

Permitting Decisions- Environment Agency Initiated Variation

We have decided to issue an Environment Agency initiated variation for Fort Road Biomass Processing Plant operated by Esken Renewables Limited following a review of the permit in accordance with Environmental Permitting (England and Wales) Regulations 2016, regulation 34(1).

The variation number is EPR/AP3634DG/V005

We consider in reaching this 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.

Permit Review

The Environment Agency has a duty, under the Environmental Permitting (England and Wales) Regulations 2016 (EPR), regulation 34(1), to periodically review permits.

Article 21(3) of the Industrial Emissions Directive (IED) also requires the Environment Agency to review conditions in permits to ensure that they deliver compliance with relevant standards, within four years of the publication of updated decisions on Best Available Techniques (BAT) Conclusions.

We have reviewed the permit for this activity and varied the notice to make a number of changes to reflect relevant standards and current best practice. These changes principally relate to the implementation of our technical guidance [Non-hazardous and inert waste: appropriate measures for permitted facilities](#) and the relevant requirements of the [BAT Conclusions for Waste Treatment](#), which have been incorporated into our guidance.

In this decision document, we set out the reasoning for the variation notice that we have issued.

It explains how we have reviewed and considered the techniques used by the operator against our technical guidance.

As well as considering the review of the operating techniques used by the operator, the consolidated variation notice takes into account and brings together in a single document all previous variations that relate to the original permit issue.

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;
- summarises the decision making process in the [decision considerations](#) section to show how the main relevant factors have been taken into account;
- highlights [key issues](#) in the determination.

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

Key issues of the decision

Environment Agency led variation – permit review

We have carried out an Environment Agency initiated variation to the permit following a permit review as required by legislation to ensure that permit conditions deliver compliance with relevant legislative requirements and appropriate standards to protect the environment and human health.

The Industrial Emissions Directive (IED) came into force on 7 January 2014 with the requirement to implement all relevant Best Available Techniques (BAT) Conclusions as described in the Commission Implementing Decision. Article 21(3) of the IED requires us to review conditions in permits issued and to ensure that the permit delivers compliance with relevant standards. This must be within four years of the publication of updated decisions on Best Available Techniques (BAT) Conclusions.

The BAT Conclusions for Waste Treatment (the BREF) was published on 17 August 2018 following a European Union wide review of BAT, implementing decision (EU) 2018/1147 of 10 August 2018. Relevant existing facilities must be in compliance with the BAT Conclusions within 4 years.

Our technical guidance [Non-hazardous and inert waste: appropriate measures for permitted facilities](#) explains the standards that are relevant for regulated facilities with an environmental permit to treat or transfer non-hazardous wastes.

We issued a notice under regulation 61(1) of the Environmental Permitting (England and Wales) Regulations 2016 (a Regulation 61 Notice) on 08/11/2021 requiring the operator to provide information to confirm that the operation of their facility currently meets, or how it will subsequently meet, the standards in the Waste Treatment BAT Conclusions.

The notice required the operator to:

1. Provide a brief non-technical description of the regulated facility, including
 - all listed activities, waste operations and registered waste exemptions (if any).
 - a list of wastes handled at the site, the key stages in the “process” and the relevant disposal and recovery operations.
 - the scale of the operation i.e., the waste storage and daily treatment capacity of the process.
 - a brief description of the principal releases to air, land and water including noise, dust and odour, along with a description of any abatement techniques and site plan.
 - description of the site location and any key sensitive receptors.
2. Identify the BAT Conclusions that are applicable to the facility’s operations. Confirm whether or not the operations comply with the requirements.
3. Where operations are not currently complying, the operator was required to provide:
 - details of how the relevant standards and requirements will be met.
 - details of how they will fully comply with the requirement by 17 August 2022.
 - justification as to why an alternative technique is appropriate and will achieve an equivalent level of environmental protection to the standards in the BAT Conclusion.
 - details of any activities they intend to cease operating by the compliance date (August 2022).
4. Confirm whether they operate a medium combustion plant or specified generator (as per Schedule 25A or 25B of EPR 2016).

The [Non-hazardous and inert waste: appropriate measures for permitted facilities](#) guidance was published on 12 July 2021 on gov.uk. This technical guidance explains the standards that are relevant to regulated facilities with an environmental permit to store, treat or transfer non-hazardous waste, providing relevant standards (appropriate measures) for those sites. The operators were notified about the new guidance and were advised to consider them in their submissions.

The standards described in our technical guidance are split into chapters:

- General management appropriate measures
- Waste pre-acceptance, acceptance and tracking appropriate measures
- Waste storage, segregation and handling appropriate measures
- Waste treatment appropriate measures
- Emissions control appropriate measures
- Emissions monitoring and limits appropriate measures
- Process efficiency appropriate measures

Our assessment of the responses received from the operator are summarised in Table 1.

The Regulation 61 Notice required the operator to confirm whether they could comply with the standards described in each of these chapters. Table 1 below provides a summary of the response received and our assessment of it. The overall status of compliance with the standards (appropriate measures) is indicated in the table as:

NA – Not Applicable

CC – Currently Compliant

FC – Compliant in the future (through improvement conditions set in permit)

NC/IC – Not Compliant; Improvement/New Condition included

Extent of this review

We have reviewed the operations that relate to the Installation activities in this permit against the relevant requirements of Best Available Techniques (BAT) Conclusions set out in implementing decision (EU) 2018/1147 of 10 August 2018.

Regulation 61 Response

The Regulation 61 notice response from the Operator was received on 09/03/2022.

We considered that the response did not contain sufficient information for us to commence determination of the permit review and we needed further information to complete the permit review assessment.

We sent a draft request for further information (RFI) by email to the operator to set timescales for response on the 10/07/2023. The operator replied on 13/07/2023 stating that they would be unable to reply until the end of September but most likely October. It was agreed that this timescale was too long and therefore we would proceed with the permit review incorporating any outstanding requirements into an improvement programme.

These responses are available on our public register.

The documents submitted by the operator which now form part of the operating techniques that the operator must implement are specified in table S1.2 in the environmental permit. These include:

- Documents received in response to the Regulation 61 Notice and annex 1 spreadsheet titled
 - *'Annex 1 tranche 2 SEL Tilbury 2'* dated 09/03/2022

Changes to the permit conditions

Following the assessment of the information provided by the operator in response to the Regulation 61 Notice, summarised in table 1, we have made the following changes to the permit conditions:

- Condition 2.1.2 has been deleted.
- Condition 3.5.1 addition of condition point (a) for table S3.1 emissions to sewer. Process monitoring condition removed.
- Conditions 3.5.3 and 3.5.4 have been added in line with the modern template.
- Table S1.1 and referenced in condition 2.1.1 has had the activities updated, DAA descriptions removed as well as the reference to waste table S2.1 for activity AR3.
- Table S1.2 as referenced in condition 2.3.1 - operating techniques updated to include Regulation 61 notice response.
- Table S1.3 as referenced in condition 2.4.1 - improvement conditions IP1-IP8 have been added.
- Table S2.1 as referenced in condition 2.3.3 - Addition of raw materials and fuel descriptions.
- Table S3.1 as referenced in condition 3.1.1 – Emission limits and monitoring for the discharge to sewer have been added in line with the requirements of the Waste Treatment BAT Conclusions.
- Table S3.2 as referenced in condition 3.5.1 - Table updated to modern formatting for ambient air monitoring.
- Table S3.3 as referenced in condition 3.5.1 - Table removed as dust monitoring incorporated within ambient air monitoring table S3.2.
- Table S4.1 as referenced in condition 4.2.3 reporting for point source emissions to sewer has been added.
- Table S4.4 as reference in condition 4.2.3 (b) – Reporting form for emissions to sewer has been added and ambient air monitoring reporting form added. Forms updated.
- Schedule 5 as referenced in conditions 4.3.2 and 4.3.4 has been amended. A new paragraph (c) to Part A requiring notification of breach of permit conditions not relating to limits has been added.
- Schedule 6 has been updated with appropriate interpretations.

Table 1 – Summary of our assessment of the operator’s Reg 61 response

Appropriate measures	Compliance status	Assessment of the installation’s compliance with relevant standards (appropriate measures) and any alternative techniques proposed by the operator
General management appropriate measures	FC	<p>The operator confirmed that they currently meet the requirements of the appropriate measures in this section with the exception of;</p> <ul style="list-style-type: none"> • A climate change risk assessment – The operator’s response has stated one will be completed. • A decommissioning plan <p>We have included improvement conditions IP6 which requires the operator to submit and maintain a decommissioning plan and a climate change risk assessment as specified in the Non-hazardous and inert waste: appropriate measures for permitted facilities guidance.</p>
Waste pre-acceptance, acceptance and tracking appropriate measures	CC	<p>The operator confirmed that they currently meet the requirements of the appropriate measures in this section. Pre-acceptance and acceptance procedures were provided.</p>
Waste storage, segregation and handling appropriate measures	CC	<p>The operator confirmed that they currently meet the requirements of the appropriate measures in this section. Waste is stored in line with the sites FPP.</p>
Waste treatment appropriate measures	CC	<p>The operator confirmed that they currently meet the requirements of the appropriate measures in this section.</p>
Emissions control appropriate measures	FC	<p>The operator confirmed that they currently meet the requirements of the appropriate measures in this section with the exception of;</p> <ul style="list-style-type: none"> • Enclosure within buildings – This element is being addressed through improvement condition IP3 and IP4 which require the operator to carry out a detailed review of the existing buildings, treatment equipment and operations to ensure that they are in accordance with the requirements specified in the Non-hazardous and inert waste: appropriate measures for permitted facilities guidance BAT 14 of the Waste Treatment BAT Conclusions • Point source emissions to sewer - In line with the WT BATC, we have included monitoring requirements (parameters and limits) in Table S3.1 of the permit. As well as this, two improvement conditions have been included to ensure that the limits set are appropriate. IP9a and IP9b require the operator to complete and inventory of emissions and then risk assess this with the H1 tool. The final requirement is to propose and implement any

		additional measures required to treat the waste water where required following the assessment.
Emissions monitoring and limits appropriate measures	CC	The operator confirmed that they currently meet the requirements of the appropriate measures in this section with the exception of; <ul style="list-style-type: none"> Point source emissions to sewer - In line with the WT BATC, we have included monitoring requirements (parameters and limits) in Table S3.1 of the permit.
Process efficiency appropriate measures	FC	The operator confirmed that they are not currently compliant with this section of the appropriate measures. Permit condition is in place which requires the operator to submit end of year report for water, energy and raw materials usage. The operation also has limited scope for the use of raw materials, energy and water efficiency. An improvement condition, IP6 requires the completion and submission of the relevant plans.
Regulation 61 Requirement	Compliance status	Assessment of the installation's compliance with relevant standards (appropriate measures) and any alternative techniques proposed by the operator
BAT 1 - EMS	CC	The operator indicated they are progressing towards has ISO14001 accreditation for their management system within their Regulation 61 response. A management system in place as required by BAT.
BAT 2 - Waste pre-acceptance, acceptance and tracking appropriate measures	CC	The operator confirmed that they have waste acceptance procedures including a procedure for waste tracking and reporting. Procedures follow guidance from the Wood Recyclers Association.
BAT 3 - Inventory of wastewater and waste gas streams	CC	There are no channelled emissions to air from the site but there are channelled emissions of contaminated waters to surface water. The operator indicated that the site data had been collected for their emission to sewer however this needed presenting in an inventory of emissions. As no response was given to the RFI this has not been provided. In line with the WT BATC, we have included monitoring requirements (parameters and limits) in Table S3.1 of the permit. As well as this, two improvement conditions have been included to ensure that the limits set are appropriate. IP9a and IP9b require the operator to complete and inventory of emissions and then risk assess this with the H1 tool. The final requirement is to propose and implement any additional measures required to treat the waste water where required following the assessment.
BAT 4 - Storage procedures	CC	The operator confirmed that they have storage procedures in place at the site and confirmed they are compliant with this BAT requirement.

BAT 5 – Waste handling and transfer procedures	CC	The operator confirmed that they have waste handling and transfer procedures in place.
BAT 6 - monitor key process parameters	CC	The operator confirmed that contaminated run-off from the site area is discharged into a holding lagoon before discharge to sewer under consent. We have included monitoring requirements (parameters and limits) in Table S3.1 of the permit in line with the WT BATC. As well as this, two improvement conditions have been included to ensure that the limits set are appropriate. IP9a and IP9b require the operator to complete and inventory of emissions and then risk assess this with the H1 tool. The final requirement is to propose and implement any additional measures required to treat the waste water where required following the assessment.
BAT 7 - monitor emissions to water	CC	Water is not used, and wastewater is not generated as part of the wood shredding process; however, the operator confirmed that contaminated run-off from the site area is discharged to sewer under consent. In line with the WT BATC, we have included monitoring requirements (parameters and limits) in Table S3.1 of the permit. As well as this, two improvement conditions have been included to ensure that the limits set are appropriate. IP9a and IP9b require the operator to complete and inventory of emissions and then risk assess this with the H1 tool. The final requirement is to propose and implement any additional measures required to treat the waste water where required following the assessment.
BAT 8 - monitor channelled emissions to air	N/A	There is no channelled emission to air. The permit does not allow channelled emissions to air.
BAT 9 - monitor diffuse emissions of organic compounds to air	N/A	The installation activities do not involve regeneration of spent solvents, the decontamination of equipment containing POPs with solvents, and the physico-chemical treatment of solvents for the recovery of their calorific value. This BAT is therefore considered not applicable.
BAT 10 - monitor odour	N/A	Given the nature of the waste treatment operations, we agreed that this BAT is not applicable.
BAT 11 - monitor consumption of water, energy and raw materials, and generation of residues and wastewater	FC	Permit condition is in place which requires the operator to submit end of year report for water, energy and raw materials usage. IP6 has been included which requires the completion and submission of the relevant plans.
BAT 12 - odour management plan	N/A	Given the nature of the waste treatment operations, the Environment Agency agreed that this BAT is not applicable.
BAT 13 - reduce odour emissions	N/A	Given the nature of the waste treatment operations, the Environment Agency agreed that this BAT is not applicable.
BAT 14 - reduce diffuse emissions to air	FC	The operator responded to the Regulation 61 Notice, indicating that they wish to review their current alternative dust suppression measures. Further information was requested through the draft RFI

		<p>however this has not been responded to as outlined above. The operator currently does not meet all of the requirements of BAT 14. To address the deficiencies, we have included Improvement Conditions IP3 and IP4 in the permit which require the operator to carry out a detailed review of the existing buildings, treatment equipment and operations to ensure that they are in accordance with the requirements specified in the <u>Non-hazardous and inert waste: appropriate measures for permitted facilities</u> guidance BAT 14 of the <u>Waste Treatment BAT Conclusions</u>.</p> <p>IP7 requires the monitoring and analysis of fugitive dust emissions from site. This is to identify the levels of dust produced on site. It will also determine the sites contribute to dust levels in the area and identify any further monitoring requirements.</p> <p>A dust management plan has also been requested within improvement condition IP8.</p>
BAT 15 - minimise use of flaring	N/A	Given the nature of the waste treatment operations, we agreed that this BAT is not applicable.
BAT 16 - reduce emissions to air from flares	N/A	Given the nature of the waste treatment operations, we agreed that this BAT is not applicable.
BAT 17 - noise and vibration management plan	FC	Based on our internal noise screening, a noise impact assessment and noise management plan are required. Noise was assessed at initial application. The question of whether site operations have changed with regard to noise generating activities since permit issue was asked in the draft RFI. The operator has elected to respond to this with an improvement condition. As such IP5 has been including requiring the operator to carry out a review of noise generating activities on site. Where significant change is identified the operator shall carry out further investigations to assess the impact of noise generated on site upon receptors.
BAT18 - reduce noise and vibration emissions	FC	Based on our internal noise screening, a noise impact assessment and noise management plan are required. Noise was assessed at initial application. The question of whether site operations have changed with regard to noise generating activities since permit issue was asked in the draft RFI. The operator has elected to respond to this with an improvement condition. As such IP5 has been including requiring the operator to carry out a review of noise generating activities on site. Where significant change is identified the operator shall carry out further investigations to assess the impact of noise generated on site upon receptors.
BAT 19 - optimise water consumption, reduce wastewater and prevent or reduce emissions to soil and water	FC	The operator indicated that they are compliant with the requirements of this BATc. The operator however is unable to provide details to demonstrate that they have system in place for proper segregation of clean and wastewater at the site as required in point f of this BAT. Improvement condition IP1 has been included in the permit which requires the operator to investigate their current drainage arrangements and confirm the routes of contaminated and uncontaminated waters.
BAT 20 - waste water treatment	CC	The operator indicated that the site is not generating wastewater from the treatment activities, however, it is evident that contaminated waters are generated within the site area. The contaminated waters that are generated within the site area are discharged under consent to sewer.

		In line with the WT BATC, we have included monitoring requirements (parameters and limits) in Table S3.1 of the permit. As well as this, two improvement conditions have been included to ensure that the limits set are appropriate. IP9a and IP9b require the operator to complete and inventory of emissions and then risk assess this with the H1 tool. The final requirement is to propose and implement any additional measures required to treat the waste water where required following the assessment.
BAT 21 - prevent or limit the environmental consequences of accidents and incidents	CC	The operator has indicated that they are compliant with this BAT requirement.
BAT 22 - substitute materials with waste	N/A	There is limited use of raw materials within the waste wood shredding process. Given the nature of the waste treatment operations, we agreed that this BAT is not applicable.
BAT 23 - Energy efficiency plan, energy balance record	FC	The operator has detailed within their response to the RFI that they will prepare any plans necessary for compliance with this BAT. We have included improvement condition IP6 which covers the creation and implementation of the relevant plans. This has been done in accordance with the response to the draft RFI requesting and improvement condition to cover this aspect.
BAT 24 - maximise reuse of packaging	N/A	No packaging is generated during the waste processing operations. Given the nature of the waste treatment operations, we agreed that this BAT is not applicable.
BAT 25 - General - Emissions to air (Techniques to reduce plus AEL for dust).	N/A	There are no channelled emissions of dust from the process and this was confirmed in response to the RFI. As such this requirement is not relevant to the operations.
BAT 26 - Metal shredders (Reduce accidents & incidents)	N/A	The installation is for the mechanical processing waste wood for incineration. There is no treatment in shredders of metal waste, including WEEE and ELVs and their components and as such we agree that BAT 26 does not apply.
BAT 27 - Deflagrations (Prevent & reduce emissions from deflagrations)	N/A	The installation is for the mechanical processing waste wood for incineration. There is no treatment in shredders of metal waste, including WEEE and ELVs and their components and as such we agree that BAT 27 does not apply.
BAT 28 - Energy efficiency (Shredder feed stability)	N/A	The installation is for the mechanical processing waste wood for incineration. There is no treatment in shredders of metal waste, including WEEE and ELVs and their components and as such we agree that BAT 28 does not apply.
BAT 29 - WEEE containing VFCs and/or VHCs (Emissions)	N/A	Given the nature of the waste treatment operations and waste types, we agreed that this BAT is not applicable. There is no treatment in shredders of metal waste, including WEEE, ELVs and their components and there are no channelled emission points to air at the site.

of organic compounds to air including AELs)		
BAT 30 - Explosions when treating WEEE (Prevent emissions due to explosions)	N/A	Given the nature of the waste treatment operations and waste types, we agreed that this BAT is not applicable. There is no treatment in shredders of metal waste, including WEEE and ELVs and their components. There is a non-conforming waste procedure in place at the site.
BAT 31 - Emissions to air (Techniques to reduce emissions to air including AEL)	N/A	There is no channelled emission to air and the permit does not allow channelled emission to air.
BAT 32 - WEEE containing mercury (Emissions to air including AEL)	N/A	WEEE is not being treated at the site. There is no channelled emission to air and the permit does not allow channelled emission to air.
BATs 33 - 53	N/A	We considered that BATs 33 - 53 are not applicable to installations processing waste wood for incineration. We consider these treatment activities as mechanical treatment.
Reg. 61 Request for Further Information (RFI)	Assessment of response received	
N/A	N/A	