
STATUTORY INSTRUMENTS

1993 No. 2405

ENVIRONMENTAL PROTECTION

The Environmental Protection (Prescribed Processes and Substances) (Amendment) (No. 2) Regulations 1993

<i>Made</i>	- - - -	<i>4th October 1993</i>
<i>Laid before Parliament</i>		<i>5th October 1993</i>
<i>Coming into force</i>	- -	<i>26th October 1993</i>

The Secretary of State, in exercise of the powers conferred on him by section 2 of the Environmental Protection Act 1990(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Environmental Protection (Prescribed Processes and Substances) (Amendment) (No.2) Regulations 1993 and shall come into force on 26th October 1993.

(2) In these Regulations—

“the Act” means the Environmental Protection Act 1990;

“the 1991 Regulations” means the Environmental Protection (Prescribed Processes and Substances) Regulations 1991(2), and references to a Section are references to a Section in Schedule 1 to those Regulations.

Amendment of Schedule 1 to the 1991 Regulations

2.—(1) Part A of Section 2.2 (non-ferrous metals) shall be amended as follows:

(a) after paragraph (e) there shall be inserted the following paragraph:

“(ee) Any process for producing or recovering any of the elements listed below if the process may result in the release into the air of particulate matter or smoke which contains any of those elements—

gallium

indium

(1) 1990 c. 43.

(2) S.I.1991/472, amended by S.I. 1991/836, 1992/614, 1993/1749.

palladium

tellurium

thallium.”;

(b) in paragraph (f), for the words from the beginning to “heat)” there shall be substituted the words “Any process for melting (whether by chemical means or by electrolysis or by the use of heat), producing or recovering”.

(2) Part A of Section 4.5 (inorganic chemical processes) shall be amended as follows:

(a) in paragraph (d), for the words “any of the following or of any compound containing any of them” there shall be substituted the words “any compound containing any of the following”;

(b) in paragraph (e), the words “element or” shall be omitted;

(c) for paragraph (g) there shall be substituted the following paragraph:

“(g) The production or recovery of any compound of cadmium or mercury.”;

(d) in paragraph (i), the word “magnesium” shall be omitted;

(e) for paragraph (k) there shall be substituted the following paragraph:

“(k) Any process for the manufacture of a chemical involving the use of a metal carbonyl.”;

(f) at the end there shall be added the following paragraph:

“(p) The extraction of any magnesium compound from sea water.”.

Amendment of Schedule 2 to the 1991 Regulations

3. In Schedule 2 to the 1991 Regulations (rules for the interpretation of Schedule 1), for paragraphs 2 and 3 there shall be substituted the following paragraphs:

“**2.**—(1) Any description of a process includes any other process carried on at the same location by the same person as part of that process; but this rule does not apply in relation to any two or more processes described in different Sections of Schedule 1 which, accordingly, require distinct authorisation.

(2) For the purposes of this paragraph, two or more processes which are described in Part A of different Sections of Chapter 4 of Schedule 1 shall be treated as if they were described in the same Section.

2A. Notwithstanding the rule set out in paragraph 2, where a combustion process described in Part A of Section 1.3 of Schedule 1(a) is operated, or where one or more boilers, furnaces or other combustion appliances which are operated as part of a process so described are operated, as an inherent part of and primarily for the purpose of a process described in Part A of Section 1.1, Part A of Section 1.4 or Part A of any Section of Chapter 4 of that Schedule (“the other process”), that combustion process or, as the case may be, the operation of those boilers, furnaces or appliances shall be treated as part of the other process and not as, or as part of, a separate combustion process.

3. Where a person carries on a process which includes two or more processes described in the same Section of Schedule 1 those processes shall be treated as requiring authorisation as a single process; and if the processes involved are described in both Part A and Part B of the same Section, they shall all be regarded as part of a Part A process and so subject to central control.

3A. Where a person carries on a process which includes two or more processes described in Part A of different Sections of Chapter 4 of Schedule 1, those processes shall be treated as a single process falling within a description determined in accordance with the rule set out in paragraph 4.

3B.—(1) Where paragraph 3A does not apply, but—

- (a) two or more processes falling within descriptions in Part A of any Sections of Chapter 4 of Schedule 1 are carried on at the same location by the same person; and
- (b) the carrying on of both or all of those processes at that location by that person is not likely to produce more than 250 tonnes of relevant products in any 12 month period,

those processes shall be treated as a single process falling within the description in whichever relevant Section is first mentioned in the sequence set out in paragraph 4.

(2) In sub-paragraph (1), “relevant products” means any products of the processes in question, other than—

- (a) solid, liquid or gaseous waste;
- (b) by-products, if the total value of all such by-products is insignificant in comparison to the total value of the output of the processes; or
- (c) any substance or material retained in or added to the final product formulation, not as an active ingredient, but as a diluent, stabiliser or preservative or for a similar purpose.”.

Amendment of Schedule 3 to the 1991 Regulations

4. In each of the Tables in paragraphs 4 and 18 of Schedule 3 to the 1991 Regulations (period within which an application for an authorisation under section 6 of the Act must be made for an existing process)—

- (a) for “Section 4.3, 4.4, 4.6 or 4.9” there shall be substituted “Section 4.3, 4.4 or paragraph (a) of Section 4.6”; and
- (b) for “Section 4.5” there shall be substituted “Section 4.5, paragraph (b) of Section 4.6, or Section 4.9”.

Signed by authority of the Secretary of State

4th October 1993

Tim Yeo
Minister of State,
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Environmental Protection (Prescribed Processes and Substances) Regulations 1991 (“the 1991 Regulations”).

Minor amendments are made to Part A of Sections 2.2 (non-ferrous metals) and 4.5 (inorganic chemical processes) of Schedule 1 to the 1991 Regulations. The effect of these is to transfer some processes from Section 4.5 to Section 2.2.

Schedule 2 to the 1991 Regulations is amended so that—

- where a person carries on a process which includes two or more chemical processes falling within Part A of different Sections of Chapter 4 of Schedule 1 (the chemical industry), those processes are to be treated as a single process;
- a combustion process, or a boiler, furnace or other combustion appliance which is part of a combustion process, which is operated as an inherent part of, and primarily for the purpose of, a gasification, petroleum or chemical process (falling within Part A of Section 1.1 or 1.4 or of Chapter 4 of Schedule 1) is to be treated as part of that process and not as a separate process;
- where a person carries on more than one process falling within Part A of any Sections of Chapter 4 of Schedule 1, those processes are to be treated as a single process if they are not likely to produce more than 250 tonnes of products in any 12 month period.

Schedule 3 to the 1991 Regulations is amended to postpone the period within which an application for an authorisation under section 6 of the Environmental Protection Act 1990 must be made in respect of an existing process falling within paragraph (b) of Section 4.6 or Section 4.9 of Schedule 1 to those Regulations (the conversion of chemical fertilisers into granules and the storage of chemicals in bulk). Applications in respect of such processes must be made not earlier than 1st May 1994 and not later than 31st July 1994.