

2003 No. 3296

**ENVIRONMENTAL PROTECTION,
ENGLAND AND WALES**

**The Pollution Prevention and Control (England and Wales)
(Amendment) (No. 2) Regulations 2003**

Made - - - - - 16th December 2003

Laid before Parliament 17th December 2003

Coming into force - - 7th January 2004

The Secretary of State, in exercise of the powers conferred on her by section 2 of the Pollution Prevention and Control Act 1999(a), having, in accordance with subsection (4) of that section, 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 and commencement

1. These Regulations may be cited as the Pollution Prevention and Control (England and Wales) (Amendment) (No. 2) Regulations 2003 and shall come into force on 7th January 2004.

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

2.—(1) The Pollution Prevention and Control (England and Wales) Regulations 2000(b) are amended as follows.

(2) In regulation 2(1) (interpretation: general) the definition of “specified waste management activity” is replaced by the following definition—

““Specified waste management activity” means any one of the following activities—

- (a) the disposal of waste in a landfill falling within Section 5.2 of Part 1 of Schedule 1;
- (b) the disposal of waste falling within Section 5.3 of that Part of that Schedule;
- (c) the recovery of waste falling within paragraphs (i), (ii), (v) or (vii) of paragraph (c) of Part A(1) of Section 5.4 of that Part of that Schedule,

but does not include any activity specified in sub-paragraphs (b) or (c) above where that activity—

- (i) is carried on at the same installation as any activity falling within Part A(1) of any Section in Part 1 of that Schedule, which is not an activity specified in sub-paragraphs (a) to (c) above; and
- (ii) is not the primary activity of that installation,

and, for the purpose of this definition the primary activity of an installation is the activity the carrying out of which constitutes the primary purpose for operating the installation.”.

(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 Pollution Prevention and Control Act 1999.

(b) S.I. 2000 No. 1973; relevant amending instruments are S.I. 2002/1559, S.I. 2002/2469 and S.I. 2002/2980.

(3) In regulation 4 (fit and proper person), paragraphs (3)(b) to (d) are deleted and replaced as follows—

- “(b) the management of the specified waste management activity which is to be carried out will not be in the hands of a technically competent person;
- (c) he has not made, or will not before commencement of any specified waste management activity consisting of the disposal of waste in a landfill falling within Section 5.2 of Part 1 of Schedule 1 make, adequate financial provision (either by way of financial security or its equivalent) to ensure that—
 - (i) the obligations (including after-care provisions) arising from the permit in relation to that activity are discharged; and
 - (ii) any closure procedures required by the permit in relation to that activity are followed;
- (d) he and all staff engaged in carrying out any specified waste management activity falling within sub-paragraph (c) will not be provided with adequate professional technical development and training; or
- (e) for specified waste management activities not falling within sub-paragraph (c), the person who holds or is to hold the permit has not made and either has no intention of making or is in no position to make financial provision adequate to discharge the obligations arising from the permit in relation to the specified waste management activity.”;

in paragraph (5)(b) the words “paragraph (3)(d)” are replaced by the words “paragraph (3)(b)”.

(4) In the table in paragraph 2(2) of Part 1 of Schedule 3, the words—

Section 5.3	
Part A(1)	
Paragraph (c)(i)	1st January to 31st March 2004
Paragraph (c)(ii)	1st June to 31st August 2004

are replaced by the words—

Section 5.3	
Part A(1)	
Paragraph (c)(i)	1st April to 30th June 2006
Paragraph (c)(ii)	1st September to 30th November 2006

(5) In paragraph 9 in Part 2 of Schedule 4 (Determination of Applications)—

- (a) in sub-paragraph (1)(a)—
 - (i) the words “Health Authority or” are deleted; and
 - (ii) after the words “Primary Care Trust” there are inserted the words “or in Wales the Local Health Board”;
- (b) in sub-paragraph (2)—
 - (i) the definition of “health authority” is deleted; and
 - (ii) after the definition of “local health authority” a new definition is inserted as follows—

““Local Health Board” means a board established by the Local Health Boards (Establishment) (Wales) Order 2003(a).”.

Signed by authority of the Secretary of State for Environment, Food and Rural Affairs.

Elliot Morley
Minister of State,

16th December 2003

Department for Environment, Food and Rural Affairs

(a) S.I. 2003/148 (W. 18) (made by the National Assembly for Wales under section 16BA of the National Health Service Act 1977 (c. 49) as amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17) section 6(1)).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Pollution Prevention and Control (England and Wales) Regulations 2000 (the “PPC Regulations”).

Regulation 2(2) amends the definition of “specified waste management activity” in regulation 2(1) of the PPC Regulations to exclude from the definition certain categories of waste activities where they are carried out at the same installation as any activity falling within Part A(1) of Part I of Schedule 1 to the PPC Regulations and they do not constitute the primary activity of that installation.

Regulation 2(3) amends regulation 4 of the PPC Regulations (fit and proper person) to apply some of the requirements of that provision only to specified waste management activities consisting of the disposal of waste in a landfill falling within Section 5.2 of Part 1 of Schedule 1 to the PPC Regulations.

Regulation 2(4) defers the relevant dates specified in the table in paragraph 2(2) of Part 1 of Schedule 3 to the PPC Regulations in respect of activities falling within paragraphs (c)(i) and (ii) of Part A(1) of Section 5.3 of Part 1 of Schedule 3 until 1st April to 30th June 1996 and 1st September to 30th November 2006 respectively.

Regulation 2(5) provides for the substitution of the reference to Health Authorities by a reference to Local Health Boards in Wales for the purposes of notification by the regulator of the receipt of a PPC application under paragraph 9(1)(a) of Part 2 (Determination of Applications) of Schedule 4 to the PPC Regulations. Regulation 2(5)(b) defines “Local Health Board” as any board established under the Local Health Boards (Establishment) (Wales) Order 2003 (S.I. 2003/148 (W.18)).

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