

2018 No. 33

ENVIRONMENTAL PROTECTION

**The Pollution Prevention and Control (Industrial Emissions)
(Amendment) Regulations (Northern Ireland) 2018**

Made - - - - - *20th February 2018*

Coming into operation - - - - - *20th March 2018*

The Department of Agriculture, Environment and Rural Affairs, having been designated^(a) for the purposes of section 2(2) of the European Communities Act 1972^(b) in relation to the environment, acting in exercise of the powers conferred upon it by that section makes the following Regulations.

PART 1

General

Citation and commencement

1. These Regulations may be cited as The Pollution Prevention and Control (Industrial Emissions) (Amendment) Regulations (Northern Ireland) 2018 and shall come into operation on 20th March 2018.

PART 2

**Amendment of the Pollution Prevention and Control (Industrial Emissions)
Regulations (Northern Ireland) 2013**

**Amendment of the Pollution Prevention and Control (Industrial Emissions) Regulations
(Northern Ireland) 2013**

2. The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013^(c) are amended as set out in this Part.

Regulation 2 (Interpretation: general)

3.—(1) In regulation 2(1) (Interpretation: general), in the appropriate alphabetical order, insert—

(a) 2008 No.301

(b) 1972 c.68

(c) S.R. 2013 No. 160, as amended by S.R. 2014 No. 304, S.R. 2015 No. 14, S.I. 2015/1973, S.R. 2015 No. 325, S.R. 2016 No. 95, and S.R. 2016 No. 309.

““existing medium combustion plant” means a combustion plant put into operation before 20th December 2018 or for which a permit was granted before 19th December 2017 provided that the plant is put into operation no later than 20th December 2018;”

““MCPD” means the “Medium Combustion Plant Directive” which is Directive 2015/2193/EU of the European Parliament and of the Council of the 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants(a);”

““medium combustion plant” means a combustion plant with a rated thermal input equal to or greater than 1 megawatt and less than 50 megawatts irrespective of the type of fuel they use and includes any combination of combustion plants referred to in article 2(2) or article 4 of the MCPD, provided that—

- (a) it does not fall within Article 2(3) or (4) of the MCPD;
- (b) it is not installed on an offshore platform situated on, above or below those parts of the territorial sea adjacent to Northern Ireland;”

““mobile medium combustion plant” means a medium combustion plant which is designed to move or be moved whether on roads or other land;”

““new medium combustion plant” means a medium combustion plant which is not an existing medium combustion plant;” and;

““specified generator” has the meaning given in paragraph 2 of Schedule 9B.”

(2) The Interpretation Act (Northern Ireland) 1954(b) applies to these regulations as it applies to an Act of the Northern Ireland Assembly.

Amendment of Schedule 1 (activities, installations and mobile plant)

4. In Schedule 1, in Part C of section 1.1 (combustion activities), after head (a), insert—

- “(b) Unless falling within head (a) of this Part, burning any fuel or fuels in a medium combustion plant with a net rated thermal input of 1 megawatt or more but less than a rated thermal input of 20 megawatts.
- (c) Unless falling within another head in this part, the operation of a specified generator.”

Amendment of Schedule 3 (prescribed date and transitional arrangements)

5.—(1) In Schedule 3 Part 2 (Part B and Part C installations and mobile plant), in paragraph 5, after sub paragraph (3) insert—

“(2) In the case of an installation or mobile plant, carrying out only an activity falling within head (c) of Part C of section 1.1 of Schedule 1, for—

- (a) a new medium combustion plant, the prescribed date is 20th December 2018;
- (b) an existing medium combustion plant with a rated thermal input greater than 5 megawatts, the prescribed date is 1st January 2024; and
- (c) an existing medium combustion plant with a rated thermal input of less than or equal to 5 megawatts, the prescribed date is 1st January 2029.”

Schedule 9A (Medium Combustion Plant: Medium Combustion Plant Directive)

6. After Schedule 9 insert—

(a) OJ L 313, 28.11.2015, p.1.
(b) 1954 c.33

“SCHEDULE 9A
Medium Combustion Plant

Regulation 7

PART 1

General

Application

1. This Schedule applies—

- (a) in relation to every new medium combustion plant from 20th December 2018;
- (b) in relation to every existing medium combustion plant from the date specified in paragraph 5 of Part 2 of Schedule 3, as appropriate.

Interpretation

2. When interpreting the MCPD for the purposes of this Schedule—

- (a) an expression that is defined in Part 1 of these Regulations has the meaning given in that Part;
- (b) the competent authority is the enforcing authority;
- (c) “general binding rule” means a rule published under regulation 16.

Applications for the grant of a permit

3.—(1) The enforcing authority must ensure that every application for the grant of a permit—

- (a) includes the information specified in Annex I to the MCPD;
- (b) specifies which (if any) of paragraphs 7 to 11 of Part 2 of this Schedule is considered relevant to the application.

(2) Subject to sub-paragraph (3), the enforcing authority must start the procedure for determining an application for the grant of a permit within one month of the operator providing the information referred to in sub-paragraph (1) and must inform the operator of the start of the procedure.

(3) Sub-paragraph (2) applies only when the operator has submitted an application that complies with sub-paragraph (1).

Exercise of relevant function

4.—(1) The enforcing authority must exercise its relevant functions so as to ensure compliance with the following provisions of the MCPD—

- (a) Article 4;
- (b) Articles 5(1) and (2);
- (c) Article 5(6);
- (d) Article 6(1);
- (e) Article 6(2);
- (f) Article 6(7);
- (g) Article 6(13);
- (h) Article 7 (except Article 7(8));
- (i) Articles 8(2) and (3); and

(i) Article 9.

(2) In exercising its relevant functions, the enforcing authority must ensure that there is no persistent emission of dark smoke, where “dark smoke” has the meaning given in section 2(3) of Clean Air (Northern Ireland) Order 1981(a).

(3) In exercising its relevant functions so as to ensure compliance with Article 6(1), (2), (7) or (13) of the MCPD, the enforcing authority must ensure that permits include emission limit values set in accordance with the provisions of Part 2 of this Schedule.

PART 2

Emission Limit Values

Interpretation of this Part

5. In this Part—

“Ambient Air Quality Directive” means Directive 2008/50/EC of the European Parliament and of the Council of 21st May 2008 on ambient air quality and cleaner air for Europe(b);

“Annex I” means Annex I of the MCPD;

“Annex II” means Annex II of the MCPD;

“biomass”, “dust”, “emission limit value”, “micro isolated system”, “nitrogen oxides”, “operating hours”, “small isolated system” and “zone” have the respective meanings given in Article 3 of the MCPD; and

any reference to emissions expressed in mg/Nm³ is to those emissions defined in accordance with Annex II.

Emission limit values

6.—(1) Sub-paragraphs (2) to (4) apply, subject to paragraphs 7 to 11.

(2) From 20th December 2018, emissions into the air of sulphur dioxide, nitrogen oxides and dust from a new medium combustion plant must not exceed the emission limit values set out in Part 2 of Annex II (but with the modification that footnote (3) in Table 2 of that Part is to be read as if for “may be” there were substituted “are”).

(3) From 1st January 2025, emissions into the air of sulphur dioxide, nitrogen oxides and dust from an existing medium combustion plant with a rated thermal input greater than 5 megawatts must not exceed the emission limit values set out in Tables 2 and 3 of Part 1 of Annex II.

(4) From 1st January 2030, emissions into the air of sulphur dioxide, nitrogen oxides and dust from an existing medium combustion plant with a rated thermal input of less than or equal to 5 megawatts must not exceed the emission limit values set out in Tables 1 and 3 of Part 1 of Annex II.

Limited operating hours – existing medium combustion plants

7.—(1) An existing medium combustion plant which operates for no more than 500 operating hours per year, is not required to comply with the emission limit values set out in Tables 1, 2, and 3 of Part 1 of Annex II, provided that the operator has signed a declaration in accordance with paragraph 7 of Annex I.

(a) S.I. 1981/158

(b) OJ No L 152, 11.6.2008, p1

(2) An existing medium combustion plant, is not required to comply with the emission limit values set out in Tables 1, 2, and 3 of Part 1 of Annex II where it operates for no more than 1000 operating hours per year to provide backup power production in islands connected to an electricity transmission system or distribution system, in the event of an interruption of the main power supply to an island, provided that the operator has signed a declaration in accordance with paragraph 7 of Annex 1.

(3) Where an existing medium combustion plant firing solid fuels falls within sub-paragraph (1) or sub-paragraph (2), an emission limit value for dust of 200mg/Nm³ applies.

(4) For the purposes of sub-paragraph (2), “transmission system” and “distribution system” have the meanings given in Article 3 of The Electricity (Northern Ireland) Order 1992(a).

Limited operating hours – new medium combustion plants

8.—(1) A new medium combustion plant which operates for no more than 250 operating hours per year, is not required to comply with the emission limit values set out in Part 2 of Annex II, provided that the operator has signed a declaration in accordance with paragraph 7 of Annex I.

(2) Where a new medium combustion plant firing solid fuels falls within sub-paragraph (1), an emission limit value for dust of 100mg/Nm³ applies.

Small and micro isolated systems

9. Existing medium combustion plants which are part of a small isolated system or a micro isolated system are only required to comply with the emission limit values set out in Tables 1, 2 and 3 of Part 1 of Annex II from 1st January 2030.

Plant at gas compressor stations

10. An existing medium combustion plant—

- (a) with a rated thermal input greater than 5 megawatts; and
- (b) which is used to drive gas compressor stations required to ensure the safety and security of a national gas transmission system;

is not required to comply with the emission limit values for nitrogen oxides set out in Table 3 of Part 1 of Annex II before 1st January 2030.

Temporary derogations

11.—(1) This sub-paragraph applies in relation to a medium combustion plant which normally uses low sulphur fuel, where the operator is unable to comply with the relevant emission limit values for sulphur dioxide in paragraph 6, because of an interruption in the supply of low-sulphur fuel resulting from a serious shortage.

(2) Where sub-paragraph (1) applies, the enforcing authority may grant a derogation from the obligation to comply with those emission limit values for such period, up to a maximum of six months, if the operator satisfies the enforcing authority that it is justified under the circumstances.

(3) This sub-paragraph applies in relation to a medium combustion plant using only gaseous fuel where—

- (a) the plant has to resort exceptionally to the use of other fuels because of an interruption in the supply of gas; and

(a) S.I.1992 No. 231 (N.I. 1)

- (b) as a result of using those other fuels, the plant would need to be equipped with secondary abatement equipment in order to comply with the relevant emission limit values for sulphur dioxide, nitrogen oxides and dust in paragraph 6.
- (4) Where sub-paragraph (3) applies, the enforcing authority may grant a derogation from the obligation to comply with the relevant emission limit values in paragraph 6—
 - (a) for a maximum of 10 days; or
 - (b) for such longer period, if the operator satisfies the enforcing authority it is justified under the circumstances.
- (5) (a) Where a district council is the enforcing authority and it grants a derogation under sub-paragraphs (2) or (4) it must inform the Department immediately and the Department must inform the European Commission within one month of that derogation being granted.
- (b) Where the Department is the enforcing authority and it grants a derogation under sub-paragraphs (2) or (4) it must inform the European Commission within one month of that derogation being granted.”

Schedule 9B (Specified generators)

7. After Schedule 9A insert—

“SCHEDULE 9B
Specified generators”

Regulation 7

Application

- 1. This Schedule applies in relation to every specified generator from the permitting date.

Interpretation – specified generators

- 2.—(1) In this Schedule “specified generator” means—
 - (a) a generator, other than an excluded generator, with a rated thermal input—
 - (i) more than or equal to 1 megawatt and less than 50 megawatts; or
 - (ii) in the case of a generator used to meet a capacity agreement or an agreement to provide balancing services, less than 50 megawatts; or
 - (b) where two or more generators falling within paragraph (a)(i) or (ii) are operated—
 - (i) on the same site;
 - (ii) by the same operator; and
 - (iii) for the same purpose,
those generators together;
 - (c) where two or more generators, other than excluded generators—
 - (i) are operated as set out in paragraph (b)(i) to (iii); and
 - (ii) together have a rated thermal input more than or equal to 1 megawatt and less than 50 megawatts, even if one or more of the generators has a rated thermal input of less than 1 megawatt,
those generators together.
- (2) For the purposes of paragraph (1)—
 - “excluded generator” means—
 - (a) generators subject to the provisions of Chapter II or Chapter III of the Industrial Emissions Directive,

- (b) back-up generators operated for the purpose of testing for no more than 50 hours per year,

“generator” means any combustion plant which is used for the purpose of generating electricity, but does not include any generator that is mobile unless it is connected to—

- (a) an electricity transmission system or distribution system, or
- (b) other apparatus, equipment or appliances at a site, if these are part of the complete infrastructure of the site;

“mobile” means any apparatus, equipment or appliance which is—

- (a) constructed or adapted for being transported from place to place, or
- (b) portable, and designed or intended to be moved from place to place.

Interpretation – relevant dates and permitting dates

3.—(1) The “relevant date” in relation to a generator means—

- (a) 1st January 2019, in the case of a new generator;
- (b) 1st October 2019, in the case of an existing generator with a rated thermal input greater than 5 megawatts and less than 50 megawatts which—
 - (i) has an emission of nitrogen oxides of equal to or greater than 500mg/ Nm³; and
 - (ii) operates for more than 50 hours per year;
- (c) 1st January 2025, in the case of an existing generator with a rated thermal input greater than 5 megawatts and less than 50 megawatts which—
 - (i) has an emission of nitrogen oxides of less than 500mg/ Nm³; or
 - (ii) operates for less than or equal to 50 hours per year;
- (d) 1st January 2030, in the case of an existing generator with a rated thermal input equal to or less than 5 megawatts.

(2) The “permitting date”—

- (a) in relation to a specified generator falling within paragraph 2(1)(a), is the relevant date in relation to that specified generator;
- (b) in relation to a specified generator falling within paragraph 2(1)(b) or (c), is the earliest of the relevant dates in relation to the generators comprising that specified generator.

(3) For the purposes of sub-paragraph (1)—

“existing generator” means a generator with a rated thermal input equal to or greater than 1 megawatt and less than 50 megawatts which came into operation before 1st December 2016, or;

“new generator” means any specified generator which is not an existing generator.

(4) For the purposes of this paragraph, in the case of a generator which is comprised in a specified generator falling within paragraph 2(1)(b) or (c), the generator is deemed to have the total rated thermal input of all the generators comprised in the specified generator.

Interpretation - general

4. In this Schedule—

“back-up generator” means a generator operated for the sole purpose of maintaining power supply at a site during an on-site emergency;

“balancing services” means any services procured by the transmission system operator in order to balance demand and supply, and to ensure the security and quality of electricity supply;

“capacity auction” means a capacity auction conducted under Chapter F [of the Capacity Market Code] for allocating Awarded Capacity to Capacity Market Units and includes T-1 Auctions, T-2 Auctions, T-3 Auctions and T-4 Auctions;

“capacity market framework agreement” means the agreement (including an Accession Deed) under which a person becomes bound by this Code;

“distribution system” has the meaning given in Article 3 of The Electricity (Northern Ireland) Order 1992(a);

“emission limit value” means the permissible maximum quantity of a substance contained in the waste gases from a generator which may be discharged into the air during a given period;

“nitrogen oxides” means nitric oxide and nitrogen dioxide;

“transmission system” has the meaning given in Article 3 of The Electricity (Northern Ireland) Order 1992;

“transmission system operator” means the person or persons operating the transmission system for Northern Ireland; and

any reference to emissions expressed in mg/Nm³ is to those emissions defined in accordance with Annex II of the Medium Combustion Plant Directive.

Permit conditions: general

5.—(1) Subject to paragraph 6, the enforcing authority must exercise its relevant functions in relation to specified generators so as to ensure that they are operated, from the relevant date, in such a way that—

- (a) there is compliance with an emission limit value for nitrogen oxides of 190mg/Nm³;
- (b) where secondary abatement is required to ensure compliance with the requirement in paragraph (a), the emission limit value for nitrogen oxides is met—
 - (i) in the case of an existing generator or a new generator which was, but has ceased to be, an existing generator, within 20 minutes of the specified generator commencing operation, or;
 - (ii) in the case of any other new generator, within 10 minutes of the specified generator commencing operation,and in every case emissions must be monitored at least every three years;
- (c) there is no persistent emission of dark smoke, where “dark smoke” has the meaning given in paragraph 3(1) of the Clean Air (Northern Ireland) Order 1981.

(2) Where compliance with air quality aspects of an environmental quality standard requires stricter conditions for the operation of a specified generator, or a generator comprised in a specified generator falling within paragraph 2(1)(b) or (c), from the permitting date the enforcing authority must include additional or stricter measures in the permit to comply with those standards, including a stricter emission limit value than that specified in sub-paragraph (1)(a).

(3) In the case of a specified generator falling within paragraph 2(1)(b) or (c), the requirements of sub-paragraph (1) must be met by every generator comprising that specified generator from the relevant date relating to that generator.

Exceptions to permit conditions

6.—(1) Paragraph 5 does not apply in relation to—

(a) S.I. 1992/231 (N.I. 1)

- (a) a specified generator used at a site to which it is not reasonably practicable to supply mains power;
- (b) a specified generator that is a back-up generator for which the operator has demonstrated to the enforcing authority a genuine need to carry out routine testing for more than 50 hours per year.

(2) Paragraph 5 does not apply—

- (a) until 1st January 2025 in relation to an existing generator—
 - (i) with a rated thermal input greater than 5 megawatts but not more than 50 megawatts;
 - (ii) with nitrogen oxide emissions of 500mg/Nm³ or greater;
 - (iii) which operates for more than 50 hours per year;
- (b) in relation to an existing generator—
 - (i) falling within sub-paragraph (2)(a);
 - (ii) that is operated only for the purpose of a capacity market framework agreement entered into before 1st December 2016;
 for the period in which that capacity agreement remains in force, or until 1st January 2025, whichever is later.

(3) Where a specified generator falls within sub-paragraphs (1) or (2), the enforcing authority must exercise its functions from the relevant date to ensure that the generator will not give rise to an exceedance of the limit values for nitrogen dioxide specified in the case of a generator operated in Northern Ireland, in Schedule 2 to the Air Quality Standards (Northern Ireland) Regulations 2010(a).

(4) Paragraph 5 does not apply in relation to an existing generator—

- (a) with a rated thermal input greater than 5 megawatts and less than 50 megawatts which—
 - (i) has an emission of nitrogen oxides of less than 500mg/Nm³; or
 - (ii) operates for no more than 50 hours per year; or
- (b) with a rated thermal input greater than or equal to 1 megawatt but no greater than 5 megawatts;

where it is operated only for the purpose of a capacity market framework agreement entered into before 1st December 2016, during the period in which that capacity market framework agreement remains in force.

(5) Paragraph 5 does not apply in relation to an existing generator with a rated thermal input of less than 1 megawatt where it is operated only for the purpose of a capacity market framework agreement entered into before 1st December 2016, during the period in which that capacity market framework agreement remains in force.

(6) In the case of a generator comprised in a specified generator falling within paragraph 2(1)(b) or (c)—

- (a) the generator is deemed to have the total rated thermal input of all the generators comprised in the specified generator for the purposes of sub-paragraphs (2), (4) and (5), and;
- (b) “relevant date” in sub-paragraph (3) means the relevant date relating to that generator.”

(a) S.R. 2010 no. 188, as amended by S.R. 2017 no.2.

PART 3

Amendment of other Regulations

Amendment of the Air Quality Standards (Northern Ireland) Regulations 2010

8.—(1) The Air Quality Standards (Northern Ireland) Regulations 2010 are amended as follows.

(2) In regulation 25—

(a) after paragraph (5), insert—

“(5A) The air quality plan must assess the need to apply lower emission limit values for individual medium combustion plants than those set out in Directive 2015/2193/EU of the European Parliament and of the Council of 25th November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants^(a) (“the Medium Combustion Plant Directive”) provided that, in the opinion of the Department, applying such emission limit values would effectively contribute to a noticeable improvement to air quality.

(5B) In considering whether to impose lower emission limit values, the Department must take into account the results of the information exchange referred to in Article 6(10) of the Medium Combustion Plant Directive.”;

(b) after paragraph (7) insert—

“(8) In this regulation “emission limit values” and “medium combustion plants” have the meanings given in the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013^(b).”

Sealed with the Official Seal of the Department of Agriculture, Environment and Rural Affairs on 20th February 2018.



Dave Foster

A senior officer of the Department of Agriculture, Environment and Rural Affairs

(a) OJ L 313, 28.11.2015, p.1

(b) S.R. 2013 No. 160, as amended by S.R. 2014 No. 304, S.R. 2015 No. 14, S.I. 2015/1973, S.R. 2015 No. 325, S.R. 2016 No. 95, and S.R. 2016 No. 309.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under Section 2(2) of the European Communities Act 1972. They amend the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 (“the principal Regulations”), and come into operation on 20th March 2018.

These Regulations introduce provisions relating to medium combustion plants (MCP). They transpose the European Union’s Medium Combustion Plant Directive, which lays down rules to control emissions of sulphur dioxide, nitrogen oxides and dust from MCPs. A MCP is a combustion plant with a rated thermal input equal to or greater than 1 megawatt but less than 50 megawatts. As such, some MCPs were already within the scope of the permitting regime in the principal Regulations and in those cases the provisions inserted by Part 2 will impose additional requirements.

The Regulations provide that no MCP brought into operation after 20th December 2018 can operate without a permit or being registered. In relation to MCPs already in operations as at that date, those with a rated thermal input above 5 megawatts are brought within the permitting regime from 1st January 2024 and those with a rated thermal input of 1 to 5 megawatts are brought within the permitting regime from 1st January 2029. MCPs are required to comply with emission limit values for sulphur dioxide, nitrogen oxides and dust, subject to specified exceptions.

Part 2 further amends the principal Regulations to introduce provisions in relation to certain generators (“specified generators”). Generators are electricity generating combustion plants and some will already be within the scope of the permitting regime. These Regulations impose additional requirements in relation to specified generators, to further limit emissions of nitrogen oxides.

An impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Air and Environmental Quality unit, Regulatory & Natural Resources Policy Division, Department of Agriculture, Environment and Rural Affairs (DAERA), Klondyke Building, Cromac Avenue, Gasworks Business Park, Lower Ormeau Road, Belfast, Northern Ireland, BT7 2JA.

A draft of these Regulations was notified to the European Commission in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council of 9th September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p.1).

© Crown copyright 2018

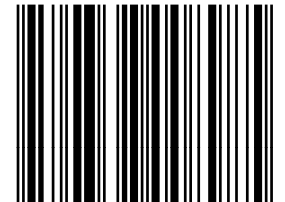
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty’s Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print Acts of the Northern Ireland Assembly.

£6.00

NI201802221008 02/2018 19585

<http://www.legislation.gov.uk/id/nisr/2018/33>

ISBN 978-0-33-800898-5



9 780338 008985