STATUTORY INSTRUMENTS

2018 No. 129

ENVIRONMENTAL PROTECTION

The National Emission Ceilings Regulations 2018

Made - - - -	*31st January 2018*
Laid before Parliament	*1st February 2018*
Coming into force - -	*1st July 2018*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**).

The Secretary of State is designated for the purpose of section 2(2) of that Act in relation to the environment(**2**).

PART 1

Introductory

Citation and commencement

1. These Regulations may be cited as the National Emission Ceilings Regulations 2018 and come into force on 1st July 2018.

Interpretation

2.—(1) In these Regulations—

"anthropogenic emissions" means atmospheric emissions of pollutants associated with human activities with the exception of—

(a) emissions from international maritime traffic;

(b) aircraft emissions beyond the landing and take-off cycle;

(c) emissions of NO_x and NMVOC from activities falling under categories 3B (manure management) and 3D (agricultural soils) in NFR 2014;

"black carbon" or "BC" means carbonaceous particulate matter that absorbs light;

(**1**) 1972 c.68; section 2(2) was amended by section 27(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).

(**2**) S.I. 2008/301.

"Cd" means cadmium;

"the Directive" means Directive 2016/2284/EU of the European Parliament and the Council on the reduction of national emissions of certain atmospheric pollutants(**3**);

"EMEP" means the European Monitoring and Evaluation Programme, established under the Convention;

"EMEP/EEA Guidebook" means the EMEP and EEA air pollution inventory guidebook dated 30th September 2016(**4**);

"EMEP Reporting Guidelines" means the EMEP guidelines for reporting emissions and projections data under the Convention dated 13th March 2014(**5**);

"emission" means the release of a substance from a point or diffuse source into the atmosphere;

"fine particulate matter" or "$PM_{2.5}$" means particles with an aerodynamic diameter equal to or less than 2.5 micrometres;

"HCB" means hexachlorobenzene;

"Hg" means mercury;

"national air pollution control programme" means the programme prepared, reviewed or revised in accordance with regulation 9;

"national emission ceiling" means the level to be met in accordance with regulation 5(1) in respect of a specified pollutant for a particular calendar year;

"national emission reduction commitment" means the emission reduction level for a relevant pollutant to be achieved in accordance with regulation 6(2) or (3) in a particular calendar year;

"NFR 2014" means the Nomenclature for Reporting 2014 adopted by EMEP(**6**);

"nitrogen oxides" or "NO_x" means nitric oxide and nitrogen dioxide, expressed as nitrogen dioxide;

"non-methane volatile organic compound" or "NMVOC" means all organic compounds (other than methane) arising from human activities which are capable of producing photochemical oxidants by reactions with nitrogen in the presence of sunlight;

"PAHs" means polycyclic aromatic hydrocarbons;

"Pb" means lead;

"PCBs" means polychlorinated biphenyls;

"relevant pollutant" means ammonia, nitrogen oxides, non-methane volatile organic compounds, fine particulate matter or sulphur dioxide;

"source-based air pollution control legislation" means legislation of which one purpose is to reduce the emissions of a relevant pollutant at the source of those emissions;

"sulphur dioxide" or "SO_2" means all sulphur compounds expressed as sulphur dioxide, including sulphur trioxide, sulphuric acid, and reduced sulphur compounds such as hydrogen sulphide, mercaptans and dimethyl sulphides.

(2) In these Regulations—

(**3**) OJ No L 344, 17.12.2016, p 1-31.

(**4**) The EMEP/EEA Guidebook can be obtained or viewed at the Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR or accessed at https://www.eea.europa.eu/publications/emep-eea-guidebook-2016.

(**5**) The EMEP Reporting Guidelines can be obtained or viewed at the Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR or it can be accessed at http://www.ceip.at/fileadmin/inhalte/emep/2014_Guidelines/ece.eb.air.125_ADVANCE_VERSION_reporting_guidelines_2013.pdf.

(**6**) The NFR 2014 can be obtained or viewed at the Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR or it can be accessed at http://www.ceip.at/fileadmin/inhalte/emep/2014_Guidelines/Annex_I_Emissions_reporting_template.xls.

(a) references to the "United Kingdom" include—

(i) the area adjacent to the United Kingdom up to the seaward limits of the territorial waters;

(ii) any area for the time being designated under section 1(7) of the Continental Shelf Act 1964(**7**);

(iii) the areas specified in article 2 of the Exclusive Economic Zone Order 2013(**8**);

(iv) the areas specified by the Merchant Shipping (Prevention of Pollution) (Limits) Regulations 2014(**9**) as waters within which the jurisdiction and rights of the United Kingdom are exercisable in accordance with Part 12 of the United Nations Convention on the Law of the Sea(**10**) for the protection and preservation of the marine environment;

(b) references to "the public" include any organisation or body representing or having an interest in the environment, health, business or consumers.

(3) In paragraph (1)—

"the Convention" means the 1979 UNECE Convention on Long-Range Transboundary Air Pollution(**11**), including its protocols, annexes and appendices;

"EEA" means the European Environment Agency;

"international maritime traffic" means journeys at sea and in coastal waters by water-borne vessels of all flags, except fishing vessels, that depart from the territory of one country and arrive in the territory of another country;

"landing and take-off cycle" means the cycle that includes taxi in and out, take-off, climb out, approach, landing and all other aircraft activities that take place below the altitude of 3,000 feet.

PART 2

National emissions inventory and projections

Emissions inventory and projections

3.—(1) The Secretary of State must—

(a) by 15th February each year prepare an inventory of emissions occurring within the United Kingdom of the pollutants specified in Table 1 of Schedule 1, for the calendar year before the previous calendar year;

(b) by 15th March 2019 and every two years after that date prepare and update a projection of emissions occurring within the United Kingdom of the pollutants set out in Table 2 of Schedule 1, for the years specified in column 3 of that table that have not yet passed.

(2) The inventories and projections referred to in paragraph (1) must be prepared or updated—

(a) in accordance with Parts 1 and 2 of Annex 4 to the Directive;

(**7**) 1964 c.29; section 1(7) was amended by paragraph 1 of Schedule 3 to the Oil and Gas (Enterprise) Act 1982 (c.23) and section 103 of the Energy Act 2011 (c.16).
(**8**) S.I. 2013/3161.
(**9**) S.I. 2014/3306.
(**10**) The United Nations Convention on the Law of the Sea can be obtained or viewed at the Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR or it can be accessed at http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm.
(**11**) The Convention can be obtained or viewed at the Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR or it can be accessed at https://www.unece.org/fileadmin/DAM/env/lrtap/full%20text/1979.CLRTAP.e.pdf.

(b) without prejudice to sub-paragraph (a), in accordance with—

(i) the methodologies in the EMEP Reporting Guidelines;

(ii) the EMEP/EEA Guidebook.

(3) The Secretary of State must take appropriate steps to ensure that the inventories and projections referred to in this regulation are made available to the public.

Adjusted inventory of emissions

4.—(1) Where the Secretary of State has prepared an inventory of emissions in accordance with regulation 3(1)(a) that shows an exceedance of a national emission ceiling or a national emission reduction commitment, the Secretary of State may prepare an adjusted inventory of emissions if—

(a) the exceedance is the result of applying improved inventory methods, or

(b) as regards an inventory for the calendar year 2025 or any subsequent year, the exceedance—

(i) is the result of applying significantly different emission factors or methodologies used for determining emissions from specific source categories compared with those which were expected as a result of the implementation of a norm or standard in source-based air pollution control legislation, and

(ii) does not arise from the way in which such legislation has been implemented or enforced in the United Kingdom.

(2) Where an adjusted inventory of emissions is prepared in accordance with this regulation, it replaces, for the purpose of Part 3 and 4, the inventory prepared under regulation 3, and references to an inventory in those Parts are to be read as references to the adjusted inventory of emissions.

(3) The Secretary of State must take appropriate steps to ensure an adjusted inventory of emissions is made available to the public and must publish alongside it the information set out in Schedule 2.

(4) In paragraph (1)(a), "improved inventory methods" means methods for preparing an inventory that have been updated in line with the EMEP Reporting Guidelines and EMEP/EEA Guidebook after 4th May 2012.

PART 3

National emission ceilings, reduction commitments and derogations

National emission ceilings up to 2019

5.—(1) The Secretary of State must ensure that, in 2010 and in each subsequent year up to and including 2019, the total anthropogenic emissions occurring within the United Kingdom for each of the pollutants specified in Table 1 of Schedule 3 do not exceed the amount specified in that Table for that pollutant.

(2) The achievement of the objectives in paragraph (1) is to be assessed by reference to the relevant inventory for emissions prepared under Part 2.

National emission reduction commitments from 2020

6.—(1) Paragraphs (2) to (4) apply, subject to regulation 8.

(2) The Secretary of State must ensure that, in 2020 and in each subsequent year up to and including 2029, the total anthropogenic emissions occurring within the United Kingdom of each

relevant pollutant do not exceed the percentage of base year emissions specified for that pollutant in Table 2 of Schedule 3.

(3) The Secretary of State must ensure that, in 2030 and in each subsequent year, the total anthropogenic emissions occurring within the United Kingdom of each relevant pollutant do not exceed the percentage of base year emissions specified for that pollutant in Table 3 of Schedule 3.

(4) The achievement of the objectives in paragraph (2) or (3) is to be assessed by reference to the relevant inventory of emissions prepared in accordance with Part 2.

(5) In this regulation, "base year emissions" means the total anthropogenic emissions for 2005 as published in the UK National Atmospheric Emissions Inventory(**12**).

Trajectory of national emission reduction commitments

7.—(1) Subject to paragraph (2), the Secretary of State must ensure that in 2025 that the total anthropogenic emissions of each of the relevant pollutants occurring within the United Kingdom do not exceed the linear reduction trajectory.

(2) Total anthropogenic emissions of a relevant pollutant may not follow the linear reduction trajectory if the Secretary of State determines it is necessary to do so because it is—

(a) economically more efficient, or

(b) technically more efficient.

(3) Where total anthropogenic emissions of a relevant pollutant do not follow the linear reduction trajectory in accordance with paragraph (2), the Secretary of State must ensure that, in 2025 and each subsequent year up to and including 2029, those emissions reduce each year.

(4) In paragraph (1), "linear reduction trajectory" means the straight linear trajectory between the national emission reduction commitments to be met in 2020 and 2030.

National emission reduction commitment derogations

8.—(1) Where an inventory of emissions is prepared in accordance with Part 2 that shows the total anthropogenic emissions of a relevant pollutant were above the national emission reduction commitment for that pollutant in a particular year, the Secretary of State may apply a derogation under paragraph (2), (3), or (4).

(2) The Secretary of State is deemed to have complied with the relevant national emission reduction commitment in the year in which the exceedance occurs if the following conditions are met—

(a) there was an exceptionally cold winter or an exceptionally dry summer in the year that the exceedance occurs;

(b) the average of the total anthropogenic emissions of the relevant pollutant occurring within the United Kingdom for that year, the preceding year and the following year is lower than or equal to the national emission reduction commitment which would otherwise apply to those years.

(3) The Secretary of State is deemed to have complied with the relevant national emission reduction commitment for a maximum of five years, including the year in which the exceedance occurs, if the following conditions are met—

(a) the national emission reduction commitment that has been exceeded is set at a level that is more stringent than the cost-effective level identified for the United Kingdom in TSAP 16,

(**12**) The UK National Atmospheric Emissions Inventory can be obtained or viewed at the Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR or accessed at http://naei.beis.gov.uk/data/data-selector?view=air-pollutants.