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STATUTORY INSTRUMENTS

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**1999 No. 916**

**WATER RESOURCES, ENGLAND AND WALES**

**The Water Protection Zone (River Dee Catchment)  
(Procedural and Other Provisions) Regulations 1999**

<i>Made</i>	- - - -	<i>19th March 1999</i>
<i>Laid before Parliament</i>		<i>24th March 1999</i>
<i>Coming into force</i>	- -	<i>21st June 1999</i>

Whereas the Secretary of State for the Environment, Transport and the Regions and the Secretary of State for Wales have designated an area under section 93 of the Water Resources Act 1991(1) as a water protection zone to be known as “the River Dee Water Protection Zone”.

Now therefore, the Secretary of State for the Environment, Transport and the Regions as respects England, and the Secretary of State for Wales as respects Wales in exercise of the powers conferred on them by sections 96(1) and (3) and 219(2) of the Water Resources Act 1991 and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Water Protection Zone (River Dee Catchment) (Procedural and Other Provisions) Regulations 1999 and shall come into force on 21st June 1999.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Water Resources Act 1991(2);

“local authority” in relation to England means a district council and in relation to Wales, means a county council or a county borough council;

“the River Dee Catchment Order” means the Water Protection Zone (River Dee Catchment) Designation Order 1999(3) and words and expressions used in these Regulations which are defined in that Order have the same meaning as in that Order.

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(1) 1991 c. 57 as amended by section 120 of the Environment Act 1995 (c. 25).  
(2) 1991 c. 57; as amended by the Environment Act 1995 (c. 25).  
(3) S.I. 1999/915.

(2) Any reference in these Regulations to the person in control of a site is a reference to the person having control of the site in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

(3) References in these Regulations to the area of a local authority lying downstream of a catchment control site, or to a downstream source of supply, shall be construed as meaning such an area or source of supply which is wholly or partly within the protection zone and which lies downstream of any inland waters in the vicinity of the catchment control site.

(4) References in these Regulations to the best available techniques not entailing excessive cost, in relation to a controlled activity, include (in addition to references to any technical means and technology) references to the number, qualifications, training and supervision of persons employed in the activity and the design, construction, lay-out and maintenance of the site within which it is carried on.

(5) For the purposes of these Regulations an application for protection zone consent shall be taken to have been made when each of the following events has occurred—

- (a) the application has been served on the Agency in accordance with regulation 5(1); and
- (b) any charge required to be paid in respect of the application pursuant to regulation 14 has been paid to the Agency and, for this purpose, lodging a cheque for the amount of a charge is to be taken as payment.

### **Application**

3. The provisions of these Regulations have effect for the purposes of the River Dee Catchment Order.

### **Obtaining protection zone consent**

4.—(1) Protection zone consent may be granted on an application made under regulation 5.

(2) A protection zone consent ceases to have effect if there is a change in the person in control of the whole or any part of the site to which it relates, unless an application for the continuation of the consent has previously been made to the Agency under regulation 10.

### **Applications for protection zone consent**

5.—(1) An application for protection zone consent:

- (a) shall be served on the Agency on a form provided for the purpose by the Agency which shall incorporate or be accompanied by the information and other documentation specified in Schedule 1 to these Regulations; and
- (b) any such application shall only be made by the person in control of the catchment control site to which it relates and shall include a certificate signed by or on behalf of the applicant that he is such a person.

(2) In addition to the information and documentation supplied in accordance with paragraph (1) the Agency shall be entitled to request all such information, papers, assessments studies or other material as it may reasonably require in order to determine the application.

### **Procedure upon receipt of applications for protection zone consent**

6.—(1) Where an application for protection zone consent is made in accordance with the provisions of these Regulations the Agency shall—

- (a) within 7 days following receipt of the application send a copy of it to every local authority whose area includes the catchment control site or lies downstream of it and to every water undertaker who abstracts water from a downstream source of supply;
- (b) as soon as practicable, acknowledge receipt of the application in writing;
- (c) notify the applicant as soon as practicable if in the opinion of the Agency the application fails to meet the requirements of regulation 5, giving its reasons.

(2) The Agency shall be entitled, upon an application for protection zone consent, to disregard the provisions of paragraph (1)(a) if it proposes to grant the consent applied for and considers that the carrying on of the controlled activity in question is unlikely to give rise to an appreciable risk of pollution of any inland waters at any point where such waters are abstracted for the purposes of public water supply.

(3) The requirement of paragraph (1)(a) shall not apply insofar as it would require the disclosure of any information which is not to be included in a register by virtue of section 191A or 191B of the Act<sup>(4)</sup> (exclusion from registers of information affecting national security and of certain confidential information).

### **Consideration and determination of applications**

7.—(1) When an application for protection zone consent has been made, the Agency may, subject to the provisions of this regulation and regulation 8—

- (a) grant protection zone consent, either unconditionally or subject to conditions; or
- (b) refuse protection zone consent.

(2) Subject to paragraph (3) below, the Agency shall, before determining an application for protection zone consent, consult—

- (a) the Health and Safety Executive;
- (b) every local authority whose area includes the catchment control site or lies downstream of it and every water undertaker who abstracts water from a downstream source of supply;
- (c) where the application relates to land in an area to which section 28(1) of the Wildlife and Countryside Act 1981<sup>(5)</sup> applies (sites of special scientific interest) or to a site which has been designated as a special area of conservation under regulation 8 of the Conservation (Natural Habitats) Regulations 1994<sup>(6)</sup>, in England the Nature Conservancy Council for England or, in Wales, the Countryside Council for Wales.

(3) Paragraph (2) shall not apply insofar as—

- (a) the body concerned has notified the Agency that it does not wish to be consulted;
- (b) the Agency intends to disregard the provision of regulation 6(1)(a) pursuant to regulation 6(2) above; or
- (c) it would require the disclosure of any information which is not to be included in a register by virtue of section 191A or 191B of the Act (exclusion from registers of information affecting national security and of certain confidential information).

(4) Where the Agency is required to consult under paragraph (2), the Agency shall not determine an application for protection zone consent before the end of a period of 42 days beginning with the date on which all the consultees have been served with a copy of the application.

(5) Subject to paragraphs (7) and (8) or a direction under regulation 8, the Agency shall, within the period specified in paragraph (6), give the applicant written notice of the Agency's decision.

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<sup>(4)</sup> Inserted by paragraph 170 of Schedule 22 to the Environment Act 1995.

<sup>(5)</sup> 1981 c. 69. See the amendments to this Act made by Part VII of the Environmental Protection Act 1990 (1990 c. 43).

<sup>(6)</sup> S.I. 1994/2716.

- (6) The period specified for the purposes of paragraph (5) is—
- (a) a period of four months beginning with the date when the application is made to the Agency;
  - (b) except where the applicant has already given notice of appeal to the Secretary of State in accordance with regulation 12, such extended period as may be agreed in writing by the applicant and the Agency;
  - (c) where a charge due in respect of the application has been paid by a cheque which is subsequently dishonoured, the appropriate period specified in sub-paragraphs (a) or (b) above shall be calculated without regard to any time between the date when the Agency sent the applicant written notice of the dishonouring of the cheque and the date when the Agency is satisfied that it has received the full amount of the charge.
- (7) Where—
- (a) any person, having made an application to the Agency for protection zone consent, has failed to comply with his obligation under regulation 5(2) to supplement that application with information, papers or other material reasonably required by the Agency; and
  - (b) that requirement was made by the Agency at such a time, before the end of the period specified in paragraphs (6)(a) or (b) within which the Agency is required to determine that application so as to give that person a reasonable opportunity to provide the required information, papers or other material within that period, the Agency may delay its determination of the application until a reasonable time after the required information, papers or other material are provided.
- (8) Where the Agency proposes to give its consent to an application for protection zone consent in respect of which representations or objections have been made by a body consulted under paragraph (2) and which have not subsequently been withdrawn—
- (a) it shall be the duty of the Agency to serve notice of the proposal to give consent to the application on every body who made any such representations or objection and any such notice shall include a statement of the effect of sub-paragraph (b); and
  - (b) it shall be the duty of the Agency not to give its consent to the application for protection zone consent before the end of a period of twenty-one days beginning with the latest day on which the notice of the proposal is served on every body concerned.
- (9) In considering an application for protection zone consent the Agency shall have regard to any material considerations and in particular to the following—
- (a) the nature, quantity and location of any controlled substance proposed to be kept or used and the manner of its intended use, keeping and storage;
  - (b) the likelihood of that substance accidentally or otherwise entering, leaching or being discharged into the land to which the application relates, any neighbouring land or any inland waters in the vicinity thereof and the resulting concentration of that substance therein;
  - (c) the likely consequences of such an incident on the quality of those inland waters and in particular the expected impact upon water supplies for human consumption;
  - (d) the predicted frequency of those consequences;
  - (e) the presence or proposed presence of any dangerous substance in, on, over or under the land to which the application relates or the presence or proposed presence of any dangerous substance on, over or under land in the vicinity thereof including its nature, quantity and location and the manner of its use and storage; and
  - (f) any advice or comments which the Agency may have received following consultations in pursuance of paragraph (2).

- (10) The Agency shall, when granting protection zone consent, include in that consent—
- (a) a description of the catchment control site to which the consent relates;
  - (b) a description of the controlled substance or substances to which it relates; and
  - (c) in respect of each controlled substance to which it relates, a statement of the maximum quantity allowed by the consent to be kept or used at any one time and the manner in which it is to be used, conveyed, kept and stored.
- (11) When the Agency gives notice of a decision on an application for protection zone consent the notice shall, where protection zone consent is refused or is granted subject to conditions—
- (a) state clearly and precisely, its full reasons for the refusal or for any condition imposed;
  - (b) include a statement to the effect that if the applicant is dissatisfied with the decision he may appeal to the Secretary of State under regulation 12 within 3 months of the date of the notice of the decision, or such longer period as the Secretary of State may at any time allow.
- (12) Subject to paragraph (13) the Agency may grant protection zone consent subject to such conditions with respect to any of the following matters as the Agency considers appropriate—
- (a) the controlled substances which are permitted to be kept or used within the catchment control site;
  - (b) how and where any controlled substance to which the consent relates is to be kept, used or conveyed;
  - (c) the times between which any such substance may be kept or used;
  - (d) the permanent removal of any such substance—
    - (i) on or before a date specified in the consent; or
    - (ii) before the end of a period specified in it and commencing on the date on which it is granted;
  - (e) the taking by the applicant of precautionary measures or procedures with regard to the land to which the application relates, in relation to any relevant plant, machinery or structure or in relation to the applicant's methods of operation or management;
  - (f) the period of time for which the consent is to last;
- and where protection zone consent is granted subject to one or more conditions a statement of all such conditions imposed shall be included in that consent.
- (13) No condition shall be imposed by the Agency pursuant to paragraph (12)—
- (a) unless the Agency considers the condition appropriate for ensuring that, in carrying on a controlled activity, the best available techniques not entailing excessive cost will be used for preventing the direct or indirect release of a controlled substance in circumstances which give rise to an appreciable risk of pollution of any inland waters at any point where such waters are abstracted for the purposes of public water supply or, where that is not practicable by such means, for reducing the release of such substance to a minimum and for rendering harmless any such substance which is so released and in this paragraph, "harmless" has the same meaning as in Part I of the Environmental Protection Act 1990(7);
  - (b) which would prejudice or affect the operation of any health and safety regulations, improvement notice or prohibition notice then in force by virtue of Part I of the Health and Safety At Work etc Act 1974(8).
- (14) The Agency shall, as soon as is practicable, inform the following bodies or persons of the terms of its decision—

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(7) 1990 c. 43.

(8) 1974 c. 37.

- (a) the Health and Safety Executive;
- (b) every local authority whose area includes the catchment control site or lies downstream of it and every water undertaker who abstracts water from a downstream source of supply; and
- (c) any other consultees who have made representations to the Agency on the application pursuant to paragraph (2).

### **Reference of applications to the Secretary of State**

8.—(1) The Secretary of State may, either in consequence of representations made to him or otherwise, give directions requiring applications for protection zone consent to be referred to him instead of being dealt with by the Agency.

(2) A direction under this regulation may relate either to a particular application or to applications of a class specified in the direction.

(3) Any application in respect of which a direction under this regulation has effect shall be referred by the Agency to the Secretary of State accordingly and upon doing so the Agency shall serve on every applicant to whose application the direction relates a notice—

- (a) informing the applicant that the application has been referred to the Secretary of State;
- (b) setting out the reasons (if any) given by the Secretary of State for issuing the direction; and
- (c) setting out the provisions of this regulation regarding the determination by the Secretary of State of the application referred to him.

(4) Paragraphs (1)(a) and (3) of regulation 6 shall have effect in relation to an application referred to the Secretary of State under this regulation.

(5) Before determining an application referred to him under this regulation, the Secretary of State may cause an inquiry to be held with respect to the application or afford the applicant and the Agency an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(6) The Secretary of State shall exercise his power under paragraph (5) either to cause an inquiry to be held, or a hearing to be afforded, in any case where a request to be heard with respect to the application is made to him by the applicant or by the Agency in writing before the expiry of a period of 28 days beginning with the day on which the Agency, in accordance with paragraph (3), has informed the applicant that the application has been referred to the Secretary of State for determination.

(7) Where under this regulation the Secretary of State affords to an applicant and the Agency an opportunity of appearing before and being heard by a person appointed for the purpose, he shall also afford such an opportunity to every person who has made any representations or objection to the Secretary of State with respect to the application in question.

(8) The Secretary of State shall, if the requirements of this regulation are complied with, determine an application for consent referred to him by the Agency under this regulation by directing the Agency to refuse consent or to give consent under regulation 7 (either unconditionally or subject to such conditions as are specified in the direction).

(9) In complying with a direction under paragraph (8) to give a consent the Agency shall not be required to comply with the requirements of regulation 7(8).

### **Applications for variation of protection zone consent conditions**

9.—(1) A person in control of a catchment control site may apply pursuant to this regulation for the variation or revocation of any condition of a protection zone consent, then in force for the site.

(2) An application under this regulation shall be made to the Agency on a form provided for the purpose by the Agency which shall incorporate or be accompanied by the information and documentation specified in Schedule 2 to these Regulations.

(3) In addition to the information required under paragraph (2) the Agency shall be entitled to request all such information, papers, assessments studies or other materials as it may reasonably require in order to determine the application.

(4) On considering an application under this regulation, the Agency may review the conditions applicable to the keeping or use of any quantity of the controlled substance to which the application relates but, subject thereto, shall consider only the question of the variation or revocation applied for.

(5) If on such an application the Agency determines to vary or revoke any condition of a protection zone consent, it shall modify the consent accordingly.

(6) If on such an application the Agency determines that a protection zone consent should not be varied, it shall refuse the application.

(7) References in these Regulations to applications for protection zone consent include references to applications under this regulation and, subject to the provisions of this regulation, the provisions of these Regulations shall apply to such applications accordingly.

#### **Applications for the continuation of protection zone consent**

**10.**—(1) An application may be made under this regulation for the continuation of a protection zone consent which would otherwise cease to have effect pursuant to the provisions of regulation 4(2).

(2) An application under this regulation shall be made to the Agency on a form provided for the purpose by the Agency which shall incorporate or be accompanied by the information and other documentation, specified in Schedule 3 to these Regulations.

(3) In addition to the information required under paragraph (2) the Agency shall be entitled to request all such information, papers, assessment studies or other materials as it may reasonably require in order to determine the application.

(4) When such an application is made the Agency may modify the consent in any way it considers appropriate or it may revoke it.

(5) If a protection zone consent relates to more than one controlled substance, the Agency may make different determinations in relation to each such substance.

(6) It shall be the duty of the Agency, when continuing protection zone consent, to attach to the consent—

- (a) a statement that it is unchanged in relation to the matters included in it by virtue of paragraphs (10) and (12) of regulation 7; or
- (b) a statement of any change in respect of those matters; or
- (c) a statement of any change from the protection zone consent claimed under article 6 of the River Dee Catchment Order(9).

(7) The modifications which the Agency may make by virtue of paragraph (4) include, without prejudice to the generality of that paragraph, the making of the consent subject to conditions with respect to any of the matters mentioned in regulation 7(12).

(8) Where any application is made to the Agency for the continuation of protection zone consent then, unless within the period specified in regulation 7(6) the Agency either—

- (a) gives notice to the applicant of its decision on the application; or

(b) gives notice to him that the application has been referred to the Secretary of State in accordance with directions given under regulation 8, the application shall be deemed to have been granted.

(9) References in these Regulations to applications for protection zone consent include references to applications for the continuation of protection zone consent and, subject to the provisions of this regulation, the provisions of these Regulations shall apply to such applications accordingly.

### **Revocation of consents and alteration and imposition of conditions**

**11.**—(1) Subject to the provisions of these Regulations, the Agency may by a notice served on the person in control of the catchment control site to which the protection zone consent relates—

- (a) revoke a protection zone consent;
- (b) make modifications to the conditions of the consent; or
- (c) in the case of an unconditional consent, provide that it shall be subject to such conditions as may be specified in the notice,

if it appears to the Agency, having regard to any material consideration, expedient to do so.

(2) A notice under paragraph (1) shall specify the date on which it is to come into force, being a date which is not earlier than the expiry of the period of appeal in regulation 12(3).

(3) No condition shall be imposed under paragraph (1), whether by modification of an existing condition or by way of a new condition, which could not be imposed on an application under regulation 7.

(4) The Agency may also by such a notice revoke a protection zone consent where—

- (a) there has been a material change of use, for which planning permission has been granted, of the catchment control site to which a protection zone consent relates; or
- (b) that planning permission has been granted for development, the carrying out of which would involve a material change of use of that site and the development to which the permission relates has been commenced; or
- (c) in the case of a protection zone consent which relates only to one controlled substance, that that substance has not for at least five years been kept or used within the catchment control site to which the consent relates; or
- (d) in the case of a protection zone consent which relates to a number of controlled substances, that none of those substances has for at least five years been so kept or used.

(5) The Agency may not, without the consent of the person in control of the catchment control site to which the protection zone consent relates, serve a notice under paragraph (1) before the expiration of the period specified in paragraph (6) (“the guaranteed period”).

(6) The guaranteed period is—

- (a) in relation to a protection zone consent regarding which no notice under subparagraphs (1) (b) or (c) has been served, 4 years from the date when that consent was granted, or claimed under article 6 of the River Dee Catchment Order, (whether or not the consent has been modified subsequently pursuant to regulations 9, 10 or 11);
- (b) in relation to a protection zone consent regarding which a notice or notices under subparagraphs (1)(b) or (c) have been served, 4 years from the date when the most recent notice was served or, if that notice was appealed against, from the date of the determination of the appeal.



## Appeals

12.—(1) Where the Agency, otherwise than in pursuance of a direction of the Secretary of State, has—

- (a) refused an application for protection zone consent; or
- (b) granted such consent subject to one or more conditions; or
- (c) served a notice revoking or in any way modifying a protection zone consent under regulation 11,

the applicant or the person in control of the catchment control site to which the notice served relates may appeal against it to the Secretary of State.

(2) A person who has made an application for protection zone consent may also appeal to the Secretary of State if the Agency has neither—

- (a) given notice to the applicant of its decision on the application; nor
- (b) given notice to him that the application has been referred to the Secretary of State in accordance with directions given under regulation 8,

within the period specified in regulation 7(6); and for the purposes of this regulation in such a case the Agency shall be deemed to have refused the application.

(3) Subject to paragraph (4) an appeal under this regulation must be made by giving to the Secretary of State in writing notice of appeal with a statement of the grounds of appeal, to be submitted before the expiry of the period of three months beginning with the day on which—

- (a) the Agency notified the appellant of the decision or served on the appellant the notice giving rise to the appeal; or
- (b) the Agency was deemed under paragraph (2) to have refused consent.

(4) Where an appeal is made against a refusal to grant protection zone consent or a grant of such consent subject to one or more conditions, the Secretary of State may allow notice of appeal to be given after the expiry of the relevant period mentioned in paragraph (3).

(5) The Secretary of State may require the appellant to send him within 21 days of giving notice of appeal (or such longer period as the Secretary of State may allow) a copy of any or all of the following documents—

- (a) the application to the Agency or the notice served by the Agency which has occasioned the appeal;
- (b) any relevant maps, plans or other documents submitted in support of the application;
- (c) any relevant record, consent, determination, notice or other notification given, made, issued or served by the Agency; and
- (d) any other relevant correspondence between the appellant and the Agency.

(6) The Secretary of State shall—

- (a) send the Agency a copy of the notice of appeal and of the statement of the grounds of appeal given to him under paragraph (3); and
- (b) in the case of an appeal under paragraphs (1)(a) or (b), require the Agency to serve notice in writing, within 14 days of the receipt of the copy of the notice of appeal mentioned in the preceding sub-paragraph, on any person whose advice or comments with respect to the application fell to be considered by the Agency in accordance with regulation 7(9)(f).

(7) A notice required to be served under paragraph (6)(b) shall state that an appeal has been lodged, and that further representations may be made to the Secretary of State in respect of the application within a period of 21 days from the date of service of the notice.

(8) The Secretary of State shall send to the appellant and the Agency a copy of any representations received by him in pursuance of paragraph (7).

(9) The Secretary of State may, if he thinks fit, require the appellant or the Agency to submit to him within a specified period a further statement in writing in respect of any of the matters to which the appeal relates, and where he exercises this power he shall send to the appellant or, as the case may be, the Agency a copy of any statement made by the other.

(10) If, after considering the grounds of the appeal and the documents before him, the Secretary of State is satisfied that he is sufficiently informed to determine the appeal he may, not earlier than 14 days after giving notice in writing to the appellant and the Agency of his intention to determine the appeal, determine it without further investigation unless such investigation is required by the appellant or the Agency pursuant to paragraph (12).

(11) Where any requirement by the Secretary of State under paragraph (5) or (9) has not been complied with by the expiry of the relevant period the Secretary of State may, after allowing a further specified period which appears to him reasonable, determine the appeal without further investigation.

(12) If either the appellant or the Agency within a period of 14 days after service of notice under paragraph 10 request the Secretary of State not to determine the appeal without further investigations or the Secretary of State otherwise considers it expedient to do so, the Secretary of State shall either—

- (a) cause an inquiry to be held with respect to the appeal; or
- (b) afford the appellant and the Agency an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(13) Where under this regulation the Secretary of State affords to an applicant and the Agency an opportunity of appearing before and being heard by a person appointed for the purpose, it shall be the duty of the Secretary of State to afford an opportunity of appearing before, and being heard by, that person to every person who has made any representations or objection to the Secretary of State with respect to the application in question.

(14) The Secretary of State may allow or dismiss the appeal under this regulation or may reverse or vary any part of the decision of the Agency (whether or not the appeal relates to that part of it) and, in the case of an appeal under sub-paragraphs (1)(a) or (b), may deal with the application as if it had been made to him in the first instance.

(15) Before reversing or varying on an appeal any part of a decision of the Agency to which the appeal does not relate, the Secretary of State shall serve notice of his intention on the appellant and the Agency and give to them a reasonable period (being not less than 28 days) to object.

(16) Where an appeal is brought against a notice served by the Agency under regulation 11 the notice shall not take effect pending the determination or the withdrawal of the appeal.

### **Consents register**

**13.—**(1) The Agency shall keep a register which shall contain—

- (a) a copy of every application for protection zone consent under these Regulations made to the Agency and not determined;
- (b) a copy of every application for protection zone consent validly claimed under article 6 of the River Dee Catchment Order;
- (c) in respect of every application for protection zone consent which has been determined under these Regulations made to the Agency—
  - (i) a copy of the application;
  - (ii) particulars of any direction given under regulation 8;
  - (iii) the decision (if any) of the Agency, including details of any conditions subject to which consent was granted and the date of the decision;

- (iv) the reference number, date and effect of any decision of the Secretary of State, whether on a reference under regulation 8 or on an appeal under regulation 12;
  - (d) a copy of every notice revoking or modifying protection zone consent made by the Agency.
- (2) Where information of any description is excluded from any register by virtue of section 191B(10) of the Act, a statement shall be entered in the register indicating the existence of information of that description.
- (3) If so directed by the Secretary of State, the Agency shall remove from the register any information which is not prescribed for inclusion under paragraph (1) above or which by virtue of section 191A(11) or 191B of the Act ought to have been excluded from the register.
- (4) The register shall include an index to enable any person to trace an entry in the register.
- (5) Every entry in the register shall be made within 28 days of the relevant information being available to the Agency.
- (6) The register shall be kept at an office of the Agency within the protection zone.
- (7) It shall be the duty of the Agency—
- (a) to secure that the contents of the register are available, at all reasonable times, for inspection by the public free of charge; and
  - (b) to afford members of the public reasonable facilities for obtaining from the Agency, on payment of reasonable charges, copies of entries in the register.
- (8) For the purpose of paragraph (1)(a), an application shall not be treated as finally determined unless—
- (a) it has been decided by the Agency (or the period specified in regulation 7(6) has expired without it giving a decision) and the period specified in regulation 12(3) has expired without any appeal having been made to the Secretary of State; or
  - (b) it has been referred to the Secretary of State under regulation 8 or an appeal has been made to the Secretary of State under regulation 12 and the Secretary of State has issued his decision; or
  - (c) it has been withdrawn by the applicant before being determined or an appeal has been withdrawn by the appellant before the Secretary of State has issued his decision.
- (9) The register to be kept pursuant to this regulation may be kept in any form.

#### **Charges in connection with protection zone consent**

- 14.—(1) Where an application is made to the Agency for protection zone consent under these Regulations, a charge of £250 shall be payable to the Agency unless the application relates to 10 or fewer controlled substances, when a charge of £50 shall be payable.
- (2) Any charge due in respect of an application shall be paid by the applicant and shall accompany the application when it is made to the Agency.
- (3) Any charge paid pursuant to this regulation shall be refunded if the application is rejected for failing to meet the requirements of these Regulations.

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(10) Section 191B was inserted by paragraph 170 of Schedule 22 to the Environment Act 1995.

(11) Section 191A was inserted by paragraph 170 of Schedule 22 to the Environment Act 1995.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## **Inquiries**

**15.** Section 53 of the Environment Act 1995(12) shall apply to inquiries held under any provisions of these Regulations in the same way as it applies to inquiries held under any provision of the Act.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

*A G Meale*  
Parliamentary Under Secretary of State,  
Department of the Environment, Transport and  
the Regions

17th March 1999

Signed by authority of the Secretary of State for Wales

*Jon Owen Jones*  
Parliamentary Under Secretary of State, Welsh  
Office

19th March 1999

## SCHEDULE 1

Regulation 5

### INFORMATION AND OTHER DOCUMENTATION REQUIRED IN RELATION TO APPLICATIONS FOR PROTECTION ZONE CONSENT

1. The following is required—
  - (a) a site map;
  - (b) a substance location plan;
  - (c) a substance specification statement;
  - (d) a safety and emergency statement; and
  - (e) where the controlled substance is to be used in a manufacturing, treatment or other industrial process, a process specification statement.
2. The site map required by paragraph 1(a) shall be a map reproduced from, or based upon, an Ordnance Survey map with a scale of not less than 1 to 10,000, which identifies the site to which the application relates and shows National Grid lines and reference numbers.
3. The substance location plan required by paragraph 1(b) shall be a plan of the site to which the application relates, drawn to a scale of not less than 1 to 2,500, which identifies—
  - (a) any area of the site intended to be used for the storage of the controlled substance;
  - (b) where the substance is to be used in a manufacturing, treatment or other industrial process, the location of the major items of plant involved in that process in which the substance will be kept or used;
  - (c) access points to and from the site.
4. The substance specification statement required by paragraph 1(c) shall contain details of the controlled substance, its density and solubility in water, the maximum quantity (by volume or weight as appropriate) of it proposed to be kept or used, the manner in which it is to be kept or used and details (including its cubic capacity) of any vessel to be used for its storage.
5. The safety and emergency statement required by paragraph 1(d) shall contain the following information—
  - (i) a description of the potential sources of an incident which might result in some or all of the substance entering, leaching or being discharged into the land within the site to which the application relates, any neighbouring land or any inland waters in the vicinity thereof;
  - (ii) a description of the conditions or events which could be significant in bringing such an incident about;
  - (iii) a description of the measures taken or proposed to be taken to prevent, control or minimise the consequences of any such incident to the inland waters in the vicinity; and
  - (iv) the emergency procedures laid down for dealing with such an incident at the site.
6. The process specification statement required by paragraph 1(e) shall contain a general description of the process, a description of the major items of plant which will contain the substance and a statement of the maximum quantity (by volume or weight as appropriate) which is liable to be kept or used in the major items of the plant.

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## SCHEDULE 2

Regulation 9

### INFORMATION AND OTHER DOCUMENTATION REQUIRED IN RELATION TO APPLICATIONS FOR VARIATION OF PROTECTION ZONE CONSENT

1.—(1) The following is required—

- (a) a copy of the relevant consent and, if required by sub-paragraph (2), a change of location plan;
- (b) details of the controlled substances to which the relevant consent relates, the maximum quantity (by volume or weight as appropriate) of each of them kept or used or proposed to be kept or used and their density and solubility in water;
- (c) details of any conditions previously imposed which it is intended should not be imposed on the consent, or should only be imposed in a modified form (in the latter case indicating the proposed modification) and reasons why such a condition or conditions should not be imposed or should only be imposed in a modified form;
- (d) a description of any relevant changes in circumstances since the consent was obtained;
- (e) a safety and emergency statement.

(2) A change of location plan is required in the case of an application which relates in whole or in part to changing the location of a controlled substance, and shall be a plan of the site to which the application relates, drawn to a scale of not less than 1 to 2,500 which identifies the location of the controlled substance at the date of the application and the proposed change of location.

2. The relevant consent referred to in sub-paragraph 1(1)(a) is the existing protection zone consent which applies to the catchment control site to which the application relates.

3. The safety and emergency statement required by sub-paragraph 1(1)(e) shall contain the following information—

- (i) a description of the potential sources of an incident which might result in some or all of the substance entering, leaching or being discharged into the land within the site to which the application relates, any neighbouring land or any inland waters in the vicinity thereof;
- (ii) a description of the conditions or events which could be significant in bringing such an incident about;
- (iii) a description of the measures taken or proposed to be taken to prevent, control or minimise the consequences of any such incident to the inland waters in the vicinity; and
- (iv) the emergency procedures laid down for dealing with such an incident at the site.

## SCHEDULE 3

Regulation 10

### INFORMATION AND OTHER DOCUMENTATION REQUIRED IN RELATION TO APPLICATIONS FOR CONTINUATION OF PROTECTION ZONE CONSENT

1. The following is required—

- (a) a copy of the relevant consent and a change of control plan;
- (b) details of the controlled substances kept or used, or proposed to be kept or used within the site, or that part of the site to be subject to the proposed change of control, the maximum

quantity (by volume or weight as appropriate) of each of them kept or used or proposed to be kept or used and their density and solubility in water;

- (c) a description of the use of each area of the site identified in the change of control plan and a description of any relevant changes in circumstances since the consent was granted; and
- (d) a safety and emergency statement.

2. The change of control plan required by paragraph 1(a) shall be a plan of the site to which the application relates, drawn to a scale of not less than 1 to 2,500, which identifies the extent of the site and any area under separate control after the proposed change of control.

3. The relevant consent referred to in paragraph 1(a) is the protection zone consent which applies to the site to be subject to the proposed change of control.

4. The safety and emergency statement required by paragraph 1(d) shall contain the following information—

- (i) a description of the potential sources of an incident which might result in some or all of the substance entering, leaching or being discharged into the land within the site to which the application relates, any neighbouring land or any inland waters in the vicinity thereof;
- (ii) a description of the conditions or events which could be significant in bringing such an incident about;
- (iii) a description of the measures taken or proposed to be taken to prevent, control or minimise the consequences of any such incident to the inland waters in the vicinity; and
- (iv) the emergency procedures laid down for dealing with such an incident at the site.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 96 of the Water Resources Act 1991 (“the 1991 Act”) gives the Secretary of State power to make regulations for the purposes of any order made under section 93 of the 1991 Act which designates a water protection zone and requires the consent of the Environment Agency (“the Agency”) to the carrying on of activities within it.

The Secretary of State for the Environment, Transport and the Regions and the Secretary of State for Wales have made an order jointly under section 93 of the 1991 Act entitled “The Water Protection Zone (River Dee Catchment) Designation Order 1999” which designates as a water protection zone an area forming part of the freshwater river Dee catchment.

The Regulations provide the procedure to be followed in relation to controlled activities within water protection zone and make provisions in relation to:

- (a) applications to the Agency for protection zone consent (regulations 5 and 6);
- (b) the Agency’s consideration and determination of such applications (regulations 6 and 7);
- (c) the reference of applications to and the making of appeals to the Secretary of State (regulations 8 and 12);

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- (d) continuation of protection zone consent and variation of protection zone consent conditions (regulations 9 and 10);
- (e) the revocation of protection zone consents and the alteration and imposition of conditions (regulation 11);
- (f) a consents register (regulation 13);
- (g) charges in connection with applications for protection zone consent (regulation 14).

A regulatory impact assessment of the effect that these Regulations would have on the cost of business may be obtained from:

The Water Quality Division, Department of the Environment, Transport and the Regions, Ashdown House, 123 Victoria Street, London SW1E 6DE, or Environment Division, Welsh Office, Cathays Park, Cardiff CF1 3NQ.