

EXPLANATORY MEMORANDUM TO
THE PET CEMETERIES (ENGLAND AND WALES) REGULATIONS 2007

2007 No. 2596

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations amend the Pollution Prevention and Control (England and Wales) Regulations 2000 (2000 PPC Regulations) removing pet cemeteries receiving 10 tonnes or less of waste in any day or with a total capacity of 25,000 tonnes or less from the list of activities, installations and mobile plants to which the 2000 PPC Regulations apply. They make consequential amendments to the Landfill (England and Wales) Regulations 2002 (2002 Landfill Regulations) as well as the Waste Management Licensing Regulations 1994 (1994 WML Regulations).

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 These Regulations are made under Section 74(6) of the Environmental Protection Act (EPA) 1990 and Section 2 of the Pollution Prevention and Control Act (PPC) 1999.

4.2 The 2000 PPC Regulations implement the 1996 Directive (1996/61/EC) concerning integrated pollution prevention and control (“the IPPC Directive”) and maintain long-standing controls on industrial pollution. The IPPC Directive applies to landfills but not those receiving 10 tonnes per day or less, or with a total capacity of 25,000 tonnes or less.

4.3 The 2002 Landfill Regulations implement the Landfill Directive. The requirement for a permit was implemented through the 2000 PPC Regulations. This meant that all landfills require a permit under those Regulations.

4.4 The effect of this amendment is to remove from the scope of the 2000 PPC Regulations pet cemetery sites which are below the IPPC threshold. These will instead be regulated under the terms of a waste management licence under Part II of the EPA. It will still be necessary for these sites to comply with the requirements of the 2002 Landfill Regulations.

4.6 It is normal practice to make available to Parliament, alongside primary or secondary legislation giving effect to European directives, a

transposition note that sets out how the Government will transpose the main elements of those directives into UK law. However, in the present case a transposition note has not been made available. Given the limited scope of this amendment and the work involved, it seemed clearer to leave the explanation in the explanatory memorandum rather than providing a copy of the relevant transposition note.

4.7 Article 7 of the Landfill Directive requires all landfill sites to apply for a PPC permit and the requirement has been transposed under the PPC Regulations. Annex A is an existing transposition note that explains how the 2002 Landfill Regulations transpose the Landfill Directive obligations. These Regulations only change the domestic permit regime used to transpose the requirements of the Landfill Directive for pet cemetery operations.

4.8 These Regulations will mean that pet cemeteries receiving 10 tonnes of waste or less in any day or with a total capacity of 25,000 tonnes or less will require a waste management licence under Part II of the EPA instead of a permit under the 2000 PPC Regulations. However, it will still be necessary for the waste management licence to comply with the requirements of the 2002 Landfill Regulations. The Environment Agency will continue to be the regulator and will achieve compliance with the Landfill Directive requirements through a licence modification process.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales.

6. European Convention on Human Rights

6.1 This instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Dead pets are waste within the meaning of the Waste Framework Directive. For many years, pet cemeteries have been regulated under WML legislation. There are currently 25 pet cemetery licence holders in England and Wales. The Environment Agency is the regulator for pet cemeteries.

7.2 Pet cemeteries are defined as landfills within the meaning of the Landfill Directive i.e. a waste disposal site for the deposit of waste onto or into land. Landfill sites are in the process of changing from being regulated under the WML regime to the PPC system.

7.3 The operators of pet cemeteries have raised concerns that the direct costs of applying for a PPC permit, and the financial outlay associated with providing the necessary risk assessments and other information in support of the application, mean that continued operation of business is no longer viable.

7.4 The Environment Agency has stated it is not feasible to further reduce its regulatory approach or costs within the extant PPC permitting requirements. The Environment Agency has a duty under the PPC regime to recover its regulatory costs. The fees and charges are already reduced for pet cemetery activities that meet low environmental impact criteria and further lowering of charges is not a realistic option for these operations.

7.5 Defra has been working with the Environment Agency to investigate the scope for taking an alternative approach to the future regulation of pet cemeteries. A number of alternative regulatory approaches have been identified. The preferred approach is to continue regulating pet cemeteries under the existing WML regime. The advantage of this is that there will be no increase in regulatory or administrative burden for pet cemetery operators. This option represents a proportionate modern regulatory approach.

7.6 Both Defra and the Environment Agency see no further environmental benefit and do not consider it to be in the public interest to bring pet cemeteries into the PPC regime. It is recognised that pet cemeteries are unique and bear little resemblance to “traditional” landfill sites in terms of environmental impact, scale or operation or indeed the maintenance of locality for the purposes of visiting and remembrance. For many pet cemetery sites, the number of deceased pets buried amounts to less than 1 tonne per year compared to other landfill sites that commonly accept over 250,000 tonnes of waste each year.

7.7 There is legal basis to exclude pet cemeteries from PPC requirements. The IPPC Directive does not apply to landfills receiving 10 tonnes per day or less, or with a total capacity of 25,000 tonnes or less. Industry confirmed at a stakeholder meeting on 7 September 2006 that each of the 25 licensed pet cemetery sites receive less than 10 tonnes per day. Furthermore, the WML regime has a proven record in successfully controlling the environmental impact of these sites.

7.8 There is a need to make a change to legislation to specifically exclude pet cemeteries from the PPC regime, rather than exclude all landfills accepting 10 tonnes per day or less, or with a total capacity of 25,000 tonnes or less. Pet cemetery operations will continue to be subject to the 2002 Landfill Regulations, which implement the Landfill Directive. The Environment Agency will achieve compliance with these requirements through a licence modification process.

8. Impact

8.1 A Regulatory Impact Assessment for this instrument is attached at Annex B to this memorandum.

9. Contact

John Galvin at Defra Tel: 020 7238 4349 or e-mail john.galvin@defra.gsi.gov.uk can answer any queries regarding the Regulations.

TRANSPPOSITION OF COUNCIL DIRECTIVE 1999/31/EC ON THE LANDFILL OF WASTE

THE LANDFILL (ENGLAND AND WALES) REGULATIONS 2002

Introduction

The EC Landfill Directive was adopted on 16 July 1999.

This note sets out how the main requirements of the Directive have been transposed in the Landfill (England and Wales) Regulations.

Article 5 of the Directive also requires a national strategy to reduce the amount of biodegradable waste going to landfill. The strategy should include measures which will reduce the amount of biodegradable municipal waste going to landfill to 75% of 1995 totals by 2010, 50% of 1995 totals by 2013 and 35% of 1995 totals by 2020 (taking into account the derogation contained in Article 5(2) for Member States which landfilled more than 80% of their municipal waste in 1995). These targets are a key driver behind the targets in the Waste Strategy for increased recycling and recovery of waste to divert waste from landfill. The Government has also proposed a system of tradable landfill permits for local authorities to ensure that the Directive's targets are met. This will require primary legislation which the Government will introduce as soon as parliamentary time permits. The targets are **not**, therefore, the subject of these regulations or this transposition note.

Implementing Legislation

The Landfill Directive is being transposed in England and Wales by regulations made under section 2 of the Pollution Prevention and Control Act 1999.

Main Elements of the Directive

The Landfill Directive:

- Requires the classification of all landfill sites into three categories
- Bans certain waste streams from landfill
- Requires the pre-treatment of waste going to landfill
- Requires landfill sites only to take waste which meets the waste acceptance criteria
- Requires certain information to be included in applications for a permit to operate a landfill site
- Requires the competent authority not to issue a permit for landfill site unless the site complies with the requirements of the Directive and sets out minimum requirements for the content of a permit of a landfill site
- Requires measures to be taken to ensure that all costs involved in setting up, operation and after-care of the site are covered by the gate price

- Sets out procedures for the acceptance of waste at landfill sites
- Sets out monitoring and control procedures
- Sets out closure and after-care procedures

These requirements and details of how they have been transposed are discussed in more detail in the table below.

Article	Objectives	Implementation	Responsibility
1	<p>Overall objective</p> <p>This sets out the aim of the directive and explains how it relates to general requirements of the Directive 1996/61/EC on Integrated Pollution Prevention And Control (“the IPPC directive”).</p>	<p>Larger landfills were covered by the IPPC directive which was implemented by the Pollution Prevention and Control Regulations 2000 (“the PPC Regulations”). The Landfill Directive (“the Directive”) contains specific requirements and applies to all landfills. The Regulations provide for all landfill sites to be permitted under the PPC Regulations in line with the requirements of the Directive.</p>	<p>It is the responsibility of the Environment Agency to administer the regime.</p>
2	<p>Definitions</p>	<p>Regulation 2 transposes the Directive’s definitions with the exception of the Directive definition of ‘waste’.</p> <p>The Regulations use the UK definition of ‘controlled waste’ in Section 75(4) of the Environmental Protection Act 1990 which at present differs from the Directive definition of waste (which also includes Agricultural and Non-mineral Mining Waste). However, the definition of controlled waste is due to be amended by separate regulations to bring it into line with the Directive definition of waste.</p>	<p>Secretary of State – through new regulations</p>
3	<p>Scope</p>	<p>Regulations 3 and 4 define the scope of these Regulations including those cases where the Regulations do not apply.</p>	<p>The Environment Agency</p>

		Regulation 4 does not include an exclusion for mineral and quarry waste (as provided for in Article 3(3) of the Directive) as the Government view is that national provisions mean that this is already excluded from the scope of the Directive.	
4	<p>Classes of Landfill</p> <p>Landfills to be classified in one of the following classes:</p> <ul style="list-style-type: none"> • Landfill for hazardous waste • Landfill for non-hazardous waste • Landfill for inert waste <p>The classification determines the types of waste that a site can take and the engineering requirements that the site must meet.</p>	Regulation 7 requires the Environment Agency to classify all new sites when they issue the permit for the site.	The Environment Agency
5	<p>Waste and treatment not acceptable at landfills</p> <p>Bans the following wastes from landfill:</p> <ul style="list-style-type: none"> • Liquid waste • Waste which in the conditions of landfill is explosive, corrosive, oxidising, flammable or highly flammable 	Regulation 8 requires the Environment Agency to include appropriate conditions in the landfill permit to ensure compliance with bans which are set out in regulation 9.	The Environment Agency

	<ul style="list-style-type: none"> • Hospital and other clinical wastes which arise from medical or veterinary establishments and which are infectious • Chemical substances arising from research and development or teaching activities, such as laboratory residues, which are not identified or are new, and whose effects on man or the environment are not known • Whole used tyres from 16 July 2003 • Shredded used tyres from 16 July 2006 • Any waste that does not meet the waste acceptance criteria for the class of site 		
6 and Annex II	<p>Waste to be accepted in the different classes of landfill</p> <p>All waste going to landfill must be pre-treated unless it is inert waste for which treatment is not technically feasible or other waste where treatment would not contribute to the aims of the Directive by reducing the quantity of the waste or the risk to human health or the environment</p> <p>Only waste that fulfils the waste acceptance criteria for each of the three different classes of landfill can be deposited at that class of landfill, e.g. only waste that fulfils the criteria for a hazardous waste landfill can go to a</p>	<p>Regulation 8 requires the Environment Agency to include conditions in the landfill permit to ensure compliance by the operator with the requirement that all waste deposited must have been pre-treated and must fulfil the relevant waste acceptance criteria.</p> <p>The waste acceptance criteria for each class of site are still under negotiation in Brussels but in the absence of agreed European-wide criteria Annex II of the Directive requires national criteria to be put in place in the interim. Regulation 10 and Schedule 1 of the Regulations contain national waste acceptance criteria based on the proposals still under negotiation in Europe and the definitions of inert, non-hazardous and hazardous waste contained in the Directive.</p>	The Environment Agency

	hazardous waste landfill and so on.		
7	<p>Application for a permit</p> <p>Requires certain information to be included in applications for landfill permits.</p>	<p>Much of this information is already transposed as part of an application for a permit for a landfill site under the PPC Regulations. However, there are a number of items not presently required. Therefore, the Regulations amend the PPC Regulations 2000 to make provision for a PPC application for a landfill site to be accompanied by the following additional information:</p> <ul style="list-style-type: none"> • Description of the types and total quantity of waste to be deposited • The proposed capacity of the site • A description of the site, including its hydrogeological and geological characteristics • The proposed operation, monitoring and control plan • The proposed plan for closure and after-care • The provision of final security 	The Environment Agency
8	<p>Conditions of the permit</p> <p>The competent authority not to issue a permit unless it is satisfied that:</p> <p>1. All the requirements of the Directive are complied with</p>	<p>1. The Regulations amend the PPC Regulations to require the Agency to either grant the permit subject to conditions required by these Regulations or reject the application.</p> <p>2-4 Similar requirements were imposed in the PPC Regulations as part of the “fit and proper</p>	The Environment Agency

	<ol style="list-style-type: none"> 2. Management will be in the hands of a technically competent person and that professional and technical development and training will be provided for staff 3. The landfill will be operated in such a manner that the necessary measures are taken to prevent accidents 4. Adequate provision, by way of financial security, is made prior to the commencement of disposal operations to ensure that the obligations (including after-care provisions) arising under the Directive are discharged 5. The landfill project is in line with the relevant waste management plans required by the Waste Framework Directive 	<p>person test". The Regulations make amendments to the PPC Regulations to require financial security to be made before disposal commences and that training and development is provided to staff.</p> <p>5 This requirement has already been transposed in the PPC Regulations 2000 through the duty placed on the Environment Agency not to issue a permit to any waste management activity unless it has already obtained planning permission.</p>	
9 and Annex 1	<p>Content of the permit</p> <p>Minimum requirements for the content of any permit issued for a landfill site:</p> <ul style="list-style-type: none"> • The class of landfill • The list of types and total quantity of waste to be deposited • Requirements for landfill preparation, operations and monitoring and control procedures and provisional requirements 	<p>Regulation 8 requires the Environment Agency to include conditions covering all these requirements in a permit for a landfill site.</p> <p>Regulation 5 requires planning authorities to only issue planning permission if the requirements of the Directive in relation to the location of landfills set out in Schedule 2 are taken into consideration.</p>	<p>The Environment Agency and planning authorities.</p>

	<p>for closure and after-care</p> <ul style="list-style-type: none"> The obligation on the operator to report at least annually to the competent authority on the type and quantity of waste deposited and the results of the monitoring programme. 		
10	<p>Cost of the landfill of waste</p> <p>Member States to take measures to ensure that all costs involved in setting up, operation and after-care of the site are covered by the gate price.</p>	Regulation 11 places a duty on the operator to ensure that the charges it makes cover all the above costs.	The Environment Agency
11 and Annex II	<p>Waste acceptance procedures</p> <p>Operators to demonstrate, before or at the time of delivery, by appropriate documentation that waste can be accepted at that site in line with the waste acceptance criteria and conditions set in the permit. Reception procedures to be followed by operators.</p>	<p>Regulation 8 requires the Environment Agency to include appropriate conditions in the permit to ensure compliance with the waste acceptance procedures including the reception procedures the operator must follow before accepting waste for disposal.</p> <p>The amendment to the duty of care regime to require waste transfer notes to be referenced in line with the European Waste Catalogue will be commenced separately on 31 August 2002 to coincide with amendments to the Special Waste Regulations that will apply the same requirements to special waste transfers.</p>	The Environment Agency
12 and	Control and monitoring in the operational	Regulation 8 requires the Environment Agency to	The

Annex III	<p>phase</p> <p>The operator of a landfill site to undertake a control and monitoring programme during the site's operational phase and sets out minimum requirements for such a programme. The operator to report the results of the programme to the competent authority.</p>	<p>include appropriate conditions in the permit to ensure compliance with the Directive's monitoring requirements as set out in Regulations 14 and Schedule 3.</p>	<p>Environment Agency</p>
13	<p>Closure and after-care procedures</p> <p>The competent authority to have the final say in determining when a site is closed (when it ceases to accept waste for disposal). The operator to remain responsible for the maintenance, monitoring and after-care of the site in the after-care phase for as long as the competent authority requires, taking into account the time during which a closed landfill site could present a risk to the environment.</p>	<p>Regulation 8 requires the Agency to include appropriate conditions to ensure the closure requirements set out in Regulation 15 are met.</p>	<p>The Environment Agency</p>
14	<p>Existing Landfill Sites</p> <p>Allows a transitional period for existing landfill sites to meet the requirements of the Directive. All operators of existing sites are required to submit a site conditioning plan by</p>	<p>Schedule 4 requires operators to prepare a conditioning plan containing details of corrective measures needed to meet the requirements of the Directive as transposed in the Regulations and submit it to the Environment Agency by 16 July 2002. The Regulations place a duty on the</p>	<p>The Environment Agency</p>

	<p>July 2002 setting out how their sites will meet the requirements of the Directive. Competent Authorities are then required to determine whether, on the basis of the information provided, to either close the site if it cannot meet the Directive's requirements or authorise the necessary work and lay down a timetable for completion of the work by July 2009 at the latest.</p> <p>Imposes a tighter timetable on existing Hazardous Waste sites to come up to the requirements of the Directive. They must be classified and stop taking the banned wastes (see above) and introduce the waste acceptance criteria and procedures in July 2002 and only accept pre-treated waste by July 2004. Co-disposal of non-hazardous and hazardous waste at hazardous waste sites must also cease by July 2004.</p>	<p>Agency to close any site where the operator fails to supply a site conditioning plan or any site which the Agency considers cannot meet the Directive's requirements as transposed in the Regulations. The Regulations also place a duty on the Agency to bring existing sites into line with the requirements of the directive as soon as possible and no later than 31st March 2007 by issuing new permits or varying existing ones. Conditions included in the permit will set out the improvement works that an operator must carry out to comply with the Directive's requirements as transposed in the Regulations.</p> <p>The Regulations also place a duty on the Environment Agency to classify all hazardous waste sites by 16 July 2002 and requires operators of sites so classified not to take any of the banned wastes and comply with waste acceptance criteria and procedures after that date and not co-dispose of non-hazardous waste at the site beyond 16 July 2004. It is an offence for an operator to contravene these requirements. Only sites which are classified as hazardous may accept hazardous waste.</p> <p>The Regulations provide the flexibility for the Environment Agency to apply single dates for the requirement in Article 6 that waste be pre-treated and the Article 5 ban on non-hazardous liquids to</p>	
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		come into effect at existing landfill sites. The Government will provide guidance to the Agency on the dates for these requirements to come into effect.	
18	Transposition Member states are required to comply with the directive by 16 July 2001.	The Regulations will come into force on 16th June 2002.	

Final Regulatory Impact Assessment

1. Title of proposed measure

The future regulation of pet cemeteries.

2. Purpose and intended effect

(i) Objectives

2.1 The objective is to allow the Environment Agency to continue to regulate pet cemeteries under the existing Waste Management Licensing Regulations 1994 (WML Regulations). The requirements of the Landfill (England and Wales) Regulations 2002 (Landfill Regulations) will continue to apply.

(ii) Background

2.2 Dead pets are waste within the meaning of the Waste Framework Directive. For many years, pet cemeteries have been regulated under WML legislation. There are currently 25 pet cemetery licence holders in England (23) and Wales (2). The Environment Agency is the regulator for pet cemeteries.

2.3 The operators of pet cemeteries have raised concerns that the direct costs of applying for a Pollution Prevention and Control (PPC) permit and the financial outlay associated with providing the necessary risk assessments and other information in support of the application mean that continued operation of business is no longer viable.

2.4 The Environment Agency has stated it is not feasible to further reduce its regulatory approach or costs within the extant PPC permitting requirements. The fees and charges are already reduced for pet cemetery activities that meet low environmental impact criteria and further lowering of charges is not a realistic option for these operations.

2.5 Defra has been working with the Environment Agency to investigate the scope for taking an alternative approach to the future regulation of pet cemeteries. A number of alternative regulatory approaches were identified.

2.6 There is legal basis to exclude pet cemeteries from PPC requirements. The Integrated Pollution Prevention and Control (IPPC) Directive does not apply to landfills receiving 10 tonnes per day or less, or with a total capacity of 25,000 tonnes or less. Industry confirmed at a stakeholder meeting on 7 September 2006 that each of the 25 licensed pet cemetery sites receive less than 10 tonnes per day. Government considers the WML regime to be appropriate for controlling the environmental impact of these sites, provided

the necessary modifications are made, to ensure existing WMLs require compliance with the Landfill Directive.

2.7 Government will make a change to legislation to specifically exclude pet cemeteries from the PPC regime, rather than exclude all landfills accepting 10 tonnes per day or less, or with a total capacity of 25,000 tonnes or less.

(iii) Rationale for Intervention by Defra and the Welsh Assembly Government

2.8 It is recognised that pet cemeteries are unique and bear little resemblance to “traditional” landfill sites in terms of environmental impact, scale or operation or indeed the maintenance for the purposes of visiting and remembrance. For many pet cemetery sites, the number of deceased pets buried amounts to less than 10 tonnes per year compared to other landfill sites that commonly accept over 250,000 tonnes of waste each year.

2.9 There is legal basis to exclude pet cemeteries from PPC requirements. The IPPC Directive does not apply to landfills receiving 10 tonnes per day or less, or with a total capacity of 25,000 tonnes or less.

2.10 The scale and nature of pet cemetery operations pose a low environmental risk and the Environment Agency has stated that the current WML system will deliver an appropriate level of environmental protection, provided the necessary modifications are made to ensure existing WMLs comply with the Landfill Directive. Defra and the Welsh Assembly Government wish to apply legislation appropriately and proportionately in accordance with the principles of Better Regulation.

(iv) Consultation

2.11 Defra and the Welsh Assembly Government have worked with the Environment Agency. Defra met with pet cemetery trade associations in September 2006. The meeting included representatives from the Association of Private Pet Cemeteries and Crematoria, National Federation of Private Pet Crematoria and British Small Veterinary Association. Industry has welcomed the proposals for alternative regulation that will eliminate fees for application under PPC and reduce other fees and charges.

2.12 The Scottish Executive, Northern Ireland Department and Scottish Environment Protection Agency have been kept informed throughout the development of the proposals.

3. Options

The proposed options were:

3.1 Option 1: Do nothing.

3.2 Option 2: Continue with the requirement to apply for a PPC permit and seek to reduce the application requirements and costs.

3.3 Option 3: Continue with the requirement to apply under the PPC regime and apply general binding rules to their operation.

3.4 Option 4: Allow pet cemetery operations under WML and disapply the requirement to apply under the PPC regime.

3.5 Option 5: Regulate pet cemeteries under Animal By-Products Regulation (ABPR).

4. Sectors and groups affected

4.1 All 25 currently licensed pet cemetery operations plus any potential new applications to operate such activities will be directly affected. There are some residual issues on how to deal with one site that already hold a PPC permit.

5. Costs and Benefits

(i) Economic

5.1 Option 1 is no change. It means that application required for a PPC permit and that pet cemetery operators will have to bear the costs. The Environment Agency's Charging Scheme for 2006/07 for PPC permits for pet cemeteries is set out as follows:

PPC, low impact installation
Application £2,765
Annual Subsistence £429
Standard Variation £339
Substantial Variation £339
Part or Full Transfer £339
Part or Full Surrender £339

WML Scheme
Application £334
Subsistence £131
Modification £126
Transfer £317
Surrender £375

5.2 The application savings alone for a new facility under PPC would be £2431. For an existing facility with a WML an operator would save the fees of applying for a PPC permit and the costs associated with making that application, such as using consultancy to produce the application documents.

5.3 Option 2 is to continue with the requirement to apply for a PPC permit and seek to reduce the application requirements and costs. Application

costs can only be reduced through amendment to the Environment Agency's Charging Scheme. The Environment Agency has already reduced charges for pet cemetery activities that meet low environmental impact criteria. The low impact charge reflects the Environment Agency's minimum cost to produce and issue a PPC permit that meets the statutory requirements. It is not possible to lower the charges because the Secretary of State for Environment, Food and Rural Affairs and the Welsh Assembly Government require the Environment Agency to secure sufficient funding to deliver its obligations for pollution prevention control, and to comply with its duty to recover relevant costs from the applicant for and holders of environmental licences.

5.4 Cost savings in Option 3 would be minimal and about the same as a low impact installation.

5.5 Option 4 is to allow pet cemetery operations to remain under WML and disapply the requirement to apply for a PPC permit. For an existing waste management licensed pet cemetery facility, an operator would save the £2341 for not having to apply for a PPC permit. Subsistence charges for a waste management licence are nearly £300 less than those under PPC. See paragraph 5.1 for further details.

5.6 Option 5 is to regulate pet cemeteries under Animal By Products Regulation (ABPR). This option is likely to result in significant reduction in costs to the operator if not subject to comparable permitting and inspection. This would also mean that the regulation of these pet cemeteries falls on Animal Health rather than the Environment Agency. This option may entail significant economical, logistical and enforcement considerations.

(ii) Environmental

5.7 There is no environmental benefit to be gained in Options 1, 2 and 3. Option 5 would remove direct regulation by the Environment Agency with possible environmental impact and consequences.

5.8 The preferred approach is Option 4. This proposal is to allow pet cemetery operations to remain under WML legislation and to exclude them from the PPC regime. However, these activities will continue to be subject to the Landfill Regulations, which implement the Landfill Directive. The Environment Agency will achieve compliance with these requirements through modification of the existing licence conditions.

5.9 In view of the low environmental risk, and the scale and nature of pet cemeteries, Defra, the Welsh Assembly Government and the Environment Agency see no worthwhile environmental benefit in bringing pet cemetery operations under the PPC regime.

5.10 Separately, proposals to create a streamlined environmental permitting and compliance system, known as Environmental Permitting Programme

(EPP), will clarify that the IPPC Directive requirements do not apply to operators of pet cemeteries and certain types of small landfill operations.

6. Small Firms Impact Assessment

6.1 Pet cemetery activities will continue to be subject to the Landfill Regulations, which implement the Landfill Directive. The Environment Agency will achieve compliance with these requirements through a licence modification process. Existing waste management licence holders will be required to apply for the modification and pay an application fee of circa £126.

7. Competition Assessment

7.1 There are no competition elements to consider in any of the proposed options.

8. Enforcement, Sanctions and Monitoring

8.1 The Environment Agency will continue enforcement, sanctions and monitoring.

9. Implementation

9.1 In order to remove pet cemeteries from the list of activities, installations and mobile plant to which the PPC Regulations apply, Government will introduce amending legislation.

10. Monitoring and Review

10.1 The effect of the Environmental Permitting (EP) Regulations will be to remove all non IPPC landfills, including pet cemeteries, from IPPC controls from April 2008. Government is introducing amending legislation now because there is still the requirement to ensure that existing pet cemeteries comply with the Landfill Directive. There is no provision for introducing this requirement in the EP Regulations.

11. Consultation

11.1 On 29 March 2007, Defra and the Welsh Assembly Government published a 12-week consultation on the future regulation of pet cemeteries in England and Wales. This was a small-scale consultation affecting a very specific industry sector. The consultation package lists those organisations to whom the document has been sent. In addition, all 25 existing pet cemetery licence holders in England and Wales were sent a copy of the consultation document. A summary of responses will be published on the Defra and Welsh Assembly Government websites: at www.defra.gov.uk and www.Wales.Gov.UK.

12. Summary and Recommendation

12.1 The objective of the consultation was to negate the need for pet cemetery operators to apply for a PPC permit so that operators would avoid the financial outlay associated with providing the necessary risk assessment and other information in support of the PPC application.

12.2 It is considered that the WML regime would be more appropriate for controlling the environmental impact of pet cemetery sites, provided the necessary modifications are made to licences to ensure existing WMLs comply with the Landfill Directive. The Environment Agency will facilitate this process.

12.3 It is noted that the effect of the EP Regulations will mean that the IPPC requirements will no longer apply to certain small landfills, including pet cemetery operations, from April 2008. It is necessary for Defra and the Welsh Assembly Government to introduce legislative amendment now to ensure that existing pet cemeteries comply with the Landfill Directive because there is no provision for introducing this requirement in the EP Regulations.

12.4 Defra, the Welsh Assembly Government with full support of the Environment Agency propose to allow pet cemetery operations under WML and disapply the requirement to apply under the PPC regime.

12.5 Government has discussed and agreed with the Environment Agency about producing appropriate guidance on practical implementation issues.

12.6 Government will remove pet cemeteries from the list of activities, installations and mobile plants to which the PPC Regulations apply. Government will introduce amending legislation on 1 October 2007.

13. Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed: Joan Ruddock

Date: 5th September 2007

Minister's name: Joan Ruddock

Title: Parliamentary Under-Secretary of State

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