
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2012 No.

**The Pollution Prevention and
Control (Scotland) Regulations 2012**

**PART VI
COMPLIANCE**

SEPA: duty to ensure compliance

51. SEPA 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

52. An operator of an installation or any mobile plant must immediately give notice to SEPA of any breach of a condition of the permit for the installation or mobile plant.

SEPA: environmental inspection plan

53.—(1) SEPA must maintain an environmental inspection plan in respect of Part A installations.

(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, and may be prepared at a national, regional or local level.

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

SEPA: environmental inspection of Part A installations

54.—(1) SEPA must carry out an environmental inspection of a Part A installation.

(2) SEPA 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
 - (iii) 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) one year for an installation posing the highest risk,
 - (b) three 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) SEPA 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) SEPA must notify a site visit report to the operator of the installation within 2 months of the site visit taking place.
- (7) SEPA 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 SEPA 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 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)(1).

SEPA: enforcement notices

- 55.**—(1) SEPA may serve a notice (an “enforcement notice”) on the operator of an installation or mobile plant 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 or mobile plant.
- (2) An enforcement notice served under sub-paragraph (a) of paragraph (1) must—
- (a) state why SEPA 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 sub-paragraph (b) of paragraph (1) 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.

(1) OJ L 342, 22.12.2009, p.1.

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

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

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

SEPA: suspension notices

56.—(1) SEPA must give notice under this regulation to the operator of an installation or any mobile plant if it considers that any aspect of the operation of the installation or mobile plant—

- (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) Paragraph (1) does not apply where SEPA intends to arrange for steps to be taken under regulation 57(1) in relation to such operation of the installation or mobile plant.

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

(4) SEPA 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 paragraph (1) or (4) (a “suspension notice”) must—

- (a) state why SEPA considers that the suspension notice is required,
- (b) in the case of a suspension notice under paragraph (1), specify—
 - (i) the nature of the harm that is being (or may be) caused by the operation of the installation or mobile plant,
 - (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 mobile plant, or the carrying out of an activity in the installation or by means of the mobile plant, 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 or mobile plant 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) SEPA may withdraw a notice at any time, and must withdraw a notice if satisfied—

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

SEPA: power to prevent or remedy pollution

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

(2) SEPA may arrange for steps to be taken towards remedying the effects of pollution caused by the commission of an offence under regulation 67(1)(a), (b) or (d).

(3) SEPA must, at least seven days before steps are taken under paragraph (2), give notice to the operator of those steps.

(4) SEPA may recover the cost of taking steps under this regulation from the operator of the installation or mobile plant concerned.

(5) Paragraph (4) does not apply in respect of costs—

- (a) for steps taken under paragraph (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 SEPA.