

# 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 Alexandra Dock 1 operated by European Metal Recycling Limited, as a result of an application made by the Operator.

The Permit number is EPR/RP3794CG.

The Variation notice number is EPR/RP3794CG/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 European Metal Recycling Limited: we call European Metal Recycling Limited “the **Operator**” in this document. We refer to European Metal Recycling Limited’s Alexandra Dock 1 as “the **Installation**”.

The Application was duly made on 24/09/2014.

## **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 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 Permits, issued on 28/09/2006 and 03/09/2010, 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 EAWML50447 (EPR/RP3794CG) was granted on 28/09/2006 and the original Permit EAWML101767 (EPR/JP3696EL) was granted on 03/09/2010 both under the Environmental Protection Act 1990 and regulated under the Waste Management Licensing Regulations 1994.

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 some time 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 [ecological impact assessment, waste types, secondary containment etc.] 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.

The original Permit (EAWML50447 / EPR/RP3794CG) was granted on 28/09/2006 and subsequently varied on 7/11/08, 11/12/09, 10/11/11, 3/10/12 and 8/04/13. We have reviewed the documentation submitted in support of the original permit and subsequent variation application(s) 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 due to this and the requirement of the consolidation. 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

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

The variation also consolidates two permits, EPR/RP3794CG (EAWML50447) and EPR/JP3696EL (EAWML101767).

EPR/ RP3794CG (EAWML50447) is European Metal Recycling's Alexandra Dock site which is now classified as an installation due to the inclusion of a metal shredder and hazardous waste storage. The normal variation is to reflect this change, and the consolidation with EPR/JP3696EL (EAWML101767) is to include part of the site which was used for quayside storage of metals.

Included in the variation will be an amendment to a mistake made in a previous permit. Originally (in 2006) the permit was granted with an annual tonnage allowance of greater than 75,000 tonnes, this was due to the permitting officer identifying the correct Opra charging bracket. A variation carried out in 2013 wrongly changed the maximum annual tonnage allowance to less than 75,000. Therefore to ensure this permit stays in the correct charging band the maximum annual tonnage will be corrected to be more than 75,000 tonnes.

Activities changing from a waste to an installation are:

- Metal shredding – S5.4 A(1) (b) (iv)
- Storage of hazardous waste, exceeding 50 tonnes – S5.6 A(1) (a)

The storage of hazardous waste becomes an installation due to the aggregation rule:

Hazardous Waste	Maximum Storage Quantities (tonnes)
Waste oil (ELV)	5
Oil filters	1
Lead Acid Batteries	40
Small Mixed WEEE	10,000
<b>Aggregated Total:</b>	<b>10,046</b>

### Operating techniques

No processes are changing on site. The activities will remain the same and follow the operating techniques as per the operating techniques provided with the application and supporting documents (received 24/09/2014).

However, the working plan has not been updated since January 2013 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.

Improvement condition IC2 has been included as part of this variation. It requires the operator to review and update their operating techniques against appropriate BAT. While 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.

#### Waste types

Extra waste codes have been added to most of the activities in the permit. We have assessed the waste codes and consider them similar in nature to what the site can currently accept.

#### Requested changes that require a separate variation application

The following requested changes to the permit have not been actioned as they are not part of the existing permitted activities:

- Addition of section 5.3A(1)(a) activity for hazardous shredding
- Increase in hazardous waste storage from 15,000 tonnes

These changes would pose an increase in environmental risk which is outside the parameters of this project and therefore will require a separate variation application.

## 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 Yes
<b>Consultation</b>		
Responses to web publicising	The web publicising, took place but no responses were received.	✓
<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	<p>The extent/nature of the facilities taking place at the site required clarification.</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:</p> <p><b>Scheduled Activity</b></p> <ul style="list-style-type: none"> <li>• Metal shredding – S5.4 A(1) (b) (iv)</li> </ul> <p>Recovery or a mix of recovery and disposal of non-hazardous waste with a capacity exceeding 75 tonnes per day involving treatment in shredders of metal waste, including waste electrical and electronic equipment and end-of-life vehicles and their components.</p> <ul style="list-style-type: none"> <li>• Storage of hazardous waste, exceeding 50 tonnes – S5.6 A(1) (a)</li> </ul> <p>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 this section, except temporary storage, pending collection, on the site where the waste is generated, or activities falling within Section 5.2.</p> <p><b>Remaining waste activities:</b></p> <ul style="list-style-type: none"> <li>• Vehicle storage, manual depollution and dismantling (authorised treatment) facility.</li> <li>• WEEE storage and treatment</li> <li>• Metal recycling</li> </ul>	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
<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.	✓
Biodiversity, Heritage, Landscape and Nature Conservation	The application is within the relevant distance criteria of a site of heritage, landscape or nature conservation, and/or protected species or habitat. A full assessment of the application and its potential to affect the site has been carried out as part of the permitting process for the original permit. We consider that the application, due to no processes changing, will not affect habitats and therefore no ecological assessment has been carried out.	✓
<b>Environmental Risk Assessment and operating techniques</b>		
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	We have reviewed the techniques used by the operator and compared these with the relevant guidance notes – <ul style="list-style-type: none"> <li>• BRMA BAT recommendation document; and</li> <li>• IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste.</li> </ul> We are not satisfied that the operating techniques provided fully demonstrate BAT. Therefore, we have specified improvement conditions. See key issues for further information.	✓
<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.	✓
Waste types	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.	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
	<p>We made these decisions with respect to waste types in accordance with our Technical Guidance Note WM2 – <i>Hazardous Waste</i> or other relevant guidance.</p> <p>Waste types are as they were per the previous permit variation V005, issued 05/04/13. Some additional waste codes have been accepted under this variation. See key issues section above.</p>	
Improvement conditions	<p>Based on the information on the application, we consider that we need to impose improvement conditions.</p> <p>We have imposed improvement conditions to ensure that:</p> <ul style="list-style-type: none"> <li>• Best available techniques proposals are submitted and approved</li> <li>• A written management system is submitted and approved</li> <li>• A plan is in place to prevent or minimise fugitive emissions</li> <li>• A monitoring plan for the exhausts and ambient air is submitted and approved.</li> </ul> <p>See key issues for further details.</p>	✓
Incorporating the application	<p>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.</p>	✓
Monitoring	<p>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.</p>	✓
Reporting	<p>We have specified reporting in the permit.</p>	✓
<b>Operator Competence</b>		
Environment Management System	<p>There is no known reason to consider that the operator will not have the management systems to enable it to comply with the permit conditions. The decision was taken in accordance with RGN 5 on Operator Competence.</p>	✓
Technical competence	<p>Technical competency is required for activities permitted. The operator is a member of an agreed scheme. WAMITAB</p>	✓
Relevant Convictions	<p>The National Enforcement Database has been checked to ensure that all relevant convictions have been declared.</p> <p>No relevant convictions were found.</p>	✓

Aspect considered	Justification / Detail	Criteria met
		Yes
Financial provision	There is no known reason to consider that the operator will not be financially able to comply with the permit conditions. The decision was taken in accordance with RGN 5 on Operator Competence.	✓