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STATUTORY INSTRUMENTS

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**2003 No. 3311**

The Greenhouse Gas Emissions  
Trading Scheme Regulations 2003

PART 4

*Enforcement*

**Duty of regulator to enforce compliance with monitoring and reporting conditions**

**22.** While a greenhouse gas emissions permit is in force it shall be the duty of the regulator to take such action under these Regulations as may be necessary for the purpose of ensuring that the monitoring and reporting conditions are complied with.

**Enforcement notices**

**23.**—(1) If the regulator is of the opinion that an operator has contravened, is contravening or is likely to contravene any monitoring and reporting condition, the regulator may serve on him a notice (an “enforcement notice”).

(2) An enforcement notice shall—

- (a) state that the regulator is of the opinion that an operator has contravened, is contravening or is likely to contravene any monitoring and reporting condition;
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
- (c) specify the steps that must be taken to comply with the monitoring and reporting condition or, to the extent possible, to remedy any failure to comply with the monitoring and reporting condition, as the case may be; and
- (d) specify the period within which those steps must be taken.

(3) The regulator may withdraw an enforcement notice at any time.

**Power of the regulator to determine reportable emissions**

**24.**—(1) Where—

- (a) an operator served notice on the regulator in accordance with a condition of the greenhouse gas emissions permit imposed pursuant to regulation 10(2)(c) notifying it of factors that might prevent him from complying with the monitoring and reporting conditions of the permit and requesting the regulator to determine all or part of the annual reportable emissions from the installation or, in respect of the surrender or revocation of a greenhouse gas emissions permit (in whole or part), the reportable emissions from the installation for the period specified in regulation 15(2)(c) or 16(6)(a);
- (b) an operator fails to comply with the conditions included in a greenhouse gas emissions permit pursuant to regulation 10(2)(a)(ii) or 10(2)(b); or

- (c) an operator fails to comply with the requirements included in a revocation notice pursuant to regulation 16(6)(a),

the regulator shall determine the reportable emissions from the installation in the relevant period and the regulator's determination of the reportable emissions shall be treated as the reportable emissions from that installation for the period to which the determination relates.

(2) When determining annual reportable emissions under paragraph (1) the regulator shall take account of the requirements set out in Annex V of the Directive.

(3) The regulator shall notify any determination under paragraph (1) to the operator of the installation.

(4) Where a regulator makes a determination under paragraph (1) it may recover the cost of making that determination from the operator concerned.

#### **Powers of entry: offshore installations**

**25.**—(1) The Secretary of State may authorise in writing any person who appears suitable to her to exercise, in accordance with the terms of that authorisation, any of the powers specified in paragraph (2) in respect of offshore installations for the purposes of—

- (a) determining whether the requirements, restrictions or prohibitions imposed by or under these Regulations are being, or have been, complied with;
- (b) discharging one or more of the functions conferred or imposed upon the Secretary of State by or under these Regulations; or
- (c) determining whether and, if so, how such a function should be discharged.

(2) The powers exercisable under paragraph (1) are the powers in paragraphs (a) to (k) of regulation 13(2) of the Offshore Regulations and subject to paragraphs (3) and (4) of that regulation.