

REA Member Meeting Notes:

Modernising Environmental Permitting Consultation

Consultation Overview

Consultation timeline:

- Members, please send comments to jenny@r-e-a.net by 6th October
- REA Draft consultation response circulated 10th October
- Final Deadline: 21st October 2025

Summary: This consultation outlines the direction of travel on policy developments and is intended to be relatively high-level. It covers five chapters, each focusing on a broad theme:

1. Enabling innovation and encouraging new technologies and techniques
2. Agile standard – rapid, predictable and integrated standard setting
3. Proportionate regulation and coherence in the framework
4. Regulator effectiveness and efficiency
5. A transparent framework

Next steps:

- Following the consultation, Defra will prepare and publish a response, likely early next year
- For most policy areas, Defra plans to issue subsequent consultations on the details of policy development and introduction of the regulatory regime so there will likely be another opportunity to feed in on the details at a later stage
- Following this, regulatory technical working groups will draft the relevant technical standards. There may not be a formal call for evidence at this stage, but Defra intends to gather evidence to inform this process.

Q&A and Discussion

Members asked for further details and clarification on four topics within the consultation:

1. Non-waste AD
2. Battery Energy Storage Systems (BESS)
3. Registration for Small Mobile Combustion Plants (MCPs)
4. Planning alignment with permitting

These are most relevant to Ch 3: 'Proportionate regulation and coherence in the framework'.

Defra provided an overview of the topics before responding to questions – see below.

Non-waste AD

The consultation proposes bringing AD processes with non-waste feedstocks under EPR regulations. The rationale offered was that historically, AD facilities processing wastes have been regulated as it comes under the BAT for waste treatment. However, Defra is now considering

whether it is more appropriate to regulate the AD process itself rather than the inputs as the risks associated with the AD process are very similar irrespective of feedstock.

Q: What level of detail does Defra want in response to the consultation question on non-waste AD?

A: At this stage, Defra is seeking broad input on operators' views of this proposal – high-level support or opposition and reasons why, as well as any factors Defra should be considering that it may have missed (e.g., potential benefits or harms). If the decision to regulate non-waste AD goes forward, Defra will consult on the specific details of the regulation at a later date.

Q: If taken forward, what would the timescales be for implementation?

A: Defra hasn't gotten this far yet and wouldn't be able to give an informed answer.

Q: Is Defra considering allocating any additional resource to the EA to account for the increased regulatory and administrative burden likely to arise if a greater number of sites are in need of permits (considering permitting queues are already quite lengthy)?

A: Yes, Defra plans to work closely with the EA who is already working hard to bring down permitting queues and speed up the process. The EA has methods in place for dealing with such operational challenges and resourcing needs.

Q: If it were to go forward, how would the change in permitting requirements apply to existing non-waste AD facilities?

A: Typically, when new requirements are introduced, new facilities will need to comply with the changes immediately, whereas existing facilities will have extra time (e.g. 4 years) to implement the standards. The regulator can have some discretion on the timelines for existing facilities.

Member Comment: Some of the sub 500kW FIT on-farm AD sites will only have so long of their subsidy period left. Potentially this might mean that the cost of compliance could shut down existing plants (e.g., depending on cost of concrete, retrofitting machinery for BAT compliance on flares, etc.). For some sites, will it be worth it?

Defra Response: Part of the consultation mentions the exploration of thresholds for smaller plants – potentially this could help?

Q: If a more detailed consultation goes forward on non-waste AD in future, would it be likely that Defra would carry out a financial impact assessment?

A: Yes, Defra would have to carry out an impact assessment [interpreted as including environmental, human health and financial impacts].

Q: When the more technical phase of work comes along [if Defra decides to progress to consultation on bringing non-waste AD into the Environmental Permitting Regime], will there be a call for evidence? There will be some similarities between currently permitted and non-permitted AD sites but also some stark differences.

A: There will be a few stages. The next consultation will look at introduction of the regulatory regime then regulator technical working groups will write the technical standards and this can

include industry stakeholders. Unsure if there will be a formal call for evidence but evidence will be welcome, e.g. when preparing the impact assessment.

Battery Energy Storage Systems (BESS)

The proposal to regulate battery storage has been in the public domain for a couple of years (through the Energy Act and government publications relevant to the clean power mission). This would see battery energy storage recognised as energy infrastructure and regulated as such, recognising some risks including fire. Like the process to develop regulation of non-waste AD, Defra would issue a consultation on the detail and then technical working groups would draft the standards for regulation of BESS. Likewise, new sites would be expected to comply with the regulations immediately whereas existing sites would likely be given a lead time for compliance.

Q: Would timelines for developing regulation be relatively quick given that BESS is a fairly standard technology?

A: It could be, but Defra will need to do some prioritising after this round of consultation. In your consultation responses, it would be useful to note any policies that seem like a high priority to take forward – feedback on policy priorities is encouraged for all topic areas, not BESS only. It's too early to share specific timelines but battery storage could be quicker because the proposal has been around for a while, although with further consultation and standards development, it will still be some time until final implementation.

REA Comment: We've been involved with the BSI standards, DESNZ and Health & Safety groups so happy to be link in with them.

Q: Aside from the size element of BESS, am I right in assuming there would be the same regulatory approach for both Front-of-Meter (FoM) and Behind-the-Meter (BtM) BESS installations?

A: In terms of the regulations, it is the activity that matters – whether in front of or behind meter. The same activities will be regulated in the same way, whether they are FoM or BtM BESS installations. However, there may be some considerations for thresholds and Defra will seek to make use of the lightest touch regulation necessary for a particular size of operation.

Q: There are many types of energy storage technology besides batteries – is there an intention to expand the regulation to other forms of energy storage (e.g. cryogenic)?

A: Defra will be considering what counts as 'battery energy storage'; this consultation relates to storage of electrical energy in batteries. Other forms of energy storage (e.g. heat/kinetic) are not captured by the consultation but will need to be looked at in future. Generally, Defra is interested in regulating activities that produce emissions during their use – which have emissions-related challenges in certain circumstances (including batteries).

Registration for Small Mobile Combustion Plants (MCPs)

The consultation states that 15k sites would fall into this category so Defra would need to move relatively quickly. For MCPs, Defra is considering introducing a registration approach that seems more proportionate for this kind of lower risk plant (e.g. in line with the directive and where there are more manufacturing standards). The registration approach would cost operators less

than a full permit and likely help with waiting times due to the more minimal approach relative to permits. The consultation contains more detail on the EA's role in terms of enforcement.

Q: Would there be different tiers of regulation for different fuel types? Gas is relatively low risk but there are no standard rules for biomass – only biogas, diesel, and gas. Biomass is a significant portion of the 15k MCPs due to the RHI, which raises concerns about the impact on biomass boilers. E.g. will the registration scheme be similar to waste exemption registrations, and will there be a set of criteria that must be met to qualify?

A: Biomass is one area Defra would like input on and will pass this on to policy lead. Regarding 'meeting the bar' to qualify for a registration, plant operators would need to meet specific parameters in terms of scope and demonstrate they're meeting relevant limits, but it would be lighter touch than a full permit.

Member Comment: Perhaps as part of the registration procedure this could be demonstrated through an MCERTS certificate (as currently must be done by permitted sites to prove compliance with emissions limits). It would be sensible for there to be some level of testing and provision of evidence that emissions limits will not be exceeded, for registration to be applicable to the MCP operator.

Defra Response: This is something the Environment Agency could consider regarding compliance with particular standards.

Q: Would the new registration apply to MCP sites that do not already have an environmental permit or would everything with an MCERT move from permitting to registration only? (The landfill gas sector will have to hit MCERTs and larger plants already have this. The question is also relevant to the AD sector. The sites with permits have to comply with emissions limits and will have to comply with MCP requirements from 2030.)

A: The intention in the consultation proposal is that low risk MCPs that don't currently have a permit would fall into this category but will double check for the sake of clarity and ask Defra's policy lead to follow-up.

Planning Alignment with Permitting

Member Comment: There are different requirements for odour and air quality assessments for planning vs permitting. It would be useful to have an alignment of the permitting and planning requirements, and also between Natural England and the EA.

Defra Response: Planning and Permitting regimes are in place to do different things and should therefore be separate assessment processes. An item that's come up previously is that each regime requires different datasets which cover similar topics (e.g. air quality), and therefore it might be possible to streamline so that one dataset is supplied and used for both processes.

Member Response: The other disconnect is that the Local Planning Authorities and planning committees do not understand where the EA's regulatory responsibilities begin. They often speak to them about planning conditions so there is often a disconnect and duplication (e.g. requesting Nutrient Management Plans for spreading digestate, yet this falls under NVZ rules, Farming Rules for Water and other farming regulations). There may need for greater clarity in

the form of guidance for the planning authority and the public but [this member is] not convinced this should come from industry – it may be more appropriate to come from Defra.

Member Comment: The consultation states everything should be done side-by-side (i.e. 'Twin Tracking'), but this doesn't consider the cost of planning and permitting applications, the cost of equipment when considering contracts with suppliers around flue emission and noise limits. A sensible developer can come up with planning designs that take them through to permitting. It seems dangerous to require permitting and planning to be done side-by-side.

Defra Response: The part in the consultation on Twin Tracking (TT) is meant to be an encouragement rather than a requirement because TT may not always be best route. The proposal to do things in parallel was in response to some installations operators saying that the end-to-end process [for getting planning permission and permit authorisation/change] take too long, so TT is meant to be an option if speed is the priority. The other proposal is on outline permitting which is very early stages.

Member Response: The context is helpful and with that in mind the TT approach would be very useful in some cases. It would still be helpful if Defra could map out the requirements between planning and permitting – the differences are understandable but there might also be room for some efficiencies. The H1 tool the EA requires people to use may need to be updated alongside policy changes – if tools are better and less time needs to be spent on extensive modelling, things may happen more quickly.

Member Comment: With regard to outline planning approval, this is quite tricky if you've got a complex site as things may change. For less complex permits it could be a great way to speed up the queue but maybe not for complex ones. Additionally, the EA tend to want to assess things all really rigorously so would be important to clarify the EA's role here.

Defra Response: The proposal on outline permitting wouldn't be final permit approval. Intention behind it came from a chicken and egg scenario in which a site wanted to gather investment but needed to prove it could get a permit. Outline permitting wouldn't necessarily prove that someone could get a final permit, so maybe not worth pursuing but Defra want to know if it would be useful or if it would just add to the permitting queue.

Member Response: Typically, people are unwilling to apply for a permit before they get planning permission. From what Defra's suggested, it would be super useful if the EA could facilitate a quick turnaround (e.g. if the operator/developer could write a pre-assessment and EA could rubber stamp it).

Defra Response: Defra don't necessarily want to add too many more options as the EA already have pre-application service and support service.

Member Comment: Having been on the consulting side and development side, nimble decision-making is really key. Having the EA in a position to make decisions and be proactive would be amazing. From a business perspective, it can be very difficult to make decisions when it takes 4-5 months to go through each phase of planning and permitting – the timeframes can be really quite significant.