

WRS Joint Board

Date: 4th October 2018

Title: Environmental Permitting

Recommendation

That the Joint Board notes the Report.

Background

WRS undertakes the Local Authority statutory duties relating to the Pollution Prevention and Control Act 1999 (referred to as the Environmental Permitting Regime,) for the six Worcestershire Districts under the current Statement of Partner Requirements and also for Gloucester City as a Contractor. These matters seldom come to the attention of members due to the technical complexities involved but, with industrial pollution control seeming to have a higher profile currently officers felt it would be helpful to give members a better understanding of the regime and what WRS does on behalf of the partners.

Report

The operation of certain industrial processes creates the capacity to pollute the air, land and water resources. The Environmental Permitting Regime requires operators of such industries to hold a permit which controls the emissions of pollution from their activities.

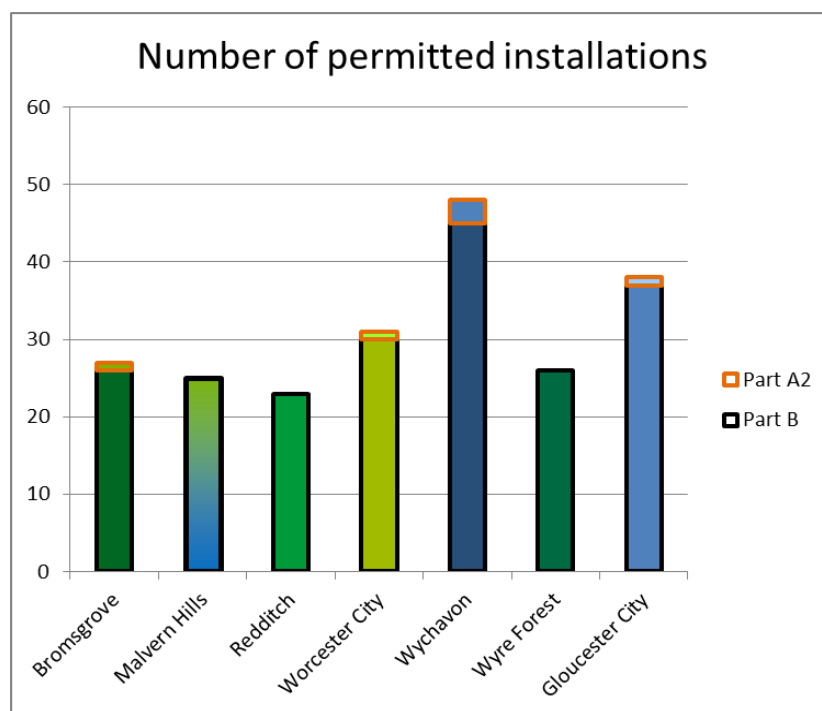
There are three levels of permit control under the regime:

- Part A1: controlled by the Environment Agency
(These are the waste disposal sites, intensive agricultural units and huge installations such as Power Stations)
- Part A2: controlled by the Local Authority (large industrial installations)
- Part B: again controlled by the Local Authority (smaller sites where the only concern is emission to atmosphere/air)

Businesses required to be permitted are expected to submit an application with the appropriate fee, which varies depending on the process being operated. Officers then work with the business to determine the controls required as part of the process. Following the issue of a permit, each business is subject to inspections whose frequency would be dictated by a risk rating. The risk rating is dependent on type of process being operated and the level of

confidence in compliance that risk assessing officers have in the management of the business. All fees are set by central government and are collected by the Partner Authority or, in the case of Gloucester City, our client authority.

Currently WRS is managing 218 permitted processes of which 6 are in the large Part A2 category.



Part B permits

Most of the processes which require Part B permits are simple ones with less risk to the environment such as petrol vapour recovery at filling stations, dry cleaners, spray coating processes and cement batching. Some are more complex and may have several permitted processes operating on the same site, but in general it is contamination of the atmosphere which is the sole concern.

Occasionally nuisance concerns arise from an installation subject to a permit but unless the issues relate to air emissions, the permit cannot be used to control these. In such circumstances officers must rely on other provisions like statutory nuisance.

Part A2 permits

These are the larger industrial processes where there is a risk to the land, water and air from contaminants used or produced by the process. In Worcestershire the five processes operating under this type of permit are:

- 2 brickworks,
- 2 printers of flexible packaging and,
- 1 animal by-product processor.

- 1 Waste Incineration Process (SWIP)

As part of the application process there is a requirement on the applicant to provide clarity to the permitting authority on the level of contamination of the land where the process is to take place prior to commencement. This is because there is an obligation on the operator under the legislation to return the land to this state at the end of the permit. Noise, energy efficiency and odour issues are also all factors that can be addressed by the details included in a Part A2 permit and compliance problems can be addressed with this rather than having to utilise other legislative measures. We are currently dealing with 3 A(2) waste incineration applications for Worcestershire.

Small Waste Incineration Plant (SWIPs) and the Renewable Heat Initiative

There has been considerable confusion nationally within both the combustion sector and local enforcement authorities in relation to the permitting of these installations. This has resulted in the use of inappropriate equipment to burn controlled waste streams.

Such processes should be regulated by an A2 permit issued under Schedule 13 of the legislation. WRS has assisted neighbouring authorities where it has been identified that either an incorrect permit has been issued or where waste fuel has been issued illegally by businesses but generally through ignorance rather than design.

Smoke and odour issues can sometimes be caused by the operation of legitimate virgin wood boilers (more commonly known as biomass boilers,) as was experienced in Hanbury (Wychavon) and Bromsgrove. These appliances should not be mistaken for SWIPs, which are designed specifically to burn waste.

Part of the confusion has been caused by an exponential increase in operators installing incineration plant due to the availability of funding for installation costs via the renewable heat initiative (RHI,) (we understand 17,000 businesses have taken this up nationally). The RHI scheme was designed to encourage sustainable energy production (generally heat) for use in the business, where biomass (responsibly sourced & approved wood fuels) would be burnt on site where there is a legitimate need for the heat or power. Ideally these would have replaced other forms of fossil fuel like gas or diesel.

WRS has worked very closely with the Environment Agency (which regulates the waste industry,) on investigating boiler installations that intelligence suggests may be being fired illegally on waste and hazardous waste wood, particularly those sites where multiple claims for RHI funding have been made.

Both organisations have a role in checking compliance with waste management and air pollution legislation. At several sites in Worcestershire, some non-conformances were identified and a number

of the sites did not appear to meet the original purpose of the RHI scheme. In addition the service has also identified companies that have been promoting the installation of SWIPs to small waste operators where the plant offered has not been capable of complying with the requirements of the permitting regime. This creates challenges for both regulators and operators. The old adage of “caveat emptor” or buyer beware should always apply in business to business transactions but where the cost of equipment looks so competitive, it is easy to understand why businesses might be tempted. As our Trading Standards colleagues would say, “if it sounds too good to be true, it probably is!”

Regulators will then come along, initially hoping to help a business achieve compliance, but the message that you need to re-procure your equipment as this doesn’t control pollution and cannot be changed to meet the legal requirements is seldom going to go down well.

Following the work WRS have undertaken in this area, DEFRA have consulted with us on our findings and are seeking to address the loopholes in the RHI scheme. In addition to this, the Government’s 2018 National Air Quality Strategy has been amended following our lobbying in this area.

Tackling Non-compliance in the County

The majority of businesses in Worcestershire comply with the law and have an environmental conscience when it comes to their manufacturing processes and products. However, there are companies who try to avoid regulation and, in doing so, are giving themselves an unfair commercial advantage and, at the same time, damaging our environment.

In 2015 WRS were informed of a company that was operating a process that WRS had no knowledge of. They were aware of the requirement for a permit and did not contact the local authority to discuss it. As a consequence the company was found to have been operating at a significant commercial advantage for many years without abatement equipment in place to control outputs to the atmosphere. Following the investigation, the company was prosecuted in the Magistrates Court and fined £14,874, with full costs for bringing the case awarded to the partner authority. The company was also required to apply for a permit and invest heavily in abatement equipment at a cost of around £1M. The company is now complying with the same standards as other companies in the County and is no longer polluting the environment.

Commercial Opportunities

WRS delivers permitting work for Gloucester City. This commenced in 2015 when it became apparent to the City’s management team that they were struggling to provide a comprehensive Environmental Health service mainly because they lacked sufficient expertise in the most technical areas like this one. There were particular concerns in relation

to a metal processing business operating under a Part A2 permit that was out of date and in need of review. The location was also a source of frequent complaint to the council in relation to non-compliance with permit conditions and noise issues. Initially the operator was concerned that perhaps the City council had brought in officers like an old fashioned Flying Squad, effectively to sort them out! However, our officers have acted in their usual, even-handed way, working with the residents complaining of noise and with the operator to provide them with advice and support to reach the necessary standard to achieve compliance. This situation has now been turned around so we have a business that is in full compliance with the law and no complaints are being made about them by resident. The operator now values our Officers' advice and opinions, and seeks our help from time to time when they need support.

This is a clear example of the benefits of the approach taken by the Worcestershire authorities to this area of work. An individual district council cannot maintain the level of expertise necessary to discharge these functions well on its own, whereas six combined has created the economies of scale necessary to maintain that expertise. Our deployment of this expertise beyond Worcestershire supports the service's financial position.

Technical Expertise of the team

WRS's Technical Pollution team is recognised nationally and officers are engaged at this level in a number of areas. Members of staff currently sit on the EA's technical regulation board for the following sectors:

- Non ferrous Metal,
- Timber Processes
- Medium Sized Combustion Plant Directive
- Schedule 13 SWIP's

Officers have also produced guidance in a number of areas that has been taken up nationally and the team is regarded by the EA as a leader in the regulation of the SWIP sector. This has brought the team to the attention of fellow regulators and the business community to provide advice on matters of regulation and compliance. WRS have also recently been invited by DEFRA to discuss the direction of strategic policy development relating to industrial pollution control and air quality management.

During 2017 WRS started looking at the potential delivering Primary Authority assured advice generally on Environmental Permits. Previously only advice on simple petrol vapour recovery had been subject to this approach. WRS is currently finalising Primary Authority work programmes with two large national/ international companies. A two-year fixed-term post has been created to provide capacity to deliver these. A further update will be provide via the Activity Reports at the end of the financial year

Contact Points

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Background Papers

None