

**Consultation on Transposition of the Medium Combustion Plant Directive –
Questionnaire**

Derry City and Strabane District Council Consultation response

Q1 Do you agree with the general approach to permitting that is proposed?

The Council broadly supports the proposed approach and concurs with the benefits of alignment to the Pollution Prevention and Control regime. We do however believe that a stronger emphasis upon the need for planning permission prior to the issuing of a permit for a new plants so as to avoid conflicts with stack height and other planning aspects.

Q2 Do you agree that the Department should apply the Exemption from MCPD Annex II ELVs for existing plant operating less than 500 hours per year?

Given the significant numbers of back-up or peak-load avoidance generators that are in existence in Northern Ireland it would be reasonable to exclude these where, by the limited extent of their use, they are not likely to make a significant adverse impact on air quality.

Q3 Do you agree that the Department should have a clear annual operating 500 hour limit or should the Department have a more complex 5 year rolling average?

We believe that it would be beneficial for operators as well as regulators to have a clear annual operating limit as opposed to a 5 year rolling average. This will meet the aim of excluding plant that is not used regularly whilst avoiding unnecessary complexity. The use of an annual limit (threshold) is commensurate with the Pollution Prevention and Control regime.

Q4 Do you agree that the Department should not allow existing plant an exemption from MCPD Annex II ELVs operating for up to 1000 hours for plant supplying heating in exceptionally cold weather?

The Council agrees with the Department's view that such prolonged periods (over and above the existing 500 hours) are unlikely in Northern Ireland.

Q5 Do you have specific examples where applying the extension to exempted hours in exceptionally cold weather is justified?

No

Q6 Do you have specific examples demonstrating the need for this exemption for new plant operating less than 500 hours per year?

No

Q7 If the exemption is granted should it 500 hours be calculated as a 3 year rolling average?

No. Whilst the Council does not agree with the application of an exemption for new plant which could result in higher emissions than that which would be applied to existing plant; if an exemption were to be applied a single annual limit of use should be applied for clarity on behalf of operators and regulators.

Q8 For biomass and district heating plants which qualify for later application of Annex II emission limits, do you agree with not extending the flexibilities, or do you have any data to show that they should be used?

The Council do not see the merit for delaying the application of emission limits for this class of plant given the Department's analysis that any savings would be limited and wouldn't outweigh the air quality benefit.

Q9 Do you agree with this delay in applying MCP requirements for certain plant in drive compressor stations?

We have no comment to offer on this point. It is assumed the rationale has been provided by the UK national grid.

Q10 Do you have specific examples demonstrating the need for this exemption for new engines operating between 500-1500 hours per year?

Given the Department's analysis, the Council would see no merit in the inclusion of this exemption.

Q11 Do you have evidence that not applying this exemption for new engines operating between 500-1500 hours per year would be not be cost beneficial or disproportionate?

No.

Q12 What are the practical difficulties with applying the MCPD to compression ignition engines within the MCPD size range which are not used in the propulsion of a vehicle, ship or aircraft and are not subject to 'placing on the market' emission standards under the Non-Road Mobile Machinery Directive?

As with any such mobile plant there will be challenges to develop an adequate regulatory regime. It will be necessary for operators and regulators to have a clear understanding of who takes primary responsibility for regulation and how they interact with other interested parties where such plant may be operating within their areas of responsibility. Given the emphasis upon periodic checks of emissions this may be achievable with clear guidance from the Department.

Q13 What approach for compliance checks do you support, and why: a) Random compliance checks with mandatory reporting as described above b)

**Scheduled compliance checks with mandatory reporting as described above c)
Other – please describe**

We would concur with the Department's assumption that mandatory reporting is likely to lead to higher levels of compliance. It would seem more appropriate that a regulated plant would have to undertake or be subject to some form of scrutiny on a programmed basis as opposed to random sampling with no reporting requirement. Accordingly, option b) is preferable with the proviso that the regime recognises sustained compliance and lower-risk sites and reduces the burden on the operator (and regulator) accordingly.

Q14 Do you agree with the proposed approach for monitoring of plants?

The Council notes the proposed approach to continuous monitoring. It is recognised that the operation of the abatement plant is effectively controlling compliance. It is considered acceptable to not require continuous monitoring where the regulatory regime is based upon scheduled compliance checks (which can be used to determine the operation of the abatement technology). The Council has no evidence in relation to the practical impact of switching off abatement technology where it is fitted to such a plant. If there were economic benefits to the operator in doing so, clearly this creates an incentive for non-compliance.

Q15 Do you have any suggestions for monitoring methods which could be applied to MCPs as an alternative to MCERTs?

We have no comment to offer.

Q16 Do you agree with the proposed definition of “generators”? If not please explain your reasons and propose an alternative definition.

Noted. No alternative offered.

Q17 Do you agree with the emissions limits proposed and that where secondary abatement is applied it must abate emissions to the required Emission Limit Value within five minutes?

Yes.

Q18 Do you agree with the proposed timescales for implementation, which reflect those specified in the Medium Combustion Plant Directive?

Yes.

Q19 Is there a case for allowing back-up generators to be tested at peak times of demand?

There is a broad environmental benefit from allowing the fuel consumed during testing to be put to most beneficial use at times of peak demand. Given the

relatively low limit upon testing of 50hrs it would be assumed that there wouldn't be a strong incentive to use this to undertake additional "unnecessary" testing.

Q20 Do you agree with the proposed approach to controlling particulate emissions from generators?

It is noted that the Department has reached its view based upon emissions information from manufacturers. We would have no objection to the approach taken assuming that the Department have had regard to down-wash effects, ultra-fine particles and the likely proximity of receptors.

Q21 Do you agree with the proposed exemptions for certain generators from emission controls from generators?

Given the purpose of these generators and the limit upon hours of use, it would appear prudent to include the proposed exemptions.

Q22 Do you agree that permitted generators should be required to monitor their emissions every three years only if they have adopted abatement?

Agreed, given that the compliance is only achieved by the efficacy of secondary abatement.

Q23 Do you foresee any challenges to using the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) for implementing the MCPD and controls on generators?

It would be expected that the Department will ensure that adequate guidance and training is made available to the enforcing authority alongside information provided to operators on the new regulatory system.

Q24 Do you have any comments on any overlap between the different regimes which could or should be avoided?

The Council would prefer if the overlap between the regimes were addressed in regulation so as to reduce regulatory burden on operators and enforcement authorities. Of particular concern is the chimney height which will be applicable to the plant. Guidance on chimney heights has not been revised by Government to take account of new plants and fuel types. Furthermore, the legislation applicable in Northern Ireland (the Clean Air (NI) Order 1981) has not adopted the amendments applied in GB and therefore the third party guidance available in GB cannot wholly be applied in NI. It would be suggested that compliance with the MCPD should be considered compliance with the Clean Air Order requirements. Alternatively, a new suite of comprehensive guidance and tools bespoke to NI will be needed to ensure that the Clean Air Order provisions can be an effective tool alongside the MCPD requirements.

Q25 Which of the following approaches do you consider to be the best option for choice of the regulator: A) NIEA regulate plants in Part A and Part B PPC

installations and District Councils regulate all other plants. B) NIEA regulates all plants C) District Councils regulate all plants

We consider that option A), which is most closely aligned to the remainder of the PPC regime represents the most effective option. Such an option retains the spirit of not introducing multiple regulators and makes most efficient use of regulators time. It is noted that the new regime will be subject to fees which are aimed at cost-recovery for the work undertaken.

Q26 Are there any situations where you consider the identity of the regulator needs to be further clarified?

No.

Q27 Do you agree with the assumptions made/evidence provided in the policy analysis and associated impact assessment e.g. number of plants, operating hours, emissions? If not, please provide details.

No comment offered.

We would wish to add under the spatial planning comment on page 25, that the again much stronger links to the planning system are required in order to prevent the development of new plant that will potentially cause a breach of compliance limits. Where such plants can only operate for certain periods of time (so as not to breach the hourly limit standard) this must form part of the planning conditions of the site. To fail to do this would create situations where the operator may have a legitimate expectation to run the plant on a regular basis, but subsequent to construction, be told that it will ultimately be highly restricted and hence unsustainable.

In addition regard should be had with the regime of encroachment of new receptors within the non-compliance zone of MCPD plant and how the operator and regulator should deal with such a scenario. In theory such a plant could meet its emissions requirements but be considered by the regulator to be likely to be causing a breach of concentration limits at the newly introduced receptor and therefore be subject to additional assessment potential controls. Again this re-iterates the need for a strong link to land-use planning. This aspect would be a significant concern for Council given the likely concentration of such plant in urban areas.