

Compliance Assessment Report CAR_NRW0040364

Permit being assessed: ZP3535SQ.

For: Silent Valley Generation Plant NRW/EPR/ZP3535SQ/V004, held by Novera Energy Generation No.2 Limited

At: Silent Valley Landfill Site , Cwm, Ebbw Vale, Blaenau Gwent, NP23 6PZ.

Type of assessment carried out: Unknown, Reason: Other.

On 01/11/2022.

Parts of permit assessed: 2.1.1

NRW Lead Officer: Luke Burton.

Report sent to: George Augood, Senior Technician, Infinis on 01/11/2022.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
A1 - Specified by permit	Action only (X)	

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

Total number of non-compliances recorded	Total non-compliance score
0	0

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
A1	<p>If NEGL anticipate they can no longer meet the definition of operator on 12 December 2022 they must confirm to NRW whether they will make or take part in an application to transfer the permit to another operator, or fully surrender the permit.</p> <p>OR</p> <p>If NEGL feel they will still meet the definition of operator on 12 December 2022 they must provide NRW written evidence to support this.</p>	15/11/2022

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

Natural Resources Wales (NRW) has become aware that Novera Energy Generation No. 2 Limited's (NEGL) lease to the land at the Silent Valley Generation Plant will end on 11 December 2022.

This may compromise NEGL's ability to hold environmental permit ref EPR/ZP3535SQ.

Regulation 7 of The Environmental Permitting Regulations (2016) and Regulatory Guidance Note 1: define 'an operator' as the person who has control over the operation of a regulated facility. If the permit holder is not allowed access to that regulated facility, they do not meet that definition and cannot hold their permit.

This Compliance Assessment Report notifies NEGL that if the lease is not extended beyond 11 December 2022, NEGL will no longer meet the definition of operator from 12 December 2022.

Action NEGL:

- If NEGL anticipate they can no longer meet the definition of operator on 12 December 2022 they must confirm to NRW by the 15/11/22 whether they will make or take part in an application to transfer the permit to another operator, or fully surrender the permit.

OR,

- If NEGL feel they will still meet the definition of operator on 12 December 2022 they must provide NRW written evidence to support this by the 15/11/22.

If NEGL intend to make or take part in an application to transfer or surrender the permit - NRW can provide up to 2 hours free pre-application advice and guidance on the application process. NEGL should note that the transfer of the permit, rather than surrender, is the quickest and most cost-effective way forward, subject to the proposal being acceptable.

If NEGL feel they will still meet the definition of operator on 12 December 2022 NRW will review any evidence to support this and advise accordingly.

NRW hopes the matter will not reach this stage, but we must make you aware of the following, now:

If come 12 December 2022 NEGL's lease to the land at the Silent Valley Generation Plant has ended and NEGL no longer meet the definition of operator and the generation plant permit has not been successfully transferred or surrendered – NRW will be forced to consider our enforcement options, which includes revocation of environmental permits.

END

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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.