



Department
for Environment
Food & Rural Affairs

www.gov.uk/defra

Consultation on the implementation of amendments to the environmental permitting guidance on waste incineration

Summary of responses

November 2015

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Contents

1	Introduction	1
2	Background	1
3	About this document.....	1
4	Overview of respondents	2
5	Responses to consultation questions and government response	2
	Question 1: Do the revised paragraphs make it clear that if burning waste oils, SWOBs are subject to the requirements of the IED?	3
	Key Statistics	3
	Key Themes	3
	Government response	3
	Question 2: Taking account the principles of the Smarter Guidance Review what other aspects of the guidance could we improve as part of the Smarter Guidance Review? Where possible, please refer to specific paragraphs in your response.....	4
	Key Statistics	4
	Key Themes	4
	Government response	5
	Question 3: Do you have any additional information to support the specific questions included at pages 9,10 and 12 of the Impact Assessment?	6
	Key Statistics	6
	Key Themes	6
	Government response	7
6	Additional points raised by respondents	8
	Government response	8
7	Next steps.....	9
	Annex A: List of respondents	10

1 Introduction

On 16 July 2015 the Parliamentary Under Secretary of State for Environment and Rural Affairs Rory Stewart announced that as part of the commitment to cleaner air the government would amend the current Environmental Permitting Guidance – the Waste Incineration Directive¹ document to state clearly that all waste incineration plants and waste co-incineration plants burning waste oils in England and Wales fall under the scope of Chapter IV of the Industrial Emissions Directive (IED). The IED came into force in 2014, superseding the Waste Incineration Directive (WID). This change affects appliances such as Small Waste Oil Burner (SWOBs).

Following this announcement the UK government launched a consultation on 14 September 2015 on the amended guidance for England and Wales and provided information about measures available to help industry with the transition. This consultation was conducted jointly with the Welsh government. The consultation ran for a period of six weeks and closed on 26 October 2015.

2 Background

The IED came into force in 2011, superseding the WID², upon its repeal, in 2014. It places stringent operating, monitoring and reporting requirements upon any technical unit, irrespective of its size or capacity, in which waste is incinerated or co-incinerated. The IED aims to prevent or limit as far as practicable the release of harmful pollutants to land, air and water.

3 About this document

This document provides a summary of the responses received and the government response. This document does not attempt to repeat the background information given in the consultation paper and only provides a limited amount of context for the options and related questions. Please refer to the consultation document which is available at <https://www.gov.uk/government/consultations/waste-incineration-guidance-proposed-amendments> for detailed information.

¹ Environmental Permitting Guidance – The Waste Incineration Directive Version 3.1 (Updated March 2010)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/201215/pb-13570-wid-guidance-201003.pdf

³ Page 8 - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/201215/pb-13570-wid-guidance-201003.pdf

This document lists all of the questions asked in the consultation and summarises the responses received.

4 Overview of respondents

There were 23 responses to the consultation: 11 from local authorities, 11 from industry representatives (e.g. garages, SWOBs suppliers, oil recycling industry) and 1 from an Environmental Group.

Table 1 Overview of consultation responses

Type of Organisation	Number of responses
Local Authorities	11
Industry Representatives – comprising <ul style="list-style-type: none"> • small garages / workshops • vehicle rentals • SWOB suppliers • Oil recycling industry • Farmers association 	11 <ul style="list-style-type: none"> • (5) • (1) • (1) • (2) • (2)
Environmental Groups	1

5 Responses to consultation questions and government response

The consultation contained three questions. These were:

Question 1: Do the revised paragraphs make it clear that if burning waste oils, SWOBs are subject to the requirements of the IED? If 'No' how could the clarity of the guidance be improved?

Question 2: Taking account the principles of the Smarter Guidance Review what other aspects of the guidance could we improve as part of the Smarter Guidance Review? Where possible, please refer to specific paragraphs in your response.

Question 3: Do you have any additional information to support the specific questions included at pages 9,10 and 12 of the Impact Assessment

Question 1: Do the revised paragraphs make it clear that if burning waste oils, SWOBs are subject to the requirements of the IED?

Key Statistics

18 (78%) of the respondents (10 local authorities, 7 industry) agreed that the revised paragraphs make it clear that if burning waste oils, SWOBs are subject to the requirements of the IED

3 (13%) of the respondents (1 local authority, 1 industry, 1 environmental group) disagreed about the clarity of the changes

2 (9%) of the respondents (2 industry) were unsure about the clarity of the changes

Of the 23 respondents 7 (30%) provided additional comments on how the clarity of the guidance could be improved as follows:

Key Themes

Of the seven respondents who provided additional comments the following themes were identified:

- Four respondents noted that the revisions did not reference the relevant section of the Industrial Emissions Directive (IED) and should clarify what types of permit would be required under the regulations and who the relevant regulator would be.
- Two respondents noted that the requirements in the revised guidance may not be clear to SWOBs operators.
- One respondent requested that the guidance should provide greater clarity on whether SWOBs could be considered to be a container lacking 'technical sophistication' and details of which SWOBs would fall within this category.
- One respondent noted that the revised guidance is clear that IED applies to SWOBs but not what the implications are for business.

Government response

Following receipt of comments the guidance has been amended to clarify the relevant sections of the IED and to identify for regulators and operators of SWOBs what type of permit will be required and who the relevant regulatory body will be.

The guidance has also been updated to confirm that SWOBs are included in the definition of Small Waste Incineration Plants (SWIPs) and will therefore require a permit issued by the Local Authority in accordance with Schedule 13A of the EPR.

The government has considered what types of devices fall within the scope of the IED and has determined, following receipt of information from industry on SWOB construction, that SWOBs should be considered to have an appropriate level of technical sophistication (e.g. fans, temperature controls etc) to be classed as a 'technical unit'.

The purpose of the guidance on Waste Incineration is to describe how the requirements of the IED should be applied with regard to the incineration of waste and how particular terms should be interpreted. Additional guidance on relevant fees, and cost implications for businesses, is available from the following websites depending on the regulatory authority:

- Environment Agency: <https://www.gov.uk/government/collections/environment-agency-charging-schemes>
- Local Authority; <https://www.gov.uk/government/publications/permits-for-waste-incineration-fees-and-charges-for-applications>

Businesses who do not comply with the regulatory requirements will be committing an offence. Regulators should issue an enforcement notice and, where appropriate, refer the case for prosecution.

Question 2: Taking account the principles of the Smarter Guidance Review what other aspects of the guidance could we improve as part of the Smarter Guidance Review? Where possible, please refer to specific paragraphs in your response.

Key Statistics

12 (52%) of the respondents (9 local authority, 2 industry, 1 environmental group) provided additional comments. A number of these respondents provided more than one comment.

11 (48%) of the respondents (2 local authority, 9 industry) provided no additional comments.

Key Themes

Of the 12 respondents who provided additional detail the following themes were identified:

- Four respondents advised that the guidance should make it clear to users what type of permit was required for each type of plant and who the relevant regulator would be (this was a common theme across the consultation).
- Two respondents requested additional clarity on the definitions of terms used in the guidance e.g. “What category of plant a SWOB would fall under?” and “what was categorised as ‘waste oil’ e.g. does it cover vegetable oils as well as engine oils?”
- One respondent noted that the revised guidance should reflect that the IED has replaced the Waste Incineration Directive.
- One respondent commented that ‘smarter guidance does not necessarily mean less – very good and comprehensive guidance just covering wide remit already exists’.
- One respondent requested that the flow diagram³ in the existing guidance entitled ‘Scope of the Waste Incineration Directive’ be retained.
- Three respondents suggested that it was unclear how compliance with requirements could be enforced and requested clarification on how regulators would identify if a non-waste fuel was being used and what penalties would be applicable.

Government response

As previously noted above the guidance has been amended to identify, for regulators and operators of SWOBs, what type of permit will be required and who the relevant regulatory body will be.

The guidance has also been updated to clarify that SWOBs are considered to be SWIPs and will be regulated by Local Authorities as part of the permitting processes for SWIPs should operators wish to continue to burn waste oils.

All references to the Waste Incineration Directive have been updated to refer to the IED.

The principles of the Smarter Guidance Review include evaluating all guidance to make it simpler, quicker and clearer to understand. It also aims to reduce the duplication of information so that users only have to read one version. New guidance is now designed to give users the information they need such as:

- What people must do to comply with the regulations
- How to get permits

The flow diagram in the existing guidance entitled ‘Scope of the Waste Incineration Directive’ has been retained. This provides regulators and operators with an easy to use tool to identify at a glance what the requirements are.

³ Page 8 - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/201215/pb-13570-wid-guidance-201003.pdf

Regulators are responsible for issuing permits, under the Environmental Permitting Regulations 2010 as amended (EPR), should operators choose to continue to burn waste oil in their SWOBs. As part of the compliance checks regulators should undertake inspections of premises to confirm that SWOBs that continue to burn waste oil are compliant with Chapter IV requirements.

Question 3: Do you have any additional information to support the specific questions included at pages 9,10 and 12 of the Impact Assessment?

The Impact Assessment posed the following questions:

1. If you currently use a SWOB burning waste oil to heat your premises will you be likely to install an alternative heating system?
2. If you intend to continue using your SWOB to heat your premises, what fuel type will you switch to?
3. Have you got any further evidence to inform the likely annual fuel consumption per SWOB? What proportion of surplus waste oil gathered during vehicle services onsite is already getting recycled, and what price are you currently receiving for it?
4. Have you got any further evidence which could enhance our assessment of the costs to business? Do you expect amendment of the guidance to result in additional cost, above those already covered in this impact assessment?
5. Have you any further evidence which could enhance our assessment of the benefits of Option 1? In particular would you expect SWOBs users to be paid for their waste oil, and if so what price would you expect per litre?

Key Statistics

9 (39%) of the respondents (4 local authority, 5 industry) provided additional comments to support the data used in the Impact Assessment.

14 (61%) of the respondents (7 local authority, 6 industry, 1 environmental group) provided no additional comments.

Key Themes

Of the 9 respondents the following types of information were provided to support the questions asked in the impact assessment:

- Questions 1 and 2 – One respondent thought that they would need to consider changing to an alternative heating system and referred to gas as an alternative fuel source. A further two respondents noted that their premises were not on the gas-grid therefore they would be unable to switch to this as an alternative fuel source.
- Question 3 and 4 – Three respondents commented on the increased costs to their business based on their fuel consumption rates, existing fuel costs and permit costs. Four respondents advised that the change would result in higher heating costs.
- Question 5 - Three respondents suggested that some businesses may be expected to pay for the disposal of waste oil due to the small volumes produced or the quality of the waste oil as opposed to receiving payment from the recycling industry. They feared this may result in illegal dumping of waste oil.

Government response

The Impact Assessment considers three different scenarios because it is not certain how operators will choose to heat their premises. In assessing the values under scenario B the Impact Assessment assumes that 20% of SWOBs operators would not have access to the gas grid and would therefore switch to using gasoil. Operators will not be expected to switch to gas unless that is the most economical option available to them.

The exact number of SWOBs is very uncertain and information provided by different stakeholders varies and was only circumstantial and subjective. However changing this assumption will not have a disproportionate impact on the overall assessment because the costs and benefits are expected to increase by the same proportion. Annex 1 of the Impact Assessment also illustrates an additional sensitivity scenario which takes into account suggestions provided by consultees. It shows what the costs and benefits could look like if we assume that operators consume smaller quantities of waste oil and pay a disposal charge.

We acknowledge that the demand for waste oil is subject to movements in crude oil prices. Advice from industry and internal experts suggests that the difference of whether operators get paid for their waste or not depends on wider economic factors (e.g. price of oil) and the volume of waste rather than the quality. The Impact Assessment captures a range of estimates that illustrate sensitivities around rates paid to operators and includes an additional case where a proportion of users will need to pay for disposal.

We have assumed full compliance in the impact assessment because there is a well established recycling industry and illegal dumping of waste oil carries penalties.

6 Additional points raised by respondents

In addition to replying to the specific questions asked in the consultation respondents also made the following comments:

- 3 respondents expressed concern about the implementation date of 1 April 2016 for the guidance to come into effect.
- 4 respondents noted that the 'impact assessment does not take account of the environmental damage caused by the collection of waste oil and the delivery of recycled oil to the user'. One of these respondents questioned why we were penalising individuals for having a low carbon footprint for burning waste oil at the point of recovery.
- 1 respondent queried how government could justify charging more money for the continued use of SWOBs if they are 'so bad for the environment'.
- 1 respondent stated that they were unsure about the changes and said it would be good to see the results of any emission tests that had been carried out to check whether SWOBs emissions were higher than those required by the IED.
- 1 respondent expressed concern about burning plastics and noted that all waste should be recycled not burned.
- 1 respondent questioned the amount of lead in waste oil and felt it was too high. They suggested that the life-span of a SWOB is longer than 10 years and operators consume 70% less than what has been assumed in the Impact Assessment. They also highlighted that the majority of operators located in their locality are sole traders.

Government response

The government considers that an April 2016 implementation date gives operators and regulators enough time to adjust to the changes. Implementation in April 2016 will also ensure that changes in operator's heating practices are not required to occur during the winter time, thus reducing the risk to and negative impacts on businesses. SWOBs are typically used on a seasonal basis to heat premises so, in practice, businesses would have until Autumn 2016 to effect changes. Further delay in implementing the changes would result in unabated emissions continuing to be produced with consequential potential impacts on human health and the environment.

The modelling results suggest that the carbon footprint from processing waste oil would be lower than the human health and environmental benefits from lower air quality pollution caused by waste oil incineration. The modelling results also show that the combined emissions of pollutants arising from processing waste oil and using alternative fuel are lower than the emissions from burning waste oil. However the Impact Assessment has not monetised the environmental damage caused by the collection of waste and the delivery of recycled oil due to the lack of information on the likely scale of impact. Nevertheless there is a wide spread network of waste disposal service providers, minimising the need for long distance travel.

The government notes that in order to meet the IED emission limits abatement and monitoring equipment must be fitted by operators to demonstrate that these limits are being met. This means that appliances with an IED permit would be capable of operating with lower emission levels.

With regard to emission limits, the IED specifies the levels that are acceptable for incineration plant and co-incineration plant burning waste. In order to demonstrate compliance operators must demonstrate that their plant meets these limits through continuous monitoring of emissions and via the permitting regime. Whilst test results would provide details of the emissions from SWOBs this would not negate the requirements under the IED for continuous monitoring.

It is noted that businesses are encouraged, where possible, to apply the principles of the Waste Framework Directive (2008/9/EC) to disposal of waste. This provides a hierarchy that businesses should aim to follow with regard to waste production and disposal. It advises that where possible the recycling of waste (including waste oil, plastics etc) is preferable to energy recovery through burning it. Further information about the EU Waste Framework Directive and domestic legislation can be found at the following link:

<https://www.gov.uk/guidance/waste-legislation-and-regulations>

The modelling used to inform the Impact Assessment is based on the best available data on emission factors. As no additional data was supplied by stakeholders, the evidence in the Impact Assessment (best case) has remained the same. Additionally Table 8 in the Impact Assessment has acknowledged the uncertainty around emission estimates and other assumptions. There is also conflicting evidence on the average lifespan of a SWOB. While some burners may last for a longer period of time, it is believed that the majority of SWOBs will need to be replaced after 10 years.

7 Next steps

The revised guidance for England will be published on Gov.uk in mid-December 2015 and will take effect from April 2016. The Welsh government plan to publish their revised guidance on the Gov.wales website early in 2016.

Annex A: List of respondents

Burnley Borough Council

Dartford Environmental Health Partnership

Eden District Council

E-PLANE Limited

Epping Forest Council

Firbank Classics Ltd.

Freeheat Ltd

Garage owner - Wales

Golds Vehicle Rentals

Hull & Goole Port Health Authority

Martin Cranfield Associates Limited

Milton Keynes Council

National Farmers Union

Norfolk Environmental Protection Group

Northgate Garage

Northumberland County Council

Oil Recycling Association

Parrott Automotive Ltd

Protreat Limited

Royal Society for Public Health (member of)

Sevenoaks Environmental Health Partnership

The GEA

Wakefield Council