

Temporary Regulatory Position Statement

22 November 2023 (version 1)

The Pollution Prevention and Control (Scotland) Regulations 2012 (as amended) - Medium Combustion Plant

1. Background

- 1.1 The Pollution Prevention and Control (Scotland) Regulations 2012 (“the PPC Regulations”) were amended in December 2017 to transpose the requirements of Directive (EU) 2015/2193 of 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants (the Medium Combustion Plant Directive or MCPD).
- 1.2 Combustion plant, as defined in the MCPD, means any technical apparatus in which fuels are oxidised in order to use the heat thus generated. The MCPD and relevant provisions of the PPC Regulations apply to combustion plant with a rated thermal input equal or greater than 1 megawatt (MW) and less than 50MW. There is a distinction between existing medium combustion plant (MCP) and new MCP. As defined in the PPC Regulations, existing MCP means a medium combustion plant put into operation before 20 December 2018 or for which a permit was granted before 19 December 2017 provided that the plant was put into operation no later than 20 December 2018. New MCP means a medium combustion plant which is not an existing medium combustion plant.

- 1.3 The permitting of existing and new MCP in accordance with the requirements of the MCPD and the PPC Regulations is divided into three phases. MCP must be authorised under a permit before:
- i) it is put into operation, for new MCP with a rated thermal input of 1MW or greater and less than 50MW (Phase 1),
 - ii) 1 January 2024, for existing MCP with a rated thermal input of greater than 5MW and less than 50MW (Phase 2), or
 - iii) 1 January 2029, for existing MCP with a rated thermal input of between 1MW and 5MW (Phase 3).
- 1.4 Under the PPC Regulations an application for a permit to operate an existing MCP (Phase 2) must be received by SEPA by 30 June 2023.
- 1.5 This Temporary Regulatory Position Statement applies to existing MCP as defined in section 1.3 (Phase 2 MCP), where the operator has by 31 December 2023:
- i) submitted a valid application to SEPA for a PPC permit to authorise the operation of their Phase 2 MCP;
 - ii) submitted a valid application to SEPA to vary an existing PPC permit to authorise the operation of their Phase 2 MCP; or
 - iii) responded to a relevant further information notice served by SEPA under Regulation 63(2) of the PPC Regulations by providing the information requested confirming that their permit requires to be varied by SEPA to authorise the operation of their Phase 2 MCP, and the operator has also paid the appropriate fee;

and SEPA has not determined the operator's permit application or variation application, or varied the operator's permit, by 1 January 2024.

2. SEPA's Position

- 2.1 No person may operate an installation or any plant to which Regulation 11(2) applies, except under, and to the extent, it is authorised by a permit. The operation of a Phase 2 MCP without being authorised under a permit on and after 1 January 2024 would be an offence under Regulation 67(1)(a) of the PPC Regulations. However, due to the volume of applications that SEPA is required to determine, and after consideration of the potential environmental impacts, SEPA will not take enforcement action in relation to the operation of any Phase 2 MCP provided:
- i) the operator has submitted a valid permit application or variation application, or response to a notice served by SEPA under Regulation 63(2) of the PPC Regulations (each as described more fully in section 1.5 of this Temporary Regulatory Position Statement); and
 - ii) the relevant Phase 2 MCP is operated in accordance with the specific conditions detailed in section 3 of this Temporary Regulatory Position Statement.
- 2.2 This Temporary Regulatory Position Statement remains in place until SEPA has given notice of its determination (grant or refusal) of the operator's relevant application for a permit or variation application, or SEPA has served notice on the operator of the relevant variation.
- 2.3 This Temporary Regulatory Position Statement does not in any way prejudice SEPA's determination of all relevant applications for permits or variation applications. All such applications remain subject to the relevant provisions of the PPC Regulations and SEPA's standard determination procedures.

3. Conditions That Apply

- 3.1 The operation of any Phase 2 MCP falling within the scope of this Temporary Regulatory Position Statement must not cause adverse impact to the environment or harm to human health.
- 3.2 SEPA must be notified via its pollution hotline (0800 80 70 60) as soon as reasonably practicable, and in any case within 24 hours of the identification of an event that has caused or could cause adverse impact to the environment or harm to human health caused by the operation of any Phase 2 MCP falling within the scope of this Temporary Regulatory Position Statement.
- 3.3 If SEPA considers the operation of any Phase 2 MCP falling within the scope of this Temporary Regulatory Position Statement is likely to cause adverse impact to the environment or harm to human health, or if such adverse impact or harm is caused, SEPA will notify the operator of the withdrawal of the application of this Temporary Regulatory Position Statement to the relevant Phase 2 MCP. The prior application of this Temporary Regulation Position Statement to the relevant Phase 2 MCP shall be without prejudice to any enforcement action that may be taken by SEPA in the event of the withdrawal of its application to the relevant Phase 2 MCP under this condition.

4. Further Information

- 4.1 This Temporary Regulatory Position Statement applies only in Scotland.
- 4.2 This Temporary Regulatory Position Statement will be published on SEPA's website.
- 4.3 The terms of this Temporary Regulatory Position Statement may be subject to review and may be changed or withdrawn in light of regulatory or legislative changes, future government guidance or experience of its application and use.

- 4.4 If you need further information on the medium combustion plant requirements of the PPC Regulations or the steps available to authorise the operation of your MCP, please visit [Medium combustion plant | Scottish Environment Protection Agency \(SEPA\)](#) or contact us at MCPEnquiries@sepa.org.uk.
- 4.5 If you need further information on this Temporary Regulatory Position Statement, contact us at MCPEnquiries@sepa.org.uk.

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