EXPLANATORY MEMORANDUM TO

THE AIR QUALITY (DESIGNATION OF RELEVANT PUBLIC AUTHORITIES) (ENGLAND) REGULATIONS 2022

2022 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 This instrument designates National Highways as a Relevant Public Authority under Section 81A Part IV of the Environment Act 1995 as amended by the Environment Act 2021.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. European Convention on Human Rights

5.1 The Parliamentary Under Secretary of State has made the following statement regarding Human Rights:

"In my view the provisions of the Regulations are compatible with the Convention rights."

6. Legislative Context

6.1 Part 4 of the Environment Act 1995 sets out the Local Air Quality Management (LAQM) framework. Under this framework local authorities are required to review and assess air quality in their area and to take action to ensure local air quality standards and objectives set by Government are met.

6.2 Amendments to the Act made through the Environment Act 2021 ensures that local highways authorities will contribute to Air Quality Action Plans including when the highways authority is within an upper tier authority (by clarifying the role of upper tier authorities in contributing to Air Quality Action Plans. The Act was also amended to provide the Secretary of State the power to designate via affirmative regulations bodies with functions of a public nature as relevant public authorities with the aim of providing a mechanism to broaden the range of bodies required to act as air quality

partners of local authorities in developing and carrying out actions to be included in Air Quality Action Plans.

6.3 Designation as a relevant public authority confers on National Highways duties to have regard to the national air quality strategy under Part 4 of the Act when exercising any function of a public nature that could affect air quality, and to act as an air quality partner of a local authority where they have been identified by that authority as having functions in relation to a source of emissions contributing to a failure to achieve air quality standards or objectives in its area. As an air quality partner of a local authority National Highways will have a duty to co-operate with local authorities in connection with carrying out their air quality duties, and to contribute to air quality action plans.

7. Policy background

What's being done and why?

7.1 LAQM requires local authorities to declare an Air Quality Management Area (AQMA) if local air quality standards and objectives are not met and to subsequently develop an Air Quality Action Plan to bring pollution levels down to within statutory limits. The majority of AQMAs have been declared because of exceedances of local air quality objectives for NO_2 resulting from roadside emissions. Local authorities have often struggled to ensure that local air quality objectives are met once an AQMA has been declared. In part this is because some of the levers required to act to reduce emissions are not within local authority control.

7.2 Designating National Highways as a relevant public authority will ensure that organisations with responsibility for managing the road network will be required to work together within the LAQM framework to ensure that roadside emissions are reduced where required to ensure that local air quality objectives for NO_2 are met. Action to reduce NO_2 will also tend to reduce harmful particulates and will therefore help to reduce negative health impacts from poor air quality.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 None

10. Consultation outcome

10.1 A public consultation was held between 28 March and 6 June 2022. Local authority air quality officers were contacted directly and informed of the consultation. A press statement was sent to all national newspapers and the Press Association, and environment journalists at the main regional outlets. It was also issued to trade outlets including ENDS and Air Quality News. Social media was used to promote the consultation on both Twitter and LinkedIn. Anyone with an interest had the opportunity to respond on the Citizen Space website.

10.2 A total of 63 responses were received, 58 of which were submitted via the Citizen Space website and 5 via email. There was strong support for designating National Highways. Government response - Consultation on designation of national highways.

11. Guidance

11.1 Guidance to advise on how local authorities and their partners, including designated relevant public authorities, should work together within the LAQM framework is included within revised LAQM statutory guidance. Specific guidance covering LAQM partnership between local authorities and National Highways is under development. LAQM Statutory Guidance PG22.

12. Impact

12.1 There is no, or no significant, impact on business, charities, or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private, voluntary, or public sectors is foreseen. Regulating small business

12.4 The legislation does not apply to activities that are undertaken by small businesses.

13. Monitoring & review

13.1 The approach to monitoring of this legislation will consist of assessment of local authority reports submitted annually to Defra which will include a section on working with air quality partners including National Highways, and assessment of reports submitted to DfT by National Highways on the impact on it of the designation and of their work alongside local authorities on local air quality as an air quality partner.

13.2 As this instrument does not make or amend regulatory provisions that relate to business activity, no review clause is required.

14. Contact

14.1 Keith Crane at the Department for Environment Food and Rural Affairs, Keith.Crane@defra.gov.uk can be contacted with any queries regarding the instrument.

14.2 Bill Parish, Deputy Director for Air Quality, and Industrial Emissions, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

14.3 The Parliamentary Under Secretary of State for the Environment, Trudy Harrison, can confirm that this Explanatory Memorandum meets the required standard.