WELSH STATUTORY INSTRUMENTS

2003 No. 1848 (W.198)

ENVIRONMENTAL PROTECTION, WALES

The Air Quality (Ozone) (Wales) Regulations 2003

Made - - - -	*16th July 2003*
Coming into force - -	*9th September 2003*

The National Assembly for Wales, in exercise of the powers conferred upon it by section 29 of the Government of Wales Act 1998(**1**) and subsection (2) of section 2 of the European Communities Act 1972(**2**), and having been designated for the purpose of that subsection by Article 2 of the European Communities (Designation) (No.3) Order 2000(**3**) 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, hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Air Quality (Ozone) (Wales) Regulations 2003 and come into force on 9th September 2003.

(2) These Regulations apply to Wales.

Definitions

2. In these Regulations —

"agglomeration" ("*crynhoad*") means a zone with a population concentration in excess of 250,000 inhabitants or, where the population concentration is 250,000 or less, a population density per km^2 for which the National Assembly considers that the need for ambient air to be assessed or managed is justified;

"alert threshold" ("*trothwy rhybuddio*") means that level prescribed as such under regulation 6;

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

"assessment" ("*asesu*") means any method used to measure, calculate, predict or estimate the level of ozone or ozone precursor substances in the ambient air;

"fixed measurement" ("*mesuriadau sefydlog*") means measurements taken at fixed sites either continuously or by random sampling, the number of measurements being sufficiently large to enable the levels observed to be determined;

(**1**) 1998 c. 38.
(**2**) 1972 c. 68.
(**3**) S.I. 2000/2812.

"information threshold" ("*trothwy gwybodaeth*") means that level prescribed as such under regulation 6;

"level" ("*lefel*") means the concentration of ozone or ozone precursor substances in ambient air;

"local health board" ("*bwrdd iechyd lleol*") has the meaning given in section 16BA of the National Health Service Act 1977(**4**);

"long-term objective" ("*amcan hirdymor*") means that level prescribed as such under regulation 3(2);

"National Assembly" ("*Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"ozone precursor substances" ("*rhagsywleddion osôn*") means substances which contribute to the formation of ground-level ozone, including those listed in Schedule 4;

"the public" ("*y cyhoedd*") includes health care bodies and organisations which represent the interests of sensitive populations, consumers and the environment and which have an interest in ambient air quality;

"relevant averaging period" ("*cyfnod cyfartaleddu perthnasol*") has the meaning prescribed in regulation 7(5);

"rural background station" ("*gorsaf cefndir gwledig*") has the meaning given by Part I of Schedule 2;

"target value" ("*gwerth targed*") means that level prescribed under regulation 3(1);

"volatile organic compounds" ("*cyfansoddion organig anweddol*") or "VOCs" ("VOCs") means all organic compounds from anthropogenic and biogenic sources, other than methane, that are capable of producing photochemical oxidants by reaction with nitrogen oxides in the presence of sunlight; and

"zone" ("*parth*") means a part of Wales which is designated for the purposes of these Regulations and which is shown on a map published by the National Assembly on 10th June 2003, deposited at the offices of the National Assembly, Environmental Protection Division, Cathays Park, Cardiff CF10 3NQ.

Target values and long-term objectives

3.—(1) The target values for levels of ozone are set out in Part II of Schedule 1.

(2) The long-term objectives for levels of ozone are set out in Part III of Schedule 1.

(3) The definitions and provisions of Part I of Schedule 1 apply to Parts II and III of that Schedule.

Assessment of levels of ozone and ozone precursor substances

4.—(1) The National Assembly must ensure that levels of ozone and ozone precursor substances are assessed in each zone in accordance with this regulation.

(2) Continuous fixed measurement must be used in any zone in which, within any of the previous five years, levels of ozone have exceeded a long-term objective.

(3) In order to determine whether, during any of the previous five years, levels of ozone have exceeded a long-term objective in a zone in relation to which data from continuous fixed measurement is not available for the whole of that period, measurement campaigns of short duration, at times and locations likely to be typical of the highest pollution levels, may be combined with results from emission inventories and modelling.

(**4**) 1977 c. 49. Section 16BA was inserted by section 6(1) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17).

(4) Where levels of ozone in a zone have not, in any of the previous five years, exceeded the long-term objectives, a combination of continuous fixed measurement, modelling and indicative measurements may be used in that zone.

(5) For each zone to which paragraph (2) applies, the minimum number of sampling points for fixed continuous measurement must be in accordance with Part I of Schedule 3.

(6) For each zone to which paragraph (2) applies, measurements of nitrogen dioxide —

(a) must be made at a minimum of 50 per cent of the ozone sampling points required under Part I of Schedule 3;

(b) must be continuous, except at rural background stations, where other measurement methods may be used.

(7) The number of fixed sampling points required under paragraph (5) may be reduced provided that —

(a) the information from fixed sampling points is supplemented by information from modelling, indicative measurements or both these methods;

(b) the supplementary sources of information referred to in sub-paragraph (a) provide an adequate level of information for the assessment of air quality with regard to target values, information and alert thresholds;

(c) the number of sampling points to be installed and the spatial resolution of other techniques are sufficient for the level of ozone to be established in accordance with the data quality objectives specified in Part I of Schedule 5 and lead to assessment results as specified in Part II of that Schedule;

(d) the number of sampling points in each zone amounts to at least one sampling point per two million inhabitants, or one sampling point per 50,000 km^2, whichever produces the greater number of sampling points;

(e) each zone contains at least one sampling point; and

(f) nitrogen dioxide is measured at all remaining sampling points except at rural background stations.

(8) For each zone to which paragraph (7) applies, the supplementary sources of information referred to in paragraph (7)(a) must be taken into account when assessing air quality with respect to target values.

(9) For each zone to which paragraph (4) applies, the minimum number of sampling points for fixed measurements must be in accordance with Part II of Schedule 3.

(10) Schedule 2 has effect for the purpose of determining the location of sampling points for the measurement of ozone.

(11) The reference methods for the analysis of ozone and the calibration of ozone instruments set out in Schedule 6 must be used unless the National Assembly adopts other methods which it considers can be demonstrated to give equivalent results.

(12) For ozone precursor substances, —

(a) the National Assembly must ensure that at least one measuring station to supply data on levels of the ozone precursor substances listed in Schedule 4 is installed and operated within Wales; and

(b) in choosing the number and siting of the stations at which levels of ozone precursor substances are to be measured, the National Assembly must take account of the objectives, methods and recommendations laid down in that Schedule.

(13) For ozone and nitrogen oxides measurements of volume must be standardised at a temperature of 293 K and a pressure of 101.3kPa.

Programmes and measures to address ozone levels

5.—(1) The National Assembly must draw up a list of zones in which —

(a) levels of ozone, as assessed in accordance with regulation 4, are higher than the target values;

(b) levels of ozone, as assessed in accordance with regulation 4, are higher than the long-term objectives but equal to or below the target values;

(c) levels of ozone meet the long-term objectives.

(2) The National Assembly must prepare and implement, for each zone listed under paragraph (1)(a), a plan or programme for attaining the target values by the date specified in Part II of Schedule 1.

(3) Paragraph (2) does not apply if the National Assembly considers that attaining the target values would not be achievable through proportionate measures.

(4) In preparing and implementing a plan or programme under paragraph (2), the National Assembly must ensure that the plan or programme is integrated, where appropriate, with any plan or programme prepared for that zone under regulation 10 of the Air Quality Limit Values (Wales) Regulations 2002(**5**).

(5) A plan or programme prepared under paragraph (2) must include, as a minimum, information equivalent to that listed in Schedule 7 to the Air Quality Limit Values (Wales) Regulations 2002 (as if references in that Schedule to "pollution" were references to levels of ozone which exceed the target level), and must be made available to the public.

(6) The National Assembly must prepare and implement for each zone listed under paragraph (1)(b) measures which it considers to be cost-effective, with the aim of achieving the long-term objectives.

(7) The measures prepared and implemented under paragraph (6) must, as a minimum, be consistent with any plans or programmes prepared and implemented under paragraph (2).

(8) The National Assembly must, for any zone to which paragraph (1)(c) applies —

(a) as far as factors including the transboundary nature of ozone pollution and meteorological conditions permit, ensure that ozone levels are kept below long-term objectives; and

(b) preserve, through proportionate measures, the best ambient air quality which it considers to be compatible with sustainable development and a high level of protection for the environment and human health.

Information threshold and alert threshold

6. The information threshold and the alert threshold for ozone are set out in Part I of Schedule 7.

Public information

7.—(1) The National Assembly must ensure that up-to-date information on levels of ozone is routinely made available to the public in accordance with the provisions of this Regulation.

(2) The information on levels of ozone in paragraph (1) must be updated —

(a) where appropriate and practicable, on an hourly basis;

(b) in all other cases, as a minimum, on a daily basis.

(3) Information made available under paragraph (1) must include —

(a) an indication of all incidents when the level of ozone, when assessed by reference to any relevant averaging period, exceeded —

(**5**) S.I. 2002/3183 (W.299).

(i) the long-term objective for the protection of health;

(ii) the information threshold;

(iii) the alert threshold;

and a short evaluation of the effect of those exceedances on human health;

(b) comprehensive annual reports; and

(c) timely information about actual or predicted exceedances of the alert threshold.

(4) The annual reports referred to in paragraph (3)(b) must, as a minimum, —

(a) indicate, for human health, any exceedances of the target value, the long-term objective, the information threshold or the alert threshold for the relevant averaging period;

(b) indicate, for vegetation, any exceedances of the target value or the long-term objective; and

(c) include, where appropriate, a short evaluation of the effect of those exceedances.

(5) For the purposes of this regulation, the "relevant averaging period" —

(a) in relation to target values, is set out in Part II of Schedule 1;

(b) in relation to the long-term objective for the protection of health, is set out in Part III of Schedule 1; and

(c) in relation to the information threshold and the alert threshold, is set out in Part I of Schedule 7.

(6) Information made available under paragraph (3)(c) must, in addition to being provided to the public, be provided to any local health board whose area is or may be affected by such an exceedance.

(7) The National Assembly may publish the information and reports referred to in this regulation in such a manner as it considers appropriate, having regard to the nature of that information and those reports.

(8) Where the alert threshold or information threshold is exceeded, the National Assembly must supply to the public the information specified in Part II of Schedule 7.

(9) Where an exceedance of the alert threshold or the information threshold is predicted, the National Assembly must, where practicable, supply to the public the information specified in Part II of Schedule 7.

(10) Information made available to the public under this regulation must be clear, comprehensible and accessible.

Short term action plans

8.—(1) Where there is any risk of the alert threshold for ozone being exceeded in a zone, the National Assembly must determine whether there is significant potential for reducing that risk or for reducing the duration or severity of any such exceedance if one should occur and, if so, must draw up an action plan, taking into account particular local circumstances, indicating the measures to be taken, in the short term, to eliminate or reduce that risk or to reduce the duration or severity of the exceedence, as the case may be.

(2) When making the determination referred to in paragraph (1), the National Assembly must take account of national geographical, meteorological and economic conditions.

(3) The National Assembly must make available to the public —

(a) the results of any determination referred to in paragraph (1);

(b) any action plans which it draws up under paragraph (1); and

(c) information on the implementation of those action plans.