

# Guidance on the Trading Scheme for the National Emission Reduction Plan (NERP)

September 2009



## Summary

- The National Emission Reduction Plan (NERP) Trading Scheme starts on 1 January 2008. It applies to the whole of the UK and forms part of the Large Combustion Plants Directive (LCPD) (2001/80/EC).
- The NERP is partially implemented through the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007 (the NERP Regulations) and partially;
  - in England and Wales, through the Pollution Prevention and Control (Combustion Plants) (England) Directions 2007, the Pollution Prevention and Control (Combustion Plants) (Wales) Directions 2007 and the Environmental Permitting (England and Wales) Regulations 2007;
  - in Scotland, through the Pollution Prevention and Control (Combustion Plant (Scotland) Directions 2007; and
  - in Northern Ireland, through the Pollution Prevention and Control (Combustion Plants) Directions (Northern Ireland) 2007.
- The NERP will permit trading/transfer of all or part of the respective annual emission allowances of sulphur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>) and dust (particulates) allocated by Defra to the Large Combustion Plant (LCPs) within the NERP with other participating LCPs. These LCPs are listed in UK National Emission Reduction Plan for the implementation of the revised LCPD of February 2006 Update No.1 December 2007.
- The present Guidance has been jointly prepared by the UK Environmental Regulatory Authorities [the Environment Agency (EA), Scottish Environment Protection Agency (SEPA) and the Environment and Heritage Service (EHS(NI)), part of the Department of the Environment (Northern Ireland)] to advise Regulatory Authority staff and the Operators of LCPs within the NERP on the:
  - Operation of the NERP Trading Scheme; and
  - Verification of the Reports of the Annual Mass Emissions from the participating LCPs as required by the NERP Regulations.
- It is largely based on the Public Consultation on the operation of the NERP Register which was issued jointly by the Environmental Regulatory Authorities on 2 August 2007 following amendment to reflect the responses received. It also covers more recent developments and in particular the respective Pollution Prevention and Control (Combustion Plants) Directions.
- The Guidance is sub-divided into 5 main sections and covers:
  1. Description of the NERP;
  2. Requirements of the NERP Regulations, (which includes the requirement for the EA to establish a Register to coordinate trading within the Scheme and sets out the information to be contained in the Register) and the requirements of the Directions and in England and Wales, the Environmental Permitting Regulations;
  3. Pattern for changes to the Register during the trading year;
  4. Use of the forms required by the Scheme (the forms are provided on the NERP web pages);
  5. Verification of the data supplied by operators of the participating LCPs and especially for the Reports of the Annual Mass Emissions to ensure the validity of the Scheme. This is a key issue and is designed to cover all aspects of the Trading Scheme. Conditions within the PPC Permits will require operators to report emissions from the LCP within the Scheme. Failure to comply with such conditions will be dealt with in accordance with the Enforcement Policy of each Environmental Regulator. In particular the Environment Agency has amended its Enforcement and Prosecution Policy Guidance to state that its normal response in the case of failure to report data on NERP emissions is prosecution to ensure that the probity of the Scheme is not compromised.
- Details are also given of the contacts within the respective Regulatory Authorities to whom any queries should be addressed. In most cases these queries should be sent by email to [nerphelp@environment-agency.gov.uk](mailto:nerphelp@environment-agency.gov.uk)

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This September 2009 version of the guidance incorporates the following minor changes .

Section	Amendment
	Addition of change record
21	Insert new link to NERP Register
40	State forms are now on EA website, not in annex
48	Insert new link to pollution Inventory guidance
51	State forms are now on EA website, not in annex
56	State that allowance is amended rather than notice is placed on Register
56	State forms are now on EA website, not in annex
Annex II	Update contact details for 3 regulators
Annex III	State forms are now on EA website, not in annex

## 1.0 INTRODUCTION

1. On 1 January 2008 the UK is introducing a national trading scheme under the **National Emission Reduction Plan (NERP)**.<sup>1</sup> The NERP forms part of the Large Combustion Plants Directive<sup>2</sup> (LCPD) and will enable all or part of the annual emission allowances<sup>3</sup> of sulphur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>) and dust (particulates) allocated by Defra to existing Large Combustion Plants (LCPs) within the NERP<sup>4</sup> to be traded/transferred (see paragraph 8) with other participating LCPs.
2. The trading scheme applies to the whole of the UK and so this Guidance has been prepared jointly by the Environmental Regulatory Authorities who regulate the NERP and the related trading scheme in the UK. These are the Environment Agency, Scottish Environment Protection Agency (SEPA) and Northern Ireland Environment Agency, part of the Department of the Environment (Northern Ireland). As such, the Guidance will apply throughout the UK.
3. The aim is to advise Regulatory Authority staff members<sup>5</sup> and also operators of the LCPs within the Scheme on the operation of the Scheme and particularly on the verification of the reports of the annual mass emissions - a requirement of the NERP Regulations<sup>6</sup> (see also Section 3.5).
4. The Guidance is sub-divided into 5 main sections and these cover:
  - i) Description of the NERP;
  - ii) Requirements of the NERP Regulations (which includes the requirement for the Environment Agency to establish a Register to coordinate trading within the Scheme and sets out the information which will be contained in the Register) and the requirements of the Directions and in England and Wales only, the Environmental Permitting Regulations<sup>7</sup>;
  - iii) Pattern for changes to the Register during the Trading calendar year;
  - iv) Use of the forms required by the Scheme;
  - v) Verification of the data supplied by operators of the participating LCPs and especially for the Reports of Annual Mass Emissions which is an important process to ensure the credibility of the Scheme.

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<sup>1</sup> <http://www.defra.gov.uk/environment/airquality/eu-int/eu-directives/lcpd/index.htm> UK National Emission Reduction Plan for implementation of the revised Large Combustion Plants Directive (2001/80/EC) February 2006 Update No.1, December 2007

<sup>2</sup> 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 November 2001).

<sup>3</sup> The annual allowances for a given LCP takes the form of x tonnes of SO<sub>2</sub>, y tonnes of NO<sub>x</sub> and z tonnes of dust. Operators can trade part or all of any of these allowances throughout the Trading year. For convenience though the term "transfer of annual allowances" has been used throughout this Guidance to imply part or all of the allowances.

<sup>4</sup> Details of the LCPs within the NERP are given on the NERP website (see link in paragraph 21).

<sup>5</sup> This generalised term is used throughout this Guidance to accommodate the different names used for the respective staff in the various Environmental Regulatory Authorities.

<sup>6</sup> The Large Combustion (National Emission Reduction Plan) Regulations 2007 SI 2007 No. 2325

<sup>7</sup> Environmental Permitting (England and Wales) Regulations 2007 (SI 2007 No 3538) <http://www.opsi.gov.uk/si/si20073538>

5. During the summer of 2007 the Environmental Regulatory Authorities undertook a public consultation<sup>8</sup> on their initial proposals for the design of the Register and for the verification of the report of annual mass emissions.
6. This Guidance is largely based on that Consultation Document but has been amended to take into account where possible the responses received. It also includes the requirements of the various Directions issued during the last quarter of 2007 and for England and Wales only, the Environmental Permitting Regulations (see Section 3.2.2).

## **2.0 TERMS USED IN THE GUIDANCE**

7. A glossary of the terms used in the Guidance is included in Annex I.
8. It should be noted that the terms ‘trading’ and ‘transfer’ of all or part of the allowances between participating LCPs within the NERP are used interchangeably in the Guidance. As such no difference should be implied between these terms. Trading may be viewed, however, as the vehicle by which the transfer of allowances occurs.

## **3.0 GUIDANCE ON THE NERP TRADING SCHEME**

9. This is set out below using the 5 Sections outlined in paragraph 4 above:

### **3.1 SECTION 1 - DESCRIPTION OF THE NERP**

#### **3.1.1 LCPD and the NERP**

10. The LCPD sets respective minimum limits for emissions of SO<sub>2</sub>, NO<sub>x</sub> and dust to the air from LCPs with a rated thermal input equal to or greater than 50 MW. The standards set by the LCPD cannot prejudice those from the IPPC Directive<sup>9</sup>. Thus if BAT for a given process is tighter than the standards set by the LCPD, then BAT will be applied<sup>10</sup>.
11. The LCPD establishes categories of LCPs according to when they were first permitted. In general these are:
  - “Existing” - first permitted before 1 July 1987;
  - “New” - first permitted between 1 July 1987 and 27 November 2002 and those who submitted an application for a permit before 27 November 2002 and were put into operation before 27 November 2003; and
  - “New-new”<sup>11</sup> - first permitted after 27 November 2002.

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<sup>8</sup> Operating the National Emission Reduction Plan (NERP) Register – A Consultation Environment Agency, SEPA and Environment & Heritage Service (NI) 2 August 2007

<sup>9</sup> Council Directive 96/61/EC of 24 September 1996 concerning Integrated Pollution Prevention and Control (to be replaced by the amended Directive 2008/01 on 18 February 2008)

<sup>10</sup> It should be noted that the legal advice from SEPA’s lawyers on the Direction relating to plant covered by ELVs is that they are only able to put in the ELVs in the PPC Permit for those LCPs. This is because the Direction refers to the requirements of the LCPD and the ability to set tighter standards is a power rather than a duty or a requirement on SEPA.

<sup>11</sup> The term “new-new” is not used in the Directive. It is used here purely for convenience to distinguish new LCPs first permitted after 27 November 2002 (“new-new”) from those first permitted between 1 July 1987 and 27 November 2002 (“new”).

12. In particular for existing LCPs (which constitute the majority of LCPs in the UK) these are required to either:
  - Comply with the concentration-based emission limit values (ELVs) specified in Part A of Annexes III-VII of the LCPD;
  - Participate in the annual mass-based NERP as set out in Article 4(6) of the LCPD; or
  - Become exempt under Article 4(4) of the LCPD from the respective ELVs or from the NERP in exchange for not operating for more than 20,000 hours between 1 January 2008 and 31 December 2015 and then to close or to close by 31 December 2015, which ever is the sooner.
13. The NERP is designed to reduce the total annual emissions of SO<sub>2</sub>, NO<sub>x</sub> and dust from the participating existing LCPs to the levels that would have been achieved by applying the ELVs for existing plant given in Part A of Annexes III-VII of the LCPD for those in operation in 2000. This is 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 [Article 4(6)].
14. LCPs within the NERP will be required not to emit during each calendar year more SO<sub>2</sub>, NO<sub>x</sub> and dust than their respective emission allowance shown in the NERP Register as at 31 March of the following year (see also the Directions, Section 3.2.2). However under the trading scheme participating LCPs can acquire additional allowances from other LCPs in the NERP if they are unable to operate within their respective annual allowances or do not wish to fit the additional abatement equipment required. Equally surplus allowances can be transferred to other participating LCPs within the NERP. Thus the respective emission allowance shown will be the:
  - [Initial annual allowance] plus [any Acquired allowances] less [any Transferred allowances] less [Actual emissions during the trading year]; and this must never be less than zero.
15. In the UK, Defra required operators of existing LCPs to confirm by 3 February 2006 the route (as set out in paragraph 12) under which they wished to be regulated under the LCPD. The intention is that this decision will remain in place until at least 31 December 2015.
16. The outcome was that 94 LCPs (as of 31 December 2007) out of a total of some 122 existing LCPs in the UK and operated by some 40 different operators opted for the NERP and were listed in the National Plan. Of these
  - 76 were in England (61) and Wales (15);
  - 17 in Scotland; and
  - 1 in Northern Ireland.

## **3.2 SECTION 2 - REQUIREMENTS OF THE NERP REGULATIONS, DIRECTIONS AND THE ENVIRONMENTAL PERMITTING REGULATIONS**

### **3.2.1 NERP Regulations**

17. The NERP Regulations 2007 [see reference 6 on page 5], which came into force on 10 September 2007, provide the legal basis for the trading of the respective annual emission allowances between the participating LCPs within the UK NERP. In particular, they set out:

- **Reg 5:** The provision of information by the Secretary of State which includes the annual allowances for SO<sub>2</sub>, NO<sub>x</sub> and dust for each of the participating LCPs within the NERP; (see paragraph 19);
- **Reg 6 and Schedule 1 Part 2:** Requirement for the Environment Agency to establish a Register to co-ordinate the transfer arrangements and sets out the contents of the Register; (see paragraph 20) ;
- **Reg 7:** Verification of reports of annual mass emissions;(see paragraph 22);
- **Reg 8:** Transfers of emission allowances; (see paragraph 23);
- **Reg 9:** Determination of emission allowance on closure (see paragraph 24).

18. The requirements of each of these Regulations and of the Schedule are set out below:

19. **Reg 5: The provision of information by the Secretary of State.** After consulting with the Scottish Ministers, the National Assembly for Wales<sup>12</sup> and the Department of the Environment (Northern Ireland), the Secretary of State must supply to the Environment Agency no later than 20 November of each year details of the LCPs within the NERP and of their annual emission allowances for SO<sub>2</sub>, NO<sub>x</sub> and dust. (For 2007, these details must be notified within two months of the Regulations coming into force, that is, by 20 November 2007).

20. **Reg 6 and Schedule 1 Part 2: the requirements to establish a Register to co-ordinate the transfer arrangements and the contents of the Register;** in summary, these provisions require:

- the Environment Agency to establish and maintain the Register for the purposes of the NERP, which must be in electronic form. The Environment Agency will carry out this role on behalf of all three Environmental Regulatory Authorities in the UK; and
- the Register to contain the information detailed in Part 2 of Schedule 1 (see paragraph 34);
- SEPA and NIEA to ensure that links are provided on their web pages to the Register;
- the Register to contain certain information, including expressing of interest to acquire/transfer annual emission allowances, if so notified by the respective operator using Form TAA 1 to the Register (see Section 3.4.3).

21. The NERP Register has been set up and the link is given below:

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<sup>12</sup> This is correct as stated in the NERP Regs SI2325:2007. However, a miscellaneous amendment Regulation SI3476:2007 corrects this to Welsh Ministers (as this is an error in the NERP Regs). These do not come into force until 01/02/08.



The NERP Register can be found at  
<http://www.environment-agency.gov.uk/business/topics/pollution/32230.aspx>  
All correspondence with the Register will be via email. For that reason:

- A dedicated email address has been set up for operators of participating plants to correspond with the Register<sup>13</sup>
- An email based HelpDesk has also been set up to deal with administrative queries<sup>14</sup>.

**22. Reg 7: Verification of reports of annual mass emissions; (see Section 3.5);**

This requires the respective Environmental Regulatory Authorities to verify the annual report of the operator of a participating LCP relating to the actual mass emission of each of the LCPD pollutants (Form RTA1 see Section 3.4.1) and notify the Environment Agency (via the Register) of the outcome by 28 February of the following year<sup>15</sup>.

**23. Reg 8: Transfers of emission allowances; (see Section 3.4.2 below);** This establishes

- Notification of a transfer of allowances between participating LCPs by using Form TON1 completed to show the amounts to be transferred from LCP “A” to LCP “B” within the NERP and showing the names (please see note below<sup>16</sup> about the Register not requiring NERP forms to be signed by the authorised representatives of the operators) for both LCPs and which should be sent by email to the Register and to the respective Regulatory authority staff members;
- Trading of the current annual year’s emission allowances until 31 March of the following year. This gives sufficient time to enable the operators of the LCPs to ensure that they hold sufficient allowances to at least match their actual emissions of the LCPD pollutants during the year.

The following conditions in respect of transfers apply:

- There is no banking or borrowing of annual emission allowances between different years.
- Any transfer that results in a participating LCP having an emission allowance of zero or less than zero will not be recorded in the Register by the Environment Agency.

**24. Reg 9: Determination of emission allowance on closure; (see Section 3.4.4).** This establishes that when notification of the closure of a LCP is received by the respective Environmental Regulator, the respective Environmental Regulator must recalculate the allowance based on the part of the year that the plant was operating and notify the Register via e-mail using Form RAA 1 of the revised allowance.

<sup>13</sup> [nerp@environment-agency.gov.uk](mailto:nerp@environment-agency.gov.uk)

<sup>14</sup> [nerphelp@environment-agency.gov.uk](mailto:nerphelp@environment-agency.gov.uk)

<sup>15</sup> Although not specified in the Regulations, the Environment Agency will also notify the Register of the emissions verified by them by 28 February of the following year.

<sup>16</sup> **In order for the Scheme to work using only emails (and because electronic signatures are not that secure), the Register will not expect any of the NERP forms to be signed. They will need however to show the member of staff authorised by the operator, who has been notified to the Register, and who will take responsibility for the quality of the information supplied.**

### 3.2.2 PPC Directions and the Environmental Permitting Regulations

25. The Secretary of State and Welsh Ministers have directed the Environment Agency<sup>17</sup>; the Scottish Ministers have directed SEPA<sup>18</sup> and the DOE (NI) have directed NIEA<sup>19</sup> with respect to the carrying out of their functions. These Directions include requirements that PPC permits for existing plant subject to the National Emission Reduction Plan should contain certain conditions. As an example, the conditions relating to England are set out in the box below.
- 26 The Environmental Permitting Regulations will come into force in England and Wales only on 1 April 2008 and Schedule 15, paragraph 3(2) (b) of these is relevant to the implementation of the NERP. It requires the Environment Agency to exercise its relevant functions in relation to an LCP subject to the NERP so as to ensure compliance with Article 4(3) (b) of the LCPD, to the extent that such compliance is not ensured by the NERP Regulations. So, from 1 April 2008, the condition provision below will require the Environment Agency to ensure that PPC permits for LCP subject to the NERP contain all necessary conditions.

**PPC permit conditions for existing plant subject to the National Emission Reduction Plan taken from the Pollution Prevention and Control (Combustion Plants) (England) Directions 2007**

3. The Environment Agency shall ensure that all PPC permits relating to existing plants in England that are listed in the Annex of Tables for the UK National Plan as being subject to the National Emission Reduction Plan in accordance with Article 4(3)(b) of the Directive contains –

- a) a condition requiring the operator to notify the Environment Agency of any temporary or permanent closure;
- b) a condition requiring the operator to provide reports of actual annual mass emissions to the Environment Agency; and
- c) a condition requiring that the existing plant shall not in any calendar year emit more than the emission allowance as recorded on the NERP Register for that plant as adjusted by the Environment Agency following any transfer of allowances made during that year (or up to 31 March in the following calendar year), or as a result of a determination made in accordance with regulation 9 of the Large Combustion Plants (National Emission Reduction Plan) Regulations 2007; and
- d) any other conditions as it considers necessary to give effect to other relevant requirements of the Directive.

- 27 All relevant PPC Permits contained the NERP conditions (often by variation of the Permit for those permitted under PPC before the combustion processes tranche) in advance of the start of the NERP Trading Scheme on 1 January 2008.

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<sup>17</sup> Pollution Prevention and Control (Combustion Plants) (England) Directions 2007 issued on 31 October 2007 and Pollution Prevention and Control (Combustion Plants) (Wales) Directions 2007 (yet to be published)

<sup>18</sup> Pollution Prevention and Control (Combustion Plant (Scotland) Directions 2007 issued on 11 December 2007

<sup>19</sup> Pollution Prevention and Control (Combustion Plants) Directions (Northern Ireland) 2008 issued on 8 February 2008

### 3.3 THE NERP REGISTER AND PATTERN FOR UPDATES

28. It was mentioned above (paragraph 23) that operators of participating LCPs can only trade the current year's emission allowances up to 31 March of the following year and there is no banking or borrowing for previous or future years.
29. For that reason a separate Register for each calendar year will be set up by 1 December of the previous year (to confirm to operators of LCPs within the NERP of their allowances for the coming year) and it will last until 30 April of the following year (to allow for any trades made up to 31 March of the following year to be recorded in the Register and for the respective Environmental Regulatory Authorities to assess compliance and to consider any enforcement action needed). Thus each separate Register will last for a period of 17 months.
30. The PPC permits for all LCPs within the NERP contain a condition that the operator must not in any calendar year emit more than the emission allowance recorded on the NERP Register for that calendar year as at 31 March of the following year. So, compliance with the requirement will be assessed by 30 April of the following year by comparing the emissions of the particular LCP with the figures recorded in the Register at 31 March of the following year.
31. The Register will be updated every two weeks throughout the calendar year to show any trading in the previous two weeks. The version shown will state the date when it was last updated.
32. It should be noted that the Register will only be updated with the emission data from each participating plant for the previous quarter, four times a year. PPC permit conditions based on the respective PPC Combustion Plant Directions 2007 require operators to provide this information and the data should be submitted via email to the Register and to the respective Regulatory Authority staff member within 28 days of the end of each quarter. The Environment Agency will then update the Register with this information within 10 working days of notification (see also remarks in Section 3.4.1 Reporting emission data).
33. The information contained on the Register and the pattern of updates is set out below. In particular this deals with:
  - **Part 1: Before the trading scheme starts on 1 January 2008**
  - **Part 2: Before the trading scheme starts on each subsequent year after 1 January 2008**
  - **Part 3: From 1 January 2008 and subsequent years to 30 April of the respective following year**

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

34. The initial Register set up by the end November 2007 contains the following details:

<b>Action</b>	<b>Regulation/ consultation document</b>	<b>By whom</b>	<b>When</b>
The Register will be in the Form of an electronic spreadsheet, which must be clearly displayed on the Environment Agency's web pages.	<b>Regulation 6(4)</b>	<b>Environment Agency</b>	<b>November 2007</b>
Links must be provided from the SEPA and NIEA web pages to the Register on the Environment Agency's web pages.	<b>Regulation 6(5)</b>	<b>SEPA and NIEA with the Environment Agency</b>	<b>November 2007</b>
The following details will be put on the Register: For every participating plant: <ul style="list-style-type: none"> <li>• Name</li> <li>• Grid reference</li> <li>• Postal address</li> <li>• Name of the operator</li> </ul> For the operator of every participating plant: <ul style="list-style-type: none"> <li>• Name</li> <li>• Postal address</li> <li>• Email address</li> <li>• Telephone number</li> </ul> and if the operator is a company: <ul style="list-style-type: none"> <li>• Its Registered address</li> </ul> Respective annual emission allowances for SO <sub>2</sub> , NO <sub>x</sub> and dust	<b>Regulation 5(1) (a) and (b) and paragraphs 2,3, 4 and 5 (a)(i) of Part 2 of Schedule 1</b>	<b>Environment Agency</b>	<b>Within 10 working days of being notified by the Secretary of State by 10 November 2007 at the latest</b>

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

35. For future years after 2007, the following arrangements will be put in place. This will give Defra the opportunity to update the information on the Register and confirm details and respective annual allocations.

<b>Action</b>	<b>Regulation/ consultation document</b>	<b>By whom</b>	<b>When</b>
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 <sub>2</sub> , NO <sub>x</sub> and dust.	<b>Regulation 5(2)</b>	<b>Environment Agency</b>	<b>Within 10 working days of being notified by the Secretary of State, which should be no later</b>

			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**

36. The following table summarises the updates to the Register during this time.

Reference is made to specific notes which are included at the end of this part, to provide additional information.

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.	<b>Regulation 5(3)</b>	<b>Environment Agency</b>	<b>Within 10 working days of being notified by the Secretary of State</b>
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 mass emissions for the year.  <b><u>See Section 3.4.1 for details to be provided for every LCP and for Form RTA 1</u></b>	<b>Regulation 7</b>	<b>Environment Agency with SEPA and NIEA</b>  <b>Environment Agency with SEPA and NIEA</b>	<b>Within 10 working days of receiving notification (within 28 days of the end of the previous quarter -see paragraph 32 above)</b>  <b>Within 10 working days of receiving notification</b>

<p>Transfer of part of the respective emission allowance from one participating plant to another.</p> <p><b><u>See Section 3.4.2 for details of actions by respective operators and for transfer Form TON 1</u></b></p>	<b>Regulation 8</b>	<b>Environment Agency together with SEPA and NIEA</b>	<b>Within 10 working days of receiving completed transfer Form TON 1</b>
<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><b><u>See Section 3.4.3 for details of actions to be taken and for Form TAA 1</u></b></p>	<b>Paragraph 5(c) and (d) of Schedule 1 Part 2</b>	<b>Environment Agency together with SEPA and NIEA</b>	<b>Within 10 working days of receiving Form TAA 1</b>
<p>Reduced emission allowances for closing LCPs to be shown on Register.</p> <p><b><u>See Section 3.4.4 for details of actions to be taken in cases of closing and for Form NTC 1</u></b></p>	<b>Regulation 9</b>	<b>Environment Agency together with SEPA and NIEA</b>	<b>Within 10 working days of receiving Form NTC 1</b>
<p><b>For the LCPs in England and Wales only (SEPA and NIEA have separate procedures to report this data)</b></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><b>However, the energy input data will not be shown on the Register. It will be collated for submission to the European Commission via Defra through Industry Regulation HO Policy.</b></p> <p><b><u>See Section 3.4.5 for details to be provided and for Form AAE 1</u></b></p>	<b>Annex VIII Part B of the LCPD</b>	-	-
<p>Result of verification of operator's annual report of actual annual mass emissions from their participating plant.</p> <p><b><u>See Section 3.5 for details of the verification process.</u></b></p>	<b>Regulation 7</b>	<b>Environment Agency together with SEPA and NIEA</b>	<b>By 28 February of the following year</b>

Reconciliation of year's allowances against actual emissions from participating plant to give operators the chance to balance their accounts before 31 March of the following year.		<b>Environment Agency together with SEPA and NIEA</b>	<b>Within 10 working days of 31 March of the following year</b>
Overall reconciliation of total emissions from all participating against national bubbles for SO <sub>2</sub> , NO <sub>x</sub> and dust.	<b>Regulation 7</b>	<b>Environment Agency together with SEPA and NIEA</b>	<b>Within 10 working days of 31 March of the following year</b>

### **3.4 SECTION 4 USE OF THE FORMS REQUIRED BY THE SCHEME**

37. All the forms referred to in these sections are available electronically via the NERP Register web pages. They are also included in the Annex to this Guidance.

38. A description of the use of each of these forms is given below:

#### **3.4.1 Reporting emission data**

39. As mentioned in Paragraph 32, an operator of a participating LCP is required under the respective PPC permit, to submit a report giving details of the emissions of SO<sub>2</sub>, NO<sub>x</sub> and dust from the LCP for the previous quarter within 28 days of the end of the quarter.

40. This information will be used for inclusion in the Register on a quarterly basis and it should be sent via e-mail to the Register and also to the relevant Regulatory Authority staff member using Form RTA 1 Releases of LCPD Pollutants to the Air from NERP Participating LCPs (available on the Environment Agency NERP webpage). Each time it is submitted it must show the name of the authorised member of the operating company to confirm acceptance of the need to ensure acceptance of the declaration of the accuracy of the data submitted. This is an important part of the Verification Process (see Section 3.5).

41. Failure to comply with such conditions is also deemed to be serious to ensure that the probity of the Scheme is not compromised. Such breaches will be dealt with in accordance with the Enforcement Policy of the respective Environmental Regulator. The Environment Agency in particular has amended its Enforcement and Prosecution Policy Guidance to state that its normal response in the case of failure to report data on NERP emissions is a prosecution.

42. After Quarter 1 of the Trading Year, the form should also show cumulative data for the year to date each time it is submitted. By Quarter 4 (which should be submitted by 28 January of the following year) this will become the report of the annual mass emissions for the participating plant (Regulation 7 of the NERP

Regulations). It is this that needs to be verified by the respective Regulatory Authority (see Section 3.5).

43. A link to an electronic training course on the completion of Form RTA1 is given below:

The link to the electronic training course on the completion of Form RTA1 is  
[http://www.momenta.co.uk/rta\\_test/NERP\\_RT1\\_Final/NERP\\_RT1\\_Final.html](http://www.momenta.co.uk/rta_test/NERP_RT1_Final/NERP_RT1_Final.html)

44. The data provided in the completed RTA 1 forms will be usually accepted for Register and that does mean that the data shown on the Register throughout most of the Trading Year will be as reported by the operators. However the respective Regulatory Authority staff member will generally oversee the completed RTA1 Forms to ensure that they not contain major gross errors, say for example, in the units used (e.g. kg compared with tonnes). In such cases they will liaise with the operator to arrange for a corrected Form to be submitted and substituted for the original on the Register.
45. The NERP Regulations require the respective Environmental Regulator to verify the reports of annual mass emissions by 28 February of the following year. It is during the verification process that any errors (apart from the gross errors referred to above) in the data reported will be identified. If the verification process reveals a disproportionate number of inaccuracies, then the Environmental Regulatory Authorities may have to consider the need for third party verification of the RTA1 Forms each time they are submitted in a manner similar to that already adopted for the EU ETS Scheme. This is likely to involve charges being introduced on the operators of the participating LCPs to recover the additional costs involved.
46. Operators of participating plants using measurement, calculation or factor methods will have to demonstrate to the respective Regulatory Authority staff member 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 LCP.
47. The choice of the most appropriate method will be decided on an individual LCP basis taking into consideration that:
- even if it is not specifically set out in the LCPD, continuous monitoring should be the preferred approach for all solid and liquid fuelled LCPs regarding NO<sub>x</sub>, SO<sub>x</sub> and dust measurement, and for natural gas/gas fired plant for NO<sub>x</sub> (and SO<sub>x</sub> and dust for certain gas streams);
  - recommended minimum methods, as set out below, should be used;
  - the PPC permit condition that where appropriate 'Monitoring equipment, techniques, personnel and organisations employed for the emissions monitoring ... shall have either MCERTS certification or MCERTS accreditation (as appropriate), for England and Wales with appropriate equivalent measures being applied in Scotland and in Northern Ireland.
48. Operators of all plant within the NERP should make sure that their monitoring arrangements, including for flow, meet the requirements for good quality



monitoring, see below for a suitable example<sup>20</sup>. Note should also be taken of other guidance, for example, the relevant parts of the Joint Environment Programme (JEP) Protocols concerning monitoring and reporting of SO<sub>2</sub>, NO<sub>x</sub> and dust.<sup>21,22</sup> Preference remains however for continuous measurements of relevant emissions wherever possible. The following hierarchy and minimum standards apply in other cases:

### Hierarchy for reporting emissions from using discontinuous measures

Fuel	Gas	Liquid (Oil)	Solid (Coal)
<b>LCPD pollutant</b>			
<b>SO<sub>2</sub></b>	<ul style="list-style-type: none"> <li>Measured fuel content calculation</li> <li>LCP specific factor<sup>1</sup></li> <li>Generic factor<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>Measured fuel content calculation</li> <li>LCP specific factor<sup>1</sup></li> <li>Generic factor<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>Measured fuel content calculation</li> <li>LCP specific factor<sup>1</sup></li> <li>Generic factor<sup>2</sup></li> </ul>
<b>NO<sub>x</sub></b>	<ul style="list-style-type: none"> <li>LCP specific factor<sup>1</sup></li> <li>Generic factor<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>LCP specific factor<sup>1</sup></li> <li>Generic factor<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>LCP specific factor<sup>1</sup></li> <li>Generic factor<sup>2</sup></li> </ul>
<b>Dust</b>	<ul style="list-style-type: none"> <li>LCP specific factor<sup>1</sup></li> <li>Generic factor<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>LCP specific factor<sup>1</sup></li> <li>Generic factor<sup>2</sup></li> </ul>	<ul style="list-style-type: none"> <li>LCP specific factor<sup>1</sup></li> <li>Generic factor<sup>2</sup></li> </ul>

<sup>1</sup> Based on discontinuous extractive sampling

<sup>2</sup> Based on recognised published standards/literature

See Combustion Activities Guidance Note on Pollution Inventory Reporting at <http://www.environment-agency.gov.uk/business/topics/pollution/32272.aspx>

### Minimum standards for air emissions monitoring

Fuel	Coal/solid	Oil/liquid	Gas
<b>SO<sub>2</sub></b>	BS EN 14791: 2005	BS EN 14791: 2005	BS EN 14791: 2005
<b>NO<sub>x</sub></b>	BS EN 14792: 2005	BS EN 14792: 2005	BS EN 14792: 2005
<b>Dust</b>	BS EN 13284-1: 2002	BS EN 13284-1: 2002	BS EN 13284-1: 2002

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

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

<sup>20</sup> EA Publication: Applications for PPC Assessment of Monitoring Arrangements: Emissions to Air (May 2006)

<sup>21</sup> Graham, D.P., "Monitoring SO<sub>2</sub>, NO<sub>x</sub> and dust emissions from power stations", PT/06/BE1916/R, December 2006 (and subsequent updates)

<sup>22</sup> Graham, D.P., Salway, A.G., "Use of CEMs for reporting SO<sub>2</sub>, NO<sub>x</sub> and dust emissions under PPC and the LCPD", PT/06/BE1917/R, December 2006 (and subsequent updates)

### **3.4.2 Transfer of emission allowances**

49. Regulation 8 of the NERP Regulations sets out the conditions associated with the transfer of emission allowances between participating plants. These are:
- 8(1) (a) both LCPs involved must complete a Form TON 1 (included in the annex to this Guidance). This must be authorised by nominated members of staff from both LCPs ;
  - 8(2) transfers may be made during the calendar year in respect of which the allowance has been allocated and up until 31 March of the following year;
  - 8(1)(b) and 8(3) the completed form must be emailed to the Environment Agency (as Register holder) within 5 working days of the transfer;
  - 8(4) and (5) if the form is not completed correctly and within the correct time limit, the transfer will become void and the Environment Agency (as Register holder) will not record the transfer;
  - 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 has no effect.
50. Before the Environment Agency will record any transfer between participating LCPs on the Register, both operators of the respective LCPs must have informed the Register the names of the staff who are authorised by the company to submit Form TON 1 and Form TAA 1 (see below). These names will be given on the NERP website against details of the LCP within the NERP (see reference 4 on page 5).

### **3.4.3 Notification of the wish to transfer or acquire emission allowances**

51. Paragraph 5 (c) and (d) of Schedule 1, Part 2 of the NERP Regulations requires the Environment Agency if notified to put requests from the operators of the participating LCPs to either transfer or acquire emission allowances on the Register. These expressions of interest must be emailed to the Register using Form TAA 1 (available on the Environment Agency NERP webpage) and must show the name of the nominated member from Operator's staff responsible for these expressions.
52. These expressions of interest will be put on the Register within 10 working days of an authorised Form TAA 1 being received.
53. It is the operator's duty to make sure that these expressions of interest 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 Register, instructing it to remove the expression of interest from the Register. This will be done within 10 working days of the Environment Agency receiving the instruction.

### **3.4.4 Plant closure (see also Section 4.5 of the original consultation document and Regulation 9)**

54. Operators of participating LCPs will be considered 'closed' by the relevant Environmental Regulator according to the conditions set out in Section 9.4 of the Update to the UK National Emission Reduction Plan for LCPD (see reference 1). In summary, Section 9.4 assumes the plant is closed when:
- i) an operator ceases operation with a view to that cessation being permanent; or
  - ii) 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.
55. The PPC permit condition will require the operator to give the relevant Environmental 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 will consider enforcement action.
56. The operator is also required to inform the Register of the intention to close using Form NTC 1 (available on the Environment Agency NERP webpage), so that the emission allowance can be amended on the Register.
57. The relevant Environmental Regulator will also notify the operator of the closing plant and the Register of the revised emission allowance for that plant (as it will not operate for the whole of the annual year) using Form RAA 1 (also included in the annex to this Guidance). This requirement to recalculate the allowances for the closing plant is because Article 4(6) of the LCPD states that closure 'shall not result in an increase in the total annual emissions from the remaining LCPs covered by the NERP.'
58. To work out the reduction, the relevant Environmental Regulator will have regard to the example given in Section 4.6 of Defra Consultation on the NERP Regulations issued on 2 February 2007<sup>23</sup>. In summary, this will involve starting with a 'straight line' assessment (i.e. taking no account of the actual emissions of the plant prior to its closure). However, the regulator may also take into account seasonal or other characteristics of the plant's operation in arriving at the recalculated allowances.

### **3.4.5 Total annual amount of energy input for each LCP (Please note this section refers to LCPs in England and Wales only, as Scotland and Northern Ireland have alternative schemes to obtain this data).**

59. The requirement to report the total annual amount of energy input for every LCP under the LCPD is outside of the scope of the NERP. However it was considered convenient to obtain it via the NERP Register for those LCPs (in England and Wales only) under the NERP since they constitute about 75% of all LCPs in the UK.

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<sup>23</sup> Consultation issued by Defra on 2 February 2007 on the Operation of the UK NERP under the LCPD

60. Thus under Part B of Annex VIII of the LCPD on 'Determination of total annual emissions of combustion plants', Member States are required each year starting in 2004 to compile an inventory for each LCP of 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.
61. Each participating plant within the NERP in England and Wales is required to report this information using Form AAE 1 (included in the annex to this Guidance) by 31 January of the following year. This information, together with that from the LCPs outside the NERP in England and Wales and for all LCPs in Scotland and Northern Ireland, will be provided to Defra for submission to the European Commission.

### **3.5 VERIFICATION OF THE REPORTS OF THE ANNUAL MASS EMISSIONS**

62. Verification of the reports of the annual mass emissions is one of the most important aspects of the Trading Scheme in order to demonstrate the overall credibility of the approach taken. Considerable amounts of money could be involved in the Scheme and operators must have confidence that it is underpinned by reliable reporting if they are to trade their NERP emission allowances with any certainty.
63. The requirement for the verification of these reports is set out in Regulation 7 of the NERP Regulations. This requires that the respective Environmental Regulator must
- verify the annual report of each operator of a participating plant (in the part of the UK for which the Regulator is responsible) relating to the actual annual mass emission of each of the LCPD pollutants from the participating plant; and
  - notify the Register by 28 February of the following year of the emissions verified.
64. The NERP Regulations do not define the term 'verify'. Accordingly the Environmental Regulatory Authorities have taken it to be the dictionary definition as 'to prove to be true; 'confirm'; 'to check or determine the correctness or truth of by investigation'<sup>24</sup>.
65. In order to achieve this, the Regulators intend that the verification process should be more than just a once off annual check of the reports of annual mass emissions, and to be an overarching structure that is in place throughout the year and which sits behind the data provided to demonstrate the overall credibility of the whole scheme.
66. In particular the Regulatory Authorities will require the operator of the LCP to take into account a number of key issues throughout the trading year to meet the requirements of the Scheme. Many of these will form part of the normal regulation of the respective PPC Permit for the particular LCP but will be of heightened importance. The respective Regulatory Authority staff member should tailor the approach according to their experience of the operator of the

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<sup>24</sup> Collins English Dictionary and Thesaurus 2006

respective LCP. This will enable Service Level Agreements (SLAs) to be established between the Regulatory Authority staff members and the Register.

67. A number of these key issues are given below. It should be noted that these are not intended to be exhaustive and variation should be expected between the various Environmental Regulatory Authorities in view of their particular regulatory approach. Nevertheless the Regulators should consider the following points:

- Operators of participating LCPs are required to take all necessary measures throughout the year so that the data reported are of a high standard. Since this will be based largely on PPC reporting, it should already be to that appropriate standard;
- The monitoring should be to MCERT standard in England and Wales, with appropriate equivalent measures being applied in Scotland and in Northern Ireland;
- Operators should take particular care to choose the most appropriate method for monitoring to ensure that the results from LCPs with a thermal input within the 50 – 100MW range are comparable with those with a thermal input >100 MW. Consideration of these requirements are set out above in Section 3.4.1 Reporting emission data; the presumption is that continuous monitoring will be chosen whenever possible.
- Regulatory Authority staff members should check adherence of these requirements at appropriate times during PPC LCP visits throughout the year perhaps where appropriate by comparison of the monitoring data received with those from previous years;
- The operator of a participating plant should always show the name of the nominated staff who accepts responsibility for the quality of the data supplied each time Form RTA 1 is submitted in order to signify acceptance of the requirement that all reasonable care has been taken to provide good quality data to the Register;
- The Regulatory Authority staff member for the participating plant should cross-check Form RTA 1 each time it is submitted by comparison with previous quarters. This should help to avoid gross errors being recorded in the Register (for example, errors in the units used). In which case the operator should be contacted to provide corrected data. Apart from that the data shown on the Register will be as supplied by the operator and the responsibility remains on the operator to ensure the trueness and quality of the data.
- Where the Regulatory Authority staff member is dissatisfied with the quality of the data supplied, either during the year or following the verification process, he should consider taking action under the normal provisions of PPC;
- The Regulatory Authority staff member should inform the Operator the extreme measures likely to be taken in cases of failure to report the NERP data to an appropriate standard;
- By 28 February of the following year the respective Regulatory Authority staff member will be required to verify the data in the report of the annual mass emissions (completed Form RTA 1) to check that it is consistent with expectations and often in line with historical data submitted.
- The starting point for the Regulatory Authority staff member to check and verify Form RTA1 will always be knowledge of the appropriate monitoring

and reporting methodology (including QC/QA) already in place as a result of the PPC permit determination, and evidence of satisfactory implementation from, for example, site visits and knowledge of the operator's quality management and environmental management systems.

- Therefore, the checks and verification of Form RTA1 will be usually confined to a desktop study of the reported data for apparent anomalies compared to historic returns (so called "vertical" checks), and comparisons with emissions estimated, where possible, by parallel means (so called "horizontal" checks).
  - Thus the vertical approach compares the data with those reported for previous years/analogous quarters, looking for anomalies that cannot be explained due to changes in the fuels or material used (amounts or types), or in the processes operated (e.g. energy efficiency improvements).
  - Whereas the horizontal approach looks to compare the reported emissions with data from different operational data collection systems, such as fuel or material consumptions, use of emission factors, check monitoring, and calculation of emissions.
  - In those cases:
    - Where the Regulatory Authority staff member can accept the report as a fair record of the actual annual emissions, they should show this by deleting the "not verified" option at the bottom of the Form RTA 1 adding his name and the date and e-mailing the completed Form to the Register and also to the operator;
    - Where he is not able to verify the report, he should show this by deleting the "verified" option at the bottom of the Form RTA 1 adding his name and the date and e-mailing the completed Form to the Register and also to the operator. He should then examine why the data cannot be verified and consider and instigate the appropriate response, which is likely to be a prosecution.
68. Even though it is the individual operator's responsibility to ensure that the actual emissions for the given LCPD pollutants for the whole of the current Trading year do not exceed the individual allowances held on 31 January of the following year, the verification process provides an opportunity for the respective Regulatory Authority staff member to remind the operator in cases of non-compliance and the need to become compliant.
69. This will give the operator the opportunity to acquire further allowances by 31 March of the following year to at least balance their account. Compliance will be assessed by 30 April. If the operator still does not have enough allowances to at least match his emissions from the previous year, this will be a breach of a PPC permit condition and the relevant Environmental Regulator will take enforcement action which in most cases would be a prosecution.

#### **4.0 CONTACTS WITHIN THE REGULATORY AUTHORITIES**

69. Details of the contacts within the respective Environmental Regulatory Authorities to whom any queries should be addressed are given in Annex II. However in most cases queries should be sent by email to [nerphelp@environment-agency.gov.uk](mailto:nerphelp@environment-agency.gov.uk)

## **Annex I**

### **Glossary of Terms Used**

<b>NERP</b>	National Emission Reduction Plan
<b>LCPD</b>	Large Combustion Plant Directive
<b>LCP</b>	Large Combustion Plant
<b>ELV</b>	Emission Limit Value
<b>PPC</b>	Pollution Prevention and Control
<b>BAT</b>	Best Available Techniques
<b>SO<sub>2</sub></b>	Sulphur dioxide
<b>NO<sub>x</sub></b>	Nitrogen oxides
<b>Dust</b>	Particulate
<b>SEPA</b>	Scottish Environment Protection Agency
<b>NIEA</b>	Northern Ireland Environment Agency

## **Annex II**

### **Details of contacts within the Environmental Regulatory Authorities**

Please note that in most cases queries should be sent to by email to [nerphelp@environment-agency.gov.uk](mailto:nerphelp@environment-agency.gov.uk).

<b>Coordinators for the NERP Trading Scheme</b>
<p><b>John Henderson</b> Policy Advisor, Industry Regulation Environment Agency Block 1 Government Buildings Burghill Road Westbury on Trym Bristol BS10 6BF</p> <hr/> <p>Email: <a href="mailto:john.henderson@environment-agency.gov.uk">john.henderson@environment-agency.gov.uk</a> Tel: 01473 706787</p>
<p><b>Louise Murphy</b> Principal Policy Officer Scottish Environment Protection Agency Erskine Court Castle Business Park Stirling FK9 4TR</p> <hr/> <p>E-mail: <a href="mailto:louise.murphy@sepa.org.uk">louise.murphy@sepa.org.uk</a> Tel: 01786 452481</p>
<p><b>Keith Bradley</b> Principal Pollution Inspector Northern Ireland Environment Agency Klondyke Building Cromac Avenue Gasworks Business Park Lower Ormeau Road Belfast BT7 2JA</p> <hr/> <p>E-mail: <a href="mailto:keith.bradley@doeni.gov.uk">keith.bradley@doeni.gov.uk</a> Tel: 02890 569285</p>



## **Annex III**

### **Forms**

The forms are now available on the NERP webpage to ensure only the updated forms are available to operators.

<http://www.environment-agency.gov.uk/business/topics/pollution/32230.aspx>