

## Regulatory Position Statement 176

### Applications for pre-treatment of waste for incineration or co-incineration activities subject to the Industrial Emissions Directive

If you comply with the requirements below, we will extend the date for submission of duly made applications for the pre-treatment of waste for incineration or co-incineration activities to 30 September 2015.

#### Background

The **Industrial Emissions Directive** (IED) extended the scope of activities that fall to be permitted as 'installations'. The activities now include the **pre-treatment of waste for incineration or co-incineration** where the capacity of the activity is >75 tonne/day for a recovery activity or a mix of recovery and disposal activities, or > 50 tonne/day for a disposal activity.

The Regulations transposing the IED require such facilities to be permitted as Installations by 7th July 2015. The Regulations also provided a 'defence date' of 30 September 2014 by which operators needed to have submitted 'duly made' applications in order to have a statutory defence to a charge of operating the activity after 7 July 2015 without the benefit of an Environmental Permit.

The IED, however, provides no clear definition of 'pre-treatment', nor has the European Commission provided clarification. We have been working with Defra to resolve this so that we and business could work with certainty as to what activities are in or out of scope of the IED.

We have now agreed an interpretation of 'pre-treatment' that we will publish in Regulatory Guidance note No. 2 (RGN2) - Understanding the meaning of regulated facility that can be found [here](#). The revised text is appended hereto, for information.

#### Our approach

We want businesses to have sufficient time to produce good quality applications for IED installations. We will now expect operators of 'pre-treatment for incineration or co-incineration' activities that fall into this interpretation to submit duly made applications by 30 September 2015.

#### Enforcement

We will not take enforcement action against operators of pre-treatment for incineration or co-incineration activities that meet the new interpretation provided that they submit a duly made application by 30 September 2015.

It is the responsibility of operators of these activities to ensure they meet this deadline. Failure to do so may result in the current permit becoming invalid and the activity having to stop after 30 September 2015.

This statement is based on our understanding of the relevant legislation. It applies to England only. You can get advice on the approach being taken in Wales from Natural Resources Wales.

MWRP RPS 176 Version: 1

Issued: April 2015

## Appendix - Revised text for RGN2

Where a waste treatment directly and intentionally improves the quality of the waste as a fuel by changing the composition of the waste in a way that changes one or more of the following 5 parameters:

- a. Calorific (or heating) value;
- b. Moisture content;
- c. Ash content;
- d. Chemical composition;
- e. Heavy metal content

including for example, to fulfil contractual requirements or product standard requirements, then that process is pre-treatment for incineration or co-incineration. Where a waste treatment is carried out for some other purpose and only incidentally improves the quality of the waste as a fuel, then it is not a 5.4 A(1)(b)(ii) activity.

Examples of waste activities which would be considered as pre-treatment for incineration or co-incineration include:

- Drying of waste wood, the residual waste from a materials recycling facility or the sludge from an effluent treatment plant explicitly in order to reduce its moisture content so as to facilitate combustion
- Separation processes to reduce the heavy metals or ash content of waste prior to combustion where that is done in order to improve the fuel quality
- Production of refuse derived fuels and other waste-derived fuels which are not captured by other Schedule 1 activities, where production beneficially changes one or more of the 5 parameters in above
- Treatment of the residual waste from a materials recycling facility to meet a contractual standard for the fuel where treatment beneficially changes one or more of the 5 parameters.

Examples of waste activities which would not be considered to be pre-treatment for incineration or co-incineration even though they generate an output which goes for combustion, include:

- Mechanical biological treatment. This involves biological treatment and is described elsewhere as an installation activity
- Mechanical separation of waste in order to recover the recyclables
- Use of tallow as a fuel from the rendering of animal by-products. However if the tallow requires a further treatment step in order to make the tallow suitable for burning as fuel, then that step would be considered as pre-treatment for incineration or co-incineration
- Size reduction which may assist in the handling of the fuel but is not primarily for the purpose of improving its combustion characteristics
- Baling which may assist in the handling of the fuel but is not primarily for the purpose of improving its combustion characteristics
- Shredding or chipping which may assist in the handling of the fuel but is not primarily for the purpose of improving its combustion characteristics
- Mixing and blending of hazardous waste which is covered as a section 5.3 activity (e.g. preparation of secondary liquid fuels for use in cement kilns)
- Preparation of material at the same location as the combustion process, (particularly where Chapter IV or IED (ex WID) applies), because this is considered part of the incineration process at those sites.

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