

2002 No. 2688

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Large Combustion Plants (England and Wales) Regulations 2002

Made - - - - - 28th October 2002

Laid before Parliament 1st November 2002

Coming into force - - 27th November 2002

The Secretary of State, in exercise of the powers conferred upon her by section 2 of the Pollution Prevention and Control Act 1999(a), having in accordance with section 2(4) of that Act consulted the Environment Agency, such bodies or persons appearing to her to be representative of the interests of local government, industry, agriculture and small businesses respectively as she considers appropriate, and such other bodies and persons as she considers appropriate, hereby makes the following Regulations—

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Large Combustion Plants (England and Wales) Regulations 2002 and shall come into force on 27th November 2002.

(2) These Regulations extend to England and Wales only.

Interpretation

2. In these Regulations—

“the 1990 Act” means the Environmental Protection Act 1990(b);

“the 2000 Regulations” means the Pollution Prevention and Control (England and Wales) Regulations 2000(c);

“authorisation” means an authorisation granted under section 6 of the 1990 Act;

“combustion plant” means a combustion plant as defined in Article 2(7) of the Directive and to which the Directive applies(d);

“the Directive” means Council Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants(e);

“new plant” has the meaning given in Article 2(9) of the Directive; and

“permit” means a permit granted under regulation 10 of the 2000 Regulations.

(a) 1999 c. 24. The Secretary of State can exercise these powers only in relation to England and Wales: *see* section 53 of the Scotland Act 1998 (c. 46) and section 5(3) of the 1999 Act. Directive 2001/80/EC was designated for the purposes of paragraph 20 of Schedule 1 to the 1999 Act by The Pollution Prevention and Control (Designation of Council Directives on Large Combustion Plants, Incineration of Waste and National Emission Ceilings) Order 2002, S.I. 2002/2528.

(b) 1990 c. 43.

(c) S.I. 2000/1973, to which there are amendments not relevant to these Regulations.

(d) *See* Articles 1 and 2(7) of the Directive.

(e) OJ No. L 309, 27.11.2001, p. 1.

Amendment to the Pollution Prevention and Control (England and Wales) Regulations 2000

3. After regulation 2(2) of the 2000 Regulations there is inserted a new paragraph (2A) as follows—

“(2A) For the purposes of these Regulations where—

- (a) an installation includes a combustion plant as defined in Article 2(7) of Council Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants and to which that Directive applies; and
- (b) the rated thermal input of the combustion plant is extended by 50 megawatts or more, the extension shall be treated as a substantial change in operation”.

Authorisation to operate new plants

4. Where a new plant is subject on 27th November 2002 to a permit but the plant is not put into operation before 28th November 2003, the permit shall cease to authorise the operation of that plant until such time as it is varied by the Environment Agency pursuant to regulation 17 of the 2000 Regulations so as to give effect in relation to the plant to the requirements of the Directive.

Deemed conditions in authorisations and permits

5.—(1) Where on 27th November 2002—

- (a) a new plant is subject to an authorisation or a permit; and
- (b) the plant benefits from the derogation in Article 5(1) of Council Directive 88/609/EEC on the limitation of emissions of certain pollutants into the air from large combustion plants^(a) by virtue of operating between 2000 and 2200 hours a year,

any condition in the authorisation or permit applying that derogation shall, in so far as it applies that derogation, cease to have effect and the relevant emission limit values prescribed in Articles 4(1) and 17(2) of the Directive shall apply to the plant.

(2) Paragraph (1) shall cease to apply in relation to any authorisation or a permit which is varied by the Environment Agency under Part I of the 1990 Act or regulation 17 of the 2000 Regulations so as to give effect in relation to the plant to Article 5(1) of the Directive.

(3) Where a combustion plant is subject to an authorisation or a permit on 27th November 2002, the authorisation or permit shall be read as containing the following additional condition—

“In the event of malfunction or breakdown of the abatement equipment, the operator shall, 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 Environment Agency requires. The cumulative duration of unabated operation in any twelve month period shall not, unless agreed in advance by the Environment Agency, exceed 120 hours.”

(4) Paragraph (3) shall cease to apply in relation to any authorisation or permit which is varied by the Environment Agency under Part I of the 1990 Act or regulation 17 of the 2000 Regulations so as to give effect in relation to the plant to Article 7(1) of the Directive.

(5) Where a new plant is subject to an authorisation or a permit on 27th November 2002, the authorisation or permit shall be read as containing the following additional condition—

“The values of the 95% confidence intervals of a single measured result shall not exceed the following percentages of the emission limit values:

Sulphur dioxide	20%
Nitrogen oxides	20%
Dust	30%.

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 above.

Any day in which more than three hourly average values are invalid due to malfunction or maintenance of the continuous measurement system shall be invalidated”.

(a) OJ No. L 336, 7.12.88, p. 1.

(6) Paragraph (5) shall cease to apply in relation to any authorisation or permit which is varied by the Environment Agency under Part I of the 1990 Act or regulation 17 of the 2000 Regulations so as to give effect in relation to the plant to paragraph 6 of part A of Annex VIII to the Directive.

28th October 2002

Alun Michael
Minister of State,
Department for Environment, Food and Rural Affairs

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 (1999 c. 24). They partly implement in England and Wales the provisions of Council Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants. The remaining provisions of the Directive have been implemented in England, and partly implemented in Wales, by means of Directions issued to the Environment Agency^(a).

Regulation 3 supplements the definition of “substantial change in operation” in regulation 2(1) of the Pollution Prevention and Control (England and Wales) Regulations 2000 (S.I. 2000/1973) to give effect in part to article 10 of the Directive, by expressly including the extension of a combustion plant by 50MW or more.

Regulation 4 provides that where a new plant is subject to a permit but the plant is not put into operation before 28th November 2003, the permit shall cease to authorise the operation of the plant until the Environment Agency has varied the permit to give effect to the requirements of the Directive. This implements in part article 4(2) of the Directive.

Regulation 5 sets out requirements which new plants subject to an authorisation or permit must comply with from 27th November 2002. These requirements are deemed to be included in the authorisation or permit from that date. This implements in part articles 5(1) and 7(1), and paragraph 6 of part A of Annex VIII of the Directive.

These Regulations extend to England and Wales only.

(a) The Environmental Protection (Combustion Plants) (England) Directions 2002, made on 18th October 2002 and entering into force on 27th November 2002, and the Pollution Prevention and Control (Combustion Plants) (England and Wales) Directions 2002, made on 18th October 2002 and entering into force on 27 November 2002. Copies of these Directions are available at www.defra.gov.uk/environment/airquality/index.

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