

Permitting Decisions- Environment Agency Initiated Variation

We have issued an Environment Agency initiated variation for MTB (Midlands) Limited – Cradley Heath operated by MTB (Midlands) 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/EP3136MN/V007.

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.

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. Non-hazardous and inert waste: appropriate measures for permitted facilities” was published on 12 July 2021. 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 18/11/2001 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 EPA 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 10/05/2022.

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 03/10/2024 and 08/11/2024. We made a copy of this information available on our public register.

Sewer discharge

We have included improvement conditions and emission limits in the permit relating to the emission of process effluent to sewer. The operator has confirmed that process effluent is released to sewer from the recovery of waste oils in the tank farm and from the disposal of non-hazardous aqueous wastes by ultrafiltration. The discharge from both processes is discharged to foul sewer via the same discharge point, S1. The discharge from the installation is treated by Severn Trent Water Limited prior to discharge to the river Stour.

Emission Limits (BAT-AELs) and monitoring

Waste treatment activities including 'physico-chemical treatment of waste with calorific value' and 'treatment of water-based liquid wastes', are required to comply with the BAT Conclusions for waste treatment. The BAT Conclusions were published in 2018. The expected date of BAT AEL compliance for existing sites has now passed (4 years after issue publication of BAT Conclusions). On this basis the Environment Agency is required to insert the BAT AELs outlined in the BAT Conclusions into a permit where it is determined they are appropriate and the BAT AELs will apply on issue of a permit as the timescale for existing site compliance has passed. We have therefore inserted the relevant emission limits into the permit in Table S3.2 which apply on issue of this permit. The emission limits derived from the BAT AELs are subject to the notes accompanying the

table and permit condition 3.5.1. Compliance will be determined by the Environment Agency.

From the information provided by the operator, we consider that the main intention of the treatment of waste oils (AR1) is recovery of the oil component so that it can be sent for further treatment to produce a fuel or an oil product. Under the Waste Treatment BREF, the most apt description of this process is 'physico-chemical treatment of waste with calorific value' and therefore the relevant emission limits set out in Table 6.2 and monitoring set out in BAT 7 of the Waste Treatment BAT Conclusions apply.

We consider that the intention of the treatment of non-hazardous aqueous waste by ultrafiltration (AR2) is primarily disposal of wastewater present in the aqueous waste. Under the Waste Treatment BREF, the most apt description of this process is 'treatment of water-based liquid wastes' and therefore the relevant emission limits set out in Table 6.2 and monitoring set out in BAT 7 of the Waste Treatment BAT Conclusions apply.

The process discharges from both activities (AR1 and AR2) are combined into a single indirect discharge to a receiving water body. We are required to apply alongside one another the relevant BAT AELs and monitoring requirements for this single combined discharge, and where the same parameter is listed under both activities in the BAT Conclusions, we are required to implement the stricter/lower BAT AELs for physico-chemical treatment of waste with calorific value' and more frequent monitoring for 'treatment of water-based liquid waste'. This will safeguard against the higher potential environmental harm of 'physico-chemical treatment of waste with calorific value' and higher variability of 'treatment of water based liquid waste' activities. The implementation of BAT-AELs covering both activities for the combined discharge ensures that the facility is always operating according to BAT due to the combined nature and potential varied content of the discharge.

Emissions inventory and risk assessment

The operator submitted a H1 assessment as part of their response to the Reg61 Notice. This did not include all of the parameters listed in Table S3.2 in the permit and a separate emissions inventory has not been supplied. We have added **improvement condition IC10** in the permit to ensure the operator establishes an emissions inventory for their emission to sewer as per Chemical waste: appropriate measures for permitted facilities #7.2.1. Likewise, we have added **improvement condition IC11** requiring that the operator submits a revised H1 assessment containing all relevant parameters as per Chemical waste: appropriate measures for permitted facilities #6.4.2.

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	CC	<p>In their response to our request for information dated 03/09/2024, the operator confirmed that they are compliant with the appropriate measures in this section and confirmed that the site has capacity to contain firewater (measure 2.4.3) and fire prevention, detection, and suppression/extinction measures based on risk assessments (measure 2.4.12) are present.</p> <p>The operator referenced an Odour Management Plan (OMP) in their Environmental Management System (EMS). This has not been approved previously or required as part of the permit determination. The permit conditions prevent the operator from causing pollution due to odorous emissions and enable the implementation of an OMP if required.</p> <p>Continued compliance with this section of the appropriate measures has been incorporated into the varied permit through the updated operating techniques listed in Table S1.2.</p>
Waste pre-acceptance, acceptance and tracking appropriate measures	CC	<p>In their Regulation 61 response, the operator stated that the facility is compliant with the requirements of the appropriate measures in this section but recorded several deviations which we have assessed:</p> <ul style="list-style-type: none"> • 3.1.4 and 3.1.6.2. The operator stated that pre-acceptance information cannot always be verified directly with the waste producer. The operator confirmed in a response to our request for information dated 03/09/2024 that whilst pre-acceptance information cannot always be verified, the facility is compliant with the related measure 3.1.6.3 and obtains samples, or analyses accompanied by customer declarations, from new industrial sources. We consider that this is compliant with the measures and should ensure that waste coming onto site is appropriately assessed prior to acceptance. • 3.1.8 The operator stated that Material Flow Analysis is not generally applied as it is a small scale, simple, storage and treatment operation. The wording of the appropriate measure does not explicitly require that MFA is carried out but suggests it may be suitable in certain scenarios. Given the relatively low hazard profile of the wastes accepted and the treatment employed, we consider that MFA is not likely to be required at the site. • 3.3. The operator stated that waste locations are tracked using a range of media (site logs, tank level gauges etc.) and transposed into a real time access system. In response to our request for information dated 03/09/2024 the operator confirmed that the waste tracking system is

		<p>compliant with the requirements stated in section 3.3.</p> <ul style="list-style-type: none"> • 3.2.8. The operator stated the waste vehicles are not weighed at receipt. Either they are pre-weighed off-site or sampled by on-site chemists and the density and volume used to calculate space in tanks. The operator stated that due to the density of oil being less than 1, a weight evaluation can lead to over filling. This practice is stated as an acceptable alternative in the wording of the appropriate measure so we consider the operator is compliant with this measure. • 3.2.39 and 3.2.41. The operator stated that sampling is undertaken by qualified chemists using methods listed in their accredited management systems. The appropriate measure 3.2.41 requires that testing must be carried out by a laboratory with suitably recognised test methods. We have not assessed the methods used by the laboratory to determine if these are equivalent but compliance with the measure has been incorporated into the varied permit. We will continue to ensure through our compliance assessments that the operator is carrying out suitable analysis and testing prior to acceptance of waste. <p>The operator stated that the following appropriate measures are not relevant to the site activities based on the types of waste accepted: 3.1.3, 3.1.6, 3.1.6.1, 3.1.6.3, 3.2.10. We agree that these appropriate measures are unlikely to apply currently given the types of waste accepted onto site but could apply in future should waste acceptance criteria change.</p> <p>Compliance with appropriate measures in this section has been incorporated into the varied permit through the updated operating techniques listed in Table S1.2.</p>
Waste storage, segregation and handling appropriate measures	CC	<p>In their Regulation 61 response, the operator stated that the facility is compliant with the appropriate measures in this section with the exception of the following:</p> <ul style="list-style-type: none"> • 4.40. The operator stated that all hot work activities are subject to a hot work permit before the activity is undertaken. The operator explained to us that that hot work activities are always assessed for fire risk and are not carried out in storage areas where a clear fire risk could be substantiated. We consider this is compliant with the measure. <p>The operator stated that measures 4.8, 4.13, 4.18, 4.30-4.32, 4.35, 4.66-4.68, 4.71-4.77 and 4.90-4.92 are not currently relevant to the operations at the facility. We agree that these appropriate measures are unlikely to apply currently given the types of waste accepted onto site but could apply in future should waste acceptance criteria change.</p> <p>Compliance with appropriate measures in this section has been incorporated into the varied permit</p>

		through the updated operating techniques listed in Table S1.2.
Waste treatment appropriate measures	CC	<p>In their Regulation 61 response, the operator stated that the facility is compliant with the appropriate measures in this section with the exception of the following:</p> <ul style="list-style-type: none"> 5.14 The operator stated that material flow analysis is not undertaken on site. Given the relatively low hazard profile of the wastes accepted and the treatment employed, we consider that MFA is not required at the site. <p>The operator stated that measure 5.2 is not relevant to the site activities as the site does not treat aerosols. We agree this measure is unlikely to apply currently to the site's operations.</p> <p>Continued compliance with this section of the appropriate measures has been incorporated into the varied permit through the updated operating techniques listed in Table S1.2.</p>
Emissions control appropriate measures	CC/FC	<p>In their Regulation 61 response, the operator stated that they were not compliant with this section of the appropriate measures however they have since confirmed that they are compliant with the appropriate measures in this section but consider the following measures: 6.2.10, 6.2.11, 6.2.12, 6.2.13 – 6.2.19, 6.3 and 6.5.16 are not relevant to the site operations.</p> <p>We do not agree that measures 6.2.13 - 6.2.19 are not relevant as these relate to odorous emissions which are possible given the wastes processed. However, given that emissions from storage and treatment tanks are suitably abated (see below) we have no reason to consider that the site is not currently complying with these measures for emissions to air. It is likely that the facility may need to abate their emissions to sewer in some way or change their waste acceptance criteria to meet the applicable BAT-AELs (measure 6.4.4 - see also emissions monitoring below).</p> <p>Continued compliance with this section of the appropriate measures has been incorporated into the varied permit through the updated operating techniques listed in Table S1.2.</p>
Emissions monitoring and limits appropriate measures	FC/NC	<p><u>Emissions to air</u></p> <p>The operator confirmed in response to our request for information dated 03/09/2024 that they will monitor emissions to air every 6 months in accordance with The Waste Treatment BAT Conclusions and can comply with the BAT-AEL of 30 mg/m³ TVOC. This emission limit and monitoring frequency has been added to the permit in Schedule 3, Table S3.1. The operator confirmed that emissions from storage tanks and treatment tanks/vessels are channelled to the abatement system.</p>

		<u>Emissions to sewer</u> We consider that the operator is not currently complying with this section of the chemical waste: appropriate measures for permitted facilities guidance with respect to their emission to sewer. This is discussed in more detail in the sewer discharge section prior to this table. Compliance with section 7 of the appropriate measures other than those sections to which an improvement condition applies has been incorporated into the varied permit through the updated operating techniques listed in Table S1.2.
Process efficiency appropriate measures	CC	In their Regulation 61 response, 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.
Reg 61 requirement Assessment of response received		
Soil and groundwater risk assessment	A baseline survey was initially undertaken for the site in 2001. The operator is required to complete further surveys on a periodic basis as per condition 3.1.3 in the permit which incorporates the requirements of Article 16 of The Industrial Emissions Directive (2014).	
Medium combustion plant and specified generators	At the operator's request, we have included early permitting of the Medium Combustion Plant in the permit which is an existing 1.18MWth boiler fired on gas oil to provide steam for the permitted activities. We have added the standard conditions 2.3.7, 3.1.4 and 4.2.3 to the permit. We have updated the description of the activity AR5 in Table S1.1 and added the restriction on fuel to be used in Table S2.1. We have added the relevant limits and monitoring to emission point A2 – limits apply from 01/01/2030 and monitoring and reporting applies from the date of first acceptance under condition 3.5.5. We have added the relevant definitions in Schedule 6.	
Summary of other changes made to the permit as a result of our assessment of the Reg 61 response		
Change	Reason for change	
Table S1.1	We reviewed the activities listed under Schedule 1, Table S1.1 in accordance with the scope of the permit review. We removed activity A3 – Disposal of non-hazardous waste in a facility with a capacity of more the 50 tonnes per day by biological treatment as the operator confirmed in response to our request for information dated 03/09/2024 that this activity no longer takes place on site and is not required on the permit. We added activity AR6 which is a waste operation. Storage of non-hazardous wastes was previously permitted under AR3/AR4 (D15). Having reviewed our	

	guidance, we consider that this should be listed as a separate waste operation. The maximum amount of non-hazardous waste accepted onto site remains 18,250 tonnes per year as per the previous permit.
Schedule 2, Tables 2.2 - 2.5	We reviewed the lists of wastes accepted by the operator in accordance with the scope of the permit review.

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 facilities at the site in accordance with RGN2 'Understanding the meaning of regulated facility', Appendix 2 of RGN2 'Defining the scope of the installation', Appendix 1 of RGN 2 'Interpretation of Schedule 1'. We have made some changes to the permit as set out in Table 1.

The extent of the facilities is defined in the site plan and in the permit. The activities are defined in table S1.1 of the permit.

The site

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

These show the extent of the site of the facility including point source emissions to air and water.

The 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.

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 permits.

Changes to the permit conditions

We have varied the permit as stated in the variation notice. The permit has been reviewed against the requirements of the Medium Combustion Plant Directive for 2025 and 2030 and relevant conditions and monitoring requirements have been added at the request of the operator.

Improvement programme

We have included an improvement programme to ensure that the operator establishes a wastewater inventory and to ensure that emissions of wastewater will not cause significant harm to the environment. This is explained fully in Table 1 of this document in the Key Issues section under 'Emissions monitoring and limits appropriate measures'.

Changes to EWC codes

We required that the operator reviewed their lists of waste (EWC) codes under the scope of the permit review and the list of wastes accepted onto site. The operator agreed to the removal of several codes (listed in their response (dated 08/11/2024) to our request for information dated 21/10/24) from the permit and the removal of several codes from treatment activities. We have agreed the addition of waste code 11 01 13* 'degreasing wastes containing hazardous substances' under activity AR1 as this more accurately describes waste that is treated by the facilities. We have included a restriction on the list of waste codes contained in Schedule 2, Table S2.2 that are permitted for acceptance and physico-chemical treatment under AR1 to wastes containing recoverable oil only. This restriction will ensure that hazardous wastes submitted to this activity can be appropriately treated.

Emission limits

Emission Limit Values (ELV's), based on Best Available Techniques – Associated Emission Levels (BAT-AELS) for Waste Treatment, have been added for Total Volatile Organic Compounds (TVOC). We have added the limit of 30 mg/m³ TVOC for emission point A1 which applies to emissions arising from the physico-chemical treatment of waste oils (AR1). We have added an emission limit for oxides of nitrogen of 200 mg/m³ in accordance with the requirements of MCPD for an existing boiler fired on gas oil with a thermal input of 1-5 MWs which is applicable from 01/01/2030.

Emissions limits have been added for indirect emissions to sewer as a result of this variation based on Best Available Techniques – Associated Emission Levels (BAT-AELS) for Waste Treatment. This is explained fully in Table 1 of this document in the Key Issues section under 'Emissions monitoring and limits

appropriate measures'. All applicable parameters have been included in Schedule 3, Table S3.2 subject to the outcome of (improvement condition) IC1.

Monitoring

Monitoring requirements have been added for point source emissions to air and indirect emissions to sewer as a result of this variation.

The monitoring requirements for emission points A1 and S1 have been added to implement the requirements of Best Available Techniques for Waste Treatment BAT Conclusion 7 and BAT Conclusion 8. In addition, we have added the requirement to monitor speciated VOCs in accordance with BAT Conclusion 3.

Monitoring requirements for emission point A2 have been added in accordance with the requirements of MCPD at the request of the operator. These requirements do not apply until the date of acceptance of monitoring requirements under condition 3.5.5.

Reporting

We have added/amended reporting requirements for emissions to air and emissions to sewer.

We made these decisions in accordance with Best Available Techniques for Waste Treatment.

We have added reporting of treatment of waste oils for recovery and treatment of non-hazardous wastes. These will allow us to assess compliance with the permit conditions.

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.