

EXECUTIVE NOTE

THE POLLUTION PREVENTION AND CONTROL (SCOTLAND) AMENDMENT REGULATIONS 2011

SSI 2011 No. 285

Introduction

1. This instrument will, if approved, be made by the Scottish Ministers in exercise of the powers conferred by section 2 of the Pollution Prevention and Control Act 1999. The instrument is subject to negative resolution procedure.

Policy Objectives

2. The purpose of the instrument is to amend the Pollution Prevention and Control (Scotland) Regulations 2000 (the PPC Regulations) to achieve the following objectives:

- to transpose into Scots law Article 37 of Directive 2009/31/EC on the geological storage of carbon dioxide. Transposition of the Directive will allow companies to construct, commission, operate and maintain power stations and other industrial facilities fitted with **Carbon Capture and Storage (CCS)** technologies.
- to introduce new standard rules into the PPC regulatory arrangements, and
- to introduce amended provisions to clarify, correct or amend the current arrangements.

3. CCS is a mitigation technology, the aim of which is to tackle global climate change. The development and deployment of CCS are key to reducing carbon dioxide emissions from the power sector, given the need to maintain fossil fuels as part of a diverse and secure low-carbon energy mix.

4. Article 37 of Directive 2009/31/EC amends the Integrated Pollution Prevention and Control (IPPC) Directive by adding CCS to the list of activities covered by the IPPC Directive. IPPC, which controls emissions from industrial installations, is implemented in Scotland through the Pollution Prevention and Control (Scotland) Regulations 2000 (PPC), as amended. It is proposed to transpose Article 37 by adding CCS to the scope of the PPC Regulations, thereby allowing the Scottish Environment Protection Agency to control and monitor CCS activities through conditions set in PPC permits.

The introduction of standard rules, which is consistent with the Scottish Government's better regulation policy, would replace, in appropriate circumstances, site specific permit conditions with generic conditions, allowing a more standardised approach to permitting for a range of industrial sectors. The rule-making authority would be Scottish Ministers or the Scottish Environment Protection Agency (SEPA). It is proposed that standard rules would apply to lower risk activities and only if specified environmental standards, and the equivalent level of environmental protection as provided by the current PPC permitting arrangements, could be achieved.

4. Standard rules are designed to provide a range of benefits for businesses regulated by SEPA under PPC, as well as to SEPA itself. These include:

Benefits to businesses

- businesses would be able to comply with the PPC Regulations more readily;
- greater certainty about the regulatory requirements the activity would need to meet and how soon SEPA would be able to issue a permit
- shorter application forms, and simplified application procedures
- potential for reduced charges payable to SEPA
- ensures that Scottish businesses are not disadvantaged compared with businesses in England and Wales where standard rules have already been introduced

Benefits to SEPA

- reduction in costs to fulfil regulatory obligations
- less resource needed to process and determine shorter applications and issue simple standard rules permits
- easier to monitor generic sector-specific permit conditions, potentially fewer site inspections and simplified compliance assessment.

Consultation

5. Draft regulations to amend the PPC Regulations to achieve the above objectives were subject to a public consultation between 15 December 2010 and 9 March 2011. The consultation was issued to a wide range of trade associations for sectors covered by the PPC Regulations, as well as individual businesses affected, or potentially affected, by the proposals. A number of other organisations with an interest in the proposals were also consulted, including:

- CBI Scotland
- Federation of Small Businesses
- Royal Environmental Health Institute of Scotland
- Scottish Environmental Services Association
- The Law Society for Scotland
- WWF Scotland
- Friends of the Earth (Scotland)
- Local authorities

6. The full list of organisations consulted was included in the public consultation published on the Scottish Government website:

<http://www.scotland.gov.uk/Publications/2010/12/14095542/9>

Business and Regulatory Impact Assessment

7. The standard rules introduced by the instrument impact on a range of businesses and industrial sectors. A Business and Regulatory Impact Assessment has been completed and is attached. The additional amendments are expected to have no, minimal or a positive impact on businesses. In these circumstances, no Business and

Regulatory Impact Assessment has been prepared for the miscellaneous changes. The CCS proposal is a single issue provision affecting a small number of businesses directly. The addition of CCS to the PPC Regulations is the simplest way to transpose the Directive's requirement. In the circumstances it is considered unnecessary to prepare a Business and Regulatory Impact Assessment for the CCS provision.

Financial Effects

8. The introduction of standard rules into the PPC regime will have a financial effect on businesses regulated by SEPA and for SEPA itself. Although there will be costs and benefits, the net financial effect is expected to be positive. The financial impact of the standard rules proposals is outlined in the Businesses and Regulatory Impact Assessment.

9. The additional provisions introduced by the instrument are expected to have no or minimal financial effects on businesses. Some of the proposals will reduce the costs for businesses from complying with the PPC Regulations, e.g.

- the relaxation of the requirement for the need to hold a certificate of technical competency for a waste management activity, and
- the proposal that fuels made from waste, but which pass SEPA's end-of-waste test, should be treated in the same way as virgin fuels; operators would not, in these circumstances, need to meet the more stringent requirements of the Waste Incineration Directive.

10. There will be no financial effect on the Scottish Government.

Scottish Government
Environmental Quality Division
Rural and Environment Directorate

June 2011

Business and Regulatory Impact Assessment

1. Title of proposal

The introduction of Standard Rules under the Pollution Prevention and Control (Scotland) Regulations 2000 (the **PPC Regulations**).

2. Purpose and intended effect of the measures

2.1 Objectives

- To introduce provisions into the PPC Regulations to enable the Scottish Environment Protection Agency (SEPA) to take a more risk-based and proportionate regulatory approach, consistent with the need to protect human health and the environment.
- To reduce the regulatory impact for those businesses operating lower risk industrial activities by streamlining and simplifying administrative and compliance requirements.

These objectives are consistent with the Scottish Government's National Performance Framework and overarching Purpose. They also help to deliver the Government's Economic Strategy, in particular the strategic priority of supporting the business environment, and contribute to the following National Outcomes:

- We live in a Scotland that is the most attractive place for doing business in Europe.
- We value and enjoy our built and natural environment and protect it and enhance it for future generations.
- Our public services are high quality, continually improving, efficient and responsive to local people's needs.

2.2 Background

Better Regulation

In order to meet its commitment to the principles of better regulation, the Scottish Government has adopted an agenda whose principle aim is to enhance and grow Scotland's economic competitiveness by helping to improve the regulatory environment and ensuring that it is suitable and appropriate for Scotland. The Scottish Government is committed to reducing, as far as possible, the burdens on business, charities and the voluntary sector arising from regulations.

The Scottish Government proposes to amend the PPC Regulations to allow standard rules to be introduced in respect of lower risk industrial activities. The proposals are consistent with the better regulation principles of transparency, accountability, proportionality, consistency and targeting. In

particular, the proposals aim to introduce measures to ensure that regulatory controls are more proportionate to environmental risk by:

- facilitating a more risk-based approach to PPC controls,
- simplifying application procedures and permits for a range of lower risk industrial activities,
- reducing compliance costs for operators following standard rules,
- reducing implementation costs for SEPA, and
- increasing the transparency and effectiveness of PPC.

PPC Regulations

The PPC regulatory regime is the principal means of eliminating or reducing emissions from a wide range of industrial sectors across Scotland. The regulations transpose the Integrated Pollution Prevention and Control (IPPC) EC Directive (2008/1/EC) in Scotland by establishing an integrated approach to controlling emissions from industrial sources to air, water and land. The regulations require SEPA to issue a single permit covering the whole of an installation. Industrial activities are classified as either Part A or Part B. Part A activities involve emissions to air, water and land. Part B activities involve emissions to air only. In Scotland there are around 450 Part A installations and 1700 Part B installations.

Standard rules

Under the current PPC Regulations, SEPA has to issue permits containing conditions relevant to the individual circumstances of the installation (e.g. geographical, topographical). While there are existing provisions in the regulations to make “general binding rules” for certain types of installation these only allow Scottish Ministers to make the rules. It is proposed to amend the regulations to extend rule-making powers to SEPA, and to rename the rules as “standard rules”.

A rule-making authority would be able to identify sectors for which standard rules are considered appropriate based on a risk assessment process that takes into account the potential for activities to impact on the environment or human health. Standard rules could only be made if specified environmental standards could be attained and the same high level of environmental protection provided by the current PPC permitting was maintained. In the case of Part A activities, equivalent controls to those required by the IPPC Directive would also have to be provided.

Standard rules would be periodically reviewed and updated as necessary, for example to take account developments in Best Available Techniques (BAT). BAT are required to be considered under the IPPC Directive to avoid or reduce emissions from installations and to reduce the impact on the environment as a whole; they take into account the balance between the costs and environmental benefits.

The standard rules approach is predicated on the relevant sectors being amenable to standardisation of approach because they involve simple processes with little deviation in their nature, and because the pollution control requirements are likely to be similar irrespective of location, although site-specific BAT still pertains. As all operators in the same sector would be using the same rules for compliance assessment there would be a high degree of regulatory consistency across the sector.

Standard rules permits would involve a reduced burden for industry and regulators when, respectively, applying for permits and determining applications, provided that individual installations do not differ significantly from the expected “norm”. Standard rules permits would possibly result in a reduced level of inspections at installations subject to the rules, but nevertheless this would continue to be carried out at a level which provided adequate environmental protection. As a consequence, and under a risk based charging scheme, operators could potentially pay lower fees and charges.

Standard rules permits would only be workable if all processes within a sector were broadly similar and could be regulated by largely the same conditions. They would be less successful if there were significant process differences or if business wanted greater flexibility in agreeing site-by-site standards leading to substantial site specific regulatory work. A reduced inspection frequency would be dependent on risk assessment, as with those activities subject to bespoke permits.

2.3 Rationale for Government Intervention

Rationale for the proposals is that:

- they are consistent with the principles of better regulation,
- compliance with the current PPC regulatory requirements for some lower risk activities is considered to be disproportionate in relation to the activities’ likely impact on, or risk to, the environment and human health, and
- the introduction of new provisions to simplify PPC permits for lower risk activities would reduce operators’ compliance costs and SEPA’s regulatory costs.

3. Consultation

3.1 Within Government

A number of different teams within the Scottish Government were involved in the development of the proposals. These included the Legal Directorate, Environmental Quality Division, and the Better Regulation and Industry Engagement team. In addition, detailed consultations took place with SEPA which has had considerable experience in implementing the PPC Regulations

over the last 10 years. These discussions helped to shape the proposals in the public consultation.

3.2 Public Consultation

The Scottish Government issued a full public consultation between 15 December 2010 and 9 March 2011 seeking views on proposals to amend the Pollution Prevention and Control (Scotland) Regulations 2000. The consultation paper, which included the draft regulations introducing the standard rules, was made available online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>.

The consultation was issued to a wide range of business organisations and trade associations with an interest in the proposals. A total of 16 responses were received from:

British Aggregates Association
Chemical Business Association
Dundee University
Falkirk Council
Federation of Small Businesses Scotland
Forestry Commission Scotland
Glasgow City Council
Member of the Chartered Institute of Water and Environmental Management
National Farmers Union Scotland
Scotch Whisky Association
Scottish Power
Scottish and Southern Energy
Scottish Environment Protection Agency
Scottish Environmental Services Association
Scottish Natural Heritage
Scottish Water

Summary of responses

Standard rules

- There was **general support** for the proposals, with most respondents agreeing that the new rules would improve existing arrangements by introducing simpler regulation that was likely to benefit the sectors covered by standard rules.
- A number of the respondents confirmed the need for **robust consultation** procedures before any new standard were introduced, or changes to existing rules – that is indeed the intention.
- Several sectors were suggested as **candidates for standard rules**. SEPA as the rule-making authority will be able to identify sectors for which standard rules are considered appropriate based on a risk assessment process that takes into account the potential for activities to impact on the environment or human health. Standard rules could only be made if

specified environmental standards could be attained and the same high level of environmental protection provided by the current PPC permitting was maintained.

- Most respondents considered it premature to comment in any detail on whether the proposals would benefit their industry. Those who did expected the new standard rules to be beneficial.
- One respondent wanted standard rules to be extended to activities covered by waste management licensing – this will be considered as part of the general review of SEPA’s regulations over the next 2 or 3 years.
- Respondents did not expect the proposals to have **cost implications**.
- Most respondents agreed that having no **right of appeal** against standard rules would be inappropriate. A minority disagreed with the proposal to remove appeal rights.

Additional amendments

- Three respondents commented on the additional amendments.
- Two supported the proposals but one disagreed with the proposal to remove the need for extensions to determination periods to be made in writing.

3.3 Business

During the development of the proposed standard rules, discussions were undertaken with a number of organisations representing sectors falling within the scope of PPC which SEPA has identified as being potentially suitable for the development of standard rules. These sectors cover petrol retail outlets and dry cleaners. Businesses within these sectors are located in both urban and rural areas and are mainly small in size.

The standard rules themselves would be developed only after consultation with representatives of communities, industry and others likely to be affected by the rules.

4. Options

4.1 Options considered

Three options have been reviewed:

Option 1 - Status quo, i.e. do nothing.

Option 2 – limit the scope for introducing standard rules to PPC Part B activities only.

Option 3 - provide the opportunity to introduce standard rules for all PPC activities. Following the consultation process, it was concluded that although it is anticipated that standard rules would be more suited to lower risk Part B activities, on balance, we acknowledge that it would be appropriate

to extend the potential for standard rules to be developed, following a full risk assessment and consultation, for all PPC activities.

Option 1 – Status Quo

This represents the base case of “business as usual” against which other options have been compared. Following the consultation process, this option was discounted as the status quo would have meant:

- existing PPC Regulations remaining unchanged,
- a number of sectors not benefitting from shorter application procedures and, potentially, reduced charges,
- all businesses having to continue to comply with bespoke PPC permit conditions rather than simpler standard rules permits,
- a missed opportunity under the better regulation agenda, and
- an uneven playing field given that standard rules have already been introduced in England and Wales.

Option 2 - limit the scope for introducing standard rules to PPC Part B activities only

This option would allow standard rules to be introduced for PPC Part B activities only. Following the consultation process, this option was discounted as even if standard rules were restricted to lower risk Part B activities, their introduction would run the risk of:

- reduced environmental protection within those sectors subject to standard rules. However, this risk would be significantly reduced if the proposed regulations required that standard rules must provide the same level of environmental protection as if the installation were subject to a bespoke PPC permit. It is the intention that the proposed regulations will include such a provision;
- SEPA having insufficient powers to regulate emissions from individual installations subject to standard rules. This is most likely to occur if an individual installation is not complying with the rules, even although it is appropriate for the sector as a whole to be covered by standard rules. This scenario could be addressed by SEPA taking enforcement action using existing powers in the PPC Regulations. Alternatively, if SEPA believed further conditions should be added to a permit to protect the environment, the Agency could be given the right to “convert” a standard rules permit into a bespoke permit to include additional conditions to address a problem site. It is the intention to give powers to SEPA to enable it to do so.

Option 3 – provide the opportunity to introduce standard rules for all PPC activities (Preferred Option following the consultation process)

This option would extend the use of standard rules to all activities within any sector falling within the scope of the PPC Regulations, i.e. all Part A and Part B activities. In practice, at least initially, it is likely that standard rules would be developed only for lower risk Part B activities. However, some Part A activities have a high degree of process uniformity across the sector and could potentially be suited to standard rules. Option 3 would provide the scope to introduce standard rules for Part A sectors if, following appropriate risk assessments and consultations, it was deemed appropriate to do so.

The risks identified with Option 3 are:

- **reduced environmental protection within those sectors subject to standard rules.** However this risk has been significantly reduced by including a provision in the regulations that the standard rules must provide the same level of environmental protection as would result as if the installation had been subject to a bespoke PPC permit. This safeguard will be extended in the case of Part A installations and Part A mobile plant by requiring the same high level of integrated pollution prevention and control as would be provided by a bespoke permit;
- **failing to fully implement the IPPC Directive.** In practice this would only be a risk if a Part A activity was subject to standard rules (Part B activities do not fall within the scope of the Directive). However this risk has been significantly reduced by stipulating in the proposed regulations that standard rules could only be introduced for Part A installations if they provided the same high level of integrated pollution prevention and control as would result from the installation being subject to a bespoke PPC permit;
- **SEPA having insufficient powers to regulate emissions from individual installations subject to standard rules.** This could be addressed by SEPA using existing enforcement powers or “converting” a standard rules permit into a bespoke permit.

Option 3 would also allow for the development of standard rules for common administrative procedures which would apply across all sectors covered by PPC.

4.2 Sectors and Groups affected

Option 3 would potentially affect businesses in all sectors covered by the PPC Regulations, the main ones being:

- Energy industries: combustion and refining
- Production and processing of metals
- Surface treating metals and plastics
- Cement and lime production

- Glass and glass fibre manufacture
- Ceramic production
- Chemical industry
- Waste Management: incineration and landfill
- Paper and pulp manufacturing
- Tar and bitumen processes
- Textile treatments
- Timber activities
- Rubber industry
- Animal and vegetable matter treatment and food industries
- Pig and poultry intensive farming

In practice, standard rules would only be introduced once a sector had gone through an assessment process to ensure that generic rules would not increase the risk to the environment or human health from activities operating within the sector.

Sectors that may be early candidates for standard rules include:

- Petrol vapour recovery at petrol stations
- Dry cleaning
- Crushing and screening activities
- Vehicle respraying
- Cement batching processes
- Gas odourisers

SEPA would also be affected by Option 3. The Agency would require to amend its current regulatory practices, develop standard rules, train staff and review its charging schemes under either option.

4.3 Benefits

Option 1 implies no change for any party, so there would be no benefits attributable to any regulatory change.

For sectors where standard rules have been introduced, options 2 and 3 could introduce significant benefits overall:

- more risk-based approach to PPC controls,
- streamlining of administrative procedures,
- more proportionate compliance requirements, and
- potential for a reduction in SEPA's charges.

Benefits to businesses

In comparison to the status quo (option 1), options 2 and 3 would offer a range of savings for businesses. Benefits under options 2 and 3 would be similar, the main difference being that there will be an opportunity to introduce standard rules for a wider range of sectors under option 3, and consequently

more potential to benefit a greater number of businesses and a wider range of industrial activities. Businesses could benefit as follows:

- Shorter application forms would need to be completed, and simplified application procedures to follow.
- Businesses would be able to comply with PPC Regulations more easily by complying with generic standard rules instead of bespoke permit conditions (the standard rules having been previously discussed with industry).
- Potential for reduced charges payable to SEPA.
- Level playing field with businesses in England and Wales where standard rules have already been introduced.
- Potential for new businesses to be created as a result of reduced regulatory compliance costs.
- Greater certainty about the requirements for undertaking a particular activity.
- Increased transparency and consistency of permitting.
- Greater certainty that a permit would be granted.
- Quicker and more certain application determination period, with fewer variables and less consultation.
- Less likelihood of changes to permit conditions.

Benefits to SEPA

The introduction of standard rules under option 3 would benefit SEPA as follows:

- Overall reduction in cost of fulfilling regulatory obligations for activities subject to standard rules.
- Less effort required to process and determine shorter applications.
- Less resource required to prepare and issue simple standard rules permits.
- Easier to monitor generic sector-specific permit conditions.
- Potential for fewer inspections commensurate with the environmental risk posed by the activity.
- Simplified training and compliance assessment.
- Simpler reviews and fewer variations.

4.4 Costs

Option 1 implies no change for any party, so there would be no costs attributable to any regulatory change. The introduction of standard rules under either option 2 or 3 would introduce measures designed to reduce the impact of regulations for industry and ease costs on businesses and SEPA. Although the costs noted below have been identified, the introduction of standard rules is expected to reduce implementation and compliance costs for businesses and SEPA overall.

Costs to businesses

For those businesses able to apply for a standard rules permit, potential extra costs from option 3 could be:

- Time taken for operators to familiarise themselves with standard rules and new legislation.
- Introduction of new working practices and training of staff.
- Potential cost of converting a bespoke PPC permit into a standard rules permit.
- Possible engagement with SEPA on the development of standard rules.

Businesses will be asked to quantify these benefits wherever practicable – these figures will be taken into account when finalising the BRIA.

Costs to SEPA

Actual and potential costs to SEPA from option 3 include:

- Engagement with the Scottish Government in developing the proposals, including draft regulations.
- Development of, and consultation on, draft standard rules, including engagement with operators and trade organisations.
- Publication of standard rules.
- Familiarisation with new legislation and procedures.
- Introduction of new working practices, IT systems and training of staff.
- Designing and “test running” of new application form.
- Transferring existing permits to standard rules permits.
- Potential for reduced income from PPC charging scheme.

Administrative costs

Because option 3 would extend to Part A activities falling within the scope of the IPPC Directive, it runs the risk of failing to implement the Directive fully and, therefore, the potential for the European Commission to levy fines following infraction proceedings. This risk is significantly reduced, however, since the proposed regulations will stipulate that standard rules could only be used for Part A installations if they provided the same high level of integrated pollution prevention and control as would result if the installation was subject to a bespoke PPC permit.

The Commission has published guidance on how it calculates levels of fines. This is based on a uniform flat rate multiplied by 2 coefficients relating to the offence itself, and then by a deterrent effect factor that takes account of the Member States' ability to pay and the weighting of votes in Council. The maximum advised fine that could be imposed on the UK for the most serious of breaches and the maximum duration is €534,000 (c £490,000) per day (i.e. nearly £180 million per year). Although fines imposed by the European Commission are levied against the Member State (i.e. the United Kingdom), in

the event that Scotland alone is at fault, the Scottish Government would have to pay the fines and the costs of any legal action.

Options 1 or 2 would remove the risk of costs arising from infraction fines.

Options 3 would mean a cost to the Scottish Government from making and publishing the proposed legislation to amend the PPC Regulations, and SEPA in the cost of publishing standard rules. These are difficult to quantify but would occur in the ordinary course of business.

5. Scottish Firms Impact Assessment

Under option 2, around 450 existing businesses would be affected by the proposals. Under option 3, all businesses operating in sectors falling within the scope of the PPC Regulations, around 2150 in total, would potentially be affected. These sectors are identified in section 4.2 above. The number (averaged over 3 years) of new applications for Part A activities each year is 22 and for Part B activities it is 62. However, standard rules are aimed at lower risk activities and it is unlikely that generic rules would be assessed as appropriate for businesses operating in sectors involving complex industrial processes. Sectors that are likely candidates for standard rules initially are shown in the table below.

Sector	Number of businesses in sector currently permitted by SEPA
Petrol stations – unloading of petrol into storage from mobile containers and vehicle refuelling activities	628
Dry cleaning	202
Crushing and screening activities	198
Cement batching	150
Vehicle respraying	58
Gas odourisers	19

Under the Pollution Prevention and Control (Scotland) Amendment Regulations 2008 applications from around 400 - 500 petrol stations, required to fit petrol vapour recovery stage II controls, are expected to apply for PPC permits by 1 January 2012. There is potential for these to be subject to standard rules.

SEPA has issued 202 permits to dry cleaners. These could potentially be converted to standard rules permits.

Discussions have already taken place with a number of organisations representing sectors which are likely to be suitable candidates for the development of standard rules. These include:

- Petrol Retailers Association
- Textile Services Association

These discussions identified a range of costs and benefits that might result from the introduction of standard rules but, at that stage, organisations were unable to quantify the costs or benefits. The public consultation included contact with a wide range of businesses and trade organisations potentially affected by the proposals. Organisations were asked specifically to comment on the impact standard rules might have on their business or sector, and were requested to quantify costs and benefits wherever possible. No substantive responses were received.

Once the draft legislation is introduced, SEPA will aim to introduce standard rules for a number of sectors. These rules would be developed after consultations with representatives of affected industries. Consultation will likely involve face-to-face and written interaction and will have the dual purpose of developing rules that protected the environment and human health whilst ensuring that compliance requirements represented proportionate regulation.

5.1 Impact on Small / Micro Firms

The opportunity to use, and benefit from, standard rules would most likely arise in sectors involving less complex, lower risk activities which, because of their nature, might be expected to be operated by smaller businesses. The proposals are not, therefore, expected to impact negatively on small or micro businesses, their customers or competitors. On the contrary, for those businesses able to apply for a standard rules permit instead of a bespoke permit there would be the prospect of significant benefits that may be particularly helpful for smaller businesses. These would include shorter, simpler application forms, with a corresponding reduction in the time spent on completing the application. Because standard rules would be generic, and known in advance, there would be more certainty about compliance requirements, greater confidence that a permit would be granted, and scope for SEPA to process applications and issue permits more speedily. There would also be the prospect of reduced charges payable to SEPA which might provide proportionately greater benefits for small and micro businesses.

The proposal to introduce standard rules permits has to be seen within the context of the Scottish Government's obligation to transpose EU Directives in full. It is not possible, therefore, to exclude small firms from regulation altogether. However, by focussing on reducing administrative burdens and taking a risk based and proportionate approach, it is expected that standard rules would allow SEPA to minimise regulatory impact for lower risk activities and introduce benefits, in particular, for smaller businesses.

5.2. Competition assessment

The recommended option (to extend the proposals to all activities covered by the PPC Regulations) would not apply selectively and would not, therefore,

result in the imposition of costs for, or opportunity to benefit by, some operators in any industrial sector, but not to others. However, because standard rules are more likely to be introduced for lower risk activities, not all sectors would be affected by the proposals, at least initially. The proposals are similar to regulatory changes introduced in England and Wales and would, therefore, create a more level playing field across Great Britain.

Considering the questions posed in the Office of Fair Trading guidance on completing competition assessments in Impact Assessments, the proposals are not expected to limit the number or range of suppliers, either directly or indirectly, or limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

For the purposes of this competition assessment, it is likely that some of SEPA's charges within sectors for which standard rules have been developed will be less than current charge levels for bespoke permits within the same sector. SEPA would conduct a public consultation on charge levels for standard rules in due course.

5.3. Test run of business forms

It is the intention that new application forms would be introduced by SEPA for standard rules permits and that these forms would be shorter and require less information to be provided compared with the current application forms, and would be easier to complete. SEPA would develop the new application form in consultation with businesses, "test run" the form and keep it under review.

6. Legal aid impact test

Legal aid is only available to individuals i.e. not to incorporated bodies such as the majority of businesses which are covered by the PPC permitting regime. It is not expected, therefore, that the proposal to introduce standard rules permits would have any material impact on the volume of legal aid applications or the cost to the legal aid fund.

7. Enforcement, sanctions and monitoring

SEPA is responsible for issuing PPC permits and ensuring compliance with permit conditions. SEPA already has established practices for monitoring operators' performance and works with operators to help them comply with permit conditions. SEPA currently has a range of powers under the PPC Regulations to enable it to take enforcement action against breaches of conditions in permits. These include the issuing of enforcement notices, suspension notices and the revocation of permits. The most serious cases may be reported to the Procurator Fiscal. SEPA's enforcement policy is designed to ensure that appropriate action is taken, proportionate to the risk posed to the environment and seriousness of the offence. This policy and the existing enforcement powers under PPC would continue to apply in relation to standard rules permits. The proposals would not introduce any changes to the range of offences or penalties currently available in the PPC Regulations.

7.1 Post-implementation review

Should standard rules be introduced as proposed, the Scottish Government and SEPA would monitor and review the effectiveness of the new provisions to check that they continued to achieve the proposal's objectives or whether further legislative or administrative provisions were needed.

8. Implementation and delivery of plan

The Scottish Government in consultation with SEPA would, following a public consultation and with the agreement of Scottish Ministers, lay the proposed statutory instrument in the Scottish Parliament. This would introduce standard rules within the PPC regime by amending the Pollution Prevention and Control (Scotland) Regulations 2000.

SEPA, in consultation with Scottish Ministers, has identified sectors and activities that are initial candidates for standard rules. Draft standard rules for these sectors have been developed following initial discussions with industry. It is proposed to consult formally on these drafts in parallel with consulting on the proposed regulations. The expectation is that standard rules for at least one sector would be available when the proposed regulations come into force (scheduled for June 2011). The standard rules would be published on SEPA's website.

9. Summary and recommendation

The Scottish Government believes that the introduction of standard rules would significantly improve the way in which lower risk activities are regulated under the PPC Regulations. Standard rules permits would remove disproportionate administrative and regulatory requirements and help businesses operating in a wide range of industrial sectors to comply more readily with environmental legislation. Standard rules would only be introduced following appropriate risk assessments, consistent with the need to protect human health and the environment. For these reasons, the introduction of standard rules within the PPC regime is supported. Option 1 (the status quo) is not, therefore, recommended.

Options 2 or 3 would introduce new provisions to allow standard rules to be developed for, respectively:

- PPC Part B activities only (involving emissions to air) or
- Part B activities and Part A activities (involving emissions to air, water and land).

Both options are consistent with the better regulation agenda and would provide scope for a range of savings for both businesses and SEPA, principally through shorter application procedures, greater certainty for businesses on compliance requirements, increased transparency and consistency, reduced compliance and implementation costs, and the potential for lower charges.

There would be some additional costs. Businesses would need to familiarise themselves with new working practices and the new standard rules, and train staff. SEPA would incur costs from the development of standard rules, training of staff, converting existing permits into standard rules permits and potentially receiving reduced income from the PPC charging scheme. However, for those sectors where standard rules are introduced, significant net gains for both businesses and SEPA could be expected from either option 2 or option 3.

The only difference between options 2 and 3 is that there would be more opportunity to use standard rules under option 3, and consequently the potential to benefit a greater number of businesses and a wider range of industrial sectors. For this reason, provided the legislation introducing standard rules stipulates that their use must result in the same level of environmental protection as provided by a bespoke PPC permit, it is **recommended that option 3 is pursued (that is to say to provide the opportunity to introduce standard rules for all activities falling within the scope of the PPC Regulations).**

10. Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

[Signed by the responsible Minister + Date]

This Business and Regulatory Impact Assessment is published on the Scottish Government website:

<http://www.scotland.gov.uk/Publications/Recent>