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WELSH STATUTORY INSTRUMENTS

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**2015 No. 1388**

**The Emissions Performance Standard  
(Enforcement) (Wales) Regulations 2015**

**Civil penalty notices**

9.—(1) Subject to paragraph (7), where the NRBW is of the view that an operator has breached the emissions limit duty, the NRBW may serve a notice (“a civil penalty notice”) on that operator which states the financial penalty which is payable 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 NRBW 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 NRBW 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 NRBW as a civil debt.

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

(7) The NRBW 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 Welsh Ministers may issue guidance (“EPS penalty guidance”) on the calculation of financial penalties.

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

(10) Before issuing guidance under paragraph (7), the Welsh Ministers must consult—

- (a) the Scottish Ministers;
- (b) the Secretary of State;
- (c) the Department of Environment; and
- (d) such other persons or bodies as the Welsh Ministers consider appropriate.

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

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

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**Status:** This is the original version (as it was originally made).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

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(13) Any sum received by the NRBW under this regulation must be paid into the Welsh Consolidated Fund.