

## DEVELOPMENT AND USE OF COMPLIANCE AND ENFORCEMENT INDICATORS

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#### 1 Introduction to SEPA

The Scottish Environment Protection Agency (SEPA) is Scotland's environmental regulator. SEPA employs 1,000 staff in 21 locations throughout Scotland. We have a £50 million (approximately US\$83 million) budget, approximately half of which comes from government and half from charges paid to us by those that we regulate. We regulate potential pollution to land, air, and water; the storage, transport and disposal of controlled waste; and the storage and disposal of radioactive waste. We do this by licencing discharges to the environment and then regulating and enforcing the licence conditions. SEPA monitors the quality of Scotland's environment to ensure that the licence conditions protect and improve the environment.

Our aim is to "provide an efficient and integrated environmental protection system for Scotland which will both improve the environment and contribute to the Government's goal of sustainable development." Sustainable development is the overarching principle for all of SEPA's work. SEPA does this by protecting Scotland's environment and encouraging a reduction in resource use. We make all our regulatory decisions within the context of sustainable development, seeking synergies between social, economic, and environmental needs. We have been successful in changing our performance emphasis to what we *achieve* (the real world environmental affect of our activity – our "outcomes"), but we remain challenged because we do not have a full suite of measures for everything we achieve. The six outcomes that SEPA achieves are:

- Minimised, recovered and well-managed waste;
- Good water environments;
- Good air quality;
- Good land quality;
- A respected environment: protected, informed and engaged communities; and
- Economic well-being.

#### 2 Compliance and Enforcement Indicators

For our six outcomes, we have several measures that help us establish our performance, for example, the weight of municipal solid waste produced per head of population; rivers classed as poor or seriously polluted; mass emissions to air from industry; and flood warning readiness. Our corporate plan has more detail on these, and other measures (<http://www.sepa.org.uk>). For some of our outcomes, our measures are good. For example, for both "minimised, recovered, and well-managed waste" and "good water environments," we have good data. Waste produced, recycling and composting figures, and amount of waste going to landfill give a good picture of progress; for water, we have a classification scheme for assessing our rivers, estuaries, and coastal waters. For other outcomes, our measures are developing and are a challenge for us. How much will it cost us to collect the right information and can we afford it? Do others collect the information and can we use it for our purposes? Also, how many sets of information are required to give a clear picture of, for example "good land quality" or "good air quality"? If there are too many sets, a clear picture of progress may be hard to see.

Our success at regulating is measured by the percent of operators who comply with the licences conditions set. Overall, our aim is to maintain the levels of operator compliance and operator performance at authorised installations. Specifically, we aim to achieve 95 percent compliance with the Control of Pollution Act; 92 percent compliance in both Integrated Pollution Control and Air Pollution Control; and 90 percent compliance in Waste Management Licences. The different levels of compliance targets reflect the different nature

of the processes being regulated. Licences are reviewed periodically and conditions are tightened as appropriate to progressively reduce harmful pollutants, taking into account the best available techniques to minimise environmental impact. Annex A provides more detail on our regulatory regimes and these compliance targets. The high level of compliance demands a sensitive compliance measure, and we may have to reassess how we measure compliance at these high percentages. Another challenge we face is to measure compliance *in-year* for all our regimes, rather than at year-end.

SEPA issues and reviews licences and permits, undertakes environmental inspections around sites, and takes and analyses samples. Assumptions are made prior to each operating year regarding the volume of activity expected for each regulatory regime. SEPA used to use these activity figures as “targets” (for example, 1000 inspections were planned, how many were completed?) but because we have shifted our emphasis to what we achieve, we now use these planned volumes of activity to help assess our performance through the year. Examples of the anticipated volumes of activity for two regulatory regimes in 2004-2005 are given in the table below.

<b>Regulatory Regime</b>	<b>Activity</b>	<b>Planning Assumption</b>
Control of Pollution Act	Licence Applications Anticipated	1368
	Inspections	7076
	Licence Reviews	359
	Sampling	12368
Waste Management Licences	Licence Applications Anticipated	112
	Inspections	7059
	Licence Reviews	59
	Sampling	23

To determine the frequency of inspection or sampling, the risk to the environment is assessed. This allows all licences and permits to be kept under systematic review and varied as need arises. Further detail on some of SEPA’s activities is provided in Annex B.

We have three main reports that assess performance, as well as numerous reporting mechanisms throughout the organisation:

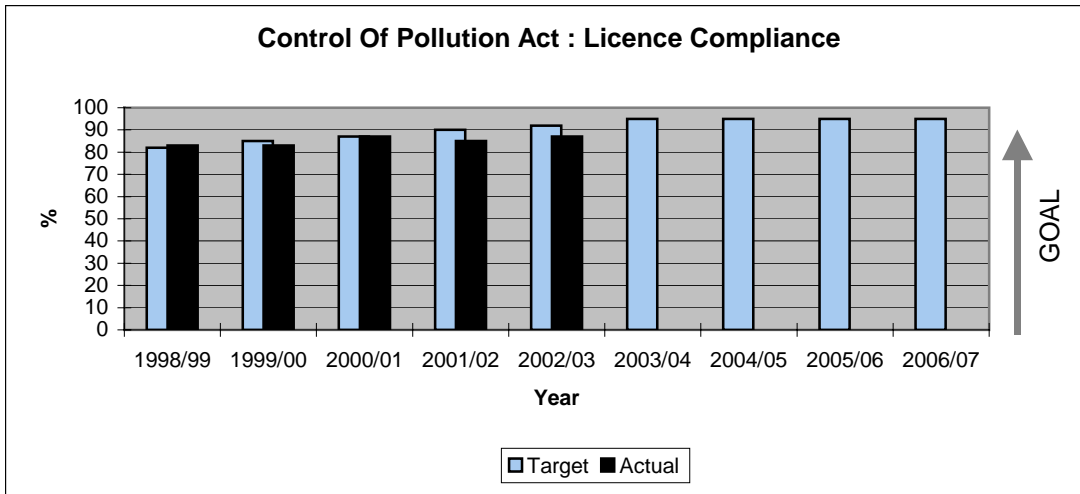
- Monthly report – indicates if our volumes of activity are on track.
- Quarterly report – indicates if compliance and outcome targets are being met.
- Annual report – indicates if we are making progress with our six outcomes overall.

The quarterly and annual reports are available from SEPA’s website. Further details on all the above information can be found on our website at <http://www.sepa.org.uk>.

## **ANNEX A. THE MAIN REGULATORY REGIMES AND COMPLIANCE TARGETS**

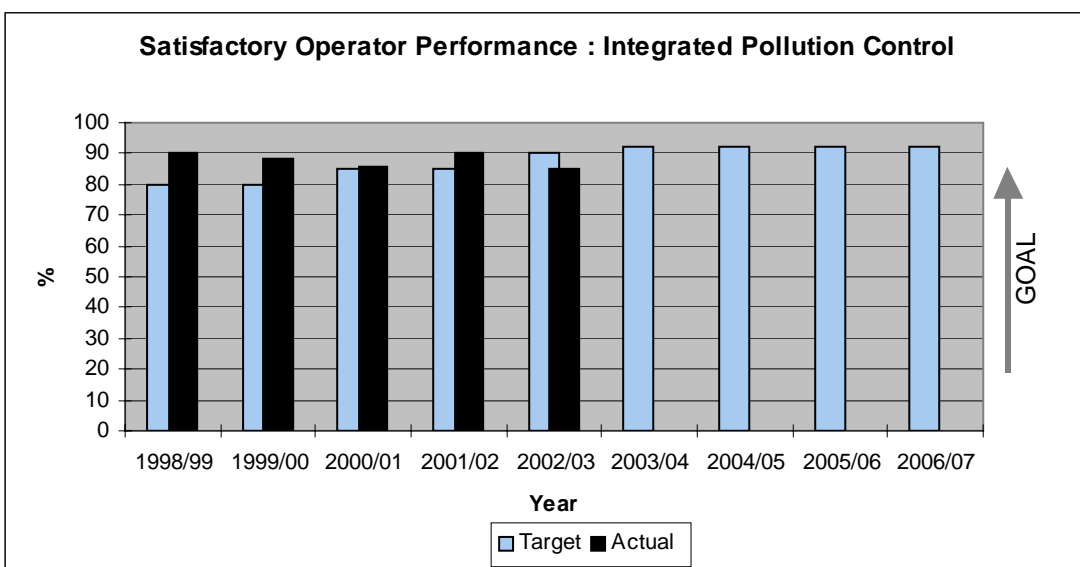
The main regulatory regimes are described below, with some example compliance targets.

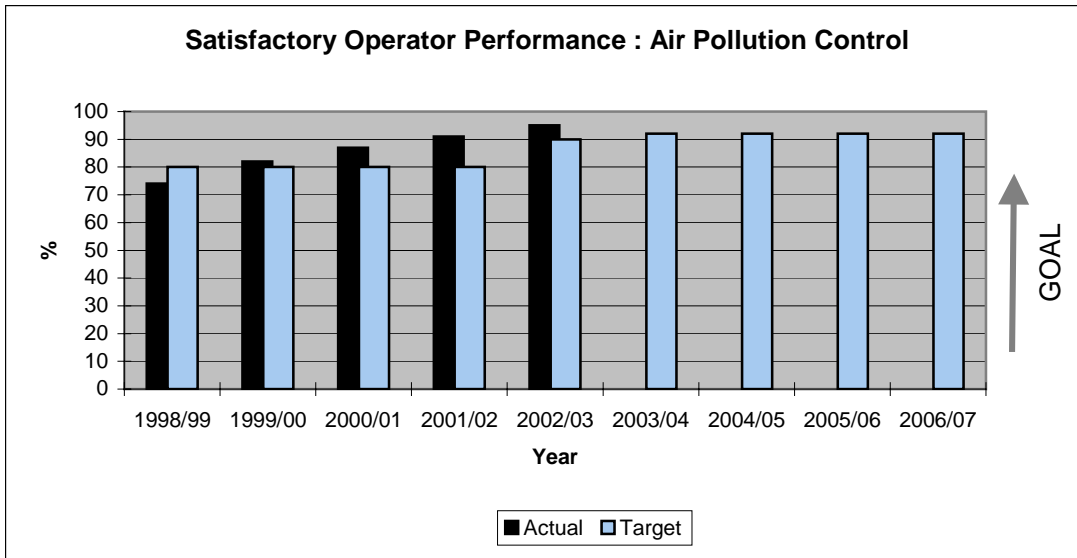
The Control of Pollution Act 1974 controls discharges of potentially polluting substances to controlled waters through a licensing procedure. Consents may contain conditions imposing limits on both the quality and quantity of effluent discharged. The chart illustrates SEPA’s past performance and future compliance targets



The Control of Major Accident Hazards Regulations 1999 applies to certain industrial establishments. These regulations strengthen controls in respect of the environmental impact of major accidents. Their main aim is to prevent and mitigate the effects of major accidents involving dangerous substances, such as chlorine or liquefied petroleum gas which can cause serious damage or harm to people or irreversible damage to the environment. In Scotland, the Regulations are enforced by a joint competent authority, consisting of the Health and Safety Executive and SEPA.

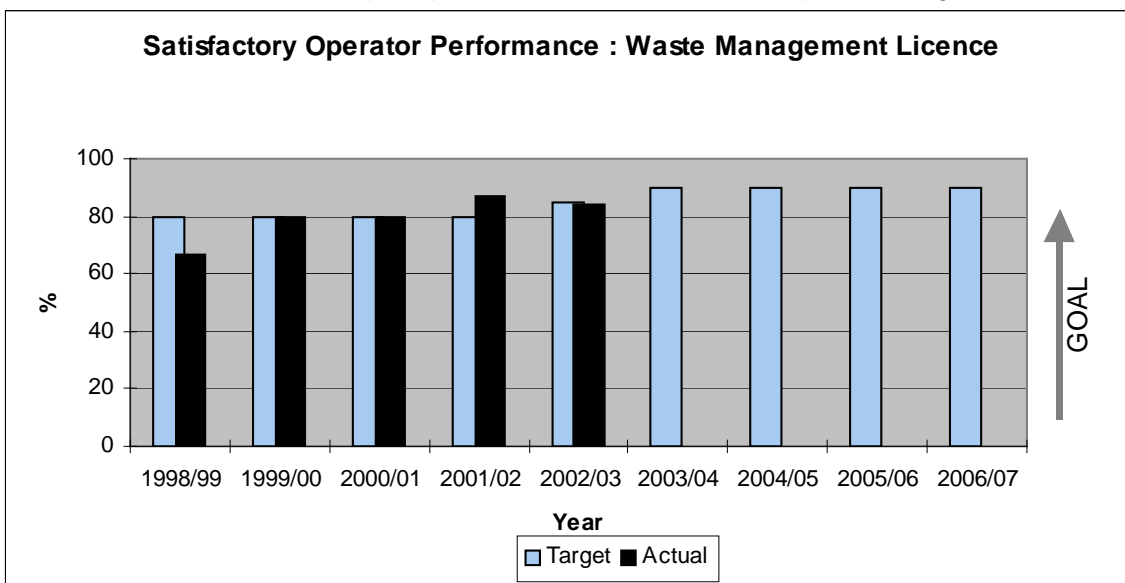
Environmental Protection Act 1990 Part I. SEPA regulates Scotland's most potentially polluting and complex industrial processes under Part A (integrated pollution control) and Part B (air pollution control) of this Act. The Pollution Prevention and Control Act 1999 is replacing these two with a new pollution prevention and control (PPC) regime (see next). The Local Air Pollution Control regime is a system of local air pollution control for smaller industrial processes introduced under Part 1 of the Environmental Protection Act 1990. The charts illustrate SEPA's past performance and future compliance targets





The Pollution Prevention and Control (Scotland) Regulations 2000 require processes currently under integrated pollution control to be phased into the PPC regime by the end of 2006. As well as considering existing emissions to land, air and water, PPC also covers noise and vibration, site restoration, accident prevention, waste minimisation and energy efficiency. PPC will also apply to a wider range of industrial activities than integrated pollution control and air pollution control (see paragraph above), including most landfill and some waste treatment facilities (transferred from the Waste Management Licensing regime).

Environmental Protection Act 1990 Part II (Waste Management). SEPA enforces a wide range of statutory provisions to ensure that waste is not treated, kept or disposed of in a way that is likely to cause pollution of the environment or be harmful to human health, including carriage of waste. It does this through the licensing regime which requires waste management activities to be undertaken in accordance with either a licence or an exemption. The chart illustrates SEPA's past performance and future compliance targets



Environmental Protection Act 1990 Part IIA (Contaminated Land). The Regulations and Guidance provide for a regime concerned with identifying and remediating contaminated

land, mainly aimed at dealing with the legacy of land contaminated by, for example, past industrial, mining and waste disposal activities. Local authorities are responsible for identifying such land. SEPA is responsible for ensuring that certain types of contaminated land designated as special sites are remediated, including taking appropriate action against obligated parties.

Radioactive Substances Act 1993. SEPA is responsible for regulating disposal of radioactive waste from nuclear sites and other premises such as industrial, hospital and research premises under the Act. SEPA also regulates the keeping and use of radioactive material.

The Water Environment and Water Services Act 2003 Implementation of this Act will bring a single coherent approach to protecting the whole water environment that incorporates water quality (pollution), water quantity (abstractions and flow regulation) and habitat quality (river engineering and agricultural practice). This Act will replace several existing directives.

The Producer Responsibility Obligations (Packaging Waste) Regulations 1997. These Regulations aim to implement the EC Directive on Packaging and Packaging Waste (94/62/EC) and to reduce the amount of such waste going to landfill. SEPA enforces compliance with the obligations on producers or compliance schemes of which they are members, with a view to ensuring that all obligated parties are registered with SEPA, and that reasonable steps are taken to meet recovery and recycling targets.

Groundwater Regulations 1998 These Regulations bring about full implementation of the Groundwater Directive by dealing with activities not dealt with under other regimes, such as the activities not controlled by a waste management licence. The Directive prohibits the direct or indirect discharge into groundwater of List I substances and limits discharges of List II substances so as to avoid pollution. Most commonly these are the disposal of sheep dip and waste agrochemicals to land. As well as detailing the chemicals to be disposed, suitable disposal sites must also be selected so that harm to the environment is minimised.

## **ANNEX B. FURTHER DETAIL ON SOME OF SEPA'S ACTIVITY**

**Environmental Licences.** Granting or imposing an environmental licence is an integral part of SEPA's job. It translates the intentions and provisions of statute into reasonable, achievable and enforceable conditions which permit an activity without significant and/or irreversible environmental damage occurring. All environmental licences issued will, so far as is possible,

- limit damage to the environment;
- allow the holder to invest with reasonable security;
- be fair, reasonable and achievable;
- be clear and unequivocal;
- be enforceable;
- conform with statute.

**Enforcement.** Enforcement means any action taken to ensure compliance with the legislation SEPA must enforce and can include action taken to protect, conserve or enhance the environment. It can include:

- discussions;
- meetings;
- warning letters;
- formal enforcement or prohibition notices;
- granting, amendment, review, variation or revocation of environmental licences;
- reporting a case to the Procurator Fiscal for prosecution.

We ensure that any enforcement action taken is proportional to the risks posed to the environment and the seriousness of the offence. As far as the law allows, SEPA will take into

account the circumstances of the case and the attitude of the operator when considering action. Our efforts are concentrated on those activities which cause the greatest environmental damage, pose the greatest threats to the environment or undermine the regulatory regimes which parliament has created to protect and improve the environment and prevent harm to human health. Action is focused on those who break the law or those directly responsible for serious environmental damage or risk.

**Prosecution.** The objective of enforcement is to ensure that preventative or remedial steps are taken to protect the environment and to prevent or minimise, and make harmless, releases that can cause pollution. Prosecution of offences is one of the ways of achieving that objective. SEPA can recommend to the public prosecutor that a case be brought, and will do so where justified in order to punish offenders, to avoid a recurrence and to encourage general compliance. A case may be referred to the prosecutor without prior warning or recourse to alternative methods of enforcement. Those responsible for the offence will be reported with a recommendation for prosecution. If a company is involved SEPA will normally recommend action against the company. However, individuals in the company, such as directors, managers or the company secretary may also be reported for prosecution where it can be shown that the offence was committed with their express or implied consent, or was due to their negligence.

**Voluntary agreements and promotion of best practice.** SEPA uses the promotion of voluntary agreements in areas such as agriculture, oil disposal campaigns, sustainable urban drainage, and in regulation of certain smaller organisations and premises. Specific approaches to communicate with small and medium businesses concerning regulation also promote the use of good practice in energy, water, waste. A series of initiatives such as waste minimisation, diffuse pollution and habitat enhancement are also dedicated to promoting best practice.