

The Environmental Permitting (England and Wales) Regulations 2016

The Environmental Protection (England) (Gas Demand Side Response) (Local Authority) 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) (Local Authority) Direction 2023.

(2) This Direction shall come into force on 24th 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 to England only.

2. Interpretation

In this Direction –

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

¹ S.I 2016/1154.

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

“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;

“local authority” has the meaning in regulation 6(1)(a) and (b) of the 2016 regulations;

“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 a 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 premises;

² Environment Act 1995 c.25.

³ S.I. 1996/551.

“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.

3. Enforcement position in the event of fuel switching

(1) Local authorities are 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 –

⁴ Gas Act 1986 c.44.

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

(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,

and fuel switching occurs during and up to 24 hours after the period for which the permit holder's shipper or the permit holder is obliged to reduce its rate of gas offtake from the Total System;

(iv) the permit holder has notified its local authority of its participation in the Scheme and when doing so has provided the following information to that local authority –

(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 its local authority by 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 its local authority 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 permit holder's local authority has notified the permit holder that it must stop fuel switching,

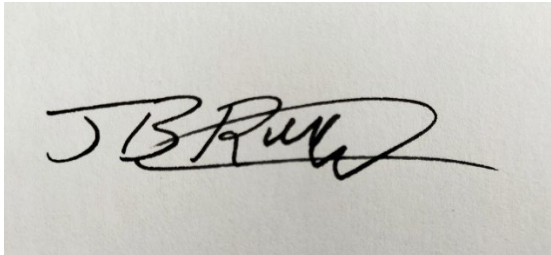
this Direction will not apply in relation to that permit holder in that time period.

(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 image showing a handwritten signature in black ink on a light-colored background. The signature is stylized and appears to read 'JBR' followed by a surname that is partially obscured by a flourish.

Jonathan Robinson

Deputy Head, Air Quality and Industrial Emissions

24 August 2023