

2006 No. 60

CLIMATE CHANGE LEVY

**The Climate Change Agreements (Eligible Facilities)
Regulations 2006**

<i>Made</i> - - - -	<i>18th January 2006</i>
<i>Laid before the House of Commons</i>	<i>20th January 2006</i>
<i>Coming into force</i> - -	<i>21st January 2006</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by paragraphs 50(3), 50(4) and 146(7) of Schedule 6 to the Finance Act 2000 (a)—

Citation and Commencement

1. These Regulations may be cited as the Climate Change Agreements (Eligible Facilities) Regulations 2006 and shall come into force on 21st January 2006.

Interpretation

2. In these Regulations—

“eligible process” means a relevant process or activity or a combination of relevant processes or activities as described in the Schedule to these Regulations carried out at an installation or site which, when taken alone or together within the business sector to which the installation or site belongs, meets the energy intensity criteria specified in regulation 3;

“energy costs” means the actual cost of energy, including all taxes except deductible VAT, purchased or generated by the operator of the installation or site or by a business sector;

“import penetration ratio” means the value of imports as a percentage of the value of total sales in the United Kingdom (the latter to include the value of exports);

“installation” means any installation that is covered by paragraph 51 of Schedule 6 to the Finance Act 2000(b) by virtue of the Climate Change Agreements (Energy-intensive Installations) Regulations 2006(c);

“production value” means turnover, including subsidies, directly linked to the price of the product, plus or minus the changes in stock of finished products, work in progress and goods and services purchased for resale, minus the purchases of goods and services for resale;

“site” means a site on which there is an installation or part of an installation.

(a) 2000 c. 17.

(b) Paragraph 51 was amended by S.I. 2001/1139 and S.I. 2006/59.

(c) S.I. 2006/59 which expands the installations covered by paragraph 51 of Schedule 6 to the Finance Act 2000 so as include any installation falling within any one or more of the descriptions of installations specified in the Schedule to those Regulations.

Eligible Facilities

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

(2) An installation or a site shall be taken to be a facility for the purposes specified in paragraph (1) only if, at the time of entering into or last varying that climate change agreement—

- (a) it is an ‘eligible facility’ under the Climate Change Agreements (Eligible Facilities) Regulations 2001^(a), and
- (b) the installation or site where taxable commodities supplied by taxable supplies are intended to be burned (or in the case of electricity, consumed) over the following 12 month period satisfies the conditions set out in paragraph (3).

(3) The conditions referred to in paragraph (2)(b) are that—

- (a) the installation or site meets the energy intensity criteria, or
- (b) the installation or site belongs to a business sector that meets the energy intensity criteria, and

the taxable commodities referred to in paragraph (2)(b) will be used at the installation or site for the purpose of carrying out an eligible process.

(4) For the purpose of paragraph (3)(a) and (b) the energy intensity criteria will be met where, for the period referred to in paragraph (2)(b), the predicted energy costs—

- (a) amount to 10% or more of the production value of the installation or site or business sector, or
- (b) amount to 3% or more but less than 10% of the production value of the installation or site or business sector so long as there is an import penetration ratio of at least 50%.

(5) For the purpose of paragraph (4), the predicted energy costs for the period referred to in paragraph (2)(b) shall be determined by the energy costs and production value and import penetration data for the installation or site or business sector during the 12 month period immediately prior to entering into or last varying a climate change agreement.

18th January 2006

Elliot Morley
Minister of State
Department for Environment Food and Rural Affairs

(a) S.I. 2001/662.

SCHEDULE

Regulation 2

LIST OF RELEVANT PROCESSES AND ACTIVITIES

The relevant processes and activities are—

(1) at an installation or site where—

- (a) nitrogen, oxygen or argon is separated from air, and then compressed or liquefied; or
- (b) nitrogen, oxygen and argon are separated from air, and then made into a compressed or liquefied mixture of at least two of the former,

separating the above substances from air using one or more of the following air separation technologies: cryogenic distillation, pressure swing adsorption, vacuum swing absorption or membrane separation, compressing and liquefying the separated substances, pumping them (in a compressed or liquefied form) from within the installation for further use within or outside the installation;

(2) at an installation or site where kaolinitic clay in combination with any of its accessory minerals is extracted and processed, blasting and crushing, dry mining or hydraulic mining, refining, blending, drying and packaging, classifying, hydrocloning, pumping, centrifuging, grinding, shredding, magnetic separating, bleaching, pressing, pugging, milling, micro separating;

(3) at an installation or site where calcium carbonate based minerals are processed for use as filler or whitener for paper, plastics, pharmaceuticals, ceramics, food, paint or other products, crushing, drying, milling, classifying, screening, packaging;

(4) at an installation or site where pre-formed or manufactured metal components are heat-treated to facilitate their efficient formability or to enhance their service performance, all processes and activities involved in the heat treatment of pre-formed or manufactured metal components to facilitate their efficient formability or to enhance their service performance;

(5) at an installation or site where (in controlled, environment-protected structures) horticultural crops are grown, harvested and receive primary preparation for market, planting, seeding, heating, lighting, ventilating, irrigating, fertilising, cooling, preparing and sterilising growing media, grading and conveying;

(6) at an installation or site where textiles are manufactured, spinning, weaving, knitting, finishing but not printing or dyeing;

(7) at an installation or site where plastic film is produced using extrusion to convert melted polymer into blown or cast film, all processes and activities involved in the production of plastic film using extrusion to convert melted polymer into blown or cast film.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to installations covered by Schedule 6 paragraph 51 to the Finance Act 2000 by virtue of the Climate Change Agreements (Energy-intensive Installations) Regulations 2006 (S.I. 2006/59) and to sites upon which there is such an installation or part of an installation.

These Regulations provide that such an installation or site will be taken to be a facility eligible for inclusion in a climate change agreement where the installation or site is an 'eligible facility' under the Climate Change Agreements (Eligible Facilities) Regulations 2001 (S.I. 2001/662) (i.e. at least 90% of the energy supplied to the facility will be used within an installation), the installation or site meets the energy intensity criteria or belongs to a business sector that meets the energy intensity criteria, and the energy to be supplied to the installation or site will be used for the purpose of carrying out an eligible process.

The energy intensity criteria will be met where the predicted energy costs of the installation or site or the business sector to which the installation or site belongs amount to 10% or more of production value or, if less than 10% but at least 3%, where there is an import penetration ratio of at least 50%.

An eligible process is a process or activity or combination of processes or activities as described in the Schedule carried out at an installation or site which, when taken alone or together within the business sector to which the installation or site belongs, meets the energy intensity criteria.

A full regulatory impact assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

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