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STATUTORY INSTRUMENTS

2023 No. 93

**AGRICULTURE, ENGLAND
ENVIRONMENTAL PROTECTION, ENGLAND
WATER, ENGLAND**

The Environmental Targets (Water) (England) Regulations 2023

Made - - - - *29th January 2023*

Coming into force - - *30th January 2023*

The Secretary of State in exercise of the powers conferred by sections 1, 6(1) and 143(1)(a) and (b) of the Environment Act 2021⁽¹⁾ (“the Act”) makes the following Regulations.

In accordance with section 4(1) and (2) of the Act, the Secretary of State has sought advice from persons the Secretary of State considers to be independent and to have relevant expertise, and is satisfied that the targets in these Regulations can be met.

A draft of these Regulations has been laid before and approved by resolution of each House of Parliament in accordance with sections 4(8) and 143(5)(b) of the Act.

PART 1

Introduction

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Environmental Targets (Water) (England) Regulations 2023.

(2) These Regulations come into force on the day after the day on which they are made.

(3) These Regulations extend to England and Wales.

Interpretation

2. In these Regulations—

“the Act” means the Environment Act 2021;

“coastal waters” has the meaning given in section 104 of the Water Resources Act 1991(2);

“freshwaters” has the same meaning as “inland freshwaters” in section 104 of the Water Resources Act 1991(3).

Water targets

3. Regulations 5, 10, 15 and 20 specify four targets for the purposes of the Secretary of State’s duty in section 1 of the Act to set a long-term target in respect of water.

PART 2

Agriculture Water Target

Application of this Part

4. This Part applies to total nitrogen, total phosphorus and sediment entering the water environment through agricultural diffuse pollution from human activity undertaken on agricultural land in England.

Agriculture water target

5. The first target in respect of water is that the load of each of the following—

- (a) total nitrogen,
- (b) total phosphorus,
- (c) sediment,

entering the water environment through agricultural diffuse pollution is, by 31st December 2038, at least 40% lower than the baseline.

Measurement of the agriculture target

6.—(1) The load of each of the agriculture target substances entering the water environment through agricultural diffuse pollution which is to be compared with the baseline to determine whether the target in regulation 5 is met by 31st December 2038 is to be measured by determining the load of each of those substances so entering the water environment in the year from 1st January 2038 to 31st December 2038.

(2) When determining the load of each of the agriculture target substances entering the water environment through agricultural diffuse pollution in the year from 1st January 2038 to 31st December 2038, the load must include the load from human activity undertaken on land which was agricultural land when the baseline was determined but which, for land management reasons with environmental, conservation or sustainability objectives, is not agricultural land in 2038.

(2) 1991 c. 57. Section 104(1) was modified in relation to the meaning of controlled waters by S.I. 1997/1332.

(3) Section 104(1) was modified in relation to the meaning of inland freshwaters by S.I. 1996/3001 and 1997/1331.

(3) In paragraph (2), “environmental, conservation or sustainability objectives” means objectives the main purpose of which are to contribute to environmental protection⁽⁴⁾ or improve the natural environment⁽⁵⁾.

Reporting date

7. For the purposes of section 6(1) of the 2021 Act, the reporting date for the target set in regulation 5 is 1st February 2040.

Interpretation of Part 2

8.—(1) In this Part—

“agricultural diffuse pollution” means the transportation of the agriculture target substances into the water environment where the transportation occurs by means of soil erosion, runoff or leaching;

“agricultural land” means land used for agriculture for the purposes of a trade or business;

“agriculture” includes—

- (a) horticulture, fruit growing, seed growing, dairy farming, livestock breeding and keeping,
- (b) the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and
- (c) the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes;

“agriculture target substances” means the substances specified in regulation 5(a) to (c);

“the baseline” means the load of each of the agriculture target substances entering the water environment through agricultural diffuse pollution in the year from 1st January 2018 to 31st December 2018;

“groundwater” means all water which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

“leaching” means the process by which the agriculture target substances are washed or drained from soil into the water environment by rainwater or other liquid applied to agricultural land;

“poaching” means the trampling or treading of agricultural land by livestock resulting in a layer of compacted soil with overlying mud;

“runoff” means the transportation into the water environment of rainwater or other water running over agricultural land;

“soil erosion” means soil loss caused by—

- (a) runoff or degradation over a single area of agricultural land (whether or not crossing permanent boundary features) of at least 1 hectare, or
- (b) poaching adjacent to freshwaters or coastal waters over a single stretch of agricultural land (whether or not crossing permanent boundary features) which is at least 2 metres wide and 20 metres long;

“the water environment” means—

- (a) freshwaters and groundwater in England, and
- (b) coastal waters adjacent to England.

(4) Environmental protection is defined in section 45 of the Environment Act 2021.

(5) Natural environment is defined in section 44 of the Environment Act 2021.

(2) In the definition of the water environment in paragraph (1), coastal waters adjacent to England are such coastal waters adjacent to Great Britain as do not form part of—

- (a) the sea adjacent to Scotland, or
- (b) Wales.

(3) In paragraph (2)—

- (a) the sea adjacent to Scotland has the same meaning as the internal waters and territorial sea of the United Kingdom adjacent to Scotland has by virtue of section 126(2) of the Scotland Act 1998(6);
- (b) Wales has the meaning given by section 158 of the Government of Wales Act 2006(7).

PART 3

Waste Water Target

Application of this Part

9.—(1) This Part applies to relevant discharges into freshwaters in England from sewerage systems of sewerage undertakers whose areas are wholly or mainly in England at sewage disposal works in England.

(2) In paragraph (1), a sewerage undertaker’s area refers to the area for which it has been appointed to be a sewerage undertaker in accordance with section 6(1) of the Water Industry Act 1991(8).

Waste water target

10. The second target in respect of water is that the load of total phosphorus discharged into freshwaters from relevant discharges is, by 31st December 2038, at least 80% lower than the baseline.

Measurement of the waste water target

11. The load of total phosphorus discharged into freshwaters from relevant discharges which is to be compared with the baseline to determine whether the target in regulation 10 is met by 31st December 2038 is to be measured by determining the load of total phosphorus so discharged in the year from 1st January 2038 to 31st December 2038.

Reporting date

12. For the purposes of section 6(1) of the 2021 Act, the reporting date for the target set in regulation 10 is 1st February 2040.

Interpretation of Part 3

13.—(1) In this Part—

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- (6) 1998 c. 46. The boundaries between waters which are to be treated as internal waters or territorial sea of the United Kingdom adjacent to Scotland and those which are not are set out in [S.I. 1999/1126](#).
 - (7) 2006 c. 32. Section 158(1) defines “Wales” as including the sea adjacent to Wales out as far as the seaward boundary of the territorial sea. Section 158(3) makes provision for the determination of any boundary between waters which are to be treated as parts of the sea adjacent to Wales and those which are not. The boundary between the sea adjacent to Wales and that adjacent to England is partly determined by article 6 of, and Schedule 3 to, [S.I. 1999/672](#). By virtue of paragraph 26 of Schedule 11 to the Government of Wales Act 2006, [S.I. 1999/672](#) continues to have effect.
 - (8) 1991 c. 56.

“the baseline” means the load of total phosphorus discharged into freshwaters from relevant discharges in the year from 1st January 2020 to 31st December 2020;

“relevant discharges” means discharges of treated waste water from the sewerage systems of sewerage undertakers at sewage disposal works.

(2) References in this Part to the sewerage systems of sewerage undertakers are to be construed in accordance with section 17BA(7) (sewerage licences) of the Water Industry Act 1991(9).

PART 4

Abandoned Metal Mines Water Target

Application of this Part

14. This Part applies to relevant waters in England polluted by abandoned metal mines in England.

Abandoned metal mines water target

15. The third target in respect of water is that the length of relevant waters polluted by any of the following—

- (a) arsenic,
- (b) cadmium,
- (c) copper,
- (d) lead,
- (e) nickel,
- (f) zinc,

from abandoned metal mines is, by 31st December 2038, at least 50% lower than the baseline.

Measurement of the abandoned metal mines target

16. The length of relevant waters polluted by any of the target substances from abandoned metal mines which is to be compared with the baseline to determine whether the target in regulation 15 is met by 31st December 2038 is to be measured by determining the length of relevant waters considered so polluted in the year from 1st January 2038 to 31st December 2038.

Reporting date

17. For the purposes of section 6(1) of the 2021 Act, the reporting date for the target set in regulation 15 is 1st February 2040.

Interpretation of this Part

18.—(1) In this Part—

“abandoned” in relation to a mine has the same meaning as in Chapter 2A of Part 3 of the Water Resources Act 1991(10);

(9) Section 17BA was inserted by section 4(1) of the Water Act 2014 (c. 21).

(10) See section 91A(1) which defines “abandonment” and cognate expressions. Section 91A was inserted by section 58 of the Environment Act 1995 (c. 25).

“the baseline” means the length of relevant waters considered polluted by any of the target substances from abandoned metal mines in the year from 1st January 2022 to 31st December 2022;

“metal mine” means an excavation or system of excavations made for the purpose of, or in connection with, the extraction, wholly or substantially by means involving persons working below ground, of metalliferous and industrial minerals;

“relevant waters” means—

- (a) freshwaters; and
- (b) bodies of surface water in the vicinity of river mouths which are partly saline in character as a result of their proximity to coastal waters but which are substantially influenced by freshwater flow,

and does not include any coastal waters;

“the target substances from abandoned metal mines” are the substances specified in regulation 15(a) to (f) where the source of those substances is an abandoned metal mine.

(2) In this Part—

- (a) the reference to abandoned metal mines is a reference to metal mines which were abandoned before 1st January 2000 and remain abandoned;
- (b) a length of relevant waters is considered polluted by any of the target substances from abandoned metal mines where the Environment Agency has determined that the concentrations of any of the target substances from abandoned metal mines exceed the relevant environmental quality standards specified in directions made in exercise of powers in section 40(2) of the Environment Act 1995⁽¹¹⁾.

PART 5

Water demand target

Application of this Part

19.—(1) This Part applies to potable water supplied by water undertakers whose areas are wholly or mainly in England to people in England.

(2) For the purposes of paragraph (1), a water undertaker’s area refers to the area for which it has been appointed to be a water undertaker in accordance with section 6(1) of the Water Industry Act 1991.

Water demand target

20. The fourth target in respect of water is that the volume of potable water supplied per day per head of population in England is, by 31st March 2038, at least 20% lower than the baseline.

Measurement of the water demand target

21. The volume of potable water supplied per day per head of population in England which is to be compared with the baseline to determine whether the target in regulation 20 is met by 31st

(11) The current directions are the Water Framework Directive (Standards and Classification) Directions (England and Wales) 2015. Those directions were made on 9th September 2015 and are available at https://www.legislation.gov.uk/uksi/2015/1623/pdfs/uksi0d_20151623_en_auto.pdf. A copy may be obtained from the Department for Environment, Food and Rural Affairs, 2 Marsham Street, London SW1P 4DF. The environmental quality standards are specified in Parts 2 and 3 of Schedule 3.

March 2038 is to be measured by calculating the distribution input over population for a year from 1st April 2037 to 31st March 2038.

Reporting date

22. For the purposes of section 6(1) of the 2021 Act, the reporting date for the target set in regulation 20 is 30th April 2039.

Interpretation

23.—(1) In this Part—

“the baseline” means the volume of potable water supplied per head of population in England in the year from 1st April 2019 to 31st March 2020, calculated as the distribution input over population;

“distribution input over population” means—

$$\frac{\textit{Distribution input}}{\textit{Population}}$$

where—

“distribution input” means the volume of potable water entering the supply system of water undertakers at the point of production, reported as litres per day;

“point of production” means the point at which potable water enters the distribution network of pipes for onward supply to customers;

“population” means the population of England (and see paragraph (2)); and

“supply system of water undertakers” is to be construed in accordance with section 17B(4A) of the Water Industry Act 1991(**12**).

(2) For the purposes of this Part, the population of England is to be determined using data for population given by water undertakers in annual reviews of water resources management plans (including revised plans) in accordance with section 37A(5) of the Water Industry Act 1991(**13**).

PART 6

Provision of data

Requirement to provide data to the Secretary of State

24. The Environment Agency must, on request, provide the Secretary of State with such data as the Secretary of State considers is reasonably required for the performance of the Secretary of State’s functions under Part 1 of the Act (environmental governance) in relation to the targets in these Regulations.

(12) Section 17B(4A) was inserted by section 2(2) of the Water Act 2014 (c. 21).

(13) Section 37A was inserted by section 62 of the Water Act 2003 (c. 37) and was amended by the Water Act 2014 (c. 21).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

29th January 2023

Trudy Harrison
Parliamentary Under Secretary of State
Department for Environment, Food and Rural
Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set the long-term targets in respect of four matters within the priority area of water under section 1 of the Environment Act 2021 (c. 30). The Regulations specify the target to be achieved in respect of each matter and the date by which each target must be achieved.

Part 2 makes provision in relation to a target to reduce the levels of total nitrogen, total phosphorus and sediment entering freshwaters in, and coastal waters around, England from agricultural land. Regulation 5 sets the target to reduce each of those substances by at least 40% (compared with the baseline) by 31st December 2038. Regulation 6 provides that the load of each substance to be compared with the baseline is to be measured by determining the load entering the water environment in the year from 1st January 2038 to 31st December 2038. The baseline is the load entering the water environment from agricultural land in the year 2018.

Part 3 makes provision in relation to a target to reduce the levels of total phosphorus discharged into freshwaters from relevant discharges from sewerage systems of sewerage undertakers. Regulation 10 sets the target to reduce such levels by at least 80% (compared with the baseline) by 31st December 2038. Regulation 11 provides that the load of total phosphorus to be compared with the baseline is to be measured by determining the load of total phosphorus discharged into freshwaters in the year from 1st January 2038 to 31st December 2038. The baseline is the load discharged into freshwaters from relevant discharges in the year 2020.

Part 4 makes provision in relation to a target to reduce the length of waters polluted by arsenic, cadmium, copper, lead, nickel and zinc from abandoned metal mines. Regulation 15 sets the target to reduce the length of relevant waters polluted by those substances from abandoned metal mines by at least 50% (compared with the baseline) by 31 December 2038. Regulation 16 provides that the length of polluted waters compared with the baseline is to be measured by determining the length of relevant waters considered polluted in the year from 1st January 2038 to 31st December 2038. The baseline is the length of relevant waters considered polluted in the year 2022.

Part 5 makes provision in relation to a target to reduce the amount of potable water supplied by water undertakers. Regulation 20 sets the target to reduce the volume of potable water supplied per person by at least 20% (compared with the baseline) by 31st March 2038. Regulation 21 provides that the amount of supplied potable water to be compared with the baseline is to be measured by determining the distribution input over population (defined in regulation 23) in the year from 1st April 2037 to 31st March 2038. The baseline is the amount of potable water supplied in the year from 1st April 2019 to 31st March 2020.

Regulations 7, 12, 17 and 22 set the reporting date for each target, as required by section 6(1) of the Environment Act 2021.

Part 6 creates a duty on the Environment Agency to provide relevant data to the Secretary of State on request.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Department for Environment, Food and Rural Affairs, 2 Marsham Street, London SW1P 4DF, and is published with an Explanatory Memorandum alongside these Regulations on www.legislation.gov.uk.