

Consultation on the Transposition of the Industrial Emission Directive in England and Wales



Response by Association for Organics Recycling

1 Introduction

- 1.1 The Department for the Environment, Food and Rural Affairs (Defra) has invited consultations responses on the transposition of the Industrial Emission Directive (2010/75/EU) for England and Wales.
- 1.2 This Directive “recasts” seven existing Directives: those on integrated pollution prevention and control (IPPC), large combustion plants, waste incineration, activities using organic solvents and three on titanium dioxide production.
- 1.3 It sets environmental controls on large industrial plants and brings together seven overlapping Directives (covering similar industrial emission activities), into one piece of legislation on industrial emissions.
- 1.4 Schedule 7 of the draft Regulations to transpose the Directive sets out the requirements that apply to Part A(1) installations. These include:
 - The recovery, or mix of recovery and disposal of non-hazardous wastes (e.g. biowaste) with a capacity exceeding **75 tonnes per day** involving biological treatment; and
 - Where the only activity is anaerobic digestion (AD), the capacity threshold for this activity shall be **100 tonnes per day**.
- 1.5 This means that many composting, AD and other biological treatment operators will fall under the IED regime and may face significant additional compliance costs.
- 1.6 IED will apply to all new installations from 7th January 2013; to existing installations previously subject to the seven Directives that IED replaces from 7th January 201; and existing installations operating newly prescribed activities from 7th July 2015.
- 1.7 The consultation document, as well as a number of other documents including the draft regulations, an impact assessment and a guidance document on the requirements applying to Part A(1) installations can be found at:
<http://www.defra.gov.uk/consult/2012/03/12/industrial-emissions-1203/>.
- 1.8 The Association for Organics Recycling is the United Kingdom’s membership organisation, working on behalf of its members to raise awareness of the benefits of biological treatment processes and use of the outputs from such processes. The Association is committed to the sustainable management of biodegradable resources

by promoting the benefits of composting and other biological treatment techniques for the enhancement of the environment, business and society.

- 1.9 The Association aims to act as an advocate for the wider biological treatment industry and to represent its views in a constructive dialogue with policy makers. It envisages an industry in which best practice is shared, standards are maintained and surpassed and which makes a positive contribution to safeguarding the environment.
- 1.10 The Association currently has about 350 members including compost and digestate producers, local authorities, consultants, technology suppliers, users of treated biodegradable materials, academics, other membership organisations and individuals. Given that it represents the majority of compost producers in England, it particularly welcomes the opportunity to comment on the draft document.
- 1.11 The Association welcomes the above consultation and the opportunity to discuss any of the points raised in this response.

2 General comments

- 2.1 In the UK a wide range of practices within biowaste treatments currently exists. This variety allows flexibility and adaption to local cultural, social and geographical conditions. For example, in some areas of England such as Cornwall or Cumbria a network of decentralised small- to medium- sized composting sites could suit the local geographical conditions and biowaste quantities arising better than a few large scale centralised facilities. **It is therefore crucial that BAT conditions allow for flexibility and do not impose serious constraints on biowaste processes. One of the reasons that the UK biowaste industry has been so successful and has grown over the last 15 years has been as a result of the diversity of facilities and their ability to adapt to the fast moving economic and regulatory changes forced on them. If a high degree of prescriptive regulation is imposed on the industry it will lose its inherent ability to provide the current diversion rates as smaller producers will find the cost of compliance prohibitive.**
- 2.2 With regard to composting, 75 tonnes per day corresponds roughly to 23,000 – 27,000 tonnes per annum (depending on whether the site is accepting wastes on Sundays or not). With regard to anaerobic digestion, 100 tonnes per day corresponds to 31,000 to 37,000 tonnes per annum. **AfOR seeks clarification on how the 75 tonnes per day threshold would affect composting sites that treat less than 75 tonnes per day on certain days but more than 75 tonnes on other days; this is particularly relevant to our sector given the seasonality effect.**
- 2.3 **In addition, a large proportion of the current composting sites in the UK are likely to be affected and face significant costs as a result of the IED.** According to the latest survey of composting and biological waste treatment in the UK¹, 40.7 % (59) of the composting sites in Great Britain have a capacity above 25,000 tonnes per annum. All these sites are likely to be currently regulated under a 'non-PPC' permit, but will need to comply with IED by 7th July 2015.
- 2.4 There is still a significant proportion of composting sites (62%) in the UK that are operating through open air mechanically turned windrow composting processes and it

¹ WRAP, 2011. A study of the UK organics recycling industry in 2009. http://www.organics-recycling.org.uk/uploads/article1769/2009_Organics_Report_-_Final.pdf

is unclear how these sites will be able to comply with the IED provisions, in particular with those related to monitoring emissions and associated emission limits.

- 2.5 The Environment Agency (EA) is planning to consult the industry during June on a set of standard rules for composting and anaerobic digestion which will include provisions that will enable the operators to comply with the IED directive. AfOR welcomes this consultation and highlights the importance that **application and subsistence fees are maintained as near as possible to the current fees to limit the cost implications on the biowaste sector**. Current regulatory constraints on the sector are already making compliance costs difficult for industry to bear given that margins have been eroded in recent years and capital costs for the sector are high particularly for enclosed technologies.
- 2.6 It is AfOR's understanding that the EA also intends to review the Sector Guidance Notes ([S5.06](#)) or have some standalone guidance for composting, AD and MBT that are specific to those processes. The S5.06 focuses on the principles that have to be taken account of when determining the conditions of a waste installation permit under the Environmental Permitting Regulations. These are currently set out in Schedule 7 of the Regulations, with specific reference to Articles 3 and 9 of the IPPC Directive (2008/1/EC), which seek to ensure that:
- All appropriate measures are taken to prevent and reduce pollution through the application of Best Available Techniques (BAT) and no significant pollution is caused.
 - Measures necessary to prevent accidents and limit their consequences are taken.
 - The waste hierarchy is followed, and where waste is disposed of it is done so whilst avoiding or reducing any impact on the environment.
 - Energy is used efficiently.
- 2.7 **Given the relevant of the Sector Guidance Note or the process specific guidance's, it is fundamental that the industry is consulted prior to its release. Within the biowaste sector there is a wide range of technologies which will all have differing issues which need to be considered and consulted on, the importance of this cannot be stressed enough.**
- 2.8 **Compliance with the provisions within such a guidance document should NOT lead to disproportionately higher costs. The current improvement in the UKs recycling rates is in no small part due to the inclusion of organics and the growth of this sector. Future investment and growth in no small part to surety of regulation and consistency of its subsequent application**

3 Defra's consultation questions

AfOR has replied only to those questions that are thought to be of more relevance to AfOR's members.

Paragraph 10. Please consider the draft amending Regulations as a whole and comment on any perceived deficiencies or uncertainties.

Do you have any concerns about the proposed replacement Schedule 8?

We shall be grateful for comments on the form and content of that draft guidance.

The format of the guidance and its contents are sufficiently clear.

Paragraph 14.4. Are you content with the proposal not to transpose the option for a single permit to cover several parts of an installation operated by different operators? If not, can you demonstrate from a real example that allowing a permit to cover several parts of an installation operated by different operators will reduce overall regulatory burden whilst maintaining the environmental protection required by the Directive?

AfOR agrees with this proposal.

Paragraph 18.2. Is the draft Part A guidance accompanying this consultation paper clear and sufficient?

The guidance is clear, but it is important that it is accompanied by clear regulatory guidance on the criteria based on which the regulator will assess/evaluate whether a derogation as per article 15 (3) is necessary or not. Such criteria should be clear, transparent and applied consistently across the industry.

Paragraph 19.1. Do you consider that, in particular sectors, further use of standard rules approach could be made?

AfOR supports the use of standard rules, as they save time and money to both the operator and the regulator. However, as already highlighted above, it is absolutely crucial that the industry is properly consulted before the release of any new standard rules and any new associated guidance documents. Such consultation should happen in conjunction with the proposed charges for the standard permits, so that in replying the industry can take into account cost implications. An appropriate transitional period is also important to allow time for any significant changes to be adopted by industry.

Paragraph 21.2 Do you have views on how regulators can encourage the development and application of emerging techniques?

It is important that any existing regulatory constraints do not prevent emerging technologies developing due to their narrow and prescribed formulation. There should be a mechanism in place which allows consideration of emerging technologies to fit into existing regulatory frameworks.

Paragraph 22.4. Do you have any uncertainties about which waste management activities are now subject to IPPC requirements? If so, how would you like them remedied?

It is very important that the regulator **defines clearly what is meant by 'capacity per day'**. Currently permits and exemptions in England and Wales are based on maximum annual permitted capacity (tonnes per annum) or maximum quantities treated at any one time (tonnes). It is very important that clarity is provided on how the currently used units translate into maximum capacity per day. Just as an example, a site permitted to take a maximum of 75,000 tonnes per annum (equivalent to a maximum of 205 tonnes per day assuming 365 days in a year) may need to treat more than 205 tonnes in a day during peak time (e.g. in the summer months, when the quantity of grass cuttings is higher than in the winter months). **How many days over a specified period of time does the composting operation would need to hit the 75 tonnes per day threshold before the operation falls under the IED regime?**

The same considerations apply to the threshold of 100 tonnes per day relevant to anaerobic digestion.

Paragraph 31.3 Have you any comments upon this proposed means of incentivising permit applications in respect of new IPPC activities? Can you suggest any non-regulatory means by which the flow of permit applications to the Environment Agency can be spread?

AfOR agrees with this proposal. However it is crucial that operators are provided with all the information they need (charges, finalised standard rules permits and associated guidance documents) long before they make an application so that they know exactly what the associated implications are. Given the operational and capital costs that may be associated with implementing the IED provisions and the time that may take implementing such provisions, operators should be provided with the exact charges and rules as soon as possible. In particular, details regarding the definition of BAT for our sector requires clarity. The devil will be in the detail and this will give a better understanding what these implications will be on our sector. The sooner we have this information the better in order that the full costs of implementation can be evaluated.

As also highlighted in CIWM Biological Interest Group's response to this consultation, AfOR remarks that an effective way to encourage composting and AD operators to apply well before the required deadline is to set reduced application fees for those operators who make an application before the specified deadline i.e. 24th November 2014.

It is important that an appropriate transitional period is also given to new installations, which will need to comply with the Directive's provisions from 7th January 2013. This is particularly crucial, given that the relevant standard rules and guidance documents on IED compliance have not been made available as yet and the deadline is only six month away.

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