

Permitting decisions

Environment Agency initiated variation

We have decided to issue an Environment Agency initiated variation for Mercury Recovery, Redhill, Surrey operated by Enlightened Lamp Recovery Limited.

The variation number is EPR/GP3339BE/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:

- explains how the Environment Agency initiated variation has been determined
 - 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

Read the permitting decisions in conjunction with the environmental permit and the variation notice.

Key issues of the decision

Change to regulated facility type

The effect of this Environment Agency initiated variation is to change the type of regulated facility from an installation to a waste operation. The regulated facility was formerly permitted as a non-ferrous metals installation under Section 2.2 Part A(1)(c) of the Environmental Permitting (England and Wales) Regulations (EPR 2016). The change is the result of a statutory review of the permit in response to the publication of the Best Available Techniques (BAT) Conclusions for the Non-ferrous Metals Industries.

Under the Industrial Emissions Directive (IED) the Environment Agency is required to review installation permits within four years of the publication of BAT Conclusions, enabling the regulator to ensure that operators of installations use all relevant BAT Conclusions as described in the Commission Implementing Decision in order to prevent or minimise emissions from their activities. The BAT Conclusions for the Non-ferrous Metals Industries were published on 30th June 2016 in the Official Journal of the European Union (L174/32) following a European Union wide review of BAT, implementing decision (EU) 2016/1032 of 13th June 2016.

We have considered information provided by the operator and from this it is clear that the main purpose, and intent, of the site is the treatment of hazardous waste to separate out the various constituent parts and enable subsequent recovery or disposal of these wastes streams. Wastes accepted for treatment at the site include batteries, activated carbon filters, thermometers, waste from the dental sector, fluorescent tubes. The

technique of vacuum distillation is used to remove mercury from the incoming wastes. This technique allows for the separation of mercury in a pure form which the operator can sell as a raw material. The resultant mercury free waste stream is sent off-site for recovery or disposal.

The BAT Reference Document (BREF) and BAT Conclusions for the Non-ferrous Metals Industries does not include the recovery of mercury or the use of vacuum distillation. By contrast the Waste Treatment BREF and BAT Conclusions (*final draft, Oct 2017*) explicitly list vacuum distillation as a technique to recover mercury from hazardous waste streams such as batteries, activated carbon filters, thermometers, waste from the dental sector, fluorescent tubes.

We have therefore determined that the primary activity of the site is more aptly defined as a waste treatment activity, rather than a non-ferrous metal production or recovery activity. We have also determined that the site does not meet the capacity threshold (no more than 10 tonnes of hazardous waste to be treated per day) for hazardous waste treatment under Section 5.3 Part A(1)(a) of EPR 2016 and is therefore not an installation but a waste operation. Table S1.1 (Activities) of the permit has been amended to reflect the above decision.

Operator competence

With this variation resulting in the operator being issued a waste operation permit, the operator needs to demonstrate that they are technically competent. To do this they need to demonstrate that they have joined and comply with one of the following two government approved schemes:

- **CIWM and WAMITAB scheme.** The scheme run jointly by the Chartered Institution of Wastes Management (CIWM) and Waste Management Industry Training and Advisory Board (WAMITAB)
- **EU Skills Scheme.** The Energy & Utility sector Skills Council (EU Skills) - a scheme run jointly by EU Skills and the Environmental Services Association (ESA)

The operator has not needed to demonstrate compliance with either of these schemes whilst operating as an Part A(1) installation as it is only required for permits which are a schedule 5 activity as the main activity of the site Environment Agency guidance would normally request that the operator has the technical competency requirements in place before a varied or transferred permit is issued. However we have decided not to insist upon this prior to the issue of this variation. We have instead opted to grant the operator a grace period to join and comply with the one of the two approved schemes. We consider this to be a reasonable, risk-based decision given that the operator's process has not changed as a result of this variation, and they have historically operated in a safe and appropriate manner.

An improvement condition (IC1) has been added to the permit to ensure that the operator completes the necessary technical competence by the end of the grace period.

Removal of particulate monitoring

This variation consolidates a change to Table S3.1, which was previously agreed by the Environment Agency. Accordingly the requirement to monitor particulates at emission point A2 has been removed.

Addition of waste codes

This variation consolidates changes previously agreed by the Environment Agency. Accordingly the following waste codes have been added to Table S2.2:

| | |
|--------------|--|
| 18 | Wastes from human or animal health care and/or related research (except kitchen and restaurant wastes not arising from immediate health care) |
| 18 01 | wastes from natal care, diagnosis, treatment or prevention of disease in humans |
| 18 01 10* | amalgam waste from dental care |
| 19 | Wastes from waste management facilities, off-site waste water treatment plants and the preparation of water intended for human consumption and water for industrial use |
| 19 02 | wastes from physico/chemical treatments of waste (including dechromatation, decyanidation, neutralisation) |
| 19 02 11* | other wastes containing hazardous substances (mercury and non-distilled phosphor powder) |

Decision checklist

| Aspect considered | Decision |
|---|---|
| The facility | |
| The regulated facility | <p>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' and our guidance on waste recovery plans and permits.</p> <p>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.</p> |
| 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 The plan is included in the permit. |
| Environmental risk assessment | |
| Environmental risk | There has been no changes to the site processes or activities as a result of this application, and therefore the risk remains the same. |
| Operating techniques | |
| Operating techniques | <p>We have retained the operating techniques that were already within the permit as this variation has not resulted in any change of the site operations. We have not reassessed the operating techniques.</p> <p>The operating techniques that the applicant must use are specified in table S1.2 in the environmental permit.</p> |
| Permit conditions | |
| 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). |
| Changes to the permit conditions | <p>We have varied the permit as stated in the variation notice as follows:</p> <p>The permit has been varied to a waste operation from an Installation.</p> <p>Further details are given in the key issues section of this decision document.</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 to ensure that the operator joins and complies with an approved scheme for technical competence.</p> |

| Aspect considered | Decision |
|---|---|
| Emission limits | No emission limits have been added, amended or deleted as a result of this variation. |
| Monitoring | Monitoring limits have not been changed as a result of this variation. Monitoring standards have been updated in line with modern standards. |
| Reporting | Reporting has not changed as a result of this variation. |
| Operator competence | |
| 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. The decision was taken in accordance with the guidance on operator competence and how to develop a management system for environmental permits. |
| Technical competence | Technical competence is required for activities permitted. Further details are given in the key issues section of this decision document. |
| Growth duty | |
| 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 issue this variation.</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 variation 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> |