

2001 No. 662

CLIMATE CHANGE LEVY

**The Climate Change Agreements (Eligible Facilities)
Regulations 2001**

<i>Made - - - - -</i>	<i>2nd March 2001</i>
<i>Laid before Parliament</i>	<i>9th March 2001</i>
<i>Coming into force - -</i>	<i>1st April 2001</i>

The Secretary of State, in exercise of the powers conferred upon him by paragraphs 50(3) to (5) and 146 of Schedule 6 to the Finance Act 2000(a), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Climate Change Agreements (Eligible Facilities) Regulations 2001 and shall come into force on 1st April 2001.

Interpretation

2. In these Regulations—
- “the Act” means the Finance Act 2000;
 - “reckonable energy” has the meaning given by regulation 4;
 - “relevant commodities” means taxable commodities, hydrocarbon oil within the meaning of the Hydrocarbon Oil Duties Act 1979(b) and any mixture of gases which originates from an oil refinery and is not a taxable commodity; and
 - “the relevant premises” has the meaning given by regulation 4(5).

Eligible Facilities

3.—(1) This regulation specifies the circumstances in which an installation or site is to be taken to be a facility for the purposes of determining in connection with concluding or varying a climate change agreement whether the facility is to be, or is to continue to be, identified in the agreement as a facility to which the agreement applies.

(2) An installation covered by paragraph 51 of Schedule 6 to the Act shall be taken at the relevant time to be a facility for the purposes specified in paragraph (1) only if—

- (a) the taxable commodities supplied to the installation by taxable supplies in the following 12 month period are intended to be burned (or, in the case of electricity, consumed)—
 - (i) in the installation, or
 - (ii) on the site where the installation is situated but not in the installation, and

(a) 2000 c. 17.
(b) 1979 c. 5.

- (b) the amounts of relevant commodities subject to each of those intentions are such that the condition specified in paragraph (4) is satisfied.
- (3) A site shall be taken at the relevant time to be a facility for the purposes specified in paragraph (1) only if—
- (a) the taxable commodities supplied to the site by taxable supplies in the following 12 month period are intended to be burned (or, in the case of electricity, consumed)—
 - (i) in installations on the site that are covered by paragraph 51 of Schedule 6 to the Act (or in parts of such installations), or
 - (ii) on the site but not in any such installation (or part of such an installation), and
 - (b) the amounts of relevant commodities subject to each of those intentions are such that the condition specified in paragraph (5) is satisfied.
- (4) The condition referred to in paragraph (2)(b) is that it is likely that in the relevant 12 month period at least 90% of the reckonable energy supplied to the installation will be used within the installation.
- (5) The condition referred to in paragraph (3)(b) is that it is likely that in the relevant 12 month period at least 90% of the reckonable energy supplied to the site (whether or not to the installations or parts of installations) will be used within the installation or parts of installations (as the case may be).
- (6) For the purposes of paragraph (4) reckonable energy supplied to the site but not to the installation shall be treated as supplied to the installation if, and to the extent that, it is used within the installation.
- (7) For the purposes of paragraphs (4) and (5), past supply or use of reckonable energy (if any) shall be taken into account in determining likely supply or use of such energy in the relevant 12 month period.

Reckonable energy

- 4.—(1) Reckonable energy is energy which is to be taken into account in accordance with the rules set out in the following provisions of these regulations.
- (2) Energy supplied to the relevant premises is reckonable only if, and to the extent that, it is produced from relevant commodities which are, or are deemed to be, burned within the relevant premises.
- (3) Relevant commodities which are not burned within the relevant premises shall be deemed to be so burned if they are used there.
- (4) For the purpose of paragraph (2) “energy” includes cooling supplies and supplies of steam (see regulations 6(7) and (8) and 7).
- (5) In these Regulations “the relevant premises” means—
- (a) in the case of a determination under regulation 3(2), the installation referred to in regulation 3(2)(a)(i); and
 - (b) in the case of a determination under regulation 3(3)—
 - (i) the installations or parts of installations referred to in regulation 3(3)(a)(i); and
 - (ii) elsewhere on the site referred to in the regulation 3(3)(a)(ii).
- (6) Subject to regulations 5 and 6, the quantity of energy produced from electricity is to be multiplied by a factor of 2.6 to convert it into reckonable energy.
- (7) The reckonable energy from any other relevant commodity shall be calculated by reference to the gross calorific value of the commodity burned to produce it.

Dedicated electricity generation plant

- 5.—(1) Subject to paragraph (2), where electricity is generated in plant which is located, and intended for supplying electricity primarily for use, within the relevant premises or any other part of the site, the reckonable energy in respect of such use shall be calculated by reference to the gross calorific value of the relevant commodity burned to produce the electricity.

(2) Where the electricity referred to in paragraph (1) is used in more than one place, the total figure calculated in accordance with that paragraph shall be attributed to the places where it is used on a pro rata basis.

(3) This regulation does not apply to electricity generated by a combined heat and power station.

Combined heat and power stations

6.—(1) Reckonable energy from a combined heat and power station shall be calculated by reference to the gross calorific value of the relevant commodity burned to produce it.

(2) Where part of the energy from a combined heat and power station is used in a place, the formulae set out in paragraphs (3) to (5) shall apply for calculating the amount of energy from the station which is to be reckonable in relation to that place.

(3) The following formula applies in respect of electricity from the combined heat and power station which is used in that place—

$$RE = \frac{2 EC \times EP}{2 ET + HT}$$

where—

RE is the reckonable energy in respect of electricity from the combined heat and power station which is used in that place;

EC is the total energy content of the relevant commodities burned in the combined heat and power station calculated by reference to the gross calorific value of each commodity;

EP is the quantity of electricity produced by the combined heat and power station which is used in that place;

ET is the total quantity of electricity produced by the combined heat and power station which is used in that place or elsewhere; and

HT is the total quantity of heat produced by the combined heat and power station which is used in that place or elsewhere.

(4) If no electricity from the combined heat and power station is put into public supply, the following formula applies in respect of heat which is used in that place—

$$RHN = \frac{EC \times HP}{2ET + HT}$$

where—

RHN is the reckonable energy in respect of heat from the combined heat and power station which is used in that place;

EC is the total energy content of the relevant commodities burned in the combined heat and power station calculated by reference to the gross calorific value of each commodity;

HP is the quantity of heat produced by the combined heat and power station which is used in that place;

ET is the total quantity of electricity produced by the combined heat and power station which is used in that place or elsewhere; and

HT is the total quantity of heat produced by the combined heat and power station which is used in that place or elsewhere.

(5) If electricity from the combined heat and power station is put into public supply, the following formula applies in respect of heat which is used in that place—

$$RHS = \frac{EC \times HP}{(2ET + HT)} - \frac{HP \times ES}{HT} \left(2.6 - \frac{2 EC}{2ET + HT} \right)$$

where—

RHS is the reckonable energy in respect of heat from the combined heat and power station which is used in that place;

EC is the total energy content of the relevant commodities burned in the combined heat and power station calculated by reference to the gross calorific value of each commodity;

HP is the quantity of heat produced by the combined heat and power station which is used in that place;

ES is the quantity of electricity produced by the combined heat and power station and put into public supply;

ET is the total quantity of electricity produced by the combined heat and power station which is used in that place or elsewhere; and

HT is the total quantity of heat produced by the combined heat and power station which is used in that place or elsewhere.

(6) For the the purposes of paragraphs (4) and (5), electricity is put into public supply when it is supplied to an electricity utility.

(7) Where absorption cooling is used to produce a cooling supply for use in the relevant premises and the heat for the absorption cooling is from a combined heat and power station—

- (a) the heat used to provide the cooling supply shall be treated for the purposes of paragraphs (1) to (6) as used in the place where the cooling supply is used; and
- (b) the quantity of that heat shall be estimated by dividing the output of the cooling supply by the coefficient of performance of the cooling system.

Steam

7.—(1) The reckonable energy in respect of steam supplied to any place within the relevant premises shall be calculated by taking the enthalpy of the steam and by dividing it by the efficiency of the system which generates the steam and supplies it to the place where it is used.

(2) Appropriate adjustments shall be made to take account of subsequent uses of the steam elsewhere and any reduction in the pressure of steam when it leaves that place compared with its pressure when it is supplied to that place.

Signed by authority of the Secretary of State
for the Environment, Transport and the Regions

Michael Meacher
Minister of State,

2nd March 2001

Department of the Environment, Transport and the Regions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide that a facility is to be eligible for inclusion in a climate change agreement only where it is likely that at least 90% of the energy supplied to the facility will be used within an energy intensive installation.

The 90% requirement is set out in regulations 3 and 4. Determinations are to be made in respect of the likely supply and use of energy over the twelve months which follow the supply of taxable commodities to the facility. Any past supply and usage is to be taken into account in determining likely use. The quantity of electricity used within premises is to be multiplied by 2.6. However, there are exceptions to this rule in the case of dedicated electricity generation plants (regulation 5) and combined heat and power stations (regulation 6).

Regulation 7 sets out how steam is to be dealt with when determining whether the 90% condition is satisfied.

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