

## Permitting Decisions- Environment Agency Initiated Variation

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We have decided to issue an Environment Agency initiated variation for Kirkless Materials Recycling Facility operated by FCC Waste Services (UK) Limited following a review of the permit in accordance with Environmental Permitting (England and Wales) Regulations 2016, regulation 34(1).

The variation number is EPR/DB3601GP/V003.

We consider in reaching this decision we have taken into account all relevant considerations and legal requirements and that the permit will ensure that the appropriate level of environmental protection is provided.

### Permit Review

This Environment Agency has a duty, under the Environmental Permitting (England and Wales) Regulations 2016 (EPR), regulation 34(1), to periodically review permits.

Article 21(3) of the Industrial Emissions Directive (IED) also requires the Environment Agency to review conditions in permits to ensure that they deliver compliance with relevant standards, within four years of the publication of updated decisions on Best Available Techniques (BAT) Conclusions.

We have reviewed the permit for this activity and varied the notice to make a number of changes to reflect relevant standards and current best practice. These changes principally relate to the implementation of our technical guidance Non-hazardous and inert waste: appropriate measures for permitted facilities and the relevant requirements of the BAT Conclusions for Waste Treatment, which have been incorporated into our guidance.

In this decision document, we set out the reasoning for the variation notice that we have issued.

It explains how we have reviewed and considered the techniques used by the operator against our technical guidance.

As well as considering the review of the operating techniques used by the operator, the consolidated variation notice takes into account and brings together in a single document all previous variations that relate to the original permit issue.

## Purpose of this document

This decision document provides a record of the decision making process. It:

- explains how the Environment Agency initiated variation has been determined;
- summarises the decision making process in the [decision considerations](#) section to show how the main relevant factors have been taken into account;
- highlights [key issues](#) in the determination.

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

## Key issues of the decision

### Environment Agency led variation – permit review

We have carried out an Environment Agency initiated variation to the permit following a permit review as required by legislation to ensure that permit conditions deliver compliance with relevant legislative requirements and appropriate standards to protect the environment and human health.

The Industrial Emissions Directive (IED) came into force on 7 January 2014 with the requirement to implement all relevant Best Available Techniques (BAT) Conclusions as described in the Commission Implementing Decision. Article 21(3) of the IED requires us to review conditions in permits issued and to ensure that the permit delivers compliance with relevant standards. This must be within four years of the publication of updated decisions on Best Available Techniques (BAT) Conclusions.

The BAT Conclusions for Waste Treatment (the BREF) was published on 17 August 2018 following a European Union wide review of BAT, implementing decision (EU) 2018/1147 of 10 August 2018. Relevant existing facilities must be in compliance with the BAT Conclusions within 4 years.

Our technical guidance [Non-hazardous and inert waste: appropriate measures for permitted facilities](#) explains the standards that are relevant for regulated facilities with an environmental permit to treat or transfer non-hazardous wastes.

We issued a notice under regulation 61(1) of the Environmental Permitting (England and Wales) Regulations 2016 (a Regulation 61 Notice) on 09/11/2021 requiring the operator to provide information to confirm that the operation of their facility currently meets, or how it will subsequently meet, the standards in the Waste Treatment BAT Conclusions.

The notice required the operator to:

1. Provide a brief non-technical description of the regulated facility, including
  - all listed activities, waste operations and registered waste exemptions (if any).
  - a list of wastes handled at the site, the key stages in the “process” and the relevant disposal and recovery operations.
  - the scale of the operation i.e., the waste storage and daily treatment capacity of the process.
  - a brief description of the principal releases to air, land and water including noise, dust and odour, along with a description of any abatement techniques and site plan.
  - description of the site location and any key sensitive receptors.
2. Identify the BAT Conclusions that are applicable to the facility’s operations. Confirm whether or not the operations comply with the requirements.
3. Where operations are not currently complying, the operator was required to provide:
  - details of how the relevant standards and requirements will be met.
  - details of how they will fully comply with the requirement by 17 August 2022.
  - justification as to why an alternative technique is appropriate and will achieve an equivalent level of environmental protection to the standards in the BAT Conclusion.
  - details of any activities they intend to cease operating by the compliance date (August 2022).
4. Confirm whether they operate a medium combustion plant or specified generator (as per Schedule 25A or 25B of EPR 2016).

The Non-hazardous and inert waste: appropriate measures for permitted facilities guidance was published on 12 July 2021 on gov.uk. This technical guidance explains the standards that are relevant to regulated facilities with an environmental permit to store, treat or transfer non-hazardous waste, providing relevant standards (appropriate measures) for those sites. The operators were notified about the new guidance and were advised to consider them in their submissions.

The standards described in our technical guidance are split into chapters:

- General management appropriate measures
- Waste pre-acceptance, acceptance and tracking appropriate measures
- Waste storage, segregation and handling appropriate measures
- Waste treatment appropriate measures
- Emissions control appropriate measures
- Emissions monitoring and limits appropriate measures
- Process efficiency appropriate measures

Our assessment of the responses received from the operator are summarised in Table 1.

The Regulation 61 Notice required the operator to confirm whether they could comply with the standards described in each of these chapters. Table 1 below provides a summary of the response received and our assessment of it. The overall status of compliance with the standards (appropriate measures) is indicated in the table as:

NA – Not Applicable

CC – Currently Compliant

FC – Compliant in the future (through improvement conditions set in permit)

NC/IC – Not Compliant; Improvement/New Condition included

### **Extent of this review**

We have reviewed the operations that relate to the Installation activities in this permit against the relevant requirements of Best Available Techniques (BAT) Conclusions set out in implementing decision (EU) 2018/1147 of 10 August 2018.

### **Regulation 61 Response**

The Regulation 61 notice response from the Operator was received on 08/04/2022.

We considered that the response did not contain sufficient information for us to commence determination of the permit review and we needed further information to complete the permit review assessment.

We sent a request for further information (RFI) by email to the operator on the 23/03/2023 and received their response on the 28/04/2023.

This response is available on our public register.

The documents submitted by the operator which now form part of the operating techniques that the operator must implement are specified in table S1.2 in the environmental permit. These include:

- Documents received in response to the Regulation 61 Notice
  - *'Kirkless Notice Response 060422'*
- Documents received in response to RFI
  - *'Kirkless Installations Reg 61 notice – Annex 1 tranche 2 update v1 final'*
  - *'Regulation 61 Notice – Request for Further Information – FCC final submitted'*

### **Changes to the permit conditions**

Following the assessment of the information provided by the operator in response to the Regulation 61 Notice, summarised in table 1, and the additional information received in response to the request further information, we have made the following changes to the permit conditions:

- Condition 2.3.4 was amended to add the new waste table references.
- Conditions 2.3.8 and 2.3.9 were updated to match the modern template.
- Conditions 2.4.1 and 2.4.2 were added in line with included improvement programme.
- Condition 4.3.2 was updated to match the modern template.
- Table S1.1 as referenced in condition 2.1.1 was amended by adding new DAAs - AR4 and AR5 for the bulking of recyclable wastes and the storage of recovered RDF and by applying appropriate restrictions to the waste operation activities (AR7 and AR8). Following activities renumbered.
- Table S1.2 as referenced in condition 2.3.1 has been updated with additional operating techniques.
- Table S1.3 as referenced in condition 2.4.1 has been added together with the improvement programme.
- Table S2.2 as referenced in condition 2.3.4 has been amended by removing waste codes that are not appropriate to the permitted activities.
- Table S2.3 & S2.4 as referenced in condition 2.3.4 new list of waste tables added for activities AR7 and AR8
- Table S3.1 as referenced in condition 3.1.1 has been amended by including visible oil and grease monitoring.
- Table S3.2 as referenced in condition 3.1.1 parameters and limits added in line with BAT requirements.
- Table S4.1 as referenced in condition 4.2.3 has been amended by adding reporting of emissions from W1 and S1.
- Table S4.4 as referenced in condition 4.2.3 has been amended by adding reporting forms for point source emissions to water and sewer.
- Schedule 5 as referenced in Condition 4.3.2 has been amended by adding a new paragraph (c) to Part A requiring notification of breach of permit conditions not relating to limits.
- Schedule 6 as referenced in condition 4.4.1 has been amended by adding additional interpretations that are relevant to the changes that have been made as a result of this variation.

**Table 1 – Summary of our assessment of the operator’s Reg 61 response**

| <b>Appropriate measures</b>   | <b>Compliance status</b> | <b>Assessment of the installation’s compliance with relevant standards (appropriate measures) and any alternative techniques proposed by the operator</b>  |
|---|--------------------------|--|
| <b>General management appropriate measures</b>                            | FC                       | The operator confirmed that they currently meet the requirements of the appropriate measures in this section with the exception of; <ul style="list-style-type: none"> <li>Decommissioning plan – FCC understand the risks of the site in terms of decommissioning. It was detailed that procedures are in place to ensure the site infrastructure is inspected and for spillages and potential sources of pollution. All fixed plant and equipment are bolted to the floor and are easy to remove and replace. An improvement programme has been included for the operator to submit a decommissioning plan to the Environment Agency.</li> </ul> |
| <b>Waste pre-acceptance, acceptance and tracking appropriate measures</b> | CC                       | The operator confirmed that they currently meet the requirements of the appropriate measures in this section. Pre-acceptance and acceptance procedures are in place alongside waste tracking.  |
| <b>Waste storage, segregation and handling appropriate measures</b>       | FC                       | The operator confirmed that they currently meet the requirements of the appropriate measures in this section. Waste is stored in line with the sites FPP. The FPP has not been approved by the EA and as such an improvement condition has been included to require the submission of an FPP for approval.   |
| <b>Waste treatment appropriate measures</b>                               | CC                       | The operator confirmed that they currently meet the requirements of the appropriate measures in this section.  |
| <b>Emissions control appropriate measures</b>                             | CC                       | The operator confirmed that they currently meet the requirements of the appropriate measures in this section: <ul style="list-style-type: none"> <li>Treatment is within a building.</li> <li>Appropriate management plans are in place.</li> </ul>  |
| <b>Emissions monitoring and limits appropriate measures</b>               | CC                       | The operator confirmed that they currently meet the requirements of the appropriate measures in this section. Additional information was provided by the operator in support of this in their response to the request for further information.   |
| <b>Process efficiency appropriate measures</b>                            | CC                       | The operator confirmed that they currently meet the requirements of the appropriate measures in this section. Additional information was provided by the operator in support of this in their response to the request for further information.   |

| <b>Regulation 61 Requirement</b>   | <b>Compliance status</b> | <b>Assessment of the installation's compliance with relevant standards (appropriate measures) and any alternative techniques proposed by the operator</b>  |
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| BAT 1 - EMS  | CC                       | The operator indicated they are currently meeting the requirements of this BAT conclusion. The Facility is managed in accordance with an Integrated Management System (IMS) that has been certified to be compliant to ISO 14001:2015 standard for environmental management systems and ISO9001, ISO45001, ISO50001  |
| BAT 2 - Waste pre-acceptance, acceptance and tracking appropriate measures | CC                       | The operator confirmed that they have waste acceptance procedures including procedure for waste tracking and reporting.  |
| BAT 3 - Inventory of wastewater and waste gas streams                      | CC                       | There are no channelled emissions to air from the site.<br>Channelled emissions of water are uncontaminated surface and roof waters for which the parameters of oil and grease checks have been included as this is a direct emission.<br>A further emission from the site yard drains to foul sewer. Indirect emission BAT AELs in line with WT BATC have been included within the permit.  |
| BAT 4 - Storage procedures   | CC                       | The operator confirmed that storage procedures are in place at the site and that they are compliant with this BAT requirement.   |
| BAT 5 – Waste handling and transfer procedures                             | CC                       | The operator confirmed that they have waste handling and transfer procedures in place.   |
| BAT 6 - monitor key process parameters                                     | CC                       | The operator indicated that this BAT conclusion is not relevant to their operation. However, we consider that it is relevant and have included the appropriate monitoring requirements in tables S3.1 and S3.2 of the permit. Monitoring has been added in table S3.1 for emission point W1, uncontaminated surface water to ensure there is not grease or oil contained within the discharge. We have included monitoring requirements for S1 (parameters and limits) in Table S3.2 of the permit in line with the WT BATC. |
| BAT 7 - monitor emissions to water   | CC                       | The operator indicated that this BATC is not relevant to their facility. However, the operator also confirmed that contaminated run-off from the site area is discharged to sewer under consent. In line with the WT BATC, we have included monitoring requirements (parameters and limits) in Table S3.2 of the permit.   |
| BAT 8 - monitor channelled emissions to air                                | N/A                      | There is no channelled emission to air. The permit does not allow channelled emission to air.  |

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| BAT 9 - monitor diffuse emissions of organic compounds to air  | N/A | The installation activities do not involve regeneration of spent solvents, the decontamination of equipment containing POPs with solvents, and the physico-chemical treatment of solvents for the recovery of their calorific value. This BAT is therefore considered not applicable.   |
| BAT 10 - monitor odour   | CC  | The operator has confirmed they meet the requirements of this BATC. An approved odour management plan is in place for the facility and is listed as an operation technique within the permit.   |
| BAT 11 - monitor consumption of water, energy and raw materials, and generation of residues and wastewater | CC  | The operator confirmed they are in compliance with this requirement. A permit condition is in place which requires the operator to submit end of year report for water, energy and raw materials usage.   |
| BAT 12 - odour management plan   | CC  | The operator has confirmed they meet the requirements of this BATC. An approved odour management plan is in place for the facility and is listed as an operation technique within the permit.   |
| BAT 13 - reduce odour emissions  | CC  | The operator has confirmed they meet the requirements of this BATC. An approved odour management plan is in place for the facility and is listed as an operation technique within the permit.   |
| BAT 14 - reduce diffuse emissions to air   | CC  | The operator confirmed they are in compliance with BATC 14. The site operations are taking place within an enclosed building which is equipped with a misting system for suppressing dust and odour. Other management techniques are in place including reduced traffic speeds and drop heights.  |
| BAT 15 - minimise use of flaring   | N/A | Given the nature of the waste treatment operations, we agreed that this BAT is not applicable.  |
| BAT 16 - reduce emissions to air from flares   | N/A | Given the nature of the waste treatment operations, we agreed that this BAT is not applicable.  |
| BAT 17 - noise and vibration management plan   | CC  | Based on our internal noise screening, a noise impact assessment and noise management plan are not required. The operator has detailed that they are in compliance with the BATC and manage noise through their IMS with daily noise checks.  |
| BAT 18 - reduce noise and vibration emissions  | CC  | Based on our internal noise screening, a noise impact assessment and noise management plan are not required. The operator has detailed that they are in compliance with the BATC and manage noise through their IMS with daily noise checks.  |
| BAT 19 - optimise water consumption, reduce wastewater and prevent or reduce emissions to soil and water   | CC  | The operator indicated that this BATC is not relevant to their facility. Further information was requested through the RFI. No water is used in the process or generated from the process. Clean and wastewater streams are kept separate. The RFI response detailed no treatment being required. It is deemed that the operator is in compliance with BAT. |



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| BAT 20 - waste water treatment   | N/A | No wastewater treatment is required on site. The Environment Agency agrees with the BAT response from the operator which states that this BAT conclusion is not relevant.   |
| BAT 21 - prevent or limit the environmental consequences of accidents and incidents              | CC  | The operator has indicated that they are compliant with this BAT requirement. An Emergency Management Plan is in place.   |
| BAT 22 - substitute materials with waste   | N/A | There is limited use of raw materials within the RDF production process. Given the nature of the waste treatment operations, we agreed that this BAT is not applicable.   |
| BAT 23 - Energy efficiency plan, energy balance record   | CC  | The operator has detailed that they are compliant and an ISO50001 Management System is in place at the site and across the business and includes energy reduction targets, data reporting system for each site and each site has an Energy Management Plan.   |
| BAT 24 - maximise reuse of packaging   | N/A | No packaging waste is generated during the waste process operations. Given the nature of the waste treatment operations, we agreed that this BAT is not applicable.   |
| BAT 25 - General - Emissions to air (Techniques to reduce plus AEL for dust).                    | N/A | There are no channelled emissions of dust from the process. As such this requirement is not relevant to the operations. Although the operator indicated that this BATC was relevant we do not deem it to be relevant to their operations given that there are no channelled emission points to air.                         |
| BAT 26 - Metal shredders (Reduce accidents & incidents)  | N/A | The installation is for the mechanical processing of waste to produce RDF for incineration. There is no treatment in shredders of metal waste, including WEEE and ELVs and their components. Although the operator indicated that this BATC was relevant we disagree and do not deem it to be relevant to their operations. |
| BAT 27 - Deflagrations (Prevent & reduce emissions from deflagrations)                           | N/A | The installation is for the mechanical processing of waste to produce RDF for incineration. There is no treatment in shredders of metal waste, including WEEE and ELVs and their components. and as such we agree that BAT 27 does not apply.   |
| BAT 28 - Energy efficiency (Shredder feed stability)   | N/A | The installation is for the mechanical processing of waste to produce RDF for incineration. There is no treatment in shredders of metal waste, including WEEE and ELVs and their components. Although the operator indicated that this BATC was relevant we disagree and do not deem it to be relevant to their operations. |
| BAT 29 - WEEE containing VFCs and/or VHCs (Emissions of organic compounds to air including AELs) | N/A | Given the nature of the waste treatment operations and waste types, we agreed that this BAT is not applicable. There is no treatment in shredders of metal waste, including WEEE, ELVs and their components and there are no channelled emission points to air at the site.   |

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| BAT 30 - Explosions when treating WEEE (Prevent emissions due to explosions)  | N/A  | Given the nature of the waste treatment operations and waste types, we agreed that this BAT is not applicable. There is no treatment in shredders of metal waste, including WEEE and ELVs and their components. There is non-conforming waste procedure in place at the site. |
| BAT 31 - Emissions to air (Techniques to reduce emissions to air including AEL)   | N/A  | There is no channelled emission to air and the permit does not allow channelled emission to air. The operator has indicated they are compliant with this BATC however it is not relevant to their operations.   |
| BAT 32 - WEEE containing mercury (Emissions to air including AEL)   | N/A  | WEEE is not being treated at the site. There is no channelled emission to air and the permit does not allow channelled emission to air.   |
| BATs 33 - 53  | N/A  | We considered that BATs 33 - 53 are not applicable to installations processing waste to produce RDF for incineration. We consider these treatment activities as mechanical treatment.   |
| <b>Reg. 61 Request for Further Information (RFI)</b>  | <b>Assessment of response received</b>   |   |
| Complete the appropriate measures assessment tab contained within Annex 1 of the Regulation 61 Notice   | The operator provided the completed spreadsheet to enable full assessment.   |   |
| Amend Table S2.2 of your permit by identifying separately, waste types that you are accepting under the installation activity (Activity AR1) and wastes that you are accepting under the waste operation activities (Activity AR5 and AR6) of Table S1.1. | <p>The operator provided separate tables of wastes relating to each listed activity. These have been incorporated within the permit with the exception of the following EWC codes that were previously listed in Table S2.2</p> <ul style="list-style-type: none"> <li>• 16 01 03 – end-of-life-tyres</li> <li>• 20 01 08 - biodegradable kitchen and canteen waste</li> </ul> <p>The above codes were deemed not applicable to the scheduled activity of pre-treatment of waste for incineration and co-incineration.</p> |   |
| Provide details of your wastewater inventory as required under BAT 3.   | The operator provided a response detailing that the point source emissions are unchanged from the permit variation of 2015/2016. The provided analysis from United Utilities of the discharge and an explanation of where the waters originate from. An updated drainage plan was also provided.   |   |
| Identify clearly the measures that you have in place to minimise ensure that  | The operator detailed that rainwater from roofs and outside areas are directed through the clean surface water system which enters an interceptor and attenuation pond before discharge to the local brook. Rainwaters which fall on other areas of the yard are directed to foul sewer under consent with United Utilities as a precaution in case there is any   |   |

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| <p>generation of wastewater is minimised at your site.</p>  | <p>contact with waste. The likelihood of contact is low because the waste treatment operations are all taking place undercover in a building.</p>   |
| <p>Provide details of systems and measures you have in place to ensure that your site is meeting the requirements of BAT 11 of the WT BATC with regards to the monitoring of annual consumption of water, energy, and the annual generation of residues and wastewater.</p> | <p>The operator detailed the following within their response;</p> <ul style="list-style-type: none"> <li>• Water use is predominantly through site staff using welfare facilities. The only use of water in the operation is for the fine misting system. The site completes a water usage review on a quarterly basis.</li> <li>• Energy – the site is accredited to ISO 50001 with procedures in place to monitor, record and improve energy performance. <ul style="list-style-type: none"> <li>○ IMS-PRO-049 - Site energy monitoring and management procedure</li> <li>○ IMS-FRM-057 Energy data collection plan (this includes actions to improve energy use)</li> <li>○ IMS-FRM-058 Energy improvement opportunity form</li> <li>○ IMS-UG-013 Site energy management guide</li> </ul> </li> <li>• Wastewater directed to sewer is based on annual rain fall for three small area on a precautionary approach</li> <li>• Generation of residues – The waste processes on site do not generate residues as part of the process. A residual waste management plan has been completed and includes all wastes being managed at the site to ensure the waste hierarchy is followed. This is reviewed annually.</li> </ul> |