STATUTORY INSTRUMENTS

2018 No. 428

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018

Made - - - -	*21st March 2018*
Laid before Parliament	*28th March 2018*
Laid before the National Assembly for Wales - -	*28th March 2018*
Coming into force - -	*2nd May 2018*

The Secretary of State and the Welsh Ministers make these Regulations in exercise of the powers conferred by sections 2 and 7(9) of and Schedule 1 to the Pollution Prevention and Control Act 1999(**1**) ("the 1999 Act").

In accordance with section 2(4) of the 1999 Act, the Secretary of State and the Welsh Ministers have consulted—

(a) the Environment Agency;

(b) the Natural Resources Body for Wales;

(c) such bodies and persons as appear to them to be representative of the interests of local government, industry, agriculture and small business as they considered appropriate; and

(d) such other bodies or persons as they considered appropriate.

Citation and commencement

1. These Regulations may be cited as the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018 and come into force on 2nd May 2018.

(**1**) 1999 c. 24. Amendments to section 2 were made by S.I. 2013/755. The functions of the Secretary of State under or in relation to section 2, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales (except in relation to offshore oil and gas exploration and exploitation) by article 3 of the National Assembly for Wales (Transfer of Functions) Order 2005 (S.I. 2005/1958). A further amendment was made to section 2 which is not relevant to this instrument. Schedule 1 was amended by S.I. 2011/1043. See also S.I. 2017/1248 designating Council Directive 2013/59/Euratom for the purposes of paragraph 20(1)(b) of Schedule 1. Further amendments to Schedule 1 were made which are not relevant to this instrument.

Amendment of the Environmental Permitting (England and Wales) Regulations 2016

2. The Environmental Permitting (England and Wales) Regulations 2016(**2**) are amended as set out in regulations 3 to 7.

Amendment of regulation 3 (interpretation: Directives)

3. In regulation 3—

(a) for the definition of the Basic Safety Standards Directive substitute—

> ""the Basic Safety Standards Directive" means Council Directive 2013/59/Euratom laying down basic safety standards for the protection against the dangers arising from exposure to ionising radiation(**3**)

(b) omit the definition of the HASS Directive.

Amendment of regulation 14 (content and form of an environmental permit)

4. In regulation 14(6), after sub-paragraph (a), insert—

"(aa) the keeping of radioactive material or the accumulation or removal of radioactive waste under paragraph 11(2) of Part 2 of Schedule 23, where—

(i) the activity is described in standard rules published under regulation 26(5); and

(ii) the permit authorises the carrying on of that activity at more than one site; or".

Amendment of regulation 80 (review: England)

5. In regulation 80(2), omit sub-paragraph (g).

Amendment of Schedule 8 (Part B mobile installations and Part B mobile plant etc.)

6. In Schedule 8, in paragraph 5(3)(a), for "Article 1" substitute "Article 4".

Amendment of Schedule 23 (radioactive substances activities)

7. Schedule 23 is amended as set out in the Schedule to these Regulations.

Richard Harrington
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy
21st March 2018

Lesley Griffiths
Cabinet Secretary for Energy, Planning and Rural Affairs,
one of the Welsh Ministers
21st March 2018

(**2**) S.I. 2016/1154. Amendments have been made to these Regulations which are not relevant to this instrument.
(**3**) OJ No L 13, 17.01.2014, p. 1.

SCHEDULE Regulation 7

Amendment of Schedule 23

Amendment of Part 2 (interpretation)

1. Part 2 is amended as follows.

2. In paragraph 1(2), for "or either of Tables 5 and 7" substitute "or any of Tables 4A, 5 or 7".

3. In paragraph 2(1), in the definition of "type 2 NORM industrial activity", after paragraph (k) omit "or" and insert—

"(ka) geothermal energy production, or".

4. In paragraph 3(1), after "9" insert ", 9A".

5. After paragraph 6 insert—

"**Dilution to reduce concentration of radioactivity**

6A. For the purposes of paragraphs 4, 5 and 6, a substance or article is to be treated as having a concentration of radioactivity which exceeds the value referred to in paragraph 4(2), 5(c)(i) or 6(a), if a person has diluted the substance or article with the intention of ensuring that its concentration of radioactivity does not exceed that value.".

6. After paragraph 9 insert—

"**Historic radium contamination**

9A. A substance or article is not radioactive material or radioactive waste where the substance or article arises from the remediation of land contaminated by radium and—

(a) the substance or article contains Ra-226 or its progeny;

(b) in the absence of Ra-226 or its progeny, the substance or article would not otherwise be radioactive material or radioactive waste under this Schedule;

(c) the contamination occurred prior to 13th May 2000; and

(d) the concentration of Ra-226 or any of its progeny does not exceed the following values—

(i) for a substance or article which is a solid or a substance which is a relevant liquid, 1 Bq/g;

(ii) for a substance which is any other liquid, 1 Bq/1; or

(iii) for a substance which is a gas, 0.01 Bq/m^3.".

Amendment of Part 3 (tables of radionuclides and summation rules)

7. Part 3 is amended as follows.

8. In paragraph 1(1), in Table 1, in the entries for U-238sec, Ra-226+, Th-232sec and Th-228+, in the second column of each entry for "0.5" substitute "1".

9. In paragraph 2(1), for Table 2 substitute—

"Radionuclide	*Concentration in becquerels per gram (Bq/g)*
H-3	10^2

"Radionuclide	*Concentration in becquerels per gram (Bq/g)*
Be-7	10
C-14	10
F-18	10
Na-22	0.1
Na-24	1
Si-31	10^3
P-32	10^3
P-33	10^3
S-35	10^2
Cl-36	1
Cl-38	10
K-42	10^2
K-43	10
Ca-45	10^2
Ca-47	10
Sc-46	0.1
Sc-47	10^2
Sc-48	1
V-48	1
Cr-51	10^2
Mn-51	10
Mn-52	1
Mn-52m	10
Mn-53	10^2
Mn-54	0.1
Mn-56	10
Fe-52+	10
Fe-55	10^3
Fe-59	1
Co-55	10
Co-56	0.1
Co-57	1

"Radionuclide	*Concentration in becquerels per gram (Bq/g)*
Co-58	1
Co-58m	10^4
Co-60	0.1
Co-60m	10^3
Co-61	10^2
Co-62m	10
Ni-59	10^2
Ni-63	10^2
Ni-65	10
Cu-64	10^2
Zn-65	0.1
Zn-69	10^3
Zn-69m+	10
Ga-72	10
Ge-71	10^4
As-73	10^3
As-74	10
As-76	10
As-77	10^3
Se-75	1
Br-82	1
Rb-86	10^2
Sr-85	1
Sr-85m	10^2
Sr-87m	10^2
Sr-89	10^3
Sr-90+	1
Sr-91+	10
Sr-92	10
Y-90	10^3
Y-91	10^2