



Department for Environment Food & Rural Affairs

The Rt. Hon. Mark Spencer MP
Minister of State for Food, Farming and Fisheries

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Philip Duffy, Chief Executive
Environment Agency
2 Marsham Street
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22 March 2024

Dear Philip,

RE: Consultation: Environmental Permits and Waste Incineration Facilities

As the Minister responsible for waste incineration, I am writing to you regarding environmental permitting and waste incineration facilities.

I would like to explore further the role of waste incineration in the management of residual wastes in England and ensure this is cognisant of our wider Resources and Waste Strategy, and Government's wider decarbonisation objectives and environmental obligations. In particular, I would like to consider whether there is a greater role for Government to encourage investment in waste prevention, preparation for re-use and recycling facilities, without incentivising residual waste treatment. I would therefore like Defra and Environment Agency officials to scope the need for a potential review to consider this question. This scoping work will have regard to existing information and knowledge, upcoming policies such as those you have correctly identified, and determining whether there are gaps that warrant further investigation. It is my intention that this scoping period will conclude by the 22 April 2024. We would then announce the outcome of this scoping review on 10 May 2024, following local elections on 2 May 2024.

I am wary of committing to expanding further England's waste incineration capacity prior to this scoping exercise being completed. I am, therefore, writing to inform you that I am minded to issue a Direction to the Environment Agency, under regulation 62 of the Environmental Permitting (England and Wales) Regulations 2016, to temporarily pause the determination of environmental permits for new waste incineration facilities, including Energy from Waste and Advanced Thermal Treatment. This would apply to proposed developments that do not yet hold an environmental permit for waste incineration, regardless of whether they hold planning permission from the relevant planning authority. This would not apply to permits for hazardous or clinical waste incineration facilities, small waste incineration plant, incinerators seeking a permit variation for an existing environmental permit, or significant permit variations for incinerators seeking to develop carbon capture and storage provision. The direction to pause the determination of pending environmental permit decisions will provide some breathing space to scope and determine the lines of enquiry that may then be pursued in a subsequent review, if deemed necessary. The scoping period will not determine the status of currently submitted permit applications. I will consider, at the end of April, once the scoping work is complete, whether a further ministerial direction in

relation to these and future applications is required or whether decisions will then be taken by the Environment Agency as per their standard processes.

I am minded to issue this Direction for a short period lasting until a specified date, likely 10 May 2024, but this could be withdrawn earlier. I am aware that this pause would encompass several of the ten permit applications have been previously discussed in your communication with Minister Moore.

I have attached a summary of the rationale for my proposed course of action to inform your considerations.

For consideration of Environment Agency legal advisors, I have attached a copy of the draft Direction which I understand our officials have previously discussed and I welcome and thank you for this collaborative approach.

A further point I would like us to collaborate on is the best means through which to address non-mechanical ('chemical') recycling facilities. It is not my intention to include within the scope of this work any facility where the purpose is the recycling of materials (i.e. the re-processing of waste materials into products, materials or substances): I intend that facilities with the primary purpose of energy recovery, either directly through power, gasification, or conversion of residual wastes to a fuel should be covered by any direction. It would be useful to understand whether any such non-mechanical ('chemical') recycling facilities could be affected by the current proposed direction, and if so whether drafting changes are required to the direction to clarify its scope.

I invite you to consider this intended approach and respond to me by 6pm on 2 April 2024, setting out any risks, issues or considerations that you feel I should take into account.

I am happy to discuss this proposed Direction further if this is helpful do so. I copy this letter to Tamara Finkelstein – Defra Permanent Secretary, David Hill – Director General Environment, and Emma Bourne – Director Resources & Waste.

Yours sincerely,

Rt. Hon. Mark Spencer MP