EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 2 of the Pollution Prevention and Control Act 1999 (c.24), and under section 2 of the European Communities Act 1972 (c.68) so far as providing for the designation of a competent authority.

These Regulations provide an integrated pollution control regime for Scotland for the purposes of implementing Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (Recast) (OJ No L 334, 17.12.2010, p.17) (the "Industrial Emissions Directive"), and of regulating other environmentally polluting activities not covered by the Industrial Emissions Directive.

These Regulations revoke and remake, with modifications, the Pollution Prevention and Control (Scotland) Regulations 2000 (S.S.I. 2000/323) (the "2000 Regulations"). The 2000 Regulations when made transposed what is now Directive 2008/1/EC of the European Parliament and of the Council concerning integrated pollution prevention and control (Codified version) (OJ No L 24, 29.1.2008, p.8) (the "IPPC Directive")

The Industrial Emission Directive is a recast, with modifications, of the seven directives repealed by Article 81 of that Directive. The recast directives include the IPPC Directive, and these Regulations make new provision so far as required for the other recast directives.

These Regulations come into force on 7th January 2013, and have effect subject to the savings and transitional arrangements in Schedule 10. A permit under these Regulations will be required for most existing installations or mobile plant from 7th January 2014. An activity already being operated before 7th January 2013, that does not need a permit under the 2000 Regulations, will require a permit needed under these Regulations from 7th July 2015.

Part 1 of these Regulations provides for the meaning of terms used in these Regulations, for general duties on the Scottish Environment Protection Agency and the Scottish Ministers, and for electronic communications.

Part II of these Regulations designates the SEPA as the competent authority for the purposes of the Industrial Emissions Directive, as required by Article 71 of that Directive.

Part III of these Regulations makes it a requirement for any person operating an installation or mobile plant, at which an activity described in Schedules 1 or 2 is carried out, to have a permit granted by SEPA under these Regulations.

In Part III, regulations 11 to 19 of, and Schedule 4 to, these Regulations provide for applications for permits, and make general provision as to granting of permits including the conditions that SEPA may include in a permit.

In Part III, regulations 20 to 32 make further provision for permits for activities described in Schedule 1 carried out in a Part A installation, a Part B installation, or mobile plant, Regulations 24 and 25 transpose, in particular, Articles 14 and 15 of the Industrial Emissions Directive in respect of the new provision in that Directive for BAT conclusions (see regulations 4 and 12 for relevant definitions). The provision made includes a power to attach conditions affecting land other than the site of an installation. Schedules 3 and 5 to these Regulations make further provision in relation to such activities, and in relation to the best available techniques for emission limit values and other conditions designed to prevent or reduce the environmental impact of activities. Schedule 6 makes further provision for compensation for off-site conditions.

In Part III, regulations 32 to 34 make further provision for activities described in Schedule 2 that are carried out in solvents installation (see regulation 12 for the relevant definition).

Part IV of these Regulations provides for the Scottish Ministers or SEPA to be able to make standard rules for installations or mobile plant, and for SEPA to be able to attach standard rules conditions in any permit.

Part V of these Regulations provides for the review of permit conditions, for changes in operation, and generally for the variation, transfer, surrender or revocation of permits. Schedule 7 makes further provision for the variation of permits.

Part VI of these Regulations provides for compliance with permits, and permit conditions. It makes particular provision for the new requirements of Articles 8 (in regulation 52), and 23 (in regulations 53 and 54) of the Industrial Emissions Directive.

Parts VII to XI of these Regulations make provision for appeals to the Scottish Ministers and the sheriff, for directions and guidance to SEPA by the Scottish Ministers, for information and publicity including a public register holding information relevant to these Regulations, for offences and the powers of the courts, and for Crown application. Schedules 8 and 9 make further provision for appeals and the public register respectively. Schedules 11 and 12 provide for consequential modifications and revocations.

A business and regulatory impact assessment has been prepared and copies can be obtained from the Environmental Quality Division, Scottish Government, Victoria Quay, Edinburgh, EH6 6QQ. A copy has been placed in the library of the Scottish Parliament.