

Permitting decisions

Surrender

We have decided to accept the surrender of the permit for Fusion Automation Inc operated by Fusion Automation Inc.

The permit number is EPR/BL7701IS.

We are satisfied that the necessary measures have been taken to avoid any pollution risk and to return the site to a satisfactory state. We consider in reaching that decision we have taken into account all relevant considerations and legal requirements.

Purpose of this document

This decision document provides a record of the decision making process. It summarises the decision making process in the decision checklist to show how all relevant factors have been taken in to account.

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- highlights [key issues](#) in the determination
- summarises the decision making process in the [decision checklist](#) to show how all relevant factors have been taken into account

Unless the decision document specifies otherwise we have accepted the applicant's proposals.

Read the permitting decisions in conjunction with the environmental permit and the surrender notice.

Key issues of the decision

Legal test for surrender

The legal test for surrender is – 'that the necessary measures have been taken –

- (a) to **avoid a pollution risk** resulting from the operation of the regulated facility; and
- (b) to return the site of the regulated facility to a **satisfactory state**, having regard to the state of the site before the facility was put into operation.'

Type of surrender

This is a *low risk surrender* – i.e. where activities could in principle pollute land or groundwater but the operator can show through waste acceptance records (where applicable) and pollution control measures that the legal test set out above has been met. A report is required but not one involving intrusive monitoring data. Prior to duly making it was agreed with the operator that a low risk surrender was appropriate for the

permitted installation. As there is no intrusive site investigation data at the surrender, a site condition report evaluation (SCRET) was not used at the point of surrender. Nevertheless the Operator has submitted a Site Condition Report, the pertinent parts of which are detailed below. The site continues to operate as a Part B installation permitted by Harlow Council.

Surrender Application

1. Nature of permitted activities including any changes – Manufacture of brazing alloy powders containing Cadmium- Schedule 1 , Chapter 2.2A(1)(c) . Cadmium has not been used on site since 2009.
2. Measures taken to protect land –The process is essentially a “dry” process. There are no discharges to sewer. Only during melting, the cadmium would have been in liquid form. Air emissions tests have been satisfactory. From the compliance history and the most recent site visits, it has been confirmed the infrastructure has been maintained well, and is in good condition.
3. Pollution incidents that may have had an impact on land, and their remediation – there have been no incidents, either recorded or known to the Environment Agency.
4. Decommissioning and removal of pollution risk – All cadmium stocks have been removed from site. The site is operational as a Part B site.
5. Reference data and remediation (where relevant) – no intrusive monitoring was undertaken, in accordance with the low risk surrender criteria. “Ghost wipe” samples were collected and analysed (see details below)
6. Condition of the land upon surrender – the operator concluded that the pollution control measures during the life of the permit together with the removal of all cadmium stocks effectively ensured that the site is in a satisfactory condition with no residual pollution risks from the ceased Part A1 operations.

“Ghost wipe” sampling results

Surface wipe samples have been taken in the vicinity of operational areas of the installation. These show extremely low levels of cadmium, with the highest being 4.7 µg/100 cm². Although not directly comparable, this figure is well below the values found in the soils in the UK (Environment Agency, 2007)ⁱ. A direct comparison can be drawn using the Long Term Work Place Exposure Limits used in the UK or US. In the UK the Long- Term Exposure Limit (8-hr Time Weighted Average reference) is set to 0.025 mg/m³ for cadmium (HSE, 2018)ⁱⁱ . In the US, the OSHA guidance sets the Permissible Exposure Limit (PEL) at 5 µg/m³ for 8-hr TWAⁱⁱⁱ. The more conservative of the two limits, 5 µg/m³, is comparable to 50 µg/100 cm² for operational areas, according to sampling guideline criteria developed in the US for the use of surface wipe sampling for metals (Brookhaven National Laboratory, 2017)^{iv}. The results for the surrender site as described above are well below this level. This further assures us on the success of the measures taken to avoid pollution from cadmium during the operational phase and that the pollution risk has been removed.

Our decision

We agree with the operator’s conclusions and are satisfied that they have met the legal test for surrender.

Decision checklist

Aspect considered	Decision
Receipt of application	
Confidential information	A claim for commercial or industrial confidentiality has not been made.
Identifying confidential information	We have not identified information provided as part of the application that we consider to be confidential. The decision was taken in accordance with our guidance on confidentiality.
The facility	
The site	
Pollution risk	We are satisfied that the necessary measures have been taken to avoid a pollution risk resulting from the operation of the regulated facility.
Satisfactory state	We are satisfied that the necessary measures have been taken to return the site of the regulated facility to a satisfactory state. In coming to this decision we have had regard to the state of the site before the facility was put into operation.
Permit conditions	
Growth Duty	
Section 108 Deregulation Act 2015 – Growth duty	<p>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 110 of that Act in deciding whether to grant this permit surrender.</p> <p>Paragraph 1.3 of the guidance says:</p> <p>“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.”</p> <p>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.</p> <p>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</p>

Aspect considered	Decision
	because the standards applied to the operator are consistent across businesses in this sector and have been set to achieve the required legislative standards.

ⁱ Environment Agency (2007), UK Soil and Herbage Pollutant Survey, UKHS Report No.7, Bristol, Environment Agency.

ⁱⁱ Health and Safety Executive (2018) EH 40/2005 Workplace Exposure Limits. UK, TSO.

ⁱⁱⁱ <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.1027> accessed 27.09.19

^{iv} Brookhaven National Laboratory, 2006. Surface Wipe Sampling Procedure. IH75190. www.bnl.gov/esh/shsd/sop/pdf/IH_SOPS/IH75190.pdf