Consultation Paper on the Pollution Prevention and Control Regulations (Northern Ireland) 2012

April 2012
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Introduction

Need for Regulations

The Department of the Environment ("the Department") is consulting on draft Regulations to transpose Directive 2010/75/EU on the industrial emissions (integrated pollution prevention and control) (Recast) ("the IED").

The IED sets environmental controls on large industrial plants and brings together seven overlapping Directives (covering similar industrial emission activities), into one piece of legislation on industrial emissions. The existing Directives are:

- Directive 99/13/EC on limiting volatile organic compounds due to organic solvent use in certain activities and installations;
- Directive 2000/76/EC on waste incineration;
- Directive 2001/80/EC on limiting certain pollutant emissions into the air from large combustion plants; and

These Directives apply to some 435 industrial installations in Northern Ireland, ranging from power stations to intensive poultry farms and from waste incinerators to dry cleaners. The transposition and implementation of those Directives during the last decade has facilitated substantial reductions in pollutant emissions in Northern Ireland, thereby reducing health and environmental risks.

The IED aims to improve interaction between the seven Directives that it will replace, as well as strengthening the provisions in them.

The IED improves the clarity and coherence of the European legislation. It also gives more emphasis to BAT requirements and some activities will now become subject to IPPC, but the framework of the existing Directives as currently implemented remain mostly unchanged.
Background

The purpose of the IED is to achieve a high level of protection for the environment and human health from the harmful effects of industrial activities.

The IED covers industrial activities with a major pollution potential (these consist of IPPC activities (defined in Annex I to the Directive – energy industries, production and processing of metals, mineral industry, chemical industry, waste management, rearing of animals, etc) as well as waste incineration activities and solvent emitting activities and titanium dioxide production activities).

Any industrial installation which carries out the activities listed in Annex I of the IED must meet certain basic obligations such as, preventive measures taken against pollution, ensuring best available techniques (BAT) are applied, waste is reduced, recycled or disposed of in the manner which creates least pollution, etc.

Annex I industrial installations must use BAT to achieve a high general level of protection of the environment as a whole, which are developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions. The European Commission must adopt BAT conclusions containing the emission levels associated with BAT. These conclusions shall serve as a reference for the drawing up of permit conditions.

The Department proposes to make the legislation under Article 4 of the Environment (Northern Ireland) Order 2002. We are also taking this opportunity to consolidate all existing Pollution Prevention and Control legislation into the draft Pollution Prevention and Control Regulations (Northern Ireland) 2012 as well as the Solvent Emissions, Waste Incineration and Large Combustion Plants legislation.
Equality/Human Rights/Rural Proofing Issues

Equality Impact Assessment

Under Section 75 of the Northern Ireland Act 1998, public authorities have a statutory duty to promote equality of opportunity. Preliminary screening exercises have been undertaken and there is no evidence that the proposed measures will have any impact on any of the groups specified in Section 75. Therefore, the Department does not consider a full Equality Impact Assessment to be necessary. Copies of all screened policies are available from the website at http://www.doeni.gov.uk/index/information/equality_unit.htm

The Equality Commission will receive copies of this consultation document as part of the consultation exercise. Any comments that the Commission might have will be taken into account.

Human Rights Issues

The Human Rights Act 1998 implements the European Convention on Human Rights which makes it unlawful for any public authority to act in a way that is incompatible with these rights. All proposed legislation must be assessed to ensure compliance. Screening exercises have been completed which concluded that the proposed amendments to the Regulations mentioned above are compatible with the Human Rights Act.

Rural Proofing

Rural proofing is a process to ensure that all relevant Government policies are examined carefully and objectively to determine whether or not they have a different impact in rural areas from that elsewhere. The Department considers that the measures contained within the proposed amending legislation are unlikely to have any different impact in rural areas to that within any other sector of the community.
Freedom of Information

Confidentiality of Consultation Responses

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations as they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation.

The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity, should be made public or treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor’s Code of Practice on the Freedom of Information Act provides that:-

- the Department should only accept information from third parties in confidence if it is necessary to obtain information in connection with the exercise of any of the Department’s functions and it would not otherwise be provided;
- the Department should not agree to hold information received from third parties “in confidence” which is not confidential in nature; and
- acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified by the Information Commissioner.

For further information about confidentiality of responses, please contact the Information Commissioner’s Office, or see the web-site at:- http://www.ico.gov.uk
How to respond to this consultation

Responses are invited to this consultation paper by 12th June 2012 and should be sent to the address below. Early responses would be most welcome and a summary of the responses will be published on the Department’s website. All comments and representations received during the consultation will be considered in finalising the draft Regulations.

Before you submit your response, please read the notes regarding the confidentiality of consultations, which provides guidance on the legal position of any information given by you in response to this consultation. If you are responding on behalf of a group or organisation, please indicate this on your response. Please reply using one of the following options:

By post:

Bruce Harper
Air and Environmental Quality
Environmental Policy Division
Department of the Environment
Goodwood House
44-58 May Street
Belfast
BT1 4NN

By e-mail: aeqwebteam@doeni.gov.uk

By fax: (028) 90254732

Requests for further copies should also be made to Bruce Harper (028) 90254876 at the above address.

Should you require a copy of this document in an alternative format, it can be made available on request in large print, disc, Braille and in audiocassette or telephone for the hearing impaired.

The document may be available on request in minority languages for those who are not proficient in English. The Department will translate executive summaries of key publications into Irish or Ulster-Scots upon
request. Information and additional copies of the document can be requested by textphone on (029) 90540642.

Hard copies of the consultation document are available from the address above. The consultation document is available to view at: http://www.doeni.gov.uk/ (click on “environmental issues” and then on “Industrial Pollution”).

A list of consultees that have been contacted directly in relation to this consultation is attached. However, views from anyone interested in these proposals are very welcome.

Consultation

Transposition Options
The following policy options have been considered. As a “do-nothing” option would risk precipitating large fines from the European Commission for non-transposition of the Directive this option has not been considered:

Option 1: Amend the Waste Incineration Regulations (Northern Ireland) 2003, The Large Combustion Plants Regulations (Northern Ireland) 2003, The Solvent Emissions Regulations (Northern Ireland) and The Pollution Prevention and Control (Northern Ireland) Regulations 2003 to transpose the Directive fully but with no other amendments. This would involve drafting a new set of amending regulations in a way which would incorporate the additional requirements of the Directive with a minimum of disturbance to the existing framework;

Option 2: Simplify the legislation by revoking and re-enacting with revisions the legislation which enacted the individual component Directives of the IED and, consolidating all the different regulations and amendments into a new single set of PPC Regulations, including any necessary amendments to transpose the IED. In this consolidation of the PPC Regulations the Department will also address the existence of some redundant national requirements currently within the Regulations. This will reduce the number of Regulations pertaining to industrial pollution yet will have very little difference operationally.

Option 2 is the Departments preferred option.
Consultation on the transposition of the industrial emissions Directive in Northern Ireland

1. The industrial emissions Directive\(^1\), generally referred to simply as “the Directive” or “the IED” is a Recast\(^2\) of seven existing Directives. Those Directives concern integrated pollution prevention and control (2008/1/EC\(^3\)), large combustion plants (2001/80/EC), waste incineration (2000/76/EC), solvent emissions (1999/13/EC) and three concerning waste from the titanium dioxide industry\(^4\). Material from those Directives is to be found in Chapters II to VI respectively of the IED. The Directives – the “component Directives” - are transposed in Northern Ireland through The Pollution Prevention and Control Regulations (Northern Ireland) 2003 (as amended), the Waste Incineration Regulations (Northern Ireland) 2003, The Large Combustion Plants Regulations (Northern Ireland) 2003, and The Solvent Emissions Regulations (Northern Ireland) 2004. Although there are multiple sets of Regulations and associated Directions, all of the activities covered by the component Directives require a permit under the Pollution Prevention and Control Regulations (Northern Ireland) 2003– usually abbreviated in this consultation paper as “PPCR”.

2. As much of the material in the recast Directive remains substantively unchanged from the component Directives, we consider that the PPCR provide the most appropriate vehicle through which to transpose the industrial emissions Directive. Draft amending Regulations have therefore been drawn up and the primary purpose of this consultation paper is to seek your views on particular points which have arisen in doing so.

3. Please note that this consultation refers only to Northern Ireland. The administrations in England, Scotland and Wales will be transposing the Directive separately. If you have interests there, please watch out for separate consultations. Please note also that the Directive applies

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2 The Recast was made under Inter-institutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts (2002/C 77/01). This states that ‘recasting shall consist in the adoption of a new legal act which incorporates in a single text both the substantive amendments which it makes to an earlier act and the unchanged provisions of that act. The new legal act replaces and repeals the earlier act’.

3 Directive 2008/1/EC is a codified version of the original IPPC Directive, 96/61/EC.

4 Directives 78/176/EEC, 82/883/EEC and 92/112/EEC.
to offshore installations. The Department for Energy and Climate Change will be consulting separately on UK transposition arrangements in respect of the limited range of Directive activities which are carried out at offshore oil or gas installations.

4. Although specific questions are put to you below, please consider the draft Regulations as a whole and comment on any perceived deficiencies or uncertainties. Please note that there are three main components to the draft Regulations:

- amendments to the main body of the PPCR, and amendments to application procedures in Schedule 4, Schedule 7 and Schedule 16 arising from various new features of the Directive;

- amendments to Schedule 1 – these make quite extensive changes, in particular to Part 1 of the Schedule which describes the activities subject to integrated pollution prevention and control (“IPPC” hereinafter) – these are listed under Part A. Some of these amendments are driven by changes to the coverage of the IPPC Directive, but more are driven by the consideration of “legacy” activities – that is to say, activity descriptions which are not to be found in Annex I of the IED – see section 25 of this paper;

- additional Schedules 8, 9, 10 and 11 – all of these are needed to transpose Chapters II – VI of the industrial emissions Directive, just as the Waste Incineration Regulations (Northern Ireland) 2003, The Large Combustion Plants Regulations (Northern Ireland) 2003, and The Solvent Emissions Regulations (Northern Ireland) 2004 previously transposed the component Directives. These Schedules transpose Chapters II – VI largely through reference to the various Articles of the IED with which the regulator must ensure compliance. This “referential” system in effect transposes the exact words of the Articles.

5. Other points to note about the effect of the draft Regulations are set out in Appendix A to this consultation paper. For further background to the IED, you should read the draft impact assessment which accompanies this consultation paper.

6. To aid the preparation of the final impact assessment which will accompany the finalised Regulations, you are particularly invited to respond to the questions which are contained in the draft impact assessment.
7. The Department plans to issue updated guidance for Part A installations which details the changes made by the IED within the next few months. The current guidance for Part A installations is available on the NIEA website\(^5\). The current Departmental guidance on waste incineration is much less affected by the IED though arrangements will also be made within the next few months for the necessary amendments.

8. The remaining sections of this paper set out the particular points upon which DOE would be particularly grateful to receive comments. The sections are ordered according to the IED Article number to which they refer, with sections thereafter dealing with a few issues which are not immediately connected with the Directive.

**Directive Chapter 1 – ‘Common Provisions’**

9. Please note that Articles 1 to 9 of the Directive apply to the Directive as a whole. Sections 10 and 11 of this consultation paper highlight particular points amongst those Articles, but respondents – particularly those with installations not subject to the IPPC provisions in the Directive’s Chapter II - should examine Chapter I as a whole in some detail.

10. **Permits for operators of parts of an installation**

10.1. Article 4(3) provides the option for a single permit to cover ‘several parts of an installation operated by different operators’, provided that the permit specifies the responsibilities of each operator.

10.2. Under the current PPCR, a permit can only be granted to a person who is in control of the operation of the installation, or a part of the installation.

- where there is a sole operator of an entire installation, one permit is issued to that operator;
- where there are joint operators of an installation, (as part of a partnership or some other form of joint enterprise), one permit for the entire installation is issued to the “person” of the joint

\(^5\) http://www.doeni.gov.uk/niea/ippc_practical_guide.pdf
operators as defined in the partnership or joint enterprise agreement; or

- where there are sole operators of different parts of an installation (for example, one person operates the main activity, while another operates a directly associated activity forming part of the installation), two permits are issued, one permit to each of the sole operators in respect of the activity or activities they operate.

10.3. Thus the PPCR already allow for the possibility of more than one operator of an installation. However, the PPCR do not provide for a single permit to be issued to operators who are not acting in partnership or other form of joint enterprise. A permit covering the activities of more than one distinct operator would still need to make the responsibilities of each operator within the installation completely clear, so that appropriate conditions could be included and, in the event of non-compliance, enforcement action could be taken in the same way as would be the case if the permit covered only a single operator. Only in that way could environmental protection be satisfactorily provided. A permit covering different operators would be highly complex in terms both of its content and the processes needed in making and determining the application.

10.4. DOE are therefore currently not minded to amend the PPCR so as to accommodate the option contained in Article 4(3) of the Directive.

Are you content with that? If not, can you demonstrate from a real example that allowing a permit to cover several parts of an installation operated by different operators will reduce overall regulatory burden whilst maintaining the environmental protection required by the Directive?
11. Incidents and accidents

11.1. Article 7(c) requires the competent authority, in the event of any incident or accident significantly affecting the environment, to require ‘the operator to take any appropriate complementary measures that the competent authority considers necessary to limit the environmental consequences and to prevent further possible incidents or accidents’. This Article applies to all activities covered by the IED, not only those which are subject to IPPC.

11.2. Regulation 24 of the existing PPCR already provides regulators with the power to serve an enforcement notice which can specify steps to be taken if an operator ‘has contravened, is contravening, or is likely to contravene’ a permit condition. Those steps may be directed towards limiting environmental consequences and the prevention of further incidents or accidents.

11.3. However, although the Department cannot think of an instance where an incident or accident significantly affecting the environment may arise in circumstances where there is no breach or likely breach of a permit condition, it is possible that such instance may arise. The requirements of Articles 7 and 8 are already reflected in existing permits, but the Department will set out more explicitly the requirements of Articles 7 and 8 in the interests of clarity. Therefore the Department plans to require the chief inspector to insert a condition requiring the operator to inform the chief inspector, immediately, of any incident or accident in an installation or mobile plant which causes or may cause significant pollution, and to immediately take all appropriate measures to limit the environmental consequences and to prevent further possible incidents or accidents. This also applies to SED installations by virtue of Schedule 8. The Department are also amending the Regulations to extend the provisions for enforcement notices so that the enforcing authority can issue enforcement notices in the case of incident or accident significantly affecting the environment, where there is no breach or likely breach of a permit condition.

Do you agree with this approach? If not, why not?
12. **Energy efficiency requirements upon installations in the EU-ETS**

12.1. Article 9(2) continues the optional provision in the IPPC Directive which allows installations which are also subject to the EU emissions trading system (EU-ETS) to be exempted from energy efficiency requirements. This option was not taken up for the transposition of the IPPC directive and the Department do not propose to take up this option now. This means that all installations will be required to comply with best available techniques (BAT), including a consideration of energy efficiency, even if they are also part of a Green House Gas trading scheme. The Northern Ireland Environment Agency’s current approach is set out in the UK Horizontal Guidance Note IPPC H2 on *Energy Efficiency*\(^6\).

Are you content with the proposed way of transposing Article 9(2)? If not, why not?

**Directive Chapter II – installations subject to IPPC**

13. **Preamble**

13.1. Chapter II of the Directive contains requirements which apply to the conduct of any of the industrial activities listed in the Directive’s Annex I. They are largely very similar to those in the current IPPC Directive, but some clarify or extend those existing requirements. We propose to transpose them mainly through the body of the PPCR, but also with some amendments to Schedule 4 (Grant of Permits), Schedule 7 (Variations) and Schedule 16 (Registers) so as to ensure compliance with specified Articles of the Directive.

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\(^6\) [http://www.doeni.gov.uk/niea/ippc_h2.pdf](http://www.doeni.gov.uk/niea/ippc_h2.pdf)
14. **Emission limit values**

14.1. Article 15(3) requires the competent authority to set emission limit values that ensure that, under normal operating conditions, emissions do not exceed the emission levels associated with the BAT as laid down in the decisions on BAT conclusions. Article 15(4) enables the competent authority, in specific cases, to set less strict emission limit values, but only where an assessment shows that the achievement of emission levels associated with the best available techniques as described in BAT conclusions would lead to disproportionately higher costs compared to the environmental benefits due to:

(a) the geographical location or the local environmental conditions of the installation concerned; or

(b) the technical characteristics of the installation concerned.

Article 24(1)(c) applies public participation requirements to the exercise of the derogation provided by Article 15(4) and the reasons for the derogation have to be documented in an annex to the permit.

14.2. We propose to transpose the requirements of Article 15(3) and (4) by requiring the regulator to exercise its functions so as to ensure compliance with them.

14.3. Please note that Article 24(1)(c), requiring public participation in respect of the proposed application of Article 15(4), will be transposed through the requirement in the existing Schedule 4 (Grant of Permits) and proposed amendments to Schedule 7 (Variation of Conditions) and Schedule 16 (Registers) regarding the public participation procedures for permit variations for the regulator to exercise its functions so as to meet the requirements of Article 24(1)(c).

15. **Baseline reports and site closure**

15.1. Article 3(1)(f) of the IPPC Directive requires that installations are operated in such a way that ‘the necessary measures are taken upon definitive cessation of activities to avoid any pollution risk and return the site of operation to a satisfactory state’. The Northern Ireland Environment Agency (NIEA) accordingly already
requires a ‘site condition report’, on the basis that, without it, there
would be no means of assessing whether the site of operation has
been returned to a satisfactory state in compliance with that
requirement of the current IPPC Directive. Article 11(h) of the
industrial emissions Directive maintains that requirement and so in
principle no change is brought about by the latter. However, that
Article refers to ‘satisfactory state’ defined in accordance with
Article 22.

15.2. Much of Article 22 reflects the already-established practice of
the NIEA. Article 22(2) explicitly requires the preparation of a
“baseline report”, as defined in Article 3(19), but only where ‘the
activity at the installation involves the use, production or release of
relevant hazardous substances and having regard to the
possibility of soil and groundwater contamination at the site of the
installation’. It is proposed to amend Schedule 4 (Grant of permits)
so as to require the operator to undertake a baseline report.

15.3. The site condition report, dating from the time the IPPC
permit was first applied for, should generally remain valid even
when the permit is subsequently updated. There should therefore
be no need for submission of a completely new baseline report
when an existing permit is updated for the first time after 7
January 2013. But it must be noted that Article 22(2) requires the
baseline report to contain the information necessary to enable a
quantified comparison to be made between the state of the site at
cessation of activity and the baseline state. NIEA will need to
check this when permits receive their first review under the
requirements of Article 21. Operators should in any case bear in
mind that it is in their interests to have a report which contains
detail sufficient to minimise the risk of their being held responsible
for contamination which in fact predated their permitted activity.

Do you currently envisage it being necessary to strengthen
existing site condition reports? If so, in what way or ways, and at
what cost?

15.4. Guidance already exists from the NIEA\(^7\) on site condition
reports. It should be noted that the European Commission is

\(^7\) Guidance on site condition reports is at
obliged by Article 22(2) to establish guidance on baseline reports, but by 15th March 2012 no material had been produced. The regulators’ guidance may need to be further revised in the light of the Commission’s guidance.

16. **Emerging techniques**

16.1. Article 3(14) defines “emerging techniques” as ‘a novel technique for an industrial activity that, if commercially developed, could provide either a higher general level of protection of the environment or at least the same level of protection of the environment and higher cost savings than existing best available techniques’. Article 27(1) requires Member States, where appropriate, to encourage the development and application of emerging techniques.

16.2. A proposed regulation would require the NIEA, where appropriate, to exercise their functions so as to encourage the application of emerging techniques, in particular for those identified in Best Available Technique (BAT) reference documents.

16.3. We consider that the NIEA can do this primarily through their dealings with operators who seek either new or varied permits for an activity in which an emerging technique is to be employed: regulators will note that Articles 14(5) and (6) (transposed as sub-paragraphs (5) and (6) of regulation 11 “Conditions of permits: general principles” provide the basis for their permitting decisions in such situations. Note also that Article 27(2) requires the European Commission to ‘establish guidance to assist Member States’ in that regard, but that no draft of such guidance had been issued by the Commission by 15 March 2012.

**Do you have views on how NIEA can encourage the development and application of emerging techniques?**

17. **Waste management activities**

17.1. The waste management activities descriptions have been substantially changed in Annex I of the IED from the IPPC directive which preceded it. These changes have been carried forward into the proposed Schedule 1 of the PPCR.
17.2. One notable difference is that some non-hazardous waste recovery activities are included whereas they were not included in the IPPC Directive. This will mean that non-hazardous waste recovery will be subject to IPPC permitting for the first time. Point 5.3(b) of the Directive’s Annex I specifies the non-hazardous waste disposal and recovery activities covered by IPPC. These are transposed by the amended Section 5.4 of Part 1 of PPCR Schedule 1.

17.3. Another notable difference is that temporary and underground storage of hazardous waste activities with a capacity of 50 tonnes or more listed in Annex I and will now require regulation. These have been added to Schedule 1 as section 5.5.

17.4. The Directive’s definition of “waste” in Article 3(37) uses that in Article 3(1) of Directive 2008/98/EC on waste: “waste” means any substance or object which the holder discards or intends or is required to discard’. Please note that there is no reference to Article 2 of Directive 2008/98/EC which excludes certain specified wastes from the scope of that Directive: technical units treating any material which is waste according to Article 3(1) of 2008/98/EC are subject to IPPC if their capacity exceeds the relevant threshold, even if the material is covered by the waste Directive’s exclusions. The wastes concerned are listed in paragraph A3.1 of Appendix A to this consultation paper.

18. **Preservation of wood and wood products**

18.1. Point 6.10 of Annex I to the Directive adds wood preservation to the list of activities subject to IPPC. This means it must be regulated as a Part A activity. The draft regulations add this activity to section 6.6 (Timber Activities) of Schedule 1.

**Directive Chapter IV – waste incineration**

19. **Preamble**

19.1. Chapter IV and Annex VI of the IED maintain without generally significant change, the requirements of the waste incineration Directive, (with the small exception noted in Appendix A (paragraph A9) to this consultation paper). The proposed PPCR
will transpose those requirements, generally by direct write out, but on occasion through reference to the relevant Articles.

19.2. Note that, as under the current waste incineration Directive, the Chapter IV requirements apply to all waste incineration and co-incineration activities other than those specifically excluded by Article 42(2). There is no lower capacity threshold. The activities above the relevant threshold in point 5.2 of Annex I of the IED are additionally subject to Chapter II of the IED and that may possibly drive more stringent permit conditions. However the Chapter IV requirements are self-contained: they do not bring in any IPPC requirements from Chapter II such as the requirement to use BAT. The Department has already transposed the WID by adding Waste incineration activities to Schedule 1. This means that the general Part A permit requirements (including the use of BAT) apply to them. However, those WID installations which fall below the Chapter II thresholds are granted some concessions from the Chapter II requirements such as an exemption from having to undertake a site report and from having to apply to the chief inspector to surrender the permit.

Do you consider that applying BAT to WID installations is appropriate? If not why not?

20. PCB and PAH monitoring

20.1. Paragraph 2.1(c) of Part 6 of Annex VI of the Directive maintains the requirement of Article 11(2)(c) of the waste incineration Directive in respect of monitoring for heavy metals and furans. However, in transposing the waste incineration Directive, the words “dioxin-like polychlorinated biphenyls and poly-cyclic aromatic hydrocarbons” were added to this requirement and that remains the position under the current Schedule 11 (WID) to the PPCR. The Department propose to retain this requirement. Do you agree with this proposal? If not, why not?
Directive Chapter V – activities using solvents

21. Preamble

21.1. Chapter V and Annex VII of the Directive maintain without significant change the requirements of the current “solvent emissions” Directive. The proposed replacement Schedule 8 (SED) to the PPCR will transpose those requirements, largely through reference to the relevant Articles.

21.2. Please note that the Chapter V requirements are self-contained: they do not bring in any IPPC requirements from Chapter II. But where activities using solvents – even if they lie below the solvent consumption thresholds in Part 2 of Annex VII - are also covered by an activity description in Annex I of the industrial emissions Directive, the resulting IPPC requirements may possibly drive more stringent permit conditions.

22. Solvent activities

22.1. Article 4(1) of the Directive maintains an option available in the solvent emissions Directive by stating that ‘by way of derogation from the first sub-paragraph, Member States may set a procedure for the registration of installations covered only by Chapter V’. That Chapter contains the provisions of the current solvent emissions Directive virtually unchanged.

22.2. Solvent activities currently require a permit from the regulator, which in nearly all cases is the relevant district council. Of the 135 SED activities regulated by district councils, 110 are dry cleaners. Annual permit subsistence charges (for Financial year 2011-12) range from £146 pa for a dry cleaning installation (which pay reduced fees), to £702 for a standard installation assessed as “low risk” to £1,347 pa for a “high risk” standard installation.

22.3. DOE consider that the current permitting system is no less onerous for operators and regulators than a registration scheme would be. The requirements of the Chapter V of the IED would still apply to a registration scheme. The enforcing authority would still need to ensure compliance by undertaking inspections, which under the ‘polluter pays principle’ should be paid for by the operators in order to avoid the burden falling on the taxpayer (as is the case under the current arrangements).
22.4. With these considerations in mind, it is not clear how the introduction of a registration system would enable, in either the short or longer term, any savings to be made in regulators’ costs and so allow annual charges to be lower than those under the current permitting system. For the registration of new installations, it is possible that charges might be somewhat higher in the first year to reflect the possible need for verification of registration details, although operators would clearly be spared the costs associated with a permit application. A registration system would also remove the possibility of recovering costs arising from the need for permit variation if the nature of the operation changed. For these reasons the Department propose to retain the current system of permitting.

Do you agree with this proposal? If not, why not?

23. Maintaining BAT requirements for solvent activities

23.1. Solvent activities are currently regulated as “Part C” activities, meaning that they are subject to BAT-based requirements in respect of any emissions to air which are likely to be significant, whether or not they are of volatile organic compounds (VOCs). This goes beyond what is required by the current solvent emissions Directive and also by Chapter V of the IED: the use of BAT is mentioned only in relation to item 19 of the table in Part 2 of Annex VII of the Directive and in the context of the derogations provided by Article 59(2) and (3) of the Directive.

23.2. Initial indications from operators and regulators are that, in general, the BAT requirement does not add much or anything by way of compliance costs which would not in any case be necessary to meet the relevant solvent emission limit values. For the 110 dry cleaning installations, plainly likely to have no other significant emissions to air than VOCs, the BAT requirement adds no additional burden. Amongst some 25 other installations, the BAT requirement is assessed to cost some £2,993.

23.3. Further details are in Annex C of the draft impact assessment which accompanies this consultation paper. The removal of the BAT requirement could result in businesses taking less care in controlling emissions of some pollutants (mainly particulate matter, oxides of nitrogen, and carbon monoxide) other than solvents from the installations in question.
23.4. The proposed draft amending regulations would therefore retain BAT requirements from installations carrying out nothing but solvent activities.

Do you agree with this proposal? What are your views on the environmental consequences and compliance costs which may arise?

Directive Chapter VII - transitional arrangements

24. Timetable for permit applications

24.1. Operators of existing installations carrying out activities newly subject to IPPC need to be operating in compliance with a permit by 7 July 2015. Those activities are tabulated in Appendix A to this consultation paper (section A1) and installations carrying them out are referred to as “2015 installations”.

24.2. The NIEA may have to deal with some 25 applications and so we have to consider what can be done to avoid the NIEA becoming overwhelmed by last minute applications.

24.3. If a “2015 installation” has not received a permit by 7th July 2015, then its continued operation would constitute an offence under regulation 37(1) of the proposed PPC 2012 Regulations. Hence applications must be submitted and evaluated by the NIEA before the prescribed date as set out in Schedule 3 of the draft Regulations.

24.4. The Department could insert a statutory timetable into the regulations specifying when an application must be made. Please note that even without this incentive, operators should make every effort to make permit applications considerably before October 2014 in order to ensure that the permit is determined in advance of the 7th July 2015 deadline.

24.5. Alternatively the Department could deal with this informally through guidance advising operators of the timeframes within which they need to submit their application in order to have a determination prior to the prescribed date.

Do you agree to the issuing of a statutory timetable or do you think an informal approach would be better? Why?
Activities not subject to the industrial emissions Directive

25. “Legacy” activities

25.1. Part 1 of Schedule 1 to the PPCR lists industrial activities, with those in Part A subject to IPPC, whilst those in Part B and Part C are only subject to controls on emissions to air. As well as covering all the activities specified in Annex I of the Directive, Part A also includes 62 activity descriptions which have no foundation in EU requirements. They originate from the system of integrated pollution control which was set up under the Industrial Pollution Control Order (and which was influential upon the making of the IPPC Directive in 1996). For the purposes of this consultation they are referred to as “legacy activities”

25.2. An assessment of these legacy activities has been carried out. In summary, four categories have been identified:

25.2.1. There are 13 instances of “moribund” descriptions, meaning that no extant Part A permits contain them and that it is considered very unlikely that any instances of these activities un-associated with other Directive Annex I activities will arise in future. These descriptions are tabulated in Appendix B.

25.2.2. There are 24 instances of descriptions which are superfluous because the activity taking place is also described by Annex I of the IED and so a permit is needed in any case. These descriptions are separately tabulated in Appendix B.

25.2.3. There are 9 further descriptions where IPPC regulation is no longer considered necessary. There are no activities permitted under these activity descriptions in Northern Ireland and therefore this will have no operational effect. In the event of an installation starting to operate in Northern Ireland in the future, they would no longer require an integrated permit. In some cases the installations will be regulated under a Part B PPC permit for air emissions only or for installations discharging into a waterway, a discharge consent under the Water (Northern Ireland) Order. In some other cases the Department consider that no regulation is required. Further details on the particular activity descriptions is available in Appendix B.
25.2.4. There are other activities covered by the current PPCR and also proposed to be covered by the new PPCR which do not come from European Directives, but there are considered to be sound environmental protection reasons for maintaining Part A regulation.

25.3. The draft amending Regulations therefore contain amendments which would remove the descriptions tabulated in Appendix B.

**Do you consider that any of the descriptions proposed for deletion or adjustment should in fact be retained? If so, please provide reasons.**

25.4. Please note that the Climate Change Agreement (CCA) scheme\(^8\) relies upon the current Part A activity descriptions for defining the industry sectors for which CCAs are available. There are 40 sectors whose eligibility for CCAs is based on such processes. Our analysis suggests that, on this basis, the proposals to delete descriptions set out above would result in one sector (slag grinders – described in Section 3.1) no longer remaining eligible for a CCA and associated climate change levy discount. Additionally, there may be a number of facilities holding CCAs in a small number of sectors which may be at risk of losing eligibility. If these facilities do not also undertake another Part A activity, they would not be able to hold a CCA in the future.

26. **Mobile plant**

26.1. The PPCR currently require the application of IPPC to any mobile plant carrying out Part A activities. But the IED applies only to installations which, by the definition in its Article 3(3), are stationary. The Department considers that any activity listed in Annex I of the IED is capable of causing environmental damage and should be regulated regardless of whether it is carried out in mobile or stationary plant. Therefore the Department proposes to retain the current wording and maintain regulation for mobile plant.

**Do you agree with the proposal to retain IPPC requirements for mobile plant? If not, why not?**

\(^8\) See [http://www.decc.gov.uk/en/content/cms/emissions/ccas/ccas.aspx](http://www.decc.gov.uk/en/content/cms/emissions/ccas/ccas.aspx)
Consultation questions

27. Listed below are all the specific questions raised in this consultation paper and in the accompanying draft impact assessment. We would be grateful for responses to any or all of the questions, preferably supported by evidence drawn from practical experience. We would also be grateful to receive any more general questions or comments on the proposed transposition arrangements.

27.1. Please consider the draft Regulations as a whole and comment on any perceived deficiencies or uncertainties. (See paragraph 4.)

27.2. Are you content with the proposal not to transpose the option for a single permit to cover several parts of an installation operated by different operators? If not, can you demonstrate from a real example that allowing a permit to cover several parts of an installation operated by different operators will reduce overall regulatory burden whilst maintaining the environmental protection required by the Directive? (See paragraph 10.4.)

27.3. Do you agree with our proposed transposition of Article 7(c) concerning incidents and accidents? If not, why not? (See paragraph 11.2.)

27.4. Are you content with the proposed way of transposing the Article 9(2) option to continue to apply energy efficiency requirements to EU-Emissions Trading Scheme installations? (See paragraph 12.1.)

27.5. Do you currently envisage it being necessary to strengthen existing site condition reports? If so, in what way or ways, and at what cost? (See paragraph 15.3.)

27.6. Do you have views on how regulators can encourage the development and application of emerging techniques? (See paragraph 16.2.)

27.7. Do you have any comments about the application of BAT to all waste incineration and co-incineration activities which are below the capacity thresholds in Annex I of the Directive? (See paragraph 21.2.)
27.8. Do you agree with the proposal to retain obligatory PCB and PAH monitoring from waste incineration? If not, why not? (See paragraph 20.1.)

27.9. Do you agree with the proposal to retain BAT requirements for solvent activities? What are your views on the environmental consequences and compliance cost savings which may arise? (See paragraph 23.4.)

27.10. Do you consider that any of the “legacy” activity descriptions proposed in Appendix B for deletion or adjustment should in fact be retained? If so, please provide reasons. (See paragraph 25.3.)

27.11. Do you agree with the proposal to maintain IPPC requirements for mobile plant? (See paragraph 26.1.)
**APPENDICES**

**APPENDIX A - Other points to note about the draft amending Regulations**

**A1. Activities newly subject to IPPC – the “2015 installations”**

A1.1. Article 82(2) lists, by reference to the Directive’s Annex I, activities which need to be permitted only from 7 July 2015 if they are carried out at installations which were in operation before 7 January 2013. Such installations are referred to as the “2015 installations” in the definition proposed in regulation # of the amending Regulations. The activity descriptions concerned would be, in Part 1 of Schedule 1 to the PPCR as proposed to be amended, as follows:

<table>
<thead>
<tr>
<th>Directive Annex I point:</th>
<th>PPC Schedule 1 (as amended), Section:</th>
<th>Affecting installations carrying out:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.4(b)</td>
<td>1.2 Part A (d)</td>
<td>gasification insofar as fuels other than coal are concerned</td>
</tr>
<tr>
<td>4.1-4.6</td>
<td>4.1 – 4.4 and 4.6 Part A</td>
<td>chemical production but only insofar as any biological processing activities are not already permitted.</td>
</tr>
<tr>
<td>5.1</td>
<td>5.3 Part A (a)(i)-(iv) and (xi)</td>
<td>only one or more of the following treatments of hazardous waste: biological treatment; physico-chemical treatment; blending or mixing or repackaging prior to submission to any of the other activities listed in Section 5.3 Part A(1)(a) or in Part A(1) of Section 5.1; or surface impoundment.</td>
</tr>
<tr>
<td>5.3(a)(iii) to (v)</td>
<td>5.4 Part A (a)(iii) to (v)</td>
<td>only one or more of the following disposal activities for non-hazardous waste: pre-treatment waste for incineration or co-incineration; treatment of slags and ashes; and treatment in shredders of metal waste.</td>
</tr>
<tr>
<td>5.3(b)</td>
<td>5.4 Part A (b)</td>
<td>recovery or a mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day (or 100 tonnes per day if the only waste treatment activity is anaerobic digestion) involving one or more of the following activities and excluding activities covered by Directive 91/271/EEC: biological treatment; pre-treatment of waste for incineration or co-incineration; treatment of slags and ashes; or treatment in shredders of metal waste.</td>
</tr>
<tr>
<td>5.5</td>
<td>5.5 Part A (a)-</td>
<td>temporary storage of hazardous waste with capacity above 50 tonnes (excluding on the site where the waste is generated).</td>
</tr>
<tr>
<td>5.6</td>
<td>5.5 Part A (b)</td>
<td>underground storage of hazardous waste with a total capacity exceeding 50 tonnes.</td>
</tr>
<tr>
<td>6.1(c)</td>
<td>6.1 Part A (a)</td>
<td>manufacturing board if not already permitted.</td>
</tr>
<tr>
<td>6.4(b)</td>
<td>6.8 Part A(d)(iii)</td>
<td>food production from mixed animal and vegetable materials if not already permitted.</td>
</tr>
<tr>
<td>6.10</td>
<td>6.6 Part A (a)</td>
<td>wood preservation.</td>
</tr>
</tbody>
</table>
A1.2. Note that, for several of the activities tabulated above, some installations may already have IPPC permits as a result of interpretations already in place within Northern Ireland, or because the installations concerned are already carrying out other Part A activities.

A2. IPPC “general principle” on waste prevention

A2.1. Article 11(e) modifies the IPPC Directive’s general principle concerning waste from IPPC installations so as to align with Directive 2008/98/EC. Whereas they previously had to be operated such that:

‘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’,

under the industrial emissions Directive, installations must be operated such that:

‘where waste is generated, it is, in order of priority and in accordance with Directive 2008/98/EC, prepared for re use, recycled, recovered or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any impact on the environment’.

A3. Wastes not excluded from subjection to the Directive

A3.1. As described in paragraph 17.1 of this document, wastes excluded from the scope of the Waste Directive (2008/98/EC) by its Article 2 are not excluded from the relevant requirements of the IED. Those requirements are in Chapter II – through the inclusion of waste management activities in Annex I – and in Chapter IV on waste incineration and co-incineration (although Article 42 of chapter IV lists specific wastes to which the chapter does not apply). The wastes concerned are:

- In all cases:
  (a) gaseous effluents emitted into the atmosphere;
  (b) land (in situ) including unexcavated contaminated soil and buildings permanently connected with land;
  (c) uncontaminated soil and other naturally occurring material excavated in the course of construction activities where it is certain that the material will be used for the purposes of construction in its natural state on the site from which it was excavated;
  (d) radioactive waste;
  (e) decommissioned explosives; and
  (f) faecal matter, if not covered by paragraph (b), straw and other natural non-hazardous agricultural or forestry material used in farming, forestry or for the production of energy from such biomass through processes or methods which do not harm the environment or endanger human health.

- To the extent that they are covered by other EU legislation:
  (a) waste waters;
(b) animal by-products including processed products covered by Regulation (EC) No 1774/2002, except those which are destined for incineration, landfilling or use in a biogas or composting plant;
(c) carcasses of animals that have died other than by being slaughtered, including animals killed to eradicate epizootic diseases, and that are disposed of in accordance with Regulation (EC) No 1774/2002; and
(d) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries covered by Directive 2006/21/EC on the management of waste from extractive industries.

- Without prejudice to obligations under other relevant Community legislation, sediments relocated inside surface waters for the purpose of managing waters and waterways or of preventing floods or mitigating the effects of floods and droughts or land reclamation if it is proved that the sediments are non-hazardous.

A4. Site closure

A4.1. Article 22(3) requires the operator to remediate contamination identified as such by reference to the baseline report, although no deadline for remediation is given. Article 22(4) applies where the operator has not been required to produce a baseline report (for example, because the activity was deemed not to involve relevant hazardous substances) and similarly requires remediation to deal with contamination resulting from the permitted activities.

A4.2. These Article 22(3) and (4) requirements are already embodied in current regulatory practice in Northern Ireland. Regulation 11 (Conditions of permits: general principles) states that when the enforcing authority is determining the conditions of the permit to ensure that “the necessary measures are taken to prevent accidents and limit their consequences, and that, upon the definitive cessation of activities, the necessary assessments and measures are taken to avoid any pollution risk and to return the site of the installation or mobile plant to a satisfactory state. Regulation 22(3) of the PPCR states that ‘an operator who has ceased or intends to cease operating all of the installations and mobile plant covered by the permit, may apply to the chief inspector to surrender the whole permit’. Paragraph 5 of regulation 22 applies in respect of the application and states that ‘If the chief inspector is satisfied, in relation to the report site, that such steps (if any) as are appropriate to avoid any pollution risk resulting from the operation of the Part A installation or Part A mobile plant, and to return the site to a satisfactory state have been taken by the operator, the chief inspector shall accept the surrender and give the operator notice in writing of the determination and the permit shall cease to have effect. So the permit remains in force – and with it the enforceable obligation to comply with all its conditions and to pay annual subsistence charges – until the regulator is satisfied that any necessary remediation is complete. We therefore consider that the current provisions in regulation 11 and 22 effectively transpose Article 22 (3) and (4).

A5. Chemical industry – production on an ‘industrial scale’
A5.1. Chapter 4 of Part 1 of Schedule 1 to the PPCR currently has an interpretation that “producing” means producing in a chemical plant by chemical processing for commercial purposes substances or groups of substances listed [in Chapter 4]. The draft Regulations omit this in favour of direct copy out of the corresponding interpretation at the head of Point 4 in Annex I of the Directive: ‘production …. means the production on an industrial scale by chemical or biological processing of substances or groups of substances listed [in Point 4].’ Existing guidance\(^9\) from the European Commission on the interpretation of “production on an industrial scale” remains relevant.

A6.Disposal or recovery of non-hazardous waste – exclusion of activities covered by the urban waste water treatment Directive

A6.1. Point 5.3(a) and (b) of Annex I of the IED each exclude activities covered by the urban waste water treatment Directive\(^10\). Our view is that this excludes all activities conducted at sewage works for the treatment of ‘domestic waste water or the mixture of domestic waste water with industrial waste water and/or run-off rain water\(^11\)’ and ‘residual sludge, whether treated or untreated, from urban waste water treatment plants\(^12\),’ so long as they are dedicated to that treatment. Anaerobic digestion plants used for sludge treatment will therefore be covered by the exclusion, unless those plants also treat other waste material not derived from the sewage treatment process. However, the European Commission may express a view on this issue.

A7.Installations producing foodstuffs with both animal and vegetable ingredients

A7.1. Point 6.4(b)(iii) of Annex I clarifies how the threshold for such installations must be determined. What is prescribed is very similar to the approach the NIEA already takes. The draft impact assessment addresses the consequences.

A7.2. Point 6.4 (b) (ii) changes the vegetable raw materials production capacity threshold for finished product from 300 tonnes per day based on the average value on a quarterly basis to 300 tonnes per day or 600 tonnes per day where the installation operates for a period of no more than 90 consecutive days in any year. The removal of the “quarterly basis” criteria may bring some additional installations in Northern Ireland into IPPC regulation.

A8.Definition of poultry

\(^9\) At http://ec.europa.eu/environment/air/pollutants/stationary/ippc/general_guidance.htm#5

\(^10\) 91/271/EEC .

\(^11\) The definition of “urban waste water” in Article 2(1) of the urban waste water treatment Directive.

\(^12\) The definition of “sludge” in Article 2(10) of the urban waste water treatment Directive.
A8.1. Under Article 3(23) of the IED, “poultry” is defined, by reference to other EU legislation\(^{13}\), as ‘fowl, turkeys, guinea fowl, ducks, geese, quails, pigeons, pheasants and partridges reared or kept in captivity for breeding, the production of meat or eggs for consumption, or re-stocking supplies of game’. The inclusion of that definition plainly has no consequences for the current application of IPPC to the rearing of chicken laying hens and broilers, turkeys, ducks or Guinea fowls, where there are more than 40,000 places in a technical unit. But it is necessary to consider whether the game birds mentioned in this definition are subject to IPPC through point 6.6(a) of Annex I of the IED.

A8.2. Initial investigations indicate that in most instances of the rearing of game, a combination of an exceptionally short season (typically some seven weeks in late spring/early summer), stocking densities that are significantly lower than any covered by animal welfare recommendations, and limited access to housing which is in nearly all cases only temporary in nature, make it unlikely that any significant environmental pollution would result. Defra and the Welsh Government have therefore taken the view that only those game bird farms which are similar in nature (in terms of length of rearing season, stocking density, and nature of housing) to poultry farms already regulated by the Environment Agency as Part A installations, may become subject to the industrial emissions Directive. This is largely a moot point as there are no game-bird farms of a sufficient scale in Northern Ireland to breach the 40,000 bird threshold listed in Annex 1 of the IED.

A9. Waste incineration provisions

A9.1. Article 42(1) removes the waste incineration provisions from gasification and pyrolysis plants ‘if the gases resulting from this thermal treatment of waste are purified to such an extent that they are no longer a waste prior to their incineration and they can cause emissions no higher than those resulting from the burning of natural gas’. It should be noted that such plants may still be subject to the IPPC requirements in Chapter II of the IED if the activity they carry out falls within Annex I – for example, point 1.1 (combustion with a rated thermal input of 50 MW or more), 1.4(b) (gasification in an installation with a rated thermal input of 20 MW or more) or points 5.1(a) or 5.3(a)(ii) (physico-chemical treatment of waste).

A10. Large combustion plants – transitional national plan

A10.1. The establishment of a transitional national plan for the United Kingdom is being taken forward separately by Defra\(^{14}\), in consultation with the devolved administrations in Wales, Northern Ireland and Scotland.

\(^{13}\) Point 1 of Article 2 of Council Directive 90/539/EEC.

\(^{14}\) A letter to operators participating in the current National Emission Reduction Plan and to representatives other large combustion plant interests was sent by Defra on 28 December, 2011. This is available at http://www.defra.gov.uk/environment/quality/industrial/eu-international/lcpd/ under the heading “Recent developments”. 

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A11. **Large combustion plants – limited life time derogation**

A11.1. Operators of existing large combustion plants which qualify for the derogation provided by Article 33 are reminded that they have until January 2014 to provide a written declaration to the NIEA of their intention to take it.

A12. **Large combustion plants – aggregation rules**

A12.1. Article 29(3) changes the aggregation rules so that plants with a rated thermal input below 15 MW shall not be considered when calculating the total rated thermal input of a candidate large combustion plant. However, it should be noted that such plants will still need to be taken into account by the regulator when determining the aggregate rated thermal input to establish whether a combustion plant has a rated thermal input of 50 MW or more and so subject to the IPPC requirements of Chapter II of the Directive, in accordance with the first introductory sentence to Annex I.

A13. **Transitional arrangements**

A13.1. Much of the material in the IED is substantively unchanged from that in the component Directives. Nevertheless, Article 80 of the Directive lists an array of Articles and parts of Annexes which, for various reasons, have to be transposed (or confirmed as already transposed) by Member States. The transposition deadline in January 2013 and the transposed material has to be applied from the same date. The draft amending Regulations, taken with the relevant unchanged material in the PPCR, are considered to achieve that.

A13.2. The Directive recognises the need for a period of transition for installations already in existence at 7 January 2013. Under Article 82(1), existing installations carrying out any of the activities listed in Annex I of the IPPC Directive – that is to say, those (other than “legacy” activities) described in Part A of Part 1 of PPCR Schedule 1 – have until 7 January 2014 to meet any new requirements arising from the transposition.

A13.3. The Department consider that few, if any, changes to current permits and regulatory practice will be needed within that transition period. The periodic reconsideration of permits which will be required under Article 21 of the IED will in any case provide a means of identifying the need for and making any adjustments. If the regulator identifies any particular cases which need more urgent attention, the existing PPCR provisions in respect of permit variation will be sufficient to deal with them.

A13.4. A consequence of the transitional arrangements for existing IPPC installations is that the current PPCR, with its references to Articles of the IPPC Directive – will need to remain in force until 7 January 2014 to cover the transitional period. But a replacement is needed from January 2013 to achieve transposition and to cover

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15 That is to say, already in operation by 7 January 2013 or for which a permit application has been made by that date, provided the installation is put into operation within a year of that date.
installations which are new after that date. For that reason, the PPC Regulations 2003 will not be revoked until 7th January 2014.

A13.5. Article 82(2) of the Directive deals with the additional activities which it has placed under IPPC through inclusion in Annex I of the Directive. These are tabulated in paragraph A1 of this Appendix, installations which were in operation before 7 January 2013\(^{16}\) - referred to in this consultation paper and the draft amending Regulations as “2015 installations” - have until 7 July 2015 to be operating in accordance with a permit for which the operator will need to apply according to the procedure in the current PPCR.

A13.6. Article 82(3) provides that the requirements of Chapter III apply to existing large combustion plants only from 1 January 2016. For that reason Schedule 9 (LCP) only applies to those LCP plant from that date.

A13.7. Article 82(4) applies Chapter III from 7 January 2013 to any large combustion plant not in operation or the subject of a permit application by that date – hence the proposed Schedule LCP will apply to those plant from that date. It should be noted that Chapter II requirements will apply also.

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\(^{16}\) Note that there is no provision in Article 82(2) for installations for which a permit has been applied for before that date.
APPENDIX B – Changes To Schedule 1 (ACTIVITIES)

DELETED– “SUPERFLUOUS ACTIVITIES”

<table>
<thead>
<tr>
<th>PPC Regulations Schedule 1 Part A of section</th>
<th>PPC Regulations Text</th>
<th>Change</th>
<th>No installations in NI</th>
<th>Reason for change</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.2 (b)</td>
<td>Reforming natural gas.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>1.2 (f)</td>
<td>Purifying or refining any product of any of the activities falling within paragraphs (a) to (e) or converting it into a different product.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>1.2 (h) : (iv)</td>
<td>The loading, unloading or other handling of, the storage of, or the physical, chemical or thermal treatment of – (iv) where related to another activity described in this paragraph, any associated gas or condensate;</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>1.2 (k)</td>
<td>Odorising natural gas or liquefied petroleum gas where that activity is related to a Part A activity.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>2.2 (c)</td>
<td>Refining any non-ferrous metal or alloy, other than the electrolytic refining of copper, except where the activity is related to an activity described in paragraph (a) or (c) of Part B, or paragraph (c) of Part C of this Section.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>2.2 (d) (i)</td>
<td>Producing, melting or recovering by chemicals means or by the use of heat, lead or any lead alloy, if – the activity may result in the release into the air of lead; and</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>2.2 (d) (ii)</td>
<td>Producing, melting or recovering by chemicals means or by the use of heat, lead or any lead alloy, if – in the case of lead alloy, the percentage by weight of lead in the alloy in molten form is more than 23 per cent if the alloy contains copper and 2 per cent in other cases.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>2.2 (e)</td>
<td>Recovering any of the following elements if the activity may result in their release into the air: gallium; indium; palladium; tellurium; thallium.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>2.2 (h)</td>
<td>Manufacturing or repairing involving the use of beryllium or selenium or an alloy containing one or both of those metals if the activity may result in the release into the air of any of the substances listed in paragraph 12 of Part 2 to this Schedule; but an activity does not fall within this paragraph by reason of it involving an alloy that contains beryllium if that alloy in molten form contains less than 0.1 per cent by weight of beryllium and the activity falls within paragraph (a) or (c) of Part B of this Section.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
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<tr>
<td>2.2(i)</td>
<td>Pelletising, calcining, roasting or sintering any non-ferrous metal ore or any mixture of such ore and other materials.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>3.1(b) (ii)</td>
<td>Producing lime – where the activity is likely to involve in any period of 12 months of 5,000 tonnes or more of calcium carbonate or calcium magnesium carbonate or, in aggregate, of both.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>4.1(b)</td>
<td>Producing any other organic compounds not described in paragraph (a).</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>4.1(c)</td>
<td>Polymerising or co-polymerising any unsaturated hydrocarbon or vinyl chloride (other than a pre-formulated resin or pre-formulated gel coat which contains any unsaturated hydrocarbon) which is likely to involve, in any period of 12 months, the polymerisation or co-polymerisation of 50 tonnes or more of any of those materials or, in aggregate, of any combination of those materials.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>4.1(d)</td>
<td>Any activity involving the use in any period of 12 months of one tonne or more of toluene di-isocyanate or other di-isocyanate of comparable volatility or, where partly polymerised, the use of partly polymerised di-isocyanates or prepolymers containing one tonne or more of those monomers, if the activity may result in a release into the air which contains such a di-isocyanate monomer.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>4.1(f) (ii)</td>
<td>Recovering – pyridine or any substituted pyridine.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>Paragraph</td>
<td>Description</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
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<tr>
<td>4.1(g)</td>
<td>Recovering or purifying acrylic acid, substituted acrylic acid or any ester of acrylic acid or of substituted acrylic acid.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>4.2(c)</td>
<td>Unless falling within another Section of this Schedule, any manufacturing activity involving the use of hydrogen cyanide or hydrogen sulphide.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>4.2(g) (iii)</td>
<td>Unless carried out as part of any other activity falling within this Schedule – purifying phosphoric acid.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>4.3(b)</td>
<td>Converting chemical fertilisers into granules.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>4.7(a)</td>
<td>Unless falling within paragraph (a) of Part A of Section 6.7 (Activities Involving Rubber), any manufacturing activity which may result in the release of carbon disulphide into the air.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>5.4 (b)</td>
<td>Cleaning or regenerating carbon, charcoal or ion exchange resins by removing matter which is, or includes, any substance listed in paragraphs 12 to 14 of Part 2 of this Schedule.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>5.5 (a)</td>
<td>Making solid fuel (other than charcoal) from waste by any process involving the use of heat.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>6.1 (c)</td>
<td>Any activity associated with making paper pulp or paper, including activities connected with the recycling of paper such as de-inking, if the activity may result in the release into water of any substance listed in paragraph 13 of Part 2 of this Schedule in a quantity which, in any period of 12 months, is greater than the background quantity by more than the amount specified in that paragraph in relation to that substance.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>6.4 (c)</td>
<td>Treating textiles if the activity may result in the release into water of any substance listed in paragraph 13 of Part 2 of this Schedule in a quantity which, in any period of 12 months, is greater than the background quantity by more than the amount specified in that paragraph in relation to that substance.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>6.4 (c)</td>
<td>Any activity associated with making paper pulp or paper, including activities connected with the recycling of paper such as de-inking, if the activity may result in the release into water of any substance listed in paragraph 13 of Part 2 of this Schedule.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
</tr>
<tr>
<td>Schedule in a quantity which, in any period of 12 months, is greater than the background quantity by more than the amount specified in that paragraph in relation to that substance.</td>
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<tr>
<td>6.8 (f) Processing, storing or drying by the application of heat of the whole or part of any dead animal or any vegetable matter (other than the treatment of effluent so as to permit its discharge into waterways, underground strata or into a sewer unless the treatment involves the drying of any material with a view to its use as animal feedstuff) if – (i) the processing, storing or drying does not fall within another Section of this Schedule or paragraph I of this Part of this Section and is not an exempt activity; and (ii) it may result in the release into water of any substance listed in paragraph 13 of Part 2 of this Schedule in a quantity which, in any period of 12 months, is greater than the background quantity by more than the amount specified in relation to the substance in that paragraph.</td>
<td></td>
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<tr>
<td>Deletion</td>
<td>NIL</td>
<td>Superfluous</td>
<td></td>
<td></td>
</tr>
<tr>
<td>PPC Regulations Schedule 1 Part A of Section</td>
<td>PPC Regulations Text</td>
<td>Change</td>
<td>No installations in NI</td>
<td>Reason for change</td>
</tr>
<tr>
<td>---------------------------------------------</td>
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</tr>
<tr>
<td>1.2 (e)</td>
<td>Producing gas from oil or other carbonaceous material or from mixtures thereof, other than from sewage, unless the production is carried out as part of an activity which is a combustion activity (whether or not that combustion activity is described in Section 1.1).</td>
<td>Deletion</td>
<td>NIL</td>
<td>Moribund</td>
</tr>
<tr>
<td>1.2 (h) :(iii)</td>
<td>The loading, unloading or other handling of, the storage of, or the physical, chemical or thermal treatment of – (iii) crude shale oil;</td>
<td>Deletion</td>
<td>???</td>
<td>Moribund</td>
</tr>
<tr>
<td>1.2 (h) :(v)</td>
<td>The loading, unloading or other handling of, the storage of, or the physical, chemical or thermal treatment of – (v) emulsified hydrocarbons intended for use as a fuel.</td>
<td>NIL</td>
<td>Moribund</td>
<td></td>
</tr>
<tr>
<td>1.2 (i)</td>
<td>The further refining, conversion or use (otherwise than as a fuel or solvent) of the product of any activity falling within paragraphs (g) or (h) in the manufacture of a chemical.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Moribund</td>
</tr>
<tr>
<td>2.2 (g)</td>
<td>Mining zinc or tin bearing ores where the activity may result in the release into water of cadmium or any compound of cadmium in a concentration which is greater than the background concentration.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Moribund</td>
</tr>
<tr>
<td>3.2(c)</td>
<td>Destroying a railway vehicle by burning if asbestos has been incorporated in, or sprayed on to, its structure.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Moribund</td>
</tr>
<tr>
<td>4.1(f) (i)</td>
<td>Recovering – carbon disulphide;</td>
<td>Deletion</td>
<td>NIL</td>
<td>Moribund</td>
</tr>
<tr>
<td>4.2(g) (i)</td>
<td>Unless carried out as part of any other activity falling within this Schedule – recovering, concentrating or distilling sulphuric acid or oleum;</td>
<td>Deletion</td>
<td>NIL</td>
<td>Moribund</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
<td>Deletion</td>
<td>NIL</td>
<td>Moribund</td>
</tr>
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</tr>
<tr>
<td>4.2(g) (ii)</td>
<td>Unless carried out as part of any other activity falling within this Schedule – recovering nitric acid;</td>
<td>Deletion</td>
<td>NIL</td>
<td>Moribund</td>
</tr>
<tr>
<td>4.2(i)</td>
<td>Unless carried out as part of any other activity falling within this Schedule, recovering ammonia.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Moribund</td>
</tr>
<tr>
<td>4.2(j)</td>
<td>Extracting any magnesium compound from sea water.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Moribund</td>
</tr>
<tr>
<td>4.5(b)</td>
<td>Formulating such products if this may result in the release into water of any substance listed in paragraph 13 of Part 2 of this Schedule in a quantity which, in any period of 12 months, is greater than the background quantity by more than the amount specified in that paragraph for that substance.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Moribund</td>
</tr>
<tr>
<td>6.3 (a)(ii)</td>
<td>heating tar for the manufacture of electrodes or carbon-based refractory materials, where the carrying out of the activity by the person concerned at the location in question is likely to involve the use in any period of 12 months of 5 tonnes or more of tar or of bitumen or, in aggregate, of both.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Moribund</td>
</tr>
</tbody>
</table>
## DELETED LEGACY ACTIVITIES – “REMOVAL FROM IPPC”

<table>
<thead>
<tr>
<th>PPC Regs schedule 1 section</th>
<th>PPC Regulations Text</th>
<th>Change</th>
<th># affected installations</th>
<th>Reason for change</th>
<th>Alternative Regulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1(a)</td>
<td>Producing cement clinker or producing and grinding cement clinker.</td>
<td>Modification of (a) to read “Producing cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or in other kilns with a production capacity exceeding 50 tonnes per day.”</td>
<td>NIL</td>
<td>Match IED thresholds</td>
<td>None</td>
</tr>
<tr>
<td>3.1 (c)</td>
<td>Grinding cement clinker not associated with production of cement clinker.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Not in IED</td>
<td>Part B (controls on air emissions only)</td>
</tr>
<tr>
<td>3.1 (d)</td>
<td>Unless falling within Part A of Section 2.1 or 2.2, grinding metallurgical slag in plant with a grinding capacity of more than 250,000 tonnes in any period of 12 months.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Not in IED</td>
<td>Part B (controls on air emissions only)</td>
</tr>
<tr>
<td>3.3(a)</td>
<td>Manufacturing glass fibre.</td>
<td>Addition of 20 te per day threshold to glass fibre</td>
<td>NIL</td>
<td>Match IED thresholds</td>
<td>None</td>
</tr>
<tr>
<td>3.3(b)</td>
<td>Manufacturing glass frit or enamel frit and its use in any activity where that activity is related to its manufacture and the aggregate quantity of such substances manufactured in any period of 12 months is likely to be 100 tonnes or more.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Not in IED</td>
<td>Part B (controls on air emissions only)</td>
</tr>
<tr>
<td>3.4(b)</td>
<td>Unless falling within Part A of Section 3.3, producing any fibre from any mineral.</td>
<td>Deletion</td>
<td>NIL</td>
<td>Not in IED</td>
<td>None</td>
</tr>
<tr>
<td>4.1(e)</td>
<td>The flame bonding of polyurethane foams or</td>
<td>Demoted to Part B</td>
<td>NIL</td>
<td>Moved to Part B</td>
<td>Part B (controls on air emissions only)</td>
</tr>
<tr>
<td>Activity</td>
<td>Deletion</td>
<td>NIL</td>
<td>Organo-tin compounds no longer used.</td>
<td>None</td>
<td></td>
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</tr>
<tr>
<td>6.4 (a)</td>
<td>Applying or removing organo-tin compounds</td>
<td>Deletion</td>
<td>NIL</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td></td>
<td>polyurethane elastomers.</td>
<td>activity with air emission controls only</td>
<td>emissions only)</td>
<td>None</td>
<td></td>
</tr>
</tbody>
</table>