Department of the
Environment
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Consultation on the Emissions Performance Standard Monitoring and Enforcement Regulations (Northern Ireland) 2015

16 September 2015

Closing Date: 11 November 2015

CONTENTS

1. MINISTER'S FOREWORD

In September 2014 Matthew Hancock MP, Secretary of State for Energy and Climate Change, advised me of a consultation to be issued by the Department of Energy and Climate Change in relation to the implementation of the Emissions Performance Standard (EPS) introduced in the Energy Act 2013.

The EPS acts as a regulatory backstop, limiting carbon-dioxide emissions from new fossil-fuel power stations and its purpose is to support the UK energy policy requirement that no new coal-fired power station should be built unless equipped with carbon capture and storage (CCS). The EPS is set at a level above the emissions output of new gas-fired generation plants, which are therefore unaffected.

Views sought in the consultation were in relation to proposals for:

- UK wide legislation relating to the application and modification of the emissions limit duty imposed on operators of fossil fuel generation plants under the EPS; and

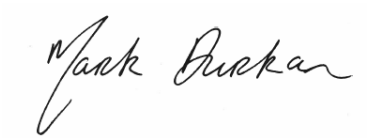
- Proposed arrangements for monitoring and enforcement of the EPS in England and Wales.

I agreed with the consultation proceeding in relation to the UK wide element of the regulations and the need for similar monitoring and enforcement arrangements to be introduced in Northern Ireland. I believe it is beneficial for operators to have similar arrangements across all Devolved Administrations. I also expressed the view that any regulations should, if possible, use existing emissions monitoring and reporting requirements to minimise the regulatory burden on affected businesses.

The UK wide consultation on the proposed approach to the regulations to fully implement the EPS closed in November 2014. The Emissions Performance Standard Regulations 2015 (EPS Regulations), subsequently came into force on 25 March 2015.

Draft EPS Monitoring and Enforcement Regulations for Northern Ireland have been prepared and are attached for your consideration and comment. I believe these Regulations will be another contribution to our ongoing efforts to reduce greenhouse gas emissions and will progress

us further towards the development of a low carbon future in Northern Ireland.



Signature
Minister of the Environment

2. PURPOSE OF CONSULTATION

The purpose of this consultation is to seek your views on the draft Emissions Performance Standard Monitoring and Enforcement Regulations (Northern Ireland) 2015.

Invitation to respond

Your views and comments are invited on the draft regulations set out in this consultation paper.

The consultation period will close on 11 November 2015. Responses to this consultation should be forwarded to reach the Department on or before that date, and should be sent by post to:

Climate Change Unit
Department of the Environment
Environmental Policy Division
6th Floor
Goodwood House
44-58 May Street
Town Parks
Belfast
BT1 4NN

Or by e-mail to climate.change@doeni.gov.uk

When you are responding please state whether you are responding as an individual or representing the views of an organisation.

It would be very helpful if you could present your views in the form of responses to the individual questions that are asked in the document. The full list of questions can be found on page 18.

Further Information

This document may be made available in alternative formats; please contact us to discuss your requirements. The Department's text phone number (028 9054 0642) has been included to assist the hearing impaired. The consultation document and a full list of consultees are published on the Department's website at:

http://www.doeni.gov.uk/index/protect_the_environment/climate_change.htm

Confidentiality & Data Protection

The Department will publish a summary of responses following completion of the consultation process. If you do not want all or part of your response or name made public, please state this clearly in writing in the response by marking your response as '**CONFIDENTIAL**'. Any confidentiality disclaimer that may be generated by your organisation's IT system will be taken to apply only to information for which confidentiality has been specifically requested.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA). If you want other information that you provide to be treated as confidential, please be aware that under FOIA there is a statutory Code of Practice with which public authorities must comply and which deals amongst other things with obligations of confidence.

In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by an IT system will not, of itself, be regarded as binding on the Department.

For further information about confidentiality of responses please contact the Information Commissioner's Office (or see website at: www.ico.gov.uk or email: ni@ico.gsi.gov.uk).

3. INTRODUCTION

This consultation paper seeks your views on the draft Emissions Performance Standard Monitoring and Enforcement Regulations (Northern Ireland) 2015.

The Energy Act 2013[1] established an Emissions Performance Standard (EPS) to limit carbon dioxide emissions from new fossil fuel power stations. The EPS applies to all new fossil fuel electricity generation plants that are above 50 MWe and receive development consent after 18 February 2014, the date at which EPS came into force.

The EPS has been set at a level equivalent to emissions of 450gCO2/kWh for a plant operating at baseload. This is equivalent to around half the level of emissions of unabated coal generation and is fixed until the end of 2044. The EPS also applies to new gas plant, but the Emissions Limit is not expected to impact on the operation of modern gas plant. The EPS is the first of its kind to be introduced by any country in the European Union.

In April 2012, the NI Executive consented to the EPS being set UK wide through the Energy Act 2013. It also gave powers to the Department of Energy and Climate Change (DECC) to bring forward secondary legislation for the application and modification of the emissions limit duty on operators of fossil fuel generation plants under the EPS (sections 57 to 59 of the Energy Act 2013).

Section 60 of the Energy Act, however, makes it the duty of the individual Devolved Administrations, by regulations, to make arrangements for monitoring compliance with, and enforcement of, the emissions limit duty. For the purposes of section 60 of the Energy Act only, the duty to introduce the monitoring and enforcement regulations for Northern Ireland rests with the Department of the Environment.

A UK wide consultation[2] from 25 September to 6 November 2014 proposed UK wide legislation relating to the application and modification of the emissions limit duty imposed on operators of fossil fuel generation plants under the EPS. The UK wide consultation received 12 responses, none of these were from Northern Ireland consultees.

[1] http://www.legislation.gov.uk/ukpga/2013/32/contents/enacted/data.htm

[2] https://www.gov.uk/government/consultations/implementing-the-emissions-performance-standard

The consultation also proposed that the monitoring and enforcement regulations for England and Wales should closely follow and use the same information that is already in place under the EU Emissions Trading Scheme (EU ETS), to keep regulatory impact to a minimum.

None of the responses received gave any grounds for review of the policy intentions. The only change to the UK Regulations was on account of the Welsh Government deciding to introduce its own monitoring and enforcement Regulations, therefore the monitoring and enforcement arrangements apply to England only.

The Emissions Performance Standard Regulations 2015[3] came into force on 25 March 2015, legislating for the application and modification of the emissions limit duty UK wide and introducing monitoring and enforcement arrangements for England.

This consultation on the draft EPS Monitoring and Enforcement Regulations (NI Regulations) sets out the arrangements for Northern Ireland. Scotland and Wales are also legislating for the monitoring and enforcement arrangements in their jurisdictions. These, like the NI Regulations, will be similar to those introduced in England as it was agreed that it would be beneficial for operators to have similar arrangements across all the UK jurisdictions. Also, the draft NI Regulations use existing emissions monitoring and reporting requirements of the EU ETS to minimise the regulatory burden on affected businesses.

Based on the fact that there are currently no new Northern Ireland coal burning electricity plants under development, and that there are no new coal fired stations planned, it is expected that the impact of EPS will be limited. There are currently proposals that may lead to the development and installation of additional gas fired stations, however, the Emissions Limit Duty is not expected to impact on the operation of modern gas plant.

[3] S.I. 2015/933

4. MONITORING AND ENFORCEMENT IN NORTHERN IRELAND

The draft Emissions Performance Standard Monitoring and Enforcement Regulations (Northern Ireland) 2015 are included in this consultation for your consideration and any comment you may wish to make.

As in England, the proposed approach to monitoring is intended to minimise the regulatory burden of compliance by utilising the monitoring and reporting of emissions already required of operators under the EU ETS. Before commencing operation of a fossil-fuel plant (and thereafter in the event of a material change) the operator will be required to calculate and declare the plant's 'Emissions Limit' to the chief inspector[4]; the operator will then monitor carbon emissions in accordance with the monitoring and reporting methodology used for the EU ETS.

The chief inspector will take an operator's annual verified EU ETS Return and reconcile the reported emissions figure against the notified Emissions Limit for the fossil-fuel plant. In the event that the verified annual carbon emissions reported under the EU ETS is greater than the Emissions Limit for a plant, the operator will be obliged to provide a further EPS specific return which identifies only those emissions attributable to the generation of electricity. The chief inspector will then use the EPS return to carry out a further reconciliation to confirm whether a breach of the EPS has occurred. More detail on monitoring and reporting is provided at chapter 5.

The chief inspector will have available a suite of measures for ensuring compliance. This includes the ability to take enforcement action, including the imposition of financial penalties, in the event of a breach of the Emissions Limit Duty. It is proposed that any civil penalty imposed in the event of a breach of the Emissions Limit Duty should be sufficient to act as a disincentive to breach the EPS and be proportionate. Chapter 6 provides more detail on this aspect of the EPS.

[4] Appointed by the Department under regulation 8(3) of the Pollution Prevention & Control (Industrial Emissions) Regulations (Northern Ireland) 2013 and is part of the Northern Ireland Environment Agency. S.R. 2013/160

5. MONITORING AND REPORTING

i. Summary

It is proposed that:

- Before commencing operation of a plant, (and thereafter in the event of a specified change occurring) operators of fossil fuel plant must notify the chief inspector of the 'Emissions Limit' for that plant;

- Operators will be required to monitor their plant's carbon emissions in accordance with the methodology in the Monitoring and Reporting Regulation for the EU ETS;

- The chief inspector will reconcile an operator's annual verified EU ETS Reports against notified Emissions Limits for their fossil-fuel plant;

- If the verified annual carbon emissions reported under the EU ETS is above the Emissions Limit for a plant, the operator must provide a further EPS specific notification, identifying emissions directly attributable to the generation of electricity;

- The chief inspector will use the EPS notification (plus any further information necessary) to assess whether a breach of the EPS has occurred.

ii. Monitoring and Reporting of Carbon Emissions

The Act makes provision for appropriate national authorities to establish arrangements relating to the monitoring and enforcement of the EPS, including the appointment of an Enforcing Authority (i.e. a Regulator), by way of regulations. In Northern Ireland the appropriate national authority is the Department of the Environment.

The EPS Regulator will be the chief inspector (the legal entity for the regulations is the 'chief inspector'; in effect this will be the Northern Ireland Environment Agency). The chief inspector already acts as the competent authority for the purposes of the EU ETS, so already undertakes functions similar to those that will be required for the effective operation of the EPS.

Consistent with the approach taken in England and the views of the Minister, the Regulations are drafted to minimise regulatory burden by

using the existing monitoring and reporting requirements placed on operators under the EU ETS to also ensure compliance with the EPS.

The data that power station operators are required to report under the EU ETS overlaps considerably with the data that will be required for the operation of the EPS. The approach currently applied for the monitoring and reporting of carbon emissions under the EU ETS will, so far as is practicable, be followed for the EPS. This principle also extends to ensuring that the EPS reporting cycle should match the EU ETS reporting cycle.

This chapter describes the proposed approach for monitoring and reporting of carbon dioxide emissions for the purpose of ensuring operators of fossil fuel plants are compliant with the EPS. It describes how compliance with the obligation placed on the operator of a fossil fuel plant under the EPS will be practically demonstrated, together with the functions to be carried out by the chief inspector for the purpose of ensuring compliance. The following provides a description of the proposed approach.

iii. Monitoring Arrangements

The annual Emissions Limit for a fossil fuel plant under the EPS is set on the basis of a calendar year, as per the annual cycle for reporting under the EU ETS.

a. Declaration of the Plant's Emissions Limit

The operator of a new fossil fuel plant will be required to notify the chief inspector of the Emissions Limit for their plant within 31 days of getting a required EU ETS Permit for that plant. The Emissions Limit will be calculated in accordance with the formula prescribed under section 57 of the Energy Act 2013. This ensures that before a new fossil fuel generation plant commences operation, the chief inspector, who is also the regulator for the EU ETS, will be notified of the Emissions Limit for that plant.

As an exception to the general principle that the EPS applies to new fossil fuel generation plant (i.e. consented after 18 February 2014), the Energy Act 2013 provides the power to make regulations to also include existing plant in circumstances where the main boiler is replaced or an additional main boiler is installed.

Existing plants which undergo significant upgrades or life extension after the EPS regime came into force will be subject to the regime and this will

be achieved by applying the EPS to a coal plant if upgraded to supercritical technology or if a main boiler is replaced.

Consistent with the purpose of the EPS, in circumstances where a main boiler is replaced or an additional boiler installed, the EPS will apply to only that portion of a plant's installed generating capacity that is served by the upgrade. The draft Regulations imposes a duty on the operator to notify the Regulator of a relevant upgrade and notify the revised EPS Emissions Limit.

b. Monitoring EPS Emissions – Relationship with the EU ETS Monitoring Plan

Before commencing operation of a plant, an operator will, as part of the EU ETS Permit for the plant, submit an EU ETS Monitoring Plan to the chief inspector. The operator must also notify the chief inspector of any changes to the Monitoring Plan thereafter. For example, there will be a revision to the plan where there is a change to the plant's generating capacity or fuel type.

It is proposed that when developing the EU ETS Monitoring Plan, an operator should, if necessary, make provision to ensure that any carbon emissions from the use of fossil fuel that are attributable emissions for the purposes of the EPS can be clearly identified. Doing so will ensure that the plant operator is well placed to obtain that information needed for the purposes of meeting any obligation to supply an 'EPS Annual Emissions Notification'.

Under the EPS, attributable emissions are those emissions that will be counted towards a plant's Emissions Limit. These are emissions produced directly as a result of the use of fossil fuel for the production of electricity. It is recognised, therefore, that when an installation is monitoring emissions for the purposes of the EU ETS, it may be required to record emissions that do not constitute attributable emissions under the EPS. For example, emissions resulting from the heating of buildings or maintenance activities would be declarable under the EU ETS but would not count towards the fossil fuel plant's EPS total annual emissions, since they do not result directly from the use of fossil fuel to produce electricity.

Since it will often be the case that little or no variation to the EU ETS Monitoring Plan will be required in order for the plant operator to monitor emissions for the purposes of the EPS, it is considered disproportionate to create an additional requirement for a separate EPS monitoring plan.

However, this does mean that plant operators will need to ensure that EU ETS Monitoring Plans provide a sufficient breakdown of the emissions data to allow identification of the emissions that are attributable emissions for the purposes of the EPS.

In practice, this means the operator will need to identify in the ETS Monitoring Plan those source streams that give rise to attributable emissions for the purposes of the EPS so that, if needed, a declaration of 'EPS emissions' can subsequently be made.

This approach will help to minimise regulatory burden. It also ensures that monitoring of emissions under the EPS will be consistent with the methodology defined under the EU ETS Monitoring and Reporting regulation.

iv. Reporting Arrangements

Under the EU ETS, an operator of a fossil fuel plant is required to report annual carbon emissions (EU ETS Annual Report) to the chief inspector no later than 3 months after the end of the relevant reporting year. For example, emissions for 1 January to 31 December 2015 should be reported and verified by 31 March 2016.

As noted above, it is recognised that emissions that are required to be declared for the purposes of the EU ETS may exceed those emissions considered attributable emissions for the purpose of the EPS. The Department is not aware, however, of any circumstance where the reverse would be true. Therefore, to minimise regulatory burden, it is proposed that the operator of a plant subject to the EPS should only be required to submit a separate report identifying those emissions that are attributable for the purposes of the EPS if the plant's EU ETS Annual Report shows EU ETS emissions to be higher than the plant's declared EPS Emissions Limit.

In these circumstances, the chief inspector will require further information in order to establish whether or not a breach of the EPS Emissions Limit has taken place. Where emissions reported for the EU ETS exceed the EPS Emissions Limit, the plant operator will therefore be required to submit an additional report: an 'EPS Annual Emissions Notification'. The EPS Annual Emissions Notification will identify which of those emissions reported under the EU ETS constitute attributable emissions for the purposes of the EPS. The total of attributable emissions will show whether or not a breach of the plant's Emissions Limit has occurred.

v. Verification

An accredited (or certified) verifier provides an independent check of an operator's EU ETS annual emissions report which includes assessing the monitoring methods, information, data and calculations used by the operator. Since the data used for declaring EPS related emissions will have already been verified for EU ETS related purposes, introduction of additional verification requirements for the EPS is not considered necessary.

vi. Compliance

On receipt of an operator's EU ETS report, the chief inspector will compare the reported emissions for the fossil fuel plant against the EPS Emissions Limit for the plant. As described above, in the event that a plant's annual emissions reported for the purposes of the EU ETS exceed the plant's previously notified EPS Emissions Limit, the operator will also have submitted an EPS Notification. The EPS Notification will identify those emissions which constitute attributable emissions for the purposes of the EPS, i.e. those emissions that are the direct result of operations and processes carried out in the production of electricity by the fossil fuel plant.

The chief inspector will then use the operator's EPS notification along with the plant's notified Emissions Limit to determine whether or not a breach of the plant's Emissions Limit has taken place.

Where any information required by the chief inspector for the purposes of establishing whether or not a breach of the Emissions Limit has occurred has not been provided, the draft regulations provide the power for the chief inspector to obtain this from the operator.

vii. Fees and Charging

Costs incurred by the chief inspector in monitoring compliance with the EPS in Northern Ireland will be recovered from operators of fossil fuel plants subject to the EPS in their jurisdiction through a charging scheme which will set charges e.g. for applications and annual subsistence fees. Costs to the chief inspector associated with any enforcement action will be met by the operator against whom the enforcement action is taken.

6. ENFORCEMENT AND APPEALS

i. Summary

It is proposed that:

- The chief inspector should have access to appropriate enforcement mechanisms to ensure there is no financial incentive to breach the EPS Emissions Limit Duty;

- Regulations will confer a power on the chief inspector to impose an enforcement notice and/or levy civil penalties in the event that a fossil fuel plant operator breaches the EPS Emissions Limit Duty;

- The level of any financial penalty issued in connection with a breach of the EPS Emissions Limit Duty should be sufficient to remove any benefit derived by an operator from a breach;

- Parties subject to civil penalties and/or an enforcement notice will have the ability to appeal decisions to the Planning Appeals Commission.

The EPS enforcement framework should sufficiently deter an operator of a fossil fuel plant from breaching the obligation not to exceed the Emissions Limit Duty for that plant. Consistent with this principle, an operator that has breached the Emissions Limit Duty should not be left in a better position financially than an operator that has not. Whilst the enforcement framework should ensure that there is no financial incentive to breach the Emissions Limit Duty, enforcement action should not be disproportionately punitive.

To achieve these outcomes, it is proposed that, where the chief inspector is satisfied that an operator has breached the Emissions Limit Duty, the chief inspector should have the ability to levy a financial penalty.

ii. Level of Financial Penalty to be Levied in Connection with Breach of the Emissions Limit Duty

Two principal approaches were considered in connection with the level of financial penalty to be levied in the event of a breach of the Emissions Limit Duty. These were follows:

- Specifying a fixed calculation in the regulations for a financial penalty to be levied on the basis of either electricity generated (MWh) or carbon emitted (TCO2) after the point at which the EPS is breached multiplied by a fixed penalty value (£/MWh) or (£/T CO2); or

- Stating in regulations the principles the chief inspector must apply when

imposing a financial penalty levied in connection with a breach of the Emissions Limit Duty, with penalty levels reflective of the financial benefit derived by an operator from the electricity generation that resulted in a breach.

a. First Approach – Fixed Penalty

Under the first approach, any fixed penalty (whether imposed on a £/MWh or £/TonneCO2 basis) would need be set at a level that would result in the quantum of any financial penalty being consistent with the principle that the penalty imposed should be sufficient to remove any benefit derived from the breach but not disproportionately punitive.

However, it is difficult to set a penalty value in advance of a breach that will result in penalty levels that are consistent with the overarching principles. This is because revenues and costs associated with the generation of electricity will be specific to the plant concerned; and, more generally, because revenues and costs associated with the generation of electricity will vary over time.

In light of the above, the conclusion was that it will not be possible to settle on a fixed penalty value to be included in the regulations that will, in all circumstances, be sufficient to incentivise compliance whilst not being unduly punitive.

The approach of specifying a fixed penalty value in regulations has therefore been discounted.

b. Second Approach – Principles to be Applied in Setting a Penalty Level

The second approach should provide greater flexibility to ensure that the penalty imposed is sufficient to recover benefit derived by an operator from the electricity generation causing the breach. Specifying in regulation those principles that the chief inspector will apply when determining the level of any penalty is considered to provide sufficient clarity on the nature of the penalty that may be imposed in the event of breach of the Emissions Limit Duty whilst also ensuring that the stated policy objectives of recovering financial benefit and not being disproportionately punitive will be achieved.

Regulation 10 of the draft Regulations therefore reflects the second of the approaches described above. This requires that any penalty levied by the chief inspector must:

- remove the benefit derived by the operator from the breach of the

Emissions Limit Duty,

- be fair, and
- be proportionate.

The draft Regulations provide for the chief inspector to access that information which it reasonably requires in order to determine the level of benefit an operator has derived from any breach of the Emissions Limit Duty. This power is provided at Regulation 8 'Information Notices'.

This approach is consistent with the monitoring and enforcement arrangements for England in the EPS Regulations.

If necessary the Department and/or the chief inspector will have the ability to build on these regulatory principles in the future by way of issuing further guidance in connection with the calculation of financial penalties.

iii. Enforcement Notices

Consistent with providing the chief inspector with sufficient tools for ensuring compliance it is appropriate that the chief inspector should have the ability to require an operator to take such action as may be necessary to correct a breach of the Emissions Limit, or to prevent a breach from occurring.

The draft Regulations therefore provide a power for the chief inspector to issue enforcement notices. It also makes prescription regarding the form of such notice, which must set out the remedial steps required to be taken as well as the time period in which actions must be completed.

iv. Discretion

Consistent with the EU ETS regime, it is proposed that the chief inspector should have the ability to exercise discretion in determining whether to issue a financial penalty and when determining the level of such penalty (subject to the requirement that any financial penalty should be sufficient to recover benefit derived from the breach and be fair and proportionate).

This approach will ensure the chief inspector is provided with the ability to take that action which is considered most appropriate to deal effectively with any non-compliance. This consultation seeks views on whether or not the Regulator should have the ability to exercise discretion in connection with EPS financial penalties.

v. Enforcement Action Costs

As noted above, where the chief inspector takes enforcement action, the cost of that action will be met by the party against whom enforcement action is being taken.

vi. Ensuring UK-wide Consistency

The Act requires relevant national authorities to make their own arrangements for the monitoring and enforcement regime supporting administration of the EPS. However, there is consensus that, wherever possible, a common approach to the monitoring and enforcement of the EPS will be taken. This will ensure that investors and fossil fuel plant operators will operate under a common approach, irrespective of where in the United Kingdom a plant is located.

To this end, it is proposed that, in connection with Northern Ireland, the Department should consult with the relevant national authorities in England, Scotland and Wales prior to issuing any guidance in connection with EPS financial penalties.

viii. Proposed EPS Appeals Body: Planning Appeals Commission

The regulations should provide any party subject to any EPS related civil penalty or enforcement action with a means of appeal.

The body considered appropriate to hear any such appeal would be the Planning Appeals Commission (PAC). The PAC already hears appeals relating to enforcement action taken by the chief inspector in the context of the EU ETS; and in view of the fact that the compliance with the Emissions Limit will be assessed substantively on the basis of data already produced for the purposes of the EU ETS, it would be consistent for the PAC also to hear EPS related appeals.

The PAC was established as an independent appeals body in 1973 when planning powers were centralised in a Government Department. The Commission now operates under the Planning (Northern Ireland) Order 1991 and its functions fall into two broad categories (detailed below) arising from decisions and proposals of Northern Ireland Departments - Department of the Environment (DoE), Department for Regional Development (DRD), Department for Social Development (DSD), Department of Enterprise, Trade and Investment (DETI) and the Office of the First Minister and Deputy First Minister (OFMDFM).

The Commission receives financial and administrative support from

OFMDFM its "sponsor" department. Although OFMDFM exercise some functions which may involve it appearing before the PAC, the PAC is wholly independent in terms of decision making and the operation of the appeals and inquiry/hearing process. This process meets the requirements of Article 6(1) of the European Convention on Human Rights (ECHR) relating to the right to a fair hearing by an independent and impartial tribunal. A Memorandum of Understanding (MOU) sets out the relationship between OFMDFM and the PAC. The MOU recognises the need for accountability in terms of OFMDFM's sponsorship role in providing resources and services while protecting the independence of the PAC.

1. **Decisions on Appeals** – the PAC makes decisions on all appeals against Departmental decisions on a wide range of planning and environmental matters.

2. **Hearing and Reporting on Public Inquiries/Hearings** – the PAC makes recommendations on a wide range of cases referred to it by a Department. The final decision in these matters is taken by the relevant Department.

At present the Commission has 82 functions under various pieces of legislation, but principally The Planning (Northern Ireland) Order 1991.

The decision on an appeal may be made by a single Commissioner (called an individual decision) or by a panel of not fewer than four Commissioners (called a collective decision). Based on published criteria the Chief Commissioner decides if the decision in the appeal should be an individual or a collective decision. A single Commissioner appeal may also be recovered by the Chief Commissioner for a collective decision at any point before it is issued by the PAC.

PAC decisions are final and, once they are issued, they cannot be amended, withdrawn or substituted by a new decision. PAC decisions, however, are open to challenge on a point of law by application to the High Court for judicial review. The PAC also operates a complaints system to deal with complaints about how the PAC has handled an appeal or inquiry.

7. SUSPENSION OF EPS

In the future it is possible that the restriction the EPS places on the operation of fossil fuel plant could, under certain circumstances, contribute to a shortfall in the amount of electricity that is available to meet demand.

Under such circumstances, in order to mitigate a risk to security of supply, section 59 of the Energy Act 2013 gives the Department of Enterprise Trade and Investment (DETI) power to issue a direction to suspend the Emissions Limit Duty.

Before exercising the power to suspend or modify the Emissions Limit Duty the DETI must issue a 'Statement of Policy'. Whilst section 59 of the Energy Act 2013 prescribes the extent of the power to suspend the Emissions Limit Duty and the legal requirements placed on the DETI, the Statement of Policy will set out the policy in respect of the following:

- Determination of 'exceptional circumstances' under which a direction to modify or suspend the Emissions Limit Duty may be given;
- Conditions precedent for giving a direction to modify or suspend the Emissions Limit Duty;
- Form of notification of a direction to modify or suspend the Emissions Limit Duty;
- Arrangements for giving effect to a direction; and
- Review of the Statement of policy

DETI will be consulting on the proposed content of this policy statement.

The Regulations make provision for the chief inspector to treat the Emissions Limit Duty as suspended or modified and to comply with any requirement in a direction issued by DETI under section 59(2) of the Energy Act 2013.

8. EXEMPTION FOR CARBON CAPTURE AND STORAGE PROJECTS

Carbon Capture and Storage (CCS) projects will be exempt from the EPS for a period of three years from the point at which a complete CCS chain with which a fossil fuel generation plant is equipped is ready to use. It is proposed that the CCS exemption will only apply to that part of a fossil fuel generation plant equipped with the complete CCS chain.

The CCS exemption is time limited by the Energy Act 2013 and will come to an end in 2027, which is consistent with an expectation that CCS will be fully commercialised by then. Regulators will have responsibility for ensuring that an operator has met the conditions necessary for the exemption to apply. Regulators may, in the future, publish guidance to assist operators in understanding whether the conditions for attracting the CCS exemption have been met.

9. QUESTIONS

The consultation has set out the proposals for the Emissions Performance Standard Monitoring and Enforcement Regulations (Northern Ireland) 2015. The Department invites your views to the individual questions below and it would be helpful if you present your views in the form of responses to the individual questions that are asked.

When you are responding please state whether you are responding as an individual or representing the views of an organisation.

Q1. Does the proposed approach for monitoring and reporting carbon emissions for the purpose of the EPS minimise burden on operators? Are there ways in which the process could be simplified and/or the burden reduced?

Q2. Do you agree with the principles that the chief inspector must apply when determining the level of any financial penalty (specifically, that any financial penalty must be sufficient to recover any benefit derived from the breach and that the penalty must be fair and proportionate)?

Q3. Do you consider that the chief inspector should have discretion when determining whether or not to levy an EPS related civil penalty and/or determining the level of any such penalty?

Q4. Do you consider that the Planning Appeals Commission (PAC) is the appropriate body to hear and determine appeals relating to any civil penalty and/or enforcement action imposed by the chief inspector in connection with the EPS?

10. RESULTS OF INITIAL EQUALITY SCREENING, HUMAN RIGHTS ASSESSMENT, RURAL PROOFING AND REGULATORY IMPACT ASSESSMENT

Equality

Section 75 of the Northern Ireland Act 1998 requires that public authorities have due regard to equality issues in carrying out functions relating to Northern Ireland. The Department carried out screening for equality impact and is satisfied that the proposed legislation will not lead to discriminatory or negative differential impact on any of the section 75 groups. A copy of the screening form can be viewed on the Department's website.

Human Rights Act

The Human Rights Act 1998 ("the 1998 Act") gives further effect to rights and freedoms guaranteed under the European Convention on Human Rights. The 1998 Act makes it unlawful for a public authority, including the Department, to act in a way that is incompatible with these rights.

The Department considers that the issues discussed within this consultation are compatible with the 1998 Act.

Rural Proofing

Rural proofing is a process to ensure that all relevant Government policies are examined carefully and objectively to determine whether or not they have a differential impact in rural areas from that of elsewhere, because of particular characteristics of rural areas. Where necessary the process should also examine what policy adjustments might be made to reflect rural needs and in particular to ensure that, as far as possible, public services are accessible on a fair basis to the rural community.

The Department has assessed the proposed measures and considers that there would be no differential impact in rural areas or on rural communities.

Regulatory Impact

An Impact Assessment was carried out on a UK wide basis and was published along with the government response to the UK wide consultation document on 14 January 2015. It is available from the Department of Energy and Climate Change at 3 Whitehall place, London, SW1A 2AW or can be viewed at:

https://www.gov.uk/government/consultations/implementing-the-emissions-performance-standard

2015 No. 0000

ENERGY

ELECTRICITY

The Emissions Performance Standard Monitoring and Enforcement Regulations (Northern Ireland) 2015

Made - - - -	*XXXX*
Coming into operation	*XXXX*

ARRANGEMENT OF REGULATIONS

PART 1

GENERAL

PART 2

MONITORING AND ENFORCEMENT

The Department of the Environment, in exercise of powers conferred upon it by section 60(2) of, and Schedule 5 to, the Energy Act 2013([5]), makes the following Regulations.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Emissions Performance Standard Monitoring and Enforcement Regulations (Northern Ireland) 2015 and come into operation on 1st October 2015.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954([6]) applies to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

"the Act" means the Energy Act 2013;

"associated gasification plant" means any gasification plant where—

(a) that plant—

(i) uses fossil fuel; and

(ii) produces fuel from the fossil fuel; and

(b) the fuel so produced by that plant is used by a relevant fossil fuel plant to generate electricity;

"CCS" means carbon capture and storage within the meaning of Chapter 8 of Part 2of the Act;

"CCS notification" means a notification under regulation 5;

"chief inspector" means the inspector constituted to be the chief inspector under regulation 8(3) of the PPC Regulations;

"civil penalty notice" means a notice issued under regulation 10;

"emissions limit notification" means a notification under regulation 4;

"enforcement notice" means a notice issued under regulation 9;

"EPS annual emissions" is to be construed in accordance with regulations 7 and 8 of the EPS Regulations;

"EPS annual emissions notification" means a notification under regulation 6;

"EPS Regulations" means the Emissions Performance Standard Regulations 2015([7]);

"generating station" means a station which generates electricity;

"generating unit" means any combination of generators, boilers, turbines or other prime movers that are physically connected as one unit and operated together to produce electricity independently of any other unit;

"GGETS Regulations" means the Greenhouse Gas Emissions Trading Scheme Regulations 2012(**8**);

"Greenhouse Gas Emissions Permit" means a permit granted under regulation 10 of the GGETS Regulations;

"Greenhouse Gas Emissions Report" means a report required to be submitted by an operator by Article 67(1) of the Monitoring and Reporting Regulation;

([5]) 2013 c. 32 which has been amended by S.I. 2014/1638, regulation 48(1) and (2), Schedule 13, Part 1, paragraph 8, and Schedule 14, Part 1

([6]) 1954 c. 33 (N.I.)

([7]) S.I. 2015/933

([8]) S.I. 2012/3038 which has been amended by S.I. 2013/1037, S.I. 2013/3135 and S.I. 2014/3125

"information notice" means a notice issued under regulation 8;

"installed generating capacity", in relation to a generating station or generating unit, means the maximum capacity of electricity generation (in MW) at which that generating station or generating unit could be operated for a sustained period without damage being caused to it (assuming the source of energy used to generate electricity is available without interruption);

"the Monitoring and Reporting Regulation" means Commission Regulation (EU) No 601/2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council([9]);

"MW" means megawatts;

"operator", in relation to a relevant fossil fuel plant, means the person required to hold a Greenhouse Gas Emissions Permit for the relevant fossil fuel plant;

"relevant fossil fuel plant" means a fossil fuel plant to which the emissions limit duty applies under the Act or a generating unit to which the emissions limit duty applies by virtue of regulation 3 of the EPS Regulations;

"source stream" has the same meaning as in Article 3(4) of the Monitoring and Reporting Regulation;

"the Verification Regulation" means Commission Regulation (EU) No 600/2012 on the verification of greenhouse gas emission reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council([10]); and

"verified" means verified in accordance with the Verification Regulation.

PART 2

Monitoring and enforcement

Enforcing authority

3.—(1) In relation to a relevant fossil fuel plant, the chief inspector is the enforcing authority by whom functions under these Regulations for or in connection with monitoring or enforcing the compliance of operators with the emissions limit duty are to be exercisable for the purposes of paragraph 1(1) of Schedule 5 to the Act.

Emissions limit notification duty

4.—(1) If any of the conditions in paragraph (3) are met in relation to a relevant fossil fuel plant, the operator of the plant must submit a notification ("an emissions limit notification") to the chief inspector within 31 days of the date on which the condition is met or, if more than one condition is met, within 31 days of the date on which the earliest condition is met.

(2) An emissions limit notification must state—

(a) the emissions limit (in tonnes of carbon dioxide) for the relevant fossil fuel plant, calculated in accordance with section 57(1) of the Act and as modified, if applicable, by regulation 4 of the EPS Regulations;

(b) the installed generating capacity of the relevant fossil fuel plant; and

(c) the date on which the relevant fossil fuel plant commenced or is expected to commence generation.

(3) The conditions are—

(a) that a Greenhouse Gas Emissions Permit in relation to the relevant fossil fuel plant—

(i) is held by the operator on the date these Regulations come into operation;

(ii) is granted to the operator after the date these Regulations come into operation; or

([9]) OJ No L 181, 12.7.2012, p 30

(iii) is varied in relation to the amount of installed generating capacity covered by that permit after the date these Regulations come into operation; or

(b) the emissions limit for the relevant fossil fuel plant is modified by regulation 4 of the EPS Regulations.

(4) An emissions limit notification must be submitted in such form and manner as the chief inspector may reasonably require.

Carbon capture and storage (CCS) notification

5.—(1) For the purposes of section 58 of the Act, the chief inspector must not consider a complete CCS system to be ready for use unless he has first received from the operator a notification ("a CCS notification") in respect of the system.

(2) A CCS notification must state—

(a) each generating unit within the relevant fossil fuel plant to which the complete CCS system relates;

(b) the installed generating capacity of all the generating units specified under sub-paragraph (a); and

(c) the date on which the operator wishes the complete CCS system is to be considered ready for use.

(3) A CCS notification must be submitted in such form and manner as the chief inspector may reasonably require.

EPS annual emissions notification

6.—(1) If the condition in paragraph (2) is satisfied in relation to a relevant fossil fuel plant, the operator of the plant must submit, annually, a notification ("an EPS annual emissions notification") to the chief inspector in accordance with paragraph (4).

(2) The condition is that the total of—

(a) the total annual emissions of carbon dioxide for the relevant fossil fuel plant reported in a verified Greenhouse Gas Emissions Report; and

(b) if applicable and where not otherwise included in the total under sub-paragraph (a), the total annual emissions of carbon dioxide directly attributable to the production of fuel produced from fossil fuel in any associated gasification plant used by the relevant fossil fuel plant for the same period as the Report,

is greater than the emissions limit for the plant for the year covered by the Report.

(3) For the purposes of paragraph (2)—

(a) only emissions of carbon dioxide which relate to generating units reported in a verified Greenhouse Gas Emissions Report are to be included; and

(b) "emissions limit" means the emissions limit for the relevant fossil fuel plant calculated in accordance with section 57(1) of the Act and as modified, if applicable, by regulation 4 of the EPS Regulations.

(4) An EPS annual emissions notification must—

(a) state the EPS annual emissions for the relevant fossil fuel plant for the same period as the verified Greenhouse Gas Emissions Report referred to in paragraph (2) and, for this purpose, the EPS annual emissions are to be calculated or measured in accordance with the methodology of the Monitoring and Reporting Regulation;

(b) identify source streams for each generating unit at the relevant fossil fuel plant to which the emissions limit duty applies;

(c) be submitted to the chief inspector within 10 days of the submission of the verified Greenhouse Gas Emissions Report referred to in paragraph (2); and

(d) be submitted in such form and manner as the chief inspector may reasonably require.

Charges

7.—(1) The Department may make, and from time to time revise, a scheme for the charging by the chief inspector of fees or other charges for the carrying out of functions conferred on him by these Regulations ("an EPS charging scheme").

(2) An EPS charging scheme may, in particular—

(a) make different provision for different cases, including different provision in relation to different persons in different circumstances or localities;

(b) provide for the times at which and the manner in which the payments required by the scheme are to be made; and

(c) make such incidental, supplementary and transitional provisions as appear to the Department to be appropriate.

(3) The chief inspector may charge for the carrying out of functions conferred on him by these Regulations only as provided by an EPS charging scheme.

(4) An operator must pay a charge imposed under an EPS charging scheme on the operator and where there is a failure to do so—

(a) the notification to which the charge relates is to be treated as not having been made; and

(b) the amount of the charge an operator fails to pay may be recovered from the operator by the chief inspector as a civil debt.

(5) An EPS charging scheme must be made publically available by the Department 28 days before it has effect.

Information notices

8.—(1) For any of the purposes mentioned in paragraph (2), the chief inspector may, by notice ("an information notice") served on an operator or the operator of an associated gasification plant, require that person to furnish to the chief inspector such information as is stated in the notice, in such form and within such period following service of the notice or at such time as is so stated.

(2) The purposes are—

(a) investigating whether or not the operator has breached the emissions limit duty;

(b) investigating whether or not an operator has failed to comply with either or both of the duties in regulations 4 and 6;

(c) investigating whether a complete CCS system is ready for use; and

(d) investigating any of the following in relation to an associated gasification plant, for the purposes of calculating the emissions of a relevant fossil fuel plant—

(i) the carbon dioxide emissions of the associated gasification plant; and

(ii) the amount of fuel produced by the associated gasification plant and used by a relevant fossil fuel plant.

Enforcement notices

9.—(1) Where the chief inspector is of the view that an operator has breached the emissions limit duty, the chief inspector may serve a notice ("an enforcement notice") on that operator.

(2) An enforcement notice may only be served in respect of a breach of the emissions limit duty in relation to—

(a) the year in which the notice is served; or

(b) the preceding year.

(3) An enforcement notice must state—

(a) the chief inspector's view concerning the breach;

(b) the remedial action which the operator must take in respect of the breach;

and

(c) the time by which the remedial action must be taken.

(4) The time stated under paragraph (3)(c) must not be earlier than 21 days after the date of service of the enforcement notice.

(5) Subject to paragraph (6) and regulation 12, where an enforcement notice has been served on an operator, the operator must comply with the requirements of the enforcement notice.

(6) The chief inspector may vary or withdraw an enforcement notice at any time by further notice served on the operator.

Civil penalty notices

10.—(1) Subject to paragraph (7), where the chief inspector is of the view that an operator has breached the emissions limit duty, the chief inspector may serve a notice ("a civil penalty notice") on that operator which states the financial penalty which is payable to the chief inspector in respect of that breach.

(2) A civil penalty notice must state—

(a) how the amount of the financial penalty imposed was calculated; and

(b) the date by which the amount payable under the civil penalty notice is to be paid in full.

(3) The financial penalty is to be set at a level that the chief inspector considers will, if possible—

(a) remove any benefit derived by the operator from the breach of the emissions limit duty;

(b) be fair; and

(c) be proportionate.

(4) The financial penalty may include an amount in respect of the costs reasonably incurred by the chief inspector in investigating and assessing the breach of the emissions limit duty.

(5) An operator must pay the amount payable under a civil penalty notice and if it is not paid in full by the date stated in the civil penalty notice, the amount payable may be recovered from the operator by the chief inspector as a civil debt.

(6) The chief inspector may vary or withdraw a civil penalty notice before it has been paid by further notice served on the operator.

(7) The chief inspector may not impose a financial penalty in respect of a breach of the emissions limit duty in any year which began more than 5 years before the year in which the notice imposing the penalty is served.

(8) The Department may issue guidance ("EPS penalty guidance") on the calculation of financial penalties.

(9) Where EPS penalty guidance is issued, the chief inspector must have regard to that guidance when calculating the amount of a financial penalty to be imposed.

(10) Before issuing guidance, the Department must consult—

(a) the national authorities in England, Scotland and Wales; and

(b) such other persons or bodies as the Department considers appropriate.

(11) Where EPS penalty guidance is issued, it must be made publically available by the Department 28 days before it has effect.

(12) The chief inspector may state the manner and form in which any amount required to be paid by a civil penalty notice must be paid.

(13) Any sum received by the chief inspector must be paid into the consolidated fund.

Directions under section 59(2) of the Act

11. Where the Department of Enterprise, Trade and Investment makes a direction under section 59(2) of the Act, the chief inspector must—

(a) treat the emissions limit duty as suspended or modified as required by the direction; and

(b) comply with any requirement imposed on it by the direction in relation to his functions under these Regulations.

Appeals

12.—(1) An operator may appeal to the Planning Appeals Commission ("the appeals commission") against—

(a) an enforcement notice;

(b) a civil penalty notice.

(2) The grounds on which an enforcement or civil penalty notice may be appealed are that it was—

(a) based on an error of fact;

(b) wrong in law;

(c) unreasonable.

(3) Where an operator appeals, any enforcement notice or civil penalty notice subject to that appeal is suspended until the appeal is determined by the appeals commission.

(4) The Schedule has effect in relation to the making and determination of an appeal to the appeals commission.

Publication of information

13.—(1) Subject to paragraph (3), the chief inspector may publish any information specified in paragraph (2) in relation to an enforcement notice or civil penalty notice on or after the later of—

(a) the day following expiry of the period for making an appeal against the imposition of the notice, if no appeal is made; or

(b) the determination or withdrawal of the appeal, if an appeal is made.

(2) Subject to paragraph (3), the information that may be published is—

(a) the identity of the operator subject to the enforcement notice or civil penalty notice;

(b) in the case of an enforcement notice, remedial action required to be taken to remedy the breach of the emissions limit duty;

(c) in the case of a civil penalty notice, the amount payable under the civil penalty notice; and

(d) if the notice has been the subject of an appeal under regulation 12, the result of that appeal.

(3) The chief inspector must not publish the information stated in relation to an enforcement notice or civil penalty notice if—

(a) the operator is found on appeal not to have breached the emissions limit duty; or

(b) the enforcement notice or civil penalty notice has been withdrawn.

Enforcement by the High Court

14.—(1) If an operator fails to comply with a relevant obligation, the High Court may, on an application by the chief inspector, make an order requiring the operator to comply with the relevant obligation.

(2) The chief inspector may not apply to the High Court under paragraph (1) if—

(a) the time for an appeal relating to the relevant obligation has not elapsed; or

(b) any appeal relating to a relevant obligation has not been determined.

(3) A "relevant obligation" means any obligation included in—

(a) an information notice;

(b) an enforcement notice; or

(c) a civil penalty notice.

Amendment of the GGETS Regulations

15. After regulation 46(1)(a)(iv) of the GGETS Regulations insert—

"(v) necessary for the performance of the chief inspector's functions in Northern Ireland under the Emissions Performance Standard Monitoring and Enforcement Regulations (Northern Ireland) 2015; or".

Sealed with the Official Seal of the Department of the Environment on

Name

Date A Senior Officer of the Department of the Environment

SCHEDULE

Regulation 12

Appeals

1.—(1) An operator who wishes to appeal to the appeals commission under regulation 12(1) against a decision of the chief inspector must give to the appeals commission written notice of the appeal together with a statement of the grounds of appeal.

(2) The appeals commission must as soon as is reasonably practicable send to the chief inspector a copy of that notice and that statement.

(3) An appellant may withdraw an appeal by notifying the appeals commission and the appeals commission must as soon as is reasonably practicable notify the chief inspector of that withdrawal.

2. Notice of appeal in accordance with paragraph 1 is to be given before the expiry of the period of 47 calendar days beginning with the date of service of the enforcement notice or, as the case may be, service of the civil service penalty notice.

3.—(1) The appeals commission must determine the appeal and section 204(1) and (3) to (5) of the Planning Act (Northern Ireland) 2011([11]) applies in relation to the determination of the appeal as it applies in relation to the determination of an appeal under that Act.

(2) The appeals commission must determine the process for determining appeals taking into account any requests of either party to the appeal.

4. An appeal under this Schedule must be accompanied by a fee and section 223(7)(b) of the Planning Act (Northern Ireland) 2011 has effect as if the reference to an appeal under that Act included a reference to an appeal under these Regulations.

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 that he by way of Regulation may make further provision 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.

([11]) 2011c. 25 (NI)

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 CCS 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.

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.