

# Review of an Environmental Permit under the Environmental Permitting (England & Wales) Regulations 2010 (“EPR”)

## Decision document recording our decision-making process

We have decided to vary the Permit for Arpley2 operated by FCC Recycling (UK) Limited, as a result of an application made by the Operator.

The Permit number is EPR/JB3633RP

The Variation notice number is EPR/JB3633RP/V003

## What this document is about

This is a decision document, which accompanies a variation notice.

This decision document:

- explains how the application has been determined
- provides a record of the decision-making process
- shows how all relevant factors have been taken into account
- justifies the specific conditions in the permit other than those in our generic permit template.

## Preliminary information and use of terms

We refer to the Permit (both existing and as varied) as “the **Permit**” in this document; and to the variation of the Permit as “the **Variation**”.

The Operator of the Installation is FCC Recycling (UK) Limited: we call FCC Recycling (UK) Limited “the **Operator**” in this document. We refer to FCC Recycling (UK) Limited’s Arpley2 as “the **Installation**”.

The Application was duly made on 24/08/2015.

## How this document is structured

- Our decision
- The legal framework
- How we took our decision
- Key issues in the determination
- Annex 1 – the decision checklist

### 1 Our decision

We have issued a Variation, which will allow the Operator to operate their facility as an Installation, subject to the conditions in the varied Permit.

This Variation gives effect to our decision following the identification of the Operator as undertaking a “newly prescribed activity” (NPA) under the Industrial Emissions Directive (IED);

We consider that, in reaching our decision, we have taken into account all relevant considerations and legal requirements and that the Permit will continue to ensure that a high level of protection is provided for the environment and human health.

The original Permit, issued on 23/07/12, ensured that the facility would be operated in a manner which would ensure the protection of the environment specified in the existing Guidance at the time. To the extent that we have substantively altered the Permit as a result of this Variation, the new requirements will deliver a higher level of protection to that which was previously achieved.

### 2 The legal framework

The original Permit was granted on 23/07/12 and regulated under the Environmental Permitting Regulations 2010.

The Installation will be subject to the requirements of the Industrial Emissions Directive (IED) 2010/75/EU and regulated under the Environmental Permitting (England and Wales) Regulations 2010 (SI 2010 No 675). The IED was transposed in England and Wales by the Environmental Permitting (England and Wales)(Amendment) Regulations 2013 on 27 February 2013.

The IED seeks to achieve a high level of protection for the environment taken as a whole from harmful effects of industrial activities. It does so by requiring each of the industrial installations to have a permit from the competent authority (in England, the Environment Agency, or for smaller Installations, the relevant Local Authority). The IED has increased the number of activities that require an Installations permit. These are predominantly regulated as “waste

operations” and include (when exceeding specific thresholds described in IED):

- hazardous waste treatment for recovery;
- hazardous waste storage;
- biowaste treatment – recovery and/or disposal;
- treatment of slags and ashes
- metals shredding;
- pre-treatment of waste for incineration/co-incineration;
- biological production of chemicals; and
- independently operated wastewater treatment works serving only industrial activities subject to the Directive

Article 11 of the IED requires the relevant authority (the Environment Agency in this case) to ensure that the Installation is operated in such a way that all the appropriate preventative measures are taken against pollution, in particular through the application of Best Available Techniques (BAT). Under Article 15(2), the Permit must contain emission limit values (ELVs) (or equivalent parameters or technical measures) for any pollutants likely to be emitted from the Installation in significant quantities. These ELVs are to be based on BAT, but also on local factors and EU Environmental Quality Standards. The overarching requirement is to ensure a high level of protection for the environment and human health.

We are required by Article 13 of the IED to keep abreast of developments in BAT. In addition, Article 13 requires us to carry out a periodic review of the permit’s conditions, and to update them if necessary.

The IED also requires the European Commission to organise an exchange of information between EU Member States so that what are known as BAT reference documents (or BREF notes) can be published, creating a level playing field across the EU, providing a consistent set of standards for new plant, to which regulatory authorities in the Member States can then have reference. These BREF notes are the basis for our own national sector technical guidance. The Commission is also required to update BREF notes on a regular basis. The waste treatment BREF notes are currently being reviewed and a final issue date is anticipated in 2016. Under the IED, all permits will be subject to review within four years of the publication of revised BREF notes. This means that we will need to do a further review against any new standards in the BREF notes at sometime in the future.

The IED is to be implemented over several years commencing from 7 January 2013. For existing installations operating “newly prescribed activities”, the relevant date for implementation is 7 July 2015.

### **3 How we reached our decision**

It is the Operators responsibility to ensure they are correctly regulated for the activities they are carrying out. Following adoption of the IED, the Environment Agency has engaged in a range of briefings and

communications with the waste industry sector to raise awareness of the implications of the Directive and the need to ensure their facilities are correctly regulated (particularly after the implementation date of 7 July 2015 for newly prescribed activities).

Early in 2014, the Environment Agency provided further briefings to industry trade bodies and wrote to operators we believed may be implicated by these changes. We provided detailed information sheets that described the implications and the process operators should follow if they decided to have their activities permitted as Installations.

We confirmed that most facilities fell into one of two groups:

- Facilities permitted from April 2007  
When these facilities were permitted, a thorough assessment would have been carried out to confirm whether the proposed activities were using “appropriate measures” as a standard to protect the environment.

This standard of protection is the same standards that would have been assessed against had the facilities applied as an Installation activity (i.e. BAT). The permit would have also been issued with modern conditions that ensured protection of the environment.

We consider that these facilities are effectively ‘IED-compliant’ in terms of the technical standard of the facility with the exception of the “newly prescribed activity”. For these facilities, we consider that, in general, no further technical assessment is required, so administrative variations are an appropriate mechanism to show the activities as Installation activities. The administrative variation is a necessary route for the Operator to formally ask for this activity to be included in their permit and for us to advertise that request on our Public Register.

It is understood that the Environment Agency granted permits for new waste activities under the Waste Management Licensing Regulations 1994 beyond April 2007. Where a facility falls into this group, the Environment Agency shall determine whether or not the application was assessed using “appropriate measures”. Where it is determined that the application was assessed using “appropriate measures”, the application will be designated as an “administrative variation”.

- Facilities permitted before April 2007  
For these facilities, a “normal” or “substantial” variation is appropriate because a detailed technical assessment is required on aspects of the Application [ecological impact assessment, waste types, secondary containment etc.] in addition to the administrative changes. Substantial variations will only be relevant where the newly prescribed activity is being added to an existing installation permit.

### This Variation

The original Permit was granted on 23/07/12 and subsequently varied on 18/12/12. We are satisfied that the standard of protection was assessed using appropriate measures available at the time of the original application. We have determined this Variation as an administrative variation.

## **4 Key issues in the determination**

This variation implements the changes brought about by the IED for “existing facilities operating newly prescribed activities” and completes the transition of this facility from a waste operation to an IED Installation.

Operating techniques were defined in Schedule 1 Table S1.2 to the original Permit. These operating techniques have been included in the Variation.

Improvement condition IC1 has been included as part of this Variation. It requires the operator to review and update their operating techniques against appropriate BAT. We consider that the operations were previously assessed against appropriate measures available at the time of the original application. However, we need to ensure that measures in the permit meet the requirements of BAT while operating as an installation.

Improvement condition IC2 requires the operator to produce and submit for approval an Odour Management Plan. We have implemented an improvement programme to ensure that current operating measures are in line with up-to-date BAT as part of the movement of a waste operation to an installation.

Improvement Condition IC3 requires the operator to produce, and submit for approval, a written infrastructure improvement plan. This shall comprise the design of proposed physical infrastructure improvement works, including but not limited to the construction of impermeable surfaces with sealed drainage in all operational areas, including storage areas. The operator shall implement the improvements as agreed with the Environment Agency.

## Annex 1 – decision checklist

This document should be read in conjunction with the Duly Making checklist, the application and supporting information and notice.

| Aspect considered            | Justification / Detail   | Criteria met |
|------------------------------|--|--------------|
|                              |  | Yes          |
| <b>Consultation</b>          |  |              |
| Responses to web publicising | No public responses were received in response to the web publicising of the application.   | ✓            |
| <b>Operator</b>              |  |              |
| Control of the facility      | We are satisfied that the applicant (now the operator) is the person who will have control over the operation of the facility after the grant of the permit. The decision was taken in accordance with EPR RGN 1 Understanding the meaning of operator.  | ✓            |
| <b>The facility</b>          |  |              |
| The regulated facility       | <p>The extent/nature of the facilities taking place at the site required clarification.</p> <p>The regulated facility is an installation which comprises the following activities listed in Part 2 of Schedule 1 to the Environmental Permitting Regulations and the following directly associated activities:</p> <p><u>Listed activity:</u></p> <p><u>Section 5.4 A (1) (b) (ii) “Recovery of non-hazardous waste with a capacity exceeding 75 tonnes per day involving pre-treatment of waste for incineration or co-incineration”</u></p> <p><u>Directly associated activities:</u></p> <ul style="list-style-type: none"> <li>• Storage of waste pending recovery or disposal</li> <li>• Raw material storage</li> <li>• Storage of processed materials</li> <li>• Discharge of drainage water from operational areas</li> <li>• Discharge of surface water</li> </ul> <p>The facility is also permitted for the storage and transfer of clinical waste under Standard Rules SR2008 no24.</p> | ✓            |
| <b>European Directives</b>   |  |              |
| Applicable Directives        | All applicable European Directives have been considered in the determination of the application.   | ✓            |

| Aspect considered                  | Justification / Detail  | Criteria met |
|------------------------------------|---|--------------|
|                                    |   | Yes          |
| <b>The site</b>                    |   |              |
| Extent of the site of the facility | The operator has provided a plan which we consider is satisfactory, showing the extent of the site of the facility. A plan is included in the permit and the operator is required to carry on the permitted activities within the site boundary.  | ✓            |
| Operating techniques               | <p>We have reviewed the techniques used by the operator and compared these with the relevant guidance notes –</p> <ul style="list-style-type: none"> <li>• IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste;</li> <li>• H3 – Noise assessment and control;</li> <li>• H4 – Odour Management</li> </ul> <p>The techniques used by the operator were implemented post April 2007 and we consider that the techniques were assessed against ‘appropriate measures’ at the time of the original application under the Environmental Permitting Regulations.</p> <p>However, we have implemented an improvement programme to ensure that current operating measures are in line with up-to-date BAT as part of the movement of a waste operation to an installation. A transitional period of 3 months has been given to allow the operator to ensure that their operating techniques meet the relevant BAT standards.</p> | ✓            |
| Raw materials                      | We have specified limits and controls on the use of raw materials and fuels as required by The Sulphur Content of Liquid Fuels (England and Wales) Amendment) Regulations 2014.   | ✓            |
| Waste types                        | We have specified the permitted waste types, descriptions and quantities, which can be accepted at the regulated facility. We are satisfied that the operator can accept these wastes because they have the necessary infrastructure, operating systems and technical capability to manage these wastes in an appropriate manner.   | ✓            |
| <b>The permit conditions</b>       |   |              |
| Improvement conditions             | <p>Based on the information on the application, we consider that we need to impose improvement conditions.</p> <p>We have imposed improvement conditions to ensure that:</p> <ul style="list-style-type: none"> <li>➤ the site’s operating techniques/management system/plans are reviewed and updated against the standards specified in the technical guidance note(s): <ul style="list-style-type: none"> <li>• IPPC S5.06 – Guidance for the Treatment of Hazardous and Non-Hazardous Waste;</li> </ul> </li> </ul>   | ✓            |

| Aspect considered | Justification / Detail   | Criteria met<br>Yes |
|-------------------|--|---------------------|
|                   | <ul style="list-style-type: none"> <li>➤ the appropriate measures are in place to prevent pollution from odour.</li> <li>➤ Site infrastructure is improved in order to meet the requirement for all waste storage and handling areas to be provided with sealed drainage in accordance with IPPC S5.06</li> </ul>                                      |                     |
| Reporting         | We have specified reporting in the permit. Reporting forms have been prepared to facilitate reporting of data in a consistent format. These reporting requirements are deemed sufficient and proportional for the Installation. We made these decisions in accordance with Regulatory Guidance Note 4 – Setting standards for environmental protection | ✓                   |