

Permitting Decisions- Environment Agency Initiated Variation

We have issued an Environment Agency initiated variation for Ocean Terminal operated by Tradebe Solvent Recycling 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/EP3435US/V005

Permit Review

This 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 regulated facility and varied the permit to make a number of changes to reflect relevant standards and best practice. These changes principally relate to the implementation of our technical guidance <https://www.gov.uk/guidance/chemical-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.

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 the Environment Agency to review conditions in permits that it has issued and to ensure that the permit delivers compliance with relevant standards, 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 were expected to be in compliance with the BAT Conclusions within 4 years (i.e. by August 2022).

On 18 November 2020, Chemical Waste: appropriate measures for permitted facilities guidance was published on gov.uk. This technical guidance explains the standards that are relevant to regulated facilities with an environmental permit to treat or transfer chemical waste, providing relevant standards (appropriate measures) for those sites and incorporating the relevant requirements of the BAT Conclusions.

We issued a notice under regulation 61(1) of the Environmental Permitting (England and Wales) Regulations 2016 (a Regulation 61 Notice) on 18/11/2021 requiring the operator to provide information to confirm that the operation of their facility currently meets, or how it will subsequently meet, the standards (appropriate measures) described in our technical guidance.

The notice required that where the revised standards are not currently met, the operator should provide information that:

- Describes the techniques that will be implemented to ensure operations meet the relevant standards and by when, or
- Explains why they are not applicable to the facility in question, or
- Justifies why an alternative technique is appropriate and will achieve an equivalent level of environmental protection to the standards described in our guidance

The notice also indicated that if the operator no longer wished to operate that they must inform us of this within 3 months of the date of the notice and confirm the date when operations would cease.

The Regulation 61 notice response from the Operator was received on 10/03/2023.

The operator indicated that:

- There are no listed activities or waste operations at site.
- The site ceased operating in July 2017.
- The site was emptied of materials, equipment was decontaminated and all process equipment was removed from site.

Summary of our assessment of the operator's Reg 61 response and our actions

This site is effectively non-operational, and no waste activities will take place, but the operator is not surrendering the permit, which therefore remains in force. We consider this to be "temporary cessation." The activities in the permit cannot take place since we have not been given the information to show that they will meet the required technical standards. We have therefore added a pre-operational condition PO1 to the permit regarding the recommencement of the activities listed in Table S1.1. The condition requires that, prior to recommencement of any activities, the operator must apply to vary the permit and provide supporting documents in accordance with the requirements of the Waste Treatment BAT conclusions and Chemical Wastes: appropriate measures for permitted sites (and other appropriate measures guidance as applicable).

When a site is in temporary cessation for a period between 12 months and 2 years (mothballing), the operator is entitled to a reduction in subsistence fees. This period has been exceeded and hence the operator is required to pay full subsistence fees for the site despite its non-operational status. We have included a Note 1 in the permit to make sure the operator is aware that they must continue to pay full subsistence fees until surrender the permit.