

[^{F1}SCHEDULE 25B

Regulation 35(1)

Specified generators

Textual Amendments

- F1** Schs. 25A, 25B inserted (30.1.2018) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2018 \(S.I. 2018/110\)](#), regs. 1, 16

Application

1. This Schedule applies in relation to every specified generator from the permitting date.

Interpretation – specified generators

- 2.—(1) In this Schedule—

“generator” means any combustion plant which is used for the purpose of generating electricity, but does not include any generator that is mobile unless it is connected to—

- (a) an electricity transmission system or distribution system, or
- (b) other apparatus, equipment or appliances at a site, and is performing a function that could be performed by a generator that is not mobile;

“specified generator” means—

- (a) a generator, other than an excluded generator, with a rated thermal input—
 - (i) more than or equal to 1 megawatt and less than 50 megawatts, or
 - (ii) in the case of a generator used to meet a capacity agreement or an agreement to provide balancing services, less than 50 megawatts;
- (b) where two or more generators falling with paragraph (a)(i) or (ii) are operated—
 - (i) on the same site,
 - (ii) by the same operator, and
 - (iii) for the same purpose,those generators together, provided that the rated thermal input of those generators together is less than 50 megawatts; or
- (c) where two or more generators, other than excluded generators—
 - (i) are operated as set out in paragraph (b)(i) to (iii), and
 - (ii) together have a rated thermal input more than or equal to 1 megawatt and less than 50 megawatts, even if one or more of the generators has a rated thermal input of less than 1 megawatt,those generators together.

- (2) For the purposes of paragraph (1)—

“excluded generator” means—

- (a) generators subject to the provisions of Chapter II or Chapter III of the Industrial Emissions Directive,
- (b) generators operating with a defined nuclear safety role under a nuclear site licence issued by the Office for Nuclear Regulation,
- (c) back-up generators operated for the purpose of testing for no more than 50 hours per year,

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- (d) generators installed on an offshore platform situated on, above or below those parts of the sea adjacent to England and Wales from the low water mark to the seaward baseline of the United Kingdom territorial sea,
- (e) generators installed on a gas storage or unloading platform as defined in regulation 2 of the Offshore Combustion Installations (Pollution Prevention and Control) Regulations 2013;

“mobile”, in relation to a generator, means designed to move or be moved whether on roads or other land.

- (3) In sub-paragraph (2), “offshore platform” means any fixed or floating structure which—
 - (a) is used for the purposes of or in connection with the production of petroleum, and
 - (b) in the case of a floating structure, is maintained on a station during the course of production,

but does not include any structure where the principal purpose of the use of the structure is the establishment of the existence of petroleum or the appraisal of its characteristics, quality or quantity or the extent of any reservoir in which it occurs.

(4) In sub-paragraph (3), “petroleum” includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

Interpretation – relevant dates and permitting dates

- 3.—(1) The “relevant date” in relation to a generator means—
 - (a) 1st January 2019, in the case of a Tranche B generator;
 - (b) 1st October 2019, in the case of a Tranche A generator with a rated thermal input greater than 5 megawatts which—
 - (i) has an emission of nitrogen oxides of equal to or greater than 500mg/Nm³, and
 - (ii) operates for more than 50 hours per year;
 - (c) 1st January 2025, in the case of a Tranche A generator with a rated thermal input greater than 5 megawatts which—
 - (i) has an emission of nitrogen oxides of less than 500mg/Nm³, or
 - (ii) operates for less than or equal to 50 hours per year;
 - (d) 1st January 2030, in the case of a Tranche A generator with a rated thermal input equal to or less than 5 megawatts.
- (2) The “permitting date”—
 - (a) in relation to a specified generator falling within paragraph 2(1)(a), is the relevant date in relation to that specified generator;
 - (b) in relation to a specified generator falling within paragraph 2(1)(b) or (c), is the earliest of the relevant dates in relation to the generators comprising that specified generator.
- (3) For the purposes of sub-paragraph (1)—

“Tranche A generator” means a generator—

 - (a) with a rated thermal input equal to or greater than 1 megawatt and less than 50 megawatts—
 - (i) which came into operation before 1st December 2016,

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- (ii) which is the subject of a capacity agreement arising from the 2014 or 2015 capacity auctions (whether or not the generator came into operation before 1st December 2016), or
- (iii) for which a Feed-in Tariff preliminary accreditation application was received by the Gas and Electricity Markets Authority before 1st December 2016;
- (b) with a rated thermal input of less than 1 megawatt—
 - (i) which is the subject of a capacity agreement arising from the 2014, 2015 or 2016 capacity auctions (whether or not the generator came into operation before 1st December 2016),
 - (ii) for which a Feed-in Tariff preliminary accreditation application was received by the Gas and Electricity Markets Authority before 1st December 2017; or
 - (iii) which is the subject of an agreement to provide balancing services entered into before 31st October 2017,

provided that a generator ceases to be a Tranche A generator if it is the subject of a capacity agreement, or an agreement for provision of balancing services, where that agreement is entered into after 31st October 2017 and remains in force after 31st December 2018;

“Tranche B generator” means any generator which is not a Tranche A generator or an excluded generator (and includes a specified generator which has ceased to be a Tranche A generator).

(4) For the purposes of sub-paragraph (1), in the case of a generator which is comprised in a specified generator falling within paragraph 2(1)(b) or (c), the generator is deemed to have the total rated thermal input of all the generators comprised in the specified generator.

Interpretation - general

4. In this Schedule—

“back-up generator” means a generator operated for the sole purpose of maintaining power supply at a site during an on-site emergency;

“balancing services” means any services procured by the transmission system operator in order to balance demand and supply, and to ensure the security and quality of electricity supply, across the national transmission system for Great Britain;

“capacity agreement” has the meaning given in regulation 30 of the Electricity Capacity Regulations 2014;

“capacity auction” means an auction under Part 4 of the Electricity Capacity Regulations 2014;

“distribution system” has the meaning given in section 4(4) of the Electricity Act 1989;

“emission limit value” means the maximum permissible quantity of a substance contained in the waste gases from a generator which may be discharged into the air during a given period;

“Feed-in Tariff preliminary accreditation application” means an application for preliminary accreditation made under Part 3 of the Feed-in Tariffs Order 2012;

“nitrogen oxides” means nitric oxide and nitrogen dioxide;

“nuclear site licence” has the meaning given in section 1 of the Nuclear Installations Act 1965;

“transmission system” has the meaning given in section 4(4) of the Electricity Act 1989;

“transmission system operator” means the person operating the national transmission system for Great Britain;

any reference to emissions expressed in mg/Nm³ is to those emissions defined in accordance with the first paragraph of Annex II of the Medium Combustion Plant Directive.

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Environmental permit conditions: general

5.—(1) Subject to paragraph 6, the regulator must exercise its relevant functions in relation to specified generators so as to ensure that they are operated, from the permitting date, in such a way that—

- (a) there is compliance with an emission limit value for nitrogen oxides of 190mg/Nm³;
- (b) where secondary abatement is required to ensure compliance with the requirement in paragraph (a), the emission limit value for nitrogen oxides is met—
 - (i) in the case of a Tranche A generator or a Tranche B generator which was, but has ceased to be, a Tranche A generator, within 20 minutes of the specified generator commencing operation, or
 - (ii) in the case of any other Tranche B generator, within 10 minutes of the specified generator commencing operation,
 and in every case emissions must be monitored at least every three years;
- (c) there is no persistent emission of dark smoke, where “dark smoke” has the meaning given in section 3(1) of the Clean Air Act 1993.

(2) Where compliance with air quality aspects of an environmental quality standard requires stricter conditions for the operation of a specified generator, or a generator comprised in a specified generator falling within paragraph 2(1)(b) or (c), from the permitting date the regulator must include additional or stricter measures in the permit to comply with those standards, including (if necessary) a stricter emission limit value than that specified in paragraph (1)(a).

(3) In the case of a specified generator falling within paragraph 2(1)(b) or (c), the requirements of sub-paragraph (1) must be met by each generator comprising that specified generator only from the relevant date relating to that generator.

Exceptions to environmental permit conditions

6.—(1) Paragraph 5 does not apply in relation to a specified generator falling within paragraph 2(1)(a), or a generator comprised in a specified generator falling within paragraph 2(1)(b) or (c), that is—

- (a) used at a site which it is not reasonably practicable to connect to the distribution system;
 - (b) a back-up generator in respect of which, in the opinion of the regulator, the operator has demonstrated a genuine need to carry out routine testing for more than 50 hours per year.
- (2) Paragraph 5 does not apply—
- (a) until 1st January 2025 in relation to a Tranche A generator not falling within sub-paragraph (1)—
 - (i) with a rated thermal input greater than 5 megawatts,
 - (ii) with nitrogen oxide emissions of 500mg/Nm³ or greater, and
 - (iii) that operates for more than 50 hours per year;
 - (b) in relation to a Tranche A generator—
 - (i) with a rated thermal input greater than 5 megawatts,
 - (ii) with nitrogen oxide emissions of 500mg/Nm³ or greater,
 - (iii) that operates for more than 50 hours per year, and
 - (iv) that is operated only for the purpose of a capacity agreement entered into before 1st December 2016,

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for the period in which that capacity agreement remains in force, or until 1st January 2025, whichever is later.

(3) Where a generator falls within sub-paragraph (1) or (2), the regulator must exercise its functions from the relevant date to ensure that the operation of the generator will not give rise to an exceedance of the limit values for nitrogen dioxide specified—

- (a) in the case of a generator operated in England, in Schedule 2 to the Air Quality Standards Regulations 2010, and
- (b) in the case of a generator operated in Wales, in Schedule 1 to the Air Quality Standards (Wales) Regulations 2010.

(4) Paragraph 5 does not apply in relation to a Tranche A generator—

- (a) with a rated thermal input greater than 5 megawatts which—
 - (i) has an emission of nitrogen oxides of less than 500mg/Nm³, or
 - (ii) operates for no more than 50 hours per year; or
- (b) with a rated thermal input greater than or equal to 1 megawatt but no greater than 5 megawatts,

where it is operated only for the purpose of a capacity agreement entered into before 1st December 2016, during the period in which that capacity agreement remains in force.

(5) Paragraph 5 does not apply in relation to a Tranche A generator with a rated thermal input of less than 1 megawatt where it is operated only for the purpose of a capacity agreement entered into before 31st January 2017, during the period in which that capacity agreement remains in force.

(6) For the purposes of sub-paragraphs (2), (4) and (5), a generator comprised in a specified generator falling within paragraph 2(1)(b) or (c) is deemed to have the total rated thermal input of all the generators comprised in that specified generator.]

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