EXPLANATORY MEMORANDUM TO

THE HAZARDOUS WASTE (ENGLAND AND WALES) (AMENDMENT) REGULATIONS 2016

2016 No. 336

1. Introduction

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

2. Purpose of the instrument

2.1 The instrument revokes Part 5 of the Hazardous Waste (England and Wales) Regulations 2005 (S.I. 2005/894) ("the 2005 Regulations") which requires the notification of premises at which hazardous waste is produced at, collected at or removed from. The instrument also makes consequential amendments arising from the revocation of Part 5, and corrects an error in regulation 49(4) of the 2005 Regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The 2005 Regulations transpose in relation to England the provisions of the Waste Framework Directive (2008/98/EC) relating to the control and management of hazardous waste (as defined by regulation 6 of the 2005 Regulations).

4.2 As part of these controls, Part 5 of the 2005 Regulations requires premises at which more than 500kg of hazardous waste is produced at, collected at or removed from annually to be notified to the Environment Agency by the producer of the waste. Upon notification the Environment Agency issues a premises code which is currently used as part of wider measures to track hazardous waste consignments.

4.3 Regulation 49 of the 2005 Regulations requires a producer, holder, dealer, broker or consignor of hazardous waste to keep a record of information relating to that hazardous waste. Regulation 49(4) requires that information to be recorded in a register.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is England only.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

7.1 A Zero Based Review, which took place in 2013, carried out a root and branch review of the environmental information that businesses are obliged to submit to public bodies, in order to ensure that only necessary information is required. Information obligations assessed included both one-off requirements (for example for permit applications) and ongoing requirements (such as monitoring data).

7.2 Following the Review, it was decided that there was no justification for the continued requirement for premises notification. By making small amendments to the format of quarterly returns received from consignees of hazardous waste, the Environment Agency will be able to continue to receive the data it requires as to the place of origin of hazardous waste consignments. This will ensure the continued traceability of hazardous waste as required by the Waste Framework Directive, but less burdensome way.

7.3 A commitment was therefore made by the Secretary of State in April 2014 to revoke premises notification requirements by 31 March 2016.

7.4 Additionally, a minor error made by the insertion of the word "chronologically" in the wrong place when regulation 49(4) of the 2005 Regulations was amended by paragraph 19(c)(ii) of Schedule 2 to the Waste (England and Wales) Regulations 2011 (S.I. 2011/988) is corrected.

Consolidation

7.5 There are no current plans for consolidation of the 2005 Regulations.

8. Consultation outcome

8.1 8.1 Following the 2013 Zero Based Review the Environment Agency engaged with customers and stakeholders to find the best way of implementing the recommendations.

9. Guidance

9.1 Gov.uk has placed a 'banner' on the relevant hazardous waste pages flagging the changes to premises registration from 1 April. The Environment Agency has contacted many trade bodies and is contacting all registered producers informing them of the forthcoming changes to the regulations in order that they may prepare. The Environment Agency is in the process of updating relevant guidance documents that will be available on Gov.UK in advance of 1 April 2016.

10. Impact

10.1 The impact on business, charities or voluntary bodies is expected to be positive, as there is a reduction on regulatory burden on producers of hazadous waste.

10.2 The impact on the public sector is expected to be neutral. The EA will be losing their £3m per annum fee income but this is balanced by the fact that they will no longer have the associated administrative and enforcement costs.

10.3 An Impact Assessment was produced and has been cleared by the Regulatory Policy Committee. It is submitted with this memorandum and is published alongside this Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 No mitigating action is proposed to minimise regulatory burden on small businesses.

11.3 The instrument removes regulatory burden from all businesses which would previously have been required to notify premises to the Environment Agency.

12. Monitoring & review

12.1 In accordance with the requirements of Part 2 of the Small Business, Enterprise and Employment Act 2015 (c.26), the instrument inserts a review provision (new regulation 79) into the 2005 Regulations. Regulation 79 requires the Secretary of State, in relation to England, to review from time to time the 2005 Regulations to ensure that they remain effective and to consider whether the same objectives could be achieved with a system involving less regulation. The Environment Agency is committed to continue to provide evidence and technical advice to Defra to support the hazardous waste regulatory regime.

12.2 Regulation 79 also requires the publication of a report setting out the conclusions of each review, and the first report must be published before 1st April 2021.

13. Contact

13.1 Paul Chapinal at the Department for Environment, Food and Rural Affairs (Telephone: 020 7238 4391 or 020 8026 3845) or email: paul.chapinal@defra.gsi.gov.uk) can answer any queries regarding the instrument.