

Yes, I noticed it too. I shall bear it in mind. The UK has no official position on the matter at this stage.

Richard

**From:]**

**Sent:** 24 October 2012 15:40

**To: Cc:** Demain, David (ERG-ALE); Obe, Nicholas (ERG-ALE);

**Subject:** IED - TNP AND STRATEGIC ENVIRONMENTAL ASSESSMENT

Dear Richard,

We have noticed the following on the Commission's website FAQs.

### **Chapter III: Special provisions for combustion plants & Annex V Technical Provisions**

**IED III.1 - Should Transitional National Plans (TNPs) under Article 32 of the IED be subject to a Strategic Environmental Assessment (SEA) pursuant to the SEA Directive 2001/42/EC (SEAD) and, if so, what are the consequences?**

TNPs are "plans / programmes" in accordance with the definition in Article 2(a) of the SEAD and meet the conditions laid down in Article 3(2)(a) of the SEAD. This is because:

- TNPs are plans/programmes that are applicable to large combustion plants (LCPs) and LCPs fall under the 'industry' or 'energy' sectors described in SEAD article 3(2)(a), and
- TNPs are deemed to set the framework for the future development consent of those LCPs as they will lead to changes in the permit conditions of the LCPs concerned. TNPs will define, for instance, the measures that will have to be undertaken by each LCP concerned to ensure compliance, by 1 July 2020, with the applicable emission limit values laid down in Annex V Part 1 IED.

Therefore, TNPs must undergo a SEA before their adoption or submission to the legislative procedure by the Member State concerned.

The applicability of the SEAD means that a prior environmental report has to be prepared for TNPs and consultation with the public and the environmental authorities (including, if applicable, transboundary consultation) has to be carried out (Articles 5, 6 and 7 SEAD). When adopting a TNP or submitting it to a legislative procedure, the Member State has to take into account the environmental report and the opinions expressed during the consultation (Article 8 SEAD).

Under Article 32(5) IED, Member States have to communicate, by 1 January 2013 at the latest, their draft TNP to the Commission. The Commission will evaluate those draft TNPs in the light of Article 32(2-4) IED and of the Commission Implementing Decision 2012/115/EU. When submitting their draft TNP, Member States should provide information on the progress made in applying the SEAD, in particular on the preparation of the environmental report and consultation of the relevant stakeholders.

Does Defra agree with this interpretation? (We note that no SEA was required for the NERP.) If not, what are your next steps?

Kind regards,

Environment Consultant

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