Submission by ClientEarth and Defra's response

Q1: In the Air Quality Standards Regulations 2010: the new Regulations changes the PM2.5 limit value from 25 ug/m3 (with an attainment deadline of 1 Jan 2015) to 20 ug/m3 (with an attainment deadline of 1 Jan 2020). This simply transposes what is already set out in the AAQ Directive. It isn't clear why this is only happening now.

A1: As set out in the Explanatory Memorandum laid alongside this instrument, regulation 2 amends the Air Quality Standards Regulations 2010 to include the limit value for "PM2.5", a type of pollutant, from 2020. At the time that the Air Quality Standards Regulations 2010 were originally made this level was under review by the European Commission and so it was not possible to transpose it at that time. [The transposition anomaly was identified last year and we used the first available instrument to amend the limit value.]

In practical terms, the assessment of compliance with the annual average limit value is made the end of the particular calendar year. Defra's 2019 Annual Report (available at https://uk-air.defra.gov.uk/library/annualreport/viewonline?year=2019_issue_1#report_pdf) demonstrated that the 20um/m3 limit value for PM is already being achieved in all areas in the UK.

Q2: The new Regulations highlight that with respect to duties relating to the reporting of emissions of pollutants (including NH3, PM and NOx) from industrial plants under Regulation 166/2006, whilst Member States currently have to report this information to the Commission, after IP Completion Day, competent authorities form the devolved nations will now have to report to the Secretary of State. But no such competent authority has yet been designated for England (as far as we are aware). Effectively, government will be regulating itself until we get clarity on what role the OEP will play in this context.

A2: The new Statutory Instrument makes amendments to PRTR Regulation 166/2006 to address operability issues presented by the fact that Regulation 166/2006 has been amended at the European level after the original EU Exit SI, namely The Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018 (SI 2018/1407), were made. The Explanatory Memorandum laid alongside that 2018 EU Exit SI sets out the role of the relevant competent authorities in the provision of information to the Secretary of State for inclusion in the UK Register (see para. 7.4, available at https://www.legislation.gov.uk/uksi/2018/1407/pdfs/uksiem_20181407_en.pdf and copied below for reference);

"7.4   Regulation (EC) No 166/2006: This instrument makes amendments to this Regulation to establish a UK Pollution Release and Transfer Register, in order to ensure that the UK continues to meet its obligations under the international Protocol on such registers (which the UK has already ratified). It will ensure that there continues to be a database that is accessible to the public which holds the relevant environmental data from UK industrial facilities covered by the Regulation. The relevant competent national authority (appointed by the Secretary of State, Welsh Ministers, Scottish Ministers and relevant Northern Ireland Department) will be required to obtain the necessary information from the operators of the installations concerned. That information must then be provided to the Secretary of State for inclusion into the UK register by specified deadlines."

In practical terms, the regulators for each administration (e.g. the Environment Agency) will continue to act as the competent authorities for the PRTR after IP completion day and there will be no change in the information made available to the public (see https://www.gov.uk/guidance/uk-pollutant-release-and-transfer-register-prtr-data-sets), meaning the UK will continue to meet its

obligations under the UNECE Aarhus Convention . The government has laid before Parliament documents setting out the role of the new Office of Environmental Protection alongside the Environment Bill.

24 & 27 November 2020