

## Compliance Assessment Report CAR\_NRW0041115

**Permit being assessed:** DP3735NP.

For: Waen Anaerobic Digestion Site, held by Biogen Waen Ltd

At: Holywell Road, St Asaph, Denbighshire, St Asaph, Clwyd, LL17 0DS.

**Type of assessment carried out:** Report/Data Review, Reason: Routine.  
On 31/12/2022.

Parts of permit assessed: See Below

**NRW Lead Officer:** Philip Harper.

**Report sent to:** Dave Herbert, Area Manager on 14/02/2023.

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

| Part of permitted activity assessed (criteria)                                                                 | Assessment result | Permit condition |
|----------------------------------------------------------------------------------------------------------------|-------------------|------------------|
| G1 - Monitoring and Records, Maintenance and Reporting - Monitoring of emissions and environment               | Assessed (A)      |                  |
| G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales | C3 Minor          | 4.3.1(b)         |
| A1 - Specified by permit                                                                                       | C3 Minor          | 2.3.2(a)         |
| C2 - General Management - Management system and operating procedures                                           | C3 Minor          | 1.1.1a           |

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

| Total number of non-compliances recorded | Total non-compliance score |
|------------------------------------------|----------------------------|
| 3                                        | 12                         |

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       | Report future breaches of permit to Natural Resources Wales | Already completed |
| A1       | See Actions 1 to 4 in main text.                            | 31/03/2023        |
| C2       | See actions 1 to 4 in main text.                            | 31/03/2023        |

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.

**You are non-compliant with your permit.**

**At this time, we are issuing you with a warning for the non-compliance recorded above. Warnings may influence future enforcement response for continued or further non-compliance.**

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**

**Annual Report 2022 (1<sup>st</sup> January 2022 – 31<sup>st</sup> December 2022).**

This Compliance assessment Report relates to the annual monitoring and reporting requirements in permit no. DP3735NP. In addition, waste returns were also received.

**Form Air 1.**

Emissions to air have been monitored as per permit condition 3.5.1 and reported as per permit condition 4.2.3. The annual environmental report states that the flare operated for <10 % of year, therefore, monitoring is not required.

**Production, Treatment and Performance**

Annual Production/Treatment parameters were reported as required by permit condition 4.2.2(b), Schedule 4(a), Table S4.2.

Performance parameters were reported as required by permit condition 4.2.2(c), Schedule 4(a), Table S4.3.

**Q3 Waste Returns**

Waste returns have been received for quarter 3 on the 2<sup>nd</sup> November 2022 as required by permit condition 4.2.5 and a review of the waste returns has been undertaken.

No issues have been identified.

**Q4 Waste Returns**

Waste returns have been received for quarter 4 on the 27<sup>th</sup> January 2023 as required by permit condition 4.2.5 and a review of the waste returns has been undertaken.

No issues have been identified.

**Cumulative Waste Input**

The annual report disclosed that 24053.66 tonnes of waste was accepted by the site in 2022.

***“The site has exceeded its permitted tonnes for 2022. Biogen’s Gwyriad site underwent significant works on their pasteuriser over a number of months and as a result Waen, Gwyriad’s closest neighbouring site, received both waste off the floor (1,893.7 tonnes) and digestate (851.14) from Gwyriad. Without these internal movements, the tonnages for site would have been 21,308.82 and under the permitted 22,500***

***tonnes. We have increased the frequency for reporting the accumulation total for the site and these will be included in our Management Reviews.”***

This is a permit breach with regard to permit condition 2.3.2(a) Waste shall only be accepted if it is of type and quantity Schedule 2 Table S2.1.

**A category 3 score has been applied against A1- specified by permit.**

Previous advice has been provided to the operator with regard to ensuring that the permitted limit for the total quantity of waste accepted is not surpassed. Records indicate that the site exceeded its limit of input waste in the following years.

2020- 23763 tonnes.

2019- 23,362.3 tonnes

Following correspondence with the site, it has been established that the site exceeded its limit on the 2<sup>nd</sup> of December 2022.

Permit condition 4.3.1(b) states that “in the event of a breach of any permit condition the operator must immediately (i) inform Natural Resources Wales”

The site failed to inform Natural Resources Wales that the permitted limit for waste accepted by the site had been breached.

**A category 3 score has been applied against permit condition 4.3.1(b) under G4- Reporting and Notification to Natural Resources Wales.**

The failure to implement adequate controls to ensure that the waste input did not exceed the permitted limit and failure to report the associated permit breach indicate that the site is not being operated in accordance with suitable management controls, increasing the potential for significant environmental impact.

**A category 3 score has been applied against permit condition 1.1.1a under C2 Management system and operating procedures.**

**Action 1:** Review the environmental management procedure for the site and ensure that measures are put into place to prevent the site from accepting more waste in a year than is permitted by the 31<sup>st</sup> March 2023.

**Action 2:** Review site contingency plans for waste when the annual permitted limit has been reached by the 31<sup>st</sup> March 2023.

**Action 3:** Ensure the notification requirements of the permit are adhered to in future.

**Action 4:** Submit the cumulative quantity of waste accepted by the site within one 7 working days of each month until further notice.

Kind Regards

**Phil Harper**

**Industry and Waste Regulation Officer NW**

**03000 65 3717/ 07890025506**

**[philip.harper@cyfoethnaturiolcymru.gov.uk](mailto:philip.harper@cyfoethnaturiolcymru.gov.uk)**

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](mailto: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](mailto: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.