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STATUTORY INSTRUMENTS

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**2014 No. 255**

**The Environmental Permitting (England and Wales) (Amendment) Regulations 2014**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Environmental Permitting (England and Wales) (Amendment) Regulations 2014.

(2) Subject to paragraph (3), these Regulations come into force on 5th March 2014.

(3) Regulations 9, 16 and 20 and the Schedule come into force on 1st October 2014.

**Amendment of the Environmental Permitting (England and Wales) Regulations 2010**

2. The Environmental Permitting (England and Wales) Regulations 2010(1) are amended in accordance with regulations 3 to 20.

**Regulation 10 (giving notices, notifications and directions, and the submission of forms)**

3. In regulation 10—

(a) in paragraph (4), after “given to” insert “a director of that body or”;

(b) in paragraph (6)—

(i) in sub-paragraph (a), for “or their” substitute “, a director of that body or the”;

(ii) in sub-paragraph (a)(ii), after “of the” insert “director,”.

**Regulation 20 (variation of an environmental permit)**

4. In regulation 20(5)(2)—

(a) omit the “or” after sub-paragraph (a);

(b) at the end of sub-paragraph (b) insert—

“; or

(c) the regulator, on its own initiative, varies an environmental permit, or any condition of a permit, in consequence of a transfer or partial transfer of an environmental permit under regulation 21”.

**Regulation 21 (transfer of an environmental permit)**

5. In regulation 21(3)—

(a) after paragraph (6) insert—

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(1) S.I. 2010/675; relevant amendments were made by S.I. 2011/2933; 2012/630; 2013/390, 755 (W.90).

(2) There is an amendment to regulation 20(5) but it is not relevant to this instrument.

(3) Regulation 21 was amended by regulation 7 of S.I. 2012/630.

“(6A) In the case of a partial transfer following a notification, the regulator must grant a new environmental permit to the transferee subject to the same conditions as the original permit, varied in consequence of the partial transfer.”.

- (b) in paragraph (7)—
  - (i) after “an enforcement notice” insert “or a suspension notice”;
  - (ii) after “the enforcement notice” insert “or, as the case may be, the suspension notice”.

#### **Regulation 24 (notification of the surrender of an environmental permit)**

- 6. In regulation 24(1), after sub-paragraph (b) insert—
  - “(ba) a solvent emission activity;”.

#### **Regulation 28 (notification of revisions of standard rules)**

- 7.—(1) Regulation 28 is amended as follows.
- (2) In paragraph (2)—
  - (a) in sub-paragraph (b)—
    - (i) after “published” insert “and when they take effect (in accordance with paragraph (4))”; and
    - (ii) omit the words from “, which” to “is served”;
  - (b) in sub-paragraph (c)—
    - (i) for “this date”, substitute “the date”; and
    - (ii) after “rules” insert “take effect they”.
- (3) Omit paragraph (3).
- (4) For paragraph (4), substitute—
  - “(4) The revised rules take effect—
    - (a) in relation to a relevant environmental permit, 3 months after the date when the revised rules are published under regulation 26(5), except where the revisions comprise only minor administrative changes (in which case they take effect in accordance with sub-paragraph (b));
    - (b) in any other case, when published under regulation 26(5).”.

#### **Regulation 32 (discharge of functions)**

- 8. In regulation 32(4), for paragraphs (1), (1A) and (1B), substitute—
  - “(1) Subject to paragraphs (1A) to (4) and paragraph 11A of Part 2 of Schedule 23—
    - (a) functions in relation to a regulated facility that is or will be operated in England are exercisable by the Agency;
    - (b) functions in relation to a regulated facility that is or will be operated in Wales are exercisable by the NRBW.
  - (1A) Subject to paragraph (1C), in relation to waste mobile plant—
    - (a) if the principal place of business of the operator is in England, functions are exercisable by the Agency;

- (b) if the principal place of business of the operator is in Wales, functions are exercisable by the NRBW;
  - (c) if the principal place of business of the operator is not in England or in Wales, functions are exercisable by—
    - (i) the appropriate agency that granted the environmental permit authorising the operation of that waste mobile plant; or
    - (ii) if no permit has been granted, the appropriate agency in whose area waste mobile plant is first intended to be operated.
- (1B) Paragraph (1C) applies—
- (a) where by virtue of paragraph (1A) functions in relation to waste mobile plant are exercisable by the Agency, and that waste mobile plant is operated at a site in Wales, or
  - (b) where by virtue of paragraph (1A) functions in relation to waste mobile plant are exercisable by the NRBW, and that waste mobile plant is operated at a site in England.
- (1C) Where this paragraph applies, functions under regulations 36, 37 and 57 and paragraph 9 of Schedule 22 are exercisable in relation to the waste mobile plant referred to in paragraph (1B) by both the Agency and the NRBW.”.

#### **Regulation 35 (specific provisions applying to environmental permits)**

9. In regulation 35(2), after sub-paragraph (c) insert—
- “(ca) Schedule 9A (materials facilities);”.

#### **Regulation 46 (duty of the regulator to maintain a public register)**

10. In regulation 46, omit paragraphs (4), (5) and (6).

#### **Schedule 1 (activities, installations and mobile plant)**

- 11.—(1) Schedule 1(5) is amended as follows.
- (2) In Part 1 (interpretation and application: general)—
- (a) in paragraph 3(c) (application of activities falling within Part 2), for “and” substitute “or”;
  - (b) in the heading to paragraph 4 (application of thresholds in Part 2), for “in Part 2” substitute “for Part A activities”;
  - (c) in paragraph 4, for “given in Part 2 of this Schedule” substitute “for any Part A activity”.
- (3) In Part 2 (activities)—
- (a) in Section 1.1 (combustion activities)—
    - (i) in Part B, omit paragraphs (b)(ii) and (iii), (c) and (d);
    - (ii) in “*Interpretation and application of Part B*”—
      - (aa) in paragraph 1, omit the words “or Part A(2)”;
      - (bb) omit paragraph 2;
  - (b) in Section 1.2 (gasification, liquefaction and refining activities), in Part A(1)—
    - (i) for paragraph (d) substitute—

- “(d) Gasification or liquefaction of—
  - (i) coal, or
  - (ii) other fuels in installations with a total rated thermal input of 20 megawatts or more.”;
- (ii) in paragraph (j), omit the words “liquefaction, gasification,”;
- (iii) after paragraph (j), insert—
  - “(ja) Activities involving the liquefaction or gasification of other carbonaceous material.
- (c) in Section 4.1 (organic chemicals), in paragraph (d)(i) of Part B, for “1 tonne” substitute “5 tonnes”;
- (d) in Section 6.8 (the treatment of animal and vegetable matter and food industries)—
  - (i) in paragraph (c) of Part A(1), for “falling within Section 5.1” substitute “in a small waste incineration plant”;
  - (ii) in paragraph (a) of Part A(2), for “plant with” substitute “plant or in a small waste incineration plant, where the plant or small waste incineration plant has”.

#### **Schedule 2 (exempt facilities: general)**

- 12. In Schedule 2, in paragraph 5—
  - (a) omit the “or” after sub-paragraph (b)(i);
  - (b) for the “and” after sub-paragraph (b)(ii) substitute “or”;
  - (c) after sub-paragraph (b)(ii) insert—
    - “(iii) paragraph 4 of Part 3 of that Schedule, the operator is registered in relation to the activity; and”.

#### **Schedule 3 (exempt facilities: descriptions and conditions)**

- 13. In Schedule 3, in Part 3, after paragraph 3 insert—

##### **“Open-loop ground source heating and cooling systems**

4.—(1) For the purpose of paragraph 5(a)(i) of Schedule 2, the description is the discharge of water to groundwater from a heating or cooling system to which sub-paragraph (3) applies with altered temperature.

(2) For the purpose of paragraph 5(a)(ii) of that Schedule, the conditions in relation to a groundwater activity of that description are—

- (a) that nothing should be added to water discharged from the system;
- (b) that the temperature of water discharged from the system—
  - (i) subject to sub-paragraph (ii), must not exceed 25° C, and
  - (ii) must not vary by more than 10° C compared to that in the aquifer from which it was abstracted;
- (c) that the system must not be on a known contaminated site or have had a previous contaminative use;
- (d) that water from the system must not be discharged less than 50 metres from a watercourse or groundwater-fed wetland;
- (e) that water from the system must not be discharged within—

- (i) 50 metres of a point at which water is abstracted from underground strata, or
  - (ii) a zone defined by a 50-day travel time for groundwater to reach a groundwater abstraction point that is used to supply water for domestic or food production purposes;
  - (f) that the discharge of water from the system must be to the same aquifer as that from which it was abstracted;
  - (g) that water within the system must not be used for any other purpose.
- (3) This sub-paragraph applies to a system—
- (a) that involves—
    - (i) the abstraction of groundwater to obtain heating or (as the case may be) cooling, and
    - (ii) the subsequent discharge of that water; and
  - (b) that is—
    - (i) a cooled aquifer system with a volume of less than 1500 cubic metres per day;
    - (ii) a balanced system with a volume of less than 430 cubic metres per day; or
    - (iii) a heated aquifer system with a volume of less than 215 cubic metres per day.
- (4) In this paragraph—

“balanced system” means a system used for both heating and cooling and where in a 5-year period the ratio of the discharge water temperature to the abstracted water temperature is within the range 0.8 to 1.2;

“cooled aquifer system” means a system used for both heating and cooling and where in a 5-year period the ratio of the discharge water temperature to the abstracted water temperature is less than 0.8;

“groundwater-fed wetland” means a terrestrial ecosystem directly depending on a body of groundwater (within the meaning of the Water Framework Directive) and includes—

- (a) a European site (which has the meaning given in regulation 8 of the Conservation of Habitats and Species Regulations 2010<sup>(6)</sup>);
- (b) a site of special scientific interest (which has the meaning given in section 52(1) of the Wildlife and Countryside Act 1981<sup>(7)</sup>);

“heated aquifer system” means a system used for both heating and cooling and where in a 5-year period the ratio of the discharge water temperature to the abstracted water temperature exceeds 1.2.”.

## **Schedule 5 (environmental permits)**

### **14. In Schedule 5(8), in Part 1—**

- (a) in paragraph 5(4)(d), for “paragraphs (d) to (g)” substitute “paragraph (d), (e) or (f)”;
- (b) in paragraph 9—

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<sup>(6)</sup> S.I. 2010/460, to which there are amendments not relevant to this instrument.

<sup>(7)</sup> 1981 c. 69; the definition was inserted by the Countryside and Rights of Way Act 2000 (c. 37), section 75(1) and Schedule 9, paragraph 5(1) and (2).

<sup>(8)</sup> A relevant amendment was made by S.I. 2013/390, regulation 46.

- (i) in sub-paragraph (1), after “permit” insert “, other than a condition to which sub-paragraph (1A) applies”;
- (ii) after sub-paragraph (1) insert—
  - “(1A) This sub-paragraph applies to a condition that does not specifically identify the land in relation to which the operator is required to carry out works or, as the case may be, do other things.”;
- (c) in paragraph 16(3)(d), for “Annex V” substitute “Annex IV”.

#### **Schedule 9 (waste operations)**

15. In Schedule 9(9), omit paragraph 3 (grant of an environmental permit for a relevant waste operation: requirement for prior planning permission).

#### **New Schedule 9A (materials facilities)**

16. After Schedule 9, insert the new Schedule 9A contained in the Schedule to these Regulations.

#### **Schedule 14 (solvent emission activities)**

17. In Schedule 14(10), in paragraph 1, after “activity” insert “, but it does not apply to installations used solely for research activities, development activities or the testing of new products or processes”.

#### **Schedule 19 (waste batteries and accumulators)**

18. In Schedule 19, after paragraph 2 insert—

“3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with Article 3 of Regulation (EU) No 493/2012; and for the purposes of Article 3(4) of that Regulation the regulator is the competent authority.

(2) In sub-paragraph (1), “Regulation (EU) No 493/2012” means Commission Regulation (EU) No 493/2012 laying down, pursuant to [Directive 2006/66/EC](#) of the European Parliament and of the Council, detailed rules regarding the calculation of recycling efficiencies of the recycling processes of waste batteries and accumulators(11).”.

#### **Schedule 20 (mining waste operations)**

19.—(1) Schedule 20 is amended as follows.

(2) In the heading to paragraph 13 (planning permission requirements and conditions), omit “requirements and”.

(3) In paragraph 13, omit sub-paragraph (1).

#### **Schedule 24 (public registers)**

20. In Schedule 24, after paragraph 1(2)(c)—

- (a) omit “and”;
- (b) insert—

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(9) Paragraph 3 was amended by [S.I. 2013/390](#), regulation 49.

(10) Schedule 14 was substituted by [S.I. 2013/390](#), regulation 51.

(11) OJ No L 151, 12.6.2012, p 9.

“(ca) the information provided to the regulator by the operator of a materials facility under paragraph 4 of Part 2 of Schedule 9A; and”.

**Amendment of the Natural Resources Body for Wales (Functions) Order 2013**

**21.** In the English and Welsh texts of the Natural Resources Body for Wales (Functions) Order 2013(12), in Schedule 4, omit paragraph 377.

7th February 2014

10th February 2014

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