STATUTORY INSTRUMENTS

2025 No. 154

ENVIRONMENTAL PROTECTION

The Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025

Made - - - -	*10th February 2025*
Coming into force - -	*28th February 2026*

The Secretary of State makes the following Regulations in exercise of the powers in sections 2 and 7(9) of, and Schedule 1 to, the Pollution Prevention and Control Act 1999(**a**) ("the 1999 Act").

In accordance with section 2(4) of the 1999 Act, the Secretary of State has consulted the Environment Agency and such bodies and persons appearing to the Secretary of State to be representative of the interests of local government, industry, agriculture and small businesses, and such other bodies and persons, as the Secretary of State considers appropriate.

In accordance with section 2(8) of the 1999 Act, a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025.

(2) These Regulations come into force on 28th February 2026.

Extent and application

2.—(1) This Part and Part 3 extend to England and Wales and Scotland.

(2) Part 2 extends to England and Wales.

(3) Part 2 applies in relation to—

(a) England, and

(b) the sea adjacent to England out as far as the seaward boundary of the territorial sea.

(**a**) 1999 c. 24. Section 2 was amended by section 62 of the Water Act 2014 (c. 21) and S.I. 2013/755. Schedule 1, as it applies in England and Wales, was amended by section 38 of the Waste and Emissions Trading Act 2003 (c. 33), section 105 of the Clean Neighbourhoods and Environment Act 2005 (c. 16) and section 70 of the Environment Act 2021 (c. 30) and S.I. 2005/925, 2012/2788, 2015/664, 2018/942, 2019/458, 2020/603 and 2023/149 and 1424.

(4) In this regulation "the sea adjacent to England" is so much of the sea adjacent to Great Britain as—

(a) is not the sea adjacent to Scotland, and

(b) does not form part of Wales.

(5) For the purposes of paragraph (4)—

(a) the sea adjacent to Scotland has the same meaning as the internal waters and territorial sea of the United Kingdom adjacent to Scotland has by virtue of section 126(2) of the Scotland Act 1998(**a**);

(b) Wales has the meaning given by section 158(1) of the Government of Wales Act 2006(**b**).

PART 2

Amendment of the Environmental Permitting (England and Wales) Regulations 2016

Amendment of the Environmental Permitting (England and Wales) Regulations 2016

3. The Environmental Permitting (England and Wales) Regulations 2016(**c**) are amended in accordance with this Part.

Amendment of regulation 35

4. In regulation 35 (specific provisions applying to environmental permits)(**d**)—

(a) in paragraph (1), for "25B" substitute "25C";

(b) in paragraph (2), for "25B" substitute "25C".

New Schedule 25C

5. The Schedule inserts a new Schedule 25C into the Environmental Permitting (England and Wales) Regulations 2016.

PART 3

Consequential and transitional and saving provisions

Interpretation of Part 3

6. In this Part "the 2013 Regulations" means the Carbon Capture Readiness (Electricity Generating Stations) Regulations 2013(**e**).

Amendment of the 2013 Regulations

7.—(1) The 2013 Regulations are amended as follows.

(2) In regulation 1 (citation, commencement and extent), after paragraph (2) insert—

"(3) Subject to regulation 8, these Regulations do not apply in England.".

(3) After regulation 7 insert—

(**a**) 1998 c. 46. The boundaries between which waters are to be treated as internal waters or territorial sea of the United Kingdom adjacent to Scotland and those which are not are set out in S.I. 1999/1126.
(**b**) 2006 c. 32.
(**c**) S.I. 2016/1154.
(**d**) Regulation 35 was amended by S.I. 2018/110.
(**e**) S.I. 2013/2696; to which there are amendments not relevant to these Regulations.

"**Savings**

8.—(1) Regulation 1(3) does not affect the continued operation on and after the relevant day of any of the following requirements or conditions imposed in relation to a combustion plant in England—

(a) a requirement included, as required by regulation 3(3), in a relevant consent order made before the relevant day;

(b) a requirement included before the relevant day, as required by regulation 4(3), in a consent order or relevant consent order;

(c) a condition included, as required by regulation 5(3), in a relevant section 36 consent granted before the relevant day;

(d) a condition included before the relevant day, as required by regulation 6(3), in a section 36 consent or relevant section 36 consent.

(2) These Regulations continue to have effect on and after the relevant day in relation to any existing application as they had effect immediately before that date.

(3) For the purposes of paragraph (2) "existing application" means any of the following applications which was made in relation to a combustion plant in England, but had not been finally determined, before the relevant day—

(a) an application for a relevant consent order;

(b) an application for a change described in regulation 4(1)(a) to a consent order or in regulation 4(1)(b) to a relevant consent order;

(c) an application for a relevant section 36 consent;

(d) an application for a variation described in regulation 6(1)(a) of a section 36 consent or in regulation 6(1)(b) of a relevant section 36 consent.

(4) For the purposes of paragraph (3) an application has not been finally determined unless—

(a) following a decision on the application, the period for bringing an appeal against that decision has expired without any such appeal being brought, or

(b) where an appeal is brought against the decision, the appeal is withdrawn or finally decided.

(5) In this regulation, "the relevant day" means the day on which the Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025 come into force.".

Transitional provisions: variation applications relating to existing combustion plants

8.—(1) This regulation applies where the regulator (within the meaning of regulation 2(1) of the Environmental Permitting (England and Wales) Regulations 2016) grants a variation of an environmental permit for an existing combustion plant as provided for in paragraph 9 of Schedule 25C to those Regulations.

(2) Where this regulation applies, any existing CCR condition ceases to have effect in relation to the existing combustion plant at the end of the CCR date.

(3) In this regulation—

"combustion plant", "consent order", "relevant consent order", "relevant section 36 consent" and "section 36 consent" have the meanings given in the 2013 Regulations, as those Regulations had effect immediately before the commencement date;

"the commencement date" means the day on which these Regulations come into force;

"the CCR date" means the day before the day on which the Environment Agency grants the variation of the environmental permit in question;

"existing application" has the meaning given in regulation 8(2) of the 2013 Regulations;

"existing CCR condition", in relation to an existing combustion plant, means any of the following—

(a) A requirement included, as required by regulation 3(3) of the 2013 Regulations, in a relevant consent order made in relation to the plant before the commencement date or following an existing application;

(b) a requirement included, as required by regulation 4(3) of the 2013 Regulations—

(i) before the commencement date, or

(ii) following an existing application,

in a consent order or relevant consent order made in relation to the plant;

(c) a condition included, as required by regulation 5(3) of the 2013 Regulations, in a relevant section 36 consent granted in relation to the plant before the commencement date or following an existing application;

(d) a condition included, as required by regulation 6(3) of the 2013 Regulations—

(i) before the commencement date, or

(ii) following an existing application,

in a section 36 consent or relevant section 36 consent granted in relation to the plant;

"existing combustion plant" means a combustion plant in England in relation to which—

(a) a consent order is made before the commencement date,

(b) a relevant consent order is made before the commencement date or following an existing application, or

(c) a section 36 consent is granted before the commencement date, or a relevant section 36 consent is granted before the commencement date or following an existing application.

Sarah Jones
Minister of State
Department for Energy Security and Net Zero

10th February 2025

SCHEDULE

Regulation 5

New Schedule 25C to the Environmental Permitting (England and Wales) Regulations 2016

After Schedule 25B to the Environmental Permitting (England and Wales) Regulations 2016(**a**) insert—

(**a**) Schedule 25B was inserted by S.I. 2018/110.

"SCHEDULE 25C

Regulation 35(1)

Decarbonisation Readiness Requirements for Generators in England

PART 1

Application of Schedule and interpretation

Application of Schedule

1.—(1) This Schedule applies in relation to—

(a) England, and

(b) the sea adjacent to England out so far as the seaward boundary of the territorial sea.

(2) In this Schedule "the sea adjacent to England" has the meaning given for the purposes of regulation 1(3)(a).

Meaning of "in-scope generator"

2.—(1) In this Schedule "in-scope generator" means a generator other than an excepted generator.

(2) A "generator" is—

(a) a specified installation,

(b) a medium combustion plant which is used for the purpose of generating electricity, or

(c) a specified generator.

(3) A generator is an "excepted generator" if it falls within one or more of the following paragraphs—

(a) it operates with a defined nuclear safety role under a nuclear site licence (within the meaning of section 1 of the Nuclear Installations Act 1965(**a**)) issued by the Office for Nuclear Regulation;

(b) it is a back-up generator;

(c) it is installed on an offshore platform (within the meaning of paragraph 2(2) of Part 1 of Schedule 25A) situated on, above or below the sea adjacent to England;

(d) it is installed on a gas storage or unloading platform (within the meaning of regulation 2 of the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013(**b**)) situated in the sea adjacent to England;

(e) it has anchor plant capability, as defined in the Grid Code, issue 6, revision 27 published on 1st October 2024 by the National Energy System Operator(**c**);

(f) it uses gas generated from landfill waste as its sole source of fuel;

(g) it is a mobile generator other than one referred to in paragraphs 2(1)(a) or 2(1)(b) in Schedule 25B;

(4) For the purposes of this paragraph—

(**a**) 1965 c. 57. Section 1 was substituted by section 156(1) of, and paragraph 17 of Schedule 12 to, the Energy Act 2013 (c. 32, and amended by S.I. 2022/500 and S.I. 2023/149.

(**b**) S.I. 2013/971 as amended by S.I. 2016/912, 2018/798 and 2018/1325.

(**c**) The Grid Code is available at https://www.neso.energy/industry-information/codes/grid-code-gc/grid-code-documents. Hard copies are available from the National Energy System Operator.

(a) a generator is a "back-up generator" if it is operated for the sole purpose of maintaining power supply to a site during an on-site emergency (and use for test purposes for no more than 50 hours in any single calendar year is to be regarded as falling within that purpose);

(b) "specified installation" means an installation carrying on any of the following activities for the purposes of generating electricity—

(i) an activity described in Part A(1) of Section 1.1 of Chapter 1 of Part 2 of Schedule 1, or

(ii) an activity described in Part A(1) of Section 5.1 of Chapter 5 of Part 2 of Schedule 1.

The decarbonisation readiness report and related assessments

3.—(1) This paragraph applies for the purposes of this Schedule.

(2) A "decarbonisation readiness report" is a report which includes—

(a) a CCR technical assessment, a CCR economic feasibility certification and a CCR storage feasibility certification, or

(b) an HCR technical assessment, an HCR economic feasibility certification and an HCR fuel feasibility certification.

(3) A "CCR technical assessment" is an assessment as to whether the CCR conditions are met in relation to a relevant generator (see paragraph 4).

(4) A "CCR economic feasibility certification" is a statement that the operator has reasonable grounds to believe that it will be economically feasible for a relevant generator to—

(a) be connected to a qualifying complete CCS system during the lifetime of the relevant generator, and

(b) operate whilst connected to that system.

(5) A "CCR storage feasibility certification" is a statement that the operator has reasonable grounds to believe that it will be technically feasible, during the lifetime of a relevant generator, for the relevant amount of EG CO_2 captured to be transported (including by way of non-pipeline transport methods) to a named storage site for disposal by way of permanent storage.

(6) An "HCR technical assessment" is an assessment as to whether the HCR conditions are met in relation to a relevant generator (see paragraph 5).

(7) An "HCR fuel feasibility certification" is a statement that the operator has reasonable grounds to believe that it will be possible, during the lifetime of a relevant generator, to ensure access to a sufficient supply of hydrogen for the relevant generator to enable it to use hydrogen as the primary source of fuel.

(8) An "HCR economic feasibility certification" is a statement that the operator has reasonable grounds to be believe that it will be economically feasible for a relevant generator to—

(a) be converted to the use of hydrogen as the primary source of fuel during the lifetime of the relevant generator, and

(b) use primarily that fuel.

(9) For the purposes of this paragraph "named storage site" means a geological disposal site approved under Chapter 3 of Part 1 of the Energy Act 2008 and other legislation which transposed Directive 2009/31/EC on the geological storage of carbon dioxide in relation to England and Wales, which is identified in a decarbonisation report as the site to which EG CO_2 is to be transported.

The CCR conditions

4. For the purposes of this Schedule, a relevant generator meets the CCR conditions if—

(a) it is technically feasible to retrofit the generator with the plant and facilities necessary to capture the relevant amount of EG CO_2, and

(b) sufficient space is set aside for the plant and facilities necessary to capture and compress the relevant amount of EG CO_2.

The HCR conditions

5. For the purposes of this Schedule, a relevant generator meets the HCR conditions if—

(a) it is technically feasible to retrofit the generator with the plant and facilities necessary for the use by that generator of hydrogen as its primary fuel; and

(b) there is sufficient space for the technology or techniques proposed by the operator for the provision of hydrogen to the relevant generator.

Interpretation: general

6.—(1) In this Schedule—

"EG CO_2", in relation to a generator, means the carbon dioxide produced by, or in connection with, the generation of electricity by the generator;

"qualifying complete CCS system" means a system of plant and facilities for—

(a) capturing some or all of the carbon dioxide (or any substance consisting primarily of carbon dioxide) that is produced by, or in connection with, the generation of electricity by a generating station;

(b) transporting the carbon dioxide (or substance captured); and

(c) disposing of it by way of permanent storage;

"the relevant amount of EG CO_2", in relation to a generator, means—

(a) 90% of EG CO_2 produced by the generator each year, or

(b) where the use of best available techniques (within the meaning given in Article 3(10) of the Industrial Emissions Directive) would result in a greater rate of capture of EG CO_2 produced by the generator each year, that amount of EG CO_2;

"relevant generator" means—

(a) an in-scope generator, or

(b) an in-scope generator as refurbished (whether or not substantially refurbished);

"standard relevant generator" means a relevant generator that is a standard facility.

(2) For the purposes of this Schedule, a generator is "substantially refurbished" if the cost of refurbishing a combustion plant exceeds 50% of the investment cost for a comparable new combustion plant.

PART 2

Applications for the grant or variation of an environmental permit

Application of Part 2 of this Schedule

7.—(1) This Part of this Schedule does not apply to any existing application.

(2) In this paragraph "existing application" means an application made before the day on which the Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025 come into force—

(a) for the grant of an environmental permit under regulation 13, or

(b) for the variation of an environmental permit under regulation 20(1).

Applications for the grant or variation of an environmental permit

8.—(1) An application for the grant of an environmental permit under regulation 13(1) for an in-scope generator must include a decarbonisation readiness report.

(2) A variation application must include a decarbonisation readiness report where the application relates to—

(a) the substantial refurbishment of an in-scope generator, or

(b) the addition of an in-scope generator.

(3) A variation application (other than one mentioned in sub-paragraph (2)) may include a decarbonisation readiness report.

(4) In this paragraph "variation application" means an application for a variation of an environmental permit under regulation 20(1).

(5) Paragraph 8(1) does not apply in respect of—

(a) an existing medium combustion plant within the meaning of paragraph 2(1) of Schedule 25A with a rated thermal input of less than or equal to 5 megawatts, or

(b) a Tranche A generator within the meaning of paragraph 3(3) of Schedule 25B with a rated thermal input equal to or less than 5 megawatts.

Determination of applications

9.—(1) Where, as required or permitted by paragraph 8, a decarbonisation readiness report is submitted with an application for the grant or variation of an environmental permit, the regulator may only grant that application if it determines that the CCR conditions or, as the case may be, the HCR conditions are met.

(2) In the case of an application in respect of a standard relevant generator, the regulator may, without further enquiry, accept a statement made in the application or any accompanying decarbonisation readiness report that the CCR conditions or, as the case may be, the HCR conditions are met, as conclusive proof of the truth of the satisfaction of those conditions.

(3) The regulator's determination under sub-paragraph (1) must have regard to the CCR technical assessment or the HCR technical assessment included in the relevant decarbonisation readiness report.

(4) An environmental permit granted pursuant to an application of the kind referred to in sub-paragraph (1)—

(a) must include a condition requiring the holder of the permit to carry out a review of their decarbonisation readiness report at intervals not exceeding 2 years;

(b) may include a condition requiring the permit holder to report to the regulator the findings of the review;

(c) may include a condition that the CCR conditions or, as the case may be, the HCR conditions must be met.

(5) By way of an exception from paragraph (1), in the case of a relevant generator, the regulator may grant an application to vary an environmental permit, where that permit was granted on or before the day on which the Environmental Permitting (Electricity Generating Stations) (Amendment) Regulations 2025 come into force and the regulator is satisfied that, having regard to representations made, meeting the CCR conditions or, as the case may be, the HCR conditions would not be reasonably practicable due to the location or technical characteristics of the relevant generator.".

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Environmental Permitting (England and Wales) Regulations 2016 ("the Permitting Regulations"). These amendments apply only in relation to certain generators in England.

Regulations 4 and 5 introduce a new Schedule 25C into the Permitting Regulations.

The Permitting Regulations are amended so as to introduce additional requirements in relation to certain regulated facilities which generate electricity ("in-scope generators"). "Regulated facility" is defined in regulation 8 of the Permitting Regulations.

Paragraphs 8 and 9 of the new Schedule 25C provide that where an application for an environmental permit is made on or after the day on which these Regulations come into force in respect of an in-scope generator, or for the variation of an environmental permit already granted in respect of an in-scope generator because it is to be substantially refurbished or another combustion plant is to be added to it, the operator must demonstrate that it satisfies certain technical conditions in relation to the feasibility of using carbon capture and storage or conversion to hydrogen firing electricity generation ("the baseline requirements") and confirm that it is satisfied that other requirements relating to the feasibility of conversion to and operation of those technologies are met. The operator must provide a report as part of its application which includes the necessary information (a "decarbonisation readiness report").

The Environment Agency will be able to grant the relevant environmental permit, or variation of the relevant environmental permit, only if the operator has submitted a decarbonisation readiness report and the Agency determines that the baseline requirements are met. Regulation 9(2) provides that the regulator may in the case of an application in respect of a standard generator rely on a statement that the CCR or HCR conditions are met without being obliged to make further enquiry.

These new provisions replace, in England, the requirements currently imposed by the Carbon Capture Readiness (Electricity Generating Stations) Regulations (S.I. 2013/2696) ("the 2013 Regulations"). Regulations 7 to 9 therefore make consequential amendments to the 2013 Regulations together with related transitional provisions and savings.

A full impact assessment has not been produced for this instrument because no, or no significant, impact is foreseen on the private, voluntary or public sector.

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