

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4322 of 2nd December, 2016

LEGAL NOTICE NO. 242 OF 2016.

ENVIRONMENT ACT 2005

ENVIRONMENT (AIR QUALITY STANDARDS) (AMENDMENT) REGULATIONS 2016

In exercise of the powers conferred on it by section 18 of the Environment Act 2005 and for the purpose of transposing into the law of Gibraltar, Commission Directive (EU) 2015/1480 of 28 August 2015 amending several annexes to Directives 2004/107/EC and 2008/50/EC of the European Parliament and of the Council laying down the rules concerning reference methods, data validation and location of sampling points for the assessment of ambient air quality, the Government has made the following Regulations-

Title.

1. These Regulations may be cited as the Environment (Air Quality Standards) (Amendment) Regulations 2016.

Commencement.

2. These Regulations come into operation on 31 December 2016.

Amendments to the Environment (Air Quality Standards) Regulations 2010.

3.(1) The Environment (Air Quality Standards) Regulations 2010 are amended in accordance with this regulation.

(2) In Schedule 1, which reproduces the text of Directive 2008/50/EC-

(a) for section C of Annex 1 substitute-

“C. Quality assurance for ambient air quality assessment. Data validation.

1. To ensure accuracy of measurements and compliance with the data quality objectives laid down in Section A, the appropriate competent authorities and bodies

designated pursuant to Article 3 shall ensure the following:

- (i) that all measurements undertaken in relation to the assessment of ambient air quality pursuant to Articles 6 and 9 are traceable in accordance with the requirements set out in the harmonised standard for testing and calibration laboratories,
- (ii) that institutions operating networks and individual stations have an established quality assurance and quality control system which provides for regular maintenance to assure the continued accuracy of measuring devices. The quality system shall be reviewed as necessary and at least every five years by the relevant National Reference Laboratory
- (iii) that a quality assurance/quality control process is established for the process of data collection and reporting and that institutions appointed for this task actively participate, in the related Union-wide quality assurance programmes,
- (iv) that the National Reference Laboratories are appointed by the appropriate competent authority or body designated pursuant to Article 3 and are accredited for the reference methods referred to in Annex VI, at least for those pollutants for which concentrations are above the lower assessment threshold, according to the relevant harmonised standard for testing and calibration laboratories, the reference to which has been published in the Official Journal of the European Union pursuant to Article 2(9) of Regulation (EC) No 765/2008 setting out the requirements for accreditation and market surveillance. These laboratories shall also be responsible for the coordination in Member State's territory of the Union-wide quality assurance programmes to be organised by the Commission's Joint Research Centre and shall also be responsible for coordinating, on the

national level, the appropriate use of reference methods, and the demonstration of equivalence of non-reference methods. National Reference Laboratories organising intercomparison on the national level should also be accredited according to the relevant harmonised standard for proficiency testing.

- (v) that the National Reference Laboratories, take part at least every three years in the Union-wide quality assurance programmes organized by the Commission's Joint Research Centre. If this participation produces unsatisfactory results then the national laboratory should demonstrate at the next participation in the intercomparison satisfactory remediation measures, and provide a report to the Joint Research Centre on these.
- (vi) that the national reference laboratories support the work done by the European network of National Reference Laboratories set up by the Commission.

- 2. All reported data under Article 27 shall be deemed to be valid except data flagged as provisional.”;

(b) for Annex VI substitute-

“Annex VI

Reference methods for assessment of concentrations of sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter (PM₁₀ and PM_{2.5}), lead, benzene, carbon monoxide, and ozone

A. Reference methods for the assessment of concentrations of sulphur dioxide, nitrogen dioxide and oxides of nitrogen, particulate matter (PM₁₀ and PM_{2.5}), lead, benzene, carbon monoxide and ozone

- 1. Reference method for the measurement of sulphur dioxide

The reference method for the measurement of sulphur dioxide is that described in EN 14212:2012 'Ambient air — Standard method for the measurement of the concentration of sulphur dioxide by ultraviolet fluorescence'.

2. Reference method for the measurement of nitrogen dioxide and oxides of nitrogen

The reference method for the measurement of nitrogen dioxide and oxides of nitrogen is that described in EN 14211:2012 'Ambient air — Standard method for the measurement of the concentration of nitrogen dioxide and nitrogen monoxide by chemiluminescence'.

3. Reference method for the sampling and measurement of lead — unchanged

4. Reference method for the sampling and measurement of PM₁₀

The reference method for the sampling and measurement of PM₁₀ is that described in EN12341:2014 'Ambient Air — standard gravimetric measurement method for the determination of the PM₁₀ or PM_{2.5} mass concentration of suspended particulate matter'.

5. Reference method for the sampling and measurement of PM_{2.5}

The reference method for the sampling and measurement of PM_{2.5} is that described in EN12341:2014 'Ambient Air — standard gravimetric measurement method for the determination of the PM₁₀ or PM_{2.5} mass concentration of suspended particulate matter'.

6. Reference method for the sampling and measurement of benzene —unchanged

7. Reference method for the measurement of carbon monoxide

The reference method for the measurement of carbon monoxide is that described in EN 14626:2012 'Ambient air — Standard method for the measurement of the concentration of carbon monoxide by non-dispersive infrared spectroscopy'.

8. Reference method for measurement of ozone

The reference method for the measurement of ozone is that described in EN 14625:2012 'Ambient air — Standard method for the measurement of the concentration of ozone by ultraviolet photometry'.

B. Demonstration of equivalence

1. A Member State may use any other method which it can demonstrate gives results equivalent to any of the methods referred to in Section A or, in the case of particulate matter, any other method which the Member State concerned can demonstrate displays a consistent relationship to the reference method. In that event the results achieved by that method must be corrected to produce results equivalent to those that would have been achieved by using the reference method.
2. The Commission may require the Member States to prepare and submit a report on the demonstration of equivalence in accordance with paragraph 1.
3. When assessing the acceptability of the report mentioned in paragraph 2, the Commission will make reference to its guidance on the demonstration of equivalence (to be published). Where Member States have been using interim factors to approximate equivalence, the latter shall be confirmed and/or amended with reference to the Commission's guidance.

4. Member States should ensure that whenever appropriate, the correction is also applied retroactively to past measurement data in order to achieve better data comparability.

C. Standardisation

For gaseous pollutants the volume must be standardised at a temperature of 293K and an atmospheric pressure of 101,3kPa. For particulate matter and substances to be analysed in particulate matter (e.g. lead) the sampling volume refers to ambient conditions in terms of temperature and atmospheric pressure at the date of measurements.

E. Mutual recognition of data

When demonstrating that equipment meets the performance requirements of the reference methods listed in Section A of this Annex, the competent authorities and bodies designated pursuant to Article 3 shall accept test reports issued in other Member States provided that the test laboratories are accredited to the relevant harmonised standard for testing and calibration laboratories.

The detailed test reports and all the results of the tests shall be available to other competent authorities or their designated bodies. Test reports shall demonstrate that the equipment meets all the performance requirements including where some environmental and site conditions are specific to a Member State and are outside the conditions for which the equipment has been already tested and type approved in another Member State.”;

- (c) Section A of Annex IX is replaced by the following:

“A. Minimum number of sampling points for fixed measurements of concentrations of ozone

Minimum number of sampling points for fixed continuous measurements to assess compliance with

target values, long — term objectives and information and alert thresholds where such measurements are the sole source of information.

Population (× 1 000)	Agglomeration ⁽¹⁾	Other zones ⁽¹⁾	Rural background
< 250		1	1 station/50 000 km ² as an average density over all zones per country ⁽²⁾
< 500	1	2	
< 1 000	2	2	
< 1 500	3	3	
< 2 000	3	4	
< 2 750	4	5	
< 3 750	5	6	
> 3 750	One additional station per 2 million inhabitants	One additional station per 2 million inhabitants	

⁽¹⁾ At least 1 station in areas where exposure of the population to the highest concentrations of ozone is likely to occur. In agglomerations, at least 50% of the stations shall be located in suburban areas.

⁽²⁾ 1 station per 25 000 km² for complex terrain is recommended.”.

(2) In Schedule 2, which reproduces the text of Directive 2004/107/EC-

(a) Section I of Annex IV is amended as follows-

(i) the table is replaced by the following-

“

	Benzo(a)pyrene	Arsenic, cadmium and nickel	Polycyclic aromatic hydrocarbons other than benzo(a)	Total deposition
— Uncertainty				
Fixed and indicative measurements	50 %	40 %	50 %	70 %
Modelling	60 %	60 %	60 %	60 %
— Minimum data capture	90 %	90 %	90 %	90 %
— Minimum time coverage				
Fixed measurements ⁽¹⁾	33 %	50 %		
Indicative measurements ^{(1) (2)}	14 %	14 %	14 %	33 %

”;

- (b) in the third paragraph, the following sentence is deleted:

“Twenty-four hour sampling is also advisable for the measurement of arsenic, cadmium and nickel concentrations.”;

- (c) after the third paragraph the following text is inserted-

“The provisions on individual samples in the previous paragraph apply also to arsenic, cadmium, nickel and total gaseous mercury. Moreover, sub-sampling of PM₁₀ filters for metals for subsequent analysis is allowed, providing there is evidence that the sub-sample is representative of the whole and that the detection sensitivity is not compromised when compared with the relevant data quality objectives. As an alternative to daily sampling, weekly sampling for metals in PM₁₀ is allowed provided that the collection characteristics are not compromised.”;

(d) Sections I to IV of Annex V are replaced by the following-

I. Reference method for the sampling and analysis of arsenic, cadmium and nickel in ambient air

The reference method for the sampling of arsenic, cadmium and nickel in ambient air is described in EN 12341:2014. The reference method for the measurement of arsenic, cadmium and nickel in ambient air is that described in EN 14902:2005 “Ambient air quality — Standard method for the measurement of Pb, Cd, As and Ni in the PM₁₀ fraction of suspended particulate matter”.

A Member State may also use any other methods which it can demonstrate give results equivalent to the above method.

II. Reference method for the sampling and analysis of polycyclic aromatic hydrocarbons in ambient air

The reference method for the sampling of polycyclic aromatic hydrocarbons in ambient air is described in EN 12341:2014. The reference method for the measurement of benzo(a)pyrene in ambient air is that described in EN 15549:2008 “Air quality — Standard method for the measurement of concentration of benzo[a]pyrene in ambient air”. In the absence of a CEN standard method for the other polycyclic aromatic hydrocarbons referred to in Article 4(8), Member States are allowed to use national standards

methods or ISO methods such as ISO standard 12884.

A Member State may also use any other method which it can demonstrate give results equivalent to the above method.

III. Reference method for the sampling and analysis of mercury in ambient air

The reference method for the measurement of total gaseous mercury concentrations in ambient air is that described in EN 15852:2010 “Ambient air quality — Standard method for the determination of total gaseous mercury”.

A Member State may also use any other method which it can demonstrate give results equivalent to the above method.

IV. Reference method for the sampling and analysis of the deposition of arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons

The reference method for the determination of the deposition of arsenic, cadmium, and nickel is that described in EN 15841:2009 “Ambient air quality — Standard method for determination of arsenic, cadmium, lead and nickel in atmospheric deposition”.

The reference method for the determination of the deposition of mercury is that described in EN 15853:2010 “Ambient air quality — Standard method for determination of mercury deposition”.

The reference method for the determination of the deposition of benzo(a)pyrene and the other polycyclic hydrocarbons referred to in Article 4(8) is that described in EN 15980:2011 “Air quality. Determination of the deposition of benz[a]anthracene, benzo[b]fluoranthene, benzo[j]fluoranthene, benzo[k]fluoranthene, benzo[a]pyrene, dibenz[a,h]anthracene and indeno[1,2,3-cd]pyrene”.

Dated 2nd December, 2016

DR J CORTES,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations transpose into the law of Gibraltar Commission Directive (EU) 2015/1480 of 28 August 2015 amending several annexes to Directives 2004/107/EC and 2008/50/EC of the European Parliament and of the Council laying down the rules concerning reference methods, data validation and location of sampling points for the assessment of ambient air quality.