

DRAFT

**Consultation
on
Operating the
National Emission Reduction Plan (NERP)
Register**

Summary of Responses

November 2007



EXECUTIVE SUMMARY

The Environment Agency, the Scottish Environment Protection Agency (SEPA) and the Department of the Environment (Northern Ireland) as the UK Environmental Regulators for the National Emission Reduction Plan (NERP) jointly issued a Consultation on 2 August 2007 (given in copy included seeking views on proposals for the operation of the Register for Trading of limits under the UK NERP and of the verification process for emissions reporting under the Plan.

This was issued in response to the requirement in the earlier Consultation Document¹ issued by Defra and the Devolved Administrations on 27 February 2007 regarding the NERP that: *‘...Regulators’ guidance will be produced detailing the verification process for emissions reporting under the NERP. NERP participants will have an opportunity to comment on the guidance before it is finalised...’*

11 responses were received mainly from industry and related Trade Associations and from Friends of the Earth. The Consultation also elicited a number of other enquiries from a number of people on quite diverse topics. A reply to each of these was made but these have not been considered for this report.

Most of the responses from industry and the related Trade Associations strongly supported the light touch adopted for the regulation of the NERP Register. The Friends of the Earth on the other hand wanted the verification of the Reports of National Emissions data to be comparable with the Carbon Trading Scheme. They were also uncertain about the provision for operators of Large Combustion Plants (LCPs) to be allowed to trade the current year’s allowances until the end of March of the following year.

The Consultation Exercise has been a most useful exercise and has provided the Environmental Regulators with considerable confidence in the approach proposed. The comments received will be incorporated in the NERP Guidance to be prepared.

¹ Consultation on the Operation of the UK National Emission Reduction Plan under the Large Combustion Plants Directive February 2007

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1. Introduction

1.1 Background

1. The Consultation Document² issued by Defra and the Devolved Administrations on 27 February 2007 regarding the UK National Emissions Reduction Plan (NERP) required that:
'...Regulators' guidance will be produced detailing the verification process for emissions reporting under the NERP. NERP participants will have an opportunity to comment on the guidance before it is finalised...' (paragraph 7.6)
2. Accordingly the Environment Agency, the Scottish Environment Protection Agency (SEPA) and the Department of the Environment (Northern Ireland) as the UK Environmental Regulators for the NERP jointly issued a Consultation³ on 2 August 2007 (see Appendix 4) seeking views on proposals for the operation of the Register for Trading of limits under the UK NERP and of the verification process for emissions reporting under the Plan. It also asked for comments on a number of specific questions.
3. The Consultation was sent to the same distribution list used by Defra and the Devolved Administrations for their earlier Consultation since the requirement to consult "NERP participants" as given in paragraph 1 above seemed somewhat restrictive.
4. This paper prepared by the Consultation Co-ordinators for the Joint Regulators (see Annex 1 for details) summarises the responses that were received to the Consultation. It also outlines the Joint Regulators' response to the points raised.
5. Since the close of the present Consultation the Joint Regulators have continued to liaise to ensure consistency of approach. These considerations together with the responses received from the Consultation will be incorporated into the Guidance on the Operation of the NERP Register and Verification of the reports on annual mass emissions which is to be prepared and put on the NERP Register website.

1.2 The present Consultation

6. The consultation began on 2 August 2007 with a closing date for responses of 18 September 2007. This 6-week period is shorter than the usual three months allowed for consultations. This was decided upon because this consultation followed on from the earlier consultation and was not considered to be a separate exercise. Defra had given their general approval to this shorter time.
7. Responses were requested to be sent in writing to one of Consultation Coordinators. A specific email address had been set up by the Environment Agency⁴ for this purpose. People who responded were also asked to state whether they were responding as an individual or representing the views of an organisation. If they were responding on

² Consultation on the Operation of the UK National Emission Reduction Plan under the Large Combustion Plants Directive February 2007

³ Operation of the Register for the UK trading scheme under the UK National Emissions Reduction Plan on http://www.environment-agency.gov.uk/yourenv/consultations/closed_consultations/?version=1&lang=e

⁴ nerp@environment-agency.gov.uk

behalf on an organisation, they were asked to make it clear who the organisation represents, and, where applicable, how the views of the members were gathered.

8. The Consultation Coordinators were also available for people to contact if they had any queries or need further information about the consultation.

1.3 Confidentiality

9. As part of the overall policy of openness, we indicated that we will publish the responses received to the consultation on our respective websites. We also said that may publish a summary of the responses. However we did offer for the response to be treated confidentially if that was made clear in the response.

1.4 Groups consulted

10. We stated in the Consultation Document that information and comments would be sought from industry, other non-governmental organisations, consumer groups, trade associations, and any other interested parties as listed by Defra in the NERP consultation document issued in February 2007.

2. Outcome

2.1 List of Groups consulted

11. The Joint Regulators sent the present Consultation Document to each of the 127 organisations used by Defra for their consultation. It was also put on the respective websites of the Regulatory Authorities.

2.2 Responses received

12. 11 responses were received and these are listed in Annex 1. The Consultation also elicited a number of other enquiries from a number of people on quite diverse topics. A reply to each of these was made but these have not been considered for this report.
13. No one requested withholding the response sent on the grounds of confidentiality. Equally no one commented on the shorter period allowed for the consultation. However several responses were received after the end of the Consultation, without any stated reason for being late except for quoting “pressure of work” issues. As such all responses received have been accepted regardless of when they were sent and they all form the basis for the present summary.

2.3 Summary of responses to the Questions posed

14. A summary of the responses received to each of the 5 Questions are given below below. The replies to these issues are also given where appropriate. Also given are brief explanations to the queries raised.

2.3.1. Question 1 Do you consider the arrangements to update the register will meet the requirements of the NERP Regulations 2007?

15. All of the industrial companies and trade associations who answered this question (6 responses) considered that overall the arrangements would meet the requirements of the NERP Regulations 2007.
16. Scottish and Southern Energy queried why there were differences between the times allowed for the Register to be updated shown in the Consultation Document and in the draft Regulations. *Answer: varying periods of time were given in the draft Regulations. These were all standardised to “within 10 working days” for consistency and transparency in the Regulations.*
17. ScottishPower Energy Wholesale asked for the Quarter 4 returns to be submitted by end of February rather than the end of January as proposed to allow more time for fuel stocks and reconciliation exercises to be completed. *Answer: the whole scheme is based on the practice for PPC returns and that requires Quarterly returns to be made within 28 days of the end of the Quarter, that is, for Quarter 4 returns to be made by 28 January of the following year. Operators have until the 31 March of the following year to be able to demonstrate that the limit held at the end of the calendar year at least match the actual emissions of each of the LCPD Substances.*
18. E-ON UK pointed out the difference between Tradeable “B” Limits for Power Stations which can only be transferred within the calendar year concerned and the

calendar year NERP allowances that can be transferred until 31 March of the following year. *Response: This issue had also been raised with us during this Summer by another operator. At that time it was not considered necessary to amend the “B” Limit scheme in view of the operators’ experience of managing it over many years and since had not been mentioned before. However if this issue is seen to be important for the operation of the Tradeable “B” limit scheme then we would examine the issue again.*

19. EDF pointed out a drafting error in Table in Part 1 where an additional indent had been added to the last point giving the false impression suggesting that the annual emission data would only be added to the Register if the operator is a company. The last point should have been under “for the operator of every participating plant”. Also the first entry in the Table in Part 3 should refer to Regulation 5(4) and not 5(3). *Answer: These errors have been corrected in the Guidance to be issued.*
20. Drax Power Ltd claims that as the Register is not set up until 1 December of the previous year, it would be difficult for operators to manage and suggests that it should be set up at least 6 months in advance. *Response: As the NERP Trading Scheme is a calendar annual Scheme, it seems unreasonable to notify the following years allowances during the middle of the present trading Scheme. Furthermore if the respective LCP continues to operate then identical annual allowances will be received each year until the end of 2015.*
21. They also claimed that it would be difficult for operators to trade as they would not be assured of a transfer until it is executed on the register and cannot be assured that the either party has the allowances available to sell. *Response: These constraints are necessary to ensure that the national annual NERP bubbles are not exceeded. A change will be made to the Guidance showing that an operator of a participating LCP could send a query via email to the NERP Help Line at nerphelp@environment-agency.gov.uk to check that no transfer of a specific company’s allowances has occurred since the Register was last updated.*

2.3.2 Question 2 Do you agree with the proposed requirement for data from the participating plant with a thermal input of between 50 and 100MW to be established on the most appropriate basis even if that means varying the respective PPC permit?

22. All of the industrial companies and trade associations who answered this question (5 responses) agreed with the proposed requirement to ensure data of a sufficient quality was provided to meet the objectives of verification, even if that did mean varying the respective PPC Permit.
23. UKPIA, whilst in general agreement with the proposed requirement, considered that the Consultation Document was going beyond LCPD in stating a preference for continuous monitoring and it would have liked the option according to an agreed methodology with the respective competent authority as with EU ETS.
24. It is interesting that British Sugar who the Regulators use as an example of an operator with relatively smaller LCPs agreed with the proposed requirement.

25. *Response: the Joint regulators are to review the proposed requirements to ensure that the balance of the requirements is appropriate and that it is in accordance with practice adopted in each of the respective regions of the UK.*

2.3.3 Question 3 Do you consider Form RTA 1 and all other forms given at the end of this consultation are suitable?

26. All of the industrial companies and trade associations who answered this question (5 responses) agreed that Form RTA 1 was suitable.

27. ScottishPower Energy Wholesale queried whether electronic signatures would be acceptable or whether signed copies would need to be sent to register. *Answer: To keep the Scheme simple and especially since only about 45 companies are involved in the Trading Scheme it is intended to accept electronic signatures without the need for hard copies.*

28. UKPIA asked whether it would be necessary for each LCP on a site with more than one LCP to report individual emissions and transfers. *Answer: We are aware that it seems rather pedantic to ask for a report for each of the LCPs to be submitted when there is more than one LCP on the site. However NERP allowances are made on a respective LCP basis and that means we have no option but to report emissions on a respective LCP basis. For that reason each LCP on a site with more than one LCP, will be given a specific identification name.*

2.3.4 Question 4 Do you consider the above arrangements will allow the transfer arrangements to go in a transparent manner?

29. All of the industrial companies and trade associations who answered this question (5 responses) agreed that the arrangements will allow the transfer arrangements to go in a transparent manner.

30. Scottish Power Energy Wholesale suggested that reference to authorised members of staff at the relevant plant should be changed to authorised member of staff from the Company. Generally trading does not take place at site level but is more likely to be a central company function. *Response: This change will be made in the final Guidance.*

31. UKPIA agreement was subject to the reporting requirement being based on all the LCPs on a given site rather than on individual LCPs. *Response: The need for reporting to be based on individual LCPs is set out above.*

32. Friends of the Earth (England, Wales and Northern Ireland) are concerned that the discussion of the transparency of the transfer arrangements makes no explicit reference to transparency with regard to public participation. This is despite the fact that the NERP register will be directly referred to in the IPPC (PPC) permit, and is therefore subject to the Article 15 provisions of the IPPC Directive allowing for public participation. *Response: NERP data is based on PPC returns to which the public already have access. As such it is not considered necessary to provide any additional public participation for the NERP Trading Scheme.*

2.3.5. Question 5 Do you consider the approach described will meet the requirements of the verification process?

33. All of the industrial companies and trade associations who answered this question (7 responses) agreed that the arrangements will allow the transfer arrangements to go in a transparent manner.
34. Scottish and Southern Energy strongly supported the approach described in the Consultation Paper to meet the verification requirements. In particular they added that the use of third party verifiers would significantly increase costs and complexity and would have a detrimental impact of the liquidity of the Scheme.
35. Scottish Power agreed that the outlined approach seemed sensible and proportionate but nevertheless asked for more detail. ***Response: This will be given in the guidance to be put on the NERP Register website.***
36. EDF argued That PPC already requires a high level of reporting quality and the proposed approach of requiring the same high level for NERP will provide adequate assurance of verification.
37. Friends of the Earth were of the opinion that the verification should be of an equivalent standard to that for the Carbon Trading Scheme. The NERP Scheme has yet to show this equivalence and can be considered weak and ill defined. They were also uncertain about allowing an operator the opportunity to continue to trade the present year's allowances until the end of March of the following year. ***Response: Subsequent discussions have been held with the author of the response from Friends of the Earth to reassure them that the requirements for verification would be enhanced and the new procedure would be included in the NERP Register Guidance to be prepared. They did accept that as the reporting requirements were identical to that used for PPC, the data for Q4 would be the Report of the Annual Emissions that needed to be verified. Since this information was not required under the PPC Permit for the LCP to be submitted until 28 days after the end of the Quarter, i.e. 28 January of the following year, it was reasonable to allow operators until the end of March of the following year to balance their emissions account. It has to be stressed that only the emissions allowance for the present year could be trading during this period of the following year.***
38. Additional question: Claire Sheppard a partner at Addleshaw Goddard LLP but acting as an individual asked about the definition of a closed plant and about the re-opening of a plant after being temporarily shut or for the reallocation of the allowances. ***Response: Details of closure are on Defra's LCPD Website at <http://www.defra.gov.uk/environment/airquality/eu-int/eu-directives/lcpd/index.htm>. Plants which are only temporally closed retain their allowances and these can be traded. However if the plant ultimately closes that some or all of these allowances may need to be bought back to offset actual emissions. When the plant finally closes any allowances in excess of the pro-rated allowances for the period during which it operated (or was temporally closed) would be lost. It that way the NERP National Bubbles would be decreased by that amount.***⁵

⁵ The Directive (Article 4.6) states that closure of a plant included in the NERP shall not result in the total annual emissions from the remaining plants covered by the plan.

2.4 Overall conclusion

39. The majority of responses received to the Consultation Document were very supportive of the approach proposed. Other less supportive comments and especially those from the Friends of the Earth will be given close attention during the production of the NERP Register Guidance.
40. The Consultation Exercise has been a most useful exercise and has provided the Environmental Regulators with considerable confidence in the approach proposed.

Annex 1

Consultation Co-ordinators

Consultation co-ordinators
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<p>E-mail: jens.povlsen@sepa.org.uk Tel: 01786 452422</p>
<p>David Bell Acting Chief Inspector Environment and Heritage Service (Northern Ireland) Department of Environment (Northern Ireland) Klondyke Building Cromac Avenue Gasworks Business Park Lower Ormeau Road Belfast BT7 2JA</p>
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Annex 2

Glossary of Terms

NERP	National Emission Reduction Plan
LCPD	Large Combustion Plants Directive
LCP	Large Combustion Plant
ELV	Emission Limit Value
PPC	Pollution Prevention and Control
BAT	Best Available Techniques
SO₂	Sulphur dioxide
NO_x	Nitrogen oxides
Dust	Particulates
SEPA	Scottish Environment Protection Agency
DoE (NI)	Department of the Environment (Northern Ireland)

Annex 3

List of respondents

Addleshaw Goddard LLP

British Sugar plc

Drax Power Ltd

EDF Energy

E.ON UK

Friends of the Earth (England, Wales and Northern Ireland)

Good Business Ltd

Scottish Power Energy Wholesale

Scottish and Southern Energy

Mr Rob Whittle

UKPIA

Annex 4 The present Consultation Document

**Operating the
National Emission Reduction Plan (NERP)
Register**

A consultation

2 August 2007



Editorial note

Draft nerp consultation~summary of responses November 2007 v2 (3)

To avoid confusion, we confirm that the following approach has been used throughout this consultation:

- *Allowances are for a current calendar year, that is from 1 January to 31 December of that year. However, allowances for a current calendar year can be continued to be traded until 31 March of the following year.*
- *Actions before the 1 January of a current calendar year are considered to be before the current calendar year.*
- *Actions after the 31 December of a current calendar year are considered to be during the following year.*

1.0 Introduction

2. On 27 February 2007, Defra, together with other Government departments, the Scottish Executive, the National Assembly of Wales, the Northern Ireland Administration and their agencies, launched a consultation⁶ on proposals to introduce the UK National Emission Reduction Plan (NERP) for Large Combustion Plants (LCPs) under the Large Combustion Plants Directive (LCPD)⁷.
3. It also invited comments on the draft NERP Regulations 2007⁸ that will establish how the NERP will work within the UK. In particular, it will set up a scheme by which emission allowances may be transferred between participating LCPs.
4. The closing date for the consultation was 22 May 2007 and Defra is currently reviewing the comments it received. It intends to publish a summary of these comments, together with the Government's response later this summer. Defra has indicated that the responses it received were generally positive and there was strong support for the proposed scheme permitting the trading or transfer of emission allowances.⁹
5. The consultation document required (Paragraph 7.6) that '...Regulators' guidance will be produced detailing the verification process for emissions reporting under the NERP. NERP participants will have an opportunity to comment on the guidance before it is finalised...'
6. In response to this, we the Environment Agency, the Scottish Environment Protection Agency (SEPA) and the Environment and Heritage Service (Northern Ireland) (EHS)(NI) within the Department of the Environment in Northern Ireland as the UK Environment Regulators, have prepared this consultation document. However, the consultation goes much wider than the verification process itself, also setting out how the regulators propose to operate the NERP register.
7. This consultation seeks your views on how appropriate and workable these proposals are. It also asks specific questions (please see Part 3). Please note that Defra is proposing to amend the draft NERP Regulations following the comments it received during its earlier consultation. In many cases this largely means amending when certain items have to be undertaken and when the Register needs to react. The revised version of the Regulations, however, is not expected to be available until this autumn. So that we do not delay issuing this consultation until the revised Regulations are available, we have based our proposals on what we believe the final version of the Regulations is likely to be.

⁶ <http://www.defra.gov.uk/corporate/consult/emission-reductionplan/index.htm>

⁷ Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants. Official Journal of the European Communities L309/1 (27.11.2001)

⁸ The Large Combustion Plants (National Emission Reduction Plan) Regulations 2007 (to be published Autumn 2007)

⁹ The terms 'trading' and 'transfer' of allowances between participating LCPs within the NERP are used interchangeably throughout this Consultation. No difference should be implied between these terms. Trading may be viewed however as the vehicle by which the transfer of allowances occurs. This interpretation is consistent with that used in the earlier Consultation issued by Defra and the Devolved administrations.

1.1 How to respond

7. This consultation begins on 2 August 2007 and the closing date for responses is 18 September 2007. This is shorter than the usual three months allowed for consultations. This is because it is following on from the earlier consultation and is not a separate exercise. Defra have given their general approval to the shorter time.
8. You should send your response in writing to one of the consultation co-ordinators listed below. You can also contact them if you have any queries or need further information about this consultation.
9. When you respond, please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents, and, where applicable, how the views of the members were gathered.

1.2 Results

10. We would appreciate it if you could respond as soon as possible. We aim to publish a summary of the responses in early October 2007.

Consultation co-ordinators
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1.3 Confidentiality

14. As part of our overall policy of openness, we will publish the responses we receive to the consultation on our respective websites. We may also publish a summary of the responses.
15. If you prefer your response to be treated confidentially, please make that clear in your response. We will not accept any confidentiality disclaimer that is automatically generated by your IT system in e-mail responses.

1.4 Groups consulted

13. We welcome information and comments from industry, other non-governmental organisations, consumer groups, trade associations, and any other interested parties as listed by Defra in the NERP consultation document issued in February 2007¹⁰.
14. Please pass this consultation document on to any other groups who would be interested in commenting on the proposals.

¹⁰ See pages 18 – 22 of the Consultation Document

2.0 NERP - introduction

15. The LCPD sets respective minimum limits for emissions of sulphur dioxide (SO₂), nitrogen oxides (NO_x) and dust (particulates) from LCPs with a thermal rating equal to or greater than 50 MW.
16. Operators of 'existing' LCPs (those first licensed before 1 July 1987) in particular, were given the option under Article 4.4 of the Directive of achieving the significant emission reductions either by accepting the concentration-based emission limit values (ELVs) as specified in the LCPD or by participating in the mass-based NERP, also set out in the Directive.
17. For this the NERP is designed to reduce the total annual emissions of SO₂, NO_x and dust from the participating existing plants to the levels that would have been achieved by applying the ELVs for those plants in operation in 2000. This was on the basis of each plant's actual operating time, fuel used and thermal input, averaged over the last five years of operation, up to and including 2000. It is planned to start on 1 January 2008 and should remain in place in its initial form at least until 31 December 2015.
18. Defra required operators of the existing LCPs to make the decision by 3 February 2006 whether or not to opt into the NERP. Once made though, it should remain in place until 31 December 2015.
19. Ultimately 96 LCPs operated by 46 different operators opted for the NERP, 18 in Scotland, one in Northern Ireland and the remaining 77 in England and Wales.
20. Operators of the participating plants within the NERP will be able to trade emission allowances between each other as long as their respective emission allowance is never zero or less than zero. Also, as part of their PPC permit conditions, they will be required to hold sufficient emission allowances at the end of the trading year to at least equal their respective emissions over that period. If they do not, they will breach their PPC permit and could face action under the Enforcement and Prosecution Policy of the respective regulator

2.1 NERP register

21. The NERP Regulations 2007 will provide the legal basis for the transfer of the respective annual limits between the participating LCPs within the UK NERP. In particular, it establishes a register to co-ordinate the transfer arrangements. The Environment Agency will maintain this register on behalf of all three regulators.
22. Any comments in this consultation about how the Environment Agency operates the register applies to all three regulators.
23. The design of the NERP trading scheme is based on calendar annual emission allowances for SO₂, NO_x and dust for each qualifying LCP using the plant's historical data. Operators are not allowed to bank or borrow these annual emission allowances between different years. However, operators can continue to transfer or trade the current annual year's emission allowances until 31 March of the following year so that they can hold sufficient allowances to at least match their actual emissions of the LCPD pollutants. For that reason, a separate register for each current year will be set

up by 1 December of the previous year and will last until 30 April of the following year.

24. The proposals for operating the register are set out below. As mentioned above, each register lasts for about 17 months. So, the proposals are set out to follow updating the register over that period of time.
25. The proposals show when certain actions should take place and who should do them. We refer to the requirement, either in the Regulations themselves or in the earlier consultation document, for these actions to take place. We also ask specific questions that we would appreciate your response to. But, we would also welcome comments on any other issue you may like to raise.
26. Operators of participating plants will have a dedicated e-mail address¹¹ to correspond with the register. This must be signed by nominated members of staff from the participating LCPs and the Regulators will maintain a listing.
27. We have also set up an email based HelpDesk to deal with administrative queries¹². But, please note that you should contact the relevant site inspector with any queries about technical issues, and especially those about emission allowances.

2.2 Updates to the NERP register

28. The Environment Agency will put the latest version of the register on its website, with appropriate links to the websites of SEPA and DoE (NI), every two weeks. However, if there have been no changes during the previous two weeks, then the earlier version will be maintained. The version shown will always state the date when it was updated.
29. The register will be updated at set times throughout the calendar year. This will usually be within 10 working days of being notified of new information. But, please note that it will only be updated with the respective emission data from each participating plant for the previous quarter, four times a year. This is within 10 working days of the requirement under PPC for the operator of the plant to notify the register and the inspector within 28 days of the end of the quarter (see Part 3).
30. The information contained on the register and the pattern of updates are set out below.

Part 1: Before the trading scheme starts on 1 January 2008

31. The initial register will be set up by the end November 2007 and will contain the following details:

Action	Regulation/ consultation document	By whom	When
The register will be in the form of an electronic spreadsheet, which must be clearly displayed on the Environment	Regulation 6(4)	Environment Agency	November 2007

¹¹ nerp@environment-agency.gov.uk

¹² nerphelp@environment-agency.gov.uk

Agency's website.			
Links must be provided from the SEPA and DoE (NI) websites to the register on the Environment Agency's website.	Regulation 6(5)	SEPA and EHS(NI) together with the Environment Agency	November 2007
The following details will be put on the register: For every participating plant: <ul style="list-style-type: none"> • Name • Grid reference • Postal address • Name of the operator For the operator of every participating plant: <ul style="list-style-type: none"> • Name • Postal address • Email address • Telephone number And if the operator is a company: <ul style="list-style-type: none"> • Its registered address • Respective annual emission allowances for SO₂, NO_x and dust 	Regulation 5(1) (a) and (b) and paragraphs 2,3, 4 and 5 (a)(i) of Part 2 of Schedule 1	Environment Agency together with SEPA and EHS(NI)	Within 10 working days of being notified by the Secretary of State (likely to be by end November 2007)

Part 2: Before the trading scheme starts on each subsequent year after 1 January 2008

32. This will give Defra the opportunity to update the information on the register, confirm participating plants and respective annual allocations.

Action	Regulation/consultation document	By whom	When
As above, but following confirmation by the Secretary of State of the information referred to above. In particular, this concerns details of the operator, plant closures and the respective annual emission allowances for SO ₂ , NO _x and dust.	Regulation 5(2)	Environment Agency	Within 10 working days of being notified by the Secretary of State, which should be no later than 20

			November of each year after 2007
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Part 3: From 1 January 2008 and subsequent years to 30 April of the respective following year

33. This table summarises the updates to the register during this time. Reference is made to specific notes included at the end of this part, which provide additional information. These also pose specific questions, which we would appreciate your response to.

Action	Regulation/ consultation document	By whom	When
At any time throughout the year, update the register when the Secretary of State notifies the Environment Agency that a LCP becomes a participating plant under the NERP.	Regulation 5(3)	Environment Agency	Within 10 working days of being notified by the Secretary of State
Respective emission data from each participating plant for the previous quarter added four times a year. This will be added to show the cumulative in-year mass emissions. After including data for the last quarter of the current year by 31 January of the following year this will become the operator's annual report for the year. <u>See note 1 for details to be provided for every LCP and for form RTA 1</u> <u>All the forms referred to in these sections will be available</u>	Regulation 9(e) Regulation 7	Environment Agency together with SEPA and EHS (NI) Environment Agency together with SEPA and EHS (NI)	Within 10 working days of receiving notification (within 28 days of the end of the previous quarter -see paragraph 28 above) Within 10 working days of receiving notification

<p><u>electronically via the NERP register website</u></p>			
<p>Transfer of part of the respective emission allowance from one participating plant to another.</p> <p><u>See note 2 for details of actions by respective operators and for transfer form TOA 1</u></p>	<p>Regulation 8</p>	<p>Environment Agency together with SEPA and EHS (NI)</p>	<p>Within 10 working days of receiving completed transfer form TOA 1</p>
<p>Notification of the amount of emission allowance that an operator of a participating plant wishes to transfer or acquire from other participating plants.</p> <p><u>See note 3 for details of actions to be taken and for notification form TAA 1</u></p>	<p>Paragraph 5(c) and (d) of Schedule 1 Part 2</p>	<p>Environment Agency together with SEPA and EHS (NI)</p>	<p>Within 10 working days of receiving notification form TAA 1</p>
<p>Reduced emission allowances to be shown on register for plants, which the Environment Agency has been notified are closing.</p> <p><u>See note 4 for details of actions to be taken in cases of plants closing and for form NTC 1</u></p>	<p>Regulation 9</p>	<p>Environment Agency together with SEPA and EHS (NI)</p>	<p>Within 10 working days of receiving notification form NTC 1</p>
<p>For the plants in England and Wales only SEPA and EHS(NI) have separate procedures to report this data</p> <p>Details of total annual amount of energy input for each participating LCP to be submitted to the register by 31 January of the following year at the same time the respective emission data for the last quarter of the current year is submitted.</p> <p>However, the energy input data will not be shown on the register. It will be collated for submission to the European Commission via Defra.</p> <p><u>See Note 5 for details to be provided and for form TAE 1</u></p>	<p>Annex VIII Part B of the LCPD</p>	<p>-</p>	<p>-</p>

<p>Result of verification of operator's annual report of actual annual mass emissions from their participating plant.</p> <p><u>See note 6 for details of the verification process.</u></p>	Regulation 7	Environment Agency together with SEPA and EHS (NI)	By 28 February of the following year
<p>Reconciliation of year's allowances against actual emissions from participating plants.</p>	Regulation 7	Environment Agency together with SEPA and EHS (NI)	Within 10 working days of 31 March of the following year
<p>Overall reconciliation of total emissions from all participating plants against national bubbles for SO₂, NO_x and dust.</p>	Regulation 7	Environment Agency together with SEPA and EHS (NI)	Within 10 working days of 31 March of the following year

Question 1. Do you consider the arrangements to update the register will meet the requirements of the NERP Regulations 2007?

Note 1

Reporting emission data

34. Under the PPC permit, the operator of a participating LCP has to submit data on the emissions of SO₂, NO_x and dust from the LCP for the previous quarter within 28 days of the end of the quarter. Where an operator has more than one participating LCPs on the same site, then a separate report for each respective LCP must be submitted.
35. These reports should be sent via e-mail to the register and copied to the relevant site inspector using the form RTA 1 Releases of LCPD pollutants to air from NERP participating plants (included in the annex to this consultation). The form must be authorised by a nominated member of staff from the plant. The completed form for the whole of the current year, which will become the report of the annual mass emissions for the participating plant (Regulation 7 of the NERP Regulations), will need to be verified by the site inspector. If approved, the respective inspector will need to sign the completed form and send it by e-mail to the register for inclusion.
36. The information to be submitted to the Register for the Trading Scheme is in most cases identical to that already provided for PPC and therefore should be of the same high standard. Even so consideration will need to be paid to the relative quality of the data from the participating plants with a thermal input of between 50 and 100 MW compared with those with a thermal input greater than 100 MW. Since there are about as many participating plants in each of the two groups, this could potentially become a critical issue.
37. So, for those plants in the first group (50-100MWth), the LCPD¹³ requires monitoring to be carried out using discontinuous measures at least every six months. For those plants in the second group (>100MWth), the LCPD requires monitoring to be carried out using Continuous Emission Monitors (CEMs).
38. This will mean that for the first group, reporting will be based on 'appropriate determination procedures'. This is a selection of calculated values or those derived from factors. For the second group, this will be based on actual measured values. Even so, the Directive requires that these appropriate determination procedures 'must be verified and approved by the competent authorities'.
39. There is a hierarchy for reporting emissions from plants using discontinuous measures from common factors to site-specific factors and for emissions of SO₂ to measured fuel content. This is set out in the table below, with the most relevant shown first.
40. Operators of participating plants using these calculation or factor methods will have to demonstrate that they have chosen the most appropriate way of producing the necessary data. In some cases, this may mean varying the PPC permit for the site to require it.
41. This will be decided on an individual site basis. This should consider that:
 - even if it is not laid down in the LCPD, continuous monitoring should be our preferred approach for all solid and liquid fuelled LCP regarding NO_x, SO_x and dust measurement, and for natural gas/gas fired plant for NO_x and CO (and SO_x and particulate for certain gas streams);

¹³ Section A.2 of Annex VIII of the LCPD on Procedures for measuring and evaluating emissions from combustion plants

- recommended minimum methods, as set below, should be used;
- the PPC permit condition ‘Monitoring equipment, techniques, personnel and organisations employed for the emissions monitoring ... shall have either MCERTS¹⁴ certification or MCERTS accreditation (as appropriate)’ should be firmly applied. There should not be any exceptions to this.

42. Operators of all plant within the NERP should make sure that their monitoring arrangements meet the requirements for good quality monitoring as set out in Applications for PPC Assessment of Monitoring Arrangements: Emissions to Air (May 2006).

Hierarchy for reporting emissions from plants using discontinuous measures

Fuel	Gas	Liquid (Oil)	Solid (Coal)
LCPD pollutant			
SO₂	<ul style="list-style-type: none"> • Measured fuel content calculation • Site specific factor¹ • Generic factor² 	<ul style="list-style-type: none"> • Measured fuel content calculation • Site specific factor¹ • Generic factor² 	<ul style="list-style-type: none"> • Measured fuel content calculation • Site specific factor¹ • Generic factor²
NO_x	<ul style="list-style-type: none"> • Site specific factor¹ • Generic factor 	<ul style="list-style-type: none"> • Site specific factor¹ • Generic factor 	<ul style="list-style-type: none"> • Site specific factor¹ • Generic factor²
Dust	<ul style="list-style-type: none"> • Site specific factor¹ • Generic factor² 	<ul style="list-style-type: none"> • Site specific factor¹ • Generic factor² 	<ul style="list-style-type: none"> • Site specific factor¹ • Generic factor²

¹ Based on discontinuous extractive sampling

² Based on recognised published standards/literature

See Combustion Activities Guidance Note on Pollution Inventory Reporting at

http://www.environment-agency.gov.uk/commondata/acrobat/combustion_859669.pdf

Minimum standards for air quality monitoring

Fuel	Coal/solid	Oil/liquid	Gas
SO₂	BS EN 14791: 2005 ²	BS EN 14791: 2005 ²	BS EN 14791: 2005 ^{2,3}
NO_x	BS EN 14792 ²	BS EN 14792 ²	BS EN 14792 ²
Dust	BS EN 13284-1 ^{1,2}	BS EN 13284-1 ^{1,2}	BS EN 13284-1 ^{1,2,3}

¹⁴ Equivalent measures should apply in Scotland and in Northern Ireland

¹ BS EN 13284-1 (within the method's scope for dust levels < 50 mg/m³). Where necessary, look to BS ISO 9096: 2003 to cover > 50mg/m³ (claimed scope 20-1000 mg/m³).

² At least twice a year (depends on demonstrating that this is representative enough)

³ Waived upon demonstrating that concentrations are permanently very low and alternative, appropriate determination procedures are agreed with the regulator.

BS EN 13284-1: 2002 Determination of Low Range Mass Concentration of Dust (Manual Gravimetric Method).

BS EN 14792: 2005 Determination of Mass Concentration of Nitrogen Oxides (NOx) – Reference Method: Chemiluminescence

BS EN 14791: 2005 Determination of Mass Concentration of Sulphur Dioxide – Reference Method

43. The emissions for each LCP should be shown as accumulative totals so that the totals for the year to date are indicated (Schedule 1 Part 2 paragraph 5(e) of the Regulations). The final completed form for the year, which is to be submitted to the register and to the relevant site inspector by 31 January of the following year, becomes the annual report of each operator of a participating plant relating to the actual annual emission of each of the LCPD pollutants (Regulation 7).

44. The relevant regulator will have to verify these reports for every participating plant by 28 February of the following year (see note 6 on verification process).

45. It is important to note that the regulators will not verify the data on the register for the current year until 28 February of the following year. This means that the data shown throughout the current year will be provided by the operators but not verified by the regulators.

Question 2. Do you agree with the proposed requirement for data from the participating plant with a thermal input of between 50 and 100MW to be established on the most appropriate basis even if that means varying the respective PPC permit?

Question 3. Do you consider form RTA1 and all the other forms at the end of this consultation are suitable for the respective purpose?

Note 2

Transfer of emission allowances

46. Regulation 8 sets out the conditions associated with the transfer of emission allowances between participating plants. These are:

- 8(1)(a) both plants involved must complete a form TOA 1 (included in the annex to this consultation). This must be authorised by nominated members of staff from both plants;
- 8(1)(a) the completed form must be emailed to the Environment Agency within 10 working days of the transfer (8(3));
- 8(4) unless the above conditions are met, the transfer will become void and 8(5) the Environment Agency will record the transfer on the register, which 8(6) we must do within 10 working days of being notified (in accordance with the Regulations);

- 8(7) no emission allowance can be carried forward from one calendar year to the next (no banking);
- 8(8) the transfer of an emission allowance which results in the participating plant having a zero or less than zero emission allowance will also be void.

Question 4. Do you consider the above arrangements will allow the transfer arrangements to go in a transparent manner?

Note 3

Notification of the wish to transfer or acquire emission allowances

47. Paragraph 5 (c) and (d) requires the Environment Agency to put requests from the operators of the participating plants to either transfer or acquire emission allowances on the register. These interests have to be emailed to the register using form TAA 1 (included in the annex to this consultation) and authorised by a nominated member of staff from the plant.
48. These interests will be put on the register within 10 working days of an authorised form TAA 1 being received.
49. It is the operator's duty to make sure that these interests to transfer/acquire allowances are valid. If they no longer have an interest, then they should complete the second part of form TAA 1 and e-mail it to the Environment Agency, instructing us to remove the interest from the register. This will be done within 10 working days of us receiving the instruction.

Note 4

Plant closure (see Section 4.5 of the original consultation document and Regulation 9)

50. Operators of participating plants will be considered 'closed' by the relevant regulator according to the conditions set out in Section 9.4 of the UK National Plan for LCPD.¹⁵ It assumes the plant is closed:
- i) when an operator ceases operation with a view to that cessation being permanent:
or
 - ii) when, although it is intended that the plant will at a later stage resume operations, the period of closure is appreciably longer than would be regarded as normal for that plant.
51. It is the duty of the operator to give the regulator as much notice as possible that the plant is closing. If the regulator believes that a plant has *de facto* closed without giving enough or any notice, the regulator could consider enforcement action.
52. When the regulator receives the notice to close using NTC 1 (included in the annex to this consultation), he will let the Environment Agency as operator of the register know, so that we can put the notice on the register within 10 working days.
53. The relevant regulator will also let the operator of the plant that is to close and the Environment Agency as the register operator know how much the allocations for that plant must be reduced (as it will not operate for the whole of the year) using form

¹⁵ At www.defra.gov.uk/environment/airquality/lcpd

RAA 1 (included in the annex to this consultation). The allocation for the closed plant has to be recalculated because Article 4(6) of the LCPD states that closure ‘shall not result in an increase in the total annual emissions from the remaining plants covered by the NERP.’

54. To work out the reductions, the regulator needs to start with a ‘straight line’ assessment (this means taking no account of the actual emissions of the plant prior to its closure). However, the regulator will also be able to take into account seasonal or other characteristics of the plant’s operation¹⁶.

Note 5

Total annual amount of energy input

This is for England and Wales only, as Scotland and Northern Ireland have alternative schemes to obtain this data

55. In Part B of Annex VIII of the LCPD, each year member states and each LCP have to report the total annual amount of energy input related to the net calorific value, broken down in terms of the following five categories of fuel: biomass, other solid fuels, liquid fuels, natural gas and other gases.
56. Although this information will not be shown on the register, it seems convenient for each participating plant to report this information using form AAE 1 (included in the annex to this consultation) by 31 January of the following year at the same time they are submitting emissions data for the last quarter for the current year. This information, together with information from other non-participating LCPs, will be provided to Defra via the Environment Agency’s policy for submission to the European Commission.

Note 6

Verification process

57. Under Regulation 7 of the NERP Regulations, the regulator needs to verify the annual mass emission reports for each of the participating plants by 28 February of the following year. This can imply the use of third party verifiers as is frequently used for PPC and with EU ETS. However this option is not readily available for the NERP as there is no money within the Scheme to pay for it. If charging were to be introduced to pay for this, then this could prevent operators from trading and could seriously affect the liquidity of the Scheme.
58. In these circumstances we have assumed the meaning of verify to be to ‘prove to be true; confirm¹⁷’. To demonstrate this so that operators of participating LCPs within the NERP will have confidence in the Scheme, we will require
- Operators of participating LCPs to take all necessary measures that the data reported is of the same high quality as for PPC reporting. These requirements are set out in Note 1 of this Consultation on Reporting emission data.
 - The operator of a participating plant to sign the declaration to form RTA 1 each time it is submitted, accepting the responsibility that he has taken all reasonable

¹⁶ See paragraph 4.6 of Defra’s Consultation on the Operation of the NERP for a worked example

¹⁷ Collins English Dictionary and Thesaurus 2006

care to provide the highest quality data to the register. The inspector should make sure that the operator understands how important this declaration is.

- The inspector for the participating plant to check that the report of the annual mass emissions (completed form RTA 1) is in line with expected data. In those cases
 - Where he can accept this as a fair record of the actual emissions, he should countersign the form RTA 1 and e-mail it to the register for inclusion and also to the operator.
 - Where he is not able to accept the report, he should notify the Register and also the respective operator who has until 31 March of the following year to make the necessary changes. If he does not, this will be treated as a breach of the PPC permit for the installation and the regulator may take enforcement action.

59. As the register operator, the Environment Agency will let the respective Regulator and the operator know if the actual emissions for the given LCPD pollutants for the whole of the current year (as shown on the completed form RTA 1 – the operator's annual report) is greater than the total of the allowances held by the operator of the participating plants on 31 January of the following year.

60. This will give the operator the chance to acquire further allowances for the current year to at least balance their account by 31 March of the following year. If he does not do this, he will breach the PPC permit and the regulator may take enforcement action.

Question 5 Do you consider the approach described will meet the requirements of the verification process?
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Questions

1. Do you consider the arrangements to update the register will meet the requirements of the NERP Regulations 2007?
2. Do you agree with the proposed requirement for data from the participating plant with a thermal input of between 50 and 100MW to be established on the most appropriate basis even if that means varying the respective PPC permit?
3. Do you consider form RTA 1 and all other forms given at the end of this consultation are suitable?
4. Do you consider the above arrangements will allow the transfer arrangements to go in a transparent manner?
5. Do you consider the approach described will meet the requirements of the verification process?

Glossary

NERP	National Emission Reduction Plan
LCPD	Large Combustion Plants Directive
LCP	Large Combustion Plant
ELV	Emission Limit Value
PPC	Pollution Prevention and Control
BAT	Best Available Techniques
SO₂	Sulphur dioxide
NO_x	Nitrogen oxides
Dust	Particulates
SEPA	Scottish Environment Protection Agency
DoE (NI)	Department of the Environment (Northern Ireland)

Form RTA 1

Releases of LCPD pollutants to air from NERP participating plants

This form should be emailed to the register (nerp@environment-agency.gov.uk) and to the relevant site inspector within 28 days of the end of the previous quarter for every quarter.

Operational summary for the year 200..

Operator:

Site location:

Permit/variation number:

LCP:

Emissions	SO₂ (tonnes)	NO_x (tonnes)	Dust (tonnes)
January			
February			
March			
Overall total for quarter 1			
April			
May			
June			
Overall total for quarter 1 and 2			
July			
August			
September			
Overall total for quarter 1, 2 and 3			
October			
November			
December			
Overall total for quarter 1, 2, 3 and 4			

I confirm that this data is not knowingly reported with any omissions, errors or misrepresentation. All measurement equipment used to generate the data has been appropriately calibrated and maintained regularly; this includes calibration against traceable international measurement standards where available. The data is supported by appropriate record keeping. IT is designed, documented, tested, implemented, controlled and maintained to ensure reliable, accurate and timely processing of data; data handling and calculations have been appropriate; data has been checked for false and unusual measurements.

Signed on behalf of the operator.....Date.....

At the end of current year only

Verified by inspector by 28 February of the following year.....Date.....

Form AAE 1

LCPD reporting - energy usage summary for the year 200..

This form should be emailed to the register (nerp@environment-agency.gov.uk) and to the relevant site inspector within 28 days of the end of quarter 4 for the current year. This information, together with information from other non-participating LCPs, will be provided to Defra via the Environment Agency's policy for submission to the European Commission.

Operator:

Site location

LCP:

Permit/Variation number:

Fuel	Biomass	Other solid fuels incl. coal	Liquid fuels	Natural gas	Other gases	Total energy input
Parameter						
Fuel NCV (GJ/tonne)						
Annual fuel usage (tonnes)						
Annual energy input (GJ)						

Signed on behalf of the operator.....

Date.....

Form TOA 1

Transfer of emission allowances

This form should be emailed to the register (nerp@environment-agency.gov.uk) and to the relevant site inspectors.

Details of the transfer

NERP trading year	
LCPD pollutant transferred	
Name of LCP divesting NERP allowance	
Name of LCP acquiring NERP allowance	
Date of NERP allowance transfer	
Amount of transfer (tonnes)	
NERP allowance of divesting operator [insert name]	
• Before transfer	
• After transfer (now applicable)	
NERP allowance of acquiring operator [insert name]	
• Before transfer	
After transfer (now applicable)	

Commitment of divesting operator

By agreeing to this transfer of emissions bubble, I confirm that I accept the revised NERP allowance as stated above.

Signed on behalf of on
.....

Name Operator name Date

Commitment of acquiring operator

By agreeing to this transfer of emissions bubble, I confirm that I accept the revised NERP allowance as stated in the table above.

Signed on behalf of on
.....

Name Operator name Date

Form TAA 1

Notification of the interest to transfer or acquire allowances

This form should be emailed to the register (nerp@environment-agency.gov.uk) and to the relevant site inspector.

Details of interest

NERP trading year		
Name of LCP		
LCPD pollutant		
Interest to transfer/acquire allowances	To be transferred	To be acquired
Amount (tonnes)		
Date of interest		

Instruction to the Environment Agency to add the interest above to the register

Will you please add the interest datedabove to the NERP register

Signed on behalf of on
.....

Name Operator name Date

Instruction to the Environment Agency to delete the interest above from the register

Will you please delete the Interest datedabove from the NERP register

Signed on behalf of on
.....

Name Operator name Date

Form RAA 1

Notice to reduce annual allowances for participating plants, which have notified the relevant regulator and the Environment Agency as the register operator that they intend to close.

The regulator should email this form to the operator, to the register (nerp@environment-agency.gov.uk) and to the relevant site inspector.

Instruction to the operator and to the Environment Agency as the register operator.

Following your notice to close a participating plant within the NERP, the relevant regulator has reduced your allowances for the current year to reflect that your plant will not be operating for the whole of the year. These are set out below.

NERP trading year			
Name of LCP			
Date of closure			
Day in year	Out of 365	
	Initial allowance (tonnes)	Reduction (tonnes)	Reduced allowance (tonnes)
SO ₂			
NO _x			
Dust			

Signedon behalf of Regulator

Date.....

Telephone no.....

E-mail.....