EXPLANATORY MEMORANDUM

THE POLLUTION PREVENTION AND CONTROL (ENGLAND AND WALES) (AMENDMENT) REGULATIONS 2004

2004 NO. 3276

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 The Pollution Prevention and Control (England and Wales) (Amendment) Regulations 2004 (the "Amending Regulations") amend the Pollution Prevention and Control (England and Wales) Regulations 2000 (the "PPC Regulations"). These amendments are correctional or deregulatory in nature.

3. Matters of special interest

3.1 None.

4. Legislative background

4.1 The Pollution Prevention and Control (England and Wales) Regulations 2000 (the "PPC Regulations") implement the 1996 Directive[1] concerning integrated pollution prevention and control ("IPPC Directive") and maintain other long-standing domestic controls on industrial pollution. They are highly complex and it was perhaps inevitable that, as experience of their use built up, some need for minor amendments would become apparent.

The PPC Regulations have been substantially amended since they were made in 2000, mainly due to the transposition of certain pollution control Directives through the existing UK pollution prevention and control regime (e.g. Directive 1999/13/EC on solvents or Directive 2000/76/EC on the incineration of waste). Defra is currently considering proposals for the transposition of Article 4 of Directive 2003/35/EC on public participation (which amends the IPPC Directive) through the PPC Regulations. The deadline for implementation of the public participation Directive is 25 June 2005.

In order to avoid the PPC Regulations being amended immediately after consolidation, Defra has taken the view that consolidation should take place at the same time as the transposition of Article 4 of the public participation Directive through the PPC regime in the first half of 2005.

5. Extent

5.1 With the exception of regulation 3 these amending Regulations apply to England and Wales. Regulation 3 which amends the Waste Management Licensing Regulations 1994 applies to England only.

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[1] Council Directive 96/61/EC.

6. European Convention on Human Rights

6.1 No statement required (the Regulations are subject to the negative procedure and do not amend primary legislation)

7. Policy Background

7.1 The amendments are mainly correctional or deregulatory and were the subject of two consultations during 2004. The first concerned broad principles where amendments would be desirable, the second included draft Regulations. In general terms the responses were favourable although some also requested that clear guidance should be provided.

7.2 The Amending Regulations include one (regulation 2(5)) which will allow operators undertaking research, development and testing of new products and processes to be exempt from the PPC Regulations. This reflects a provision in the IPPC Directive which was not originally incorporated into the PPC Regulations but which has been shown by experience to be desirable.

7.3 These Amending Regulations include an amendment deriving from Directive 94/63/EC *'on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations'* which requires petrol stations to fit equipment that prevents petrol vapour escaping to the atmosphere during the storage of petrol at terminals and its distribution to service stations. The Directive was implemented by regulating service stations as Part B processes under the PPC Regulations. The Directive permits Member states to derogate small petrol stations from the requirements where they do not contribute significantly to health or environmental problems.

8. Impact

8.1 All the principal stakeholders were consulted on the draft amending regulations and proposals. The amendments are correctional or deregulatory in nature. Accordingly, a Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

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