

Compliance Assessment Report CAR_NRW0039838

Permit being assessed: BX8289IW.

For: Princes - Cardiff EPR/BX8289IW, held by Princes Ltd

At: Unit 68 Princes Soft Drinks Division - Cardiff Portmanmoor Road Ind. Estate , Cardiff, South Wales, CF24 5HB.

Type of assessment carried out: Report/Data Review, Reason: Routine.

On 28/04/2022.

Parts of permit assessed: Reporting and Permitted Operations

NRW Lead Officer: Geraint Harris.

Report sent to: John O'Malley, Health, Safety and Environment Manager on 05/05/2022.

1. Summary of our findings (full details in section 4)

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C4 No impact	4.1.5
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C4 No impact	4.1.4
C2 - General Management - Management system and operating procedures	C3 Minor	1.3.1

Result types are explained in more detail in the 'Important Information' section below.

Total number of non-compliances recorded	Total non-compliance score
3	4.2

How we use the non-compliance score to calculate your annual fee is explained in the 'Important Information' section below.

2. What action is required?

Criteria	Action needed	Complete by
G4	Submit response to permit condition 4.1.5. by the 30th May 2022.	30/05/2022
G4	Submit response to permit condition 4.1.4 by 30th May 2022.	30/05/2022
C2	Improve management system to include dates of when various permit conditions require submissions to NRW.	30/05/2022

Action criteria codes are listed in the 'Important information' section below.

3. What will happen next?

Any non-compliance we have identified and recorded on this form is an offence. It can result in criminal prosecution and/or suspension or revocation of your permit.

At this time, we do not intend to take any further action.

This statement does not stop us from taking additional enforcement action if further relevant information comes to light or offences continue.

4. Details of our assessment**Princes Ltd****EPR-BX8289IW**

The information I have detailed below highlights a pattern of continued non-compliances and is a real concern to NRW. NRW, as the regulator, need to be convinced that Princes Cardiff can operate effectively and compliantly, within the remit of their environmental permit at all times. As it stands there is some considerable doubt regarding the sites Environmental Management System (EMS) including the management of change procedures. The purpose of environmental regulation is to protect and improve the environment. Your permit incorporates these requirements and contains a range of conditions intended to achieve the objectives in the relevant UK and European legislation. When applying for a permit you are making a commitment to meet the standards specified within the document, using the measures described or their equivalent. As it stands Natural Resources Wales has some serious concerns over the ability of Princes Cardiff to operate compliantly with the remit of their environmental permit. NRW therefore, intend to undertake an audit of Princes management system in June. It is our intention to take a full day auditing your EMS and so we would like to propose one of the following dates in June for such an audit; 21st, 22nd and 23rd. Please respond with your preference.

The following is a summary of the compliance history of Princes over the last 18 months.

Outstanding reports

In 2021, Princes Cardiff received a number of non-compliance points which saw its compliance banding drop to a **C banding**. This has resulted in a significant increase in subsistence fees for the site. The list below highlights some of the reasons for these non-compliance's (further details can be seen in CAR_NRW0037862)

- **Non-compliance score CCS4 x 3. For failure to comply with permit condition 4.1.5 for years 2018, 2019 and 2020.**
- **Non-compliance score CCS4 x 1. For failure to comply with permit condition 4.1.4 for 2020**
- **Non-compliance score CCS4 x 1. For failure to comply with permit condition 2.11.2 for 2020.**
- **Non-compliance score CCS4 x 1. For failure to comply with permit condition 2.8.1 for 2018.**
- **Non-compliance score CCS3 x 1 For failure to comply with permit condition 1.1.**

Princes were asked numerous times in 2021 for the missing reports highlighted above and were subsequently scored 4.6 points in a Compliance Assessment Record in April 2021 (CAR_NRW0037862). The responses to these actions were provided between April and October 2021. The above non-compliances could have easily been avoided had an effective environmental management system been in place. The management condition and your written management system are key for assessing how effectively you are protecting the environment and help to improve how you manage the environmental risks from your activities. NRW have serious concerns with the adequacy of Prince's environmental management system and its ability to keep the site environmentally compliant.

Operating without a permit

On the 31st March 2021, Prince's emailed NRW highlighting that a valid environmental permit will be required to legally operate the new plant and equipment installed during CAREX phase 2. Within this email

Princes asked, "Are we able to operate under a deviation whilst waiting for the permit - JO'M to confirm". NRW responded with the following reply:

"We have spoken to our Permitting team now and are aware of the variation application you have submitted. As they have explained in their correspondence to you, NRW does not normally allow Installations to operate without or outside the constraints of an Environmental permit and the conditions contained therein. The decision to allow such operations are very rare and done only in cases of extenuating circumstances.

To that end, in order to begin consideration of this we will require more information. This should include time scales and any reasons as to why you are unable to wait until such a permit is issued. We require enough information to be able to make this decision based on the potential risk posed by allowing an operation to commence without the correct assessments and consultations to be carried out beforehand, as would happen in the permit determination process.

We will endeavour to consider your request as quickly as possible. However, please bear in mind decisions to approve this type of activity are not normal practice and any operations that take place outside the confines of the current permit would be taken seriously. I look forward to hearing from you with the information needed to assess your request."

NRW received acknowledgment of this email on the 14th April 2021, however no further correspondence was received. During a site visit in September, it was evident that all the site changes mentioned in the permit variation, were already in operation prior to permit variation. As Princes are aware it is an offence under the environmental permitting regulations 2016 (England and Wales) to operate a regulated facility without having a permit in place. NRW would respond to such an event in accordance with our published enforcement and prosecution policy. However, the site is covered by an existing EPR permit. The offence in this case is operating items of plant prior to the variation of the permit taking effect. NRW's decision to pursue enforcement action was informed by factors such as environmental impact of any operation, existing controls on emissions, the existence of a timely application for a permit and the intent of the offender.

Following the response from Princes it was decided that the operation of items of plant prior to the variation of the permit taking effect warranted the **awarding of two category 3 non-compliance scores (CCS3)**. Please see CAR Form CAR_NRW0039399 for more details.

- **Non-compliance score CCS3 x 1. For failure to comply with permit condition 1.1.1**
- **Non-compliance score CCS3 x 1. For failure to comply with permit condition 1.3.1**

This above suggests that the management system doesn't have adequate management of change processes to prevent unauthorised operation of the prescribed activities, or the management of change process was not properly implemented due to lack of training/competency/sufficient resources. This further calls into question the effectiveness of Princes environmental management system.

The following actions resulted from the above incident and have still to be answered:

- **Action 1: please provide a response to the following question "Please explain why the decision to begin operating this equipment was taken without informing NRW". Due 31st March 2022.**
- **Action 2: Please provide a response to the following question "Please demonstrate that the air quality was acceptable during the period where the temporary boiler was used and that it screened out as insignificant at H1 assessment stage." Due 31st March 2022.**

Annual report 2021 (CAR Form CAR_NRW0039399)

Princes are required under permit condition 4.1.3 to submit to NRW a report of the performance of the permitted installation over the previous year, by 31st January each year, providing the information in Tables S4.1 and S4.2 of Schedule 4, assessed at any frequency specified therein, and using the form specified in

Table S3 to Schedule 3. On the 1st of February Princes were sent an email reminding them of this permit requirement. A new deadline of February the 14th was put forward in this email. The information provided on the 14th February, was found to be insufficient and a request for further information was made. Consequently, the correct forms were submitted to NRW the following day. **A noncompliance Category 3 (CCS3) was awarded against permit condition 4.1.3 for failure to submit this report on time.**

Breach In Sewer Discharge

In CAR_NRW0039399 Princes were awarded a CCS category 3 non-compliance for the breach of the Cadmium ELV for discharge to sewer. NRW received an email on the 29th April 2022 stating that they had entered the results incorrectly and that the Cadmium and Mercury results were mixed when editing the form. A request for information as to why the Cadmium was so high was made in CAR_NRW0039399 on the 16/02/2022 with an action to reply by the 31st march. A reply was made on the 29th April 2022 after Princes were chased for an answer. The billing run for last year has already been completed and so the subsequent 4 points from the awarding of a CCS cat. 3 cannot be removed. However the removal of the 4 points would still keep Princes within a 'C' Banding and so ultimately the subsistence fees will stay the same. Princes are to be remind to take more care and attention when submitting information required by their permit.

Action 6 from CAR Form CAR_NRW0039399 is considered complete.

Current Outstanding reports

Princes are required to submit a summary report by the 31st January 2022 as mentioned in permit condition 4.1.5. They were given a **Category 4 non-compliance for failure to submit a response to permit condition 4.1.5. Furthermore, a category 3 non-compliance was awarded against permit condition 1.3.1** for failure to implement a management system that is able to achieve compliance with the limits and conditions of their permit. Princes were reminded of this in CAR_NRW0039399 and given a deadline of the 31st March 2022. This deadline has since passed, and no response was provided. **A new non-compliance, score CCS4 x 1 is being awarded for continued failure to respond to permit condition 4.1.5.**

Princes are also required to submit a report on the review of fugitive emissions from the site for 2021 by the 31st March 2022. This report has not been submitted to NRW and so a **non-compliance score CCS4 x 1, for failure to comply with permit condition 4.1.4 for 2021, is being awarded.**

A non-compliance is being awarded against the management system for failure to comply with permit condition 4.1.4 and 4.1.5 and for failure to respond to a significant number of actions within the previous CAR Form. **A new non-compliance score CCS3 X 1 is being awarded against permit condition 1.3.1.**

Therefore, in summary Princes will receive three new non-compliance scores as explained above. In addition to that they have the following actions to comply with by the 30th May 2022.

Action1: Respond to all actions in CAR Form CAR_NRW0039399. **Due 30th MAY 2022.**

Action2: Submit responses to permit conditions 4.1.5 and 4.1.4. **Due 30th May 2022.**

Failure to adequately respond to actions 1 and 2 by 30th of May, will result in NRW taking enforcement action.

End.

If you have any queries about this report, or to discuss completion of any actions, please contact the NRW Officer named above.

Important information

Legal status of this report

Your permit is issued to you under the Environmental Permitting Regulations. You have a responsibility to comply with the conditions of your permit and prevent pollution/harm of the environment. You must also ensure that you comply with any other relevant legislation that may apply to your site's operations.

This report explains the findings of our assessment and any action you are required to take. We categorise non-compliance using our guidance for assessing non-compliance at regulated sites.

When we find potential non-compliance/s we will normally give you advice on how to maintain compliance.

To correct non-compliance, we may:

- require you to take specific actions
- issue a notice
- review the conditions of your permit.

Any advice and guidance we give will be without prejudice to any other enforcement response that we consider may be required.

Assessment results and non-compliance categories (used in section 1):

Assessment result	Description
Assessed (A)	Assessed or assessed in part, no evidence of non-compliance found
Action only (X)	Action only relating to the activity assessment
Ongoing (O)	Ongoing non-compliance, not scored

Non-compliance category	Description	Score
C1 Major	Potential to have a major, serious, persistent and/or extensive impact or effect on the environment, people and/or property	60
C2 Significant	Potential to have a significant impact or effect on the environment, people and/or property	31
C3 Minor	Potential to have a minor or minimal impact or effect on the environment, people and/or property	4
C4 No environmental impact	Non-compliance at a regulated site that cannot foreseeably have any impact on the environment, people and/or property	0.1

How we use assessment scores

The number and severity of non-compliances recorded in a year will affect your annual subsistence fee the following year. A non-compliance factor is added to your site's Operator

Performance Risk Appraisal (OPRA) score when we calculate your fee to reflect the additional resource we use to assess permit compliance.

What are suspended scores?

In line with our guidance, we may suspend scores for up to six months to allow time for remedial action to be taken. Suspended scores will be re-instated if the action is not completed.

Full list of Industry and Waste action criteria (used in section 1 and 2):**A: Permitted activities**

- A1 Specified by permit

B: Infrastructure

- B1 Infrastructure – Engineering for prevention and control of emissions
- B2 Infrastructure – Closure and decommissioning
- B3 Infrastructure – Site drainage engineering (clean and foul)
- B4 Infrastructure – Containment of stored materials
- B5 Infrastructure – Plant and equipment

C: General management

- C1 General management – Staff competency/training
- C2 General management – Management system and operating procedures
- C3 General management – Materials acceptance
- C4 General management – Storage, handling, labelling and segregation

D: Incident management

- D1 Incident management – Site security
- D2 Incident management – Accidents, emergency and incident planning

E: Emissions

- E1 Emissions – Air
- E2 Emissions – Land and groundwater
- E3 Emissions – Surface water
- E4 Emissions – Sewer
- E5 Emissions – Waste

F: Amenity

- F1 Amenity – Odour
- F2 Amenity – Noise
- F3 Amenity – Dust/fibres/particulates and litter
- F4 Amenity – Pests/birds and scavengers
- F5 Amenity – Deposits on road

G: Monitoring and records, maintenance and reporting

- G1 Monitoring and records, maintenance and reporting – Monitoring of emissions and environment
- G2 Monitoring and records, maintenance and reporting – Records of activity, site diary/journal/events
- G3 Monitoring and records, maintenance and reporting – Maintenance records
- G4 Monitoring and records, maintenance and reporting – Reporting and notification to Natural Resources Wales

H: Resources efficiency

- H1 Resource efficiency – Efficient use of raw materials
- H2 Resource efficiency – Energy efficiency

Enforcement response

Any permit condition non-compliance is an offence and we may take legal action against you. Action we take can include prosecution, serving a notice on you and/or suspension or revocation of your permit. See our Enforcement and Sanctions Guidance for further information.

Data protection notice

You should make sure that anyone named in this report knows that the information it contains will be processed by Natural Resources Wales to fulfil its regulatory and monitoring functions and to maintain the relevant public register(s).

We may also use and/or disclose the report in connection with:

- offering or providing you with our literature or services relating to environmental matters
- consulting with the public, public bodies and other organisations (e.g. Health and Safety Executive, local authorities) on environmental issues
- carrying out statistical analysis, research and development on environmental issues
- providing public register information to enquirers
- investigating possible breaches of environmental law
- assessing customer service satisfaction and improving our service
- Freedom of Information Act or Environmental Information Regulations requests.

We may also pass it on to our agents or representatives to do these things on our behalf.

Disclosure of information – this report will be available to view on-line

If you think this report contains commercially confidential information that should not be placed on our public register, you must contact your local Natural Resources Wales office within **fifteen working days** of receiving this report, using the contact details in the accompanying email or letter. You must give a full explanation of why it should not be added to our public register, including specifying which information is commercially confidential. We will assess your request and respond to you within 20 working days to let you know if we agree to your request.

What do I do if I disagree with the report or have a complaint?

If you disagree with this compliance assessment report, you should contact the lead officer without delay to discuss your concerns.

If you are unable to resolve the issue with the lead officer or their line manager you should contact our Customer Contact team on 0300 065 3000 (Monday to Friday 08:00 – 18:00), or email enquiries@naturalresourceswales.gov.uk for details of how to raise your dispute further through our Complaints and Commendations procedure.

If you are dissatisfied with our response, you can contact the Public Services Ombudsman for Wales by phone on 0300 7900203 or by email at ask@ombudsman.wales

Welsh Language Standards

We are committed to establishing Natural Resources Wales as a naturally bilingual organisation. We will provide compliance reports in your preferred language.