

Regulatory position statement

Use of energy crops and other non-waste materials as feedstock for anaerobic digestion

If you use only energy crops or other non-waste materials as feedstock for your anaerobic digestion plant, we will not require an environmental permit for the activity. Any associated combustion plant will be regulated by the local authority or by us if it exceeds the limits set out below.

Background

Producing gas from carbonaceous materials requires an environmental permit from us, unless it is carried on as part of a combustion activity¹. So even anaerobic digesters using only energy crops and other non-waste materials would need a permit. Defra and the Welsh Assembly Government have consulted on a proposal to amend the regulations to disapply the requirements to gas produced as a result of the anaerobic digestion of non-waste biodegradable material. The amendments scheduled to come into force in 2011 have been postponed. We now expect the amendments to come into force in 2012.

Our approach

In anticipation of the proposed amendment to the EPR, where anaerobic digestion of non-waste biodegradable material is carried out, we will not require an environmental permit for the activity provided you do not endanger human life or use processes or methods which could harm the environment. In particular, there must be:

- (i) no risk to water, air, soil, plants or animals
- (ii) no nuisance through noise or odours
- (iii) no adverse effect on the countryside or places of special interest.

If the proposed amendment is not to be made, then an environmental permit would be required and we will advise you immediately.

If the associated combustion plant exceeds 20MW rated thermal input, you will be regulated by the local authority and if it exceeds 50MW, you will be regulated by us.

1. Under Schedule 1, Section 1.2 Part A(1)(e) of the Environmental Permitting (England and Wales) Regulations 2010 (EPR)

Enforcement

In not pursuing an application for a permit, we will not normally take enforcement action unless the activity has caused, or is likely to cause, pollution or harm to health. For a more detailed explanation of this enforcement position, please see our [Enforcement and Sanctions](#) statement. This can be found on the '[How we regulate you](#)' page in the Business & Industry section of our web site.

This regulatory position will be reviewed by October 2012.

MWRP RPS 092 Version:2

Issued: December 2011

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