Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Air Quality Standards (Wales) Regulations 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

WELSH STATUTORY INSTRUMENTS

2010 No. 1433 (W.126)

ENVIRONMENTAL PROTECTION, WALES

The Air Quality Standards (Wales) Regulations 2010

Made - - - -	*16 May 2010*
Laid before the National Assembly for Wales - -	*19 May 2010*
Coming into force - -	*11 June 2010*

The Welsh Ministers, in exercise of the powers conferred upon the National Assembly for Wales by its designation [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to measures relating to the assessment and management of ambient air quality and compliance with air quality limit values, target values and objectives and now exercisable by the Welsh Ministers [F3], and in exercise of the powers conferred by paragraph 1A of Schedule 2 to that Act [F4], make the following Regulations.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for references to Annexes I to VI and VIII to X and Section B of Annex XV to Directive 2008/50/EC of the European Parliament and of the Council on ambient air quality and cleaner air for Europe and Section II of Annex II and Annexes III to V to Directive 2004/107/EC of the European Parliament and of the Council relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air to be construed as references to those Annexes and those Sections as amended from time to time.

F1 S.I. 2000/2812.

F2 1972 c. 68.

F3 By virtue of section 162 of the Government of Wales Act 2006 (c. 32) and paragraphs 28 and 30 of Schedule 11 to that Act, the powers conferred upon the National Assembly for Wales by this designation are now exercisable by the Welsh Ministers.

F4 Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c. 51).

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Air Quality Standards (Wales) Regulations 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

PART 1

General

Title, commencement and application

1.—(1) The title of these Regulations is the Air Quality Standards (Wales) Regulations 2010 and they come into force on 11 June 2010.

(2) These Regulations apply in relation to Wales.

Definitions

2.—(1) In these Regulations—

"ambient air" ("*aer amgylchynol*") means outdoor air in the troposphere, excluding workplaces as defined by Council Directive 89/654/EEC[F5] where provisions concerning health and safety at work apply and to which members of the public do not have regular access;

"AOT 40" ("*AOT 40*") (expressed in (µg/m^3) · hours) means the sum of the difference between hourly concentrations greater than 80 µg/m^3 (= 40 parts per billion) and 80 µg/m^3 over a given period using only the one-hour values measured between 08:00 hours and 20:00 hours Central European Time (CET) each day;

"arsenic" ("*arsenig*"), "cadmium" ("*cadmiwm*"), "nickel" ("*nicel*") and "benzo(a)pyrene" ("*benso(a)pyren*") mean the total content of those elements and compounds within the PM_{10} fraction;

"assessment" ("*asesu*", "*asesiad*") means assessment carried out by means of fixed measurements, indicative measurements, modelling or objective estimation techniques;

"Directive 2004/107/EC" ("*Cyfarwyddeb 2004/107/EC*") means Directive 2004/107/EC of the European Parliament and of the Council relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air [F6];

"Directive 2008/50/EC" ("*Cyfarwyddeb 2008/50/EC*") means Directive 2008/50/EC of the European Parliament and of the Council on ambient air quality and cleaner air for Europe [F7];

"fixed measurements" ("*mesuriadau sefydlog*") means measurements taken at fixed locations, either continuously or by sampling from time to time, to determine levels of pollutants in accordance with the relevant data quality objectives;

"indicative measurements" ("*mesuriadau dangosol*") means measurements which meet data quality objectives that are less strict than those required for fixed measurements;

"margin of tolerance" ("*ffin goddefiant*") means the percentage of the limit value by which that value may be exceeded in a given year;

"oxides of nitrogen" ("*ocsidau nitrogen*") means the sum of the volume mixing ratio (ppbv) of nitrogen monoxide (nitric oxide) and nitrogen dioxide expressed in units of mass concentration of nitrogen dioxide (µg/m^3);

"PM_{10}" ("*PM_{10}*") means particulate matter which passes through a size-selective inlet as defined in the reference method for the sampling and measurement of PM_{10}, EN 12341, with a 50% efficiency cut-off at 10 µm aerodynamic diameter;

"$PM_{2·5}$" ("*$PM_{2·5}$*") means particulate matter which passes through a size-selective inlet as defined in the reference method for the sampling and measurement of $PM_{2·5}$, EN 14907, with a 50% efficiency cut-off at 2,5 µm aerodynamic diameter;

"pollutant" ("*llygrydd*") means any of the following—

(a) arsenic,

(b) benzene,

(c) benzo(a)pyrene or other polycyclic aromatic hydrocarbons,

(d) cadmium,

(e) carbon monoxide,

(f) lead,

(g) mercury,

(h) nickel,

(i) nitrogen dioxide,

(j) oxides of nitrogen,

(k) ozone,

(l) PM_{10},

(m) $PM_{2·5}$,

(n) sulphur dioxide;

"polycyclic aromatic hydrocarbons" ("*hydrocarbonau aromatig polysyclig*") means those organic compounds composed of at least two fused aromatic rings made entirely from carbon and hydrogen; and

"total deposition rate" ("*cyfradd llwyr ddyddodiad*") means the total mass of pollutants which is transferred from the atmosphere to surfaces such as soil, vegetation, water and buildings in a given area within a given time.

(2) References in these Regulations to Annexes I to VI and VIII to X and Section B of Annex XV to Directive 2008/50/EC and to Section II of Annex II and Annexes III to V to Directive 2004/107/EC are references to those Annexes and those Sections as amended from time to time.

F5 OJ No L 393, 30.12.89, p. 1, amended by Directive 2007/30/EC (OJ No L 165, 27.6.07, p. 21).
F6 OJ No L 23, 26.1.05, p 3, last amended by Regulation (EC) No 219/2009 (OJ No L 87, 31.3.09, p. 109).
F7 OJ No L 152, 11.6.08, p 1.

Designation of competent authority

3. The Welsh Ministers are designated as the competent authority for the purposes of Directive 2008/50/EC (other than for the purpose specified in Article 3(f) of that Directive) and for the purposes of Directive 2004/107/EC.

Zones and agglomerations

4.—(1) The Welsh Ministers must, for the purposes of these Regulations, divide the territory of Wales into zones and agglomerations.

(2) A zone will be classified as an agglomeration if it is a conurbation with a population in excess of 250,000 inhabitants.

(3) In these Regulations references to a zone include a zone which has been classified as an agglomeration.

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Air Quality Standards (Wales) Regulations 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

PART 2

Assessment of ambient air quality

CHAPTER 1

Sulphur dioxide, nitrogen dioxide and oxides of nitrogen, PM_{10}, $PM_{2·5}$, lead, benzene and carbon monoxide

Assessment thresholds

5.—(1) The Welsh Ministers must classify each zone according to whether or not the upper or lower assessment thresholds specified in Section A of Annex II to Directive 2008/50/EC are exceeded in relation to sulphur dioxide, nitrogen dioxide and oxides of nitrogen, PM_{10}, $PM_{2·5}$, lead, benzene and carbon monoxide.

(2) The Welsh Ministers must review the classification of zones in paragraph (1) at least every five years, and must do so more frequently than every five years if there are significant changes in the activities which may affect levels of the pollutants referred to in paragraph (1) in ambient air.

(3) When reviewing the classification of zones in accordance with assessment thresholds, the Welsh Ministers must comply with Section B of Annex II to Directive 2008/50/EC.

Assessment requirements

6.—(1) The Welsh Ministers must assess the level of sulphur dioxide, nitrogen dioxide and oxides of nitrogen, PM_{10}, $PM_{2·5}$, lead, benzene and carbon monoxide in ambient air in each zone in accordance with paragraphs (2) to (4) and the criteria set out in Annex III to Directive 2008/50/EC.

(2) In zones where the level of any pollutant mentioned in paragraph (1) exceeds the upper assessment threshold for that pollutant referred to in regulation 5, fixed measurements must be used in relation to that pollutant, but may be supplemented by indicative measurements or modelling or both in order to provide adequate information on the spatial distribution of the ambient air quality.

(3) In zones where the level of any pollutant mentioned in paragraph (1) is at or between the upper and lower assessment thresholds for that pollutant referred to in regulation 5, fixed measurements must be used in relation to that pollutant but may be combined with indicative measurements or modelling or both.

(4) In zones where the level of any pollutant mentioned in paragraph (1) is below the lower assessment threshold for that pollutant referred to in regulation 5, modelling or objective estimation techniques or both may be used instead of measurement in relation to that pollutant.

(5) Where fixed measurements are supplemented by modelling or indicative measurements then the Welsh Ministers must take account of the results of those supplementary methods in carrying out the assessment referred to in paragraph (1).

(6) In addition to the assessment referred to in paragraph (1), the Welsh Ministers must measure $PM_{2·5}$ at rural background locations away from significant sources of air pollution, in order to provide information on an annual average basis on the total mass concentration and chemical speciation concentrations of that pollutant.

(7) For the purposes of paragraph (6), measurement must be carried out in accordance with the criteria set out in Annex IV to Directive 2008/50/EC and must be coordinated with the monitoring strategy and measurement programme of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), where appropriate.

(8) The data quality objectives and requirements set out in Sections A and C of Annex I to Directive 2008/50/EC must be applied in carrying out the assessment and measurement referred to in paragraphs (1) and (6).

(9) Save as provided for in paragraph (10), measurements under this regulation must be taken in accordance with the reference measurement methods specified in Section A and Section C of Annex VI to Directive 2008/50/EC.

(10) Alternative methods to those referred to in paragraph (9) may be used provided the conditions set out in Section B of Annex VI to Directive 2008/50/EC are complied with.

(11) In this regulation, "chemical speciation concentrations" ("*crynodiadau ffurfiant rhywogaethau cemegol*") means the concentrations of different chemical components or species of $PM_{2·5}$.

Location and number of sampling points

7.—(1) The Welsh Ministers must install sampling points in accordance with the criteria set out in Annex III to Directive 2008/50/EC for the assessment of sulphur dioxide, nitrogen dioxide and oxides of nitrogen, PM_{10}, $PM_{2·5}$, lead, benzene and carbon monoxide.

(2) In zones where fixed measurements are the sole source of information for the assessment of air quality in relation to any pollutant mentioned in paragraph (1), the number of sampling points for that pollutant must be greater than or equal to the minimum number specified in Section A of Annex V to Directive 2008/50/EC for the purpose of assessing compliance with alert thresholds and limit values for the protection of human health.

(3) In zones other than agglomerations where fixed measurements are the sole source of information for the assessment of air quality in relation to sulphur dioxide or oxides of nitrogen, the number of sampling points for that pollutant must be greater than or equal to the minimum number specified in Section C of Annex V to Directive 2008/50/EC for the purpose of assessing compliance with critical levels for the protection of vegetation.

(4) In zones where the information from fixed measurements is supplemented by information from modelling or indicative measurements or both–

(a) the number of sampling points specified in Section A of Annex V to Directive 2008/50/EC may be reduced by up to 50% provided that the following conditions are met–

(i) the supplementary methods provide sufficient information for the assessment of air quality in relation to limit values and alert thresholds,

(ii) the supplementary methods provide sufficient information to inform the public as to the state of ambient air quality, and

(iii) the number of sampling points to be installed and the spatial resolution of other techniques are sufficient for the concentration of the relevant pollutant to be established in accordance with the data quality objectives specified in Section A of Annex I to Directive 2008/50/EC and enable assessment results to meet the criteria in Section B of the same Annex; and

(b) the number of sampling points specified in Section C of Annex V to Directive 2008/50/EC may be reduced by up to 50% provided that the assessed concentrations of the relevant pollutant can be established in accordance with the data quality objectives specified in Section A of Annex I to Directive 2008/50/EC.

(5) The Welsh Ministers must install at least one sampling point for the measurement of $PM_{2·5}$ in rural background locations.