

# Permitting decisions

## Variation

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We have decided to grant the variation for Niramax Transfer Station operated by Niramax Group Limited. The variation number is EPR/GP3399LG/V003.

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:

- highlights [key issues](#) in the determination
- summarises the decision making process in the [decision checklist](#) 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.

## Key issues of the decision

### 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 gives effect to our decision following the identification of the Operator as undertaking a “newly prescribed activity” (NPA) under the Industrial Emissions Directive (IED);

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 12/07/82, 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.

## 2 The legal framework

The original Permit was granted on 12/07/82 as a Waste Disposal License under the Control of Pollution Act 1974, which was superseded by the Environmental Protection Act 1990.

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 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 [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.

#### This Variation

The original Permit was granted on 23/07/82 and subsequently varied on 01/04/85, 20/03/86, 30/06/97, 31/03/98, 08/03/02, 21/12/09, transferred to Niramax Group Ltd on 05/05/10 and further varied on 23/02/12. 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. 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” and completes the transition of this facility from a waste operation to an IED Installation.

Niramax Group Limited operates the Niramax Transfer Station located in Longhill Industrial Estate, Hartlepool. The facility pre-treats wastes primarily to produce a Refuse Derived Fuel (RDF) which is formed into briquettes or baled as required and stored prior to being sent for incineration at an R1 recovery facility. Ferrous metals and other recyclable materials are also recovered as part of the pre-treatment process. The listed activity is Section 5.4 A (1) (b) (ii) “Recovery of non-hazardous waste with a capacity exceeding 75 tonnes per day involving pre-treatment of waste for incineration or co-incineration”.

Waste operations are also conducted at the facility including the transfer of non-hazardous waste, the processing of waste wood for recovery, and the screening and processing of soils and aggregates.

The site surface water drains were refurbished in 2009, and a new run was installed, with four chambers that act as interceptors, collecting solids. These are pumped out at intervals by a sub-contractor for disposal. The drains discharge to a public foul sewer. There is no discharge consent for surface water for this facility.

There are human receptors located within 50m from the site boundary due to the location of the facility on an industrial estate. Hartlepool Submerged Forest Site of Special Scientific Interest (SSSI) is situated approximately 450 metres from the site boundary. An assessment conducted as part of a previous variation application concluded that the features of the SSSI would not be sensitive to any impact from the facility.

In addition to the transition of Refuse Derived Fuel (RDF) production from a waste operation to an IED Installation activity, the following amendments to the permit have been made as a result of this variation:

- Increase of total permitted tonnage of waste accepted at the site to 300,000 tonnes per annum;
- Inclusion of additional land to the permit boundary forming part of a new waste acceptance building;
- Inclusion of additional land to the south of the main permitted area (subject to completion of pre-operational conditions by the operator) to be used for acceptance and screening of soils and aggregate material as a waste operation; and
- Inclusion of operations under this permit that have previously been conducted under waste exemptions.

For the storage of waste for recovery, we have agree to 2 exceptions from the requirement to store inside a building which are for bulky waste and dry non-recyclable waste which must not be biodegradable nor consist of dust or loose powders.

An EWC code (19 12 10 combustible waste (refuse derived fuel)) has been included for recyclable material that is out of specification for the customer that has to return to site for reprocessing. The EWC code description 03 01 05 (shavings, cuttings, wood, particle board and veneer other than those mentioned in 03 01 04) has been restricted to exclude sawdust from the description as dusts, powders or loose powders cannot be accepted at site.

## 1. Operating techniques

We have reviewed the techniques used by the operator and compared these with the relevant guidance notes:

- IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste;
- H3 – Noise assessment and control;
- H4 – Odour Management

## 2. Improvement conditions

Improvement condition IC1 requires the operator to produce and submit for approval Fire Prevention Plan. 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.

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 Sector Guidance Note IPPC S5.06 – *Guidance for the Treatment of Hazardous and Non Hazardous Waste*. We consider that the operations were previously assessed against appropriate measures available at the time of the original application. However, we need to ensure that measures in the permit meet the requirements of BAT while operating as an installation. Once agreed these must be incorporated into their EMS within 21 days.

Improvement condition IC3 requires the operator to produce and submit for approval an Odour Management Plan. 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.

Improvement condition IC4 requires the operator to produce and submit for approval written review and action plan for implementation for the storage of waste within a building or container. 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.

### 3. Pre-operational conditions

As part of the application in addition to the variation to transition IED newly prescribed activities to installations activities, the operator has included proposals for the following:

- Inclusion of additional land to the site permit boundary; and
- Inclusion of a waste operation for the processing of soils and aggregates.

Pre-operational measures have been specified in the permit variation that are required to be completed prior to the commencement of the operations listed above. The pre-operational measures require the operator to complete the following prior to the specified operations commencing.

Prior to processing of soils and aggregates:

- Submit to the Environment Agency for approval a revised Site Condition Report for to include the proposed extension area; and
- Submit to the Environment Agency for approval a written review and action plan for the revision of the drainage infrastructure of the operational areas.

## Decision checklist

Aspect considered	Decision
<b>The facility</b>	
The regulated facility	We considered the extent and nature of the facility 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 facility is defined in the site plan and in the permit. The activities are defined in table S1.1 of the permit.
<b>The site</b>	
Extent of the site of the facility	The operator has provided plans which we consider are satisfactory, showing the extent of the site of the facility. The plan is included in the permit.
<b>Environmental risk assessment</b>	
Environmental risk	We have reviewed the operator's assessment of the environmental risk from the facility.  The operator's risk assessment is satisfactory.
<b>Operating techniques</b>	

Aspect considered	Decision
General operating techniques	<p>We have reviewed the techniques used by the operator and compared these with the relevant guidance notes and we consider them to represent appropriate techniques for the facility.</p> <p>The operating techniques that the applicant must use are specified in table S1.2 in the environmental permit.</p>
<b>Permit conditions</b>	
Updating permit conditions during consolidation	We have updated permit conditions to those in the current generic permit template as part of permit consolidation. The conditions will provide the same level of protection as those in the previous permit(s).
Updating permit conditions during consolidation	We have updated permit conditions to those in the current generic permit template as part of permit consolidation. The conditions restate the requirement of the previous permit(s).
Raw materials	We have specified limits and controls on the use of raw materials and fuels as required by The Sulphur Content of Liquid Fuels (England and Wales) Amendment) Regulations 2014.
Waste types	<p>We have specified the permitted waste types, descriptions and quantities, which can be accepted at the regulated facility.</p> <p>We are satisfied that the operator can accept these wastes for the following reasons:</p> <ul style="list-style-type: none"> <li>• they are suitable for the proposed activities</li> <li>• the proposed infrastructure is appropriate; and</li> <li>• the environmental risk assessment is acceptable.</li> </ul>
Pre-operational conditions	<p>Based on the information in the application, we consider that we need to impose pre-operational conditions.</p> <p>These are covered in <a href="#">key issues</a>.</p>
Improvement programme	<p>Based on the information on the application, we consider that we need to impose an improvement programme.</p> <p>We have imposed an improvement programme these are explained in <a href="#">key issues</a>.</p>
Emission limits	No emission limits have been added, amended or deleted as a result of this variation.
Monitoring	<p>We have decided that monitoring should be added for site surface water drainage.</p> <p>The parameters, methods and frequencies will be agreed after improvement conditions are complete.</p>
Reporting	<p>We have added reporting in the permit for the following parameters:</p> <ul style="list-style-type: none"> <li>• production/treatment</li> <li>• water/energy/raw material usage</li> </ul>

Aspect considered	Decision
<b>Operator competence</b>	
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.
<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>