

The Environmental Permitting (England And Wales) Regulations 2016

The Environmental Protection (England) (Gas Demand Side Response)
(Environment Agency) Direction 2023

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) (Gas Demand Side Response) (Environment Agency) Direction 2023, and it replaces the Environmental Protection (Gas Demand Side Response) Direction 2022.

(2) This Direction shall come into force on 24 August 2023 and covers the following time periods –

(a) 1st November 2023 to 30th April 2024; and

(b) 1st November 2024 to 30th April 2025.

(3) This Direction applies in England only.

2. Interpretation

In this Direction –

“the 2016 Regulations” means the Environmental Permitting (England and Wales) Regulations 2016¹;

“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. 2016/1154.

“Air Quality Management Area for NO₂” means an area designated as such by a local authority in England in accordance with section 83 of the Environment Act 1995²;

“Demand Side Response Scheme” or “the Scheme” means the arrangements for gas demand side response established and operated by National Gas Transmission and set out in the rules in UNC TPD Section D5 and D7;

“fuel switching” means the switching of fuel from gas to liquid at a dual fuel combustion plant, or the use of liquid fired standby combustion plant outside its permitted emergency use;

“National Gas Transmission” means National Gas Transmission plc, registered in England and Wales under company number 2006000;

“NEC” means the person from time to time who is the network emergency coordinator in accordance with the Gas Safety (Management) Regulations 1996³;

“permit holder” means the holder of an environmental permit issued under the 2016 Regulations;

“permit holder’s shipper” means the Shipper User which offtakes gas from the Total System for supply to the permit holder at its installation;

“UNC” means the Uniform Network Code provided for in the conditions of transportation licences granted under section 7 of the Gas Act 1986⁴;

“UNC TPD” means the Transportation Principal Document of the UNC⁵;

the terms “5-Day-Ahead Option”, “Consumer DSR Option”, “DSR Contract”, “DSR Market Offer”, “Gas Balancing Notification”, “Gas Deficit Emergency”, “Margins Notice”, “Shipper User” and “Total System” have the meanings given in the UNC.

² Environment Act 1995 c.25.

³ S.I. 1996/551.

⁴ Gas Act 1986 c.44.

⁵ <https://www.gasgovernance.co.uk/TPD>

3. Enforcement position in the event of fuel switching

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

(a) fuel switching occurs in the time periods set out in paragraph 1(2) at a time –

(i) when a Margins Notice and/or a Gas Balancing Notification applies, or

(ii) in relation to which National Gas Transmission has notified Shipper Users of its supply and demand projection for the purposes of exercising 5-Day-Ahead Options in accordance with Section D of the UNC TPD, and

(b) the following conditions are met –

(i) the permit holder is authorised by its permit to fuel switch in specified circumstances;

(ii) in accordance with the Demand Side Response Scheme either

(a) the permit holder's shipper has posted a DSR Market Offer, or

(b) a consumer DSR Option is in force in respect of the permit holder pursuant to a DSR Contract;

(iii) National Gas Transmission has

(a) accepted the DSR Market Offer in accordance with the Scheme, or

(b) exercised the Consumer DSR Option in accordance with the Scheme and a DSR Contract;

(iv) the permit holder has notified the Agency of its participation in the Scheme and when doing so has provided the following information to the Agency:

(a) permit number relating to its installation;

(b) the plant that will be fuel switching; and

(c) the thermal capacity of the fuel switching plant;

(v) the permit holder notifies the Agency by the 31st May in each year this Direction applies (the first notification being by 31st May 2024) of the total number of hours they have liquid fuel fired in each preceding period to which this Direction applies, specifying any hours where this was for the purpose of testing, or in an emergency; and

(vi) the permit holder notifies the Agency as soon as reasonably practicable if –

(a) it fuel switches for more than 10 consecutive days, and/or

(b) it fuel switches for a period of more than 500 hours in any calendar year.

(2) Where, within a time period when this Direction applies, the thresholds in paragraph (1)(b)(vi) are exceeded and –

(a) the permit holder's installation is located either inside or within 500 metres of an Air Quality Management Area for NO₂, or

(b) the Agency has notified the permit holder that it must stop fuel switching,

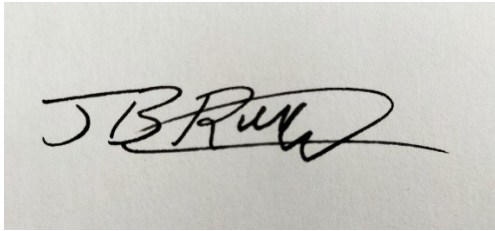
this Direction will not apply in relation to that permit holder in that time period.

(3) For the purposes of paragraph (1), the period for which a Margins Notice or Gas Balancing Notification applies is the period from when it is issued until 24 hours after –

(a) such Notice or Notification expires or is withdrawn, or

(b) if earlier, the declaration by the NEC of stage 2 of a Gas Deficit Emergency.

Signed by the authority of the Secretary of State for Environment, Food
and Rural Affairs

A rectangular box containing a handwritten signature in black ink. The signature is written in a cursive style and appears to read 'JBR'. The background of the box is a light, neutral color.

Jonathan Robinson

Deputy Head, Air Quality and Industrial Emissions

24 August 2023