
EXPLANATORY NOTE

(This note is not part of the Regulations)

Chapter 8 of Part 2 of the Energy Act 2013 (c 32) (“the Act”) legislated for the Emissions Performance Standard imposing “the emissions limit duty” on operators of fossil fuel plant granted planning consent on or after 18th February 2014, to ensure that its annual emissions of carbon dioxide attributable to fossil fuels do not exceed an amount (“the emissions limit”) determined according to a formula set out in section 57(2) of the Act.

The Act provided for the Secretary of State to make Regulations relating to the interpretation of the emissions limit duty imposed on operators of fossil fuel generation plants under the Emissions Performance Standard. On 25 March 2015 the Emissions Performance Standard Regulations 2015 came into force, applying throughout the UK.

The Act requires that arrangements for monitoring and enforcement of the emissions limit duty are put in place by way of Regulation by the appropriate national authorities. The Department through these Regulations puts in place the monitoring and enforcement arrangements for Northern Ireland.

Part 1

Contains the definitions used in these Regulations.

Part 2

Creates a monitoring and enforcement regime for Northern Ireland.

Regulation 3 makes provision for the chief inspector to be the enforcing authority for the emissions limit duty.

Regulation 4 sets out the circumstances in which a fossil fuel plant operator must supply a notification to the chief inspector. The notification must state the emissions limit for the fossil fuel plant, its installed generating capacity and the date on which it commenced or is expected to commence operation.

Regulation 5 makes provision for notifications to be given to the chief inspector stating when an exemption for a complete Carbon Capture and Storage system, including to which generating units any exemption should apply.

Regulation 6 makes provision for the supply of a detailed emissions notification, an “EPS annual emissions notification”, containing the EPS annual emissions of a fossil fuel plant calculated in accordance with Part 2 of the Emissions Performance Standard Regulations 2015 and the methods of assessment and calculation used for the EU Emissions Trading Scheme. An EPS annual emissions notification will only have to be submitted if the Green House Gas Emissions Report for the fossil fuel plant discloses greater carbon dioxide emissions than the emissions limit for that plant.

Regulation 7 provides for the Department to establish a charging scheme for operation by the chief inspector when carrying out functions under these Regulations.

Regulation 8 allows the chief inspector to request further information from the operator of a fossil fuel plant, or the operator of an associated fossil fuel plant.

Regulation 9 allows for enforcement notices to be issued by the chief inspector where an operator of a fossil fuel plant has breached the emissions limit duty.

Regulation 10 makes provision for the chief inspector to issue civil penalties, where an operator of a fossil fuel plant has breached the emissions limit duty. The Department may publish guidance on financial penalties, which the chief inspector must have regard to.

Status: This is the original version (as it was originally made).

Regulation 11 provides for the effect of directions made by the Department of Enterprise, Trade and Investment under section 59(2) of the Energy Act 2013 suspending the operation of the emissions limit duty.

Regulation 12 makes provision for appeals against enforcement notices and civil penalty notices to the Planning Appeals Commission.

Regulation 13 allows the chief inspector to publish information in relation to issuing enforcement notices and civil penalty notices, providing that any appeal has been determined or withdrawn, or that the time limit for bringing an appeal has elapsed.

Regulation 14 makes provision for the chief inspector to enforce information notices, enforcement notices and civil penalty notices by obtaining an order of the High Court.

Regulation 15 makes amendments to the Greenhouse Gas Emissions Trading Scheme Regulations 2012, to allow for information disclosure and publication as necessary for the performance of the chief inspector's functions under these Regulations.

The Schedule to regulation 12 provides for appeals to the Planning Appeals Commission. OFMDFM have by Regulations made provision for the payment of a prescribed amount for an appeal to the Planning Appeals Commission.