

2004 No. 3276

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Pollution Prevention and Control (England and Wales) (Amendment) and Connected Provisions Regulations 2004

<i>Made</i>	<i>9th December 2004</i>
<i>Laid before Parliament</i>	<i>10th December 2004</i>
<i>Coming into force</i>	<i>1st January 2005</i>

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 and application

1.—(1) These Regulations may be cited as the Pollution Prevention and Control (England and Wales) (Amendment) and Connected Provisions Regulations 2004 and shall come into force on 1st January 2005.

(2) Regulation 3 applies to England only.

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

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

(2) In regulation 2 (Interpretation: general), delete the definitions of “organic compound” and “volatile organic compound” or “VOC”.

(3) Part 1 of Schedule 1 (Activities), shall be amended as follows—

(a) in Part B of Section 1.1 (Combustion Activities)—

(i) in paragraph (a), before the word “rated” insert the word “net” and after the words “but less than” insert the words “a rated thermal input of”;

(ii) in paragraph (c)—

^(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. 2000/1973 amended by S.I. 2001/503, 2002/275, 2002/1559, 2002/1702, 2002/2469, 2002/2688, 2002/2980, 2003/1699, 2003/3296, 2003/3311, 2004/107, 2004/1375; there is other amending legislation but none of it is relevant.

- (aa) in sub-paragraph (i), after the words “but at least”, insert the words “a net rated thermal input of”;
 - (bb) in sub-paragraph (ii), after the words “where the aggregate” insert the words “net”;
- (b) in Section 1.2 (Gasification, Liquefaction and Refining Activities)—
- (i) in Part A(1), after paragraph (j) insert a new paragraph (k) as follows—
 - “(k) Odourising natural gas or liquefied petroleum gas where that activity is related to a Part A activity.”;
 - (ii) under the heading “Interpretation of Part A(1)”—
 - (aa) in paragraph 1, after the word “sewage” insert the words “or sewage sludge”; and
 - (bb) in paragraph 3, after the word “wood” insert the words “(but does not include wood which has not been chemically treated).”;
 - (iii) in paragraph (d) of Part B, substitute the figure “100m” by the figure “500m”;
- (c) in Section 2.1 (Ferrous Metals)—
- (i) in paragraph (b)(ii) of Part A(1), after the word “induction” insert the words “, vacuum, electro-slag”;
 - (ii) in paragraph (b)(ii) of Part B, after the word “induction” insert the words “,electro-slag”;
- (d) in Section 2.2 (Non-Ferrous Metals)—
- (i) in paragraph (b)(ii) of Part A(1), after the word “furnace” insert the words “(other than a vacuum furnace)”;
 - (ii) for paragraph (a)(ii) of Part A(2), substitute the following sub-paragraphs—
 - “(ii) no furnace (other than a vacuum furnace), bath or other holding vessel used in the plant for the melting has a design holding capacity of 5 tonnes or more; or
 - (iii) the plant uses a vacuum furnace of any design holding capacity.”;
- (e) in Part B of Section 4.1 (Organic Chemicals)—
- (i) for paragraph (a), substitute the following paragraph —
 - “(a) Unless falling within Part A(1) of this Section, any activity where the carrying on of the activity by the person concerned at the location in question is likely to involve the use in any 12 month period of 5 tonnes or more of any di-isocyanate or of any partly polymerised di-isocyanate or, in aggregate, of both.”;
 - (ii) after paragraph (c) insert a new paragraph (d) as follows—
 - “(d) Unless falling within Part A(1) of this Section, any activity involving the use of toluene di-isocyanate or partly polymerised di-isocyanate if—
 - (i) less than 1 tonne of toluene di-isocyanate monomer is likely to be used in any 12 month period; and
 - (ii) the activity may result in a release into the air which contains toluene di-isocyanate.”;
- (f) in Part A(1) of Section 4.2 (Inorganic Chemicals)—
- (i) for paragraph (b), substitute the following paragraph—
 - “(b) Unless falling within another Section of this Schedule, any manufacturing activity which is likely to result in the release into the air of any hydrogen halide (other than the manufacture of glass or the coating, plating or surface treatment of metal) or which is likely to result in the release into the air or water of any halogen or any of the compounds mentioned in paragraph (a)(vi) (other than the treatment of water).”;
 - (ii) for paragraph (h), substitute the following paragraph —

- “(h) Unless falling within another Section of this Schedule, any activity, other than the combustion or incineration of carbonaceous material as defined in the Interpretation of Part A(1) of Section 1.2 of this Schedule, which is likely to result in the release into the air of any acid-forming oxide of nitrogen.”;
- (g) in Part A(1) of Section 4.7 (Manufacturing Activities Involving Carbon Disulphide or Ammonia)—
- (i) for paragraph (a), substitute the following paragraph—
- “(a) Unless falling within Part A2 of Section 6.7 (Activities involving rubber), any manufacturing activity which may result in the release of carbon disulphide into the air.”;
- (ii) in paragraph (b), delete the words “involves the use of ammonia or”;
- (h) in Section 5.1 (Incineration and Co-incineration of Waste)—
- (i) in Part A(1), after paragraph (e) insert a new paragraph (f) as follows—
- “(f) The incineration other than incidentally in the course of burning solid or liquid waste, of any gaseous compound containing halogens in a plant which is not an incineration plant or a co-incineration plant.”;
- (ii) in Part A(2), after paragraph (b) insert a new paragraph (c) as follows—
- “(c) The incineration of animal carcasses or animal waste in a plant, which is not an incineration plant or a co-incineration plant, with a capacity of more than 10 tonnes per day but less than 1 tonne per hour of animal carcasses or animal waste or, in aggregate, of both.”;
- (iii) in the definition of “excluded plant” under the heading “Interpretation of Section 5.1”, for paragraph (a)(vii) substitute the following paragraph—
- “(vii) Animal carcasses as regulated by Regulation (EC) No. 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption (a); or”;
- (i) under the heading “Interpretation of Part A(1)” in Section 5.3 (Disposal of Waste Other Than by Incineration or Landfill), for paragraph 3 substitute the following paragraph—
- “3. Nothing in this Part applies to the treatment of—
- (a) waste soil; or
- (b) contaminated material, substances or products, for the purpose of remedial action with respect to land or controlled waters, as defined in section 104 of the Water Resources Act 1991(b),
- by means of a mobile plant.”;
- (j) under the heading “Interpretation of Part A(1)” in Section 5.4 (Recovery of Waste), for paragraph 2 substitute the following paragraph—
- “2. Nothing in this Part applies to the treatment of —

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- (a) OJ No. L273, 10.10.2002, p.1 amended and modified by Commission Regulation (EC) No. 808/2003, OJ No. L117, 13.5.2003, p.1, Commission Regulation (EC) No. 809/2003, OJ No. L117, 13.5.2003, p.10, Commission Regulation (EC) No. 813/2003, OJ No. L117, 13.5.2003, p.22, Commission Decision 2003/320/EC, OJ No. L117 13.5.2003 p. 24, Commission Decision 2003/321/EC, OJ No. L117, 13.5.2003, p. 30, Commission Decision 2003/326/EC, OJ No. L117, 13.5.2003, p. 42, Commission Decision 2003/327/EC, OJ No. L117, 13.5.2003, p. 44, Commission Decision 2003/328/EC, OJ No. L117, 13.5.2003, p. 46, Commission Decision 2004/407/EC, OJ No. L151, 30.4.2004, p. 11, Commission Regulation (EC) No 668/2004, OJ No. L112, 19.4.2004, p. 1 and Commission Regulation (EC) No 780/2004, OJ No. L123, 27.4.2004, p. 64.
- (b) 1991 c. 57; section 104(1) was modified, in relation to the meaning of “inland freshwaters” for the purpose of giving effect to Directive 78/659/EEC, by the Surface Waters (Fishlife) (Classification) Regulations 1997 (S.I.1997 No. 1331) regulation 6(2)(1) and by the Bathing Waters (Classification) (England) Regulations 2003 (S.I.2003 No. 1238) regulation 2(1) for the purpose of giving effect to Council Directive 76/160/EEC, and for all other purposes; section 104(1) was modified, in relation to the meaning of “controlled waters” for the purpose of giving effect to Directive 79/923/EEC, by the Surface Waters (Shellfish) (Classification) Regulations 1997 (S.I. 1997 No. 1332) regulation 6(2); section 104(1)(c) was modified, in relation to the meaning of “inland freshwaters” for the purpose of giving effect to Directive 75/440/EEC, by the Surface Waters (Abstraction for Drinking Water) (Classification) Regulations 1996 (S.I. 1996 No. 3001) regulation 7(2).

- (a) waste soil; or
- (b) contaminated material, substances or products, for the purpose of remedial action with respect to land or controlled waters, as defined in section 104 of the Water Resources Act 1991, by means of a mobile plant.”;
- (k) in paragraph (a)(ii) of Part A(1) of Section 6.3 (Tar and Bitumen Activities), delete the words “or bitumen”;
- (l) in paragraph (a) of Part B of Section 6.6 (Timber Activities), after the word “drilling,” insert the word “sanding,”;
- (m) in paragraph (2) of Part B of Section 7 (SED Activities)—
 - (i) after the definition of “manufacturing of pharmaceutical products”, insert a new definition as follows—

““organic compound” means any compound containing at least the element carbon and one or more of hydrogen, halogens, oxygen, sulphur, phosphorus, silicon or nitrogen, with the exception of carbon oxides and inorganic carbonates and bicarbonates;”;
 - (ii) after the definition of “vehicle refinishing”, insert a new definition as follows—

““volatile organic compound” or “VOC” means—

 - (i) any organic compound having a vapour pressure of 0.01 kPa or more at 293.15K or having a corresponding volatility under the particular conditions of use; or
 - (ii) the fraction of creosote which exceeds a vapour pressure of 0.01 kPa at 293.15K;”.

(4) In Part 2 of Schedule 1 (Interpretation of Part 1), after paragraph 3 insert a new paragraph as follows—

“**3A.**—(1) An activity shall not be taken to be an activity falling within Sections 1.1 to 6.9 of Part 1 if it is carried out at an installation or mobile plant solely used for research, development and testing of new products and processes.”.

(5) Paragraph 17 of Part 3 of Schedule 1 (Interpretation of “Part A Installation” etc.), shall be amended as follows—

- (a) in sub-paragraph (2)(a) —
 - (i) after the words “falling within” insert the words “Part A(2) or”; and
 - (ii) after the words “waste incineration installation” delete the word “and”;
- (b) at the end of sub-paragraph (2)(b), insert the word “and” followed by a new sub-paragraph (c) as follows—

“(c) the disposal or recycling of animal carcasses or animal waste by rendering in a plant with a capacity exceeding 10 tonnes per day of animal carcasses or animal waste, or, in aggregate, of both”.

(6) Schedule 3 (Prescribed Date and Transitional Arrangements), shall be amended as follows—

- (a) in the table in paragraph 2(2) of Part 1—
 - (i) for the words—

Section 4.2	
Part A (1)	
Paragraphs (a)(i), (ii), (iii), (vi), (b) to (j)	1st October to 31st December 2004
Paragraphs (a)(iv), (v)	1st June to 31st August 2005
Section 5.3	
Part A(1)	
Paragraph (b)	1st June to 31st August 2005

substitute the words—

Section 4.2	
Part A (1)	
Paragraphs (a)(i), (ii), (iii), (vi), (b) to (g), (i) and (j)	1st October to 31st December 2004
Paragraphs (a)(iv),(v) and (h)	1st June to 31st August 2005
Section 5.3	
Part A(1)	
Paragraph (b)	1st November 2006 to 31st January 2007

(ii) after the words—

Section 5.1	
Part A(1)	
Paragraphs (d), (e)	1st June to 31st August 2005

insert the words—

Section 5.1	
Part A(1)	
Paragraph (f)	1st June to 31st August 2005

- (b) in paragraph 2(6), for the words “3 months” substitute the words “28 days”;
- (c) in the definition of “determination date” in paragraph 6, after sub-paragraph (c) insert a new sub-paragraph (d) as follows—
 - “(d) for an installation, part of an installation or mobile plant in relation to which an application is withdrawn in accordance with regulation 7(6) or deemed to have been withdrawn in accordance with paragraph 4 of Schedule 4, the date the application is withdrawn, or deemed to have been withdrawn;”;
- (d) in the table in paragraph 10(1) of Part 2, for the words—

Section 2.1	1st April 2004
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substitute the words —

Section 2.1	
Paragraphs (a), (b) (i), (c), (d) and (e)	1st April 2004
Paragraph (b) (ii), other than producing, melting or refining iron or steel or any ferrous alloy using a electro-slag furnace	1st April 2004
Paragraph (b) (ii), insofar as it consists of the production, melting or refining of iron or steel or any ferrous alloy using a electro-slag furnace	1 April 2005

(7) Schedule 4 (Grant of Permits), shall be amended as follows—

- (a) in paragraph 5, after the words “the date on which his application is” insert the word “duly”;
- (b) in paragraph 9(1), for the words “receiving an application” substitute the words “receiving a duly made application”;
- (c) in paragraph 15—
 - (i) in sub-paragraph (1), after the words “on which it received the” insert the words “duly made”;

(ii) after sub-paragraph (2)(c), insert a new sub-paragraph (d) as follows—

“(d) where separate applications are made to operate different parts of one installation, any period beginning with the date on which notice is served on any of the applicants under paragraph 4 and ending on the date on which that applicant furnishes the information specified in the notice.”;

(d) for paragraph 21, substitute the following new paragraphs—

“21.— The requirements of paragraph 9, other than paragraphs 9(b)(ix) and (f), shall not apply in so far as they would require a person mentioned in any of those provisions to be given information which is not included in the register by virtue of regulation 30.

21A.— Subject to paragraph 22, the requirements of paragraphs 9(1)(b)(ii), (iii) and (iv) and (c), shall not apply in so far as they would require a person mentioned in any of those provisions to be given information which is not included in the register by virtue of regulation 31.”;

(e) in paragraph 22, for the words “Paragraph 21” substitute the words “Paragraph 21A”;

(8) In paragraph 14 of Schedule 7 (Variation of Conditions), for the words “Paragraphs 21 and 22” substitute the words “Paragraphs 21, 21A and 22”.

(9) In paragraph 1 of Schedule 9 (Registers), after sub-paragraph (aa) insert a new sub-paragraph (bb) as follows—

“(bb) all particulars of any fees and charges paid to the local authority regulator pursuant to a scheme made by the Secretary of State under regulation 22 and details of the total expenditure incurred by the local authority regulator in exercising their functions under these regulations in relation to local authority permits.”.

Amendment to the Waste Management Licensing Regulations 1994

3.—(1) Regulation 16 of The Waste Management Licensing Regulations 1994(a) (Exclusion of activities under other control regimes from waste management licensing), shall be amended as follows.

(2) In paragraph 1(ba), for the words “Part A(1) installation” substitute the words “Part A installation”.

(3) In paragraph (3), for the words “Part A(1) installation” substitute the words “Part A installation”.

Transitional Provisions

4.—(1) Where an application for a permit is made before the date of coming into force of these Regulations in relation to an installation or mobile plant and by virtue of these Regulations—

- (a) the installation or mobile plant is reclassified as falling within a different Part in any Section of Part 1 of Schedule 1 (Activities) to the 2000 Regulations; or
- (b) the relevant period or the relevant date for the installation or mobile plant is deferred to a period or a date after the date of coming into force of these Regulations,

anything duly done in relation to the application (including the grant of a permit) shall be treated as if it had been duly done in relation to an application for a permit made on or after the date of coming into force of these Regulations.

(2) For the purposes of this regulation—

- (a) “the 2000 Regulations” means the Pollution Prevention and Control (England and Wales) Regulations 2000; and
- (b) words and expressions which are used or defined in the 2000 Regulations, shall have the same meaning as in those Regulations.

(a) S.I. 1994/1056; relevant amending instruments are S.I. 1995/288 and S.I. 2000/1973.

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

9th December 2004

Elliott Morley
Minister of State,
Department for Environment, Food and Rural Affairs

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”). Except for regulation 3 which applies to England only, these Regulations apply to England and Wales.

Regulation 2(2) removes the definitions of “organic compound” and “volatile organic compound” or “VOC” from the general interpretation section in regulation 2(1) of the PPC Regulations, and regulation 2(2)(m) inserts these definitions into Section 7 of Schedule 1 (SED Activities) to those Regulations.

Regulation 2(3) amends Part 1 of Schedule 1 to the PPC Regulations which lists the activities which are subject to regulation under those Regulations. In particular—

- (i) Regulation 2(3)(b) broadens the exclusions under Section 1.2 (Gasification, Liquefaction and Refining Activities) and brings into effect a derogation under Article 6 of Directive 94/63/EC(a) by increasing the existing threshold in paragraph (d) of Part B of that Section from 100m³ to 500m³;
- (ii) Regulation 2(3)(c) transfers ferrous metals activities involving the operation of electro-slag furnaces from Part A(1) to Part B of Section 2.1. Regulation 2(6)(d) defers the relevant date for the transferred Part B Section 2.1 activities to 1 April 2005, so that the deemed application provisions in paragraph 9(3) of Part 2 of Schedule 3 to the PPC Regulations apply to these activities;
- (iii) Regulations 2(3)(d) to (g) and 2(3)(k) and (l) insert further technical amendments to the activities specified in Sections 2.2 (Non-Ferrous Metals), 4.1 (Organic Chemicals), 4.2 (Inorganic Chemicals) and 4.7 (Manufacturing Activities Involving Carbon Disulphide or Ammonia);
- (iv) Regulation 2(3)(h) amends Section 5.1 (Incineration and Co-incineration of Waste), and provides for the incineration of certain animal waste to be classified as an A(2) activity;
- (v) Regulations 2(3)(i) and (j) extend the exclusion in Part A(1) of Section 5.3 (Disposal of Waste Other Than by Incineration or Landfill) and Section 5.4 (Recovery of Waste) to certain waste disposal and recovery activities involving the treatment of waste soil and contaminated material.

Regulation 2(4) amends Part 2 of Schedule 1 (Interpretation of Part 1) to the PPC Regulations to exclude from the scope of those Regulations activities carried out in installations or mobile plant used solely for research and development and testing of new products and processes.

Regulation 2(5) adds a new exclusion covering animal rendering activities to the list in paragraph 17 of Part 3 of Schedule 1 (Interpretation of “Part A Installation” etc) to the PPC Regulations.

Regulation 2(6) deals with amendments to the transitional arrangements in Schedule 3 to the PPC Regulations.

Regulation 2(7) inserts minor amendments to Schedule 4 (Grant of Permits) to the PPC Regulations as well as providing for the consultation provisions in paragraphs 9(1)(b)(ii), (iii) and (iv) and (c) of that Schedule not to apply in circumstances where there is a national security exemption under regulation 30.

Regulation 2(8) modifies in Schedule 7 (Variation of Conditions) to the PPC Regulations the references to the public consultation provisions in Schedule 4, as amended by these Regulations.

(a) European Parliament and Council Directive 94/63/EC of 20 December 1994 on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminal to service stations. OJ L 365, 31.12.1994, p. 24.

Regulation 2(9) inserts in paragraph 1 of Schedule 9 (Registers) to the PPC Regulations a requirement to keep information on fees and charges paid to the local authority regulator under a scheme made under regulation 22 of those Regulations.

Regulation 3 amends regulation 16 of the Waste Management Licensing Regulations 1994 (S.I. 1994/1056) to refer in paragraphs 1(ba) and (3) to all Part A installations for the purposes of the PPC Regulations.

Regulation 4 includes transitional provisions for installations or mobile plant which as a result of these Regulations are reclassified as falling within a different Part in any Section in Part 1 of Schedule 1 to the PPC Regulations, or whose prescribed date or relevant date is deferred to a date after the coming into force of these Regulations.

A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of business.

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