Disposal of Waste by Incineration	Section 5.1	1 <sup>st</sup> to 30 <sup>th</sup> September 2005
Disposal of Waste by Landfill	Section 5.2	1st to 31st March 2007

<b>Part A Activity Sectors</b>	<b>Relevant Section of Schedule 1 of PPC Regulations</b>	<b>Relevant Period for Part A Installation Applications</b>
Disposal of Waste other than by Incineration or Landfill	Section 5.3	1 <sup>st</sup> to 30 <sup>th</sup> September 2005
Recovery of Waste	Section 5.4	1 <sup>st</sup> to 30 <sup>th</sup> September 2005
Production of Fuel from Waste	Section 5.5	1 <sup>st</sup> to 30 <sup>th</sup> April 2006
Paper, Pulp and Board Manufacture	Section 6.1	(a) – (c) 1 <sup>st</sup> to 31 <sup>st</sup> July 2004 (d) 1 <sup>st</sup> to 30 <sup>th</sup> April 2006
Carbon Activities	Section 6.2	1 <sup>st</sup> to 31 <sup>st</sup> April 2006
Tar & Bitumen	Section 6.3	1 <sup>st</sup> to 30 <sup>th</sup> September 2005
Coating, Printing and Textile Treatments	Section 6.4	1 <sup>st</sup> to 30 <sup>th</sup> April 2006
Timber	Section 6.6	1 <sup>st</sup> to 30 <sup>th</sup> April 2006
Activities involving Rubber	Section 6.7	1 <sup>st</sup> to 31 <sup>st</sup> July 2004
Treatment of Animal & Vegetable Matter & Food Industries	Section 6.8	(a) (b) and (c) 1 <sup>st</sup> to 28 <sup>th</sup> February 2005 (d) (e) and (f) 1 <sup>st</sup> to 30 <sup>th</sup> September 2005
Intensive Farming	Section 6.9	1 <sup>st</sup> November 2006 to 31 <sup>st</sup> January 2007

# ANNEX IV

## Content of Applications

Schedule 4 to the PPC Regulations sets out the requirements for the content of applications. In summary, these are:

- a) the name, telephone number and address of the applicant;
- b) if different to the above, the address to which any correspondence relating to the application should be sent;
- c) if the applicant is a body corporate, its company number, address of principal office and details of any holding company of which it is a subsidiary;
- d) the address of the installation or Part A mobile plant and its Irish grid reference, a map or plan showing the site of the installation and the location of the installation on the site;
- e) the name of any district council in whose area the installation is situated;
- f) in the case of a Part B or Part C mobile plant, the name of the district council where the applicant has the principle place of business, and the address of that business or if outside Northern Ireland the name of the district council in whose area the plant was first operated. If the mobile plant has not been operated in Northern Ireland, the name of the district council where the plant will be first operated;
- g) in the case of an application to operate a Part A installation or mobile plant a site report describing the condition of the site and, in particular, identifying any substance in, on or under the land which may constitute a pollution risk;
- h) a description of the installation and the activities to be carried out in it (listed in Part 1 of Schedule 1), and in the case of an installation any other directly associated activities to be carried out on the same site, which will have a technical connection with the activities which could have an effect on pollution;
- i) details of the raw and auxiliary materials and other substances and the energy to be used in or generated by the carrying out of those activities (from Part 1 Schedule 1);
- j) details of the nature, quantities and sources of foreseeable emissions from the installation into each environmental medium, and a description of any foreseeable significant effects on the environment;
- k) details of the technologies and other techniques which the operator proposes to use to prevent or, where that it is not practicable, reduce emissions into the environment;
- l) details of the measures which the operator proposes to make to monitor emissions;
- m) a description of the measures to be taken for the prevention and recovery of waste generated by the installation;
- n) a description of any additional measures proposed to comply with the “general principles” set out by Regulation 11 that –

- all the appropriate preventive measures are taken against pollution, in particular through the application of BAT;
  - no significant pollution is caused;
  - waste production is avoided in accordance with the Council Directive on waste, and where waste is produced it is recovered or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any impact on the environment;
  - energy is used efficiently;
  - the necessary measures are taken to prevent accidents and limit their consequences; and
  - upon the definitive cessation of activities in the installation, the necessary measures should be taken to avoid any pollution risk and to return the site to a satisfactory state;
- o) any relevant information obtained or conclusion arrived at pursuant to Articles 5, 6 and 7 of the EIA Directive 85/337/EEC;
- p) if an installation is covered by general binding rules, a statement by the operator as to whether the operation should be covered by these rules or be subject to the requirements set out in Regulation 12;
- q) where a specified waste management activity is carried out, any information the operator wishes the enforcing authority to take into account when considering whether the operator is a fit and proper person;
- r) any additional information which the operator of the installation wishes the enforcing authority to take into account in considering the application; and
- s) a non-technical summary of all of the information outlined above.

# ANNEX V

## Indicative List of Pollutants

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

### **AIR**

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

### **WATER**

1. Organohalogen compounds and substances which may form such compounds in the aquatic environment
2. Organophosphorus compounds
3. Organotin compounds
4. Substances and preparations which have been proved to possess carcinogenic or mutagenic properties or properties which may affect reproduction in or via the aquatic environment
5. Persistent hydrocarbons and persistent and bioaccumulable organic toxic substances
6. Cyanides
7. Metals and their compounds
8. Arsenic and its compounds
9. Biocides and plant health products
10. Materials in suspension
11. Substances which contribute to eutrophication (in particular, nitrates and phosphates)
12. Substances which have an unfavourable influence on the oxygen balance (and can be measured using parameters such as BOD, COD, etc)

# ANNEX VI

## Factors to be Considered in Determining BAT

Schedule 2 to the PPC Regulations states that:

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

- (1) the use of low-waste technology;
- (2) the use of less hazardous substances;
- (3) the furthering of recovery and recycling of substances generated and used in the process and of waste, where appropriate;
- (4) comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;
- (5) technological advances and changes in scientific knowledge and understanding;
- (6) the nature, effects and volume of the emissions concerned;
- (7) the commissioning dates for new or existing installations;
- (8) the length of time needed to introduce the best available technique;
- (9) the consumption and nature of raw materials (including water) used in the process and the energy efficiency of the process;
- (10) the need to prevent or reduce to a minimum the overall impact of the emissions on the environment and the risks to it;
- (11) the need to prevent accidents and to minimise the consequences for the environment;
- (12) the information published by the Commission pursuant to Article 16(2) of the Directive or by international organisations.”

## ANNEX VII

### EC Environmental Quality Standards Relevant to IPPC

#### Air Quality

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

Directive 2000/69 sets limit values for benzene and carbon monoxide. This Directive has also been adopted as a Daughter Directive to the Air Quality Framework Directive.

Standards for the following additional substances are also expected to be adopted through further daughter Directives:

- ozone
- poly-aromatic hydrocarbons
- cadmium
- arsenic
- nickel
- mercury.

#### Water Quality

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

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

The EQSs set in these Directives are set out as statutory standards in the Surface Waters (Dangerous Substances) (Classification) Regulations (NI) 1998 in respect of the following substances:

Aldrin, Dieldrin, Endrin and Isodrin  
Cadmium and its compounds  
Carbon tetrachloride  
Chloroform  
DDT (all isomers)  
para-para-DDT  
Hexachlorobenzene  
Hexachlorobutadiene  
Hexachlorocyclohexane (all isomers)  
Mercury and its compounds  
Pentachlorophenol and its compounds  
1,2-Dichloroethane  
Trichloroethylene  
Perchloroethylene  
Trichlorobenzene

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

Arsenic  
Atrazine and Simazine  
Azinphos-methyl  
Dichlorvos  
Endosulphan  
Fenitrothion  
Malathion  
Trifluralin  
Tributyltin  
Triphenyltin and its derivatives  
4-Chloro-3-methylphenol  
2-Chlorophenol  
2,4-Dichlorophenol  
2,4-D (ester and non-ester)  
1,1,1-Trichloroethane

1,1,2-Trichloroethane  
Bentazone  
Benzene  
Biphenyl  
Chloronitrotoluenes  
Demeton  
Dimethoate  
Linuron  
Mecoprop  
Naphthalene  
Omethoate  
Toluene  
Triazaphos  
Xylene

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

lead	sulcofuron
chromium	flucofuron
zinc	permethrin
copper	nickel
boron	iron
pH	vanadium
PCSDs	cyfluthrin

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

temperature  
dissolved oxygen  
pH  
suspended solids  
biochemical oxygen demand

- total phosphorus
- nitrates
- phenolic compounds
- petroleum hydrocarbons
- non-ionised ammonia
- total ammonium
- total residual chlorine
- total zinc
- dissolved copper

Directive 76/160 on the quality of bathing water. This Directive lists various parameters with imperative (I) or guide (G) values. The values are to be found in the Bathing Water (Classification) Regulations (NI) 1993. The parameters are as follows:

- total coliforms
- faecal coliforms
- faecal streptococci
- salmonella
- enteroviruses
- pH
- colour
- mineral oils
- surface active substances reacting with methylene blue
- phenols
- transparency
- dissolved oxygen
- tarry residues and floating materials such as wood, plastic, bottles, rubber
- ammonia
- nitrogen Kjeldahl
- pesticides
- heavy metals eg As, Cd, Cr, Pb, Hg
- cyanide
- nitrate and phosphate

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

temperature  
colouration (after filtration)  
suspended solids  
salinity  
dissolved oxygen saturation  
petroleum hydrocarbons  
organohalogenated substances  
metals: Ag, As, Cd, Cr, Cu, Hg, Ni, Pb, Zn  
faecal coliforms  
substances affecting taste of shellfish  
saxitoxin (produced by dinoflagellates)

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

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

Water Framework Directive. This requires water to be managed on the basis of river basins. A river basin management plan will be drawn up for each region to ensure that good water quality is maintained. The Directive stipulates the use of both ELVs for point sources and EQSs. New standards adopted under this Directive may well replace those set out in some of the Directives above.

# ANNEX VIII

## Glossary of Terms

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

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

Activity	An industrial activity which may form part of an IPPC Installation – see Chapter 3 and Annex I
Appeal	The opportunity provided for the Operator to dispute certain actions or decisions by the Regulator, by appealing to the Planning Appeals Commission – see Chapter 19
Application	A submission made by an Operator to an Chief Inspector, for example to seek the grant of a Permit (see Chapter 5), surrender of a permit (see Chapter 14), variation of the conditions of a permit (see Chapter 11) or transfer of a permit (see Chapter 12)
Available Techniques	In connection with BAT, those Techniques developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the cost and advantages, whether or not the techniques are used or produced inside the United Kingdom, as long as they are reasonably accessible to the Operator
BAT	Best Available Techniques – the main basis for determining standards in IPPC under the PPC Regulations, and defined as the most effective and advanced stage in the development of Activities and their methods of Operation which indicates the practical suitability of particular Techniques for providing in principle the basis for ELVs designed to prevent and, where that is not practicable, generally to reduce Emissions and the impact on the environment as a whole – see Chapter 9 plus separate definitions for Best, Available and Techniques
BATNEEC	Best Available Techniques Not Entailing Excessive Cost – the main basis for determining standards under IPC – now replaced by BAT under IPPC
Best	In relation to Techniques in BAT, the most effective in achieving a high general level of protection of the environment as a whole
BREF Notes	BAT Reference Notes – documents published by the Commission of the EC which will follow from an exchange of information on BAT between the Member States – see Chapter 9
Change in Operation	In relation to an Installation, a change in its nature or functioning or an extension which may have consequences for the environment – see Annex I
Chief Inspector	The enforcing authority for Part A and Part B processes. A separate statutory appointment located within the Department's Environment and Heritage Service
COMAH	Control of Major Accident Hazards – the subject of an EC Directive and domestic Regulations applicable to industrial sites, some of which will also fall under IPPC
Contaminated Land	Land determined to be contaminated under Part II of the Waste and Contaminated Land Order – see Chapter 14

Determination	The process by which the Chief Inspector decides whether or not to grant the request sought by an Operator in an Application, for example by issuing a Permit with appropriate conditions or by refusing the permit – see Chapter 7
Department	Department of the Environment.
District council	The enforcing authority for a Part C installation
Duly Made	A condition that an Application must satisfy by being sufficiently complete in a legal sense before Determination is possible – see Chapter 5
EC/EU	European Community/ European Union
EIA	Environmental Impact Assessment
ELV	Emission Limit Value – the mass, concentration or level of an Emission which may not be exceeded over a given period
Emission	In relation to a Part A Installation, the direct or indirect release of Substances, vibrations heat or noise from individual or diffuse sources in an installation into the air, water and land
Enforcement Notice	A notice served by the Chief Inspector that may enforce compliance with the Permit conditions or require remediation of any harm following a breach of any condition – see Chapter 16
Enforcing authority	For Part A and B installations, the Chief Inspector. For Part C installations, district councils.
EQS	Environmental Quality Standard – the meaning, depending on the context (see Chapter 10), is either:  – As defined by the PPC Regulations, a requirement which must be fulfilled at a given time by a given environment as set out in EC legislation; or  – A domestic requirement or objective which may be relevant in the determination of BAT
Existing Installation	See Annex I
FAPP	Fit and Proper Person – a person meeting specified tests in relation to technical competence, financial provision and previous convictions which are pre-requisites for the grant of any Permit covering any Specified Waste Management Activity – see Chapter 15
GBRs	General Binding Rules – rules which may establish fixed sets of conditions to be applied to relevant Installations
Installation	The regulated unit under the IPPC regime as implemented by the PPC Regulations, comprising one or more Part A Activities plus certain associated activities– see Annex I
IPC	Industrial Pollution Control (Northern Ireland) Order 1997.
IPPC	Integrated Pollution Prevention and Control – a general term used to describe the Regulatory regime applied to Part A Installations under the PPC Regulations which give effect to the IPPC Directive
IPPC Directive	Directive 96/61/EC concerning Integrated Pollution Prevention and Control
New Installation	See Annex I
Operation	A measure of the point at which an IPPC Permit is required – see Annex I
Operator	In relation to an Installation, the person who has control over the operation of the installation
Part A Activity	An activity listed for control under IPPC by Schedule 1 to the PPC Regulations

Part A Installation	Any Installation comprising one or more Part A Activities
PER	Polluting Emissions Register – an inventory of Emissions and sources to be established under a Decision of the Commission of the EC – see Chapter 17
Permit	A permit granted by the Chief Inspector allowing the Operation of an Installation subject to certain conditions
Pollutant	Any Substance, vibration, heat or noise released as a result of an Emission which may cause Pollution
Pollution	Any Emission as a result of human activity which may be harmful to human health or the quality of the environment, cause offence to any human senses, result in damage to material property, or impair or interfere with amenities and other legitimate uses of the environment
Production Capacity	See Annex I
Public Registers	Registers maintained by the Chief Inspector containing information on IPPC Installations – see Chapter 17
the PPC Regulations	the Pollution Prevention and Control (Northern Ireland) Regulations 2003 which implement the IPPC Directive
Relevant Objectives	Certain objectives derived from the EC Waste Framework Directive that apply to Activities involving the disposal or recovery of waste regulated under the PPC Regulations – see Chapter 15
Relevant Period	The window of time specified in Part 1 of Schedule 3 to the PPC Regulations within which (in the absence of a preceding Substantial Change) an Application for a Permit for an Existing Installation must be submitted – see Chapter 4
Revocation Notice	A notice served by the Chief Inspector revoking all or part of a Permit – see Chapter 16
the Secretary of State	The Secretary of State for Northern Ireland
Specified Waste - Management Activity	See Annex I
Statutory Consultee	A body which the Chief Inspector must consult with in determining an Application for a Permit and in some variations – see Annex II
Substance	Includes any chemical element and its compounds and any biological entity or micro-organism with the exception of certain radioactive substances and genetically modified organisms
Substantial Change	A Change in Operation which, in the opinion of the Chief Inspector, may have significant negative effects on human beings or the environment – see Annex I
Suspension Notice	A notice served by the Chief Inspector which results in a permit ceasing to authorise the Operation of the entire Installation or specified Activities, until remedial action has been taken against a risk of serious pollution – see Chapter 16
Techniques	In connection with BAT, includes both the technology used and the way in which the Installation is designed, built, maintained, operated and decommissioned
Variation Notice	A notice served by the Chief Inspector varying the conditions or other provisions of the Permit – see Chapter 11
WMP	Waste Management Paper – guidance produced for the application of waste management licensing which may be relevant to the regulation of waste activities under IPPC – see Chapter 15 and Annex I