

Appendix One

For the attention of Mr. Bruce Harper, Air & Environmental Quality Unit, Department of Agriculture, Environment and Rural Affairs (DAERA NI), 2nd Floor Klondyke Building, Cromac Avenue Gasworks Business Park, Belfast BT7 2JA

Consultation Response: Transposition of the Medium Combustion Plant Directive including the regulation of thermal electricity generators.

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

Belfast City Council agrees with the general approach to permitting that is proposed and would agree that this process would be best regulated if integrated into the Pollution Prevention and Control Regime. As with some other Local Authorities, Belfast City Council would agree that the need for planning permission should be sought prior to the issuing of a permit for 'new plants' so as to avoid conflicts with other planning aspects. Realistically, based upon experience, any planning application requirements would be applied via an 'informative', with any enforcement actions likely to be taken through primary legislation, i.e. Pollution Prevention and Control Regulations. However, it is recommended that liaison between the Department and various Northern Ireland Planning Services takes place well before the commencement of the legislation.

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.

BCC notes that this maybe a requirement of the MCPD Directive, however we note also that the purpose of this legislation is to address exceedances of the short-term NO₂ air quality standard (i.e. 18 1 hour exceedances per annum are provided for within the legislation). A poor performing combustion plant could therefore give rise to exceedances of the standard well within the proposed 500-hour derogation.

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?

The council considers 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 help to exclude those MCPs that are not in regular use and therefore may not require the same level of enforcement. The use of a defined annual emission limit value (ELV) is proportionate with the Pollution Prevention and Control regime. We would make comment however, that a methodology for demonstrating compliance needs to be developed to ensure robust enforcement.

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. Belfast City Council does not agree with the application of an exemption for new plant which could result in higher emissions. If an exemption were to be applied, a single annual limit of use should be stipulated within the legislation to provide clarity for both the operator and the regulator.

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. We base this conclusion on the Department's assessment 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?

Belfast City Council have no comment to offer on this point deeming that the rationale for this has been provided as stipulated in the consultation 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?

Based on the Department's analysis, Belfast City 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?

There have always been challenges regarding the development of an adequate regulatory regime when it comes to mobile plant. Belfast City Council deem that it is essential that operators and regulators have a clear understanding of who takes primary regulatory responsibility for any mobile plant. Furthermore it is important that the regulator and the operator are aware of regulatory responsibility should any mobile plant be operating within another Local Authority Area. Liaison between regulating authorities is key in this scenario. With the emphasis upon periodic checks of emissions regulation may be achievable with clear guidance from the Department through any NIPG notes/ training.

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

Belfast City Council would agree with the Department's conception that mandatory reporting is likely to lead to higher levels of compliance. The Pollution Prevention Control regime dictates that where appropriate, a regulated plant shall undertake or be subject to some form of assessment on a programmed basis as opposed to random sampling with no reporting requirement.

Belfast City Council however would deem option b) as preferable with provision that the regime recognises sustained compliance and lower-risk sites and which can reduce the burden on the operator (and regulator) accordingly. Scheduled compliance provides surety for operators ensures that operators can plan/ schedule emission's testing into their 'annual schedule of work' and produce independent monitoring reports for review ahead of or at any regulatory inspection visits.

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

Belfast City Council notes the proposed approach to continuous monitoring. It is recognised that the operation of the abatement plant is effectively controlling compliance, and whilst we would consider it acceptable to not require continuous monitoring where the regulatory regime is based upon scheduled compliance checks it can however be used to determine the operation of the abatement technology being used. 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 would only create an impetus for non-compliance.

Are we going to allow plants to run non compliantly for a period of time? Clarity needs to be developed should abatement fail or emission's standards be exceeded, bearing in mind the function of these types of plant and equipment.

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 but reiterate that consideration needs to be given to the manner in which emission test are to be undertaken for the different types of plant that are to be prescribed under this piece of legislation.

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. If it can be done within 5 minutes depending upon technology.

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?

Yes. It is considered appropriate that generators would be tested just under their typical operating conditions and this would include at peak times.

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

Given that the Department has reached its view based upon emissions information from manufacturers, Belfast City Council would have no objection to the approach taken assuming that the Department has taken into consideration factors such as 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 be deemed practical 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?

Yes, if compliance is achieved only through agreed secondary abatement equipment.

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?

We consider it is the Departments role to develop all process and other guidance both for operators and the regulator and that adequate publicity and training for both regulator and operators is made available well in advance of this legislation coming into operation. Some mechanism will need to be developed to assist the regulators in identifying the location of existing plant.

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

Any PPC guidance should have regard to the content of the governments LAQM technical Guidance.

One concern highlighted by another local authority and shared by Belfast City Council is in relation to 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

Belfast City Council considers that option A), which is essentially a clear representation of the current regime, would be the most effective option, based upon the efficiency of one regulator instead of multiple and in terms of cost and regulators time.

Whilst we note that the new regime will be subject to fees, which are aimed at cost-recovery for the works undertaken, it is noted that the Department has estimated that there may be up to 1,200 qualifying installations within Northern Ireland to be permitted. The council notes that no scoping of the locations of the installations has been undertaken as part of the consultation process or the accompanying regulatory impact assessment. The council would therefore recommend that the Department engages with councils in order to scope out the numbers and locations of the various plants to be permitted and in the setting of permit fees so as to ensure that councils are not financially disadvantaged as a result of this legislation. Moreover, it is recommended that costs should not relate only to the ongoing permitting process but they should also take into consideration local authority costs and resources associated with the introduction of this legislation.

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

No.

Only conceivable issue would be in relation to strategic planning issues, whereby the permitting authority would not be dealing with this through planning.

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.

NB Please note that this consultation response is to be considered by the People and Communities Committee at its next scheduled meeting on 12th September 2017 and then ratified by council at its meeting on 2nd October 2017. For these reasons, Belfast City Council's response to the Department's 'Consultation on the transposition of the Medium Combustion Plant directive (1-50 megawatts), including the regulation of thermal electricity generators' should be regarded presently as being in draft format. We will advise the Department of any revisions to the council's consultation response in due course.