

Permitting Decisions- Environment Agency Initiated Variation

We have issued an Environment Agency initiated variation for Kierby Perry Yard Oil Storage operated by W. Lee Waste Oils 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/EP3430UV/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 <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. 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 23/08/2022 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 28/11/2022.

We considered that the response did not contain sufficient information for us to commence determination of the permit review. We therefore issued a further information request to the operator regarding activities, accepted waste codes, storage capacities, and site location. Suitable further information was provided by the operator on 23/11/2024, 09/12/2024, 15/01/2025, and 19/02/2025.

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 | 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. |
| Waste pre-acceptance, acceptance and tracking appropriate measures | 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. |
| Waste storage, segregation and handling appropriate measures | FC | The operator confirmed that they currently meet the requirements of the appropriate measures in this section with the exception of Appropriate Measure 43 of Section 4, which states bulk storage tanks should be vented through suitable abatement. The operator has agreed to submit a plan for approval for the installation, maintenance and operation of an abatement system for the vents from the oil storage tanks onsite. Improvement condition IC8 has been included in the varied permit to address this. Compliance with the other 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. |
| Waste treatment appropriate measures | N/A | The operator confirmed the site is solely for waste storage, transfer, and carries out no on-site treatment of accepted wastes. Non-applicability 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. |
| Emissions control appropriate measures | 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. |
| Emissions monitoring and limits appropriate measures | FC | Permit condition 3.5.1 now requires visual monitoring of S1 and process monitoring of abatement upon completion of IC8. |
| Process efficiency appropriate measures | 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. |

| Reg 61 requirement | | Assessment of response received | |
|--|--|--|--|
| Soil and groundwater risk assessment | | The operator stated their risk assessment showed no significant risks of soil and groundwater contamination and did not submit a baseline report containing information necessary to determine the current state of soil and groundwater contamination. Site condition report/risk assessment was not assessed as it was out of the scope of the permit review. The operator is required to submit 5 and 10 yearly monitoring of groundwater and soil contamination as per the conditions in the permit. | |
| Medium combustion plant and specified generators | | N/A | |
| Climate change | | Submission of climate change risk assessment is no longer application requirement. It now forms a part of the operator's EMS and will be reviewed within compliance assessment. | |
| Summary of other changes made to the permit as a result of our assessment of the Reg 61 response | | | |
| Change | | Reason for change | |
| Removal of completed ICs | | IC1-IC7 removed from permit after confirmed to be complete. | |
| Removal of S5.3 A(1)(a)(ii) – Disposal or recovery of hazardous waste with a capacity exceeding 10tonnes per day by physico-chemical treatment | | No treatment on site. The operator confirmed the site is solely for waste storage and transfer. This is covered by AR1 (S5.6 A(1)(a) –Temporary storage of hazardous waste with a total capacity exceeding 50 tonnes. | |

Decision Considerations

Confidential information

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

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

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 Appendix 1 of RGN 2 'Interpretation of Schedule 1'.

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

Improvement programme

We have included an improvement programme to ensure that the permit complies with Section 4.43 of the Chemical waste: appropriate measures for permitted facilities.

Changes to EWC codes

We have amended the existing EWC codes as part of permit review, to reflect the activities on site, as agreed with the operator.

Codes added: 15 01 10*, 15 02 02*, 16 01 07*

Codes removed: 13 01 01*, 13 01 10*, 13 01 11*, 13 02 04*, 13 03 06*, 13 04 01*, 13 04 02*, 13 04 03*

Emission limits

Descriptive limits have been added for discharge to sewer (S1) for visible oil and grease.

Monitoring

We have decided that monitoring should be added for the following parameters, using the methods detailed and to the frequencies specified:

| Emission point ref. & location | Source | Parameter | Limit (incl. unit) | Reference period | Monitoring frequency | Monitoring standard or method |
|---|---|---------------|--------------------|------------------|----------------------|-------------------------------|
| S1 - Emission point S1 on site plan in Schedule 7 – Sewage Treatment Works via an onsite interceptor. | Surface waters from yard drainage via interceptor and penstock valve. | Oil or Grease | None visible | - | Daily | Visual assessment |

| Emission point reference or source or description of point of measurement | Parameter | Monitoring frequency | Monitoring standard or method | Other Specifications |
|---|-----------------------|---|--|----------------------|
| Abatement on emission points A1-A3 from oil storage tanks | Efficiency assessment | As specified in the agreed abatement plan | Abatement system shall be installed, maintained, operated and replaced in accordance with the manufacturer's recommendations and with the agreed abatement plan outlined in IC8. | - |

We made these decisions in accordance with the Chemical Waste: appropriate measures for permitted facilities guidance.

Reporting

We have added reporting in the permit for the following parameters:

- S1: Annually, or as agreed in writing by the Environment Agency
- Efficiency assessment of abatement on A1-A3: Annually, or as agreed in writing by the Environment Agency

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

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.