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Standard Rules Consultation no 14: Medium Combustion Plant and Specified Generator controls

Summary of consultation responses and decisions

**Standard rules for the Environmental Permitting (England and Wales) Regulations
2016**

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Permitting approach

Our Medium Combustion Plant Directive and Specified Generator permitting approach changed following the publication of the Environmental Permitting (England and Wales) (Amendment) Regulations 2018 in January 2018.

Our original approach categorised combustion plant by type based on the Defra and Welsh Government Impact Assessment (2016), and included back up, standby, high (bespoke) and low risk working combustion plants. We also based our 2018/2019 charging proposals on these categories because new combustion plants need to be able to apply from 20 December 2018.

We developed eight new low risk standard rules as conditions in an environmental permit (referred to as SRP) to help simplify the scheme and reduce the number of bespoke permits required by the 2018/2019 charging proposals.

Whilst the standard rules and bespoke permit approach differs from our original proposals we intend to apply these permit types for new plant from 20 December 2018. We feel this approach is the most pragmatic because it avoids confusion and development of separate interim permits and guidance.

Summary

The Environmental Permitting (England and Wales) Regulations 2016 (“EP Regulations”) allow us to offer standard permits, to reduce the administrative burden on business while maintaining environmental standards. They are based on sets of standard rules that we can apply widely in England and Wales. The rules are developed using assessments of the environmental risk posed by the activity.

The rules take considerable time, resources and consultation to develop but once in place they make applying and determining the applications comparatively easy. This is because there is no need for a site-specific risk assessment.

The consultation proposed eight new standard rules and risk assessments in relation to low risk medium combustion plants and Tranche B specified generators. The Medium Combustion Plant Directive (MCPD) and Specified Generators provides cost efficient emission controls on new and existing plant. The Directive is being introduced into Regulation in England and Wales and regulated under an environmental permit. The proposed use of standard rules is a proportionate approach to environmental permitting of this activity. We invited views on the following new standard rule proposals and whether to allow a single standard permit issued to an operator to cover a number of locations for the new medium combustion plant (MCP) standard rule sets:

- **SR2018 No1:** standard rules for specified generator, Tranche B, low risk, base load operation between 1-5MW
- **SR2018 No2:** standard rules for specified generator, Tranche B, low risk, base load operation between 1-2MW with high background NO_x
- **SR2018 No3:** standard rules for specified generator, Tranche B, low risk, base load operation between 1-2MW with Air Quality Management Areas or high ambient NO_x
- **SR2018 No4:** standard rules for specified generator, Tranche B, low risk, between 1-20MW of abated diesel or gas engines operated less than 500 hours a year
- **SR2018 No5:** standard rules for specified generator, Tranche B, low risk, between 1-20MW of abated diesel or gas engines operated less than 1500 hours a year
- **SR2018 No6:** standard rules for specified generator, Tranche B, low risk, base load operation between 1-1.2MW with high background NO_x
- **SR2018 No7:** standard rules for new, low risk, stationary medium combustion plant between 1- <20MW (in operation after 20/12/2018)
- **SR2018 No8:** standard rules for mobile plant specified generator, Tranche B, low risk, base load operation between <1-2MW

We also proposed revisions to the following five standard rules that are impacted by the Medium Combustion Plant Directive from 20th December 2018 and Specified Generator provisions from 1st January 2019:

- **SR2009 No4:** Combustion of biogas in engines at sewage treatment works
- **SR2012 No10:** On-farm anaerobic digestion facility using farm wastes only, including use of the resultant biogas – waste recovery operation, treatment capacity less than 100 tonnes of waste per day

- **SR2012 No12:** Anaerobic digestion facility including use of the resultant biogas – waste recovery operation, treatment capacity less than 100 tonnes of waste per day
- **SR2012 No9:** On-farm anaerobic digestion facility using farm wastes only, including use of the resultant biogas – Part A installation - capacity over 100 tonnes of waste per day
- **SR2012 No11:** Anaerobic digestion facility including use of the resultant biogas – Part A installation - capacity over 100 tonnes of waste per day and/or over 10 tonnes of animal carcasses and animal wastes per day

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1 About this consultation

This is an explanatory document that provides an outline of the documents we consulted on, and an overview of the standard permitting process. We invited comments on the proposals from operators, trade associations and businesses, other regulators, and the public with an interest in environmental issues.

The consultation ran for 12 weeks from 25th May 2018 to 17th August 2018. We will consult on our 2019/2020 charging proposals for these standard rule sets in our 2019/2020 charging consultation in the autumn.

This document summarises the responses to the consultation questions and any other key points raised. It sets out our responses to points raised by consultees, the decisions we have made and the actions we will take as a consequence.

1.1 Level of response

We received 2 responses, which we have carefully considered. Of the 2 responses:

- 1 was from an operator
- 1 was from a trade body/association

1.2 Key findings and the actions we will take

Both respondents agreed in principle with our approach to use standard rules for medium combustion plant and specified generators. Neither respondent supported the proposal to allow a single standard permit issued to an operator to cover a number of locations for new medium combustion plant standard rule sets.

We are satisfied that, with appropriate amendments (as detailed below) the proposed new and revised standard rules and risk assessments are appropriate for this activity. We will amend and implement the new standard rule sets and plan to publish in October 2018. We do not at this stage plan to implement the proposal for a single standard permit to cover a number of locations for medium combustion plant. This is because there are still some concerns about how permitting and compliance will operate in practice and the need to make the standard rules available for use at an early stage for operators to be able to apply for new permits.

1.3 Our responses

1.3.1 New standard rule set

Due to the number of variables involved there is potential for some low risk sites to fall out of scope of the SRPs. We therefore propose to amend SR2018 No6 by increasing the thermal input capacity from 1.2 to 1.3MW and introduce the bespoke application screening tool (developed by the Environment Agency) to help screen out, as many low risk sites as possible from requiring complex bespoke applications that require detailed modelling

assessment. There will still be a need however for some bespoke applications for higher risk activities, for example, larger units or smaller units with poorly designed stacks or situated in locations with high background concentrations.

Number of rule sets

Both respondents commented that the number of potential standard rules available for an operator each with slightly different criteria makes the application process too complex and that fewer rules with broader criteria would be better. We take the view that having broader criteria may make the rules more complex and we have struck the correct balance between having rules that can be understood and the different types of available SRPs. Reducing the number of SRPs also has the potential to increase the number of bespoke applications. In addition we are providing guidance and pre-application advice is also available.

One respondent suggested an amendment to the introductory note of SR2018 No4. In doing so, we believe more plant would require bespoke permits so have not included this change

One respondent suggested the description of the technologies ('engines that may be providing balancing services') included in SR2018 No4 is vague and needs rewording. The terms used in the standard rules are consistent with the Regulations and allows operators flexibility. Specific descriptions of technologies used would reduce the scope of the standard rules and result in more bespoke permits required.

Operator responsibility

One respondent made a comment around Operator responsibility and the assumption that Operators will already know the characteristics of the local receiving environment. Our standard rule sets are outcome focused so although they specify what we want operators to do, they allow operators flexibility on how to achieve those outcomes. Guidance and pre-application advice is also available if needed.

Use of the term 'natural gas'

One respondent made a comment around the use of the term 'natural gas' and the relevance to other fuel types. These terms are defined in the Regulations.

Development of an on-line SRP tool

One respondent suggested NRW develops a 'permit identifier' or a matrix to help Operators identify which Standard Rule set applies to them. Whilst we see merit in a more clear signposting process, significant changes have the potential to be cost prohibitive unless there are significant benefits. However, NRW will consider options for this.

Proximity to SSSI

One respondent commented that they were unable to meet the standard rule set requirements due to the proximity to SSSIs. Standard rule sets are intentionally generic to capture as many sites as possible. Where site specific information and conditions are necessary a bespoke permit is required.

Use of the term MW

One respondent raised an issue with the imprecise use of the term MW within the standard rule sets. We will make clear that this refers to Mega Watts of rated thermal input.

One respondent questioned whether the Mega Watts of rated thermal input was based on gross or net calorific value. We can confirm this is the net calorific value and will be covered in associated guidance

Proposal to allow medium combustion plants operated by a given operator situated at different locations to be covered by one standard permit

No respondents agreed to this proposal due to concerns over its practical implementation. For example, how compliance activity takes place, application of rules/conditions for more than one site, controls over MCPs at a local level, charging for multiple sites, and flexibility in adding or removing sites from the permit or transferring sites to another operator. Due to these concerns we have decided not to take this proposal forward at this time. There is however still the ability to apply for a number of MCPs under the standard permit for a single site (SR2018 No7).

Combined Heat and Power (CHP)

A question was raised regarding whether for CHP the standard rules should specify that the CHP must meet the Government's 'Combined heat and power quality assurance (CHPQA) programme' standards in 'CHPQA Standard Issue 16 October 2016'. Our view is that this requirement is not relevant for the standard rules as there is no requirement in the regulations. Therefore, we are not proposing to change the standard rule sets to reflect this.

One respondent suggested that CHPs are excluded from balancing services restrictions. CHPs used for balancing services are required to comply with the MCPD and Specified Generator Regulations from the relevant date. Combustion plant which are operating as part of an anaerobic digestion facility are likely to be covered under SR2018 No11 which includes the provisions for Specified Generators.

Control of emissions to air

One respondent suggested we explain that NO and NO₂ are expressed as NO₂ in the Introductory Note, however we feel Table 3.1 makes this clear so have not repeated this in the Introductory Note.

Issues were raised regarding whether the standard rules under the Medium Combustion Plant Directive should have controls covering NO_x, SO₂ and Dust and not just NO₂. The conditions on fuel (natural gas for all SRPs, with ultra-low sulphur diesel added to the 190 mg/Nm³ ELV SRPs) and the requirement for no persistent 'dark smoke' mean that emissions of SO₂ and PM₁₀ are either negligible or do not pose the same risk of exceeding the environmental standard as NO₂. NO₂ conditions are therefore protective of these other pollutants. The distance to nearest receptor has been derived using dispersion modelling, assuming worst case downwind locations. Therefore, we are not proposing to replace NO₂ with NO_x, SO₂ and dust in the standard rule sets.

Habitat Regulations

We have worked with the Environment Agency to carry out additional modelling of emissions for the proposed standard rule set for medium combustion plant (SR2018 No7). This is to satisfy the requirements of the Conservation of Habitats and Species Regulations 2017. SR2018 No7 will now, on the basis of modelling, have the following screening distances:

Fuel and technology of MCP	Minimum release height	Minimum distance from any point source emission to Natura 2000 site SAC or SPA)
Unabated diesel generators combusting ultra-low sulphur diesel (10ppm sulphur)	3m	500m
Gas boilers combusting natural gas	15m and at least 2m above nearest building	900m
Gas boilers combusting gaseous fuels other than natural gas	15m and at least 2m above nearest building	2km

1.3.2 Revised standard rule sets

One respondent questioned the variation in the distances to receptors from the activity. The distance to the nearest receptor has been derived for each scenario using dispersion modelling carried out by Natural Resources Wales and the Environment Agency, assuming worst case downwind locations.

One respondent disagreed with the proposal to increase the distance of a gas engine stack to a European Site or a Site of Special Scientific Interest (excluding any site designated solely for geological features) to 500m in SR2012 No10 and SR2012 No12. This proposal is based on more up to date air quality modelling which showed that 200m isn't protective. There are no existing SR2012 No10 or No12 permits in Wales that will require a bespoke permit as a result of this change, therefore we have decided to include the 500m distance in SR2012 No10 and No12 from September 2018.

One respondent commented that the revised SR2009 No4 permit requires existing MCPs that are Tranche B generators to meet the relevant SO₂ ELVs. The proposed rules include new MCP requirements as well as specified generators requirements. Many AD plant in general are generators of electricity and have an agreement to generate energy to the national grid or generate power to the plant of facility. Existing MCPs will be required to comply with the SO₂ limits for > 5 MWth from 1/1/2025 and 1 to 5 MWth from 1/1/2030 and the rules will be revised at a later date to take account of that. The standard rule SR2018 No9: combustion of biogas in new medium combustion plant engines at a sewage treatment works will be amended to ensure that SO₂ limits only apply to new MCPs.

New permit numbers for existing standard rules permits

As a result of the changes made to the five existing standard rules permits, the new permit number and titles are as follows:

Previous standard rules permit number and title	Revised standard rules permit number and title
SR2009 No4 Combustion of biogas in engines at a sewage treatment works	SR2018 No9 Combustion of biogas in new medium combustion plant engines at a sewage treatment works
SR2012 No9 On-farm anaerobic digestion facility using farm wastes only, including use of the resultant biogas	SR2018 No10 On-farm anaerobic digestion facility using farm wastes only, including use of the resultant biogas
SR2012 No10 On-farm anaerobic digestion facility using farm wastes only, including use of the resultant biogas	SR2018 No11 On-farm anaerobic digestion facility using farm wastes only, including use of the resultant biogas
SR2012 No11 Anaerobic digestion facility including use of the resultant biogas Part A installation – treatment capacity over 100 tonnes per day and/or over 10 tonnes of animal carcasses and animal wastes per day	SR2018 No12 Anaerobic digestion facility including use of the resultant biogas Part A installation – treatment capacity over 100 tonnes per day and/or over 10 tonnes of animal carcasses and animal wastes per day
SR2012 No12 Anaerobic digestion facility including use of the resultant biogas - Waste Recovery Operation – treatment capacity less than 100 tonnes of waste per day	SR2018 No13 Anaerobic digestion facility including use of the resultant biogas - Waste Recovery Operation – treatment capacity less than 100 tonnes of waste per day

Operators will no longer be able to apply for SR2009 No4, SR2012 No9, No10, No11 and No12 from October 2018, however Operators who currently hold these permits can still apply to vary their permit.

1.3.3 General

General comments not captured above have been considered below.

One respondent suggested rewording of the ‘generator’ definition. This will be covered in associated guidance.

We received some general comments regarding non-abated diesel generators used for emergencies. The definition of back-up generators in EPR Schedule 25B states ‘a generator operated for the sole purpose of maintaining power supply at a site during an on-site emergency’. Generators that are not used for on-site emergencies for more than 50 hours per year, requires a permit.

One respondent commented that SR2018 No1, No4, No8 and SR2012 No11 don’t specify that plant <1MWth require permits. We have amended SR2018, No1, No4 and No8 to include plant <1MWth to make this clear. SR2018 No12 states ‘gas engines with an aggregate rated thermal input of up to 5 megawatts’ so we’re content this already covers plant <1MWth.

One respondent commented that certain plant are unlikely to meet the emission limit value for SO₂ and requested an extension of the compliance date. The emission limit values and the compliance dates are taken directly from the Medium Combustion Plant Directive and

Specified Generator Regulations, therefore any changes would need to be considered by the Member State.

2 Consultation questions

This consultation is your opportunity to contribute towards the development of these standard rules. They should be published in October 2018.

We would particularly welcome your feedback on the questions below:

The new standard rules and risk assessment

Question 1: Do you agree with our approach to use standard rules to cover the new activities?

Question 2: Do you agree with the proposal to allow MCPs operated by a given operator situated at different locations to be covered by one standard permit?

Question 3: Do you understand the requirements of the proposed standard rules?

Question 4: Do you agree with the requirements of the proposed standard rules (not including any measures introduced by SI 2018 No. 110 The Environmental Permitting (England and Wales) (Amendment) Regulations 2018)?

Question 5: Are there any barriers to the use of the standard rules?

The revised standard rules and risk assessment

Question 6: Do you understand and agree with the requirements of the amended standard rules?

Question 7: Do you agree with the proposal to increase the distance of a gas engine stack to a European Site or a Site of Special Scientific Interest (excluding any site designated solely for geological features) to 500m in SR2012 No10 and SR2012 No12?

The business impact

Please provide time or costs estimates for the following activities. We accept these are your best estimates only. We will not publish the responses to questions 8 to 10 as part of this consultation.

Question 8: Typically, what job roles do your staff responsible for preparing permit applications and supporting Natural Resources Wales compliance assessment activity for permitted sites (such as technical specialist, manager, senior official) have?

Question 9: Are you likely to incur any third party monetary costs to prepare a standard permit application (such as having to hire consultants, access external advice)? If so, please give an approximate estimate of this cost in £s.

Question 10: How many hours do you estimate it will take you to do both of the following:

a) prepare a standard permit application

b) provide support for a Natural Resources Wales compliance assessment visit (that is, preparing for the visit, accompanying a Natural Resources Wales officer and follow-up actions)?

General

Question 11: Please tell us if you have any other comments on these proposed rules that have not been covered by the previous questions (not including any measures introduced by SI 2018 No. 110 The Environmental Permitting (England and Wales) (Amendment) Regulations 2018).

3. Charges

The charges, as outlined in the 2018-19 scheme consultation, will still apply for new combustion plants from 20 December 2018 until 30 March 2019, but Operators will be issued a standard rules or bespoke permit instead of a permit based on combustion plant type.

Operators will need to familiarise themselves with the suite of SRPs available before making an application. Where operators are unable to meet the SRP criteria they will need to apply for either a simple bespoke or complex bespoke permit.

Our 2018/2019 MCPD and Specified Generator application and subsistence fees are shown in the table below.

Permit type	Application fee	Annual subsistence fee
Bespoke Specified generators	£4056 (with air quality modelling)	£385
	£1924 (without air quality modelling)	£385
Bespoke MCP	£1196	-
Low risk MCP	£676	£104
Standby MCP	£156	£34.67
Backup MCP	£104	£17.33
SR2018 No1 to No6 and No8	£156	£34.67
SR2018 No7	£676	£104

The charges as outlined in the 2018-19 scheme consultation requires all Specified Generators to have bespoke permits, however, if an operator is able to meet one of the new Specified Generator SRPs published in October 2018 they can apply for these at the cost of a Standby MCP application (£156) until the 2019/2020 charging scheme takes affect.

If an operator wishes to apply for a new low risk, standby or backup MCP (that is not a Specified Generator) and cannot meet SR2018 No7, they will need to apply for a bespoke permit at the cost of a Bespoke MCP (£1196) until the 2019/2020 charging scheme takes affect.

There are two application fees for Specified Generator bespoke permits that depend on the requirement to submit air quality modelling with the application. Those that require the submission of air quality modelling and therefore require NRW to carry out additional assessments or additional regulatory work attract the higher fee of £4056. A Specified Generator which does not require dispersion modelling to assess the impact of its emissions to air is by definition of lower risk than a site which does, and therefore attracts the lower fee of £1924.

We are currently developing new MCPD and Specified Generator charging proposals for 2019/2020 based on the standard rules and bespoke permit approach to better reflect the MCPD and Specified Generator (SG) provisions and to ensure charges are proportionate to regulatory requirements. The 2019/2020 charging proposals will be included in our charging consultation due out in October 2018.

If Operators want to change (vary), transfer or surrender your medium combustion plant or specified generator permit before the first of April 2019, please contact us at mcpd.queries@naturalresourceswales.gov.uk to confirm the relevant charge.

4. Next steps

We will use the responses from this consultation to inform any amendments to the proposed rule sets and generic risk assessment.

The new standard rule sets will be published on our website in October 2018. The revised standard rule sets will also be published in October but there will be a three month notification period for existing standard rule holders before the rules apply.

If you responded and wish to follow up your response, or want more detail on any points made in this document, you can contact us by email, phone or mail:

Email permittingconsultations@naturalresourceswales.gov.uk

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