

The Greater London Authority

GLA response to the consultation on exemptions to the Non Road Mobile Machinery (NRMM) Low Emission Zone – Version 2¹

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¹ This document contains a small number of changes to be consistent with the updated exemption and retrofit policy issued on March 2016.

Introduction

In summer 2015², the Greater London Authority (GLA) consulted on an exemptions policy to the new Non Road Mobile Machinery (NRMM) Low Emission Zone, which applies to all construction sites in the Central Activities Zone (ie central London) and sites building more than ten homes or larger than 1,000 square feet in Greater London.

The GLA received twenty-seven responses to the consultation³ with a number of common themes, questions and suggestions. This document outlines the GLA's response to the consultation. The first iteration was published in August 2015 and it has since been updated in February 2016 to ensure it is consistent with the updated exemptions and retrofit policy.

NRMM policy committee

Greater London Authority
Construction Plant-hire Association
The Society of Motor Manufacturers and Traders Limited
Energy Savings Trust
Transport for London
Crossrail Ltd (Advisory role)
HS2 Ltd (Advisory role)
Environmental Industries Commission
AMEC Foster Wheeler
Kings College London
Construction Equipment Association
Association of Manufacturers of Power Generating Systems

² 22 May 2015 to 3 July 2015

³ See https://nrmm.london/sites/default/files/upload-docs/NRMM%20Consultation%20Responses_final.pdf

GLA response to consultation

Overview of the consultation responses

It is noted there was a great deal of support overall for the exemption policy and the categories provided. The proposed system will allow the industry to see where there are gaps in compliance and respond accordingly. The importance of retrofitting was highlighted. Several comments implied that a central database would be an essential tool for efficient operation of the scheme.

The main issues foreseen with enforcing this policy were believed to be a lack of resources to enforce the exemption policy. Provision of training for enforcement officers, borough planning teams and developers would ensure the process is more efficient, but it was also suggested that appointment of central NRMM enforcement staff would be useful. There was consensus that greater clarification was needed in some of the terminology used, specifically terminology such as “intermittent”, “long term” and “robustly considered”.

Common Themes

The following issues were raised more than once with regard to the policy wording:

Common Theme 1:

- General opposition to exemptions based on a limited supply, as “sufficient quantity for the task” is not defined, so cannot be demonstrated objectively. It was suggested that the exemption policy should include a requirement for developers to demonstrate that there are no equivalent NRMM models that are compliant that could be used in place of the NRMM for which they are requesting exemption;

GLA response:

- It is recognised that the phrase “sufficient quantity for the task” is not defined and so is subjective to some extent. The ambiguity addresses the scale, changeability and fast-moving nature of the construction industry. It was not felt appropriate to include a cast-iron definition for each possible task undertaken on a construction site in a city as dynamic as London. Instead, as part of this policy the GLA has established a NRMM policy committee to provide expert advice and guidance to inform decisions about whether exemptions should be granted (see Appendix A). This will include providing advice about what a sufficient quantity is on a case-by-case basis taking into account the circumstances and conditions at the time.

Common Theme 2:

- Concerns regarding the 30 day duration, as it is possible that non-compliant NRMM could be moved from site to site every 30 days to be compliant;

GLA response:

- The 30 day exemption recognises a range of potential circumstances including emergencies where equipment is urgently required and seeks to balance the benefits of

the scheme without imposing disproportionate costs, particularly on small operators who are using a piece of equipment for a short period of time.

- It is acknowledged, however, that there is a risk developers and construction equipment owners may seek to avoid the requirements of the NRMM Low Emission Zone by moving equipment from site to site always remaining under the 30 day threshold. However, on balance, it is felt the inconvenience this would cause to developers would moderate it happening in practice. It is also noted that Crossrail have successfully adopted a similar approach and this has not been a major issue for them.
- Nevertheless, to help avoid someone trying to move a piece of equipment on and off the same site to avoid the emission requirements the wording of the exemptions policy has been changed to make clear that once a 30 day period has expired it cannot be renewed simply by moving a piece of equipment from one site to another and then back again. The NRMM Register provides a mechanism for checking if such a piece of non-compliant equipment is returned to a site after its initial 30 day exemption period has been used.

Common Theme 3:

- Clarity on “intermittent”, particularly with respect to number of permitted exemptions per development site, whether 30-day exemptions can run concurrently and the nature of the limits placed on this type of exemption. “Intermittently” needs to be specifically defined e.g. For no more than 1 hours /day for a maximum of 7 days or no more than 7 hours total over 7 days;

GLA response:

- The 30 day exemption recognises a range of potential circumstances including emergencies where equipment is urgently required and seeks to balance the benefits of the scheme without imposing disproportionate costs, particularly on small operators who are using a piece of equipment for a short period of time.
- It is acknowledged that the word ‘intermittent’ is ambiguous. Given the principles set out above relating to the rationale for a 30 day automatic exemption period the exemptions policy has been reworded so that a piece of non-compliant equipment being used for up to 30 days under this exemption can have an unrestricted amount of use.

Common Theme 4:

- The definition of “robustly considered” with regard to retrofit is too open and that emphasis should be on retrofitting unless it is demonstrated this is not possible;

GLA response:

- The exemption policy seeks to encourage retrofit wherever possible where an exemption is being granted, even if this can only be retrofit for particulate matter through a diesel particulate filter. However, it is acknowledged that there are installation challenges or disproportionate costs in some circumstances. Where these can be demonstrated no retrofit is required.
- The language ‘robustly considered’ was used to ensure that the process by which a construction site operator was not just a tick-box exercise; the GLA wants retrofit options to be genuinely considered and implemented in as many instances as possible.

- To further ensure this, and in response to the consultation feedback, the exemption and retrofit policy has been amended to state that evidence of robust consideration can be demonstrated through the provision of a quote or similar evidence.

The following issues were raised more than once with regard to the policy application:

Common Theme 5:

- Exemptions must be reviewed regularly and the exemption removed as soon as equipment becomes available. Further clarity is sought regarding time frames for complete transition to compliant equipment. The possibility of exemption renewal being required after a set period was also raised;

GLA response:

- This is agreed. The exemptions policy has been reworded to make clear that the exemption policy will be regularly reviewed and viability exemptions have a fixed length of 12 months. This would not apply to the initial 30 day exemption.

Common Theme 6:

- Concern regarding exemptions granted when retrofit technology is a proven, viable alternative;

GLA response:

- It should be noted that combined NO_x and PM retrofit (through, for example, the installation of selective catalytic reduction retrofit equipment and a diesel particulate filter) is a valid way to meet the NRMM emissions requirements.
- The exemption policy also seeks to encourage retrofit wherever possible, even if this can only be retrofit for particulate matter through a diesel particulate filter. However, it is acknowledged that there are installation challenges or disproportionate costs in some circumstances. Where these can be demonstrated no retrofit is required. However, if these cannot be demonstrated then retrofit will be required.

Common Theme 7:

- The importance of having an automatic exemption where there is no suitable emissions stage in place, whilst ensuring that these exemptions are regularly reviewed, and withdrawn when suitable equipment becomes available;

GLA response:

- This is accepted. The policy includes block exemptions where the model is not currently manufactured at required EU (European Union) stage (i.e. IIIA or IIIB). The availability of such equipment at the required stage and in the wider equipment market will be reviewed regularly.

Common Theme 8:

- Exempting a whole category would mean that machines capable of being retrofitted would slip through the net;

GLA response:

- The exemption policy seeks to encourage retrofit wherever possible, even if this can only be retrofit for particulate matter through a diesel particulate filter. However, it is acknowledged that there are installation challenges or disproportionate costs in some circumstances. Where these can be demonstrated no retrofit is required.

Common Theme 9:

- The biggest problem facing the boroughs would be lack of time and resources to enforce this for example conducting site visits to check compliance will be very time consuming.

GLA response:

- Implementation and enforcement of the policy will be a responsibility of the boroughs through the planning system. Boroughs have been invited to bid for funding from the Mayor's £20m Air Quality Fund to boost enforcement and allocate proper resources. Longer-term, as part of the Government's devolution efforts, the GLA is seeking additional powers to enable centralised implementation and enforcement of the scheme, including a standardised approach to penalties including fines.

Common Theme 10:

- A review process is necessary to account for updates in equipment.

GLA response:

- This is accepted. The availability of such equipment at the required stage and in the wider equipment market will be reviewed regularly.

Questions Raised

The following recurring questions were raised by the consultation:

Question 1:

- Can the SPG process accept exemption requests for NRMM from sites not officially required to comply with the SPG? For example, equipment used for maintenance activities.

GLA response:

- Sites, such as those managed by Crossrail, could voluntarily choose to meet the requirements of the NRMM Low Emission Zone even when they are not formally required to do so. In such instances exemptions requests would be accepted.
- However, for equipment used for maintenance activities not on a construction site it is felt that this would not be necessary and would result in unnecessary paperwork.

Question 2:

- How can limited availability be proven objectively?

GLA response:

- It is recognised that proving limited availability will be subjective to some extent. The ambiguity addresses the scale, changeability and fast-moving nature of the construction industry. It was not felt appropriate to include a cast-iron definition in a city as dynamic as London where circumstances are regularly changing. Instead, as part of this policy the GLA has established a NRMM policy committee to provide expert advice and guidance to inform decisions about whether exemptions should be granted. This will include providing advice about what a sufficient quantity is on a case-by-case basis taking into account the circumstances and conditions at the time.

Question 3:

- What time scales will be in place to ensure that any exemption is removed as soon as equipment is available and how will it be determined that sufficient number of a certain types of equipment are available?

GLA response:

- The exemptions policy has been reworded to make clear the availability of equipment at the required stage and in the wider equipment market will be reviewed on an annual basis. As part of this policy the GLA has established a NRMM policy committee to provide expert advice and guidance to inform decisions. This will include providing advice about whether a sufficient number of a certain type of equipment is available.

Question 4:

- Can exemption be time-limited? Can exemptions be specific to site i.e. can it be exempt on one site but not another?

GLA response:

- The exemptions policy has been reworded to make clear that exemptions should be reviewed regularly. There are block exemptions for certain classes of equipment until 1 September 2018. Other exemptions granted based on viability are valid for twelve months and this is not site specific.

Question 5:

- Does the scheme allow for fines for (persistent?) non-compliance, after the 'soft launch' period, which would deter developers from trying to avoid compliance?

GLA response:

- After an initial six-month introductory period focusing on education and awareness-raising, should a site not meet the emissions standards required, its managers will be in breach of their planning requirements as imposed by the relevant borough. Penalties could include a delay to the final completion of a project which could have an implied financial cost for the company concerned.
- Penalties will depend on the individual borough and their development control team. Boroughs have been invited to bid for funding from the Mayor's £20m Air Quality Strategy to provide additional support and resources to help implementation and enforcement. Longer-term, as part of the Government's devolution efforts, the GLA is seeking additional powers to enable centralised implementation and enforcement of the scheme, including a standardised approach to penalties including fines.

Question 6:

- Will the NRMM register show what construction sites each piece of machinery is currently working at?

GLA response:

- Each piece of non-road mobile machinery is required to be recorded on the NRMM register with a unique identifier as well as the engine plate number for the site where it is currently being used. This information is secure and will only be available to the site operator (account owner), the local planning authority and the GLA.

Question 7:

- If decision makers are not experts, how would they determine the validity of such a claim as the basis of exemption?

GLA response:

- As part of the exemptions and retrofit policy the GLA has established a NRMM policy committee to provide expert advice and guidance to inform decisions about whether exemptions should be granted. This will include providing advice about what a sufficient quantity is on a case-by-case basis, taking into account conditions at the time.

Question 8:

- Will evidence need to be provided to show that retrofit has been considered and why it is not deemed not appropriate?

GLA response:

- The exemption and retrofit policy seeks to encourage retrofit wherever possible where an exemption is being granted, even if this can only be retrofit for particulate matter through a diesel particulate filter. However, it is acknowledged that there are installation challenges or disproportionate costs in some circumstances. Where these can be demonstrated no retrofit is required.
- The language ‘robustly considered’ was used to ensure that the process by which a construction site operator was not just a tick-box exercise; the GLA wants retrofit options to be genuinely considered and implemented in as many instances as possible.
- To further ensure this, and in response to the consultation feedback, the exemption policy has been amended to state that ‘robust consideration can be demonstrated through the provision of a quote or similar evidence.’

Suggestions

The following recurring suggestions were made regarding the policy:

Suggestion 1:

- To alleviate concerns as to whether machinery is being moved from site to site every 30 days just to achieve compliance, a labelling scheme could be implemented e.g. a colour coded “tax disc” type label that non-technical people could see easily on the machinery;

GLA response:

- Nevertheless, the wording of the exemptions policy has been changed to make clear that once a 30 day period has expired it cannot be renewed simply by moving a piece of equipment from one site to another and then back again. This has been done to limit an organisation trying to move a piece of equipment on and off the same site to avoid the emission requirements. The NRMM Register provides a mechanism to check whether a piece of non-compliant equipment is returned to a site after its 30-day exemption.

Suggestion 2:

- As resources in borough planning enforcement teams are already stretched, the additional burden of enforcement may be problematic so the appointment of central, LEZ-wide NRMM enforcement staff would be advisable;

GLA response:

- Implementation and enforcement of the policy will be a responsibility of the boroughs through the planning system. Recognising that good enforcement of the scheme will be dependent on proper resources being in place boroughs have been invited to bid for funding from the Mayor's £20m Air Quality Fund to provide additional support. Longer-term, as part of the Government's devolution efforts, the GLA is seeking additional powers to enable centralised implementation and enforcement of the scheme, including a standardised approach to penalties including fines.

Suggestion 3:

- The policy regarding automatic exemptions in emergency situations should be clarified e.g. if pumps are needed to be used at short notice after heavy rains, or unforeseen events require NRMM to be brought onto site since safety critical works are in progress;

GLA response:

- The 30 day exemption recognises a range of potential circumstances including emergencies where equipment is urgently required. It is felt that a 30 day period after the onset of the initial emergency would be more than sufficient to then put in place longer-term solutions/equipment.
- It would still be necessary to record equipment used in an emergency under the 30 day exemption on the NRMM Register.

Suggestion 4:

- A timeframe for exemptions to be granted should be provided as the policy will change the way in which procurement of equipment for any particular site is planned; and

GLA response:

- The GLA will seek to turn around exemption applications as quickly as possible, and within 10 working days at the latest. If an exemption request is turned down then the operator will be granted a 5 working day grace period to remove the equipment from site.

Suggestion 5:

- As each piece of NRMM has to be registered each time it enters a site, the NRMM register should also be able to monitor whether it is being moved from site to site to remain compliant.

GLA response:

- This is correct and will aid borough enforcement.

Appendix A - NRMM policy committee terms of reference

Foreword

The GLA recently published the Control of Dust and Emissions from Construction and Demolition Supplementary Planning Guidance (SPG), which includes the Low Emission Zone (LEZ) for Non Road Mobile Machinery (NRMM) used at construction sites, being introduced from 1 September 2015.

A version is available online at

<https://www.london.gov.uk/file/18750/download?token=zV3ZKTpP>.

The GLA would like to prepare the industry in advance of the policy. In that vein, the GLA's Air Quality Unit has convened an NRMM Committee of industry experts based on their expert knowledge of this sector to discuss possible exemptions.

Committee Activity Table

Item	Description	
Duration	On-going	
Frequency	Bi-annual	
Purpose	<ul style="list-style-type: none"> ▪ To advise on Non Road Mobile Machinery (NRMM) that may not be able to meet the NRMM LEZ either due to unavailability or technical specifications, and should therefore be exempt. ▪ In future, to review existing exemptions to make sure they are still relevant. 	
GLA Roles and Responsibilities	<ul style="list-style-type: none"> ▪ Chair ▪ Secretariat <ul style="list-style-type: none"> - Committee coordination (meetings) - Minutes - Recorded actions - Recommendations - Provide draft plans and information to the committee ▪ Committee minutes will be made publicly available 	
Committee Roles and Responsibilities	To maintain confidentiality; to comment and advise on possible exemptions; to advise on prior to the formal consultation. The committee will operate in a purely advisory capacity. It is not a decision-making body. All exemptions discussed will be made separately and independently by the GLA.	
Membership	Member	# Representatives
	GLA	2
	Construction Plant-hire Association	2
	Energy Saving Trust	2
	Crossrail	1
	Construction Equipment Association (CEA)	1
	Environmental Industries Commission (EIC)	1 + 1 industry
	Society of Motor Manufacturers & Traders Off-highway Engines & Equipment Group (SMMT-OHEEG)	1
	Association of Manufacturers of Power generating Systems (AMPS)	1
	Kings College London	1
Transport for London (TfL)	1	