

## Permitting Decisions - Environment Agency Initiated Variation

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We have issued an Environment Agency initiated variation for Atherstone Transfer Station operated by Biffa Waste Services 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/BP3130RM/V003.

### 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 [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.

It explains how we have reviewed and considered the techniques used by the operator in the operation and control of the plant and activities of the installation (operating techniques) against our technical guidance.

As well as considering the review of the operating techniques used by the Operator for the operation of the plant and activities of the installation, the consolidated variation notice takes into account and brings together in a single document all previous variations that relate to the original permit issue. Where this has not already been done, it also modernises the entire permit to reflect the conditions contained in our current generic permit template.

# 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.

The following Appropriate Measures guidance is also applicable to the permitted activities being varied under this permit review and has been included in the operating techniques table.

Healthcare waste: appropriate measures for permitted facilities - published 13 July 2020. Non-hazardous and inert waste: appropriate measures for permitted facilities - published 12 July 2021. Waste electrical and electronic equipment (WEEE): appropriate measures for permitted facilities – published July 2022.

We issued a notice under regulation 61(1) of the Environmental Permitting (England and Wales) Regulations 2016 (a Regulation 61 Notice) on 15/11/2021 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 standards described in our technical guidance are split into 7 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

We have set emission limit values (ELVs) and monitoring requirements for relevant substances in line with our technical guidance and the BAT Conclusions for Waste Treatment, unless a tighter, i.e. more stringent, limit was previously imposed, and these limits have been carried forward.

The Regulation 61 notice required the operator to confirm whether they could comply 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 – Not Compliant

In accordance with Article 22(2) of the Industrial Emissions Directive, the Regulation 61 notice asked the operator to provide a soil and groundwater risk assessment, along with a baseline report or summary report confirming the current state of soil and groundwater contamination, where listed activities are undertaken that involve the use, production or release of relevant hazardous substances.

The Regulation 61 notice also asked the operator to confirm whether they operate a medium combustion plant or specified generator (as per Schedule 25A or 25B of EPR 2016) and whether they had considered how their operations could be affected by climate changes (e.g. through a climate change adaptation plan).

Our assessment of the responses received from the operator regarding soil and groundwater risk assessment, medium combustion plant and specified generators, and consideration of climate change are also summarised in Table 1.

The Regulation 61 notice response from the Operator was received on 04/02/2022.

We considered that the response did contain sufficient information for us to commence determination of the permit review.

Although we were able to consider the Regulation 61 notice response generally satisfactory at receipt, we needed more information in order to complete our permit review assessment. We requested this by email and the operator provided further information on 08/11/2024. We made a copy of this information available on our public register.

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

<b>Appropriate measures</b>	<b>Compliance status</b>	<b>Assessment of the installation’s compliance with relevant standards (appropriate measures) and any alternative techniques proposed by the operator</b>
<b>General management appropriate measures</b>	FC	The Operator confirmed that they do not currently meet the requirements of all appropriate measures in this section. Improvement condition IC14 has been included in the varied permit to address this. The Operator has suggested alternative measures for Sections 2.4.3 and 2.4.7 (accident prevention measure) which have been accepted and agreed as meeting equivalent level of environmental protection.
<b>Waste pre-acceptance, acceptance and tracking appropriate measures</b>	FC	The Operator confirmed that they do not currently meet the requirements of all appropriate measures in this section. Improvement condition IC15 has been included in the varied permit to address this. The Operator has suggested alternative measures for Sections 3.1.19, 3.2.34, 3.2.40 and 3.2.41 which have been accepted and agreed as meeting equivalent level of environmental protection.
<b>Waste storage, segregation and handling appropriate measures</b>	FC	The operator confirmed that they do not currently meet the requirements of all appropriate measures in this section. Improvement condition IC16 has been included in the varied permit to address this. The operator has suggested alternative measures for Section 4.11 which have been accepted and agreed as meeting equivalent level of environmental protection.
<b>Waste treatment appropriate measures</b>	NA	There are no chemical treatment processes at this facility.
<b>Emissions control appropriate measures</b>	FC	The operator confirmed that they do not currently meet the requirements of all appropriate measures in this section. Improvement condition IC17 has been included

		in the varied permit to address this. Section 6.1 is not applicable as there are no point source emissions to air at this facility.
<b>Emissions monitoring and limits appropriate measures</b>	NA	There are no emission limits or monitoring requirements in the permit.
<b>Process efficiency appropriate measures</b>	CC	The operator confirmed that they currently meet the requirements of all appropriate measures in this section. Compliance with the appropriate measures in this section of the guidance has been incorporated into the varied permit through the updated operating techniques listed in table S1.2.
<b>Reg 61 requirement</b>	<b>Assessment of response received</b>	
<b>Soil and groundwater risk assessment</b>	The operator has chosen not to submit any baseline data.	
<b>Medium combustion plant and specified generators</b>	No existing medium combustion plant or specified generators are present at this facility.	
<b>Climate change</b>	Climate change assessment provided but not assessed. The operator has not entered into a climate change agreement with the Government.	

## **Decision Considerations**

### **Confidential information**

A claim for commercial or industrial confidentiality has not been made.

### **Identifying confidential information**

We have not identified information provided as part of the Regulation 61 notice response that we consider to be confidential.

The decision was taken in accordance with our guidance on confidentiality.

### **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 RGN2 'Defining the scope of the installation', and Appendix 1 of RGN 2 'Interpretation of Schedule 1'.

### **The site**

The operator has provided plans which we consider to be satisfactory.

These show the extent of the site of the facility including the discharge points.

The plans show the location of the part of the installation to which this permit applies on that site.

A plan is included in the permit.

### **Operating techniques**

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.

The operating techniques that the applicant must use are specified in S1.2 in the environmental permit.

### **Changes to the permit conditions**

We have varied the permit as stated in the variation notice.

## Improvement programme

We have included an improvement programme to ensure that the permit meets the requirements of the Environment Agency's guidance, Chemical waste: appropriate measures for permitted facilities.

## Changes to EWC codes

The following waste codes have been added to the permit at the request of the operator to enable them to de-register an exemption:

16 01 03	end-of-life tyres
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The following waste codes have been added to the permit to correct historic omissions:

13 03 01*	insulating or heat transmission oils containing PCBs
13 05 01*	solids from grit chambers and oil/water separators
17 06 01*	insulation materials containing asbestos
17 06 05*	construction materials containing asbestos

## Emission limits

No emission limits have been added, amended or deleted as a result of this variation.

For rainfall runoff from non-process areas of waste storage/treatment (e.g. roofs and carparks) we have included descriptive limits on visible oil and grease.

We made these decisions in accordance with Waste Treatment BAT Conclusions, Chemical Waste: Appropriate Measures for Permitted Facilities.

## Monitoring

Monitoring has not changed as a result of this variation.



We made these decisions in accordance with Waste Treatment BAT Conclusions, Chemical Waste: Appropriate Measures for Permitted Facilities

## **Reporting**

Reporting has not changed as a result of this variation.

We made these decisions in accordance with Waste Treatment BAT Conclusions, Chemical Waste: Appropriate Measures for Permitted Facilities

## **Growth Duty**

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 100 of that Act in deciding whether to grant the variation of this permit.

Paragraph 1.3 of the guidance says:

“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.”

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.

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.