

Best Available Technique (BAT) Conclusions for Timber Treatment Operations

UK Interpretational Guidance

Background

Under the EU Industrial Emissions Directive (IED), timber treatment activities with plants having a capacity of more than 75m³ per day, (excluding anti-sapstain treatment), are required to operate in accordance with a regulated permit. In the UK, the IED has been incorporated into law as follows:

England and Wales	<i>Schedule 1, Part 2, Section 6.6 A(2) (a) of the Environmental Permitting Regulations 2016 (EPR)</i>
Scotland	<i>Schedule 1, Part 1, Section 6.6, Part A of the Pollution Prevention and Control (Scotland) Regulations 2012 (PPCR).</i>
Northern Ireland	<i>Schedule 1, Part 1, Section 6.6, Part A (b) of the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013</i>

There are currently around 116 permitted timber treatment operations in the UK with approximately 68 in England, 7 in Northern Ireland, 28 in Scotland and 13 in Wales. The regulators believe that there are additional sites that do not hold permits and are operating with plants above the 75m³ threshold.

BREF and BAT Conclusions

Until now, regulators have had little formal guidance on how to determine permit conditions and best environmental practice, with regard to timber treatment. A draft guidance document, *Sector Guidance Note SG11*, was produced but never formally published and so was not legally enforceable. In the absence of any other documentation, SG11 was often used as the basis for granting permits and setting upgrade conditions.

The EU Best Available Techniques reference document (BREF) with techniques (BAT conclusions), as agreed by a panel of experts from members states, industry and Non-Governmental organisations, was published by the EU on 9th December 2020. Importantly this was during the UK EU exit transition period, meaning that the UK is obliged to implement the BAT conclusions as follows:

BAT conclusions applied to all new treatment operations from 9th December 2020.

There is a 4-year implementation period for existing plants.

On 6th January 2021, the UK IPC Regulators Group issued interpretational guidance on the new BAT conclusions (**UK IG Note**). This will be used by the relevant UK regulators when determining new permit applications and reviewing existing permits. **Some companies have already received this UK Interpretational Guidance Note from their regulator but if any member would like a copy, please contact the WPA.**

Process Permit Review

With the publication of these new documents, the regulator will now begin the process of implementation for existing treatment plants. Existing permits will undergo a formal review to ensure the conditions are in line with the BAT conclusions. A formal review will be different from routine surveillance visits and may involve changes to the permit conditions. It is anticipated that this will take place over the next 4 years to meet the implementation deadline of 8th December 2024.

The plan for the next two years is outlined overleaf.



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Process Permit Review:

1. The regulator will issue 'Information Notices' to permit holders which will request information relating to compliance with the BAT conclusions.
2. Adequate time will be provided for responses from operators, (6 months).
3. The regulator will evaluate responses and create a gap analysis, where appropriate.
4. The operator will develop improvement plans to bring the installations up to BAT standards.

Implications for Treatment Plant Operators

Whilst the BAT conclusions are broadly in line with the previous guidance of SG11, there are some notable variations that may impact some treatment plant operations, depending on their current permit conditions.

Inclusion of flame retardants

The scope of the regulations now includes flame retardants. Operators that have flame retardant plants, that meet the capacity threshold, will now need to be permitted and/or be included in existing permits. Permits will need to be varied to take this into account.

Environmental Management Systems (EMS)

There are specific requirements for Environmental Management Systems that are detailed in the BAT conclusions. Permit holders should already have an EMS in place and will need to ensure that it meets the specific requirements. Companies certified to ISO 14001, which includes their timber treatment operations, should meet all the criteria.

Baseline Site Reports

Many permitted sites will already have completed a baseline site report with analysis of groundwater and soil. Subsequent monitoring will compare results with this baseline and determine if there are any issues to address. However, not all sites have carried out this assessment and under the permit review process, a site report will become mandatory.

Groundwater Monitoring

It is already a permit condition that groundwater monitoring be completed every 5 years and soil every 10. Some permits have shorter intervals and this is dependent on the risk profile of the site. BAT Clause 44 in the BREF note shortens the default frequency for groundwater monitoring to every 6 months, which will have significant cost implications for many sites. Operators can complete a risk assessment so as to justify extending this interval to 2 years, but the conclusions will have to be agreed and accepted by the regulator.

Plant Capacity Calculation

The 75m³/day plant capacity threshold determines whether a permit is required. How the capacity is determined varies significantly throughout Europe and even within the UK – this has led to claims of an unfair advantage for those that avoid the regulations by declaring capacity below the threshold. The **UK IG Note** includes guidance on capacity calculations and also clarification on the use of technical or planning restrictions that can reduce plant capacity. The guidance will be used by regulators when determining whether a plant will fall within scope and there are indications that site specific factors, such as the age and performance speed of plant equipment, may in some cases be taken into consideration.

The WPA is able to support members through the permitting process for their sites and will continue to work with DEFRA and relevant agencies to help ensure that these new guidelines are implemented consistently across the industry. If members have any questions or require further guidance, please get in touch.

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