

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 Crows Hall AD Plant operated by S S Agri Power Limited, as a result of an application made by the Operator.

The Permit number is EPR/BB3931RA.

The Variation notice number is EPR/BB3931RA/V002.

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 S S Agri Power Limited: we call S S Agri Power Limited “the **Operator**” in this document. We refer to S S Agri Power Limited’s Crows Hall AD Plant as “the **Installation**”.

The Application was duly made on 30 January 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

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 07 November 2011, 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 high 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 07 November 2011 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 the 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 is currently being reviewed and a final issue date is anticipated in 2016. Under the Industrial Emissions Directive, all permits will be subject to review within four years of the publication of a revised BREF document. This means that we will need to do a further review against any new standards in the BREF document at sometime in the future.

The IED has been implemented over several years. The process began on 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 briefing 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 for 7 July 2015 for newly prescribed activities.

Early in 2014, the Environment Agency provided further briefing 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 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.

4 Key issues in the determination

This variation upgrades the current waste standard permit for an on-farm AD facility (SR2010No16) to an installation on-farm anaerobic digestion facility (SR2012No9). The operations currently ongoing at the site will now be considered as compliant with the IED. The operator has satisfied the criteria for the new standard rules.

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
Receipt of submission		
Standard rules criteria met	The application meets the criteria for the standard rules identified in Part B of the application form.	✓
Consultation		
Responses to web publicising	The web publicising responses (Annex 2) were taken into account in the decision. No responses were received from the web publication.	✓
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.	✓
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.	✓
Site condition report or baseline report	The operator has provided a satisfactory site condition report (SCR) and where relevant (where there is a risk of contamination with relevant hazardous substances) a baseline report.	✓
Operator Competence		
Environment Management System	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.	✓

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.	✓

Annex 2 – Web publicising

Summary of responses to web publication and the way in which we have taken these into account in the determination process.

Response received from
Responses from web publicising
Brief summary of issues raised
No response were received during the consultation period
Summary of actions taken or show how this has been covered
No action required