
DRAFT STATUTORY INSTRUMENTS

2009 No.

The Groundwater (England and Wales) Regulations 2009

PART 1

Introduction

Citation, application and commencement

1. These Regulations may be cited as the Groundwater (England and Wales) Regulations 2009; they apply in England and Wales and come into force on the day after they are made.

Interpretation

2. In these Regulations—

“the Agency” means the Environment Agency;

“direct input” in relation to groundwater means the introduction of a pollutant into groundwater without percolation through soil or subsoil;

“groundwater” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

“indirect input” in relation to groundwater means the introduction of a pollutant into groundwater after percolation through soil or subsoil;

“permit” means any of the following in so far as they relate to groundwater—

- (a) a permit under regulation 13;
- (b) a discharge consent within the meaning of section 91(8) of the Water Resources Act 1991⁽¹⁾;
- (c) an environmental permit under the Environmental Permitting (England and Wales) Regulations 2007⁽²⁾, except to the extent that it relates to a Part B activity within the meaning of those Regulations;
- (d) the registration of mobile radioactive apparatus under section 10 of the Radioactive Substances Act 1993⁽³⁾; or
- (e) an authorisation for disposal in accordance with section 13 of the Radioactive Substances Act 1993;

“pollutant” means any substance liable to cause pollution;

“pollution” means the direct or indirect introduction, as a result of human activity, of substances or heat into the air, water or land which may be harmful to human health or the quality of aquatic ecosystems or terrestrial ecosystems directly depending on aquatic ecosystems, which

(1) 1991 c. 57.

(2) S. I. 2007/3538.

(3) 1993 c. 12.

result in damage to material property, or which impair or interfere with amenities and other legitimate uses of the environment.

Meaning of “hazardous substance”

3.—(1) A hazardous substance is any substance or group of substances that are toxic, persistent and liable to bio-accumulate.

(2) This includes in particular the following when they are toxic, persistent and liable to bio-accumulate—

- (a) organohalogen compounds and substances which may form such compounds in the aquatic environment;
- (b) organophosphorous compounds;
- (c) organotin compounds;
- (d) substances and preparations, or the breakdown products of such, which have been proved to possess carcinogenic or mutagenic properties or properties which may affect steroidogenic, thyroid, reproduction or other endocrine-related functions in or via the aquatic environment;
- (e) persistent hydrocarbons and persistent and bioaccumulable organic toxic substances;
- (f) cyanides;
- (g) metals (in particular cadmium and mercury) and their compounds;
- (h) arsenic and its compounds;
- (i) biocides and plant protection products.

(3) The Agency must publish a list of substances that it considers to be hazardous substances.

Meaning of “non-hazardous pollutant”

4. A non-hazardous pollutant is any pollutant other than a hazardous substance.

Exceptions

5. These Regulations do not apply in relation to the consequences of accidents or exceptional circumstances of natural cause that could not reasonably have been foreseen, avoided or mitigated.

Exemptions granted by the Agency

6.—(1) The Agency may exempt from the requirement for a permit, in any specific case or class of case, a discharge or activity that would result in—

- (a) an input of a pollutant into groundwater of a quantity and concentration so small as to obviate any present or future danger of deterioration in the quality of the receiving groundwater;
- (b) an input of a pollutant into groundwater that, for technical reasons, is incapable of being prevented or limited without using—
 - (i) measures that would increase risks to human health or to the quality of the environment as a whole; or
 - (ii) disproportionately costly measures to remove quantities of pollutants from, or otherwise control their percolation in, contaminated ground or subsoil.

(2) The Agency must keep a record of all exemptions granted under this regulation.

