

# Permitting decisions

## Variation

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We have decided to vary the Permit Willesden Depot operated by European Metal Recycling Limited, as a result of an application made by the Operator.

The Permit number is EPR/FB3205MK.

The Variation notice number is EPR/FB3205MK/V002.

We consider in reaching that decision we have taken into account all relevant considerations and legal requirements and that the permit will ensure that the appropriate level of environmental protection is provided.

### **Purpose of this document**

This decision document provides a record of the decision making process. It:

- explains how the application has been determined
- highlights key issues in the determination
- summarises the decision making process to show how all relevant factors have been taken into account

Unless the decision document specifies otherwise we have accepted the applicant's proposals.

Read the permitting decisions in conjunction with the environmental permit and the variation notice. The introductory note summarises what the variation covers.

### **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**".

In this document, we refer to European Metal Recycling Limited as "the **Operator**" and their Willesden Depot as "the **Installation**".

The Application was duly made on 19 September 2014.

### **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

## 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 2016 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 11 March 1999, 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 11 March 1999 and regulated under the Environmental Permitting Regulations 2007 [now 2016].

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 2016 (SI 2016 No 1154). 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 not presently known. 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 11 March 1999 and subsequently varied on 18 September 2002, 04 December 2003, 07 November 2008 11 December 2009 and 10 June 2013. It was also transferred from Mayer Parry Recycling Limited to European Metal Recycling Limited on 24 May 2017. We have reviewed the documentation submitted in support of the original permit and subsequent variation application(s) in this determination. We are satisfied that the standard of protection was assessed using appropriate measures. We have determined this Application as an administrative variation.

Because of the transfer of Permit to European Metal Recycling Limited, this Variation is now EPR/FB3205MK/V002 rather than EPR/YP3991NQ/V007.

#### 4. Key issues in the determination

This variation implements the changes brought about by the IED for “existing facilities operating newly prescribed activities”.

EPR/FB3205MK is the permit held by the Operator for their site at Willesden Depot which is now classified as an installation due to the inclusion of a metal shredder, a fridge destruction plant and hazardous waste storage.

This administrative variation reflects this change. The permit was varied to modern permit conditions in 2013 which necessitated assessment of the environmental impact of the site.

Activities changing from waste to installation are:

- Metal shredding [S5.4 A(1) (b) (iv)]
- Fridge destruction [5.3 A(1) (a) (ii)]
- Hazardous waste storage [5.6 A(1) (a)].

#### Operating techniques

No processes are changing on site. The activities will remain the same and follow the operating techniques provided with the application and supporting documents (received 19 September 2014).

#### Permitted Waste Types

The following waste codes have been added to the tables of permitted wastes in the permit:

Table S2.4 (Hazardous Waste Storage [A3])

- 16 01 17\* Oil filters
- 16 01 11\* Brake pads containing asbestos
- 16 01 13\* Brake fluids
- 16 01 14\* Antifreeze fluids containing hazardous substances
- 16 01 21\* Hazardous components other than those mentioned in 16 01 07 to 16 01 11 and 16 01 13 and 16 01 14
- 16 02 13\* Discarded equipment containing hazardous components other than Those mentioned in 16 02 09 to 16 02 12
- 16 02 15\* Hazardous components removed from discarded equipment.

Table S2.5 (Vehicle storage, depollution and dismantling (authorised treatment) facility [A9])

- 16 01 12 Brake pads other than those mentioned in 16 01 11
- 16 01 15 Anti-freeze fluids other than those mentioned in 16 01 14
- 16 01 16 Tanks for liquefied gas
- 16 01 17 Ferrous metals
- 16 01 18 Non-ferrous metals
- 16 01 21\* Hazardous components other than those mentioned in 16 01 07 to 16 01 11 and 16 01 13 and 16 01 14
- 16 01 22 Components not otherwise specified.

Table S2.6 (WEEE authorised treatment facility [A10])

- 16 02 13\* Discarded equipment containing hazardous components other than Those mentioned in 16 02 09 to 16 02 12
- 16 02 15\* Hazardous components removed from discarded equipment.



However, the working plan has not been updated since October 2007 and requires updating to ensure it is in accordance with BAT. We are not satisfied that BAT has been applied for all of the listed installation activities and therefore improvement condition IC2 has been included as part of this variation. IC2 requires the operator to review and update their operating techniques against appropriate BAT.

Whilst we consider that the operations were previously assessed against appropriate measures available at the time of the original application, we need to ensure that measures in the permit meet the requirements of BAT while operating as an installation.

We have implemented an improvement programme to ensure that current operating measures are in line with up-to-date BAT as part of the movement of a waste operation to an installation.

We have also included an Improvement Condition (IC9) that requires development of a Fire Prevention Plan (FPP) in accordance with the Environment Agency's Technical Guidance (November 2016).

Further Improvement Conditions have been included to ensure the Operator's emission control and monitoring systems represent BAT in relation to:

- Tracing and inspecting baled wastes
- Preventing, or where that is not practicable, minimising dust and particulate emissions from conveyers
- Monitoring of surface water discharged from foul sewer emission point
- Assessing the impact of surface water emissions from site
- Monitoring and assessing impact of air discharged from authorised release points and monitoring ambient air
- Monitoring and assessing any fugitive emissions from Stage 1 & 2 processing of refrigeration units
- Determining size distribution of particulate matter in releases from emission point, A1.

## Annex 1 – decision checklist

Aspect considered	Decision
<b>Receipt of submission</b>	
Confidential information	A claim for commercial or industrial confidentiality has not been made.
Identifying confidential information	We have not identified information provided as part of the application that we consider to be confidential.
<b>Operator</b>	
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.
<b>The facility</b>	
The regulated facility	We considered the extent and nature of the facilities at the site in accordance with RGN2 'Understanding the meaning of regulated facility', Appendix 2 of RGN 2 'Defining the scope of the installation', Appendix 1 of RGN 2 'Interpretation of Schedule 1', guidance on waste recovery plans and permits. The extent of the facilities are defined in the site plan and in the permit. The activities are defined in table S1.1 of the permit.
<b>European Directives</b>	
Applicable Directives	All applicable European Directives have been considered in the determination of the application.
<b>The site</b>	
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.
<b>Environmental Risk Assessment and operating techniques</b>	
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"> <li>- BMRA BAT recommendation document; and</li> <li>- IPPC S5.06 – Guidance for the Recovery and Disposal of Hazardous and Non Hazardous Waste.</li> </ul> <p>The techniques used by the operator were implemented post April 2007 and we consider that the techniques were assessed against "appropriate measures" at the time of the original application under the Environmental Permitting Regulations.</p> <p>However, we have implemented an improvement programme to ensure that current operating measures are in line with up to date BAT as part of the movement of a waste operation to an installation.</p>

Aspect considered	Decision
<b>The permit conditions</b>	
Updating permit conditions during consolidation	We have updated previous permit conditions to those in the new generic permit template as part of permit consolidation. The new conditions have the same meaning as those in the previous permits.
Raw materials	We have specified limits and controls on the use of raw materials and fuels.
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>We made these decisions with respect to waste types in accordance with our Technical Guidance Note WM3 (Guidance on the classification and assessment of waste) or other relevant guidance.</p> <p>Waste codes have been added to the list of authorised wastes accepted at the site. See key issues for further details.</p>
Improvement programme	<p>Based on the information on the application, we consider that we need to impose improvement conditions.</p> <p>See key issues for further details.</p>
Incorporating the application	We have specified that the operator must operate the permit in accordance with descriptions in the application, including all additional information received as part of the determination process. These descriptions are specified in the Operating Techniques table in the permit.
Emission limits	<p>We have decided that emission limits should be set for the parameters listed in the permit.</p> <p>The following substances have been identified as being emitted in significant quantities and ELVs and equivalent parameters or technical measures based on BAT have been set for those substances:</p> <p>Total suspended particulates CFC's Other volatile organic compounds</p>
Monitoring	We have decided that monitoring should be carried out for the parameters listed in the permit, using the methods detailed and to the frequencies specified.
Reporting	We have specified reporting in the permit. Reporting forms have been prepared to facilitate reporting of data in a consistent format.
<b>Operator Competence</b>	
Environment Management System	There is no known reason to consider that the operator will not have the management system to enable it to comply with the permit conditions.

Aspect considered	Decision
<b>Growth Duty</b>	
Section 108 Deregulation Act 2015 – Growth duty	<p>We have considered our duty to have regard to the desirability of promoting economic growth set out in section 108(1) of the Deregulation Act 2015 and the guidance issued under section 110 of that Act in deciding whether to grant this permit.</p> <p>Paragraph 1.3 of the guidance says:</p> <p>“The primary role of regulators, in delivering regulation, is to achieve the regulatory outcomes for which they are responsible. For a number of regulators, these regulatory outcomes include an explicit reference to development or growth. The growth duty establishes economic growth as a factor that all specified regulators should have regard to, alongside the delivery of the protections set out in the relevant legislation.”</p> <p>We have addressed the legislative requirements and environmental standards to be set for this operation in the body of the decision document above. The guidance is clear at paragraph 1.5 that the growth duty does not legitimise non-compliance and its purpose is not to achieve or pursue economic growth at the expense of necessary protections.</p> <p>We consider the requirements and standards we have set in this permit are reasonable and necessary to avoid a risk of an unacceptable level of pollution. This also promotes growth amongst legitimate operators because the standards applied to the operator are consistent across businesses in this sector and have been set to achieve the required legislative standards.</p>