WELSH STATUTORY INSTRUMENTS

2002 No. 3183 (W.299)

ENVIRONMENTAL PROTECTION, WALES

The Air Quality Limit Values (Wales) Regulations 2002

Made - - - -	*17th December 2002*
Coming into force - -	*31st December 2002*

The National Assembly for Wales ("the National Assembly"), in exercise of the powers conferred upon it by section 29 of the Government of Wales Act 1998[F1] and subsection (2) of section 2 of the European Communities Act 1972[F2], and having been designated for the purpose of that subsection by Article 2 of the European Communities (Designation) (No. 3) Order 2000[F3] 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:

F1 1998 c.38.
F2 1972 c.68.
F3 S.I. 2000/2812.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Air Quality Limit Values (Wales) Regulations 2002 and come into force on 31st December 2002.

(2) These Regulations apply in relation 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 inhabitants 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*") has the meaning given by regulation 9(2);

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

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

"fixed measurements" ("*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;

"level" ("*lefel*") means the concentration of a relevant pollutant in ambient air;

"limit value" ("*gwerth terfyn*") has the meaning given in regulation 4(1);

"lower assessment threshold" ("*trothwy asesu isaf*") has the meaning given in regulation 6(5);

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

"natural events" ("*digwyddiadau naturiol*") means volcanic eruptions, seismic activities, geothermal activities, wild-land fires, high-wind events or the atmospheric resuspension or transport of natural particles from dry regions;

"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;

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

"PM_{10}" means particulate matter which passes through a size-selective inlet with a 50% efficiency cut-off at 10 mm aerodynamic diameter;

[[F4]"public" means one or more natural or legal persons, including, but not limited to, health care bodies and organisations having an interest in ambient air quality and representing the interests of sensitive populations, consumers and the environment;**]**

"relevant pollutants" ("*llygrynnau perthnasol*") means sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter, lead, benzene and carbon monoxide;

"upper assessment threshold" ("*trothwy asesu uchaf*") has the meaning given in regulation 6(5); and

"zone" ("*parth*") means a part of Wales shown on a map published by the National Assembly on 3 December 2002, deposited at the offices of the National Assembly, Environmental Protection Division, Cathays Park, Cardiff CF10 3NQ.

F4 Words in reg. 2 inserted (30.4.2005) by The Air Quality Limit Values (Wales) (Amendment) Regulations 2005 (S.I. 2005/1157), regs. 1(1), **3(1)**

Responsibility for implementation of the Air Framework Directive

3. For the purposes of Article 3 (implementation and responsibilities) of Council Directive 96/62/EC on ambient air quality assessment and management [F5] the National Assembly is the competent authority in Wales responsible for—

(a) implementation of that Directive;

(b) assessment of ambient air quality;

(c) approval of measuring devices (methods, equipment, networks and laboratories);

(d) ensuring accuracy of measurement by measuring devices and checking the maintenance of such accuracy by those devices, in particular by internal quality controls carried out in accordance with applicable quality assurance standards, including European standards;

(e) analysis of assessment methods; and

(f) co-ordination within Wales of European Community-wide quality assurance programmes, save insofar as that co-ordination entails communication with the European Commission.

F5 OJ No L296, 21.11.96, p. 55.

Duty to ensure that ambient air quality is improved

4.—(1) The National Assembly must take the measures necessary to ensure that throughout Wales in each zone concentrations of relevant pollutants in ambient air, as assessed in accordance with regulations 5 to 8, do not exceed the limit values set out in Schedule 1—

(a) where a date is specified in that Schedule in relation to the limit value for that pollutant, from that date;

(b) in any other case, from the date on which these Regulations come into force.

(2) The measures taken must—

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

(b) not contravene Community legislation on the protection of the safety and health of workers at work; and

(c) have no significant negative effects on the environment in the other Member States.

Assessment of ambient air quality

5. The National Assembly must ensure that ambient air quality is assessed in each zone in relation to each of the relevant pollutants in accordance with regulations 6 to 8.

Classification of zones

6.—(1) The National Assembly must classify each zone in relation to each of the relevant pollutants according to whether ambient air quality in that zone for that pollutant is required to be assessed by—

(a) measurements;

(b) a combination of measurements and modelling techniques; or

(c) by the sole use of modelling or objective estimation techniques.

(2) Measurements must be used to assess ambient air quality in relation to a relevant pollutant in a zone if—

(a) the zone is an agglomeration;

(b) the levels of that pollutant in the zone are between the relevant limit values and upper assessment thresholds; or

(c) the levels of that pollutant in the zone exceed the limit values for that pollutant.

(3) A combination of measurements and modelling techniques may be used to assess ambient air quality in any zone in relation to a relevant pollutant where the levels of that pollutant over a representative period are below the relevant upper assessment thresholds.

(4) Where the levels of a relevant pollutant in any zone over a representative period are below the relevant lower assessment thresholds, the sole use of modelling or objective estimation techniques for assessing levels of that pollutant is permissible unless—

(a) the zone is an agglomeration; and

(b) the pollutant being assessed is sulphur dioxide or nitrogen dioxide.

(5) The upper and lower assessment thresholds for the relevant pollutants are to be determined in accordance with Schedule 2.

(6) Where a zone is classified in relation to a pollutant under paragraph (1)(a), modelling techniques may be used for supplementing the measurements taken in order to provide an adequate level of information on ambient air quality in relation to a relevant pollutant in a zone.

(7) The National Assembly may also designate a zone classified under this regulation in relation to a relevant pollutant as follows:

(a) where the relevant pollutant is sulphur dioxide, the zone may be designated under this paragraph [F6] if the limit values are exceeded in the zone owing to concentrations of sulphur dioxide in ambient air due to natural sources;

(b) where the relevant pollutant is PM_{10}, the zone may be designated—

(i) under this sub-paragraph [F7] if, due to natural events, concentrations of PM_{10} in the ambient air are significantly in excess of normal background levels from natural sources;

(ii) under this sub-paragraph [F8] if, due to the resuspension of particulates following the winter sanding of roads, concentrations of PM_{10} in the ambient air are significantly in excess of normal background levels from natural sources.

F6 *See* regulation 10(8).
F7 *See* regulation 10(10).
F8 *See* regulation 10(11).

Review of classifications

7.—(1) The National Assembly must review the classification of each zone under regulation 6 at least once in every five years in accordance with Part II of Schedule 2.

(2) The National Assembly must also review the classification of any zone under regulation 6 in the event of significant changes in activities affecting ambient concentrations in that zone of any of the relevant pollutants.

(3) In this regulation, “classification" includes any designation under regulation 6(7).

Method of assessment of ambient air quality

8.—(1) The National Assembly must ensure that ambient air quality is assessed in each zone by following the specified method for each relevant pollutant in accordance with its current classification.

(2) Where a zone is classified under regulation 6(1)(a) or (b) in relation to a relevant pollutant—

(a) measurements of that pollutant must be taken at fixed sites either continuously or by random sampling; and

(b) the number of measurements must be sufficiently large to enable the levels of that pollutant to be properly determined.

(3) Schedule 3 has effect for the purpose of determining the location of sampling points for the relevant pollutants.

(4) For each zone classified under regulation 6(1)(a) the National Assembly must ensure that, in respect of a relevant pollutant, the minimum number of fixed sampling points determined in accordance with Schedule 4 is used for sampling the concentrations of that pollutant in that zone.

(5) For each zone classified under regulation 6(1)(b) the National Assembly must ensure that, in respect of a relevant pollutant, the number of fixed sampling points used for sampling of that pollutant in that zone, and the spatial resolution of other techniques, shall be sufficient for the

concentrations of that pollutant to be established in accordance with Part I of Schedule 3 and Part I of Schedule 5.

(6) Reference methods for—

(a) the analysis of sulphur dioxide, nitrogen dioxide and oxides of nitrogen;

(b) the sampling and analysis of lead;

(c) the sampling and measurement of PM_{10};

(d) the sampling and analysis of benzene; and

(e) the analysis of carbon monoxide

are set out in Schedule 6, and these methods must be used unless other methods are used which the National Assembly considers can be demonstrated to give equivalent results **[**F9or, in relation to the sampling and measurement of PM10, which the National Assembly considers can be demonstrated to display a consistent relationship to the reference method**]**.

(7) The National Assembly must ensure that measuring stations to supply representative data on concentrations of $PM_{2.5}$ are installed and operated, using any method for the sampling and measurement of $PM_{2.5}$ that it considers suitable, and that where possible sampling points for $PM_{2.5}$ are co-located with sampling points for PM_{10}.

(8) For zones which are classified under regulation 6(1)(b) or (c), the National Assembly must ensure that the information set out in Part II of Schedule 5 is compiled.

(9) For sulphur dioxide, nitrogen dioxide, oxides of nitrogen, benzene and carbon monoxide measurements of volume must be standardised at a temperature of 293°K and a pressure of 101.3 kPa.

F9 Words in reg. 8(6) inserted (30.4.2005) by The Air Quality Limit Values (Wales) (Amendment) Regulations 2005 (S.I. 2005/1157), regs. 1(1), **4**

Action plans

9.—(1) The National Assembly must draw up action plans indicating the measures to be taken in the short term where there is any risk of the limit values for any of the relevant pollutants, or the alert thresholds for sulphur dioxide or nitrogen dioxide, being exceeded, in order to reduce that risk and to limit the duration of such an occurrence.

(2) The alert threshold for sulphur dioxide is that set out in paragraph 1.2 of Part I of Schedule 1, and the alert threshold for nitrogen dioxide is that set out in paragraph 2.2 of Part II of Schedule 1.

Action to be taken where limit values are exceeded

10.—(1) The National Assembly must draw up a list of zones in which the levels of one or more of the relevant pollutants are higher than—

(a) in a case where there is no margin of tolerance shown in Schedule 1 in relation to a limit value, the limit value;

(b) in any other case, the limit value plus the margin of tolerance shown in Schedule 1.

(2) The National Assembly must draw up a list of zones in which the levels of one or more of the relevant pollutants are between the limit value and the limit value plus any margin of tolerance.

(3) Subject to paragraphs (8), (10) and (11), the National Assembly must draw up for each zone listed under paragraph (1) a plan or programme for attaining the limit values for the pollutants in question and must ensure that the plan or programme is implemented.