

2004 No. 434

**ENVIRONMENTAL PROTECTION, ENGLAND
AND WALES**

**The Pollution Prevention and Control (Unauthorised
Part B Processes) (England and Wales) Regulations 2004**

Made - - - - - 21st February 2004

Laid before Parliament 24th February 2004

Coming into force - - - 17th March 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 (Unauthorised Part B Processes) (England and Wales) Regulations 2004 and shall come into force on 17th March 2004.

Interpretation

2.—(1) In these Regulations—

“the 1990 Act” means the Environmental Protection Act 1990^(b);

“the 2000 Regulations” means the Pollution Prevention and Control (England and Wales) Regulations 2000^(c);

“authorisation” means an authorisation granted under section 6 of the 1990 Act;

“authorised Part B process” means a Part B process which is being carried on under an authorisation;

“Part B process” means any process falling within Part B of any Section of Schedule 1 (Description of Processes) to the Environmental Protection (Prescribed Processes and Substances) Regulations 1991^(d);

“unauthorised Part B process” means a Part B process which is being carried on without an authorisation.

(2) In these Regulations, words and expressions which are defined in the 2000 Regulations shall have the same meaning as in those Regulations.

(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) 1990 c. 43.

(c) S.I. 2000 No. 1973, amended by S.I. 2002/275; there are other amending instruments but none is relevant.

(d) S.I. 1991 No. 472 to which there are amendments not relevant to these Regulations.

Application of the 2000 Regulations to unauthorised Part B Processes

3.—(1) Where on the date on which these Regulations come into force an unauthorised Part B process forms part of an existing Part B installation or existing Part B mobile plant—

- (a) in respect of which the relevant date specified in paragraph 10 of Part 2 of Schedule 3 to the 2000 Regulations (relevant dates for Part B installations or Part B mobile plant) has passed;
- (b) in respect of which an application is deemed to have been made under the provisions of paragraph 9(3) of Part 2 of Schedule 3 to the 2000 Regulations (deemed applications);
- (c) in which no authorised Part B process is being carried on; and
- (d) in respect of which the deemed application has not been determined by the regulator,

the application shall be deemed to have been refused on the expiry of a period of one month beginning with the date on which these Regulations come into force or such longer period as may be agreed between the regulator and the applicant.

(2) Paragraph 9(3) of Part 2 of Schedule 3 to the 2000 Regulations shall not apply to an existing Part B installation or an existing Part B mobile plant where an unauthorised Part B process is being carried on in so far as—

- (a) the relevant date specified in paragraph 10 of Part 2 of Schedule 3 to the 2000 Regulations for that installation or mobile plant is a date after the coming into force of these Regulations; and
- (b) no authorised Part B process is being carried on in that installation or mobile plant.

(3) Where paragraph 9(3) of Part 2 of Schedule 3 to the 2000 Regulations is disapplied by virtue of paragraph (2), the prescribed date for the purposes of regulation 9(1) of the 2000 Regulations for the Part B installation or Part B mobile plant of which the unauthorised Part B process forms part shall be the relevant date for that installation or mobile plant.

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

21st February 2004

Whitty
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 2 of the Pollution Prevention and Control Act 1999 (c. 24). They amend certain transitional provisions in Part 2 of Schedule 3 to the Pollution Prevention and Control (England and Wales) Regulations 2000 (S.I. 2000/1973) (the 2000 Regulations) to deal with cases where the deemed application procedure set out in paragraph 9(3) of that Schedule applies to unauthorised Part B processes, that is Part B processes which are carried out without an authorisation pursuant to section 6 of the Environmental Protection Act 1990 (1990 c. 43).

Regulation 3(1) provides that where on the date of coming into force of the Regulations a deemed application has not been determined by the regulator, it will be deemed to have been refused after the expiry of a period of one month from that date or such longer period as may be agreed between the operator and the regulator.

Regulation 3(2) provides that paragraph 9(3) of Part 2 of Schedule 3 to the 2000 Regulations (deemed application) shall not apply to any Part B installation or mobile plant where an unauthorised Part B process is carried out provided that the relevant date for that installation or mobile plant (specified in paragraph 10 of that Schedule) is a date after the coming into force of these Regulations and no authorised Part B process is being carried out at the same installation.

Regulation 3(3) provides that for a Part B installation or mobile plant to which regulation 3(2) applies, the prescribed date for the purposes of regulation 9(1) of the 2000 Regulations shall be the relevant date specified in paragraph 10 of Part 2 of Schedule 3 to the 2000 Regulations for that installation or mobile plant.

These Regulations extend to England and Wales.

A regulatory impact assessment has been prepared and copies can be obtained from AEQ Division, Department for Environment, Food and Rural Affairs, Zone 4/G9, Ashdown House, 123 Victoria Street, London SW1E 6DE.

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