

2006 No. 59

CLIMATE CHANGE LEVY

The Climate Change Agreements (Energy-intensive Installations) Regulations 2006

Made - - - - *18th January 2006*

Coming into force in accordance with regulation 1

The Treasury make the following Regulations in exercise of the powers conferred by section 30 of and Schedule 6 paragraphs 52(1), 52(2)(a) and 146(7) to the Finance Act 2000(a).

A draft of this instrument was laid before Parliament and approved by a resolution of the House of Commons in accordance with paragraph 146(3) of that Schedule.

1. These Regulations may be cited as the Climate Change Agreements (Energy-intensive Installations) Regulations 2006 and come into force on the third day after the one on which they are made.

2.—(1) The energy-intensive installations covered by the Finance Act 2000 Schedule 6 paragraph 51(b) (“paragraph 51”) include any installation falling within any one or more of the descriptions of installation specified in the Schedule to these Regulations.

(2) But paragraph (3) applies where—

- (a) an installation falls within any one or more of those descriptions, and
- (b) there is, on the same site as that installation, at least one location at which ancillary activities are carried out.

(3) That installation (taken alone) is not covered by paragraph 51, but the combination of that installation and every such location is to be taken as an installation so covered.

(4) In paragraph (2), “ancillary activities” are only—

- (a) those that are directly associated with any of the primary activities carried out in the installation,
- (b) have a technical connection with those primary activities, and
- (c) could have an effect on environmental pollution.

(5) In paragraph (4)—

“primary activities”, in relation to an installation falling within any one or more of the descriptions of installation set out in the Schedule to these Regulations, refers to an activity the carrying out of which at the installation results in the installation falling within one or more of those descriptions;

(a) 2000 c.17.

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

“environmental pollution” bears the same meaning as in the Pollution Prevention and Control Act 1999(a).

*Dave Watts
Gillian Merron*

18th January 2006

Two of the Lords Commissioners of Her Majesty’s Treasury

SCHEDULE

Regulation 2(1)

DESCRIPTIONS OF ENERGY-INTENSIVE INSTALLATIONS INCLUDED AS COVERED BY THE FINANCE ACT 2000 SCHEDULE 6 PARAGRAPH 51

Each of the following descriptions includes a stipulation that the installation is a stationary technical unit (see the Finance Act 2000 Schedule 6 paragraph 50(6)) that does not fall within any one or more of the descriptions of installation set out in the Table in paragraph 51 of that Schedule.

1. An installation where—
 - (a) nitrogen, oxygen or argon is separated from air, and then compressed or liquefied;
 - (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.
2. An installation where kaolinitic clay in combination with any of its accessory minerals are extracted and processed.
3. An installation where calcium carbonate based minerals are processed for use as filler or whitener for paper, plastics, pharmaceuticals, ceramics, food, paint or other products.
4. An installation where pre-formed or manufactured metal components are heat-treated to facilitate their efficient formability or to enhance their service performance.
5. An installation where (in controlled, environment-protected structures) horticultural crops are grown, harvested and receive primary preparation for market.
6. An installation where textiles are manufactured.
7. An installation where plastic film is produced using extrusion to convert melted polymer into blown or cast film.

(a) 1999 c.24. Sections 1(2) and 1(3) define “environmental pollution” as pollution of the air, water or land which may give rise to any harm; and, for the purposes of the definition (but without prejudice to its generality), (a) “pollution” includes pollution caused by noise, heat or vibrations or any other kind of release of energy, and (b) “air” includes air within buildings and air within other natural or man-made structures above or below ground. “Harm” means (a) harm to the health of human beings or other living organisms; (b) harm to the quality of the environment, including (i) harm to the quality of the environment taken as a whole, (ii) harm to the quality of the air, water or land, and (iii) other impairment of, or interference with, the ecological systems of which any living organisms form part; (c) offence to the senses of human beings; (d) damage to property; or (e) impairment of, or interference with, amenities or other legitimate uses of the environment (expressions here having the same meaning as in Council Directive 96/61/EC (OJ No L 257, 10.10.96, p 26). (In fact, the definition of “pollution” in Article 2(2) for the purposes of that Directive includes “the ... introduction as a result of human activity, of substances, vibrations, heat or noise into the air, water or land which may ... impair or interfere with amenities and other legitimate uses of the environment”.)

EXPLANATORY NOTE

(This note is not part of the Regulations)

A reduced rate of climate change levy may apply to supplies of taxable commodities to a facility taken as being covered by a climate change agreement^(a).

These Regulations expand the types of installation that may form such a facility^(b) to include installations for—

- (a) separating from air, and then compressing or liquefying nitrogen, oxygen or argon;
- (b) extracting and processing kaolinitic clay in combination with its accessory minerals;
- (c) processing calcium carbonate based minerals for use as filler or whitener;
- (d) heat-treating metals;
- (e) horticulture;
- (f) manufacturing textiles;
- (g) producing plastic film.

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

^(a) See also Finance Act 2000 (c.17) Schedule 6 paragraphs 44(3) and 44(1) (certification and notice requirements).

^(b) See Finance Act 2000 (c.17) Schedule 6 paragraphs 51 and 50(2) (single installation or site).

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