

Review of an Environmental Permit under the Environmental Permitting (England & Wales) Regulations 2010 (“EPR”)

Decision document recording our decision-making process

We have decided to vary the Permit for Marchwood Treatment Works operated by Veolia ES (UK) Limited, as a result of an application made by the Operator.

The Permit number is EPR/NP3833UE

The Variation notice number is EPR/NP3833UE/V006

What this document is about

This is a decision document, which accompanies a variation notice.

This decision document:

- explains how the application has been determined
- provides a record of the decision-making process
- shows how all relevant factors have been taken into account
- justifies the specific conditions in the permit other than those in our generic permit template.

Preliminary information and use of terms

We refer to the Permit (both existing and as varied) as “the **Permit**” in this document; and to the variation of the Permit as “the **Variation**”.

The Operator of the Installation is Veolia ES (UK) Limited: we call Veolia ES (UK) Limited “the **Operator**” in this document. We refer to Veolia ES (UK) Limited’s Marchwood Treatment Works as “the **Installation**”.

The Application was duly made on 16 April 2015.

How this document is structured

- Our decision
- The legal framework
- How we took our decision
- Key issues in the determination
- Annex 1 – the decision checklist
- Annex 2 – web publicising responses

1 Our decision

We have issued a Variation, which will allow the Operator to operate their facility as an Installation, subject to the conditions in the varied Permit.

This Variation does several different things:

- **First**, it gives effect to our decisions following the identification of the Operator as undertaking a “newly prescribed activity” (NPA) under the Industrial Emissions Directive (IED);
- **Second**, it takes the opportunity to bring earlier variations into an up-to-date, consolidated Permit. The consolidated Permit should be easier to understand and use; and
- **Third**, it modernises the entire Permit to reflect our current template. The template reflects our modern regulatory permitting philosophy and was introduced because of a change in the governing legislation. This took place when the Pollution Prevention and Control (England and Wales) Regulations 2000 (“PPC”) were replaced in 2008 by a new statutory regime under the Environmental Permitting Regulations 2007 (now the 2010 version).

The introduction of new template conditions makes the Permit consistent with our current general approach and philosophy. Although the wording of some conditions has changed, while others have disappeared because of the new regulatory approach, it does not affect the level of environmental protection achieved by the Permit in any way.

We consider that, in reaching our decision, we have taken into account all relevant considerations and legal requirements and that the Permit will continue to ensure that a high level of protection is provided for the environment and human health.

The original Permit, issued on 27 September 2007, ensured that the facility would be operated in a manner which would ensure the protection of the environment specified in the existing Guidance at the time. To the extent that we have substantively altered the Permit as a result of this variation, the new requirements will deliver a higher level of protection to that which was previously achieved.

As we explained above, we do not address changes to the Permit in this document, to the extent that they give effect to either the consolidation of earlier variations, or introduce new template conditions.

2 The legal framework

The original Permit was granted on 27 September 2007 and regulated under the Environmental Permitting Regulations 2007 [now 2010].

The Installation will be subject to the requirements of the Industrial Emissions Directive (IED) 2010/75/EU and regulated under the Environmental Permitting (England and Wales) Regulations 2010 (SI 2010 No 675). The IED was transposed in England and Wales by the Environmental Permitting (England and Wales)(Amendment) Regulations 2013 on 27 February 2013.

The IED seeks to achieve a high level of protection for the environment taken as a whole from harmful effects of industrial activities. It does so by requiring each of the industrial installations to have a permit from the competent authority (in England, the Environment Agency, or for smaller Installations, the relevant Local Authority). The IED has increased the number of activities that require an Installations permit. These are predominantly regulated as “waste operations” and include (when exceeding specific thresholds described in IED):

- hazardous waste treatment for recovery;
- hazardous waste storage;
- biowaste treatment – recovery and/or disposal;
- treatment of slags and ashes
- metals shredding;
- pre-treatment of waste for incineration/co-incineration;
- biological production of chemicals; and
- independently operated wastewater treatment works serving only industrial activities subject to the Directive

Article 11 of the IED requires the relevant authority (the Environment Agency in this case) to ensure that the Installation is operated in such a way that all the appropriate preventative measures are taken against pollution, in particular through the application of Best Available Techniques (BAT). Under Article 15(2), the Permit must contain emission limit values (ELVs) (or equivalent parameters or technical measures) for any pollutants likely to be emitted from the Installation in significant quantities. These ELVs are to be based on BAT, but also on local factors and EU Environmental Quality Standards. The overarching requirement is to ensure a high level of protection for the environment and human health.

We are required by Article 13 of the IED to keep abreast of developments in BAT. In addition, Article 13 requires us to carry out a periodic review of the permit’s conditions, and to update them if necessary.

The IED also requires the European Commission to organise an exchange of information between EU Member States so that what are known as BAT reference documents (or BREF notes) can be published, creating a level playing field across the EU, providing a consistent set of standards for new plant, to which regulatory authorities in the Member States can then have reference. These BREF notes are the basis for our own national sector

technical guidance. The Commission is also required to update BREF notes on a regular basis. The waste treatment BREF notes are currently being reviewed and a final issue date is anticipated in 2016. Under the IED, all permits will be subject to review within four years of the publication of revised BREF notes. This means that we will need to do a further review against any new standards in the BREF notes at sometime in the future.

The IED is to be implemented over several years commencing from 7 January 2013. For existing installations operating “newly prescribed activities”, the relevant date for implementation is 7 July 2015.

3 How we reached our decision

It is the Operators responsibility to ensure they are correctly regulated for the activities they are carrying out. Following adoption of the IED, the Environment Agency has engaged in a range of briefings and communications with the waste industry sector to raise awareness of the implications of the Directive and the need to ensure their facilities are correctly regulated (particularly after the implementation date of 7 July 2015 for newly prescribed activities).

Early in 2014, the Environment Agency provided further briefings to industry trade bodies and wrote to operators we believed may be implicated by these changes. We provided detailed information sheets that described the implications and the process operators should follow if they decided to have their activities permitted as Installations.

We confirmed that most facilities fell into one of two groups:

- Facilities permitted from April 2007
When these facilities were permitted, a thorough assessment would have been carried out to confirm whether the proposed activities were using “appropriate measures” as a standard to protect the environment.

This standard of protection is the same standards that would have been assessed against had the facilities applied as an Installation activity (i.e. BAT). The permit would have also been issued with modern conditions that ensured protection of the environment.

We consider that these facilities are effectively ‘IED-compliant’ in terms of the technical standard of the facility with the exception of the “newly prescribed activity”. For these facilities, we consider that, in general, no further technical assessment is required, so administrative variations are an appropriate mechanism to show the activities as Installation activities. The administrative variation is a necessary route for the Operator to formally ask for this activity to be included in their permit and for us to advertise that request on our Public Register.

It is understood that the Environment Agency granted permits for new waste activities under the Waste Management Licensing Regulations 1994 beyond April 2007. Where a facility falls into this group, the Environment Agency shall determine whether or not the application was assessed using “appropriate measures”. Where it is determined that the application was assessed using “appropriate measures”, the application will be designated as an “administrative variation”.

- Facilities permitted before April 2007
For these facilities, a “normal” or “substantial” variation is appropriate because a detailed technical assessment is required on aspects of the Application in addition to the administrative changes. Substantial variations will only be relevant where the newly prescribed activity is being added to an existing installation permit.

This Variation

The original Permit was granted on 27 September 2007 and subsequently varied on 13 September 2011, 22 February 2013 and 15 January 2014. We have reviewed the documentation submitted in support of the original permit and subsequent variation applications in this determination. We are not satisfied that the standard of protection was assessed using appropriate measures. We have determined this Application as a normal variation. As the Variation will not have any negative effects on the environment, it is not a substantial variation and so does not require consulting on.

4 Key issues in the determination

An Environment Agency initiated variation to implement the changes introduced by IED was issued for the facility 15 January 2014. However, the variation did not completely reflect the operations at the facility and did not make all the changes required to implement IED requirements. This variation has been prepared to include the required changes.

The previous variation identified the biological treatment of waste water and the physico-chemical treatment of waste water as non-hazardous treatment operations S5.4 A(1)(a)(i) and S5.4 A(1)(a)(ii) respectively. However, the operator has clarified that both treatments include both hazardous and non-hazardous wastes and should therefore be identified as hazardous treatment activities S5.3 A(1)(a)(i) and S5.3 A(1)(a)(ii) respectively.

This variation:

- changes the biological and dissolved air flotation (DAF) treatments of hazardous and non-hazardous wastes from non-hazardous installation activities (S5.4 A(1)(a)(ii) and S5.4 A(1)(a)(i)) to hazardous installation activities (S5.3 A(1)(a)(i) and S5.3 A(1)(a)(ii));
- moves the treatment of contaminated packaging by compaction from a listed activity to a DAA as this treatment is not classed as physico-chemical treatment;
- adds chemical dosing of nutrients and/or chemicals prior to the biological treatment and/or DAF as a DAA in response to a request by the operator;
- removes the storage of non-hazardous wastes together with hazardous wastes prior to treatment as a DAA; as these wastes are stored together, they all need to be considered as hazardous and have thus been included within the hazardous waste storage installation activity A1;
- moves the treatment of hazardous waste drums and washing of tankers (hazardous) from DAAs to listed activities;
- includes a number of additional EWC codes and deletes others from the list of permitted wastes; and
- reduces the permitted annual waste throughput for a number of activities to
 - 5,000 tonnes bulk reception and storage of oily waste for treatment on site;
 - 5,000 tonnes storage of treated oils;
 - 30,000 tonnes bulk reception and storage of wastes prior to treatment by activity A2;
 - 30,000 tonnes treatment of waste water by activities A2 and A3; and
 - 10,000 tonnes treatment of oily wastes by activity A4.

Operating techniques

We have reviewed the operating techniques against Technical Guidance Notes:

- IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste.

Waste types

Following a request from the Operator, we have changed the format of the waste lists and have added a number of EWC codes to the list of wastes permitted for storage and/or treatment. The additional waste codes are considered appropriate for the type of treatment at the facility.

The following EWC codes have been added to the permit:

- 02 07 01 wastes from washing, cleaning and mechanical reduction of raw materials
- 02 07 03 wastes from chemical treatment
- 02 07 04 materials unsuitable for consumption or processing
- 02 07 05 sludges from on-site effluent treatment
- 05 07 02 wastes containing sulphur
- 06 05 02* sludges from on-site effluent treatment containing dangerous substances
- 08 01 11* waste paint and varnish containing organic solvents or other hazardous substances
- 08 01 15* aqueous sludges containing paint or varnish containing organic solvents or other hazardous substances
- 08 01 19* aqueous suspensions containing paint or varnish containing organic solvents or other hazardous substances
- 08 01 21* waste paint or varnish remover
- 08 03 12* waste ink containing hazardous substances
- 08 04 09* waste adhesives and sealants containing organic solvents or other hazardous substances
- 08 04 11* adhesive and sealant sludges containing organic solvents or other hazardous substances
- 08 04 13* aqueous sludges containing adhesives or sealants containing organic solvents or other hazardous substances
- 10 01 21 sludges from on-site effluent treatment other than those mentioned in 10 01 20
- 12 03 01* aqueous washing liquids
- 13 05 02* sludges from oil/water separators
- 16 01 13* brake fluids
- 16 07 08* wastes containing oil
- 20 01 27* paint, inks, adhesives and resins containing hazardous substances

The following EWC codes have been deleted from the permit:

- 02 07 02 Wastes from spirits distillation

- 03 03 07 Mechanically separated rejects from pulping of waste paper and cardboard
- 03 03 08 Wastes from sorting of paper and cardboard destined for recycling
- 03 03 10 Fibre rejects, fibre-, filler- and coating-sludges from mechanical separation
- 04 02 09 Wastes from composite materials (impregnated textile, elastomer, plastomer)
- 08 01 12 Waste paint and varnish other than those mentioned in 08 01 11
- 08 01 16 Aqueous sludges containing paint or varnish other than those mentioned in 08 01 15
- 08 01 18 Wastes from paint or varnish removal other than those mentioned in 08 01 17
- 08 01 20 Aqueous suspensions containing paint or varnish other than those mentioned in 08 01 19
- 08 02 01 Waste coating powders
- 08 02 02 Aqueous sludges containing ceramic materials
- 08 03 13 Waste ink other than those mentioned in 08 03 12
- 08 04 10 Waste adhesives and sealants other than those mentioned in 08 04 09
- 08 04 12 Adhesive and sealant sludges other than those mentioned in 08 04 11
- 08 04 14 Aqueous sludges containing adhesives or sealants other than those mentioned in 08 04 13
- 09 01 10 Single-use cameras without batteries
- 16 01 17 Ferrous metal
- 16 01 18 Non-ferrous metal
- 16 01 19 Plastic
- 16 01 20 Glass
- 17 02 01 Wood
- 17 02 02 Glass
- 17 02 03 Plastic
- 19 12 01 Paper and cardboard
- 19 12 02 Ferrous metal
- 19 12 03 Non-ferrous metal
- 19 12 04 Plastic and rubber
- 19 12 05 Glass
- 19 12 07 Wood other than that mentioned in 19 12 06
- 19 12 12 Other wastes (including mixtures of materials) from mechanical treatment of wastes other than those mentioned in 19 12 11
- 20 01 08 Biodegradable kitchen and canteen waste
- 20 01 28 Paint, inks, adhesives and resins other than those mentioned in 20 01 27
- 20 03 01 Mixed municipal waste

Annex 1 – decision checklist

This document should be read in conjunction with the Duly Making checklist, the application and supporting information and notice.

| Aspect considered | Justification / Detail | Criteria met |
|------------------------------|---|--------------|
| Consultation | | |
| Responses to web publicising | No public responses were received in response to the web publicising of the application. | ✓ |
| Operator | | |
| Control of the facility | We are satisfied that the applicant (now the operator) is the person who will have control over the operation of the facility after the grant of the permit. The decision was taken in accordance with EPR RGN 1 Understanding the meaning of operator. | ✓ |
| The facility | | |
| The regulated facility | <p>The extent/nature of the facilities taking place at the site required clarification.</p> <p>The decision on the facility was taken in accordance with RGN 2.</p> <p>The regulated facility is an installation which comprises the following activities listed in Part 2 of Schedule 1 to the Environmental Permitting Regulations and the following directly associated activities (DAAs):</p> <ul style="list-style-type: none"> • Temporary storage of hazardous waste with a total capacity exceeding 50 tonnes pending any of the activities listed in Sections 5.1, 5.2, 5.3 and paragraph (b) of Section S5.6 (Section 5.6 Part A(1)(a)); • Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving biological treatment (Section 5.3 Part A(1)(a)(i)); • Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving physico-chemical treatment (Section 5.3 Part A(1)(a)(ii) – treatment of waste water; • Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving | ✓ |

| Aspect considered | Justification / Detail | Criteria met |
|---|--|--------------|
| | | Yes |
| | <p>physico-chemical treatment (Section 5.3 Part A(1)(a)(ii)) – treatment of oily waste;</p> <ul style="list-style-type: none"> • Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving repackaging (Section 5.3 Part A(1)(a)(iv)); • Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving physico-chemical treatment (Section 5.3 Part A(1)(a)(ii)) – treatment of hazardous waste drums; • Disposal or recovery of hazardous waste with a capacity exceeding 10 tonnes per day involving physico-chemical treatment (Section 5.3 Part A(1)(a)(ii)) – tanker washing; <p>DAAs:</p> <ul style="list-style-type: none"> • Steam supply; • Tanker washing (non-hazardous); • Compaction of hazardous waste; • Compaction of non-hazardous waste; • Chemical dosing • Raw material storage; and • Process water collection and discharge. | |
| European Directives | | |
| Applicable Directives | All applicable European Directives have been considered in the determination of the application. | ✓ |
| The site | | |
| Extent of the site of the facility | The operator has provided a plan which we consider is satisfactory, showing the extent of the site of the facility. A plan is included in the permit and the operator is required to carry on the permitted activities within the site boundary. | ✓ |
| Biodiversity, Heritage, Landscape and Nature Conservation | <p>The application is within the relevant distance criteria of a site of heritage, landscape or nature conservation, and/or protected species or habitat .</p> <p>A full assessment of the facility was undertaken as part of the original application. The operations at the facility do not change as a response to this variation and a further assessment was thus not considered to be required.</p> <p>We have not formally consulted on the application. The decision was taken in accordance with our guidance.</p> | ✓ |

| Aspect considered | Justification / Detail | Criteria met |
|---|--|--------------|
| | | Yes |
| Environmental Risk Assessment and operating techniques | | |
| Environmental risk | We have reviewed the operator's assessment of the environmental risk from the facility. The operator's risk assessment is satisfactory. | ✓ |
| Operating techniques | <p>We have reviewed the techniques used by the operator and compared these with the relevant guidance notes –</p> <ul style="list-style-type: none"> • IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste. <p>The techniques are in line with the above technical guidance notes and we consider them to represent appropriate techniques for the facility.</p> | ✓ |
| The permit conditions | | |
| Waste types | <p>We have specified the permitted waste types, descriptions and quantities, which can be accepted at the regulated facility. We are satisfied that the operator can accept these wastes because they have the necessary infrastructure, operating systems and technical capability to manage these wastes in an appropriate manner.</p> <p>This variation adds a number of EWC codes to the list of acceptable wastes and removes others.</p> | ✓ |
| Improvement conditions | Based on the information on the application, we consider that we do not need to impose any new improvement conditions. | ✓ |
| Reporting | We have specified reporting in the permit. Reporting forms have been prepared to facilitate reporting of data in a consistent format. These reporting requirements are deemed sufficient and proportional for the Installation.. We made these decisions in accordance with Regulatory Guidance Note 4 – Setting standards for environmental protection. | ✓ |

Annex 2 – web publicising

No responses were received in response to the web publication.