Subsidiary Legislation made under s. 18 of the Environment Act 2005 and section 23 of the Interpretation and General Clauses Act.

POLLUTION PREVENTION AND CONTROL REGULATIONS 2013

(LN. 2013/042)

Commencement **28.2.2013**

Transposing:
Directive 2010/75/EU
Directive 2013/59/EURATOM

EU Legislation/International Agreements involved:

POLLUTION PREVENTION AND CONTROL REGULATIONS 2013

This version is out of date

ARRANGEMENT OF REGULATIONS.

Regulation

SPECIAL PROVISIONS FOR WASTE INCINERATION INSTALLATIONS AND WASTE CO-INCINERATION INSTALLATIONS

SCHEDULE 12
THIS SCHEDULE REPRODUCES ANNEX VI TO THE INDUSTRIAL EMISSIONS DIRECTIVE

SCHEDULE 13
THIS SCHEDULE REPRODUCES ANNEX VIII TO THE INDUSTRIAL EMISSIONS DIRECTIVE

SCHEDULE 14
SAVINGS AND TRANSITIONAL PROVISIONS

SCHEDULE 15
CONSEQUENTIAL MODIFICATIONS

SCHEDULE 16
REVOCATIONS

POLLUTION PREVENTION AND CONTROL REGULATIONS 2013

Subsidiary 2013/042

In exercise of the powers conferred upon it by section 18 of the Environment Act 2005 and section 23 of the Interpretation and General Clauses Act and for the purpose of transposing into the law of Gibraltar Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), the Government has made the following Regulations−

PART I

GENERAL

Title and commencement.

1. These Regulations may be cited as the Pollution Prevention and Control Regulations 2013 and come into operation on the day of publication.

Interpretation: general.

2.(1) In these Regulations−

"abatement equipment" means, in relation to solvent emission activities, equipment used to abate the effects of emissions of volatile organic compounds,

"Agency" means the Environmental Agency Limited;

"baseline report" means a report which contains the information necessary to determine the state of soil and groundwater contamination so as to make a quantified comparison with the state upon the definitive cessation of activities, as described in paragraph 1(3) of Schedule 4,

"battery" means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or one or more secondary battery cells (rechargeable; an accumulator), but does not include any battery excluded from the scope of the Batteries Directive by Article 2(2) of that Directive,

"change in operation" means a change in the nature or functioning of an installation, or an extension of the installation, which may have consequences for the environment (see also the definition of "substantial change in operation"),

"combustion plant" means any technical apparatus in which fuels are oxidised in order to use the heat thus generated;

"emission" means in relation to−

(a) installations, the direct or indirect release of a substance, a vibration, heat or noise from individual or diffuse sources in an installation into the air, water or land, and

(b) a solvent emission activity−

(i) the direct release of a substance in waste gases into the air from individual or diffuse sources forming part of that activity, and

(ii) the direct or indirect release of fugitive emissions,

"emission limit value" means the mass, expressed in terms of specific parameters, concentration or level, or both, of an emission, which may not be exceeded during one or more periods of time,

"enforcement notice" has the same meaning as in regulation 52,

"environmental inspection" means all actions necessary to check and promote compliance of installations with permit conditions and, where necessary, to monitor the environmental impact of activities carried out under a permit, including as required−

(a) site visits,

(b) monitoring of emissions and checks of internal reports and follow-up documents,

(c) verification of self-monitoring,

(d) checking of techniques used, and

(e) checking of the adequacy of environmental management of the installation,

"environmental inspection plan" has the same meaning as in regulation 50,

"environmental quality standard" means the set of requirements which must be fulfilled at a given time by a given environment or particular part thereof, as set out in European Union legislation,

"fuel" means any solid, liquid or gaseous combustible material;

"fugitive emissions" means, in relation to solvent emission activities, any emission of volatile organic compounds not in waste gases into air, soil or water as well as solvents contained in any products, unless otherwise stated in Part 2 of Schedule 2;

"groundwater" means groundwater as defined in point 2 of Article 2 of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, as the same may be amended from time to time;

"hazardous substance" means substances or mixtures as defined in Article 3 of the Hazardous Substances Regulation,

"hazardous waste" means waste as defined in point 2 of Article 3 of the Waste Framework Directive,

"industrial battery" means any battery or battery pack which is−

(a) designed exclusively for industrial or professional uses,

(b) used as a source of power for propulsion in an electric vehicle,

(c) unsealed, but is not an automotive battery, or

(d) sealed, but is not a portable battery,

"installation" means−

(a) a stationary technical unit where one or more activities listed in Schedule 1 or Part 2 of Schedule 2 are carried out, and

(b) any other location on the same site where any other directly associated activities are carried out,

and references to an installation include references to part of an installation,

"landfill" has the same meaning as in Article 2(g) of Council Directive 1999/31/EC on the landfill of waste,

"operator" means, in relation to an installation, the person who has control over the operation of the installation (see also subregulation (2)),

"organic compound" means any compound containing at least the element carbon and one or more of hydrogen, halogens, oxygen, sulphur, phosphorus, silicon or nitrogen, with the exception of carbon oxides and inorganic carbonates and bicarbonates,

"permit" means, unless the context requires otherwise, a permit granted by the Agency in accordance with these Regulations,

"pollution" means emissions as a result of human activity which may−

(a) be harmful to human health or the quality of the environment,

(b) cause offence to any human sense,

(c) result in damage to material property, or

(d) impair or interfere with amenities and other legitimate uses of the environment,

and "pollutant" means any substance, vibration, heat or noise released as a result of such an emission which may have such an effect,

"portable battery" means any battery or battery pack which is sealed, can be hand-carried by an average natural person without difficulty, and is neither an automotive battery nor an industrial battery,

"prescribed fee" means a fee prescribed under regulation 71,

"register" means the register maintained by the Agency under regulation 61,

"reduction scheme" means a reduction scheme which complies with Part 6 of Schedule 2,

"revocation notice" has the meaning given by regulation 47,

"rule-making authority" means the Minister or the Agency,

"separately collected waste" means waste which has been collected and transported;

"site report" means a report as described in paragraph 1(2) of Schedule 4,

"soil" means the top layer of the Earth's crust situated between the bedrock and the surface, and which is composed of mineral particles, organic matter, water, air and living organisms;

"solvents installation" has the same meaning as in regulation 12, and an activity carried out at such an installation is referred to as a "solvent emission activity",

"specified waste management activity" means an activity comprising–

(a) the disposal of waste in a landfill,

(b) the disposal or recovery of waste falling within points 5.2 to 5.4 and 5.6 of Schedule 1, or

(c) the disposal or recovery of waste in a waste incineration installation,

"stack" means a structure containing one or more flues providing a passage for waste gases in order to discharge them into the air;

"standard installation" means an installation described in standard rules, and cognate expressions are construed accordingly,

"standard rules" has the meaning given by regulation 34,

"standard rules condition" has the meaning given by regulation 35,

"standard rules permit" means a permit containing one or more standard rules conditions and, in relation to any set of standard rules, means a permit containing a standard rules condition in respect of those rules,

"start up and shut down operations" means, in relation to solvent emission activities, operations excluding regular oscillating activity phases whilst bringing an activity, an equipment item or a tank into or out of service or into or out of an idling state,

"substance" includes any chemical element and its compounds with the exception of–

(a) radioactive substances within the meaning of Council Directive 96/29/Euratom laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation,

(b) genetically modified organisms within the meaning of Directive 2001/18/EC on the deliberate release into the

environment of genetically modified organisms and repealing Council Directive 90/220/EEC, and

(c) genetically modified micro-organisms within the meaning of Directive 2009/41/EC of the European Parliament and of the Council on the contained use of genetically modified micro-organisms (recast),

"substantial change in operation" means a change in operation which the Agency considers may have a significant negative effect on human health or the environment, or which in itself constitutes the carrying out of an activity described in Schedule 1 or Part 2 of Schedule 2 that exceeds any threshold capacity specified in those Schedules, and includes the–

(a) carrying out of solvent emissions activity–

(i) at a small solvents installation, where there is a change of the nominal capacity leading to an increase in emissions of volatile organic compounds of more than 25%,

(ii) at any other solvents installation, where a change of the nominal capacity leads to an increase in emissions of volatile organic compounds of more than 10%,

and for that purpose–

"input" has the same meaning as in Part 10 of Schedule 2 (see the definition of "consumption"),

"nominal capacity" means the maximum mass input of organic solvents at the installation averaged over one day, if that installation is operated at its design output under conditions other than start up and shut down operations or relating to the maintenance of equipment, and

"small solvents installation" means a solvents installation–

(i) which falls within the lower threshold band of items 1, 3, 4, 5, 8, 10, 13, 16 or 17 of the table in Part 3 of Schedule 2, or

(ii) for the activities which fall under one of the other items of that Part and which has a solvent consumption of less than 10 tonnes per year,

(b) extension of the rated thermal input of a combustion plant as defined in Article 3(25) of the Industrial Emissions Directive by 50 megawatts or more,

(c) incineration or co-incineration for the first time of hazardous waste,

"suspension notice" has the meaning given by regulation 53(1) and (4),

"the public" means one or more natural or legal persons and, in accordance with any law or practice, their associations, organisations or groups;

"the public concerned" means the public affected or likely to be affected by, or having an interest in, the taking of a decision on the granting or the updating of a permit or of permit conditions; for the purposes of this definition, non-governmental organisations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest;

"total emissions" means the sum of fugitive emissions and emissions in waste gases;

"variation notice" has the meaning given by regulation 44,

"volatile organic compound" means−

(a) any organic compound having a vapour pressure of 0.01 kPa or more at 293.15K or having a corresponding volatility under the particular conditions of use, or

(b) the fraction of creosote having a vapour pressure of 0.01 kPa or more at 293.15K,

"waste" means any substance or object which the holder discards or intends or is required to discard;

"waste gases" means, in relation to solvent emission activities, the final gaseous discharge containing volatile organic compounds or other pollutants from a stack or abatement equipment into the air,

"waste incineration installation" means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste, with or without recovery of the combustion heat generated, through the incineration by oxidation of waste as well as other thermal treatment processes, such as pyrolysis, gasification or plasma process, if the substances resulting from the treatment are subsequently incinerated; and

"waste licence" means a waste licence within the meaning of Part VA of the Public Health Act.

(2) For the purposes of these Regulations−

(a) where an installation has not been put into operation, the person who will have control over the operation of the installation when it is put into operation is to be treated as the operator of the installation, and

(b) where an installation has ceased to be in operation, the person who holds the permit which applies to the installation is to be treated as the operator of the installation.

(3) In these Regulations a reference to a release into water includes a release into a sewer.

Interpretation: enactments etc.

3.(1) In these Regulations−

"Batteries Directive" means Directive 2006/66/EC of the European Parliament and of the Council on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC,

"EIA Directive" means Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (codification),

"Hazardous Substances Regulation" means Regulation (EC) No 1272/2008 of the European Parliament and of the Council on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006,

"Industrial Emissions Directive" means Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (recast);

"Integrated Pollution Prevention and Control Directive" means Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control;

"Large Combustion Plants Directive" means Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants;

"Waste Framework Directive" means Directive 2008/98/EC of the European Parliament and of the Council on waste,

(2) An expression in relation to batteries defined in Article 3 of the Batteries Directive has the same meaning in these Regulations as in that Directive.

(3) A reference to any other term defined in the Industrial Emissions Directive has the same meaning in these Regulations as in that Directive.

Interpretation: best available techniques, etc.

4. In these Regulations−

"BAT conclusions" means a document containing the parts of a BAT reference document laying down the conclusions on best available techniques, their description, information to assess their applicability, the emission levels associated with the best available techniques, associated monitoring, associated consumption levels and, where appropriate, relevant site remediation measures,

"BAT reference document" means a document, resulting from the exchange of information organised for the purposes of Article 13 of the Industrial Emissions Directive, drawn up for defined activities and describing, in particular applied techniques, present emissions and consumption levels, techniques considered for the determination of best available techniques as well as BAT conclusions and any emerging techniques, giving special consideration to the matters listed in Schedule 3,

"best available techniques" mean 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 the basis for emission limit values and other permit conditions designed to prevent and, where that is not practicable, to

reduce emissions and the impact on the environment as a whole; and

(a) "techniques" includes both the technology used and the way in which an installation is designed, built, maintained, operated and decommissioned;,

(b) "available techniques" means those techniques which have been 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 Gibraltar, as long as they are reasonably accessible to the operator,

(c) "best" means, in relation to techniques, most effective in achieving a high general level of protection of the environment as a whole,

"emerging technique" means a novel technique for an industrial activity that, if commercially developed, could either provide 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;

"emission levels associated with the best available techniques" means the range of emission levels obtained under normal operating conditions using a best available technique, or combination of best available techniques, as described in BAT conclusions, expressed as an average over a given period of time, under specified reference conditions.

Agency: duties relating to best available techniques.

5.(1) The Agency must ensure that it follows or is informed of−

(a) developments in best available techniques, and

(b) the publication of any new or updated BAT conclusions,

and shall make such information publicly available.

(2) The Agency must where appropriate exercise its functions so as to encourage the development and application of emerging techniques, in particular for any technique identified in a BAT reference document.

(3) The Agency must have regard to any guidance by the European Commission under Article 27(2) of the Industrial Emissions Directive relating to the development and application of emerging techniques.

Application forms.

6. The Agency may require any application made to it under any provision of these Regulations to be made in writing on a form made available by the Agency.

Information relating to right of appeal.

7. The Agency must, when issuing any decision or determination in respect of which there exists a right of appeal to the Minister under these Regulations, inform all persons who have such a right of the existence of the right.

Service of notices.

8.(1) A notice served or given by the Minister or by the Agency under these Regulations must be in writing.

(2) A notice may be served on or given to a person by leaving it at the proper address of the person or by sending it by post to that person at that address.

(3) A notice may−

(a) in the case of a body corporate, be served on the secretary,

(b) in the case of a partnership, be served on or given to a partner or person having the control or management of the partnership business.

(4) For the purposes of this regulation the proper address of any person on or to whom any such notice is to be served or given is the last known address of that person, except that−

(a) in the case of a body corporate or their secretary, it is the address of the registered or principal office of that body,

(b) in the case of a partnership or person having the control or management of the partnership business, it is the principal office of the partnership.

(5) The principal office of a company registered outside of Gibraltar, or of a partnership carrying on business outside Gibraltar, is their principal office within Gibraltar.

(6) If the person to be served with or given any such notice has specified an address in Gibraltar other than the proper address within the meaning of subregulation (4) as the address at which that person (or someone on behalf of that person) will accept notices of the same description as that notice, the specified address is also be treated for the purposes of this regulation as the proper address of that person.

Electronic communications.

9.(1) In these Regulations−

(a) "writing" includes electronic communications; and

(b) a reference to a form includes an electronic form.

(2) Where an application is sent electronically−

(a) any fee, map or plan that is required to accompany the application may be sent to the Agency separately, and

(b) the application is not be treated as having being received by the Agency until the last thing so required has also been received.

PART II

COMPETENT AUTHORITY

Designation as competent authority.

10. The Agency is designated as the competent authority responsible for carrying out the obligations arising from the Industrial Emissions Directive.

PART III

GRANTING OF PERMITS

CHAPTER 1

General

Permits: requirement for a permit.

11.(1) This regulation applies to−

(a) an installation, and

(b) a solvents installation.

(2) No person may operate an installation or any plant to which this regulation applies except under, and to the extent, authorised by a permit.

Permits: interpretation.

12.(1) In these Regulations a "solvents installation" means an installation where an activity listed in the table in Part 2 of Schedule 2 is operated above the solvent consumption threshold for that activity (a "solvent emissions activity").

(2) An installation or where an activity is carried out from time to time does not cease to require a permit in respect of the activity during those times when the activity is not carried out.

(3) An installation where an activity is described by reference to a threshold is such an installation where the installed capacity is above the threshold, whether or not it is operated below the threshold.

Permits: application for a permit.

13.(1) The Agency must on receiving a duly made application for a permit either−

(a) grant a permit subject to the conditions required, or authorised, to be imposed by or under these Regulations, or section 8 of the Landfill Act, 2002, or

(b) refuse the application.

(2) The Agency must refuse to grant an application for a permit if it considers that the applicant will not−

(a) be the person who will have control over the operation of the installation concerned after the grant of the permit, or

(b) ensure that the installation is operated so as to comply with the conditions which would be included in the permit.

(3) An application for a permit must be accompanied by any prescribed fee.

(4) An application for a permit may be withdrawn at any time before it is determined.

(5) Schedule 4 has effect.

Permits: authorised operations.

14.(1) A permit may authorise the operation of more than one installation or solvents installation on the same site if operated by the same operator.

(2) Subject to subregulation (3), a permit for an installation must include a map or plan showing the site, and the location on the site, of the installation.

(3) A standard rules permit for an installation must include a plan as specified in subregulation (2).

Permits: powers to include conditions.

15.(1) The Agency may include a condition in a permit−

(a) imposing a limit on the amount or composition of any substance produced or utilised during the operation of the installation in any period, or

(b) which is supplemental or incidental to other conditions contained in the permit.

(2) The Agency may exercise the power in subregulation (1) separately from any requirement or power to include a condition in a permit provided for elsewhere in these Regulations.

(3) A permit under regulation 14(1) shall include such conditions as may be required for the purposes of compliance with these Regulations and the Industrial Emissions Directive.

(4) The imposition of any conditions in respect of an installation referred to in point 6.6 of Schedule 1 shall not prejudice any applicable laws relating to animal welfare.

Permits: consolidation.

16.(1) The Agency may, where a permit is varied under regulation 44, or where a partial transfer, surrender or revocation of a permit is effected under regulations 45 to 47, replace the permit with a consolidated permit.

(2) The Agency may, where more than one permit is granted in respect of installations on the same site operated by the same operator, replace those permits with a consolidated permit.

Permits: greenhouse gas emissions.

17.(1) The Agency must not, where emissions of a pollutant from an installation are subject to conditions imposed for the purposes of the ETS Regulations, include an emission limit value in a permit in respect of those emissions unless−

(a) the installation is an excluded installation for the purposes of the ETS Regulations, or

(b) it considers the emission limit value is necessary to ensure that no significant local pollution is caused.

(2) The Agency may, in respect of an activity that is a Schedule 1 activity for the purpose of the ETS Regulations, choose not to impose a requirement under these Regulations relating to energy efficiency in respect of combustion units or other units emitting carbon dioxide.

(3) Subregulation (2) does not apply to the requirement in regulation 29(1)(b).

(4) In this regulation−

"emission limit value" includes any parameter or technical measure referred to in regulation 24(3), and

"ETS Regulations" means the Greenhouse Gas Emissions Trading Scheme Regulations 2012.

Permits: fit and proper person.

18.(1) The Agency may grant a permit in respect of a specified waste management activity only if it is satisfied−

(a) that the applicant is a fit and proper person to carry out that activity, and

(b) planning permission is in force under the Town Planning Act where the use of the site for the activity requires such permission.

(2) The Agency must determine whether a person is a fit and proper person by reference to ability of a person to fulfil the conditions of the permit which apply, or will apply, to the carrying out of that activity.

(3) A person is not a fit and proper person if, in particular, it appears to the Agency that−

(a) the person or a relevant person has been convicted of a relevant offence,

(b) the person has not made adequate financial provision (by way of security or an equivalent arrangement) to ensure that−

(i) obligations (including after-care provisions) arising from the permit in relation to the activity are met, and

(ii) any closure procedures required under the permit in relation to that activity are followed,

(c) the person and all staff engaged in carrying out such an activity will not be provided with adequate professional technical development and training, or

(d) the management of such an activity will not be in the hands of a technically competent person.

(4) Subregulation (3)(a) does not apply where the Agency considers it appropriate to treat the person as being a fit and proper person.

(5) In this regulation−

"relevant person" means, in relation to the holder or proposed holder of a permit−

(a) any person who has been convicted of a relevant offence carried out−

(i) in the course of that person's employment by the holder or proposed holder, or

(ii) in the course of the carrying on of any business by a partnership, one of the members of which was the holder or proposed holder,

(b) a body corporate which has been convicted of a relevant offence committed when the holder or proposed holder was a

director, manager, secretary or other similar officer of that body corporate (including, where the affairs of the body corporate are managed by its members, one of those members), or

(c) where the holder or proposed holder is a body corporate, a person who is a director, manager, secretary or other similar officer of that body corporate (including, where the affairs of the body corporate are managed by its members, one of those members) and who−

(i) has been convicted of a relevant offence, or

(ii) was a person holding such an office in another body corporate at a time when a relevant offence for which that body corporate has been convicted was committed, and

"relevant offence" means an offence prescribed by the Minister by Order.

Permits: transfer and cessation.

19.(1) A permit may be transferred only in accordance with regulation 45.

(2) A permit ceases to have effect only in accordance with regulations 46 and 47.

CHAPTER 2

Schedule 1 activities

Schedule 1 activities.

20. Schedule 1 has effect.

Schedule 1: general principles.

21.(1) The Agency must on determining the conditions of a permit take account of the general principles in subregulation (2).

(2) The general principles are that installations should be operated in such a way that−

(a) all the appropriate preventative measures are taken against pollution, in particular through application of the best available techniques,

(b) no significant pollution is caused.

(c) waste generation is prevented, and where waste is produced it is, in order of priority and in accordance with the Waste Framework Directive prepared for re-use, recycled recovered or, where that is technically and economically impossible, disposed of while avoiding or reducing any impact on the environment,

(d) energy is used efficiently, and

(e) the necessary measures are taken to prevent accidents and limit their consequences, and

(f) the necessary measures are taken on final cessation of activities to avoid any pollution risk, and to return the site of the installation to a satisfactory state.

(34) BAT conclusions shall be the reference for setting the permit conditions.

Schedule 1 conditions : best available techniques.

22.(1) It is a condition of a permit for an installation that the operator must use the best available techniques for preventing or, where that is not practicable, reducing emissions from an installation.

(2) Subregulation (1) does not apply to the extent that any other condition of a permit, or a standard rule which has effect as a standard rules condition, has the same effect.

Schedule 1 conditions: general provisions.

23.(1) The Agency must include in a permit for an installation the conditions the Agency considers appropriate−

(a) to comply with subregulation (2), and

(b) to ensure, when taken with regulation 22, a high level of protection for the environment as a whole taking particular account for that purpose of the general principles in regulation 21.

(2) A permit for an installation must include conditions−

(a) aimed at minimising long distance or trans-boundary pollution,

(b) ensuring, where necessary, appropriate protection of the soil and groundwater including requirements for the regular maintenance and surveillance of measures taken to prevent emissions to soil and groundwater,

(c) ensuring, where necessary, appropriate monitoring and management of waste produced by the installation,

(d) setting out the steps to be taken prior to the operation of the installation and after the definitive cessation of operations,

(e) relating to any period when the installation will not operate normally, including as required conditions relating to start up and shut down operations, leaks, malfunctions, momentary stoppages and definitive cessation of operations,

(f) setting out suitable emission monitoring requirements specifying measurement methodology, frequency, and evaluation procedure, including in particular–

(i) appropriate requirements in respect of the surveillance of measures taken to prevent emissions to soil and groundwater,

(ii) appropriate requirements in respect of the periodic monitoring of soil and groundwater in relation to relevant hazardous substances likely to be found on the site, having regard for that purpose to the possibility of soil and groundwater contamination at the site,

(iii) ensuring, where regulation 24(7) applies, that results of emission monitoring are available for the same periods of time and for the same reference conditions as for the emission levels associated with the best available techniques,

(g) requiring the operator to supply the Agency regularly, and at least annually, with–

(i) the results of the monitoring of emissions, and

(ii) the other required data that enables the Agency to verify compliance with the permit conditions, and

(iii) where regulation 24(7) applies, a summary of the results of emission monitoring which allows a comparison with the emission levels associated with the best available techniques,

(h) requiring the operator to inform the Agency, without delay, of any incident or accident significantly affecting the environment, and

(i) in respect of assessment of compliance with the emission limit values.

(3) For the purposes of subregulation (2)(f)−

(a) emission monitoring requirements must where applicable be based on conclusions on monitoring as described in BAT conclusions, and

(b) periodic monitoring of−

(i) groundwater must be carried out at least every 5 years, and

(ii) soil must be carried out at least every 10 years,

unless such monitoring is based on a systematic appraisal of the risks of contamination of groundwater and soil.

Schedule 1 conditions: emission limit values and environmental quality standards.

24.(1) The Agency must ensure that a permit for an installation includes such conditions as it considers appropriate to comply with subregulations (2) to (14).

(2) Subject to subregulation (3), a permit must include emission limit values for−

(a) polluting substances listed in Schedule 5, and

(b) other polluting substances,

likely to be emitted in significant quantities from an installation, having regard for that purpose to the nature of the pollutant, and the potential for emissions to transfer pollution from one environmental medium to another.

(3) The Agency may supplement or replace an emission limit value by an equivalent parameter or technical measure ensuring an equivalent level of protection for the environment.

(4) An emission limit value must apply at the point at which the emissions leave the installation, any dilution before that point being disregarded for the purpose of determining the value.

(5) An emission limit value may apply to groups of pollutants rather than to individual pollutants.

(6) Where any BAT conclusions contain an emission level associated with the best available techniques described in the conclusions, an emission limit value must−

(a) ensure that, under normal operating conditions, emissions do not exceed the levels associated with the best available techniques laid down in the BAT conclusions; and

(b) be expressed for the same or a shorter period of time, and under the same reference conditions, as for the emission levels associated with the best available techniques.

(7) An emission limit value under subregulation (6) may be set at a different value, in terms of values, periods of time, and reference conditions, provided that the Agency−

(a) assesses the results of emissions monitoring at least annually,

(b) is satisfied on assessment that emissions under normal operating conditions have not exceeded the levels associated with the best available techniques during that period, and

(c) ensures that the results of emissions monitoring are available for the same period of time and reference conditions as for the emission levels associated with the best available techniques.

(8) Where any BAT conclusions describe best available techniques, but do not contain an emission level associated with the techniques, an emission limit value must−

(a) be determined by giving special consideration to the matters specified in Schedule 3, and

(b) ensure a level of environmental protection equivalent to the techniques described in the BAT conclusions.

(9) The Agency may set stricter permit conditions that those achievable by the use of best available techniques as described in BAT conclusions.

(10) Where there are no BAT conclusions for an activity, an emission limit value must be based on the best available techniques in relation to the installation concerned, as determined by giving special consideration to the matters specified in Schedule 3.

(11) Where an environment quality standard requires stricter conditions that those achievable by the use of best available techniques the Agency–

(a) must include additional measures or other emission limit values in a permit, and

(b) may include other measures to comply with the standard.

(12) The Agency may set a less strict emission limit value under subregulation (6) for an installation if–

(a) an assessment shows that achievement of the emission levels associated with the best available techniques as described in any BAT conclusions would lead to disproportionately higher costs compared to environmental benefits due to the–

(i) the geographical location or local environmental conditions of the installation, or

(ii) technical characteristics of the installation,

(b) the value set–

(i) does not exceed the emission limit values set out in the Annexes to the Industrial Emissions Directive, and

(ii) ensures that no significant pollution is caused and that a high level of protection of the environment as a whole is achieved, and

(c) the permit specifies the reasons for setting the value, including the result of the assessment and the justification for the conditions imposed.

(13) The Agency may set a less strict emission limit value for an installation than would otherwise be required under subregulations (6), (8) or (10) for a total period not exceeding 9 months for the purpose of testing and use of an emerging technique.

(14) The Agency may take into account the effect of a waste water treatment plant when determining the emission limit values applying in relation to indirect releases into water from an installation provided that−

(a) doing so does not lead to higher levels of pollution, and

(b) the permit ensures an equivalent overall level of protection of the environment.

(15) In this regulation, "less strict emission limit value" means a value that is less than the value that would otherwise be set if based on best available techniques.

Schedule 1 conditions: large combustion plants.

25. The Agency must ensure that a permit contains such conditions as it considers necessary to give effect to the provisions in Schedules 9 and 10.

Schedule 1 conditions: titanium dioxide.

26. The Agency must ensure that a permit for an installation producing titanium dioxide contains such conditions as it considers necessary to give effect to the provisions ins Schedule 13.

Schedule 1 conditions: mixing separately collected waste.

27. The Agency must ensure that on or after 1 January 2014 a permit granted or varied for an activity described in point 5 (waste management) of Schedule 1 contains any condition the Agency considers necessary to ensure that no separately collected waste is mixed with any other waste or any material, to the extent that mixing would hamper further recycling.

Schedule 1 conditions: incineration and co-incineration of waste.

28. The Agency must ensure that a permit granted or varied for the incineration or co-incineration of waste contains such conditions as the Agency considers necessary to give effect to the provisions of Schedules 12 and 13.

Schedule 1 conditions: incineration of batteries.

29.(1) The Agency must ensure that a permit for the incineration of waste contains a condition prohibiting the incineration of waste industrial and automotive batteries.

(2) Such a condition does not prohibit the incineration of residues of any batteries that have undergone both treatment and recycling, provided that the treatment and recycling−

(a) used best available techniques, in terms of the protection of health and the environment, and

(b) complied, at a minimum, with European Union legislation, in particular as regards health and safety and waste management.

Schedule 1 conditions: waste oils.

30.(1) The Agency must ensure that a permit for an activity relating to waste oils contains a condition ensuring that, so far as technically feasible and economically viable−

(a) waste oils having different characteristics are not mixed, and

(b) waste oils are not mixed with other kinds of waste or substances, if such mixing would impede their treatment.

(2) In this regulation, "waste oils" and "treatment" have the same meanings as in the Waste Framework Directive.

CHAPTER 3

Schedule 2 activities

Schedule 2 activities.

31. Schedule 2 has effect.

Solvents: conditions.

32. The Agency must ensure that a permit contains such conditions as it considers necessary to give effect to the provisions Schedule 2.

Solvents installations: abatement equipment.

33.(1) The operator of a solvents installation who proposes to install abatement equipment must apply for a variation under regulation 44, and must not install that equipment until after any variation is granted.

(2) Subregulation (1) does not apply where the total emissions of the solvents installation after installation will not exceed those which would have been permitted had the installation been subject to a permit containing

conditions necessary to ensure compliance with paragraphs 2 to 5 of Part 1 and Part 2 of Schedule 2.

PART IV

STANDARD RULES

Standard rules.

34.(1) A rule-making authority may make, revise or revoke rules ("standard rules") which apply to an installation described in the rules.

(2) A rule-making authority must, when making or revising standard rules, ensure that the rules−

(a) give effect to the best available techniques for preventing, or where that is not practicable reducing, emissions from an installation, and

(b) so far as relating to an activity set out in Schedule 1 do not prescribe the use of any technique or specific technology in order to ensure compliance with Articles 14 and 15 of the Industrial Emissions Directive.

(3) A rule-making authority may only make or revise standard rules if it is satisfied that the operation of an installation will, to the extent that it is covered by a standard rules condition, result in−

(a) the same level of environmental protection, and

(b) the same high level of integrated pollution prevention and control,

as would result were there no standard rules condition and the installation were operated under the conditions that would be included under Part II of these Regulations.

(4) A rule-making authority must−

(a) keep standard rules under review, and

(b) revise any such rules whenever it considers necessary to do so in order to−

(i) follow developments in best available techniques, or

(ii) ensure compliance with the Industrial Emissions Directive.

(5) A rule-making authority must ensure that standard rules made by them contain a reference to the Industrial Emissions Directive.

(6) A reference to revising standard rules includes a partial revocation of the rules.

Standard rules: conditions.

35.(1) The Agency may specify in a permit for a standard installation that standard rules are to be conditions of the permit ("a standard rules condition").

(2) A reference in a permit to standard rules is to the rules as revised from time to time.

(3) A standard rules condition may be combined with any other condition under Part III of these Regulations.

(4) If a standard rules condition is inconsistent with any other condition of a permit, the standard rules condition shall prevail to the extent of that inconsistency.

(5) If an installation becomes a standard installation the Agency may vary the permit for the installation so as to include a standard rules condition.

Standard rules: consultation.

36.(1) A rule-making authority must before making, revising or revoking standard rules consult−

(a) those persons appearing to the authority to be representative of the interests of those communities likely to be affected by the proposed rules, revision or revocation,

(b) those operators appearing to the authority to be likely to be so affected, and

(c) such other persons as appear to the authority to be likely to be affected by or otherwise have an interest in the proposed rules, revision or revocation.

(2) Subregulation (1) does not apply where the authority considers that a revision effects only minor administrative changes to standard rules.

Standard rules: rules by the Minister.

37. Where the Minister has made, revised or revoked standard rules, the Minister must−

(a) give notice to the Agency of that fact, and

(b) provide the Agency with a copy of the rules, the revision or the revocation.

Standard rules: publication.

38.(1) The Agency must publish any standard rules made by or notified to it.

(2) A standard rules condition may be included in a permit from the day following the date of publication.

Standard rules: revision.

39.(1) The Agency must on standard rules being revised give notice to an operator with a standard rules permit of the−

(a) revision,

(b) date on which the revision is expected to be published, and

(c) date on which the revision is expected to take effect.

(2) The Agency must after giving such notice publish the−

(a) revision,

(b) standard rules as amended by the revision, and

(c) date on which the revision will take effect.

(3) A revision will take effect−

(a) if it makes only minor administrative changes, on the day following the date of publication, or

(b) in any other case, 12 weeks after that date.

Standard rules: revocation.

40.(1) The Agency must publish any revocation of standard rules made by or notified to it.

(2) The Agency must not include a standard rules condition relating to revoked rules in a permit after such publication.

(3) A standard rules condition included in a permit before any revocation will apply until the permit is varied, and the revoked rules continue to have effect in relation to the permit until the variation.

(4) The Agency must vary a permit affected by a revocation as soon as reasonably practicable after publication of the revocation.

Part IV: interpretation.

41. In this Part of these Regulations, "publish" and cognate terms means publish on the Agency's web site.

PART V

REVIEW, VARIATION AND CESSATION OF PERMITS

Permits: review of conditions.

42.(1) The Agency must review the conditions of a permit−

(a) if pollution caused by an installation is of such significance that the emission limit values in the permit need to be revised, or new emission limit values need to be included,

(b) if the operational safety of the activities carried out in the installation requires other techniques to be used,

(c) where it is necessary to comply with a new or revised environmental quality standard in accordance with Article 18 of the Industrial Emissions Directive,

(d) within 4 years after the date of publication of BAT conclusions relating to the main activity of an installation if the permit relates to an activity in respect of which those conclusions were published, and

(e) where the permit relates to an activity not covered by any BAT conclusions and a development in best available techniques

allows for the significant reduction of emissions at the installation.

(2) A review under subregulation (1)(d) or (e) must take into account all the new or updated BAT conclusions adopted under Article 13(5) of the Industrial Emissions Directive since the permit was granted, or last reviewed.

(3) The Agency must in addition periodically review the conditions of a permit.

(4) The Agency may review the conditions of a permit at any other time.

(5) The Agency must on carrying out a review−

(a) have regard to the results of emissions monitoring, any inspection and other data that enables a comparison with the best available techniques (including if applicable techniques described in BAT conclusions), and

(b) ensure that the permit complies with the Industrial Emissions Directive, if necessary by variation or revocation of the permit,

and when requested to do so by the Agency, an operator shall provide such information as the Agency requires for the purposes of compliance with this subregulation.

(6) A review under this regulation shall re-assess the application of a derogation under regulation 24(12)(a), where applicable.

Permits: proposed change in operation.

43.(1) An operator of an installation in respect of which a permit is granted must give notice to the Agency of a proposed change in operation (a "change notice") at least 14 days before making the change.

(2) A change notice must−

(a) be in writing, and

(b) contain a description of the proposed change in operation.

(3) The Agency must acknowledge receipt of a change notice.

(4) A change notice is not necessary if−

(a) the operator applies for a variation of the permit before a change in operation is made, and

(b) that application describes the proposed change.

(5) An operator must not make a change during any period beginning with the date of service on the operator of a notice under regulation 60(2) and ending on the date on which the operator provides the required information.

Permits: variation.

44.(1) The Agency must vary a permit if it considers it necessary to do so in order to ensure that the permit complies with Part II of these Regulations or section 8 of the Landfill Act, 2002.

(2) The Agency may vary the conditions of a permit at any other time.

(3) The operator of an installation in respect of which a permit is granted may in addition apply to the Agency for a variation of the permit.

(4) An application for variation must be accompanied by any prescribed fee.

(5) An application for variation may be withdrawn at any time.

(6) Regulation 18 applies to a variation that will authorise a specified waste management activity for the first time as if the variation were an application for a permit.

(7) Schedule 6 has effect.

(8) The Agency must on varying a permit give notice to the operator (a "variation notice") specifying the−

(a) variation of the conditions of the permit, and

(b) date on which the variation is to take effect,

and unless the variation notice is withdrawn it has effect on the date so specified.

(9) A variation notice must, unless the notice relates to an application for variation, require the operator to pay the fee within the period specified in the notice.

(10) The Agency must give notice to the operator if an application for variation is refused.

(11) This regulation and Schedule 6 apply to a variation of a provision of a permit in the same manner as they apply to the variation of a condition.

Permits: transfer.

45.(1) The Agency may transfer all or part of a permit to another person where subregulations (2) or (3) apply.

(2) This subregulation applies where the existing and proposed permit holders make a joint application to the Agency to approve the transfer of all or part of a permit.

(3) This subregulation applies where the Agency considers that all or part of a permit should be transferred to a new holder, and the proposed holder consents to the transfer.

(4) An application for a transfer must be accompanied by the permit and by any prescribed fee.

(5) An application for a transfer must include the address, telephone number and email address for each of the existing and proposed permit holders and (if different) a correspondence address.

(6) An application for a partial transfer must−

(a) identify the installation to which the transfer applies, and

(b) in the case of an installation, include a map or plan identifying the part of the site to which the application relates.

(7) An application for the transfer of a permit in respect of a specified waste management activity must include any information that it is intended the Agency should consider when determining whether the transferee is a fit and proper person, and for that purpose regulation 18 applies to a transfer in the same manner as it applies to the grant of a permit.

(8) The Agency must approve an application for transfer unless it considers that the−

(a) proposed holder will not be the person with control of the operation of the installation after any transfer,

(b) in the case of a permit authorising the carrying out of a specified waste management activity, the proposed holder is not a fit and proper person for the purposes of regulation 18, or

(c) the proposed holder will not ensure compliance with the permit conditions.

(9) The Agency must effect a transfer–

(a) in the case of a partial transfer–

(i) by issuing a new permit to the proposed holder for that part of the installation to which the transfer relates, and

(ii) returning the original permit to the existing holder endorsed in respect of the transfer and any variation of the permit conditions,

(b) in any other case, by endorsing the permit in respect of the new holder and any variation of the permit conditions.

(10) A transfer of all or part of a permit has effect on the date specified in the permit or the endorsement, provided that where subregulation (2) applies the date must be as agreed by the existing and proposed permit holders.

(11) The Agency may vary the conditions of a permit only if it considers it necessary to do so to take account of the transfer.

(12) The Agency must where subregulation (2) applies give notice to the existing and proposed permit holders if it decides not to approve the transfer.

(13) The existing permit holder may by notice to the Agency hold the application as being refused if the Agency has failed to make a determination within the specified period.

(14) In subregulation (13), the specified period is the period of 2 months beginning with the date of receipt of an application under subregulation (2), or such longer period as the Agency may agree in writing with the existing and proposed permit holders.

Permits: surrender of permit.

46.(1) The operator of an installation may apply to the Agency to surrender all or part of a permit for the installation.

(2) An application must be accompanied by the permit and any prescribed fee.

(3) An application must provide−

(a) the telephone number, address and email address of the operator and (if different) a correspondence address,

(b) in the case of a partial surrender, a description of the part to be surrendered including a map or plan of the site,

(c) a report describing the condition of the site affected by the surrender (the "closure report"), identifying in particular any changes from the condition of the site as described in the−

(i) site report, and

(ii) where applicable, the baseline report,

(d) a description of the steps that have been taken to avoid pollution risks from the site, including any steps that have been taken to−

(i) return the site to a satisfactory state, and

(ii) remove, control, contain or reduce any relevant hazardous substance in soil and groundwater.

(4) The Agency may by notice−

(a) require the operator to provide further information in relation to the site as specified in the notice within the period so specified,

(b) treat the application as having been withdrawn if the information is not provided within that period.

(5) The Agency must determine an application within−

(a) the 3 month period beginning on the date of receipt of the application, or

(b) such longer period as the Agency and the operator may agree in writing.

(6) The 3 month period does not include any period beginning with the date on which notice under subregulation (4)(a) is served and ending on the date on which the information is provided.

(7) The operator may by notice to the Agency hold the application as being refused at the end the period provided for under subregulation (5) if the Agency have failed to make a determination within that period.

(8) The Agency must approve an application if it is satisfied that all appropriate measures have been taken to−

(a) avoid pollution risk resulting from the operation of the installation,

(b) return the site to a satisfactory state, taking into account the technical feasibility of the measures,

(c) remove, control, contain or reduce any relevant hazardous substance in soil or groundwater so that the site, taking into account its current or approved future use, ceases to pose a significant risk to human health or the environment.

(9) The Agency must give notice of approval or rejection of the application to the operator (the "determination notice").

(10) If the application is approved the permit (or part of the permit) ceases to have effect on the date specified in the determination notice.

(11) The Agency may vary a condition of the permit if it considers it necessary to do so as a result of approval of a partial surrender, and the condition as varied has effect on the date specified in the determination notice.

(12) In this regulation a reference to any relevant hazardous substance only includes such a substance that is in soil or groundwater as a result of the permitted activities.

(13) In this regulation−

"pollution risk" includes−

(a) subject to sub-subregulation (b), only those risks arising from the carrying out of an activity under the permit after the date of the permit,

(b) in respect of a specified waste management activity, only those risks arising after the relevant date,

"relevant date" means−

(a) where an activity was carried out under a waste licence that ceased to have effect under section 192D of the Public Health Act on the date of the permit, the date of the licence, or

(b) the date of the permit,

"waste licence" has the same meaning as in section 192D of the Public Health Act.

Permits: revocation of permits.

47.(1) The Agency may at any time revoke all or part of permit by serving a notice ("a revocation notice") on the operator.

(2) The Agency may in particular serve a revocation notice where−

(a) a permit authorises the carrying out of a specified waste management activity and it appears to the Agency that the operator has ceased to be a fit and proper person by reason of−

(i) the operator or a relevant person having been convicted of a relevant offence within the meaning of regulation 18, or

(ii) the management of the activity has ceased to be in the hands of a technically competent person,

(b) the holder of the permit has ceased to be the operator of the installation or plant covered by the permit.

(3) A revocation notice may−

(a) revoke a permit entirely,

(b) revoke a permit only to the extent that it authorises the operation of some of the installations to which it applies,

(c) revoke a permit only to the extent that it authorises the carrying out of some of the activities which may be carried out in an installation or by means of mobile plant to which it applies.

(4) A revocation notice must specify−

(a) the date on which the revocation takes effect (which must be at least 28 days after the date on which the notice is served), and

(b) in the case of a partial revocation, the extent to which the permit is being revoked.

(5) Where a permit for an installation is revoked under subregulation (3)(a) or (b), and the Agency considers that the operator must take steps in respect of the installation once no longer operating to−

(a) avoid any pollution risk resulting from the operation of the installation on the site,

(b) return the site to a satisfactory state, taking into account the technical feasibility of the steps, or

(c) remove, control, contain or reduce any relevant hazardous substance in soil or groundwater so that the site, taking into account its current or approved future use, ceases to pose a significant risk to human health or the environment,

the revocation notice must specify any steps that must be taken in respect of the site (or part of the site where applicable) that are further to those required by the permit.

(6) Subject to regulation 55(7) and subregulation (7), a permit ceases to have effect in whole or part from the date specified in the notice.

(7) Where subregulation (5) applies, the permit−

(a) continues to have effect in so far as it requires steps to be taken until the Agency issues a certificate of completion stating that it is satisfied that the steps have been taken, and.

(b) any steps specified under subregulation (5) are to be treated as conditions of the permit, and regulations 44, 52, and 63 apply in relation to such steps, and to any other conditions in the permit which require steps to be taken until the Agency issues a certificate of completion.

(8) The Agency may withdraw a revocation notice before the date on which the revocation has effect.

(9) Regulation 46(12) applies for the purpose of deciding in this regulation whether a pollution risk results from the operation an installation as it applies for the purposes of regulation 46.

PART VI

COMPLIANCE

The Agency: duty to ensure compliance.

48. The Agency must take such action under these Regulations as may be necessary for the purpose of ensuring that the conditions of a permit are complied with.

Operators: duty to report breach of permit.

49. An operator of an installation must immediately give notice to the Agency of any breach of a condition of the permit for the installation.

The Agency: environmental inspection plan.

50.(1) The Agency must maintain an environmental inspection plan in respect installations which are subject to these Regulations.

(2) An environmental inspection plan must−

(a) include a general assessment of relevant significant environmental issues,

(b) state the geographical area, and the installations, covered by the plan,

(c) provide for the carrying out of environmental inspections, and

(d) provide for the frequency of environmental inspections.

(3) An environmental inspection plan may be comprised of one or more plans, documents or strategies.

(4) The Agency must regularly review, and where appropriate update or replace, an environmental inspection plan.

The Agency: environmental inspection of installations.

51.(1) The Agency must carry out an environmental inspection of installations which are subject to these Regulations..

(2) The Agency must, in particular, ensure that an environmental inspection is carried out−

(a) to investigate as soon as possible−

(i) serious environmental complaints,

(ii) serious environmental accidents, and

(ii) incidents and occurrences of non-compliance, and

(b) where appropriate, before granting a permit and on the review or variation of a permit.

(3) The period between site visits for the purpose of an environmental inspection must be based on a systematic appraisal of risk, and must not exceed−

(a) 1 year for an installation posing the highest risk,

(b) 3 years for an installation posing the lowest risk.

(4) An additional site visit must take place within 6 months of the identification in an environmental inspection of an important case of non-compliance with permit conditions.

(5) The Agency must prepare a report on a site visit (a "site visit report") describing its−

(a) findings regarding compliance with the permit, and

(b) conclusions on whether any further action is needed.

(6) The Agency must notify a site visit report to the operator of the installation within 2 months of the site visit taking place.

(7) The Agency must include the particulars of a site visit report in the register within 4 months of the site visit taking place.

(8) In this regulation, "systematic appraisal of risk" means an appraisal by the Agency of the environmental risks of an installation based on−

(a) the potential and actual impacts on human health and the environment taking into account the levels and types of emissions, the sensitivity of the local environment, and the risk of accidents,

(b) the record of compliance with permit conditions, and

(c) participation by the operator in the European Union eco-management and audit scheme under Regulation (EC) No 1221/2009 of the European Parliament and of the Council on

the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).

The Agency: enforcement notices.

52.(1) The Agency may serve a notice (an "enforcement notice") on the operator of an installation in respect of which a permit is granted if it considers that−

(a) the operator has contravened, is contravening, or is likely to contravene any condition of a permit, or

(b) an incident or accident significantly affecting the environment has occurred as a result of the operation of the installation.

(2) An enforcement notice served under subregulation (1)(a) must−

(a) state why the Agency consider that there is, or is likely to be, such a contravention,

(b) specify the matter constituting the contravention, or making it likely that the contravention will arise (as the case may be), and

(c) specify the steps the operator must take to remedy the contravention, or to remedy the matter making it likely that the contravention will arise (as the case may be).

(3) An enforcement notice served under subregulation (1)(b) must specify the steps that the operator must take−

(a) to limit the environmental consequences of the incident or accident, and

(b) to prevent further possible incidents or accidents.

(4) An enforcement notice must specify the period within which steps must be taken.

(5) The steps that may be specified in an enforcement notice may, without prejudice to the generality of subregulation (3), include steps that must be taken to remedy the effects of any pollution caused by the contravention.

(6) The operator of the installation must comply with an enforcement notice.

(7) The Agency may withdraw an enforcement notice at any time.

The Agency: suspension notices.

53.(1) The Agency must give notice under this regulation to the operator of an installation if it considers that any aspect of the operation of the installation−

(a) poses an immediate danger to human health,

(b) threatens to create an immediate significant adverse effect upon the environment, or

(c) involves some other risk of serious pollution.

(2) Subregulation (1) does not apply where the Agency intends to arrange for steps to be taken under regulation 54(1) in relation to such operation of the installation.

(3) Subregulation (1) applies whether or not the particular manner of operation is regulated by, or contravenes, a condition of the permit.

(4) The Agency may give notice under this regulation to an operator carrying out specified waste management activities if it considers that the operator has ceased to be a fit and proper person in relation to those activities by reason of management of the activities having ceased to be in the hands of a technically competent person.

(5) A notice under subregulation (1) or (4) (a "suspension notice") must−

(a) state why the Agency considers that the suspension notice is required,

(b) in the case of a suspension notice under subregulation (1), specify−

(i) the nature of the harm that is being (or may be) caused by the operation of the installation,

(ii) the steps that must be taken to remedy the harm or remove a risk, and

(iii) the period within which those steps must be taken,

(c) state the extent to which the permit ceases to have effect to authorise the operation of the installation, or the carrying out of an activity in the installation, and

(d) where the permit is to continue to have effect to authorise an activity any steps, in addition to those already required under the permit, that are to be taken in carrying out that activity.

(6) The operator of the installation must comply with a suspension notice.

(7) A permit ceases to have effect, to the extent stated in the suspension notice, on service of the notice.

(8) The Agency may withdraw a notice at any time, and must withdraw a notice if satisfied−

(a) in the case of a notice under subregulation (1), that the steps required by the notice to remove the risk of pollution have been taken,

(b) in the case of a notice under subregulation (4), that the management of the activities is in the hands of a technically competent person.

The Agency: power to prevent or remedy pollution.

54.(1) The Agency may arrange for steps to be taken to remove an imminent risk of serious pollution if it considers that the operation of any installation regulated by a permit, or the operation in a particular manner, involves such a risk.

(2) The Agency may arrange for steps to be taken towards remedying the effects of pollution caused by the commission of an offence under regulation 63(1)(a), (b) or (d).

(3) The Agency must, at least 7 days before steps are taken under subregulation (2), give notice to the operator of those steps.

(4) The Agency may recover the cost of taking steps under this regulation from the operator of the installation concerned.

(5) Subregulation (4) does not apply in respect of costs−

(a) for steps taken under subregulation (1), if the operator shows that there was no imminent risk of serious pollution requiring any such steps to be taken,

(b) which the operator shows to have been unnecessarily incurred by the Agency.

PART VII

APPEALS

Appeals to the Minister.

55.(1) A person−

(a) who has been refused a permit after an application under regulation 13,

(b) who has been refused the variation of a permit after an application under regulation 44,

(c) who is aggrieved by the conditions attached to a permit granted to that person−

(i) after application under regulation 13, or

(ii) by a variation notice following an application under regulation 44,

(d) whose application for a transfer under regulation 45 has been refused, or who is aggrieved by the conditions attached to a permit to take account of such transfer,

(e) whose application under regulation 46 to surrender a permit has been refused, or who is aggrieved by the conditions attached to that person's permit to take account of the surrender,

(f) whose request to begin closure procedure under section 13 of the Landfill Act, 2002 is not approved,

may appeal against the decision of the Agency to the Minister.

(2) A person−

(a) who is served with a variation notice (other than in respect of an application for variation),

(b) a revocation notice,

(c) an enforcement notice,

(d) a suspension notice, or a

(e) closure notice under section 13(3)(c) of the Landfill Act, 2002,

may appeal against the notice to the Minister.

(3) Subregulations (1) and (2) do not apply where the decision or notice (as the case may be) gives effect to a direction under subregulation (4), or under−

(a) regulation 57,

(b) paragraph 19(7) of Schedule 4, or

(c) paragraph 6(7) of Schedule 6.

(4) On determining an appeal against a decision of the Agency under subregulation (1), the Minister may−

(a) affirm the decision,

(b) where the decision was a refusal to grant a permit or to vary the conditions of a permit, direct the Agency to grant the permit or to vary the conditions of the permit,

(c) where the decision was as to the conditions attached to a permit, quash all or any of the conditions of the permit,

(d) where the decision was a refusal to effect the transfer or accept the surrender of a permit, direct the Agency to effect the transfer or accept the surrender,

and the Minister may give directions as to the conditions to be attached to the permit where the Minister exercises a power in paragraph (b) or (c).

(5) On determining an appeal against a notice under subregulation (2), the Minister may−

(a) quash or affirm the notice,

(b) if affirming it, may do so either in its original form or with such modifications as the Minister thinks fit.

(6) The determination or disposal of an appeal which relates to a decision to include in a permit a standard rules condition does not affect the continued validity of the relevant standard rules.

(7) In an appeal under−

(a) subregulation (1)(c), (d) or (e) in relation to a conditions attached to a permit, the bringing of the appeal does not suspend the operation of the condition, and

(b) subregulation (2), the bringing of the appeal does not suspend the operation of an enforcement notice, a suspension notice or a variation notice.

(8) In an appeal under subregulation (2) against a revocation notice, the notice if affirmed does not take effect until the withdrawal of the appeal.

(9) In an appeal under subregulation (1)(f) in relation to closure procedure, or under subregulation (2) against a closure notice, the closure procedure may not begin until−

(a) determination of the appeal, or

(b) withdrawal of the appeal.

(10) Where the Minister give directions as to a condition to be included in a permit−

(a) Part III of these Regulations, and

(b) regulation 37, or the appropriate provisions of section 8 of the Landfill Act, 2002,

apply as if the Agency were determining whether to include the condition.

(11) Schedule 7 has effect.

(12) A person who, having a right of appeal under this regulation, is dissatisfied with a determination pursuant to this regulation, may appeal to the Magistrate's Court on a point of law, and in determining such an appeal the court may make such order as it deems fit.

Further provisions.

56.(1) The Agency shall ensure that practical information is made available to the public on access to administrative and judicial review procedures.

(2) Any non-governmental organisation promoting environmental protection and meeting any requirements under the law is deemed to have an interest for the purposes of Article 25(1)(a) of the Industrial Emissions Directive, and rights capable of being impaired for the purposes of Article 25(1)(b) of that Directive.

PART VIII

THE MINISTER

Directions to the Agency.

57.(1) The Minister may give a direction to the Agency of a general or specific character with respect to the carrying out of its functions under these Regulations or the Landfill Act, 2002.

(2) Without prejudice to subregulation (1), the Minister may direct the Agency−

(a) to exercise (or refrain from exercising) any functions under these Regulations or the Landfill Act, 2002,

(b) to exercise (or refrain from exercising) any function in such circumstances, or in such manner, as may be specified,

(c) as to the objectives which are to be achieved by any condition of a permit.

(3) Where the Minister receives information under Article 26(1) of the Industrial Emissions Directive in relation to the operation of an installation outside of the Gibraltar, the Minister must direct the Agency to take such steps as the Agency considers appropriate for the purposes of−

(a) bringing the information to the attention of the persons in Gibraltar likely to be affected by the operation of the installation, and

(b) providing such persons with an opportunity to comment on that information.

(4) Any direction given under these Regulations must be in writing and may be varied or revoked by a further direction.

(5) It is the duty of the Agency to comply with any direction which is given to it under these Regulations.

Guidance to the Agency.

58.(1) The Minister may issue guidance to the Agency with respect to the carrying out of any of its functions under these Regulations or the Landfill Act, 2002.

(2) In carrying out any of its functions under these Regulations or the Landfill Act, 2002, the Agency must have regard to any guidance issued by the Minister under this regulation.

Emission plans.

59.(1) Subject to subregulation (3), the Minister may make plans for−

(a) the setting of limits on the total amount, or the total amount in any period, of emissions from all or any description of source within Gibraltar,

(b) the allocation of quotas relating to such emissions.

(2) Where the Minister allocates a quota in a plan made under subregulation (1), the Minister may also make a scheme for the trading or other transfer of the quota so allocated.

(3) In this regulation "emission" means the direct or indirect release of any substance from individual or diffuse sources into the air, water or land.

PART IX

INFORMATION AND PUBLICITY

Minister and Agency's powers in respect of information.

60.(1) The Minister may by written notice require the Agency to provide such information about the discharge of a function of the Agency under these Regulations or the Landfill Act, 2002 as is specified in the notice.

(2) The Minister or the Agency may by written notice, for the purposes of the discharge of their functions under these Regulations or the Landfill Act, 2002, require any person to provide such information as is specified in the notice, in such form and within such period as is specified in the notice.

(3) For the purposes of this regulation the−

(a) discharge by the Minister of an obligation of Gibraltar under the Union Treaties or any international agreement relating to

the environment is treated as a function of the Minister under these Regulations, and

(b) compilation of an inventory of emissions (whether or not from installations) is treated as a function of the Agency under these Regulations.

(4) The information which a person may be required to furnish under subregulation (2) does include information on emissions which, although it is not in the possession of that person or would not otherwise come into the possession of that person, is information which it is reasonable to require that person to compile for the purpose of complying with the notice.

The Agency: public register.

61.(1) Subject to regulation 62 and to paragraphs 2 to 4 of Schedule 8, the Agency must maintain a register ("the register") containing the particulars described in paragraph 1 of that Schedule.

(2) Where, by virtue of regulation 62, information of any description is excluded from the register under this regulation, a statement must be entered in the register indicating the existence of information of that description.

(3) The Agency must−

(a) secure that the register is available, at all reasonable times, for inspection by the public free of charge, and

(b) afford to members of the public facilities for obtaining copies of entries, on payment of reasonable charges.

(4) The register may be kept in any form.

(5) The Minister may give the Agency directions requiring the removal from the register of any specified information−

(a) not prescribed for inclusion by paragraph 1 of Schedule 8, or

(b) which, under regulation 62, ought to have been excluded from the register.

Register: exclusion of confidential information.

62.(1) No information relating to the affairs of any individual or business may be included in the register without the consent of that individual or the

person for the time being carrying on that business, if and so long as the information−

(a) is, in relation to that individual or person, commercially confidential, and

(b) is not required to be included in the register in pursuance of a direction under subregulation (9),

but information is not commercially confidential for the purposes of this regulation unless it is determined under this regulation to be so by the Agency or, as the case may be, on appeal.

(2) Where information is furnished to the Agency for the purpose of these Regulations, the person furnishing it may apply to the Agency to have the information excluded from the register on the ground that it is commercially confidential (as regards that person or another person) and the Agency must determine whether the information is or is not commercially confidential.

(3) Notice of determination under subregulation (2) must be given to the applicant within the period of 28 days beginning with the date of the application or within such longer period as may be agreed with the applicant.

(4) The Agency is deemed to have determined, at the end of the period referred to in paragraph (a), that information is not commercially confidential if−

(a) it fails to give notice of determination of an application under subregulation (2) within the period allowed by or under subregulation (3), and

(b) the applicant notifies the Agency in writing that it has so failed.

(5) Where it appears to the Agency that any information which has been obtained by it under or by virtue of any provision of these Regulations and is required to be included in the register, unless excluded under this regulation, might be commercially confidential, the Agency must (unless the information is the subject of an application under subregulation (2))−

(a) give to the person to whom or whose business it relates notice that that information is required to be included in the register, unless excluded under this regulation, and

(b) give that person a reasonable opportunity−

(i) of objecting to the inclusion of the information on the ground that it is commercially confidential, and

(ii) of making representations to the Agency for the purpose of justifying any such objection,

and if representations are made the Agency must, having taken the representations into account, give that person notice of its determination as to whether the information is or is not commercially confidential.

(6) Where, under subregulation (2) or (5), the Agency determines that information is not commercially confidential–

(a) the information must not be entered in the register until the end of the period of 21 days beginning with the date on which the determination is notified to the person concerned or the determination is deemed to have been made under subregulation (4), as the case may be, and

(b) that person may, before the end of that period, appeal to the Minister against the decision,

and, where an appeal is brought under this regulation in respect of any information, the information must not be entered in the register until the end of the period of 21 days following the day on which the appeal is finally determined or is withdrawn.

(7) A person who wishes to appeal to the Minister under subregulation (6) must–

(a) give the Minister notice of the appeal together with–

(i) a statement of the grounds of appeal, and

(ii) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing, or to be disposed of by way of written representations, and

(b) send the Agency, at the same time, a copy of that notice and those statements.

(8) The Minister may give to the Agency a direction as to specified information, or descriptions of information, which the public interest requires to be included in the register notwithstanding that the information may be commercially confidential.

(9) Information excluded from the register ceases to be commercially confidential at the end of–

(a) the period of 4 years beginning with the date of the determination by virtue of which it was excluded,

(b) such shorter period as may be specified in the notice of that determination for the purpose of this subregulation,

provided that the person who provided the information may apply to the Agency for the information to remain excluded on the ground that it should be treated as commercially confidential, and the Agency must determine whether or not that is the case.

(10) Subregulations (6) and (7) apply in relation to a determination under subregulation (9) as they apply in relation to a determination under subregulation (2) or (5).

(11) Information is, for the purposes of any determination under this regulation, commercially confidential in relation to any individual or other person if including it in the register would prejudice to an unreasonable degree the commercial interests of that individual or person.

PART X

PROVISION AS TO OFFENCES

Offences.

63.(1) It is an offence for a person–

(a) to contravene regulation 11,

(b) to fail to comply with or to contravene a condition of a permit,

(c) to fail to comply with regulation 43(1),

(d) to fail to comply with the requirements of–

(i) an enforcement notice,

(ii) a suspension notice, or

(iii) a closure notice under section 13 of the Landfill Act, 2002.

(e) to fail, without reasonable excuse, to comply with any requirement imposed by a notice under regulation 60(2),

(f) to fail, without reasonable excuse, to comply with regulation 49,

(g) to make a statement which that person knows to be false or misleading in a material particular, or recklessly to make a statement which is false or misleading in a material particular, where the statement is made−

(i) in purported compliance with a requirement to furnish any information imposed by or under any provision of these Regulations or the Landfill Act, 2002, or

(ii) for the purpose of obtaining the grant of a permit issued under these Regulations to that person or any other person, or

(iii) for the purpose of obtaining the variation, transfer or surrender of a permit,

(h) intentionally to make a false entry in any record required to be kept under a condition of a permit,

(i) with intent to deceive, to forge or use a document issued or authorised to be issued under a condition of a permit, or required for any purpose under such a condition, or to make or possess a document so closely resembling any such document as to be likely to deceive,

(j) to fail to comply with an order made by a court under regulation 66.

(2) A person guilty of an offence under paragraph (a), (b), (d), (f) or (j) of subregulation (1) is liable−

(a) on summary conviction, to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 12 months, or to both,

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 5 years, or to both.

(3) A person guilty of an offence under paragraph (c), (e) or (g) to (k) of subregulation (1) is liable−

(a) on summary conviction, to a fine not exceeding level 4 on the standard scale,

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years, or to both.

(4) Where an offence under this regulation is committed by a body corporate or a partnership and is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of–

(a) any director, manager, secretary or other similar officer of the body corporate, or

(b) a person who was purporting to act in any such capacity (or, in the case of a partnership, a partner or a person who was purporting to act as such),

that person as well as the body corporate or the partnership (as the case may be) is guilty of that offence and is liable to be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, subregulation (4) applies in relation to the acts or defaults of a member in connection with the functions of management of that member as if that member were a director of the body corporate.

(6) Where the commission by any person of an offence under this regulation is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this subregulation whether or not proceedings for the offence are taken against the first-mentioned person.

Courts: enforcement.

64. The Agency may, if it considers that proceedings for an offence under regulation 63(1)(d) would not afford an effective remedy against a person who has failed to comply an enforcement notice or a suspension notice, take proceedings in any court of competent jurisdiction for the purpose of securing compliance with such a notice.

Courts: admissibility of evidence.

65.(1) A statement by an operator made to the Agency for the purposes of complying with regulation 49 may only be used in a prosecution for an

offence under regulation 63(1)(f) where in giving evidence the operator makes a statement inconsistent with it.

(2) Where−

(a) by virtue of a condition of a permit, an entry is required to be made in any record as to the observance of any condition of the permit, and

(b) the entry has not been made,

that fact is admissible as evidence that that condition has not been observed.

Courts: power to order cause of offence to be remedied.

66.(1) Where a person is convicted of an offence under regulation 63(1)(a), (b) or (d) in respect of any matters which appear to the court to be matters which it is in the power of that person to remedy, the court may, in addition to or instead of imposing any punishment, order that person, within such time as may be fixed by the order of the court, to take such steps as may be specified in that order for remedying those matters.

(2) The time fixed by an order of the court under subregulation (1) may be extended or further extended by a further order of the court on an application made before the end of the time as originally fixed or extended under this subregulation, as the case may be.

(3) Where a person is ordered under subregulation (1) to remedy any matter, that person is not liable under regulation 63 in respect of the matter if it continues during the time fixed by the order of the court or any further time allowed under subregulation (2).

PART XI

CROWN APPLICATION, ETC

Application to the Crown.

67.(1) Subject to the provisions of this regulation, these Regulations and the Landfill Act, 2002 bind the Crown.

(2) No contravention by the Crown of any provision of these Regulations or the Landfill Act, 2002 makes the Crown criminally liable for the contravention, and no proceedings may be taken against the Crown under these Regulations, but the Supreme Court may on an application by the Agency declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) The provisions of these Regulations and the Landfill Act, 2002 apply to persons in the public service of the Crown as they apply to other persons.

Transitional provisions.

68. Schedule 14 has effect.

Consequential amendments.

69. Schedule 15 has effect.

Revocations.

70. Schedule 16 has effect.

PART XII

FEES

Fees.

74.(1) The Agency shall, with the prior approval of the Minister, set the fees payable in respect of permits and any other matter required for the due administration of these Regulations.

(2) Any fees set under subregulation (1) shall be made publicly available.

(3) The Agency may refrain from taking any action required by it under these Regulations where a fee is payable and that fee has not been paid.

SCHEDULE 1

Regulations 2, 15, 17, and 20-30

CATEGORIES OF INDUSTRIAL ACTIVITIES

The threshold values given below generally refer to production capacities or outputs.

Where several activities falling under the same activity description containing a threshold are operated in the same installation, the capacities of such activities are added together.

For waste management activities, this calculation shall apply at the level of activities 5.1, 5.3(a) and 5.3(b).

1. **Energy industries.**

1.1. Combustion of fuels in installations with a total rated thermal input of 50 MW or more.

1.2. Refining of mineral oil and gas.

1.3. Production of coke.

1.4. Gasification or liquefaction of–

(a) coal;

(b) other fuels in installations with a total rated thermal inout of 20 MW or more.

2. **Production and processing of metals.**

2.1. Metal ore (including sulphide ore) roasting or sintering.

2.2. Production of pig iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2.5 tonnes per hour.

2.3. Processing of ferrous metals–

(a) operation of hot-rolling mills with a capacity exceeding 20 tonnes of crude steel per hour;

(b) operation of smitheries with hammers the energy of which exceeds 50 kilojoule per hammer, where the calorific power used exceeds 20 MW;

(c) application of protective fused metal coats with an input exceeding 2 tonnes of crude steel per hour.

2.4. Operation of ferrous metal foundries with a production capacity exceeding 20 tonnes per day.

2.5. Processing of non-ferrous metals–

(a) production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes;

(b) melting, including the alloyage, of non-ferrous metals, including recovered products and operation of non-ferrous metal foundries, with a melting capacity exceeding 4 tonnes per day for lead and cadmium or 20 tonnes per day for all other metals.

2.6. Surface treatment of metals or plastic materials using an electrolytic or chemical process where the volume of the treatment vats exceeds 30 m^3.

3. **Mineral industry.**

3.1. Production of cement, lime and magnesium oxide-

(a) production of 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;

(b) production of lime in kilns with a production capacity exceeding 50 tonnes per day;

(c) production of magnesium oxide in kilns with a production capacity exceeding 50 tonnes per day.

3.2. Production of asbestos or the manufacture of asbestos-based products.

3.3. Manufacture of glass including glass fibre with a melting capacity exceeding 20 tonnes per day

3.4. Melting mineral substances including the production of mineral fibres with a melting capacity exceeding 20 tonnes per day

3.5. Manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain with a production

capacity exceeding 75 tonnes per day and/or with a kiln capacity exceeding 4 m^3 and with a setting density per kiln exceeding 300 kg/m^3.

4. Chemical industry.

For the purpose of this section, production within the meaning of the categories of activities contained in this section means the production on an industrial scale by chemical or biological processing of substances or groups of substances listed in points 4.1 to 4.6.

4.1. Production of organic chemicals, such as−

(a) simple hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic);

(b) oxygen-containing hydrocarbons such as alcohols, aldehydes, ketones, carboxylic acids, esters and mixtures of esters, acetates, ethers, peroxides and epoxy resins;

(c) sulphurous hydrocarbons;

(d) nitrogenous hydrocarbons such as amines, amides, nitrous compounds, nitro compounds or nitrate compounds, nitriles, cyanates, isocyanates;

(e) phosphorus-containing hydrocarbons;

(f) halogenic hydrocarbons;

(g) organometallic compounds;

(h) plastic materials (polymers, synthetic fibres and cellulose-based fibres);

(i) synthetic rubbers;

(j) dyes and pigments;

(k) surface-active agents and surfactants.

4.2. Production of inorganic chemicals, such as−

(a) gases, such as ammonia, chlorine or hydrogen chloride, fluorine or hydrogen fluoride, carbon oxides, sulphur compounds, nitrogen oxides, hydrogen, sulphur dioxide, carbonyl chloride;

(b) acids, such as chromic acid, hydrofluoric acid, phosphoric acid, nitric acid, hydrochloric acid, sulphuric acid, oleum, sulphurous acids;

(c) bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide;

(d) salts, such as ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate;

(e) non-metals, metal oxides or other inorganic compounds such as calcium carbide, silicon, silicon carbide.

4.3. Production of phosphorous-, nitrogen- or potassium-based fertilisers(simple or compound fertilisers).

4.4. Production of plant protection products or of biocides.

4.5. Production of pharmaceutical products including intermediates.

4.6. Production of explosives.

5. Waste management.

5.1. Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving one or more of the following activities−

(a) biological treatment;

(b) physico-chemical treatment;

(c) blending or mixing prior to submission to any of the other activities listed in points 5.1 and 5.2;

(d) repackaging prior to submission to any of the other activities listed in points 5.1 and 5.2;

(e) solvent reclamation/regeneration;

(f) recycling/reclamation of inorganic materials other than metals or metal compounds;

(g) regeneration of acids or bases;

(h) recovery of components used for pollution abatement;

(i) recovery of components from catalysts;

(j) oil re-refining or other reuses of oil;

(k) surface impoundment.

5.2. Disposal or recovery of waste in waste incineration plants or in waste co-incineration plants-

(a) for non-hazardous waste with a capacity exceeding 3 tonnes per hour;

(b) for hazardous waste with a capacity exceeding 10 tonnes per day.

5.3.

(a) Disposal of non-hazardous waste with a capacity exceeding 50 tonnes per day involving one or more of the following activities, and excluding activities covered by Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment−

(i) biological treatment;

(ii) physico-chemical treatment;

(iii) pre-treatment of waste for incineration or co-incineration;

(iv) treatment of slags and ashes;

(v) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components;

(b) recovery, or a mix of recovery and disposal, of non-hazardous waste with a capacity exceeding 75 tonnes per day involving one or more of the following activities, and excluding activities covered by Directive 91/271/EEC−

(i) biological treatment;

(ii) pre-treatment of waste for incineration or co-incineration;

(iii) treatment of slags and ashes;

(iv) treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.

When the only waste treatment activity carried out is anaerobic digestion, the capacity threshold for this activity shall be 100 tonnes per day.

5.4. Landfills, as defined in Article 2(g) of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, receiving more than 10 tonnes of waste per day or with a total capacity exceeding 25,000 tonnes, excluding landfills of inert waste.

5.5. Temporary storage of hazardous waste not covered under point 5.4 pending any of the activities listed in points 5.1, 5.2, 5.4 and 5.6 with a total capacity exceeding 50 tonnes, excluding temporary storage, pending collection, on the site where the waste is generated.

5.6. Underground storage of hazardous waste with a total capacity exceeding 50 tonnes

6. Other activities.

6.1. Production in industrial installations of–

(a) pulp from timber or other fibrous materials;

(b) paper or card board with a production capacity exceeding 20 tonnes per day;

(c) one or more of the following wood-based panels: oriented strand board, particleboard or fibreboard with a production capacity exceeding 600 m^3 per day.

6.2. Pre-treatment (operations such as washing, bleaching, mercerisation) or dyeing of textile fibres or textiles where the treatment capacity exceeds 10 tonnes per day.

6.3. Tanning of hides and skins where the treatment capacity exceeds 12 tonnes of finished products per day.

6.4.

(a) Operating slaughterhouses with a carcass production capacity greater than 50 tonnes per day;

(b) treatment and processing, other than exclusively packaging, of the following raw materials, whether previously processed or unprocessed, intended for the production of food or feed from-

(i) only animal raw materials (other than exclusively milk) with a finished product production capacity greater than 75 tonnes per day;

(ii) only vegetable raw materials with a finished product production capacity greater than 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;

(iii) animal and vegetable raw materials, both in combined and separate products, with a finished product production capacity in tonnes per day greater than:

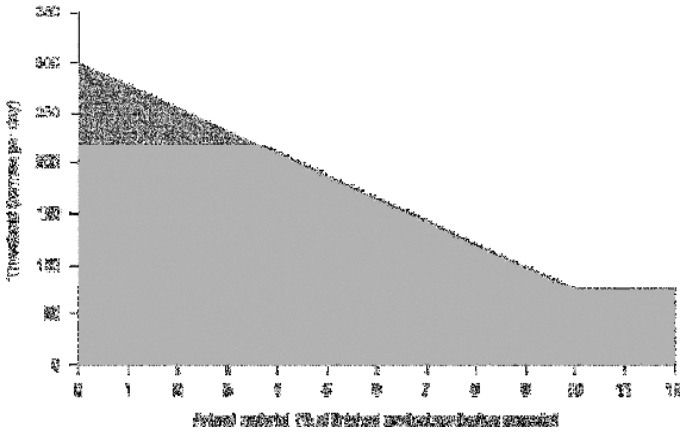
— 75 if A is equal to 10 or more; or,

— [300- (22.5 × A)] in any other case,

where 'A' is the portion of animal material (in percent of weight) of the finished product production capacity.

Packaging shall not be included in the final weight of the product.

This subsection shall not apply where the raw material is milk only.



(c) treatment and processing of milk only, the quantity of milk received being greater than 200 tonnes per day (average value on an annual basis).

6.5. Disposal or recycling of animal carcases or animal waste with a treatment capacity exceeding 10 tonnes per day.

6.6. Intensive rearing of poultry or pigs;

(a) with more than 40,000 places for poultry;

(b) with more than 2,000 places for production pigs (over 30 kg), or

(c) with more than 750 places for sows.

6.7. Surface treatment of substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, with an organic solvent consumption capacity of more than 150kg per hour or more than 200 tonnes per year.

6.8. Production of carbon (hard-burnt coal) or electrographite by means of incineration or graphitisation.

6.9. Capture of CO_2 streams from installations covered by the Industrial Emissions Directive for the purposes of geological storage pursuant to Directive 2009/31/EC

6.10. Preservation of wood and wood products with chemicals with a production capacity exceeding 75m^3 per day other than exclusively treating against sapstain.

6.11. Independently operated treatment of waste water not covered by Directive 91/271/EEC and discharged by an installation covered by Chapter II of the Industrial Emissions Directive.

SCHEDULE 2

Regulations 2, 31 and 32

SOLVENT EMISSIONS

PART 1

Scope.

1. This Schedule applies to activities listed in Part 2 and, where applicable, reaching the consumption thresholds set out in Part 3 of that Annex.

Control of emissions.

2.(1) The Agency shall take the necessary measures to ensure that each installation complies with either of the following–

(a) the emission of volatile organic compounds from installations shall not exceed the emission limit values in waste gases and the fugitive emission limit values, or the total emission limit values, and other requirements laid down in Parts 3 and 4 are complied with;

(b) the requirements of the reduction scheme set out in Part 6 provided that an equivalent emission reduction is achieved compared to that achieved through the application of the emission limit values referred to in point (a).

(2) The Minister shall ensure that a report is sent to the European Commission in accordance with Article 72(1) of the Industrial Emissions Directive on the progress in achieving the equivalent emission reduction referred to in point (b).

(3) By way of derogation from subparagraph (1)(a), where the operator demonstrates to the Agency that for an individual installation the emission limit value for fugitive emissions is not technically and economically feasible, the Agency may allow emissions to exceed that emission limit value provided that significant risks to human health or the environment are not to be expected and that the operator demonstrates to the Agency that the best available techniques are being used.

(4) By way of derogation from subparagraph (1), for coating activities covered by item 8 of the table in Part 3 which cannot be carried out under contained conditions, the Agency may allow the emissions of the

installation not to comply with the requirements set out in that subparagraph if the operator demonstrates to the Agency that such compliance is not technically and economically feasible and that the best available techniques are being used.

(5) The Minister shall ensure that a report is sent to the European Commission on the derogations referred to in subparagraphs (3) and (4) in accordance with Article 72(2) of the Industrial Emissions Directive.

(6) The emissions of either volatile organic compounds which are assigned or need to carry the hazard statements H340, H350, H350i, H360D or H360F or halogenated volatile organic compounds which are assigned or need to carry the hazard statements H341 or H351, shall be controlled under contained conditions as far as technically and economically feasible to safeguard public health and the environment and shall not exceed the relevant emission limit values set out in Part 5.

(7) Installations where two or more activities are carried out, each of which exceeds the thresholds in Part 3 shall−

(a) as regards the substances specified in subparagraph (6), meet the requirements of that paragraph for each activity individually;

(b) as regards all other substances, either−

(i) meet the requirements of subparagraph (1) for each activity individually; or

(ii) have total emissions of volatile organic compounds not exceeding those which would have resulted had point (i) been applied.

(8) All appropriate precautions shall be taken to minimise emissions of volatile organic compounds during start-up and shut-down operations.

Monitoring of emissions.

3. The Agency shall, either by specification in the permit conditions or in standard rules issued by it, ensure that measurements of emissions are carried out in accordance with Part 7.

Compliance with emission limit values.

4. The emission limit values in waste gases shall be regarded as being complied with if the conditions set out in Part 9 are fulfilled.

Reporting on compliance.

5.(1) The operator of a solvents installation must on request supply the Agency with data enabling it to verify compliance with either of the following−

(a) emission limit values in waste gases, fugitive emission limit values and total emission limit values;

(b) the requirements of the reduction scheme under Part 5 of Annex VII;

(c) the derogations granted in accordance with Article 59(2) and (3).

(2) Information may be provided in a solvent management plan prepared under Part 8.

Substantial change to installations.

6.(1) Where an existing installation undergoes a substantial change, or falls within the scope of this Schedule for the first time following a substantial change, that part of the installation which undergoes the substantial change shall be treated either as a new installation or as an existing installation, provided that the total emissions of the whole installation do not exceed those that would have resulted had the substantially changed part been treated as a new installation.

(2) In case of a substantial change, the Agency shall check compliance of the installation with the requirements of this Directive.

Access to information.

7.(1) Notwithstanding any other similar provision in these Regulations, as regards a solvents installation−

(a) the decision of the Agency, including at least a copy of the permit, and any subsequent updates, shall be made available to the public;

(b) the general binding rules applicable for installations and the list of installations subject to permitting and registration shall be made available to the public;

(c) the results of the monitoring of emissions as required under Article 60 and held by the Agency shall be made available to the public.

(2) This paragraph is subject to the restrictions laid down in Article 4(1) and (2) of Directive 2003/4/EC.

PART 2

Activities

1. In each of the following points, the activity includes the cleaning of the equipment but not the cleaning of products unless specified otherwise.

2. Adhesive coating

Any activity in which an adhesive is applied to a surface, with the exception of adhesive coating and laminating associated with printing activities.

3. Coating activity

Any activity in which a single or multiple application of a continuous film of a coating is applied to−

(a) either of the following vehicles−

(i) new cars, defined as vehicles of category M1 in Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles and of category N1 in so far as they are coated at the same installation as M1 vehicles;

(ii) truck cabins, defined as the housing for the driver, and all integrated housing for the technical equipment, of vehicles of categories N2 and N3 in Directive 2007/46/EC;

(iii) vans and trucks, defined as vehicles of categories N1, N2 and N3 in Directive 2007/46/EC, but not including truck cabins;

(iv) buses, defined as vehicles of categories M2 and M3 in Directive 2007/46/EC;

(v) trailers, defined in categories O1, O2, O3 and O4 in Directive 2007/46/EC;

(b) metallic and plastic surfaces including surfaces of airplanes, ships, trains, etc.;

(c) wooden surfaces;

(d) textile, fabric, film and paper surfaces;

(e) leather.

Coating activities do not include the coating of substrate with metals by electrophoretic and chemical spraying techniques. If the coating activity includes a step in which the same article is printed by whatever technique used, that printing step is considered part of the coating activity. However, printing activities operated as a separate activity are not included, but may be covered by Chapter V of this Directive if the printing activity falls within the scope thereof.

4. Coil coating

Any activity where coiled steel, stainless steel, coated steel, copper alloys or aluminium strip is coated with either a film forming or laminate coating in a continuous process.

5. Dry cleaning

Any industrial or commercial activity using volatile organic compounds in an installation to clean garments, furnishing and similar consumer goods with the exception of the manual removal of stains and spots in the textile and clothing industry.

6. Footwear manufacture

Any activity of producing complete footwear or parts thereof.

7. Manufacturing of coating mixtures, varnishes, inks and adhesives

The manufacture of the above final products, and of intermediates where carried out at the same site, by mixing of pigments, resins and adhesive materials with organic solvent or other carrier, including dispersion and predispersion activities, viscosity and tint adjustments and operations for filling the final product into its container.

8. Manufacturing of pharmaceutical products

The chemical synthesis, fermentation, extraction, formulation and finishing of pharmaceutical products and, where carried out at the same site, the manufacture of intermediate products.

9. Printing

Any reproduction activity of text and/or images in which, with the use of an image carrier, ink is transferred onto whatever type of surface. It includes associated varnishing, coating and laminating techniques. However, only the following sub-processes are subject to Chapter V of the Industrial Emissions Directive:

(a) flexography – a printing activity using an image carrier of rubber or elastic photopolymers on which the printing areas are above the non- printing areas, using liquid inks which dry through evaporation;

(b) heatset web offset – a web-fed printing activity using an image carrier in which the printing and non-printing area are in the same plane, where web-fed means that the material to be printed is fed to the machine from a reel as distinct from separate sheets. The non-printing area is treated to attract water and thus reject ink. The printing area is treated to receive and transmit ink to the surface to be printed. Evaporation takes place in an oven where hot air is used to heat the printed material;

(c) laminating associated to a printing activity – the adhering together of two or more flexible materials to produce laminates;

(d) publication rotogravure–a rotogravure printing activity used for printing paper for magazines, brochures, catalogues or similar products, using toluene-based inks;

(e) rotogravure – a printing activity using a cylindrical image carrier in which the printing area is below the non-printing area, using liquid inks which dry through evaporation. The recesses are filled with ink and the surplus is cleaned off the non-printing area before the surface to be printed contacts the cylinder and lifts the ink from the recesses;

(f) rotary screen printing – a web-fed printing activity in which the ink is passed onto the surface to be printed by forcing it through a porous image carrier, in which the printing area is open and the non-printing area is sealed off, using liquid inks which dry only through evaporation. Web-fed means that the material to be printed is fed into the machine from a reel as distinct from separate sheets;

(g) varnishing – an activity by which a varnish or an adhesive coating for the purpose of later sealing the packaging material is applied to a flexible material.

10. Rubber conversion

Any activity of mixing, milling, blending, calendering, extrusion and vulcanisation of natural or synthetic rubber and any ancillary operations for converting natural or synthetic rubber into a finished product.

11. Surface cleaning

Any activity except dry cleaning using organic solvents to remove contamination from the surface of material including degreasing. A cleaning activity consisting of more than one step before or after any other activity shall be considered as one surface cleaning activity. This activity does not refer to the cleaning of the equipment but to the cleaning of the surface of products.

12. Vegetable oil and animal fat extraction and vegetable oil refining activities

Any activity to extract vegetable oil from seeds and other vegetable matter, the processing of dry residues to produce animal feed, the purification of fats and vegetable oils derived from seeds, vegetable matter and/or animal matter.

13. Vehicle refinishing

Any industrial or commercial coating activity and associated degreasing activities performing either of the following:

(a) the original coating of road vehicles as defined in Directive 2007/46/EC or part of them with refinishing-type materials, where this is carried out away from the original manufacturing line;

(b) the coating of trailers (including semi-trailers) (category O in Directive 2007/46/EC).

14. Winding wire coating

Any coating activity of metallic conductors used for winding the coils in transformers and motors, etc.

15. Wood impregnation

Any activity giving a loading of preservative in timber.

16. Wood and plastic lamination

Any activity to adhere together wood and/or plastic to produce laminated

Any active products.

PART 3

Thresholds and emission limit values

The emission limit values in waste gases shall be calculated at a temperature of 273,15 K, and a pressure of 101,3 kPa.

	Activity (solvent consumption threshold in tonnes/year)	Threshold (solvent consumption threshold in tonnes/year)	Emission limit values in waste gases (mg C/Nm³)	Fugitive emission limit values (percentage of solvent input)		Total emission limit values		Special provisions
				New installations	Existing installations	New installations	Existing installations	
1	Heatset web offset printing (> 15)	15—25 > 25	100 20		30 (1) 30 (1)			(1) Solvent residue in finished product is not to be considered as part of fugitive emissions.
2	Publication rotogravure (> 25)		75	10	15			
3	Other rotogravure, flexography, roto/flexo screen printing, laminating or varnishing units (> 15) roto/flexo screen printing on textile/cardboard (> 30)	15—25 > 25 > 30 (1)	100 100 100		25 20 20			(1) Threshold for roto/flexo screen printing on textile and on cardboard.
4	Surface cleaning using compounds specified in Article 59(5). (> 1)	1—5 > 5	20 (1) 20 (1)		15 10			(1) Limit value refers to mass of compounds in mg/Nm³, and not to total carbon.
5	Other surface cleaning (> 2)	2—10 > 10	75 (1) 75 (1)		20 (1) 15 (1)			(1) Installations which demonstrate to the competent authority that the average organic solvent content of all cleaning material used does not exceed 30 % by weight are exempt from application of these values.

	Activity (solvent consumption threshold in tonnes/year)	Threshold (solvent consumption threshold in tonnes/year)	Emission limit values in waste gases (mg C/Nm³)	Fugitive emission limit values (percentage of solvent input)		Total emission limit values		Special provision
				New installations	Existing installations	New installations	Existing installations	
6	Vehicle coating (< 15) and vehicle refinishing	> 0,5	50 (1)		25			(1) Compliance in accordance with point 2 of Part 8 shall be demonstrated based on 15 minute average measurements.
7	Coil coating (> 25)		50 (1)	5	10			(1) For installations which use techniques which allow reuse of recovered solvents, the emission limit value shall be 150.
8	Other coating, including metal, plastic, textile (3), fabric, film and paper coating (> 5)	5—15 > 15	100 (1) (4) 50/75 (2) (3) (4)		25 (4) 20 (4)			(1) Emission limit value applies to coating application and drying processes operated under contained conditions. (2) The first emission limit value applies to drying processes, the second to coating application processes. (3) For textile coating installations which use techniques which allow reuse of recovered solvents, the emission limit value applied to coating application and drying processes taken together shall be 150. (4) Coating activities which cannot be carried out under contained conditions (such as shipbuilding, aircraft painting) may be exempted from these values, in accordance with Article 59(3). (5) Rotary screen printing on textile is covered by activity No 3.

	Activity (solvent consumption threshold in tonnes/year)	Threshold (solvent consumption threshold in tonnes/year)	Emission limit values in waste gases (mg C/Nm³)	Fugitive emission limit values (percentage of solvent input)		Total emission limit values		Special provisions
				New installations	Existing installations	New installations	Existing installations	
9	Winding wire coating (> 5)					10 g/kg (1) 5 g/kg (2)		(1) Applies for installations where average diameter of wire ≤ 0,1 mm. (2) Applies for all other installations.
10	Coating of wooden surfaces (> 15)	15—25 > 25	100 (1) 50/75 (2)		25 20			(1) Emission limit value applies to coating application and drying processes operated under contained conditions. (2) The first value applies to drying processes, the second to coating application processes.
11	Dry cleaning					20 g/kg (1) (2)		(1) Expressed in mass of solvent emitted per kilogram of product cleaned and dried. (2) The emission limit value in point 2 of Part 4 does not apply for this activity.
12	Wood impregnation (> 25)		100 (1)		45	11 kg/m³		(1) Emission limit value does not apply for impregnation with creosote.
13	Coating of leather (> 10)	10—25 > 25 > 10 (1)				85 g/m² 75 g/m² 150 g/m²		Emission limit values are expressed in grams of solvent emitted per m² of product produced. (1) For leather coating activities in furnishing and particular leather goods used as small consumer goods like bags, belts, wallets, etc.

	Activity (solvent consumption threshold in tonnes/year)	Threshold (solvent consumption threshold in tonnes/year)	Emission limit values in waste gases (mg C/Nm³)	Fugitive emission limit values (percentage of solvent input)		Total emission limit values		Special provisions
				New installations	Existing installations	New installations	Existing installations	
14	Footwear manufacture (> 5)					25 g per pair		Total emission limit value is expressed in grams of solvent emitted per pair of complete footwear produced.
15	Wood and plastic lamination (> 5)					30 g/m²		
16	Adhesive coating (> 5)	5—15 > 15	50 (1) 50 (1)		25 20			(1) If techniques are used which allow reuse of recovered solvent, the emission limit value in waste gases shall be 150.
17	Manufacture of coating mixture, varnishes, inks and adhesives (> 100)	100—1 000 > 1 000	150 150		5 3	5 % of solvent input 3 % of solvent input		The fugitive emission limit value does not include solvent sold as part of a coatings mixture in a sealed container.
18	Rubber conversion (> 15)		20 (1)		25 (2)	25 % of solvent input		(1) If techniques are used which allow reuse of recovered solvent, the emission limit value in waste gases shall be 150. (2) The fugitive emission limit value does not include solvent sold as part of products or mixtures in a sealed container.

	Activity (solvent consumption threshold in tonnes/year)	Threshold (solvent consumption threshold in tonnes/year)	Emission limit values in waste gases (mg C/Nm³)	Fugitive emission limit values (percentage of solvent input)		Total emission limit values		Special provisions
				New installations	Existing installations	New installations	Existing installations	
19	Vegetable oil and animal fat extraction and vegetable oil refining activities (> 10)					Animal fat: 1,5 kg/tonne Castor: 3 kg/tonne Rape seed: 1 kg/tonne Sunflower seed: 1 kg/tonne Soya beans (normal crush): 0,8 kg/tonne Soya beans (white flakes): 1,2 kg/tonne Other seeds and other vegetable matter: 3 kg/tonne (1) 1,5 kg/tonne (2) 4 kg/tonne (3)		(1) Total emission limit values for installations processing individual batches of seeds and other vegetable matter should be set by the competent authority on a case-by-case basis, applying the best available techniques. (2) Applies to all fractionation processes excluding de-gumming (the removal of gums from the oil). (3) Applies to de-gumming.
20	Manufacturing of pharmaceutical products (> 50)		20 (1)	5 (2)	15 (2)	5 % of solvent input	15 % of solvent input	(1) If techniques are used which allow reuse of recovered solvent, the emission limit value in waste gases shall be 150. (2) The fugitive emission limit value does not include solvent sold as part of products or mixtures in a sealed container.

PART 4

Emission limit values for installations of the vehicle coating industry

1. The total emission limit values are expressed in terms of grams of organic solvent emitted in relation to the surface area of product in square metres and in kilograms of organic solvent emitted in relation to the car body.

2. The surface area of any product dealt with in the table under point 3 is defined as the surface area calculated from the total electrophoretic coating area, and the surface area of any parts that might be added in successive phases of the coating process which are coated with the same coatings as

those used for the product in question, or the total surface area of the product coated in the installation.

The surface of the electrophoretic coating area is calculated using the following formula:

$$\frac{2 \times \text{total weight of product shell}}{\text{average thickness of metal sheet} \times \text{density of metal sheet}}$$

This method shall also be applied for other coated parts made out of sheets.

Computer aided design or other equivalent methods shall be used to calculate the surface area of the other parts added, or the total surface area coated in the installation.

3. The total emission limit values in the table below refer to all process stages carried out at the same installation from electrophoretic coating, or any other kind of coating process, through to the final wax and polish of topcoating inclusive, as well as solvent used in cleaning of process equipment, including spray booths and other fixed equipment, both during and outside of production time.

Activity (solvent consumption threshold in)	Production threshold (refers to annual production)	Total emission limit value	
		New installatio	Existing installations
Coating of new cars (> 15)	> 5 000	45 g/m2 or 1,3 kg/ body + 33 g/m2	60 g/m2 or 1,9 kg/ body + 41 g/m2
	≤ 5 000 monocoque or > 3 500 chassis-	90 g/m2 or 1,5 kg/ body + 70	90 g/m2 or 1,5 kg/ body + 70
		Total emission limit value (g/m2)	
Coating of new truck cabins (> 15)	≤ 5 000	65	
	> 5 000	55	
Coating of new vans and trucks (> 15)	≤ 2 500	90	
	> 2 500	70	
Coating of new buses (> 15)	≤ 2 000	210	
	> 2 000	150	

4. Vehicle coating installations below the solvent consumption thresholds mentioned in the table under point 3 shall meet the requirements for the vehicle refinishing sector set out in Part 3.

PART 5

Emission limit values relating to volatile organic compounds with specific risk phrases

1. For emissions of the volatile organic compounds referred to in Article 58 of the Industrial Emissions Directive where the mass flow of the sum of the compounds causing the labelling referred to in that Article is greater than, or equal to, 10 g/h, an emission limit value of 2 mg/Nm3 shall be complied with. The emission limit value refers to the mass sum of the individual compounds.

2. For emissions of halogenated volatile organic compounds which are assigned or need to carry the hazard statements H341 or H351, where the mass flow of the sum of the compounds causing the hazard statements H341 or H351 is greater than, or equal to, 100 g/h, an emission limit value of 20 mg/Nm3 shall be complied with. The emission limit value refers to the mass sum of the individual compounds.

PART 6

Reduction scheme

1. The operator may use any reduction scheme, specially designed for his installation.

2. In the case of applying coatings, varnishes, adhesives or inks, the following scheme can be used. Where the following method is inappropriate, the Agency may allow an operator to apply any alternative scheme achieving equivalent emission reductions to those achieved if the emission limit values of Parts 3 and 4 were to be applied. The design of the scheme shall take into account the following facts−

(a) where substitutes containing little or no solvent are still under development, a time extension shall be given to the operator to implement his emission reduction plans;

(b) the reference point for emission reductions should correspond as closely as possible to the emissions which would have resulted had no reduction action been taken.

3. The following scheme shall operate for installations for which a constant solid content of product can be assumed−

(a) The annual reference emission is calculated as follows−

(i) The total mass of solids in the quantity of coating and/or ink, varnish or adhesive consumed in a year is determined. Solids are all materials in coatings, inks, varnishes and adhesives that become solid once the water or the volatile organic compounds are evaporated.

(ii) The annual reference emissions are calculated by multiplying the mass determined in (i) by the appropriate factor listed in the table below. Competent authorities may adjust these factors for individual installations to reflect documented increased efficiency individual installation the use of solids.

Activity	Multiplication factor for use in
Rotogravure printing; flexography printing; laminating as part of a printing activity; varnishing as part of a printing activity; wood coating; coating of textiles, fabric film or paper;	
Coil coating, vehicle refinishing	3
Food contact coating, aerospace coatings	2,33
Other coatings and rotary screen printing	1,5

(b) The target emission is equal to the annual reference emission multiplied by a percentage equal to−

(i) (the fugitive emission limit value + 15), for installations falling within item 6 and the lower threshold band of items 8 and 10 of Part 2,

(ii) (the fugitive emission limit value + 5) for all other installations.

(c) Compliance is achieved if the actual solvent emission determined from the solvent management plan is less than or equal to the target emission.

PART 7

Emission monitoring

1. Channels to which abatement equipment is connected, and which at the final point of discharge emit more than an average of 10 kg/h of total organic carbon, shall be monitored continuously for compliance.

2. In the other cases, the Agency shall ensure that either continuous or periodic measurements are carried out. For periodic measurements at least three measurement values shall be obtained during each measurement exercise.

3. Measurements are not required in the case where end-of-pipe abatement equipment is not needed to comply with these Regulations.

PART 8

Solvent management plan

1. Principles

The solvent management plan shall be used to−

(a) verify compliance as specified in Article 62;

(b) identify future reduction options;

(c) enable provision of information on solvent consumption, solvent emissions and compliance with the requirements of Chapter V to the public.

2. Definitions

The following definitions provide a framework for the mass balance exercise.

Inputs of organic solvents (I)−

I1 The quantity of organic solvents or their quantity in mixtures purchased which are used as input into the process in the time frame over which the mass balance is being calculated.

I2 The quantity of organic solvents or their quantity in mixtures recovered and reused as solvent input into the process. The recycled solvent is counted every time it is used to carry out the activity.

Outputs of organic solvents (O)−

O1 Emissions in waste gases.

O2 Organic solvents lost in water, taking into account waste water treatment when calculating O5.

O3 The quantity of organic solvents which remains as contamination or residue in products output from the process.

O4 Uncaptured emissions of organic solvents into air. This includes the general ventilation of rooms, where air is released to the outside environment via windows, doors, vents and similar openings.

O5 Organic solvents and/or organic compounds lost due to chemical or physical reactions (including those which are destroyed, by incineration or other waste gas or waste water treatments, or captured, as long as they are not counted under O6, O7 or O8).

O6 Organic solvents contained in collected waste.

O7 Organic solvents, or organic solvents contained in mixtures, which are sold or are intended to be sold as a commercially valuable product.

O8 Organic solvents contained in mixtures recovered for reuse but not as input into the process, as long as not counted under O7.

O9 Organic solvents released in other ways.

3. Use of the solvent management plan for verification of compliance.

The use made of the solvent management plan shall be determined by the particular requirement which is to be verified, as follows:

(a) verification of compliance with the reduction scheme as set out in Part 5, with a total emission limit value expressed in solvent emissions per unit product, or otherwise stated in Parts 3 and 4.

(i) for all activities using the reduction scheme as set out in Part 6, the solvent management plan shall be drawn up annually to determine the consumption (C).The consumption shall be calculated according to the following equation−

$$C = I1 - O8$$

A parallel exercise shall also be undertaken to determine solids used in coating in order to derive the annual reference emission used in coating in order to derive and the target emission each year.

(ii) for assessing compliance with a total emission limit value expressed in solvent emissions per unit product or otherwise stated in Parts 3 and 4, the solvent management plan shall be drawn up annually to determine the emissions (E). The emissions shall be calculated according to the following equation:

$$E = F + O1$$

Where F is the fugitive emission as defined in point (b)(i). The emission figure shall then be divided by the relevant product parameter.

(iii) for assessing compliance with the requirements of point (b)(ii) of Article 59(6) of the Industrial Emissions Directive, the solvent management plan shall be drawn up annually to determine total emissions from all activities concerned, and that figure shall then be compared with the total emissions that would have resulted had the requirements of Parts 3, 4 and 6 been met for each activity separately.

(b) Determination of fugitive emissions for comparison with the fugitive emission limit values in Part 3−

(i) The fugitive emission shall be calculated according to one of the following equations;

$$F = I1 - O1 - O5 - O6 - O7 - O8$$

or

$$F = O2 + O3 + O4 + O9$$

F shall be determined either by direct measurement of the quantities or by an equivalent method or calculation, for instance by using the capture efficiency of the process.

The fugitive emission limit value is expressed as a proportion of the input, which shall be calculated according to the following equation:

$$I = I1 + I2$$

(ii) Determination of fugitive emissions shall be done by a short but comprehensive set of measurements and needs not be done again until the equipment is modified.

PART 9

Assessment of compliance with emission limit values in waste gases

1. In the case of continuous measurements the emission limit values shall be considered to be complied with if–

(a) none of the arithmetic averages of all valid readings taken during any 24-hour period of operation of an installation or activity except start-up and shut-down operations and maintenance of equipment exceeds the emission limit values,

(b) none of the hourly averages exceeds the emission limit values by more than a factor of 1.5.

2. In the case of periodic measurements the emission limit values shall be considered to be complied with if, in one monitoring exercise–

(a) the average of all the measurement values does not exceed the emission limit values,

(b) none of the hourly averages exceeds the emission limit value by more than a factor of 1.5.

3. Compliance with Part 5 shall be verified on the basis of the sum of the mass concentrations of the individual volatile organic compounds concerned. For all other cases, compliance shall be verified on the basis of the total mass of organic carbon emitted unless otherwise specified in Part 3.

4. Gas volumes may be added to the waste gas for cooling or dilution purposes where technically justified but shall not be considered when determining the mass concentration of the pollutant in the waste gas.

PART 10

Interpretation

12. In this Schedule–

"adhesive" means any mixture, including all the organic solvents or mixtures containing organic solvents necessary for its proper application, which is used to adhere separate parts of a product,

"adhesive coating" means any activity in which an adhesive is applied to a surface excluding the application of adhesive and laminating associated with printing activities,

"coating" means any mixture, including all the organic solvents or mixtures containing organic solvents necessary for its proper application, which is used to provide a decorative, protective or other functional effect on a surface,

"coating activity" means any activity in which a single or a multiple application of a continuous film of a coating is applied (including a step in which the same article is printed using any technique) but does not include the coating of substrate with metals by electrophoretic and chemical spraying techniques,

"coil coating" means any activity where coiled steel, stainless steel, coated steel, copper alloys or aluminium strip is coated with either a film forming or laminate coating in a continuous process,

"consumption" means the total input of organic solvents into an installation per calendar year, or any other twelve month period, less any volatile organic compounds that are recovered for reuse, and for that purpose "input" means the quantity of organic solvents and their quantity in mixtures used when carrying out an activity (including the solvents recycled inside and outside the installation) and which are counted every time they are used to carry out the activity,

"contained conditions" means conditions under which an installation is operated so that the volatile organic compounds released from the activity are collected and discharged in a controlled way either via a stack or abatement equipment and are, therefore, not entirely fugitive,

"Directive 2007/46/EC" means Directive 2007/46/EC of the European Parliament and of the Council establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles,

"dry cleaning" means any industrial or commercial activity using volatile organic compounds in an installation to clean garments, furnishing and similar consumer goods excluding the manual removal of stains and spots in the textile and clothing industry,

"flexography" means a printing activity using an image carrier of rubber or elastic photopolymers on which the printing areas are above the non-printing areas and using liquid inks which dry through evaporation,

"footwear manufacture" means any activity of producing complete footwear or parts of footwear,

"halogen" means bromine, chlorine, fluorine or iodine,

"halogenated organic solvent" means an organic solvent which contains at least one halogen atom per molecule,

"halogenated volatile organic compound" means a volatile organic compound containing a halogen,

"hazard statement substance" means−

(a) in relation to a solvent emissions activity (other than dry cleaning) a substance which, is classified as a carcinogen, mutagen or toxic to reproduction under Regulation (EC) No.1272/2008, and in the case where the contents include a−

(i) volatile organic compound, is assigned or needs to carry the hazard statements H340, H350, H350i, H360D and H360F or,

(ii) halogenated volatile organic compounds, is assigned or needs to carry the hazard statements H341 and H351,

(b) in relation to dry cleaning, such a substance which because of the contents include a volatile organic compound is assigned or needs to carry the hazard statements H340, H350, H350i, H360D and H360F,

"heatset web offset printing" means a web-fed printing activity using an image carrier in which the printing and non-printing area are in the same plane, where−

(a) the non-printing area is treated to attract water and reject ink,

(b) the printing area is treated to receive and transmit ink to the surface to be printed, and

(c) evaporation takes place in the oven where hot air is used to heat the printed material,

"ink" means a substance, including all the organic solvents or mixtures containing organic solvents necessary for its proper application, which is used in a printing activity to impress text or images on to a surface,

"laminating associated to a printing activity" means the adhering together of 2 or more flexible materials to produce laminates,

"manufacturing of coating mixtures, varnishes, inks and adhesives" means the manufacture of coating mixtures, varnishes, inks and adhesives as final products and where carried out at the same site the manufacture of intermediates, by the mixing of pigments, resins and adhesive materials with organic solvent or other carrier, including−

(a) dispersion and pre-dispersion activities,

(b) viscosity and tint adjustments, and

(c) operations for filling the final product into its container,

"manufacturing of pharmaceutical products" means an activity that involves−

(a) the chemical synthesis,

(b) fermentation,

(c) extraction, or

(d) formulation and finishing,

of pharmaceutical products, and where carried out at the same site, the manufacture of intermediate products,

"mixture" means mixture as defined in Article 3(2) of Regulation (EC) No 1907/2006 of European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and establishing a European Chemicals Agency,

"organic solvent" means any volatile organic compound which is used alone or in combination with other agents, and without undergoing a chemical change, to dissolve raw materials, products or waste materials, as a−

(a) cleaning agent to dissolve contaminants,

(b) dissolver,

(c) dispersion medium,

(e) viscosity adjuster,

(f) surface tension adjuster,

(g) plasticiser, or

(h) preservative,

"other coating activities" means a coating activity applied to−

(a) metallic and plastic surfaces, including surfaces of airplanes, ships or trains,

(b) textiles or fabric,

(c) film and paper surfaces,

"printing activity" means any activity (not being a step in a coating activity) for reproducing text and/or images in which, with the use of an image carrier, ink is transferred onto any type of surface, including the use of associated varnishing, coating and laminating techniques,

"publication rotogravure" means a rotogravure printing activity used for printing paper for magazines, brochures, catalogues or similar products, using toluene-based inks,

"reuse" means the use of organic solvents recovered from an installation for any technical or commercial purpose, and including use as a fuel but excluding the final disposal of such recovered organic solvent as waste,

"risk phrase substance" means−

(a) in relation to a solvent emissions activity other than dry cleaning a substance which, because of its content of volatile organic compounds classified as carcinogens, mutagens, or toxic to reproduction under Directive 67/548/EEC is assigned or needs to carry the risk phrases R45, R46, R49, R60 and R61 or, in the case of halogenated volatile organic compounds, is assigned or needs to carry the risk phrases R40 and R68,

(b) in relation to dry-cleaning a substance which, because of its content of volatile organic compounds classified as carcinogens, mutagens, or toxic to reproduction under Directive 67/548/EEC is assigned or needs to carry the risk phrases R45, R46, R49, R60 and R61,

"rotary screen printing" means a web-fed printing activity in which liquid ink which dries only through evaporation is passed onto the surface to be printed by forcing it through a porous image carrier, in which the printing area is open and the non-printing area is sealed off,

"rotogravure" means a printing activity using a cylindrical image carrier in which the printing area is below the non-printing area and liquid inks which dry through evaporation in which the recesses are filled with ink and the surplus is cleaned off the non-printing area before the surface to be printed contacts the cylinder and lifts the ink from those recesses,

"rubber conversion" means−

(a) any activity of mixing, milling, blending, calendaring, extrusion and vulcanisation of natural or synthetic rubber, and

(b) any ancillary operations for converting natural or synthetic rubber into a finished product,

"surface cleaning" means any activity, other than dry cleaning or the cleaning of equipment, using organic solvents to remove contamination from the surface of material including degreasing, and a cleaning activity consisting of more than one step before or after any other activity shall be considered as one surface cleaning activity,

"varnish" means a transparent coating,

"varnishing" means an activity by which varnish or an adhesive coating for the purpose of sealing the packaging material is applied to a flexible material,

"vegetable oil and animal fat extraction and vegetable oil refining activities" means any activity to extract vegetable oil from seeds and other vegetable matter, the processing of dry residues to produce animal feed, the purification of fats and vegetable oils derived from seeds, vegetable matter or animal matter,

"vehicle coating" means a coating activity applied to the following vehicles−

(a) new cars, defined as vehicles of category M1 in Directive 2007/46/EC and of category N1 in so far as they are coated at the same installation as M1 vehicles,

(b) truck cabins, defined as the housing for the driver, and all integrated housing for the technical equipment, of vehicles of categories N2 and N3 in Directive 2007/46/EC,

(c) vans and trucks, defined as vehicles of categories M2 and M2 in Directive 2007/46/EC but not including truck cabins,

(d) buses, defined as vehicles of categories M2 and M3 in Directive 2007/46/EC,

(e) trailers, defined in categories O1, O2, O3 and O4 in Directive 2007/46/EC,

but not where the activity is carried out as part of the repair, conservation or decoration of those vehicles referred to in (a) to (e) above outside of manufacturing installations,

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

(a) the original coating of road vehicles as defined in Directive 2007/46/EC, or part of them with refinishing-type materials, where this is carried out away from the original manufacturing line, or

(b) the coating of trailers (including semi-trailers) (category O),

"web-fed" means that the material to be printed is fed to the machine from a reel as distinct from separate sheets,

"winding wire coating" means any coating activity of metallic conductors used for winding the coils in transformers and motors etc.,

"wood and plastic lamination" means any activity to adhere together wood or plastic to produce laminated products, and

"wood impregnation" means any activity giving a loading of preservative in timber.

SCHEDULE 3

Regulation s 2 and 4

BEST AVAILABLE TECHNIQUES

The specified matters are−

(a) the use of low-waste technology,

(b) the use of less hazardous substances,

(c) the furthering of recovery and recycling of substances generated and used in the process and of waste, where appropriate,

(d) comparable processes, facilities or methods of operation which have been tried with success on an industrial scale,

(e) technological advances and changes in scientific knowledge and understanding,

(f) the nature, effects and volume of the emissions concerned,

(g) the commissioning dates for new or existing installations,

(h) the length of time needed to introduce the best available technique,

(i) the consumption and nature of raw materials (including water) used in the process and the energy efficiency of the process,

(j) the need to prevent or reduce to a minimum the overall impact of the emissions on, and risks to, the environment,

(k) the need to prevent accidents and to minimise the consequences for the environment, and

(l) information published by public international organisations.

SCHEDULE 4

Regulation 2 and 13

GRANT OF PERMITS

PART 1

APPLICATIONS FOR PERMITS

1.(1) An application to the Agency for a permit under regulation 13 must be in writing and must provide−

(a) the name, address telephone number and email address of the applicant (and any correspondence address if different) including in the case of a body corporate−

(i) any registration number, and

(ii) the address of its registered or principal office, and

(b) in the case of a permit to operate an installation the address of the site of the installation; and

(c) in the case of an installation other than a standard installation, a map or plan showing the site of the installation and the location of the installation on that site,

(d)

(i) a site report,

(ii) where the permit will authorise an activity that involves the use, production or release of a relevant hazardous substance, a baseline report,

(iii) where the applicant proposes that the permit will authorise an emission limit value set under regulation 24(7), the reasons for setting that value,

(e) a description of−

(i) the installation,

(ii) the activities listed in Schedule 1 to be carried out in the installation,

(iii) the activities listed in Part 2 of Schedule 2 to be carried out in the installation,

(iv) in the case of an installation, any other directly associated activities to be carried out on the same site as the installation,

(f) the raw and auxiliary materials and other substances and the energy to be used in or generated by the carrying out of the activities referred to in subparagraph (e),

(g) information on the nature, quantities and sources of foreseeable emissions from the installation into each environmental medium, and a description of any foreseeable significant effects of the emissions on the environment and on human health,

(h) a description of the proposed technology and other techniques for preventing or, where that is not practicable, reducing and rendering harmless emissions from the installation,

(i) if applicable, how the best available techniques are applied to the operation of the installation,

(j) the proposed measures to be taken to monitor the emissions,

(k) a description of the measures to be taken for the prevention, preparation for re-use, recycling and recovery of waste produced by the operation of the installation,

(l) a description of any proposed additional measures to be taken to comply with the general principles set out in regulation 21(2),

(m) where applicable, any relevant information obtained or conclusion arrived at in relation to the installation for the purposes of Articles 5, 6, 7 and 9 of the EIA Directive,

(n) where applicable, any relevant information obtained or conclusion arrived at in relation to a safety report within the meaning of section 95F of the Public Health Act,

(o) in the case of an application to operate a standard installation, a statement as to whether the applicant wishes any permit granted to be a standard rules permit,

(p) in the case of an application for a permit that will authorise the carrying out of a specified waste management activity at an installation, any information which the applicant wishes the Agency to take into account when considering whether the applicant is a fit and proper person to carry out that activity,

(q) any additional information which the applicant wishes the Agency to take into account in considering the application,

(r) an outline of the main alternatives studied by the applicant,

(s) a non-technical summary of the information referred to in this paragraph.

(2) A site report must describe the condition of the site of the installation, and in particular it must−

(a) describe any soil and groundwater contamination at the site,

(b) identify any pollutants in or on the land other than as described in paragraph (a),

(c) provide information on the present use of the site, and
(d) provide any available information on past uses of the site,

(3) A baseline report must provide soil and groundwater measurements for the site−

(a) based on previously existing information if using that information provides an accurate description of the state of the site at the time of the report, or

(b) based on new information,

having regard for that purpose to the possibility of soil and groundwater contamination by any hazardous substance to be used, produced or released by the installation concerned, and where information which fulfils the requirements of this subregulation is obtained under any other enactment, that information may be included in or attached to the baseline report.

(4) The Agency may on request by the applicant waive the requirement in subparagraph (1)(d)(ii) to provide a baseline report, having regard for that purpose to the possibility of soil and groundwater contamination.

2. An application for a permit for an installation where an activity described point 5.4 of Schedule 1 is carried out must also provide−

(a) the description of the types and total quantity of waste to be deposited,

(b) the proposed capacity of the disposal site,

(c) a description of the site, including its hydrogeological and geological characteristics,

(d) the proposed operation, monitoring and control plan,

(e) the proposed plan for the closure and after-care procedures.

3. An application for a permit to operate a waste incineration installation must also provide a description of the measures which are envisaged to guarantee that−

(a) the installation is designed and equipped, and will be operated, in such a manner that the requirements of the Industrial Emissions Directive and in particular Schedule 11 are met, taking into account for that purpose the categories of waste to be incinerated,

(b) heat generated during the incineration and co-incineration process is recovered as far as practicable through the operation of heat, steam or power,

(c) the residues after burning will be−

(i) minimised in their amount and harmfulness, and

(ii) recycled where appropriate,

(d) the disposal of residues which cannot be prevented, reduced or recycled will be carried out in conformity with Gibraltar and European Union legislation,

(e) the proposed measurement techniques for emissions into the air and water comply with Parts 6 and 7 of Schedule 12,

(f) the plant will be equipped and operated in such a manner that no separately collected waste capable of being recycled is incinerated or co-incinerated (as the case may be), and

(g) the plant is equipped and operated in such a manner as is practicable to ensure that no waste that includes non-ferrous

metals or hard plastics is incinerated or co-incinerated (as the case may be).

4. An application for a permit to operate a solvents installation must also include a description of the measures which are expected to ensure that the installation is designed and equipped, and will be operated, in such a manner that the requirements set out in Schedule 2 are met including−

(a) details of any reduction scheme the operator intends to use,

(b) in the period ending on 31st May 2015−

(i) a timetable for replacing as far as possible and within the shortest possible time any volatile organic compounds that are assigned or need to carry the hazard statements H340, H350, H350i, H360D and H360F, or the risk phrases R45, R46, R49, R60 and R61, to be used in the installation with less harmful compounds, or

(ii) for the volatile organic compounds referred in subparagraph (i), and the halogenated volatile organic compounds which are assigned or need to carry the hazard statements H341 and H351 or the risk phrases R40 and R68, to be used in the installation how the emission limit values in Part 4 of Annex VII of the Industrial Emissions Directive will be complied with,

(c) in the period beginning on 1st June 2015−

(i) a timetable for replacing as far as possible and within the shortest possible time any volatile organic compounds that are assigned or need to carry the hazard statements H340, H350, H350i, H360D and H360F to be used in the installation with less harmful compounds,

(ii) for the volatile organic compounds referred in subparagraph (i), and the halogenated volatile organic compounds which are assigned or need to carry the hazard statements H341 and H351 to be used in the installation, how the emission limit values in Part 4 of Annex VII of the Industrial Emissions Directive will be complied with.

5. In paragraph 1(1) subparagraphs (k), (l) and (s) do not apply to an application for a permit to operate a solvents installation.

6. Paragraph 1(1) applies to an application for a permit to operate an installation in which dry cleaning (as defined in Part 10 of Schedule 2) is carried out as if for subparagraphs (e) to (h) there is substituted−

"(e) the date of installation of the dry cleaning machine, and the manufacturer, description, name and model number, serial number (if any) and rated capacity of the machine,

(g) details of any spot cleaning to be undertaken, and details of checking and maintenance procedures to be followed and of the supervision, training and qualifications of operating staff,

(h) details of the solvents to be used, including a description of any risk phrase or hazard statement substance or mixture,

(i) details of the arrangements for storing solvents prior to use, and used solvents and solvent-contaminated materials, including a description of the location where the materials are stored,".

7.(1) The Agency may by notice require the applicant to provide such further information for the purpose of determining an application as is specified in the notice within the period so specified.

(2) The Agency may by further notice to the applicant treat the application as having been withdrawn at the end of that period if the applicant fails to furnish the information within that period.

8. Subject to paragraph 31, the applicant must advertise the application within the 28 day period beginning with the 14th day after the day the application is made in one or more newspapers.

9. An advertisement required by paragraph 8 must−

(a) state the name of the applicant,

(b) state the address of the site of the installation,

(c) briefly describe the activities to be carried out in the installation,

(d) state that the application describes any foreseeable significant effects of emissions on the environment,

(e) state where and how and at what times) the register may be inspected, and that the register may be inspected free of charge,

(f) explain that any person may make written representations to the Agency within the period of 28 days beginning with the date of the advertisement, and give the Agency's address (including e-mail address) for that purpose,

(g) explain that any such representation will be entered in the register unless the person making the representation requests in writing that it should not be entered, and that on such a request the register will state only that a representation has been made that is the subject of a request, and

(h) explain that the particulars in the register include a description of the matters listed in paragraph 1(1), and

(i) if applicable, state that the determination of the application is subject to a local or transboundary environmental impact assessment or to consultations between Member States in accordance with Article 26 of the Industrial Emissions Directive.

10. An advertisement in respect of application for a permit to operate more than one installation the application must contain the information required by paragraphs 1 and 9 respectively in relation to each such installation or plant.

11. Paragraph 8 does not apply to an application for a permit to operate an installation involving only dry cleaning.

12. This Part is subject to Part 3.

PART 2

DETERMINATION OF APPLICATIONS

13. Subject to paragraph 29, the Agency must within 14 days of receiving an application for a permit give notice of the application (enclosing a copy) to–

(a) in the case of a permit for an installation where operation may involve an emission which may affect an area of special interest or a European site (within the meaning of the Nature Protection Act 1991) the Nature Conservancy Council;

(b) such other persons as the Minister may direct.

14. Paragraph 13 does not apply to a permit to operate an installation involving only dry cleaning.

15.(1) The period allowed for making representations to the Agency (the "representation period") is−

(a) in the case of a notice under paragraphs 13, the period of 28 days beginning with the date on which notice is given,

(b) in the case of any other notice, the period of 28 days beginning with the date on which the application is advertised under paragraph 8, and

(c) in the case of a draft determination, the period of 28 days beginning with the date on which the draft is advertised under paragraph 20.

(2) The Agency must consider any representation made within the representation period.

16. Where applicable−

(a) the Agency must consider in determining the application any relevant information obtained or conclusion arrived for the purposes of−

(i) Articles 5, 6, 7 and 9 of the EIA Directive,

(ii) a safety report within the meaning of section 95F of the Public Health Act; or

(b) a solvents installation, any such information or conclusion for the purposes of those Articles of the EIA Directive.

17.(1) The Agency must, subject to paragraph 24, give notice to the applicant of−

(a) the determination of an application for a permit; or

(b) the draft determination,

within the period of 4 months beginning with the day on which it received a duly made application, or within such longer period as may be agreed with the applicant.

(2) The Agency must take no account for the purposes of calculating that period−

(a) of any period beginning with the date on which notice is served under paragraph 7 and ending on the date on which the applicant furnishes the specified information,

(b) if a matter falls to be determined under regulation 62, of any period beginning with the date on which the 28 day period referred to in paragraph 8 ends, and ending on the date on which the application is advertised under paragraph 29(a),

(c) if separate applications are made to operate different parts of one installation, of any period beginning with the date on which notice is served on one of the applicants under paragraph 7 and ending on the date on which the applicant furnishes the specified information.

18. The Agency must where separate applications are made to operate different parts of an installation send a copy of any notice served on an applicant under paragraph 7 to the other applicants.

19.(1) The Agency must−

(a) advertise notice of a draft determination under paragraph 17(1)(b) on the Agency's web site, or if it considers it appropriate, by any other means, within the 3 day period beginning with the date on which that notice is given, and

(b) take all steps specified in the advertisement as falling to be carried out by the Agency within the periods set out in the advertisement.

(2) If notice of a draft determination is to be provided to the Minister for onward transmission to another Member State under paragraph 23, the Agency must give a copy of the advertisement and of that draft to the Minister at the same time as the notice is advertised.

20. An advertisement under paragraph 19 must−

(a) explain where, how and at what times the register which contains−

(i) any additional information relevant to the determination of the application which has become available after the application is advertised under paragraph 8,

(ii) information about any BAT reference document relevant to the installation or activity concerned,

(iii) information about how emission limit values have been set in relation to best available techniques and emission limit values associated with the techniques,

(iv) a copy of the draft determination, and

(v) information on the arrangements for public participation,

(vi) the reasons and considerations on which the draft determination is based,

may be inspected, and that it may be inspected free of charge,

(b) explain where any other information and guidance relevant to the application may be obtained, and that it may be obtained free of charge,

(c) explain that any person may make written representations to the Agency in a 28 day period beginning with the date of the advertisement, and give the address for receiving such representations,

(d) explain that where−

(i) no representations are made to the Agency within that period, or where applicable under paragraph 28, the Agency must−

(aa) give notice of the determination,

(bb) include a copy of the determination in the register, together with−

(cc) a statement confirming that no representations were made,

(dd) information on the reasons and considerations on which the determination is based, and

(ee) information about the public participation process, and

(ff) advertise the notice on its web site, or if it considers it appropriate advertise the notice by any other means,

within the period of 7 days beginning on the day on which the later of the period specified in paragraph (c) or, where applicable, paragraph 25 ends, or

(ii) representations are made to the Agency within the period specified in paragraph (c) or, where applicable, paragraph 25, the Agency must subject to paragraph 21−

(aa) give notice of its determination,

(bb) include in the register a copy of the final determination, together with information on the reasons and considerations on which the determination is based, including information about the public participation process, and

(cc) advertise the notice on its web site or, if it considers it appropriate, by any other means,

within the period of 21 days beginning on the day on which the later of the periods specified in subparagraph (c) (or where applicable paragraph 25) ends, or within such longer period as may be agreed with the applicant.

23. The Agency must take no account for the purposes of calculating the period specified in paragraph 20(1)(d)(ii) of any period beginning with the date on which notice is served under paragraph 7 and ending on the date on which the applicant furnishes the specified information.

22. If the Agency fails to give notice of a determination under paragraph 17, or a draft determination under paragraph 20, within the period specified for such a purpose, then the application is deemed to have been refused if the applicant gives notice to that effect to the Agency after the end of the period.

23. This paragraph applies where−

(a) the Minister is aware that the operation in Gibraltar of an installation carrying out an activity described in Annex I to the Industrial Emissions Directive is likely to have significant negative effects on the environment of another Member State, or

(b) another Member State whose environment is likely to be so affected requests information about the operation of the installation.

24. The Minister must, where paragraph 23 applies, give notice of that fact to the Agency and the applicant, and−

(a) the Agency may not determine the application, or provide a draft determination, until the Minister has given the Agency−

(i) notice that bilateral consultation under Article 26 of the Industrial Emissions Directive has been carried out, and

(ii) a copy of any representations duly received by the Minister in respect of the application from a person in the other Member State (a "Member State representation"), and

(b) the 4 month period within which to give notice of determination or to provide a draft determination of the application set out in paragraph 17 begins on the date the Agency receives notification from the Minister that the bilateral consultations have been completed.

25. The Minister must give the Agency any Member State representations received.

26. In Parts 1 and 2 of this Schedule−

(a) "representation period" has the same meaning as in paragraph 15(1), and

(b) "Member State" includes Iceland, Liechtenstein and Norway.

27. This Part is subject to Part 3.

PART 3

CONFIDENTIAL INFORMATION

28. Paragraphs 8 or 19 do not apply in so far as they would require the advertisement of any information mentioned in paragraphs 9 or 19 which is not included in the register by virtue of regulation 62.

29. Where a matter falls to be determined for the purposes of regulation 62−

(a) the period within which an advertisement is to be published under paragraph 8 is a 28 day period beginning 14 days after the day on which the matters are so determined,

(b) the period for notification under paragraph 13 is a 14 day period beginning 14 days after the day on which the matters are so determined,

(c) the period within which an advertisement is to be published under paragraph 19 is a 3 day period beginning 14 days after the day on which the matters are so determined.

30. For the purposes of paragraph 29, and paragraphs 18, 20 and 21 of Schedule 6, the matters to be determined under regulation 63 are so determined−

(a) where the Agency determines under that regulation that information is commercially confidential, on the date of the determination by the Agency, or

(b) where the Agency determines under that regulation that the information is not commercially confidential−

(i) on the date on which any period for bringing an appeal expires without an appeal being brought, or

(ii) if an appeal is brought, on the date of the final determination or withdrawal of the appeal (as the case may be).

SCHEDULE 5

Regulation 24

LIST OF POLLUTING SUBSTANCES

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 including fine particulate matter.

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 mixtures 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 mixtures 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.).

13. Substances listed in Annex X to Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy.

SCHEDULE 6

VARIATION OF PERMITS

Regulations 44 and 55

PART 1

APPLICATIONS FOR VARIATION

1. An application under regulation 44 for the variation of the conditions of a permit must be in writing and must provide–

(a) the name of the applicant, that person's telephone number, address (including post code) and e-mail address (if any) and, if different, the address or e-mail address to which correspondence relating to the application should be sent,

(b) in the case of a permit to operate an installation, the address of the site of the installation to which the permit applies,

(c) if appropriate, a description of the proposed change in the operation of the installation requiring the variation and a statement of any changes as respects the matters dealt with in paragraph 1(1)(f) to (l) of Schedule 4 which would result if the proposed change were made,

(d) in the case of a variation required by a proposed substantial change in the operation of an installation or a solvents installation, any relevant information obtained or conclusion arrived at in relation to the proposed change for the purposes of Articles 5, 6, 7 and 9 of the EIA Directive,

(e) an indication of the variations to the conditions of the permit which the operator wishes the Agency to make,

(f) any information which the operator wishes the Agency to take into account when considering whether the operator is a fit and proper person to carry out any specified waste management activity which would be authorised by those variations,

(g) any additional information which the operator wishes the Agency to take into account in considering the application,

(h) in the case of an application for the variation of the conditions of a permit in respect of a waste incineration installation−

(i) the information specified in paragraph 3 of Schedule 4, or

(ii) where such information has previously been included in an application under these Regulations, a statement of any changes as respects those matters which would result if the proposed change in the operation of the installation requiring the variation were made,

(i) in the case of an application for a variation of the conditions of a permit in respect of a solvents installation the information specified in paragraph 4 of Schedule 4

(j) in the case of an application where the applicant proposes that the permit as varied will authorise an emission limit value set under regulation 24(7), the reasons for setting that value.

2.(1) This paragraph applies where an application relates to a change in operation of an installation that will if approved−

(a) result in additional land being included in the site,

(b) result in the use of a substance on the site, or

(c) result in the use, production or release of a relevant hazardous substance on the site (including any such additional land).

(2) A site report is not required under paragraph (1) for additional land where the change relates to a solvents emissions activity, provided that no activity at the installation is described in Schedule 1.

(3) An application to which subparagraph (1)(a) or (b) applies must include a site report.

(4) An application to which subparagraph (1)(c) applies must include a baseline report.

(5) An existing site report or baseline report may be amended to take account of any substance or relevant hazardous substance for the purposes of paragraph (1).

(6) The Agency may on request by the applicant waive the requirement in subparagraph (1)(c) for a baseline report, having regard for that purpose to the possibility of soil and groundwater contamination.

(7) In this paragraph a reference to an activity includes a directly associated activity.

3.(1) The Agency may by notice require the applicant to provide such further information for the purpose of determining an application for variation as is specified in the notice within the period so specified.

(2) The Agency may by further notice to the applicant treat the application as having been withdrawn at the end of that period if the applicant fails to furnish the information within that period.

PART 2

DETERMINATION OF VARIATIONS

4.(1). Subject to subparagraphs (2) and (3), this paragraph applies where−

(a) an application for variation is made under regulation 44, and

(b) no such application is made, and the Agency−

(i) proposes to serve a variation notice for a variation that will authorise−

(aa) a substantial change in operation of an installation, or

(bb) a variation of a permit as a result of a review under regulation 42(1)(a), or

(ii) makes a determination that this paragraph applies to a proposed variation.

(2) This paragraph does not apply where the Agency proposes to serve a variation notice−

(a) which has been modified to take account of representations made in accordance with this paragraph, or

(b) in order to comply with a direction given by the Minister.

(3) This paragraph does not apply in relation to a variation relating only to dry cleaning (as defined in Part 10 of Schedule 2).

(4) Where this paragraph applies, the Agency must−

(a) notify the operator that the paragraph applies, and of any prescribed fee,

(b) in the case of a proposed variation notice, serve a copy of the proposed notice on the operator,

(c) give notice of the application or proposed variation notice, enclosing a copy of it, to the persons to whom notice would have to be given in accordance with paragraph 13 of Schedule 4 in the case of an application for a permit to operate the installation, and

(d) in the case of a proposed variation notice affecting the operation of an installation, provide−

(i) information on the reasons and considerations on which that proposed variation notice is based,

(ii) information on any guidance relevant to the determination of the proposed variation.

(5) The Agency must, subject to paragraph 17(a), comply with subparagraph (4) within the 14 day period after receipt of an application for variation.

(6) For the purposes of calculating the period in subparagraph (5), no account may be taken of any period beginning with the date on which notice is served on an operator under paragraph 3 and ending on the date on which the operator provides the information specified in the notice.

(7) An application for variation is deemed to have been withdrawn if the applicant does not pay any prescribed fee to the Agency within 28 days after the date of notification under subparagraph (4)(a).

(8) Subject to paragraph 17(b), an operator notified under subparagraph (4)(a) must, within the 28 day period beginning on the day on which the notification is made, advertise the application or proposed variation notice (as the case may be) in one or more newspapers.

(9) An advertisement under subparagraph (8) must−

(a) state the name of the operator,

(b) state the address of the site of the installation,

(c) describe briefly the activities carried out in the installation and the change in the operation of the installation that will be authorised by the variation,

(d) state where and, in the case of a variation affecting the operation of the installation, how and at what times, the register which contains−

(i) particulars of the application or proposed variation,

(ii) a copy of the proposed variation notice and the information provided by the Agency under subparagraph (4)(d)(i) on the reasons and considerations on which that proposed variation notice is based,

may be inspected, and that it may be inspected free of charge,

(e) explain that any person may make representations to the Agency in writing within the period of 28 days beginning with the date of the advertisement and give the address of the Agency for receiving the representations,

(f) explain that any such representations made by any person will be entered in the register unless that person requests in writing that they should not be so entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request,

(g) explain that the particulars of the application contained in the register specified in paragraph (d) include a description of the elements listed in paragraph 1,

(h) in the case of a proposed variation notice, describe the contents of that notice,

(i) where applicable, state that the determination of the application or the serving of the variation notice is subject to a local or transboundary environmental impact assessment or to consultations between Member States in accordance with paragraph 13,

(j) where applicable, explain that any guidance relevant to the determination of the proposed variation which has been provided to the operator under subparagraph (4)(d)(ii) has been included in the register or otherwise made available.

(10) Any representations made by any person within the period allowed must be considered by the Agency in determining the application or before serving the variation notice.

(11) For the purpose of subparagraph (10), the period allowed for making representations is−

(a) in the case of persons notified pursuant to subparagraph (4)(c), the period of 28 days beginning with the date on which notice of the application or proposed variation notice was given under that subparagraph,

(b) in the case of any other person, the period of 28 days beginning with the date on which the application or proposed variation notice was advertised pursuant to subparagraph (8),

(c) in the case of all persons, the period of 28 days beginning with the date on which the draft determination is advertised pursuant to paragraph 9.

(12) Where this paragraph applies to a variation affecting the operation of an installation or a solvents installation, the Agency must consider any relevant information obtained or conclusion arrived at for the purposes of Articles 5, 6, 7 and 9 of the EIA Directive in relation to the change on determining the application or before serving the variation notice.

5.(1) In the case of a proposed variation notice affecting the operation of an installation to which the consultation and advertising procedure set out in paragraph 4 applies−

(a) where no representations are made to the Agency within the period allowed by paragraph 4(11) or by the day on which the agency receives notification by the Minister that the bilateral consultations have been completed pursuant to paragraph 12(b), the Agency must−

(i) serve the variation notice,

(ii) include in the register a copy of the variation notice, together with the statement confirming that no representations have been received by the Agency on the proposed variation and information on the reasons and considerations on which the variation notice is based, and

(iii) where paragraph 11 applies, forward a copy of the variation notice and the information specified in subparagraph (ii) to the Minister,

within the period of 7 days beginning on the day on which the period allowed by paragraph 4(11) or the day on which the Agency receives notification by the Minister that the bilateral consultations have been completed pursuant to paragraph 12(b), or

(b) where representations are made to the Agency within the period allowed by paragraph 4(11) or by the day on which the Agency receives notification by the Minister that the bilateral consultations have been completed pursuant to paragraph 12(b), the Agency must−

(i) serve the variation notice,

(ii) include in the register a copy of the variation notice, together with information on the reasons and considerations on which the variation notice is based, including information about the public participation process,

(iii) advertise the notice on its web site or, if it considers it appropriate, by any other means, and

(iv) where paragraph 11 applies, forward a copy of the variation notice and the information specified in subparagraph (ii) to the Minister,

within the period of 21 days beginning on the day on which the period allowed by paragraph 4(11) or the day on which the Agency receives notification by the Minister that the bilateral consultations have been completed pursuant to paragraph 12(b) or within such longer period as may be agreed with the applicant.

(2) Where subparagraph (1) applies, and the Agency fails to serve the variation notice within the periods specified in that subparagraph, the proposed variation is deemed to have been withdrawn at the end of that period if the operator notifies the Agency in writing of such failure.

6.(1) Subject to paragraph 12, The Agency must give notice of−

(a) its determination of an application for variation under regulation 44, or

(b) in the case of such an application where which paragraph 4(1)(b) applies, and which affects the operation of an installation, its draft determination,

within the period specified in subparagraph (2).

(2) The specified period is−

(a) where the consultation and advertising procedure set out in paragraph 4 applies, the period of 4 months beginning with the day on which the Agency received the application,

(b) where that procedure does not apply, the period of 3 months beginning with the day on which the Agency received the application,

or such longer period as may be agreed with the operator.

(3) For the purpose of calculating the periods mentioned in subparagraph (2) no account is taken of−

(a) any period beginning with the date on which notice is served on an operator under paragraph 3 and ending on the date on which the operator furnishes the information specified in the notice,

(b) where a matter falls to be determined for the purposes of regulation 62, any period beginning with the date on which the period of 28 days referred to in paragraph 4(8) ends and ending on the date on which the application is advertised in accordance with paragraph 17(b).

7.(1) The Agency must−

(a) within a period of 3 days beginning with the date on which notice of a draft determination is given pursuant to paragraph 6, advertise the notice on its web site or, if it considers it appropriate, by any other means, and

(b) take all relevant steps specified in the advertisement as falling to be carried out by the Agency, within the time-periods set out in that advertisement.

(2) In the case of a notice of a draft determination the Agency must forward copies of the draft determination and of the advertisement made pursuant to this paragraph to the Minister at the same time as the draft determination is advertised.

8. An advertisement required by paragraph 7 must−

(a) explain where, how and at what times the register which contains−

(i) any additional information which is relevant to the determination of the application which has become available after the application is advertised pursuant to paragraph 4(8),

(ii) information about any BAT reference document relevant to the installation or activity concerned,

(iii) information about how emission limit values have been set in relation to best available techniques and emission limit values associated with the techniques,

(iv) a copy of the draft determination, and

(v) information on the arrangements for public participation and the reasons and considerations on which the draft determination is based,

may be inspected, and that it may be inspected free of charge,

(b) explain where any other information and guidance relevant to the application may be obtained free of charge,

(c) explain that any person may make representations to the Agency in writing within the period of 28 days beginning with the date of the advertisement and give the Agency address for receiving representations,

(d) explain that where−

(i) no representations are made to the Agency within the period specified in paragraph (c) or where applicable, paragraph 14, the Agency must−

(aa) give notice of its determination, and

(bb) include in the register a copy of the final determination, together with a statement confirming that no representations have been made on the draft determination and information on the reasons and considerations on which the determination is based and information about the public participation process, and

(cc) advertise the notice on its web site or, if it considers it appropriate, by any other means,

within the period of 7 days beginning on the day on which the period referred to in subparagraph (c) or, where applicable, paragraph 14 ends; or

(ii) representations are made to the Agency within the period specified in paragraph (c) or paragraph 16 the Agency must subject to paragraph 9−

(aa) serve the variation notice, and

(bb) include in the register a copy of the final variation, together with information on the reasons and considerations on which the variation is based, including information about the public participation process, and

(cc) advertise the notice on its web site or, if it considers it appropriate, by any other means,

within the period of 21 days beginning on the day on which the later of the period specified in subparagraph (c) or, where applicable, paragraph 14 ends, or within such longer period as may be agreed with the applicant.

9. For the purpose of calculating the period specified in paragraph 8(d)(ii), no account is taken of any period beginning with the date on which notice is served on the applicant under paragraph 3 and ending on the date on which the applicant provides the information specified in the notice.

10. If the Agency fails to give notice of its determination or draft determination of an application for a variation within the applicable periods allowed by or under paragraph 6 or 8, the application is, if the applicant notifies the Agency in writing that the applicant treats the failure as such, deemed to have been refused at the end of that period.

11.(1) This paragraph applies where−

(a) the Minister is aware that an application or a proposed variation notice relates to a substantial change in the operation of an installation carrying out activities listed in Annex I to the Industrial Emissions Directive which are likely to have significant negative effects on the environment of another Member State, or

(b) such a Member State requests information relating to such an application or notice.

(2) Where this paragraph applies the Minister must ensure that other Member States are provided, for the purposes of Article 26 of the Industrial Emissions Directive,−

(a) with a copy of the application or proposed variation notice,

(b) with a copy of the advertisement made under paragraph 4(8),

(c) where applicable, with a copy of the draft determination in respect of such an application together with a copy of the advertisement under paragraph 7, and

(d) any additional information which they consider relevant to the determination of the application or proposed variation notice, having regard for that purpose to Article 26.

(3) The Minster must comply with subparagraph (2)−

(a) at the same time as the application, proposed variation or draft determination are advertised under paragraphs 4(8) and 7, or

(b) if this paragraph applies after the date of such advertisement, and the application or proposed variation has not been determined, as soon as possible thereafter.

12. The Minister must where paragraph 11 applies given notice of that fact to the Agency and the operator, and−

(a) the Agency must not determine the application, or provide its draft determination, or serve a variation notice until the Minister has given the Agency−

(i) notice in writing that the bilateral consultation under Article 26 of the Industrial Emissions Directive has been carried out,

(ii) a copy of any representations duly received by the Minister in respect of the application or the proposed variation from a person in the other Member State (a "Member State representation"), and

(b) in the case of an application to be determined by the Agency, the time period within which to determine the application or to provide a draft determination set out in paragraph 8 begins on the day on which it receives that notification by the Minister that the bilateral consultations have been completed.

13.(1) The Minister must give the Agency any Member State representations received.

(2) The Agency must−

(a) consider any Member State representation when determining a case to which paragraph 11 applies, and

(b) on determining the case provide any other Member State with which bilateral consultation has been carried out with information on the−

(i) contents of the decision (including a copy of the permit),

(ii) reasons for making the determination, and

(iii) results of consultation before making the determination, and on how the results were taken into account by the Agency or the Minister.

14. In paragraphs 11 to 13, "Member State" includes Iceland, Liechtenstein and Norway.

PART 3

CONFIDENTIAL INFORMATION

15. The requirements of paragraph 4(8) or paragraph 7 of this Schedule do not apply in so far as they would require the advertisement of information mentioned in paragraph 4(9) or, as the case may be, paragraph 8 which is not to be included in the register under regulation 62.

16. Paragraph 28 of Schedule 4 applies in relation to the requirement to give notice under paragraph 4(4)(c) of this Schedule as it applies to the requirement to give notice under paragraph 13 of that Schedule.

17. Where a matter falls to be determined for the purposes of regulation 62−

(a) the period for notification under paragraph 4(4)(b) of this Schedule is the period of 14 days beginning 14 days after the day on which the matters to be determined for the purposes of regulation 62 are finally disposed of,

(b) the period within which an advertisement is to be published under paragraph 4(8) shall be 28 days beginning 14 days after the day on which the matters to be determined for the purposes of regulation 62 are finally disposed of.

18. Where a matter falls to be determined for the purposes of regulation 62, the period within which an advertisement is to be made under paragraph 7 is the 3 day period beginning 14 days after the day on which the matters to be determined for the purposes of regulation 65 are finally disposed of.

SCHEDULE 7

Regulation 55

APPEALS TO THE MINISTER

1.(1) A person who wishes to appeal to the Minister under regulation 55 (an "appellant") must at the same time–

(a) give notice of the appeal to the Minister together with the documents specified in subparagraph (2), and

(b) give the Agency a copy of that notice, together with copies of the documents specified in subparagraph (2)(a) and (f).

(2) The specified documents–

(a) a statement of the grounds of appeal,

(b) a copy of any relevant application,

(c) a copy of any relevant permit,

(d) a copy of any relevant correspondence between the appellant and the Agency,

(e) a copy of any decision or notice which is the subject matter of the appeal,

(f) a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or to be disposed of on the basis of written representations.

(3) An appellant may withdraw an appeal by notifying the Minister in writing and must send a copy of that notification to the Agency.

2.(1) Subject to subparagraph (2), notice of appeal in accordance with paragraph 1 is to be given–

(a) in the case of an appeal under regulation 55(1), before the expiry of the period of 6 months beginning with the date of the decision or deemed decision which is the subject matter of the appeal,

(b) in the case of an appeal under regulation 55(2) against a revocation notice, before the date on which the revocation takes effect,

(c) in the case of an appeal under regulation 55(2) against a variation notice served in connection with a partial transfer under regulation 45, before the expiry of the period of 6 months beginning with the date of the notice,

(d) in the case of an appeal under regulation 55(2) against a variation notice (other than a notice described in paragraph (c)), an enforcement notice or a suspension notice, or a closure notice under section 13 of the Landfill Act, 2002, before the expiry of the period of 2 months beginning with the date of the notice which is the subject of the appeal.

(2) The Minister may in a particular case allow notice of appeal to be given after the expiry of the periods mentioned in subparagraph (1)(a), (c) or (d).

3.(1) The Agency must, within 14 days of receipt of the copy of the notice of appeal sent in accordance with paragraph 1, give notice of the appeal to−

(a) any person who was required to be given notice in respect of the application or permit to which the appeal relates under paragraph 13 of Schedule 4 or paragraph 4(4)(c) of Schedule 6,

(b) any person who made representations to the Agency with respect to the subject matter of the appeal, and

(c) any person who appears to the Agency to have a particular interest in the subject matter of the appeal.

(2) A notice under subparagraph (1) must−

(a) state that notice of appeal has been given,

(b) state the name of the appellant and, where the appeal concerns an installation, the address of the site of the installation,

(c) describe the application or permit to which the appeal relates,

(d) state that representations with respect to the appeal may be made to the Minister in writing by any recipient of the notice within a period of 21 days beginning with the date of the

notice, and that copies of any representations so made will be furnished to the appellant and to the Agency,

(e) explain that any such representations will be entered in the register unless that person making the representation requests in writing that they should not be entered, and that where such a request is made there will be included in the register a statement indicating only that representations have been made which have been the subject of such a request.

(3) The Agency must, within 14 days of sending a notice under subparagraph (1), notify the Minister of the persons to whom and the date on which the notice was sent.

(4) In the event of an appeal being withdrawn, the Agency must give notice of the withdrawal to every person to whom notice was given under subparagraph (1).

4.(1) The Agency must submit any written representations to the Minister not later than 28 days after receiving a copy of the documents mentioned in paragraph 1(2)(a).

(2) The appellant must make any further representations by way of reply to any representations from the Agency no later than 17 days after the date of submission of those representations by it.

(3) Any representations made by the appellant or the Agency must bear the date on which they are submitted to the Minister.

(4) When the Agency or the appellant submits any representations to the Minister they must at the same time send a copy of them to the other party.

(5) The Minister must send to the appellant and the Agency a copy of any representations made to them by the persons mentioned in paragraph 3(1) and must allow the appellant and the Agency a period of not less than 14 days in which to make representations on them.

(6) The Minister may in a particular case–

(a) set later time limits than those mentioned in this paragraph,

(b) require exchanges of representations between the parties in addition to those mentioned in paragraphs (1) and (2).

5.(1) The Minister must give notice to the appellant of the determination of the appeal, and at the same time send a copy–

(a) to the Agency and to any persons required under paragraph 3(1)(a) to be notified of the appeal, and

(b) to any person mentioned in paragraph 3(1)(b) and (c) who made representations to the Minister and to any other person who made representations in relation to the appeal at the hearing.

(2) The Minister must advise the appellant of the further right of appeal to the Magistrates' Court, on a point of law.

SCHEDULE 8

REGISTER

Regulation 61

1. Subject to regulations 62, the register contains−

(a) all particulars of any application made to the Agency for a permit,

(b) all particulars of any notice to the applicant by the Agency under paragraph 7 of Schedule 4 or paragraph 3 of Schedule 6 and of any information furnished in response to such a notice,

(c) all particulars of any advertisement published pursuant to paragraph 8 of Schedule 4 or paragraph 4(8) of Schedule 6 and of any representations made by any person in response to such an advertisement, other than representations which the person who made them requested should not be placed in the register,

(d) all particulars of any advertisement under paragraph 22 of Schedule 4 or paragraph 9 of Schedule 6, the information specified in paragraph 23 of Schedule 4 or paragraphs 7 or 10 of Schedule 6 and all particulars of any representations made by any person in response to such an advertisement, other than representations which the person who made them requested should not be placed in the register,

(e) in a case where any such representations are omitted from the register at the request of the person who made them, a statement by the Agency that representations have been made which have been the subject of such a request (but such statement must not identify the person who made the representations in question),

(f) all particulars of any representations made by any person required to be given notice under paragraph 13 of Schedule 4 or paragraph 4(4)(c) of Schedule 6, and how they were taken into account in the decision

(g) all particulars of any permit granted by the Agency, and the reasons on which the decision is based,

(h) all particulars of any notification of the Agency given under regulation 43(1),

(i) all particulars of any application made to the Agency for the variation, transfer or surrender of a permit,

(j) all particulars of any variation, transfer or surrender of any permit granted by the Agency,

(k) all particulars of measures taken by the operator on surrender of a permit where the activity in question involves the use, production or release of hazardous substances,

(l) all particulars of any revocation of a permit granted by the Agency,

(m) all particulars of a site visit report under regulation 51.

(n) all particulars of any enforcement notice or suspension notice or closure notice under the Landfill Act, 2002 issued by the Agency,

(o) all particulars of any notice issued by the Agency withdrawing an enforcement notice or a suspension notice,

(p) all particulars of–

(i) any notice of appeal in respect of an appeal under regulation 55 against a decision by the Agency, or against a notice served by the Agency, and

(ii) the documents relating to the appeal mentioned in paragraph 1(2)(a), (d) and (e) of Schedule 7,

(q) all particulars of any representations made by any person in response to a notice given under paragraph 3(1) of Schedule 7, other than representations which the person who made them requested should not be placed in the register,

(r) in a case where any such representations are omitted from the register at the request of the person who made them, a statement by the Agency that representations have been made which have been the subject of such a request (but such statement must not identify the person who made the representations in question),

(s) all particulars of any written notification of the determination by the Minister of an appeal and any report accompanying any written notification,

(t) details of any conviction of any person for any offence under regulation 63(1) above or section 16 of the Landfill Act, 2002 which relates to the operation of an installation under a permit granted by the Agency, or without such a permit in circumstances where one is required by regulation 11, including the name of the person, the date of conviction and, in the case of a conviction, the penalty imposed and the name of the Court,

(u) all particulars of any monitoring information relating to the operation of an installation under a permit granted by the Agency which has been obtained by it as a result of its own monitoring or furnished to it in writing by virtue of a condition of the permit or under regulation 60(2),

(v) in a case where any such monitoring information is omitted from the register by virtue of regulation 62, a statement by the Agency, based on the monitoring information from time to time obtained by or furnished to it, indicating whether or not there has been compliance with any relevant condition of the permit,

(w) all particulars of any other information furnished in compliance with a condition of the permit, a variation notice, enforcement notice or suspension notice, or regulation 60(2) or a closure notice under the Landfill Act, 2002,

(x) where a permit granted by the Agency authorises the carrying out a specified waste management activity, all particulars of any waste licence (within the meaning of regulation 46(13)) which ceased to have effect on the granting of the permit in so far as they may be relevant for the purpose of determining under regulation 46 whether any pollution risk results from the carrying out of such an activity on the site covered by the permit,

(y) all particulars of any report published by the Agency relating to an assessment of the environmental consequences of the operation of an installation in the locality of premises where the installation is operated under a permit granted by it, and

(z) all particulars of any direction applied in respect of the register by virtue of regulation 61) given to the Agency under any provision of these Regulations,

(aa) a list which identifies all waste incineration installations which have a capacity of less than 2 tonnes per hour and which are the subject of a permit or an authorisation granted under an enactment that contains conditions which give effect to Schedule 11,

(bb) all particulars of any notice requiring a landfill to close (in whole or in part) issued under the Landfill Act, 2002,

(cc) all particulars of any notification or report required before definitive closure of a landfill under the Landfill Act, 2002.

2. Where an application is withdrawn by the applicant at any time before it is determined, all particulars relating to that application which are already in the register must be removed from the register not less than 2 months and not more than 3 months after the date of withdrawal of the application, and no further particulars relating to that application may be entered in the register.

3. Where, following an amendment of Schedule 1 or 2, these Regulations cease to apply to an installation, all particulars relating to units of that description must be removed from the register not less than 2 months and not more than 3 months after the date on which the amendment comes into force.

4. Nothing in paragraph 1 requires the Agency to keep in the register–

(a) monitoring information relating to a particular 4 years after that information was entered in the register, or

(b) information relating to a particular installation which has been superseded by later information relating to that installation 4 years after that later information was entered in the register,

but this paragraph does not apply to any aggregated monitoring data relating to overall emissions of any substance or class of substance from installations generally, or from any class of installation.

SCHEDULE 9

Regulation 25

SPECIAL PROVISIONS FOR LARGE COMBUSTION PLANTS

Paragraphs

Scope.

1.(1) This Schedule shall apply to combustion plants, the total rated thermal input of which is equal to or greater than 50 MW, irrespective of the type of fuel used.

(2) This Schedule shall not apply to the following combustion plants−

(a) plants in which the products of combustion are used for the direct heating, drying, or any other treatment of objects or materials;

(b) post-combustion plants designed to purify the waste gases by combustion which are not operated as independent combustion plants;

(c) facilities for the regeneration of catalytic cracking catalysts;

(d) facilities for the conversion of hydrogen sulphide into sulphur;

(e) reactors used in the chemical industry;

(f) coke battery furnaces;

(g) cowpers;

(h) any technical apparatus used in the propulsion of a vehicle, ship or aircraft;

(i) gas turbines and gas engines used on offshore platforms;

(j) plants which use any solid or liquid waste as a fuel other than waste referred to in point (b) of point 31 of Article 3 of the Industrial Emissions Directive.

Aggregation rules.

2.(1) Where the waste gases of two or more separate combustion plants are discharged through a common stack, the combination formed by such plants shall be considered as a single combustion plant and their capacities added for the purpose of calculating the total rated thermal input.

(2) Where two or more separate combustion plants which have been granted a permit for the first time on or after 1 July 1987, or the operators of which have submitted a complete application for a permit on or after that date, are installed in such a way that, taking technical and economic factors into account, their waste gases could in the judgement of the Agency, be discharged through a common stack, the combination formed by such plants shall be considered as a single combustion plant and their capacities added for the purpose of calculating the total rated thermal input.

(3) For the purpose of calculating the total rated thermal input of a combination of combustion plants referred to in subparagraphs (1) and (2), individual combustion plants with a rated thermal input below 15 MW shall not be considered.

Emission limit values.

3(1). Waste gases from combustion plants shall be discharged in a controlled way by means of a stack, containing one or more flues, the height of which is calculated in such a way as to safeguard human health and the environment.

(2) All permits for installations containing combustion plants which have been granted a permit before 7 January 2013, or the operators of which have submitted a complete application for a permit before that date, provided that such plants are put into operation no later than 7 January 2014, shall include conditions ensuring that emissions into air from these plants do not exceed the emission limit values set out in Part 1 of Schedule 10.

(3) All permits for installations containing combustion plants which had been granted an exemption as referred to in Article 4(4) of The Large Combustion Plants Directive and which are in operation after 1 January 2016, shall include conditions ensuring that emissions into the air from these plants do not exceed the emission limit values set out in Part 2 of Schedule 10.

(4) All permits for installations containing combustion plants not covered by subparagraph (2) shall include conditions ensuring that emissions into the air from these plants do not exceed the emission limit values set out in Part 2 of Schedule 10.

(5) The emission limit values set out in Parts 1 and 2 of Schedule 10 as well as the minimum rates of desulphurisation set out in Part 5 of that Schedule shall apply to the emissions of each common stack in relation to the total rated thermal input of the entire combustion plant. Where Schedule 10 provides that emission limit values may be applied for a part of a combustion plant with a limited number of operating hours, those limit values shall apply to the emissions of that part of the plant, but shall be set in relation to the total rated thermal input of the entire combustion plant.

(6) The Agency may grant a derogation for a maximum of 6 months from the obligation to comply with the emission limit values provided for in subparagraphs (2) and (4) for sulphur dioxide in respect of a combustion plant which to this end normally uses low-sulphur fuel, in cases where the operator is unable to comply with those limit values because of an interruption in the supply of low-sulphur fuel resulting from a serious shortage, and where such a derogation is granted the Agency shall immediately notify the Minister who shall ensure that the European Commission is also notified.

(7) The Agency may grant a derogation from the obligation to comply with the emission limit values provided for in subparagraphs (2) to (4) in cases where a combustion plant using only gaseous fuel has to resort exceptionally to the use of other fuels because of a sudden interruption in the supply of gas and for this reason would need to be equipped with a waste gas purification facility. The period for which such a derogation is granted shall not exceed 10 days except where there is an overriding need to maintain energy supplies.

(8) An operator who relies on subparagraph (7) shall immediately inform the Agency, and the Agency shall immediately notify the Minister who shall ensure that the European Commission is also notified.

(9) Where a combustion plant is extended, the emission limit values set out in Part 2 of Schedule 10 shall apply to the extended part of the plant affected by the change and shall be set in relation to the total rated thermal input of the entire combustion plant. In the case of a change to a combustion plant, which may have consequences for the environment and which affects a part of the plant with a rated thermal input of 50 MW or more, the emission limit values as set out in Part 2 of Schedule 10 shall apply to the part of the plant which has changed in relation to the total rated thermal input of the entire combustion plant.

(10) The emission limit values set out in Parts 1 and 2 of Schedule 10 shall not apply to the following combustion plants−

(a) diesel engines;

(b) recovery boilers within installations for the production of pulp.

Desulphurisation rate.

4.(1) For combustion plants firing indigenous solid fuel, which cannot comply with the emission limit values for sulphur dioxide referred to in paragraph 3(2) to (4) due to the characteristics of this fuel, the Agency may apply instead the minimum rates of desulphurisation set out in Part 5 of Schedule 10, in accordance with the compliance rules set out in Part 6 of that Schedule and with prior validation by the Agency of the technical report referred to in Article 72(4)(a) of the Industrial Emissions Directive.

(2) For combustion plants firing indigenous solid fuel, which co-incinerate waste, and which cannot comply with the C_{proc} values for sulphur dioxide set out in points 3.1 or 3.2 of Part 4 of Schedule 12 due to the characteristics of the indigenous solid fuel, the Agency may apply instead the minimum rates of desulphurisation set out in Part 5 of Schedule 10, in accordance with the compliance rules set out in Part 6 of that Schedule. If the Agency chooses to apply this paragraph, C_{waste} as referred to in point 1 of Part 4 of Schedule 12 shall be equal to 0 mg/Nm^3.

Transitional Plan.

5.(1) During the period from 1 January 2016 to 30 June 2020, the Agency may draw up and, with the Minister's prior consent, implement a transitional plan covering combustion plants which were granted the first permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003. For each of the combustion plants covered by the plan, the plan shall cover emissions of one or more of the following pollutants: nitrogen oxides, sulphur dioxide

and dust. For gas turbines, only nitrogen oxides emissions shall be covered by the plan.

(2) The transitional plan shall not include any of the following combustion plants−

(a) those to which Article 33(1) of the Industrial Emissions Directive applies;

(b) those within refineries firing low calorific gases from the gasification of refinery residues or the distillation and conversion residues from the refining of crude oil for own consumption, alone or with other fuels;

(c) those to which Article 35 of the Industrial Emissions Directive applies;

(d) those which are granted an exemption as referred to in Article 4(4) of the Large Combustion Plants Directive.

(3) Combustion plants covered by the plan may be exempted from compliance with the emission limit values referred to in paragraph 3(2) and (3) for the pollutants which are subject to the plan or, where applicable, with the rates of desulphurisation referred to in paragraph 4.

(4) The emission limit values for sulphur dioxide, nitrogen oxides and dust set out in the permit for the combustion plant applicable on 31 December 2015, pursuant in particular to the requirements of the Large Combustion Plants Directive and the Integrated Pollution Prevention and Control Directive, shall at least be maintained.

(5) Combustion plants with a total rated thermal input of more than 500 MW firing solid fuels, which were granted the first permit after 1 July 1987, shall comply with the emission limit values for nitrogen oxides set out in Part 1 of Schedule 10.

(6) For each of the pollutants it covers, the transitional plan shall set a ceiling defining the maximum total annual emissions for all of the plants covered by the plan on the basis of each plant's total rated thermal input on 31 December 2010, its actual annual operating hours and its fuel use, averaged over the last 10 years of operation up to and including 2010.

(7) The ceiling for the year 2016 shall be calculated on the basis of the relevant emission limit values set out in Annexes III to VII to the Large Combustion Plants Directive or, where applicable, on the basis of the rates of desulphurisation set out in Annex III to the Large Combustion Plants

Directive. In the case of gas turbines, the emission limit values for nitrogen oxides set out for such plants in Part B of Annex VI to the Large Combustion Plants Directive shall be used. The ceilings for the years 2019 and 2020 shall be calculated on the basis of the relevant emission limit values set out in Part 1 of Schedule 10 to this Directive or, where applicable, the relevant rates of desulphurisation set out in Part 5 of Schedule 10 to this Directive. The ceilings for the years 2017 and 2018 shall be set providing a linear decrease of the ceilings between 2016 and 2019.

(8) Where a plant included in the transitional national plan is closed or no longer falls within the scope of this Schedule, this shall not result in an increase in total annual emissions from the remaining plants covered by the plan.

(9) The transitional plan shall also contain provisions on monitoring and reporting that comply with the implementing rules established in accordance with Article 41(b) of the Industrial Emissions Directive, as well as the measures foreseen for each of the plants in order to ensure timely compliance with the emission limit values that will apply from 1 July 2020.

(10) The Minister shall, as soon as is reasonably practicable, ensure that the transitional plan for Gibraltar, and subsequently any amendment thereof, is communicated to the European Commission.

Limited life time derogation.

6.(1) During the period from 1 January 2016 to 31 December 2023, combustion plants may be exempted from compliance with the emission limit values referred to in paragraph 3(2) and (3) and with the rates of desulphurisation referred to in paragraph (4), where applicable, and from their inclusion in the transitional plan referred to in paragraph 5 provided that the following conditions are fulfilled−

(a) the operator of the combustion plant undertakes, in a written declaration submitted by 1 January 2014 at the latest to the Agency, not to operate the plant for more than 17,500 operating hours, starting from 1 January 2016 and ending no later than 31 December 2023;

(b) the operator is required to submit each year to the Agency a record of the number of operating hours since 1 January 2016;

(c) the emission limit values for sulphur dioxides, nitrogen oxides and dust set out in the permit for the combustion plant applicable on 31 December 2015, pursuant in particular to the requirements of the Large Combustion Plants Directive and the

Integrated Pollution Prevention and Control Directive, shall at least be maintained during the remaining operational life of the combustion plant. Combustion plants with a total rated thermal input of more than 500 MW firing solid fuels, which were granted the first permit after 1 July 1987, shall comply with the emission limit values for nitrogen oxides set out in Part 1 of Schedule 10; and

(d) the combustion plant has not been granted an exemption as referred to in Article 4(4) of the Large Combustion Plants Directive.

(2) At the latest on 1 January 2016, the Minister shall ensure that a list of any combustion plants to which subparagraph (1) applies, including their total rated thermal input, the fuel types used and the applicable emission limit values for sulphur dioxide, nitrogen oxides and dust is communicated to the European Commission. For plants subject to subparagraph (1), a record of the number of operating hours since 1 January 2016 shall be communicated to the European Commission annually.

(3) In case of a combustion plant being, on 6 January 2011, part of a small isolated system and accounting at that date for at least 35% of the electricity supply within that system, which is unable, due to its technical characteristics, to comply with the emission limit values referred to in paragraph 3(2) and (3), the number of operating hours referred to in subparagraph (1)(a) shall be 18,000, starting from 1 January 2020 and ending no later than 31 December 2023, and the date referred to in subparagraph (1)(b) and subparagraph (2) shall be 1 January 2020.

(4) In case of a combustion plant with a total rated thermal input of more than 1,500 MW which started operating before 31 December 1986 and fires indigenous solid fuel with a net calorific value of less than 5,800 kJ/kg, a moisture content greater than 45% by weight, a combined moisture and ash content greater than 60% by weight and a calcium oxide content in ash greater than 10%, the number of operating hours referred to in subparagraph (1)(a) shall be 32,000.

Small isolated systems.

7.(1) Until 31 December 2019, combustion plants being, on 6 January 2011, part of a small isolated system may be exempted from compliance with the emission limit values referred to in paragraph 3(2) and (3) and the rates of desulphurisation referred to in paragraph 4, where applicable. Until 31 December 2019, the emission limit values set out in the permits of these combustion plants, pursuant in particular to the requirements of the Large

Combustion Plants Directive and the Integrated Pollution Prevention and Control Directive, shall at least be maintained.

(2) Combustion plants with a total rated thermal input of more than 500 MW firing solid fuels, which were granted the first permit after 1 July 1987, shall comply with the emission limit values for nitrogen oxides set out in Part 1 of Schedule 10.

(3) Where there are combustion plants covered by this Schedule that are part of a small isolated system, the Minster shall ensure that a list of those combustion plants, the total annual energy consumption of the small isolated system and the amount of energy obtained through interconnection with other systems are communicated to the European Commission.

District heating plants.

8.(1) Until 31 December 2022, a combustion plant may be exempted from compliance with the emission limit values referred to in paragraph 3(2) and (3) and the rates of desulphurisation referred to in paragraph 4 provided that the following conditions are fulfilled−

(a) the total rated thermal input of the combustion plant does not exceed 200 MW;

(b) the plant was granted a first permit before 27 November 2002 or the operator of that plant had submitted a complete application for a permit before that date, provided that it was put into operation no later than 27 November 2003;

(c) at least 50% of the useful heat production of the plant, as a rolling average over a period of 5 years, is delivered in the form of steam or hot water to a public network for district heating; and

(d) the emission limit values for sulphur dioxide, nitrogen oxides and dust set out in its permit applicable on 31 December 2015, pursuant in particular to the requirements of the Large Combustion Plants Directive and the Integrated Pollution Prevention and Control Directive, are at least maintained until 31 December 2022.

(2) The Minister shall ensure that at the latest on 1 January 2016, a list of any combustion plants to which paragraph 1 applies, including their total rated thermal input, the fuel types used and the applicable emission limit values for sulphur dioxide, nitrogen oxides and dust is communicated to the European Commission. In addition, the European Commission shall be

informed annually, for any combustion plants to which subparagraph (1) applies and during the period mentioned in that subparagraph, of the proportion of useful heat production of each plant which was delivered in the form of steam or hot water to a public network for district heating, expressed as a rolling average over the preceding 5 years.

Geological storage of carbon dioxide.

9.(1) The Agency shall ensure that operators of all combustion plants with a rated electrical output of 300 MW or more for which the original construction licence or, in the absence of such a procedure, the original operating licence is granted after the entry into force of Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide, have assessed whether the following conditions are met−

(a) suitable storage sites are available,

(b) transport facilities are technically and economically feasible,

(c) it is technically and economically feasible to retrofit for carbon dioxide capture.

(2) If the conditions laid down in subparagraph (1) are met, the Agency shall ensure that suitable space on the installation site for the equipment necessary to capture and compress carbon dioxide is set aside. The Agency shall determine whether the conditions are met on the basis of the assessment referred to in subparagraph (1) and other available information, particularly concerning the protection of the environment and human health.

Malfunction or breakdown of the abatement equipment.

10.(1) The Agency shall ensure that provision is made in the permits for procedures relating to malfunction or breakdown of the abatement equipment.

(2) In the case of a breakdown, the Agency shall require the operator to reduce or close down operations if a return to normal operation is not achieved within 24 hours, or to operate the plant using low polluting fuels.

(3) The operator shall notify the Agency within 48 hours after the malfunction or breakdown of the abatement equipment.

(4) The cumulative duration of unabated operation shall not exceed 120 hours in any 12-month period.

(5) The Agency may grant a derogation from the time limits set out in subparagraphs (2) and (4) in one of the following cases−

(a) there is an overriding need to maintain energy supplies;

(b) the combustion plant with the breakdown would be replaced for a limited period by another plant which would cause an overall increase in emissions.

Monitoring of emissions into air.

11.(1) The Agency shall ensure that the monitoring of air polluting substances is carried out in accordance with Part 3 of Schedule 10.

(2) The installation and functioning of the automated monitoring equipment shall be subject to control and to annual surveillance tests as set out in Part 3 of Schedule 10.

(3) The Agency shall determine the location of the sampling or measurement points to be used for the monitoring of emissions.

(4) All monitoring results shall be recorded, processed and presented in such a way as to enable the Agency to verify compliance with the operating conditions and emission limit values which are included in the permit.

Compliance with emission limit values.

12. The emission limit values for air shall be regarded as being complied with if the conditions set out in Part 4 of Schedule 10 are fulfilled.

Multi-fuel firing combustion plants.

13.(1) In the case of a multi-fuel firing combustion plant involving the simultaneous use of two or more fuels, the Agency shall set the emission limit values in accordance with the following steps−

(a) taking the emission limit value relevant for each individual fuel and pollutant corresponding to the total rated thermal input of the entire combustion plant as set out in Parts 1 and 2 of Schedule 10;

(b) determining fuel-weighted emission limit values, which are obtained by multiplying the individual emission limit value referred to in point (a) by the thermal input delivered by each fuel, and dividing the product of multiplication by the sum of the thermal inputs delivered by all fuels,

(c) aggregating the fuel-weighted emission limit values.

(2) In the case of multi-fuel firing combustion plants covered by paragraph 3(2) and (3), which use the distillation and conversion residues from the refining of crude-oil for own consumption, alone or with other fuels, the following emission limit values may be applied instead of the emission limit values set according to subparagraph (1)−

(a) where, during the operation of the combustion plant, the proportion contributed by the determinative fuel to the sum of the thermal inputs delivered by all fuels is 50% or more, the emission limit value set in Part 1 of Schedule 10 for the determinative fuel;

(b) where the proportion contributed by the determinative fuel to the sum of the thermal inputs delivered by all fuels is less than 50%, the emission limit value determined in accordance with the following steps−

(i) taking the emission limit values set out in Part 1 of Schedule 10 for each of the fuels used, corresponding to the total rated thermal input of the combustion plant;

(ii) calculating the emission limit value of the determinative fuel by multiplying the emission limit value, determined for that fuel according to point (i), by a factor of two, and subtracting from this product the emission limit value of the fuel used with the lowest emission limit value as set out in Part 1 of Schedule 10, corresponding to the total rated thermal input of the combustion plant;

(iii) determining the fuel-weighted emission limit value for each fuel used by multiplying the emission limit value determined under points (i) and (ii) by the thermal input of the fuel concerned and by dividing the product of this multiplication by the sum of the thermal inputs delivered by all fuels;

(iv) aggregating the fuel-weighted emission limit values determined under point (iii).

(3) In the case of multi-fuel firing combustion plants covered by paragraph 3(2) and (3), which use the distillation and conversion residues from the refining of crude-oil for own consumption, alone or with other fuels, the average emission limit values for sulphur dioxide set out in Part 7 of Schedule 10 may be applied instead of the emission limit values set according to subparagraphs (1) or (2).

Reporting obligations.

14.(1) For all combustion plants to which this Schedule applies the Agency shall, from 1 January 2016, establish an annual inventory of the sulphur dioxide, nitrogen oxides and dust emissions and energy input.

(2) Taking into account the aggregation rules set out in paragraph 2, the Agency shall obtain the following data for each combustion plant−

(a) the total rated thermal input (MW) of the combustion plant;

(b) the type of combustion plant: boiler, gas turbine, gas engine, diesel engine, other (specifying the type);

(c) the date of the start of operation of the combustion plant;

(d) the total annual emissions (tonnes per year) of sulphur dioxide, nitrogen oxides and dust (as total suspended particles);

(e) the number of operating hours of the combustion plant;

(f) the total annual amount of energy input, related to the net calorific value (TJ per year), broken down in terms of the following categories of fuel: coal, lignite, biomass, peat, other solid fuels (specifying the type), liquid fuels, natural gas, other gases (specifying the type).

(3) The annual plant-by-plant data contained in these inventories shall be made available to the European Commission upon request.

(4) A summary of the inventories shall be made available to the European Commission every 3 years within 12 months from the end of the three-year period considered. This summary shall show separately the data for combustion plants within refineries.

(5) The Minister shall ensure that as from 1 January 2016, the following data is communicated the European Commission annually−

(a) for combustion plants to which paragraph 4 applies, the sulphur content of the indigenous solid fuel used and the rate of desulphurisation achieved, averaged over each month. For the first year where paragraph 4 is applied, the technical justification of the non-feasibility of complying with the emission limit values referred to in paragraph 3(2) to (4) shall also be reported; and

(b) for combustion plants which do not operate more than 1,500 operating hours per year as a rolling average over a period of 5 years, the number of operating hours per year.

SCHEDULE 10

THIS SCHEDULE REPRODUCES ANNEX V
TO THE INDUSTRIAL EMISSIONS DIRECTIVE

Technical provisions relating to combustion plants

PART 1

Emission limit values for combustion plants referred to in Article 30(2)

1. All emission limit values shall be calculated at a temperature of 273,15 K,
a pressure of 101,3 kPa and after correction for the water vapour content of the waste gases and at a standardised O_2 content of 6% for solid fuels, 3% for combustion plants, other than gas turbines and gas engines using liquid and gaseous fuels and 15 % for gas turbines and gas engines.

2. Emission limit values (mg/Nm3) for SO2 for combustion plants using solid or liquid fuels with the exception of gas turbines and gas engines

Total rated thermal input (MW)	Coal and lignite and other solid fuels	Biomass	Peat	Liquid fuels
50-100	400	200	300	350
100-300	250	200	300	250
> 300	200	200	200	200

Combustion plants, using solid fuels which were granted a permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003, and which do not operate more than 1 500 operating hours per year as a rolling average over a period of 5 years, shall be subject to an emission limit value for SO_2 mg/Nm^3.

Combustion plants using liquid fuels, which were granted a permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003, and which do not operate more than 1,500 operating hours per year as a rolling average over a period of 5 years, shall be subject to an emission limit value for SO_2 of 850mg/Nm^3 in case of plants with a total rated thermal input not exceeding 300 MW and of

400 mg/Nm3 in case of plants with a total rated thermal input greater than 300 MW.

A part of a combustion plant discharging its waste gases through one or more separate flues within a common stack, and which does not operate more than 1,500 operating hours per year as a rolling average over a period of 5 years, may be subject to the emission limit values set out in the preceding two paragraphs in relation to the total rated thermal input of the entire combustion plant. In such cases the emissions through each of those flues shall be monitored separately.

3. Emission limit values (mg/Nm^3) for SO_2 for combustion plants using gaseous fuels with the exception of gas turbines and gas engines

In general	35
Liquefied gas	5
Low calorific gases from coke oven	400
Low calorific gases from blast furnace	200

Combustion plants, firing low calorific gases from gasification of refinery residues, which were granted a permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003, shall be subject to an emission limit value for SO_2 of 800 mg/Nm^3.

4. Emission limit values (mg/Nm^3) for NOx for combustion plants using solid or liquid fuels with the exception of gas turbines and gas engines

Total rated thermal input (MW)	Coal and lignite and other solid fuels	Biomass and peat	Liquid fuels
50-100	300 450 in case of pulverised lignite combustion	300	450
100-300	200	250	200(1)

> 300	200	200	150(1)

Note:

(1) The emission limit value is 450 mg/Nm^3 for the firing of distillation and conversion residues from the refining of crude-oil for own consumption in combustion plants with a total rated thermal input not exceeding 500 MW which were granted a permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date,
provided that the plant was put into operation no later than 27 November 2003.

Combustion plants in chemical installations using liquid production residues as non-commercial fuel for own consumption with a total rated thermal input not exceeding 500 MW which were granted a permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003, shall be subject to an emission limit value for NO_x of 450 mg/Nm^3.

Combustion plants using solid or liquid fuels with a total rated thermal input not exceeding 500 MW which were granted a permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003, and which do not operate more than 1,500 operating hours per year as a rolling average over a period of 5 years, shall be subject to an emission limit value for NO_x of 450mg/Nm^3.

Combustion plants using solid fuels with a total rated thermal input greater than 500 MW, which were granted a permit before 1 July 1987 and which do not operate more than 1 500 operating hours per year as a rolling average over a period of 5 years, shall be subject to an emission limit value for NO_x of 450 mg/Nm^3.

Combustion plants using liquid fuels, with a total rated thermal input greater than 500 MW which were granted a permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003, and which do not operate more than 1,500 operating hours per year as a rolling average over a period of 5 years, shall be subject to an emission limit value for NO_x of 400 mg/Nm^3.

A part of a combustion plant discharging its waste gases through one or more separate flues within a common stack, and which does not operate more than 1,500 operating hours per year as a rolling average over a period of 5 years, may be subject to the emission limit values set out in the preceding three paragraphs in relation to the total rated input of the entire

combustion plant. In such cases the emissions through each of those flues shall be monitored separately.

5. Gas turbines (including combined cycle gas turbines (CCGT)) using light and middle distillates as liquid fuels shall be subject to an emission limit value for NO_x of 90 mg/Nm^3 and for CO of 100 mg/Nm^3.

Gas turbines for emergency use that operate less than 500 operating hours per year are not covered by the emission limit values set out in this point. The operator of such plants shall record the used operating hours.

6. Emission limit values (mg/Nm^3) for NO_x and CO for gas fired combustion plants.

	NO_x	CO
Combustion plants firing natural gas with the exception of gas turbines and gas engines	100	100
Combustion plants firing blast furnace gas, coke oven gas or low calorific gases from gasification of refinery residues, with the exception of gas turbines and gas engines	200(4)	___
Combustion plants firing other gases, with the exception of gas turbines and gas engines	200(4)	____
Gas turbines (including CCGT), using natural gas (1) as fuel	50(2) (3)	100
Gas turbines (including CCGT), using other gases as fuel	120	____
Gas engines	100	100

Notes:

(1) Natural gas is naturally occurring methane with not more than 20 % (by volume) of inerts and other
constituents.

(2) 75 mg/Nm 3 in the following cases, where the efficiency of the gas turbine is determined at ISO base load conditions:

(i) gas turbines, used in combined heat and power systems having an overall efficiency greater than 75%;

(ii) gas turbines used in combined cycle plants having an annual average overall electrical efficiency greater than 55%;

(iii) gas turbines for mechanical drives.

(3) For single cycle gas turbines not falling into any of the categories mentioned under note (2), but having an efficiency greater than 35% – determined at ISO base load conditions – the emission limit value for NOx shall be 50xη/35 where η is the gas turbine efficiency at ISO base load conditions expressed as a percentage.

(4) 300 mg/Nm^3 for such combustion plants with a total rated thermal input not exceeding 500 MW which were granted a permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003.

For gas turbines (including CCGT), the NO_x and CO emission limit values set out in the table contained in this point apply only above 70% load.

For gas turbines (including CCGT) which were granted a permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003, and which do not operate more than 1 500 operating hours per year as a rolling average over a period of 5 years, the emission limit value for NO_x natural gas and 200 mg/Nm^3 is 150 mg/Nm3 when firing other gases or liquid fuels.

A part of a combustion plant discharging its waste gases through one or more separate flues within a common stack, and which does not operate more than 1,500 operating hours per year as a rolling average over a period of 5 years, may be subject to the emission limit values set out in the preceding paragraph in relation to the total rated thermal input of the entire combustion plant. In such cases the emissions through each of those flues shall be monitored separately.

Gas turbines and gas engines for emergency use that operate less than 500 operating hours per year are not covered by the emission limit values set out in this point. The operator of such plants shall record the used operating hours.

7. Emission limit values (mg/Nm3) for dust for combustion plants using solid or liquid fuels with the exception of gas turbines and gas engines

Total rated thermal input (MW)	Coal and lignite and other solid fuels	Biomass and peat	Liquid fuels (1)
50-100	30	30	30
100-300	25	20	25
> 300	20	20	20

Note:

(1) The emission limit value is 50 mg/Nm^3 for the firing of distillation and conversion residues from the refining of crude oil for own consumption in combustion plants which were granted a permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003.

8. Emission limit values (mg/Nm^3) for dust for combustion plants using gaseous fuels with the exception of gas turbines and gas engines

In general	5
Blast furnace gas	10
Gases produced by the steel industry which can be used elsewhere	30

PART 2

Emission limit values for combustion plants referred to in Article 30(3)

1. All emission limit values shall be calculated at a temperature of 273,15 K,
a pressure of 101,3 kPa and after correction for the water vapour content of

the waste gases and at a standardised O_2 content of 6% for solid fuels, 3% for combustion plants other than gas turbines and gas engines using liquid and gaseous fuels and 15% for gas turbines and gas engines.

In case of combined cycle gas turbines with supplementary firing, the standardised O_2 content may be defined by the Agency, taking into account the specific characteristics of the installation concerned.

2. Emission limit values (mg/NM^3) for SO_2 for combustion plants using solid or liquid fuels with the exception of gas turbines and gas engines

Total rated thermal input (MW)	Coal and lignite and other solid fuels	Biomass	Peat	Liquid fuels
50-100	400	200	300	350
100-300	200	200	300 250 in the case of fluidised bed combustion	200
> 300	150 200 in case of circu-lating or pressurised fluidised bed combustion	150	150 200 in case of fluidised bed combustion	150

3. Emission limit values (mg/Nm^3) for SO_2 for combustion plants using gaseous fuels with the exception of gas turbines and gas engines

In general	35
Liquefied gas	5
Low calorific gases from coke oven	400
Low calorific gases from blast furnace	200

4. Emission limit values (mg/Nm^3) for NO_x for combustion plants using solid or liquid fuels with the exception of gas turbines and gas engines

Total rated thermal input (MW)	Coal and lignite and other solid fuels	Biomass and peat	Liquid fuels
50-100	300 400 in case of pulverised lignite combustion	250	300
100-300	200	200	150
> 300	150 200 in case of pulverised Lignite combustion	150	100

5. Gas turbines (including CCGT) using light and middle distillates as liquid
fuels shall be subject to an emission limit value for NO_x and for CO of 100 mg/Nm^3.

Gas turbines for emergency use that operate less than 500 operating hours per year are not covered by the emission limit values set out in this point. The operator of such plants shall record the used operating hours.

6. Emission limit values (mg/Nm^3) for NO_x and CO for gas fired combustion plants.

	NO_x	CO
Combustion plants other than gas turbines and gas engines	100	100
Gas turbines (including CCGT)	50(1)	100
Gas engines	75	100

Note:

(1) For single cycle gas turbines having an efficiency greater than 35% – determined at ISO base load conditions – the emission limit value for NO_x shall be 50xη/35 where η is the gas turbine efficiency at ISO base load conditions expressed as a percentage.

For gas turbines (including CCGT), the NO_x and CO emission limit values set out in this point apply only above 70% load.

Gas turbines and gas engines for emergency use that operate less than 500 operating hours per year are not covered by the emission limit values set out in this point. The operator of such plants shall record the used operating hours.

7. Emission limit values (mg/Nm^3) for dust for combustion plants using solid or liquid fuels with the exception of gas turbines and gas engines

Total rated thermal input (MW)	
50-300	20
> 300	10 20 for biomass and peat

8. Emission limit values (mg/Nm^3) for dust for combustion plants using gaseous fuels with the exception of gas turbines and gas engines

In general	5
Blast furnace gas	10
Gases produced by the steel industry which can be used elsewhere	30

PART 3

Emission monitoring

1. The concentrations of SO_2, NO_x and dust in waste gases from each combustion plant with a total rated thermal input of 100 MW or more shall be measured continuously.

The concentration of CO in waste gases from each combustion plant firing gaseous fuels with a total rated thermal input of 100 MW or more shall be measured continuously.

2. The Agency may decide not to require the continuous measurements referred to in point 1 in the following cases:

(a) for combustion plants with a life span of less than 10,000 operational hours;

(b) for SO_2 and dust from combustion plants firing natural gas;

(c) for SO_2 from combustion plants firing oil with known sulphur content in cases where there is no waste gas desulphurisation equipment;

(d) for SO_2 from combustion plants firing biomass if the operator can prove that the SO_2 emissions can under no circumstances be higher than the prescribed emission limit values.

3. Where continuous measurements are not required, measurements of SO_2 NO_x, dust and, for gas fired plants, also of CO shall be required at least once every 6 months.

4. For combustion plants firing coal or lignite, the emissions of total mercury shall be measured at least once per year.

5. As an alternative to the measurements of SO_2 and NO_x referred to in point 3, other procedures, verified and approved by the Agency, may be used to determine the SO_2 and NO_x emissions. Such procedures shall use relevant CEN standards or, if CEN standards are not available, ISO, national or other international standards which ensure the provision of data of an equivalent scientific quality.

6. The Agency shall be informed of significant changes in the type of fuel used or in the mode of operation of the plant. The Agency shall decide whether the monitoring requirements laid down in points 1 to 4 are still adequate or require adaptation.

7. The continuous measurements carried out in accordance with point 1 shall include the measurement of the oxygen content, temperature, pressure and water vapour content of the waste gases. The continuous measurement

of the water vapour content of the waste gases shall not be necessary, provided that the sampled waste gas is dried before the emissions are analysed.

8. Sampling and analysis of relevant polluting substances and measurements
of process parameters as well as the quality assurance of automated measuring systems and the reference measurement methods to calibrate those systems shall be carried out in accordance with CEN standards. If CEN standards are not available, ISO, national or other international standards which ensure the provision of data of an equivalent scientific quality shall apply.

The automated measuring systems shall be subject to control by means of parallel measurements with the reference methods at least once per year.

The operator shall inform the Agency about the results of the checking of the automated measuring systems.
9. At the emission limit value level, the values of the 95% confidence intervals of a single measured result shall not exceed the following percentages of the emission limit values–

Carbon monoxide	10%
Sulphur dioxide	20%
Nitrogen oxides	20%
Dust	30%

10. The validated hourly and daily average values shall be determined from the measured valid hourly average values after having subtracted the value of the confidence interval specified in point 9.

Any day in which more than three hourly average values are invalid due to malfunction or maintenance of the automated measuring system shall be invalidated. If more than 10 days over a year are invalidated for such situations the Agency shall require the operator to take adequate measures to improve the reliability of the automated measuring system.

11. In the case of plants which must comply with the rates of desulphurisation referred to in Article 31, the sulphur content of the fuel which is fired in the combustion plant shall also be regularly monitored. The competent authorities shall be informed of substantial changes in the type of fuel used.

PART 4

Assessment of compliance with emission limit values

1. In the case of continuous measurements, the emission limit values set out in Parts 1 and 2 shall be regarded as having been complied with if the evaluation of the measurement results indicates, for operating hours within a calendar year, that all of the following conditions have been met:

(a) no validated monthly average value exceeds the relevant emission limit values set out in Parts 1 and 2;

(b) no validated daily average value exceeds 110% of the relevant emission limit values set out in Parts 1 and 2;

(c) in cases of combustion plants composed only of boilers using coal with a total rated thermal input below 50 MW, no validated daily average value exceeds 150% of the relevant emission limit values set out in Parts 1 and 2,

(d) 95% of all the validated hourly average values over the year do not exceed 200% of the relevant emission limit values set out in Parts 1 and 2.

The validated average values are determined as set out in point 10 of Part 3.

For the purpose of the calculation of the average emission values, the values measured during the periods referred to in Article 30(5) and (6) and Article 37 as well as during the start-up and shut-down periods shall be disregarded.

2. Where continuous measurements are not required, the emission limit values set out in Parts 1 and 2 shall be regarded as having been complied with if the results of each of the series of measurements or of the other procedures defined and determined according to the rules laid down by the competent authorities do not exceed the emission limit values.

PART 5

Minimum rate of desulphurisation

1. Minimum rate of desulphurisation for combustion plants referred to in Article 30(2)

	Minimum rate of desulphurisation	
Total rated thermal	Plants which were	Other plants

input (MW)	granted a permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003	
50-100	80%	92%
100-300	90%	92%
>300	96% (1)	96% (1)

Note:

(1) For combustion plants firing oil shale, the minimum rate of desulphurisation is 95%.

2. Minimum rate of desulphurisation for combustion plants referred to in Article 30(3)

Total rated thermal input (MW)	Minimum rate of desulphurisation
50-100	93%
100-300	93%
> 300	97%

PART 6

Compliance with rate of desulphurisation

The minimum rates of desulphurisation set out in Part 5 of this Annex shall apply as a monthly average limit value.

PART 7

Average emission limit values for multi-fuel firing combustion plants within a refinery

Average emission limit values (mg/Nm^3) for SO_2 for multi-fuel firing combustion plants within a refinery, with the exception of gas turbines and gas engines, which use the distillation and conversion residues from the refining of crude-oil for own consumption, alone or with other fuels−

(a) for combustion plants which were granted a permit before 27 November 2002 or the operators of which had submitted a complete application for a permit before that date, provided that the plant was put into operation no later than 27 November 2003: 1,000 mg/Nm^3;

(b) for other combustion plants: 600 mg/Nm^3.

These emission limit values shall be calculated at a temperature of 273,15 K, a pressure of 101,3 kPa and after correction for the water vapour content of the waste gases and at a standardised O_2 content of 6% for solid fuels and 3% for liquid and gaseous fuels.

SCHEDULE 11

SPECIAL PROVISIONS FOR WASTE INCINERATION INSTALLATIONS AND WASTE CO-INCINERATION INSTALLATIONS

Scope.

1.(1) This Schedule applies to waste incineration installations and waste co-incineration installations which incinerate or co-incinerate solid or liquid waste.

(2) This Schedule does not apply to gasification or pyrolysis installations, 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.

(3) For the purposes of this Schedule, waste incineration installations and waste co-incineration installations shall include all incineration lines or co-incineration lines, waste reception, storage, on site pretreatment facilities, waste-, fuel- and air-supply systems, boilers, facilities for the treatment of waste gases, on-site facilities for treatment or storage of residues and waste water, stacks, devices and systems for controlling incineration or co-incineration operations, recording and monitoring incineration or co-incineration conditions.

(4) If processes other than oxidation, such as pyrolysis, gasification or plasma process, are applied for the thermal treatment of waste, the waste incineration installation or waste co-incineration installation shall include both the thermal treatment process and the subsequent incineration process.

(5) If waste co-incineration takes place in such a way that the main purpose of the installation is not the generation of energy or production of material products but rather the thermal treatment of waste, the installation shall be regarded as a waste incineration installation.

(6) This Schedule does not apply to the following installations−

(a) installations treating only the following wastes−

(i) waste listed in point (b) of point 31 of Article 3 of the Industrial Emissions Directive;

(ii) radioactive waste;

(iii) animal carcasses as regulated by Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption;

(iv) waste resulting from the exploration for, and the exploitation of, oil and gas resources from off-shore installations and incinerated on board the installations;

(b) experimental installations used for research, development and testing in order to improve the incineration process and which treat less than 50 tonnes of waste per year.

Definition of residue.

2. For the purposes of this Schedule, "residue" shall mean any liquid or solid waste which is generated by a waste incineration installation or waste co-incineration installation.

Permit conditions.

3.(1) The conditions referred to in regulation 28 shall include–

(a) a list of all types of waste which may be treated using at least the types of waste set out in the European Waste List established by Decision 2000/532/EC, if possible, and containing information on the quantity of each type of waste, where appropriate;

(b) the total waste incinerating or co-incinerating capacity of the installation;

(c) the limit values for emissions into air and water;

(d) the requirements for the pH, temperature and flow of waste water discharges;

(e) the sampling and measurement procedures and frequencies to be used to comply with the conditions set for emission monitoring;

(f) the maximum permissible period of any technically unavoidable stoppages, disturbances, or failures of the purification devices or the measurement devices, during which

the emissions into the air and the discharges of waste water may exceed the prescribed emission limit values.

(2) In addition to the requirements set out in subparagraph (1), the permit granted to a waste incineration installation or waste co-incineration installation using hazardous waste shall include the following–

(a) a list of the quantities of the different categories of hazardous waste which may be treated;

(b) the minimum and maximum mass flows of those hazardous wastes, their lowest and maximum calorific values and their maximum contents of polychlorinated biphenyls, pentachlorophenol, chlorine, fluorine, sulphur, heavy metals and other polluting substances.

(3) The Agency may list the categories of waste to be included in the permit which can be co-incinerated in certain categories of waste co-incineration installations.

(4) When undertaking the periodic review of the permit required under regulation 42(3) the Agency reconsider and, where necessary, update permit conditions.

Control of emissions.

4.(1) Waste gases from waste incineration installations and waste co-incineration installations shall be discharged in a controlled way by means of a stack the height of which is calculated in such a way as to safeguard human health and the environment.

(2) Emissions into air from waste incineration installations and waste co-incineration installations shall not exceed the emission limit values set out in Parts 3 and 4 of Schedule 12 or determined in accordance with Part 4 of that Schedule.

(3) If in a waste co-incineration installation more than 40% of the resulting heat release comes from hazardous waste, or the installation co-incinerates untreated mixed municipal waste, the emission limit values set out in Part 3 of Schedule 12 shall apply.

(4) Discharges to the aquatic environment of waste water resulting from the cleaning of waste gases shall be limited as far as practicable and the concentrations of polluting substances shall not exceed the emission limit values set out in Part 5 of Schedule 12.

(5) The emission limit values shall apply at the point where waste waters from the cleaning of waste gases are discharged from the waste incineration installation or waste co-incineration installation.

(6) When waste waters from the cleaning of waste gases are treated outside the waste incineration installation or waste co-incineration installation at a treatment installation intended only for the treatment of this sort of waste water, the emission limit values set out in Part 5 of Schedule 12 shall be applied at the point where the waste waters leave the treatment installation. Where the waste water from the cleaning of waste gases is treated collectively with other sources of waste water, either on site or off site, the operator shall make the appropriate mass balance calculations, using the results of the measurements set out in point 3 of Part 6 of Schedule 12 in order to determine the emission levels in the final waste water discharge that can be attributed to the waste water arising from the cleaning of waste gases.

(7) Under no circumstances shall dilution of waste water take place for the purpose of complying with the emission limit values set out in Part 5 of Schedule 12.

(8) Waste incineration installation sites and waste co-incineration installation sites, including associated storage areas for waste, shall be designed and operated in such a way as to prevent the unauthorised and accidental release of any polluting substances into soil, surface water and groundwater.

(9) Storage capacity shall be provided for contaminated rainwater run-off from the waste incineration installation site or waste co-incineration installation site or for contaminated water arising from spillage or fire-fighting operations. The storage capacity shall be adequate to ensure that such waters can be tested and treated before discharge where necessary.

(10) Without prejudice to paragraph 8(8) (c) of the Industrial Emissions Directive, the waste incineration installation or waste co-incineration installation or individual furnaces being part of a waste incineration installation or waste co-incineration installation shall under no circumstances continue to incinerate waste for a period of more than 4 hours uninterrupted where emission limit values are exceeded.

(11) The cumulative duration of operation in such conditions over 1 year shall not exceed 60 hours.

(12) The time limit set out in the second subparagraph shall apply to those furnaces which are linked to one single waste gas cleaning device.

Breakdown.

5. In the case of a breakdown, the operator shall reduce or close down operations as soon as practicable until normal operations can be restored.

Monitoring of emissions.

6.(1) The Agency shall ensure that the monitoring of emissions is carried out in accordance with Parts 6 and 7 of Schedule 12.

(2) The installation and functioning of the automated measuring systems shall be subject to control and to annual surveillance tests as set out in point 1 of Part 6 of Schedule 12.

(3) The Agency shall determine the location of the sampling or measurement points to be used for monitoring of emissions.

(4) All monitoring results shall be recorded, processed and presented in such a way as to enable the Agency to verify compliance with the operating conditions and emission limit values which are included in the permit.

Compliance with emission limit values.

7. The emission limit values for air and water shall be regarded as being complied with if the conditions described in Part 8 of Schedule 12 are fulfilled.

Operating conditions.

8.(1) Waste incineration installations shall be operated in such a way as to achieve a level of incineration such that the total organic carbon content of slag and bottom ashes is less than 3% or their loss on ignition is less than 5% of the dry weight of the material. If necessary, waste pre-treatment techniques shall be used.

(2) Waste incineration installations shall be designed, equipped, built and operated in such a way that the gas resulting from the incineration of waste is raised, after the last injection of combustion air, in a controlled and homogeneous fashion and even under the most unfavourable conditions, to a temperature of at least 850°C for at least two seconds.

(3) Waste co-incineration installations shall be designed, equipped, built and operated in such a way that the gas resulting from the co-incineration of waste is raised in a controlled and homogeneous fashion and even under the most unfavourable conditions, to a temperature of at least 850°C for at least two seconds.

(4) If hazardous waste with a content of more than 1% of halogenated organic substances, expressed as chlorine, is incinerated or co-incinerated, the temperature required to comply with the first and second subparagraphs shall be at least 1,100°C.

(5) In waste incineration installations, the temperatures set out in the first and third subparagraphs shall be measured near the inner wall of the combustion chamber. The Agency may authorise the measurements at another representative point of the combustion chamber.

(6) Each combustion chamber of a waste incineration installation shall be equipped with at least one auxiliary burner. This burner shall be switched on automatically when the temperature of the combustion gases after the last injection of combustion air falls below the temperatures set out in subparagraph (2). It shall also be used during installation start-up and shut-down operations in order to ensure that those temperatures are maintained at all times during these operations and as long as unburned waste is in the combustion chamber.

(7) The auxiliary burner shall not be fed with fuels which can cause higher emissions than those resulting from the burning of gas oil as defined in Article 2(2) of Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels, liquefied gas or natural gas.

(8) Waste incineration installations and waste co-incineration installations shall operate an automatic system to prevent waste feed in the following situations−

(a) at start-up, until the temperature set out in subparagraph (2) or the temperature specified in accordance with paragraph 9(1) has been reached;

(b) whenever the temperature set out in subparagraph (2) or the temperature specified in accordance with paragraph 9(1) is not maintained;

(c) whenever the continuous measurements show that any emission limit value is exceeded due to disturbances or failures of the waste gas cleaning devices.

(9) Any heat generated by waste incineration installations or waste co-incineration installations shall be recovered as far as practicable.

(10) Infectious clinical waste shall be placed straight in the furnace, without first being mixed with other categories of waste and without direct handling.

(11) The Agency shall ensure that the waste incineration installation or waste co-incineration installation is operated and controlled by a natural person who is competent to manage the installation.

Authorisation to change operating conditions.

9.(1) Conditions different from those laid down in paragraph 8(1) to (7) and, as regards the temperature, paragraph 8(8) and specified in the permit for certain categories of waste or for certain thermal processes, may be authorised by the Agency provided the other requirements of this Schedule are met.

(2) For waste incineration installations, the change of the operating conditions shall not cause more residues or residues with a higher content of organic polluting substances compared to those residues which could be expected under the conditions laid down in paragraph 8(1) to (7).

(3) Emissions of total organic carbon and carbon monoxide from waste co-incineration installations, authorised to change operating conditions according to paragraph 1 shall also comply with the emission limit values set out in Part 3 of Schedule 12.

(4) Emissions of total organic carbon from bark boilers within the pulp and paper industry co-incinerating waste at the place of its production which were in operation and had a permit before 28 December 2002 and which are authorised to change operating conditions according to paragraph 1 shall also comply with the emission limit values set out in Part 3 of Schedule 12.

(5) The Minster shall ensure the European Commission is informed of all operating conditions authorised under subparagraphs (1) to (4) and the results of verifications made as part of the information provided in accordance with the reporting requirements under Article 72 of the Industrial Emissions Directive.

Delivery and reception of waste.

10.(1) The operator of the waste incineration installation or waste co-incineration installation shall take all necessary precautions concerning the delivery and reception of waste in order to prevent or to limit as far as practicable the pollution of air, soil, surface water and groundwater as well as other negative effects on the environment, odours and noise, and direct risks to human health.

(2) The operator shall determine the mass of each type of waste, if possible according to the European Waste List established by Decision 2000/532/EC, prior to accepting the waste at the waste incineration installation or waste co-incineration installation.

(3) Prior to accepting hazardous waste at the waste incineration installation or waste co-incineration installation, the operator shall collect available information about the waste for the purpose of verifying compliance with the permit requirements specified in paragraph 3(2), including–

(a) all the administrative information on the generating process contained in the documents mentioned in subparagraph (5)(a);

(b) the physical, and as far as practicable, chemical composition of the waste and all other information necessary to evaluate its suitability for the intended incineration process;

(c) the hazardous characteristics of the waste, the substances with which it cannot be mixed, and the precautions to be taken in handling the waste.

(4) Prior to accepting hazardous waste at the waste incineration installation or waste co-incineration installation, at least the following procedures shall be carried out by the operator–

(a) the checking of the documents required by the Waste Framework Directive and, where applicable, those required by Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste and by legislation on transport of dangerous goods;

(b) the taking of representative samples, unless inappropriate as far as possible before unloading, to verify conformity with the information provided for in subparagraph (3) by carrying out controls and to enable the competent authorities to identify the nature of the wastes treated.

(5) The samples referred to in subparagraph (4)(b) shall be kept for at least 1 month after the incineration or co-incineration of the waste concerned.

(6) The Agency may grant exemptions from subparagraphs (2) to (5) to waste incineration installations or waste co-incineration installations which are a part of an installation listed in Schedule 1 and only incinerate or co-incinerate waste generated within that installation.

Residues.

11.(1) Residues shall be minimised in their amount and harmfulness and shall be recycled, where appropriate, directly in the installation or outside.

(2) Transport and intermediate storage of dry residues in the form of dust shall take place in such a way as to prevent dispersal of those residues in the environment.

(3) Prior to determining the routes for the disposal or recycling of the residues, appropriate tests shall be carried out to establish the physical and chemical characteristics and the polluting potential of the residues. Those tests shall concern the total soluble fraction and heavy metals soluble fraction.

Substantial change.

12. A change of operation of a waste incineration installation or a waste co-incineration installation treating only non-hazardous waste in an installation covered by Schedule 1 which involves the incineration or co-incineration of hazardous waste shall be regarded as a substantial change.

Reporting and public information on waste incineration installations and waste co-incineration installations.

13.(1) Applications for new permits for waste incineration installations and waste co-incineration installations shall be made available to the public at one or more locations for an appropriate period to enable the public to comment on the applications before the Agency reaches a decision. That decision, including at least a copy of the permit, and any subsequent updates, shall also be made available to the public.

(2) For waste incineration installations or waste co-incineration installations with a nominal capacity of 2 tonnes or more per hour, the report referred to in Article 72 of the Industrial Emissions Directive shall include information on the functioning and monitoring of the installation and give account of the running of the incineration or co-incineration process and the level of emissions into air and water in comparison with the emission limit values. That information shall be made available to the public.

(3) A list of waste incineration installations or waste co-incineration installations with a nominal capacity of less than 2 tonnes per hour shall be drawn up by the Agency and shall be made available to the public.

SCHEDULE 12

THIS SCHEDULE REPRODUCES ANNEX VI
TO THE INDUSTRIAL EMISSIONS DIRECTIVE

Technical provisions relating to waste incineration installations and waste co-incineration installations

PART 1

Definitions

For the purpose of this Annex the following definitions shall apply−

(a) 'existing waste incineration installation' means one of the following waste incineration installations−

(i) which was in operation and had a permit in accordance with applicable Union law before 28 December 2002,

(ii) which was authorised or registered for waste incineration and had a permit granted before 28 December 2002 in accordance with applicable Union law, provided that the installation was put into operation no later than 28 December 2003,

(iii) which, in the view of the Agency, was the subject of a full request for authorisation before 28 December 2002, provided that the installation was put into operation not later than 28 December 2004;

(b) 'new waste incineration installation' means any waste incineration installation not covered by point (a).

PART 2

Equivalence factors for dibenzo-p-dioxins and dibenzofurans

For the determination of the total concentration of dioxins and furans, the mass concentrations of the following dibenzo-p-dioxins and dibenzofurans shall be multiplied by the following equivalence factors before summing−

	Toxic equivalence
2,3,7,8 — Tetrachlorodibenzodioxin (TCDD)	1
1,2,3,7,8 — Pentachlorodibenzodioxin (PeCDD)	0,5
1,2,3,4,7,8 — Hexachlorodibenzodioxin (HxCDD)	0,1
1,2,3,6,7,8 — Hexachlorodibenzodioxin (HxCDD)	0,1
1,2,3,7,8,9 — Hexachlorodibenzodioxin (HxCDD)	0,1
1,2,3,4,6,7,8 — Heptachlorodibenzodioxin (HpCDD)	0,01
Octachlorodibenzodioxin (OCDD)	0,001
2,3,7,8 — Tetrachlorodibenzofuran (TCDF)	0,1
2,3,4,7,8 — Pentachlorodibenzofuran (PeCDF)	0,5
1,2,3,7,8 — Pentachlorodibenzofuran (PeCDF)	0,05
1,2,3,4,7,8 — Hexachlorodibenzofuran (HxCDF)	0,1
1,2,3,6,7,8 — Hexachlorodibenzofuran (HxCDF)	0,1
1,2,3,7,8,9 — Hexachlorodibenzofuran (HxCDF)	0,1
2,3,4,6,7,8 — Hexachlorodibenzofuran (HxCDF)	0,1
1,2,3,4,6,7,8 — Heptachlorodibenzofuran (HpCDF)	0,01
1,2,3,4,7,8,9 — Heptachlorodibenzofuran (HpCDF)	0,01
Octachlorodibenzofuran (OCDF)	0,001

PART 3

Air emission limit values for waste incineration installations

1. All emission limit values shall be calculated at a temperature of 273,15 K, a pressure of 101,3 kPa and after correcting for the water vapour content of the waste gases.

They are standardised at 11% oxygen in waste gas except in case of incineration of mineral waste oil as defined in point 3 of Article 3 of Directive 2008/98/EC, when they are standardised at 3% oxygen, and in the cases referred to in Point 2.7 of Part 6.

1.1. Daily average emission limit values for the following polluting substances (mg/Nm^3)

Total dust	10
Gaseous and vaporous organic substances, expressed as total organic carbon (TOC)	10
Hydrogen chloride (HCl)	10
Hydrogen fluoride (HF)	1
Sulphur dioxide (SO2)	50

Nitrogen monoxide (NO) and nitrogen dioxide (NO2), expressed as NO2 for existing waste incineration installations with a nominal capacity exceeding 6 tonnes	200
Nitrogen monoxide (NO) and nitrogen dioxide (NO2), expressed as NO2 for existing waste incineration installations with a nominal capacity of 6 tonnes per hour	400

1.2. Half-hourly average emission limit values for the following polluting substances (mg/Nm3)

	(100%) A	(97%) B
Total dust	30	10
Gaseous and vaporous organic substances, expressed as total	20	10
Hydrogen chloride (HCl)	60	10
Hydrogen fluoride (HF)	4	2
Sulphur dioxide (SO_2)	200	50
Nitrogen monoxide (NO) and nitrogen dioxide (NO2), expressed as NO2 for existing waste incineration installations with a nominal capacity exceeding 6 tonnes per hour	400	200

1.3. Average emission limit values (mg/Nm3) for the following heavy metals over a sampling period of a minimum of 30 minutes and a maximum of 8 hours

Cadmium and its compounds, expressed as cadmium (Cd)	Total: 0.05
Thallium and its compounds, expressed as thallium (Tl)	
Mercury and its compounds, expressed as mercury (Hg)	0.5
Antimony and its compounds, expressed as antimony (Sb)	Total: 0.05
Arsenic and its compounds, expressed as arsenic (As)	
Lead and its compounds, expressed as lead (Pb)	

Chromium and its compounds, expressed as chromium (Cr)
Cobalt and its compounds, expressed as cobalt (Co)
Copper and its compounds, expressed as copper (Cu)
Manganese and its compounds, expressed as manganese (Mn)
Nickel and its compounds, expressed as nickel (Ni)
Vanadium and its compounds, expressed as vanadium (V)

These average values cover also the gaseous and the vapour forms of the relevant heavy metal emissions as well as their compounds.

1.4. Average emission limit value (ng/Nm^3) for dioxins and furans over a sampling period of a minimum of 6 hours and a maximum of 8 hours. The emission limit value refers to the total concentration of dioxins and furans calculated in accordance with Part 2.

Dioxins and furans	0.1

1.5. Emission limit values (mg/Nm^3) for carbon monoxide (CO) in the waste gases:

(a) 50 as daily average value;

(b) 100 as half-hourly average value;

(c) 150 as 10-minute average value.

The Agency may authorise exemptions from the emission limit values set out in this point for waste incineration installations using fluidised bed technology, provided that the permit sets an emission limit value for carbon monoxide (CO) of not more than 100 mg/Nm^3 as an hourly average value.

2. Emission limit values applicable in the circumstances described in Article 46(6) and Article 47.

The total dust concentration in the emissions into the air of a waste incineration installation shall under no circumstances exceed 150 mg/Nm^3

expressed as a half-hourly average. The air emission limit values for TOC and CO set out in points 1.2 and 1.5(b) shall not be exceeded.

3. The Agency may lay down rules governing the exemptions provided for in this Part.

PART 4

Determination of air emission limit values for the co-incineration of waste

1. The following formula (mixing rule) shall be applied whenever a specific total emission limit value 'C' has not been set out in a table in this Part.

The emission limit value for each relevant polluting substance and CO in the waste gas resulting from the co-incineration of waste shall be calculated as follows:

$$\frac{V_{waste} \times C_{waste} + V_{proc} \times C_{proc}}{V_{waste} + V_{proc}} = C$$

Vwaste: waste gas volume resulting from the incineration of waste only determined from the waste with the lowest calorific value specified in the permit and standardised at the conditions given by this Directive.

If the resulting heat release from the incineration of hazardous waste amounts to less than 10% of the total heat released in the installation, Vwaste must be calculated from a (notional) quantity of waste that, being incinerated, would equal 10% heat release, the total heat release being fixed.

Cwaste: emission limit values for waste incineration installations set out in Part 3

Vproc: waste gas volume resulting from the installation process including the combustion of the authorised fuels normally used in the installation (wastes excluded) determined on the basis of oxygen contents at which the emissions must be standardised as set out in Union or national law.
In the absence of legislation for this kind of installation, the real oxygen content in the waste gas without being thinned by addition of air unnecessary for the process must be used.

Cproc: emission limit values as set out in this Part for certain industrial activities or in case of the absence of such values, emission limit values of installations which comply with the national laws, regulations and administrative provisions for such installations while burning the normally authorised fuels (wastes excluded). In the absence of these measures the emission limit values set out in the permit are used. In the absence of such permit values the real mass concentrations are used.

C: total emission limit values at an oxygen content as set out in this Part for certain industrial activities and certain polluting substances or, in case of the absence of such values, total emission limit values replacing the emission limit values as set out in specific Annexes of this Directive. The total oxygen content to replace the oxygen content for the standardisation is calculated on the basis of the content above respecting the partial volumes.

All emission limit values shall be calculated at a temperature of 273,15K, a pressure of 101,3kPa and after correcting for the water vapour content of the waste gases.

Member States may lay down rules governing the exemptions provided for in this Part.

2. Special provisions for cement kilns co-incinerating waste

2.1. The emission limit values set out in points 2.2 and 2.3 apply as daily average values for total dust, HCl, HF, NOx, SO2 and TOC (for continuous measurements), as average values over the sampling period of a minimum of 30 minutes and a maximum of 8 hours for heavy metals and as average values over the sampling period of a minimum of 6 hours and a maximum of 8 hours for dioxins and furans.

All values are standardised at 10% oxygen.

Half-hourly average values shall only be needed in view of calculating the daily average values.

2.2. C – total emission limit values (mg/Nm3 except for dioxins and furans) for the following –polluting substances

Polluting substance	C
Total dust	30
HCl	10
HF	1
NOx	500 ([1])
Cd + Tl	0.05
Hg	0.05
Sb + As + Pb + Cr + Co + Cu + Mn + Ni + V	0.5
Dioxins and furans (ng/Nm3)	0.1

([1]) Until 1 January 2016, the Agency may authorise exemptions from the limit value for NO_X for Lepol kilns and long rotary kilns provided that the permit sets a total emission limit value for NO_X of not more than 800 mg/Nm^3.

2.3. C – total emission limit values (mg/Nm^3) for SO_2 and TOC

Pollutant	C
SO_2	50
TOC	10

The Agency may grant derogations for emission limit values set out in this point in cases where TOC and SO_2 do not result from the co-incineration of waste.

2.4. C- total emission limit values for CO

The Agency may set emission limit values for CO.

3. Special provisions for combustion installations co-incinerating waste

3.1. Cproc expressed as daily average values (mg/Nm^3) valid until the date set out in Article 82(5)

For determining the total rated thermal input of the combustion installations, the aggregation rules as defined in Article 29 shall apply. Half-hourly average values shall only be needed in view of calculating the daily average values.

Cproc for solid fuels with the exception of biomass (O_2 content 6%):

Polluting substances	< 50 MWth	50-100 MWth	100 to 300 MWth	> 300 MWth
SO_2	—	850	200	200
NOx	—	400	200	200
Dust	50	50	30	30

Cproc for biomass (O_2 content 6%):

Polluting substances	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO2	—	200	200	200
NOx	—	350	300	200
Dust	50	50	30	30

Cproc for liquid fuels (O_2 content 3%):

Polluting substances	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO2	—	850	400 to 200 (linear decrease from 100 to	200
NOx	—	400	200	200
Dust	50	50	30	30

3.2. Cproc expressed as daily average values (mg/Nm^3) valid from the date set out in Article 82(6)

For determining the total rated thermal input of the combustion installations, the aggregation rules as defined in Article 29 shall apply. Half-hourly average values shall only be needed in view of calculating the daily average values.

3.2.1. Cproc for combustion installations referred to in Article 30(2), with the exception of gas turbines and gas engines

Cproc for solid fuels with the exception of biomass (O_2 content 6%):

Polluting substance	< 50 MWth	50-100 MWth	100 to 300 MWth	> 300 MWth
SO2	—	400 for peat: 300	200	200

Polluting substance	< 50 MWth	50-100 MWth	100 to 300 MWth	> 300 MWth
NOx	—	300 for pulverised	200	200
Dust	50	30	25 for peat: 20	20

Cproc for biomass (O_2 content 6%):

Polluting substance	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO2	—	200	200	200
NOx	—	300	250	200
Dust	50	30	20	20

Cproc for liquid fuels (O_2 content 3%):

Polluting substance	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO2	—	350	250	200
NOx	—	400	200	150
Dust	50	30	25	20

3.2.2. Cproc for combustion installations referred to in Article 30(3), with the exception of gas turbines and gas engines

Cproc for solid fuels with the exception of biomass (O_2 content 6%):

Polluting substance	< 50 MWth	50-100 MWth	100 to 300 MWth	> 300 MWth
SO2	—	400 for peat: 300	200 for peat: 300, except in the case of fluidised bed combustion: 250	150 for circulating or pressurised fluidised bed combustion or, in case of peat firing, for all
NOx	—	300 for peat: 250	200	150 for pulverised lignite combustion: 200
Dust	50	20	20	10 for peat: 20

Cproc for biomass (O2 content 6%):

Polluting substance	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO_2	—	200	200	150
NOx	—	250	200	150
Dust	50	20	20	20

Cproc for liquid fuels (O_2 content 3%):

Polluting substance	< 50 MWth	50 to 100 MWth	100 to 300 MWth	> 300 MWth
SO_2	—	350	200	150
NOx	—	300	150	100
Dust	50	20	20	10

3.3. C — total emission limit values for heavy metals (mg/Nm^3) expressed as average values over the sampling period of a minimum of 30 minutes and a maximum of 8 hours (O_2 content 6% for solid fuels and 3% for liquid fuels)

Polluting substances	C
Cd + Tl	0.05
Hg	0.05
Sb + As + Pb + Cr + Co + Cu + Mn + Ni + V	0.5

3.4. C — total emission limit value (ng/Nm^3) for dioxins and furans expressed as average value measured over the sampling period of a minimum of 6 hours and a maximum of 8 hours (O_2 content 6% for solid fuels and 3% for liquid fuels)

Polluting substances	C
Dioxins and furans	0.1

4. Special provisions for waste co-incineration installations in industrial sectors not covered under Points 2 and 3 of this Part

4.1. C — total emission limit value (ng/Nm^3) for dioxins and furans expressed as average value measured over the sampling period of a minimum of 6 hours and a maximum of 8 hours−

Polluting substances	C
Dioxins and furans	0.1

4.2. C – total emission limit values (mg/Nm^3) for heavy metals expressed as average values over the sampling period of a minimum of 30 minutes and a maximum of 8 hours:

Polluting substances	C
Cd + Tl	0.05
Hg	0.05

PART 5

Emission limit values for discharges of waste water from the cleaning of waste gases

Polluting substances	Emission limit values for unfiltered samples (mg/l except for dioxins and furans)	
1. Total suspended solids as defined in Annex I of Directive 91/271/EEC	(95%)	(100%)
2. Mercury and its compounds, expressed as mercury (Hg)	0.03	
3. Cadmium and its compounds, expressed as	0.05	
4. Thallium and its compounds, expressed as thallium (Tl)	0.05	
5. Arsenic and its compounds, expressed as arsenic (As)	0.15	
6. Lead and its compounds, expressed as lead (Pb)	0.2	
7. Chromium and its compounds, expressed as	0.5	
8. Copper and its compounds, expressed as copper (Cu)	0,5	
9. Nickel and its compounds, expressed as nickel (Ni)	0.5	
10. Zinc and its compounds, expressed as zinc (Zn)	1.5	

PART 6

Monitoring of emissions

1. Measurement techniques

1.1. Measurements for the determination of concentrations of air and water polluting substances shall be carried out representatively.

1.2. Sampling and analysis of all polluting substances including dioxins and furans as well as the quality assurance of automated measuring systems and the reference measurement methods to calibrate them shall be carried out according to CEN-standards. If CEN standards are not available, ISO, national or other international standards which ensure the provision of data of an equivalent scientific quality shall apply. Automated measuring

systems shall be subject to control by means of parallel measurements with the reference methods at least once per year.

1.3. At the daily emission limit value level, the values of the 95% confidence intervals of a single measured result shall not exceed the following percentages of the emission limit values:

Carbon monoxide:	10%
Sulphur dioxide:	20%
Nitrogen dioxide:	20%
Total dust:	30%
Total organic carbon:	30%
Hydrogen chloride	40%
Hydrogen fluoride:	40%.

Periodic measurements of the emissions into air and water shall be carried out in accordance with points 1.1 and 1.2.

2. Measurements relating to air polluting substances

2.1. The following measurements relating to air polluting substances shall be carried out:

(a) continuous measurements of the following substances: NOx, provided that emission limit values are set, CO, total dust, TOC, HCl, HF, SO_2;

(b) continuous measurements of the following process operation parameters: temperature near the inner wall or at another representative point of the combustion chamber as authorised by the Agency, concentration of oxygen, pressure, temperature and water vapour content of the waste gas;

(c) at least two measurements per year of heavy metals and dioxins and furans; one measurement at least every 3 months shall, however, be carried out for the first 12 months of operation.

2.2. The residence time as well as the minimum temperature and the oxygen content of the waste gases shall be subject to appropriate verification, at least once when the waste incineration installation or waste co-incineration installation is brought into service and under the most unfavourable operating conditions anticipated.

2.3. The continuous measurement of HF may be omitted if treatment stages for HCl are used which ensure that the emission limit value for HCl is not

being exceeded. In that case the emissions of HF shall be subject to periodic measurements as laid down in point 2.1(c).

2.4. The continuous measurement of the water vapour content shall not be required if the sampled waste gas is dried before the emissions are analysed.

2.5. The Agency may decide not to require continuous measurements for HCl, HF and SO_2 in waste incineration installations or waste co-incineration installations and require periodic measurements as set out in point 2.1(c) or no measurements i the operator can prove that the emissions of those pollutants can under no circumstances be higher than the prescribed emission limit values.

The Agency may decide not to require continuous measurements for NO_x and require periodic measurements as set out in point 2.1(c) in existing waste incineration installations with a nominal capacity of less than 6 tonnes per hour or in existing waste co-incineration installations with a nominal capacity of less than 6 tonnes per hour if the operator can prove on the basis of information on the quality of the waste concerned, the technologies used and the results of the monitoring of emissions, that the emissions of NO_x can under no circumstances be higher than the prescribed emission limit value.

2.6. The Agency may decide to require one measurement every 2 years for heavy metals and one measurement per year for dioxins and furans in the following cases−

(a) the emissions resulting from co-incineration or incineration of waste are under all circumstances below 50% of the emission limit values;

(b) the waste to be co-incinerated or incinerated consists only of certain sorted combustible fractions of non-hazardous waste not suitable for recycling and presenting certain characteristics, and which is further specified on the basis of the assessment referred to in point (c);

(c) the operator can prove on the basis of information on the quality of the waste concerned and the monitoring of the emissions that the emissions are under all circumstances significantly below the emission limit values for heavy metals and dioxins and furans.

2.7. The results of the measurements shall be standardised using the standard oxygen concentrations mentioned in Part 3 or calculated according to Part 4 and by applying the formula given in Part 7.

When waste is incinerated or co-incinerated in an oxygen-enriched atmosphere, the results of the measurements can be standardised at an oxygen content laid down by the Agency reflecting the special circumstances of the individual case.

When the emissions of polluting substances are reduced by waste gas treatment in a waste incineration installation or waste co-incineration installation treating hazardous waste, the standardisation with respect to the oxygen contents provided for in the first subparagraph shall be done only if the oxygen content measured over the same period as for the polluting substance concerned exceeds the relevant standard oxygen content.

3. Measurements relating to water polluting substances

3.1. The following measurements shall be carried out at the point of waste water discharge:

(a) continuous measurements of pH, temperature and flow;

(b) spot sample daily measurements of total suspended solids or measurements of a flow proportional representative sample over a period of 24 hours;

(c) at least monthly measurements of a flow proportional representative sample of the discharge over a period of 24 hours of Hg, Cd, TI, As, Pb, Cr, Cu, Ni and Zn;

(d) at least every 6 months measurements of dioxins and furans; however, one measurement at least every 3 months shall be carried out for the first 12 months of operation.

3.2. Where the waste water from the cleaning of waste gases is treated on site collectively with other on-site sources of waste water, the operator shall take the measurements:

(a) on the waste water stream from the waste gas cleaning processes prior to its input into the collective waste water treatment plant;

(b) on the other waste water stream or streams prior to its or their input into the collective waste water treatment plant;

(c) at the point of final waste water discharge, after the treatment, from the waste incineration installation or waste co-incineration installation.

PART 7

Formula to calculate the emission concentration at the standard percentage oxygen concentration

$$Es = \frac{21-Os}{21-OM} \times EM$$

ES = calculated emission concentration at the standard percentage oxygen concentration

EM = measured emission concentration

OS = standard oxygen concentration

OM = measured oxygen concentration

PART 8

Assessment of compliance with emission limit values

1. Air emission limit values

1.1. The emission limit values for air shall be regarded as being complied with if–

(a) none of the daily average values exceeds any of the emission limit values set out in point 1.1 of Part 3 or in Part 4 or calculated in accordance with Part 4;

(b) either none of the half-hourly average values exceeds any of the emission limit values set out in column A of the table under point 1.2 of Part 3 or, where relevant, 97% of the half-hourly average values over the year do not exceed any of the emission limit values set out in column B of the table under point 1.2 of Part 3;

(c) none of the average values over the sampling period set out for heavy metals and dioxins and furans exceeds the emission limit values set out in points 1.3 and 1.4 of Part 3 or in Part 4 or calculated in accordance with Part 4;

(d) for carbon monoxide (CO)–

(i) in case of waste incineration installations:

— at least 97% of the daily average values over the year do not exceed the emission limit value set out in point 1.5(a) of Part 3; and,

— at least 95% of all 10-minute average values taken in any 24-hour period or all of the half-hourly average values taken in the same period do not exceed the emission limit values set out in points 1.5(b) and (c) of Part 3; in case of waste incineration installations in which the gas resulting from the incineration process is raised to a temperature of at least 1 100°C for at least two seconds, Member States may apply an evaluation period of 7 days for the 10-minute average values;

(ii) in case of waste co-incineration installations: the provisions of Part 4 are met.

1.2. The half-hourly average values and the 10-minute averages shall be determined within the effective operating time (excluding the start-up and shut-down periods if no waste is being incinerated) from the measured values after having subtracted the value of the confidence interval specified in point 1.3 of Part 6. The daily average values shall be determined from those validated average values.

To obtain a valid daily average value no more than five half-hourly average values in any day shall be discarded due to malfunction or maintenance of the continuous measurement system. No more than ten daily average values per year shall be discarded due to malfunction or maintenance of the continuous measurement system.

1.3. The average values over the sampling period and the average values in the case of periodical measurements of HF, HCl and SO2 shall be determined in accordance with the requirements of Articles 45(1)(e), 48(3) and point 1 of Part 6.

2. Water emission limit values

The emission limit values for water shall be regarded as being complied with if:

(a) for total suspended solids 95% and 100% of the measured values do not exceed the respective emission limit values as set out in Part 5;

(b) for heavy metals (Hg, Cd, TI, As, Pb, Cr, Cu, Ni and Zn) no more than one measurement per year exceeds the emission limit values set out in Part 5; or, if the Member State provides for more than 20 samples per year, no more than 5% of these samples exceed the emission limit values set out in Part 5;

(c) for dioxins and furans, the measurement results do not exceed the emission limit value set out in Part 5.

SCHEDULE 13

Regulation 26

THIS SCHEDULE REPRODUCES ANNEX VIII TO THE INDUSTRIAL EMISSIONS DIRECTIVE

Provisions relating to installations producing titanium dioxide

PART 1

Scope.

1. This Schedule shall apply to installations producing titanium dioxide.

Prohibition of the disposal of waste.

2. The Agency shall ensure that a permit relating to an installation to which this Schedule applies prohibits the disposal of the following waste into any water body, sea or ocean−

(a) solid waste;

(b) the mother liquors arising from the filtration phase following hydrolysis of the titanyl sulphate solution from installations applying the sulphate process; including the acid waste associated with such liquors, containing overall more than 0.5% free sulphuric acid and various heavy metals and including such mother liquors which have been diluted until they contain 0.5% or less free sulphuric acid;

(c) waste from installations applying the chloride process containing more than 0.5% free hydrochloric acid and various heavy metals, including such waste which has been diluted until it contains 0.5% or less free hydrochloric acid;

(d) filtration salts, sludges and liquid waste arising from the treatment (concentration or neutralisation) of the waste mentioned under points (b) and (c) and containing various heavy metals, but not including neutralised and filtered or decanted waste containing only traces of heavy metals and which, before any dilution, has a pH value above 5.5.

Control of emissions into water.

3. Emissions from installations into water shall not exceed the emission limit values set out in Part 2.

Prevention and control of emissions into air.

4.(1) The emission of acid droplets from installations shall be prevented.

(2) Emissions into air from installations shall not exceed the emission limit values set out in Part 3.

Monitoring of emissions.

5.(1) The Agency shall ensure the monitoring of emissions into water in order to enable it to verify compliance with the permit conditions and paragraph 3.

(2) The Agency shall ensure monitor emissions into air in order to enable it to verify compliance with the permit conditions and paragraph 4, and such monitoring shall include at least monitoring of emissions as set out in Part 4.

(3) The monitoring referred to in this paragraph shall be carried out in accordance with CEN standards or, if CEN standards are not available, ISO, national or other international standards which ensure the provision of data of an equivalent scientific quality.

PART 2

Emission limit values for emissions into water

1. In case of installations using the sulphate process (as an annual average)−

550 kg of sulphate per tonne of titanium dioxide produced.

2. In case of installations using the chloride process (as an annual average)−

(a) 130 kg chloride per tonne of titanium dioxide produced using neutral rutile,

(b) 228 kg chloride per tonne of titanium dioxide produced using synthetic rutile,

(c) 330 kg chloride per tonne of titanium dioxide produced using slag.

Installations discharging into salt water (estuarine, coastal, open sea) may be subject to an emission limit value of 450 kg chloride per tonne of titanium dioxide produced using slag.

3. For installations using the chloride process and using more than one type of ore, the emission limit values in point 2 shall apply in proportion to the quantity of the ores used.

PART 3

Emission limit values into air

1. The emission limit values which are expressed as concentrations in mass per cubic meter (Nm^3) shall be calculated at a temperature of 273.15K, and a pressure of 101.3 kPa.

2. For dust: 50 mg/Nm^3 as an hourly average from major sources and 150 mg/Nm^3 as an hourly average from any other source.

3. For gaseous sulphur dioxide and trioxide discharged from digestion and calcination, including acid droplets calculated as SO_2 equivalent–

(a) 6 kg per tonne of titanium dioxide produced as an annual average;

(b) 500 mg/Nm^3 as an hourly average for installations for the concentration of waste acid.

4. For chlorine in the case of installations using the chloride process:

(a) 5 mg/Nm^3 as a daily average;

(b) 40 mg/Nm^3 at any time.

PART 4

Emission monitoring

The monitoring of emissions into air shall include at least the continuous monitoring of–

(a) gaseous sulphur dioxide and trioxide discharged from digestion and calcination from installations for the concentration of waste acid in installations using the sulphate process;

(b) chlorine from major sources within installations using the chloride process;

(c) dust from major sources.

SCHEDULE 14

Regulation 68

SAVINGS AND TRANSITIONAL PROVISIONS

PART 1

General

Interpretation.

1.(1) In this Schedule an "existing permit" means a permit, licence or authorisation−

(a) a permit granted under an enactment before the date of the commencement of these Regulations (other than a permit revoked by paragraph 2), and

(b) a permit where−

(i) a duly made application for the permit is received by the Agency on or before the date of the commencement of these Regulations, and

(ii) the permit is granted in the period beginning on the date of the commencement of these Regulations and ending on 6th January 2014.

(2) In the event of any inconsistency between a condition specified in any paragraph of Part 3 of this Schedule and any other condition of a permit the condition so specified shall prevail to the extent of that inconsistency.

Permits granted, or applied for, on or before the date of the commencement of these Regulations.

2.(1) A permit granted under an enactment that is repealed by these Regulations shall continue to have effect notwithstanding the repeal of that enactment−

(a) in the period beginning on the date of the commencement of these Regulations and ending on 6th January 2014, and

(b) in respect of any application, notice, investigation or legal proceedings made or begun in that period and not determined or concluded by the date of the commencement of these

Regulations (including for that purpose any penalty, punishment or other sanction that may be imposed in respect of a failure to comply with a requirement under the repealed enactment in that period).

(3) An existing permit for an installation is to be treated as suspended under these Regulations from the date of the commencement of these Regulations if the installation has not been put into operation on or before 6th January 2014.

(4) Any enactment or direction modified, repealed or revoked by these Regulations is to be read as if not so modified, repealed or revoked to the extent necessary to give effect to this paragraph.

(5) In this paragraph, "suspended" means that a permit ceases to have effect to authorise the operation of an installation, or the carrying out of an activity in an installation, until−

(a) the permit is varied under regulation 44, or

(b) the Agency gives notice to the operator that the permit is no longer suspended.

2015 installations.

3.(1) Regulation 11 applies to a 2015 installation−

(a) from 7th July 2015, or

(b) where an application for the purposes of paragraph (2) is not determined on or before that date, from the date the application is determined.

(2) An application for a permit to operate a 2015 installation must be received by the Agency in the period specified in subparagraph (3).

(3) The specified period for an activity described in Table 1 is−

(a) for row 12, the period beginning on 7th January 2014 and ending on 7th April 2014,

(b) for rows 3 to 8, the period beginning on 7th March 2014 and ending on 7th June 2014,

(c) for row 11, the period beginning on 7th May 2014 and ending on 7th August 2014, and

(d) for rows 1, 2, 9 and 10, the period beginning on 7th July 2014 and ending on 7th October 2014.

(4) An application received by the Agency for a permit for a 2015 installation before the applicable specified period−

(a) is deemed to have been received in that period, and

(b) no other period of time provided for in respect of any such application under these Regulations begins to elapse until the start of that period.

(5) In this paragraph, a reference to an application for a permit includes an application for a variation of a permit for an installation in respect of any other activity.

(6) In this paragraph, "2015 installation" means an installation at which an activity described in column 1 of Table 1 is carried out on or before the date of the commencement of these Regulations, but does not include an installation at which such an activity is carried out if a permit has been granted under an enactment which is intended to protect the environment in respect of that activity.

(7) Where an activity falls within a description in more than one row of Table 1 it is to be regarded as falling only within the description that is most apt to describe the activity.

Table 1

Activity as described in Schedule 1
1. Point 1.2
2. Points 4.1 to 4.6
3. Point 5.2
4. Point 5.3,
5. Point 5.3(a)
6. Point 5.3 (b)
7. Point 5.5
8. Point 5.6
9. Point 6.11
10. Point 6.1
11. Point 6.10
12. Point 6.4

PART 2

Specific installations and activities

Solvent emission activities: risk phrases and hazard statements.

4.(1) This paragraph applies where, on 1st June 2015, a permit refers to a substance that is a volatile organic compound or a halogenated volatile organic compound that is assigned or needs to carry a risk phrase.

(2) A reference in a permit to a risk phase described in column 1 of Table 2 is to be read as a reference to the hazard statement in the corresponding entry in column 2 of the Table.

Table 2

Risk phrase	*Hazard statement*
R40	H341
R45	H340
R46	H350
R49	H350i
R60	H360D
R61	H360F
R68	H351

(3) In this paragraph, "permit" includes an authorisation under section 3 of the Solvents Emissions Act 2003.

Solvent installations: first use of risk phrase or hazard statement substances.

5.(1) The operator of a solvents installation who proposes to begin using−

(a) in the period to 31st May 2015, a risk phrase or hazard statement substance or mixture, or

(b) in the period from 1st June 2015, to a hazard statement substance or mixture,

must make an application for variation under regulation 44, and may not begin using the substance or mixture until after the determination date.

(2) The operator of a solvents installation must make an application for variation under regulation 44 within the period of 4 months beginning−

(a) in the period to 31st May 2015, on the date on which a risk phrase or hazard statement, or

(b) in the period from 1st June 2015, on the date a hazard statement,

is assigned to a substance or mixture used in the installation.

(3) Where an operator fails to comply with a requirement under this paragraph the Agency must serve a notice on the operator requiring compliance, and specifying the period for doing so.

(4) A notice under subparagraph (3) is deemed to be an enforcement notice under regulation 52.

(5) In this paragraph, "determination date" means the date on which the permit is varied.

PART 3

Permit conditions

Permit condition: incidents, accidents, and breach of conditions.

6.(1) A permit for an installation includes the condition that the operator of an installation must in the event−

(a) that operation gives rise to an incident or accident that significantly affects the environment, immediately take such measures as are needed to−

(i) limit the environmental consequences of the incident, and

(ii) prevent further possible incidents and accidents of the same type or from the same cause,

(b) of a breach of a permit condition, immediately take such measures as are needed to ensure compliance with the permit within the shortest possible time,

(c) of a breach of a permit condition that poses an immediate danger to human health, or threatens to cause an immediate significant adverse effect on the environment, immediately suspend operation until such time as the installation can be operated in compliance with the permit.

(2) This paragraph applies in the period from the date of the commencement of these Regulations until the date that the Agency next

varies a condition of the permit so as to give effect to Article 7 of the Industrial Emissions Directive.

Permit condition: monitoring of installations.

7.(1) A permit for an installation includes the condition that the operator of an installation must−

(a) supply the Agency regularly, and at least annually, with such results of emissions monitoring or monitoring of equivalent parameters as are needed to enable the Agency to verify compliance with the permit conditions,

(b) give the Agency the first report required under subparagraph (a) no later than 31st January 2014.

(2) This paragraph applies in the period from the date of the commencement of these Regulations until the date that the Agency next varies a condition of the permit so as to give effect to Article 14(1)(d)(i) of the Industrial Emissions Directive.

Permit condition: large combustion plants.

11.(1) This paragraph applies to an installation at which an activity described in Chapter III of the Industrial Emissions Directive is carried out, whether before or after that Chapter has effect.

(2) An existing permit for such an installation includes the conditions specified in subparagraphs (2) and (3).

(3) The first specified condition is that in the event of malfunction or breakdown of abatement equipment the operator−

(a) must, if a return to normal operation is not achieved within 24 hours, reduce or close down operations or use low-polluting fuels, or take such other steps as the Agency requires, and

(b) must ensure that the cumulative duration of unabated operation in any 12 month period does not, unless agreed in advance by the Agency, exceed 120 hours.

(4) The second specified condition is that the values of the 95% confidence intervals of single measured results must not exceed the following percentages of the emission limit values−

(a) 10% for carbon monoxide,

(b) 20% for sulphur dioxide,

(c) 20% for nitrogen oxides, and

(d) 30% for dust,

where the validated hourly and daily average values are determined from the measured valid hourly average values after having subtracted the value of the confidence interval specified above, and providing that any day in which three or more hourly average values are invalid due to malfunction or maintenance of the continuous measurement system shall be invalidated.

(5) This paragraph applies in the period from the date of the commencement of these Regulations until the date that the Agency next varies a condition of the permit so as to give effect−

(a) in the case of subparagraph (3), to Article 37 of the Industrial Emissions Directive, and

(b) in the case of subparagraph (4), to paragraph 9 of Part 3 of Annex V to that Directive.

SCHEDULE 15

Regulation 69

CONSEQUENTIAL MODIFICATIONS

Public Health Act

1.(1) The Public Health Act is amended in accordance with this paragraph.

(2) In section 192A(1), in the definition of "best available techniques" for the words "Article 2(11) of Directive 96/61/EC" substitute the words "Article 3(10) of Directive 2010/75/EU".

(3) Section 192B(2)(bbb) is repealed.

(4) After section 192D(10) inset the following subsection−

"(11) A licence under this section shall not be granted where the activity in question is regulated under the Industrial Emissions Regulations 2013 and in any case where there is an overlap between this Part and those Regulations, such licence may be issued under this section if it complies with the provisions of those Regulations.".

(5) Schedules 5A to 5G are repealed.

Landfill Act, 2002.

2.(1) The Landfill Act, 2002 is amended in accordance with this paragraph.

(2) In section 8(2) after paragraph (b) insert the following paragraph−

"(c) any conditions required by the Industrial Emissions Regulations 2013 are included.".

SCHEDULE 16

Regulation 70

REVOCATIONS

The following enactments are repealed−

Pollution Prevention and Control Act 2001

Solvent Emissions Act 2002

Large Combustion Plants Act 2003

Waste Incineration Act 2003