

THE ENVIRONMENTAL PERMITTING (ENGLAND AND WALES) REGULATIONS 2016

The Environmental Protection (England) (Coal Fired Power Stations) (No. 2) Direction 2022

The Secretary of State, in exercise of the powers conferred upon her by regulation 62(1) and (2) of the Environmental Permitting (England and Wales) Regulations 2016 gives the following Direction -

1. Citation, commencement and application

(1) This Direction may be cited as the Environmental Protection (England) (Coal Fired Power Stations) (No. 2) Direction 2022 and shall come into force on 24th November 2022.

(2) This Direction applies to England only.

(3) This Direction replaces the Environmental Protection (England) (Coal Fired Power Stations) Direction of 29 July 2022.

2. Interpretation

In this Direction –

“the 2010 Regulations” means the Air Quality Standards Regulations 2010¹;

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016²;

“the Agency” means the Environment Agency as in regulation 2 of the 2016 Regulations;

“the commencement date” means the date on which this Direction comes into force;

¹ S.I. 2010/1001.

² S.I. 2016/1154.

“the Directive” means the Industrial Emissions Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) as read in accordance with paragraph 6 of Schedule 1A to the 2016 Regulations;

“ESO” means National Grid ESO;

“operate” means the running of a coal fired power station during the period of operation;

“period of operation” means the time period set out in paragraph 3(1)(b);

“permit holder” means the holder of a permit issued under the 2016 Regulations for the operation of a coal fired power station;

“proving run” means any time period where a coal fired power station is running for testing purposes prior to the period of operation;

“shortage” means an anticipated or actual gas shortage or electricity shortage.

3. Enforcement position on increased operation of coal fired power stations

(1) The Agency is directed to refrain from taking enforcement action against a permit holder without first seeking the approval of the Secretary of State where:

(a) following a requirement from ESO for a permit holder to operate during a shortage, there is a breach by the permit holder of a permit condition which sets an Emission Limit Value for oxides of Nitrogen³;

(b) the breach occurs during the period of operation from the commencement date to 31st March 2023; and

(c) the permit holder has complied with the requirements in paragraph (2).

³ The permit conditions apply Chapters II and III of the Directive.

(2) The Requirements referred to in paragraph (1) are:

(a) that there has been no breach of the limit values for air pollutants set out in Schedule 2 to the 2010 Regulations;

(b) that prior to the commencement date the permit holder has modelled the air quality impacts on those limit values on it operating and reported the results of that modelling to the Agency;

(c) that prior to the commencement date the Agency has confirmed, on the basis of the modelling and report in sub-paragraph (b), that those limit values will not be breached during the period of operation;

(d) that if the permit holder has been required by ESO to carry out a proving run, the permit holder has verified the results of its modelling during that proving run, and the Agency has confirmed that it is content with that verification;

(e) that if the permit holder is notified at any point by ESO that the operation is no longer required, that the operation ceases as soon as reasonably practicable in accordance with that notification;

(f) that the permit holder demonstrates to the Agency that it has taken all reasonably practicable measures to optimise combustion and minimise emissions during each period of operation; and

(g) that at monthly intervals during the period of operation the permit holder has reported to the Agency its compliance with the limit values.

Signed by

A handwritten signature in blue ink, appearing to read 'Rebecca Pow', written in a cursive style.

REBECCA POW MP

23rd November 2022