

EXPLANATORY MEMORANDUM TO
THE ENVIRONMENTAL PERMITTING (ENGLAND AND WALES)
(AMENDMENT) REGULATIONS 2010

2010 No. 676

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. Purpose of the instrument

2.1 This instrument makes amendments to the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010 No. 675) (“the 2010 Regulations”) in order to correct an error relating to the storage limit for waste oils in paragraph S1 in Chapter 5 of Part 1 of Schedule 3 to those regulations.

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

3.1 None

4. Legislative Context

4.1 The instrument is made in exercise of the powers conferred by section 2 of, and Schedule 1 to, the Pollution Prevention and Control Act 1999.

4.3 Information in respect of the legislative background to the regulation of low risk waste recovery, disposal and storage activities in accordance with the Waste Framework Directive was set out in full in the Explanatory Memorandum which accompanied the Environmental Permitting (England and Wales) (Amendment)(No.2) Regulations 2009 (S.I. 2009 No.3381) (“the 2009 Regulations”) which was revoked and remade by the 2010 Regulations.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales. Separate systems cover waste management licensing and pollution prevention and control in Scotland and Northern Ireland.

6. European Convention on Human Rights

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

7. Policy background

7.1 This instrument corrects a minor error in the Environmental (England and Wales) Regulations 2010 and as such has no policy background beyond that for the

Environmental Permitting (England and Wales)(Amendment)(No.2) Regulations 2009 which amended Schedule 3 of the 2007 Regulations and which were subsequently revoked and remade under the 2010 Regulations.

7.2 The 2010 Regulations provided for appropriate exemptions from environmental permitting for waste oil storage operations (paragraph S1 in Chapter 5 of Part 1 of Schedule 3 to the 2010 Regulations).

7.3 The 2009 Regulations were subject to full public consultation from 31 July to 23 October 2008. Table 2 of Chapter 5 of the consultation document stated that the proposed new limit for the storage of waste in a secure container was “400 cubic metres at any one time for all [waste types] except oils (3 cubic metres).”

7.4 However, the 2009 Regulations, and subsequently the consolidating 2010 Regulations, provided for the storage of 400 cubic metres of waste oils stored in secure containers. This was an error and, if not corrected, would mean that operators storing up to 400 cubic metres of waste oils would be able to register an exemption from an environmental permit rather than being regulated under the greater regulatory controls provided for under an environmental permit.

8. Consultation outcome

8.1 There were two consultations in the development of the Environmental Permitting (England and Wales) (Amendment) (No.2) Regulations 2009 and the details of these are set out in the Explanatory Memorandum to those regulations. As this instrument merely corrects an error there has been no formal consultation on this instrument, although the changes have been discussed informally with the affected bodies.

9. Guidance

9.1 A consultation on Government Guidance to accompany the amendments made by the 2009 Regulations was published in October 2009. A copy of this consultation can be found at (<http://www.defra.gov.uk/corporate/consult/waste-exemption-review-guidance/index.htm>).

10. Impact

10.1 As the instrument simply corrects an error in the 2010 Regulations, there is no impact on the private or voluntary sectors and an Impact Assessment is not required. Full impact assessments were attached to the Explanatory Memorandums for both the 2009 Regulations and the 2010 Regulations.

11. Regulating small business

11.1 Details on regulating small businesses were included within the Explanatory Memorandums for both the 2009 Regulations and the 2010 Regulations.

12. Monitoring & review

12.1 Details on the proposed monitoring and review procedures in respect of exempt waste operations were included within the Explanatory Memorandums for the 2009 Regulations.

13. Contact

13.1 Jason King at the Department for Environment, Food and Rural Affairs Tel: 020 7238 1519 or email: Jason.king@defra.gsi.gov.uk can answer any queries regarding the instrument.