Permitting Decisions- Environment Agency Initiated Variation

We have issued an Environment Agency initiated variation for Nuneaton Foam Mix Plant operated by Mac Contracting 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/YP3938DY/V002.

The permit variation was issued on 17/11/2026.

We consider in reaching this decision we have taken into account all relevant considerations and legal requirements and that the permit will ensure that the appropriate level of environmental protection is provided.

Permit Review

The 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

Uncovered waste storage piles

The operator has proposed alternative measures to the below points of the Chemical waste: appropriate measures for permitted facilities guidance which states the following:

- Measure 4.10 – '*Wherever practicable you should store all other wastes under cover'.*
- Measure 3.34 – '*You should store loose bulk hazardous waste under cover'.*

The aim of these appropriate measures is to reduce the generation of and risks from dust emissions to air and contaminated surface run-off.

As part of their Regulation 61 response, the operator provided alternative measures to the above guidance that they believe provide an equivalent level of environmental protection. They have outlined that the cost of implementing cover for the stockpiles would be prohibitively expensive when compared to the negligible environmental risk reduction achieved by storing waste under cover. They have outlined the following operating techniques to demonstrate the low risk of emissions:

1) The site has no discharge of surface water off-site, including contaminated drainage, to surface water, groundwater, land or sewer.
2) The entire permitted site is served by an impermeable liner, which drains into the site sump, preventing loss of containment of contaminated surface water.
3) Collected surface water is reused on site as part of the dust suppression system, including reuse through bowsers.
4) Excess surface water is tankered off-site for treatment, rather than discharge to surface water or sewer.

Contaminated surface water risk

Based on the operating techniques outlined above, we have determined that the environmental risk posed by contaminated surface water is low and therefore accept that the cost of covering piles would outweigh the environmental benefit achieved by this measure.

The key reasons we have accepted these alternative techniques are as follows:

- The site does not discharge surface water to surface water, groundwater, land or sewer, significantly reducing the potential pollution pathway.

- Any rainfall that comes into contact with the waste is collected within the site drainage system and retained on site until removal for off-site treatment. There is no routine off-site discharge. Therefore, the likelihood of contaminated run-off entering controlled waters is low.

- The site is surfaced with an impermeable liner. This provides primary containment for contaminated surface water and prevents infiltration to ground.

On this basis, we consider that the proposed containment, drainage and water management measures provide an equivalent level of environmental protection to that intended by storing the waste under cover.

Dust risk

A further purpose of covering waste stockpiles is to reduce dust generation. Dust may arise during dry weather, periods of high wind, vehicle movements, loading and unloading activities, and stockpile handling.

The operator has proposed to manage dust through the reuse of collected surface water for dust suppression, including through bowsers. This approach provides an environmental benefit, retaining and reusing surface water rather than it being discharged. It also provides a direct control for one of the key risks associated with uncovered stockpiles.

We consider that the operator's dust suppression arrangements are capable of adequately controlling dust from uncovered stockpiles. Dust suppression and the site management techniques outlined in this section have been incorporated into the permit under Table S1.2 Operating Techniques. We consider this combination of techniques to provide an equivalent level of environmental protection.

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 30/04/2025 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
- Confirms if they intend to cease operating any activity which would be in breach of the relevant new BAT Conclusion (BATC) after the compliance date, and the date by which they intend to cease operation;
- Confirms where there is a BAT-Associated Emission Level (BAT-AEL) specified in the BAT conclusion, with which they will not comply with by the compliance date and they wish to continue operating, they should request a derogation.

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 with 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

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.

Regulation 61 Response

The Regulation 61 notice response from the Operator was received on 10/10/2025.

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 impermeable surface maintenance, waste storage, and dust suppression measures on 10/08/2026 and 28/08/2026. 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

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	CC Alternative measures	The Appropriate Measures require that waste is stored under cover to address the risk of contaminated surface run-off being generated. The operator has provided an alternative technique as outlined in the above 'key issues' section and justified why the technique provides an equivalent level of environmental protection. We have reviewed the operator justification, and we are satisfied that the proposed techniques adequately demonstrate that waste storage, segregation and handling measures represent appropriate measures for the activity, based on the risks posed. The operator confirmed that they currently meet the requirements of all other 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 treatment 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 control appropriate measures	FC	The operator confirmed that they currently meet the requirements of the Appropriate Measures guidance in this section. During determination we decided the operator is not currently compliant with measures # 6.1.1, 6.2.1, and 6.2.2 of section 6 which requires the operator to use appropriate

		measures to prevent emissions from storage units, including from the storage of raw materials. We have included the improvement programme IC1, IC2a, and IC2b in the permit to bring the operator into compliance with these measures. 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.
Emissions monitoring and limits 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.
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 has not included a site condition report in their submission. This was not required as part of the application 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.	
Climate change	Submission of climate change risk assessment is no longer an 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		
Addition of AR4	Other changes made to the permit as a result of our assessment of the Reg 61 response include changes to the permitted activities (Table S1.1) through the addition of an additional directly associated activity (DAA) representing the surface water collection, storage and reuse on site. All site surface water is collected and stored for either reuse or transfer off-site for treatment. We consider this is a DAA in accordance with our guidance Appendix 2 of RGN2 'defining the scope of the installation'.	

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 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’, guidance on waste recovery plans and permits.

The site

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

These show the extent of the site.

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 Table S1.2 in the environmental permit.

Changes to the permit conditions

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

Management plans

We did not review any management plan under the scope of the permit review. Under the conditions of the permit, where we consider that activities are giving rise to pollution in the form of fugitive emissions, we will ask for the submission and implementation of a suitable management plan.

Improvement programme

We have included an improvement programme to ensure that the permit complies with the appropriate technical guidance for this facility.

IC1 – Dust Management Plan

This improvement condition requires the operator to submit a dust emissions management plan to the Environment Agency for approval. This improvement condition has been included as the site fits the criteria outlined in the relevant guidance: Control and monitor emissions for your environmental permit - GOV.UK and requires measures to be in place to ensure the emissions of dust from onsite operations are controlled. Once this DEMP has been submitted, assessed and approved, the site must be operated in accordance with any requirements of the DEMP.

IC2a and IC2b - Enclosure and abatement of raw material storage.

These joint improvement conditions require the operator to submit a written report to the Environment Agency for approval that outlines how they will ensure compliance with the emission control requirements outlined in sections 6.1 and 6.2 of the Chemical waste: appropriate measures for permitted facilities guidance. Emissions, including fugitive emissions generated by the storage of raw materials, must be controlled on-site using suitable enclosed storage and abatement where necessary. The raw materials of concern are PFA, and lime for emissions of dust. The emissions from storage BREF guidance also outlines best available techniques for the suitable storage and reduction of emissions from the storage of materials and is relevant to the site's operations. The improvement conditions provide the operator with the opportunity to outline how they will become compliant and provide an opportunity for the operator to submit alternative measures for approval. Any alternative measures must be justified and must achieve an equivalent level of environmental protection as the measures outlined in the guidance.

IC3 – Emissions control procedures

This improvement condition requires the operator to review and update their emissions control procedures to ensure they are compliant with the relevant appropriate measures outlined in the Chemical waste: appropriate measures for permitted facilities guidance. This should be done for each of the listed

appropriate measures, outlining procedures agreed with the Environment Agency under other completed improvement conditions. Where alternative measures have been agreed in writing by the Environment Agency, these should be outlined, with justification as to how they provide an equivalent level of environmental protection.

Emission limits

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

Emissions of dust from raw material storage have a qualitative limit of ‘No visible dust’.

Monitoring

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

Emissions from PFA and lime storage

These monitoring requirements have been included in order to prevent emissions of dust from raw material storage. We made these decisions in accordance with Best Available Techniques for Waste Treatment and Best available techniques for emissions from storage and the Chemical waste: appropriate measures for permitted facilities guidance.

Reporting

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

- Dust
- Abatement performance
- Ambient air reporting

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.