WELSH STATUTORY INSTRUMENTS

2007 No. 717 (W.63)

ENVIRONMENTAL PROTECTION, WALES

The Air Quality Standards (Wales) Regulations 2007

Made - - - -	*6 March 2007*
Coming into force - -	*15 March 2007*

The National Assembly for Wales ("the National Assembly"), being designated(**1**) to exercise powers under section 2(2) of the European Communities Act 1972(**2**) 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, makes the following Regulations:

PART 1

General

Title, commencement and application

1.—(1) The title of these Regulations is the Air Quality Standards (Wales) Regulations 2007.

(2) These Regulations come into force on 15 March 2007.

(3) These Regulations apply in relation to Wales.

Definitions

2.—(1) In these Regulations—

"action plan" ("*cynllun gweithredu*") means an action plan required by regulation 11;

"agglomeration" ("*crynhoad*") has the meaning given in regulation 5(2);

"air quality standards" ("*safonau ansawdd aer*") means limit values, target values and long-term objectives;

"alert threshold" (*trothwy rhybuddio*") means an alert threshold set out in Schedule 3;

"ambient air" ("*aer amgylchynol*") means outdoor air in the troposphere, excluding work places;

(**1**) S.I. 2000/2812.
(**2**) 1972 c. 68.

"assessment" ("*asesu*") means any method used to measure, calculate, predict or estimate the concentration of a pollutant;

"attainment date" (*dyddiad cyrhaeddiad*") means a date by which—

(a) a limit value is required to be attained; or

(b) a target value should be attained, insofar as this is possible;

"concentration" ("*crynodiad*") means—

(a) for pollutants other than Group B pollutants, the concentration of the relevant pollutant in ambient air; or

(b) for Group B pollutants, the total content of the relevant pollutant in the PM_{10} fraction in ambient air,

and, in both cases, a reference to a concentration is to a concentration assessed by the National Assembly in accordance with these Regulations;

"Group A pollutants" ("*llygryddion Grŵp A*") means benzene, carbon monoxide, lead, nitrogen dioxide and oxides of nitrogen, PM_{10} and sulphur dioxide;

"Group B pollutants" ("*llygryddion Grŵp B*") means arsenic, benzo(a)pyrene, cadmium and nickel and their compounds;

"improvement plan" ("*cynllun gwella*") means an improvement plan required by regulation 8;

"information threshold" ("*trothwy gwybodaeth*") means the information threshold set out in Part 2 of Schedule 3;

"limit value" ("*gwerth terfyn*") means a maximum permitted concentration of a Group A pollutant set out in Part 1 of Schedule 1;

"long-term objective" ("*amcan hirdymor*") means a maximum concentration of ozone set out in Part 4 of Schedule 1;

"margin of tolerance" ("*ffin goddefaint*") means an amount specified in Part 2 of Schedule 1 by which a limit value may be exceeded;

"oxides of nitrogen" (*ocsidau nitrogen*") means the sum of nitric oxide and nitrogen dioxide added as parts per billion and expressed as nitrogen dioxide in microgrammes per cubic metre;

"ozone precursor substances" (*rhagsylweddau osôn*") means substances which contribute to the formation of ground level ozone, as referred to by regulation 18(1);

"$PM_{2·5}$" means particulate matter which passes through a size-selective inlet with a 50% efficiency cut-off at 2.5µm aerodynamic diameter;

"PM_{10}" means particulate matter which passes through a size-selective inlet with a 50% efficiency cut-off at 10µm aerodynamic diameter, in relation to which, in the case of assessments of Group B pollutants, the inlet is defined in EN 12341;

"pollutant" ("*llygrydd*") means—

(a) any Group A pollutant;

(b) any Group B pollutant;

(c) ozone; or

(d) any pollutant to which Part 3 of these Regulations applies;

"polycyclic aromatic hydrocarbons" ("*hydrocarbonau aromatig polysyclig*") means—

(a) those compounds listed at regulation 19(2); and

(b) any other polycyclic aromatic hydrocarbons the National Assembly chooses to monitor under regulation 19(1)(b);

"rural background station" ("*gorsaf cefndir gwledig*") is to be interpreted in accordance with Part 3 of Schedule 5;

"target value" ("*gwerth targed*") means a maximum concentration of a Group B pollutant as set out in Part 3 of Schedule 1 or ozone as set out in Part 4 of that Schedule; and

"zone" ("*parth*") means one of the parts of the territory into which the National Assembly has divided Wales under regulation 5(1) for the purposes of Part 2 of these Regulations; and references to a zone, unless the context indicates otherwise, include an agglomeration.

(2) Other words and expressions used in these Regulations have the same meaning as in the following Directives—

(a) Council Directive 96/62/EC on ambient air quality assessment and management(**3**);

(b) Council Directive 1999/30/EC relating to limit values for sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter and lead in ambient air(**4**);

(c) Directive 2000/69/EC of the European Parliament and of the Council relating to limit values for benzene and carbon monoxide in ambient air(**5**);

(d) Directive 2002/3/EC of the European Parliament and of the Council relating to ozone in ambient air(**6**); and

(e) 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(**7**).

Designation of National Assembly for Wales

3. The National Assembly is designated as the competent authority for the purposes of Article 3 (implementation and responsibilities) of Council Directive 96/62/EC.

PART 2

Group A and Group B pollutants and ozone

CHAPTER 1

Air quality standards

Preliminary and application

4.—(1) This Part applies in respect of the following pollutants—

(a) Group A pollutants;

(b) Group B pollutants; and

(c) ozone.

(2) The National Assembly must ensure that all measures taken under Chapter 2 or 3 of this Part—

(a) take into account an integrated approach to the protection of air, water and soil; and

(b) have no significant negative effects on—

(i) any other member State, or

(ii) any other part of the United Kingdom.

(**3**) OJ No L 296, 21.11.96, p.55.
(**4**) OJ No L 163, 29.06.99, p.41.
(**5**) OJ No L 313, 13.12.00, p.12.
(**6**) OJ No L 67, 09.03.02, p.14.
(**7**) OJ No L 23, 26.01.05, p.3.

Zones and agglomerations

5.—(1) The National Assembly must, for the purposes of this Part, divide the territory of Wales into zones.

(2) A zone is to be classified as an agglomeration for the purposes of this Part where—

(a) it comprises a population in excess of 250,000 inhabitants; or

(b) in any other case, it has a population density per km^2 for which the National Assembly considers that such a classification is justified.

(3) The National Assembly may establish different zones for different pollutants where it considers it appropriate.

Air quality standards

6.—(1) Subject to paragraphs (2) to (4), the following air quality standards specified in Schedule 1 are required to be attained within each zone—

(a) for Group A pollutants, the limit values set out in Part 1 of that Schedule;

(b) for Group B pollutants, the target values set out in Part 3 of that Schedule; and

(c) for ozone, the target values and long-term objectives set out in Part 4 of that Schedule.

(2) The attainment date for a limit or target value is—

(a) the attainment date specified for the relevant pollutant in Schedule 1; or

(b) where no attainment date is specified, the date on which these Regulations come into force.

(3) The long-term objectives are to be attained in the long term, to the extent these objectives are achievable through the measures required by regulation 7(3)(b).

(4) In the case of benzene and nitrogen dioxide, the margins of tolerance set out in Part 2 of Schedule 1 apply within the periods specified.

CHAPTER 2

Attainment of air quality standards

General attainment measures

7.—(1) Subject to paragraphs (2) and (3), the National Assembly must take the necessary measures to ensure that, within each zone, concentrations of each pollutant attain the air quality standards required by regulation 6.

(2) The necessary measures in relation to Group B pollutants are—

(a) measures not entailing disproportionate costs; and

(b) insofar as concentrations of the relevant pollutants arise as a result of emissions from installations to which Council Directive 96/61/EC concerning integrated pollution prevention and control(**8**) applies, the application of best available techniques to prevent pollution from those installations in accordance with article 3(a) of that Directive(**9**).

(3) The necessary measures in relation to ozone are measures the National Assembly considers to be—

(a) in the case of both the target values and long-term objectives, proportionate; and

(b) in the case of a long-term objectives, cost-effective.

(**8**) OJ No L 257, 10.10.96, p.26.

(**9**) The Directive is implemented by the Pollution Prevention and Control (England and Wales) Regulations 2000 (S.I. 2000/1973 as amended by S.I. 2001/503, 2002/275, 2002/1702, 2003/1699, 2003/3296, 2004/3276, 2005/1448 and 2006/2802 (W.241)).

Improvement plans

8.—(1) This regulation applies in respect of each zone in which—

(a) prior to the attainment date, concentrations of benzene or nitrogen dioxide exceed a limit value plus the applicable margin of tolerance; or

(b) concentrations of ozone exceed a target value.

(2) Where paragraph (1)(a) applies, the National Assembly must prepare and implement an improvement plan in respect of the pollutant in question or, if the condition specified is met in relation to both pollutants, in respect of both those pollutants.

(3) Where paragraph (1)(b) applies, the National Assembly must prepare and implement an improvement plan in respect of ozone unless it considers that the target value would not be attainable through proportionate measures.

(4) An improvement plan must include the information specified in Schedule 2.

(5) Where an improvement plan is required to be prepared and implemented under both paragraphs (2) and (3), the National Assembly must, where it considers it appropriate, prepare and implement an integrated improvement plan covering all of the pollutants concerned.

(6) For the purposes of this regulation, an improvement plan may comprise either a plan or a programme which, in either case, must have the objective of attaining the limit or target value within the relevant zone by the attainment date for the pollutant in question.

Other improvement measures

9.—(1) This regulation applies in respect of each zone in which concentrations of—

(a) one or more Group B pollutants exceed the relevant target value; or

(b) ozone are equal to or below the target values, but exceed a long-term objective.

(2) Where paragraph (1)(a) applies, the National Assembly must—

(a) identify the cause of the pollution and the predominant sources of emissions; and

(b) in relation to the pollutants concerned, ensure that the measures required by regulation 7(2) are directed in particular at the sources of emissions identified.

(3) Where paragraph (1)(b) applies, the National Assembly must prepare and implement measures which it considers to be cost-effective with the aim of attaining the long-term objective.

(4) The National Assembly must ensure that the measures required in paragraph (3) are consistent with any improvement plan prepared for ozone under regulation 8(3).

CHAPTER 3

Maintenance of air quality standards and action plans

Maintenance of air quality standards

10.—(1) This regulation applies in respect of each zone in which concentrations of—

(a) one or more Group A pollutants are below the relevant limit values;

(b) one or more Group B pollutants are below the relevant target values; or

(c) ozone meet the long-term objectives.

(2) Where sub-paragraph (a) or (b) of paragraph (1) applies, the National Assembly must, in respect of each pollutant meeting the conditions set out in those sub-paragraphs, maintain compliance with the relevant limit or target values and endeavour to preserve the lowest concentration which it considers to be compatible with sustainable development.