

Compliance Assessment Report CAR_NRW0043652

Permit being assessed: MB3190HG.
For: A D Plant, held by Warren Farm (Powys) Ltd.
At: Knighton, Powys, LD7 1PE.

Type of assessment carried out: Site Inspection, Reason: Routine.
On 27/02/2024 between 09:00 and 17:00.
Parts of permit assessed: All

NRW Lead Officer: Malcolm Dines.
Report sent to: Lucy Owen, TCM on 20/03/2024.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
B1 - Infrastructure - Engineering for prevention and control of emissions	Assessed (A)	
B4 - Infrastructure - Containment of stored materials	C3 Minor	2.4.1
C1 - General Management - Staff competency/training	Assessed (A)	
C2 - General Management - Management system and operating procedures	C3 Minor	1.1.1
E1 - Emissions - Air	C3 Minor	3.1.2
G1 - Monitoring and Records, Maintenance and Reporting - Monitoring of emissions and environment	C3 Minor	3.5.1
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C3 Minor	4.3.1(b)

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

Total number of non-compliances recorded	Total non-compliance score
5	20

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
B4	Ensure that all contained materials include adequate primary and secondary containment.	Already completed
C2	Review and revise your EMS to ensure that proper plans are in place to ensure emissions monitoring are carried out in a	01/05/2024

Criteria	Action needed	Complete by
	timely manner in accordance with your permit and that there are contingency measures in place in the event that your preferred monitoring company is not available.	
E1	Submit maintenance records for the gas engine for 2022 and 2023 and also a report that investigates the breach of ELV for VOCs and details any actions to be taken to prevent or minimise further breaches	20/04/2024
G1	ensure that you comply with your permit by carrying out emissions monitoring at a minimum frequency of 12 months and provide a report that explains why your emissions monitoring prioritises "clustering local sites together" rather than complying with your permit and ensure that you carry out emissions monitoring at a minimum frequency of 12 months	20/04/2024
G4	ensure that you comply with your permit by reporting breaches of emission limit values in a timely manner	20/03/2024

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

This was a routine, pre-arranged compliance visit carried out by Malcolm Dines (Waste Regulation Officer) and Liz Park (Senior Waste Officer), who met with Lucy Owens, Technically Competent Manager (TCM) and Howard Morgan, Owner and Site Manager. The Officers we accompanied at all times during the visit. The weather was clear and bright, but there had been significant recent rainfall.

Permit Breaches

B4 - Containment of Stored Materials - Cat 3; Permit Condition 2.4.1

You have been given this Category 3 score against this permit condition because during the compliance visit a drum of anti-freeze or coolant for the Gas Engine was stored alongside the engine on unmade ground. Materials that if they leak could result in pollution must be provided with adequate primary and secondary containment. This drum did not have any secondary containment and although the drum and its contents are owned by Clarke's the company that own the gas engine, it is your responsibility to ensure that materials associated with the operation of the permitted activity are stored and handled in accordance with the permit.

Action: Ensure that all potentially pollution materials are provided with adequate primary and secondary containment, **effective immediately.**

E1 - Emissions to Air - Cat 3; Permit Condition 3.1.2

You have been given this Category 3 score against this permit condition because the stack emissions monitoring of your gas engine, carried out in September 2022, reports that the emission of Volatile Organic Compounds (VOC) exceeded the Emission Limit Value (ELV) that is specified in Table 3.1 (Permit Condition 3.1.2) of your permit.

The measured concentration of VOCs was 1985 mg/m³, compared to an ELV of 1000 mg/m³.

VOC	Sample Result (mg/m ³)	1985
(ELV: 1000 mg/m ³)	Measurement of Uncertainty (MU) = 40% (+/- mg/m ³)	794
	Result minus MU	1191

Your permit requires compliance with guidance document, Landfill Technical Guidance Note 8 (LFTGN08) with regards the uncertainty of the sample measurement, which for VOCs is +/- 40%. When this value is subtracted from the measured emission results means that the lowest calculated emission of VOCs was 1191 mg/m³ which still exceeds the ELV. Emissions monitoring carried out on 22 January 2024 reports that amount of VOCs being emitted was 985 mg/m³. Normally you would be required to carry out further emissions monitoring to identify whether there was still an issue with emissions from the gas engine. However, your annual monitoring was carried out on 22 January 2024 and the results show that VOC emissions were 984 mg/m³, which is compliant with your permit. Please note that this is only just below the ELV and you are advised to investigate this further to avoid any additional breaches of ELVs.

Action: Submit maintenance records for the gas engine for 2022 and 2023 and also a report that investigates the breach of ELV for VOCs and details any actions to be taken to prevent or minimise further breaches. You must also provide the following details: stack height and inner stack diameter **by 20 April 2024**

G1 - Monitoring of emissions and environment - Cat 3; Permit Condition 3.5.1

You have been given this Category 3 score against this permit condition because you failed to undertake monitoring for emissions in 2023, for which the minimum testing frequency is annually. The emissions monitoring for 2022 was carried out on 15 September of that year and so the 2023 monitoring should have been carried out by the end of September 2023 at the latest. In email correspondence with myself subsequent to this compliance visit your TCM, Lucy Owens, stated that the monitoring company were requested to carry out monitoring at your site at, "the beginning of November" and they responded saying that the earliest they were able to attend your site was January 2024.

The initial request to your usual monitoring provider was made by your TCM on 10 November 2023 and had been left until November, "for ease of clustering local sites together". Although the request was for monitoring to be carried out before the end of 2023, at the latest this would still have been 15 months after the 2022 monitoring and the

correspondence shows that the reason for leaving the request so late in the year was not driven by the need to ensure compliance with your permit, but to make the monitoring easier for the monitoring company.

Additionally you have not provided any evidence that, when the preferred monitoring company were not able to provide monitoring until January 2024, you tried to contact any other monitoring companies to see if anyone could carry out the monitoring earlier than your usual provider, instead you were content to wait until 16 January 2024, 16 months after the previous monitoring and at no time did you choose to discuss the delay to your emissions monitoring with NRW.

Further to this your TCM then subsequently delayed the monitoring a further week until 22 January 2024 by requesting that the monitoring company swap dates with another site because it better suited the sites being monitored. The breach of ELV for VOCs in 2022 should have meant that the 2023 monitoring was prioritised over "ease of clustering", and "better suiting the sites".

It is reasonably foreseeable that the failure to carry out the required monitoring could result in a minor pollution to the environment, especially as your emissions monitoring in 2022 identified a breach of the ELV for VOCs and because of this the monitoring for 2023 should have not have been arranged just to suit a third party organisation.

Action: ensure that you comply with your permit by carrying out emissions monitoring at a minimum frequency of 12 months and provide a report that explains why your emissions monitoring prioritises "clustering local sites together" and why the testing in January was delayed further, rather than complying with your permit. You must also ensure that you carry out emissions monitoring at a minimum frequency of 12 months **by 20th April 2024**

C2 - Management system and operating procedures - Cat 3; Permit Condition 1.1.1

You have been given this category 3 breach of permit against the above condition as when requested, you were unable to provide any information or any part of your EMS that covers planning for emissions monitoring or any contingency measures that you would take in the event of your preferred monitoring company being unable to carry out the required service to ensure that you comply with your permit. The response from your TCM confirmed that you don't have any formal written procedures relating to emissions monitoring.

Your permit contains Emission Limit Values as these are environmentally protective values for the emissions from your gas engines and you should have procedures for ensuring that monitoring is undertaken, results assessed and a process for actions to be taken when breaches of ELVs are identified so that you comply with your permit and prevent or minimise pollution of the environment.

Despite the delays in the monitoring meaning that it would be undertaken at all in 2023, let alone within the 12 month required frequency, you also failed to contact NRW to advise about the delays to the emissions monitoring. The breach of ELV for VOCs in 2022 should have meant that the 2023 monitoring was prioritised over "ease of clustering", and "to suit the sites". This all indicates that you consider minimising the impact on the monitoring company and other sites to be more important than actually monitoring emissions to the environment and complying with your permit.

It is reasonably foreseeable that the failure to have written procedures regarding emissions monitoring was the root cause of the breach of ELV for VOCs, the failure to notify NRW of a breach of ELV and the failure to ensure that the emissions monitoring was carried out annually and so would result in a minor pollution to the environment

Action: review and, if necessary, revise your EMS and submit sections relevant to Emissions Monitoring **by 1st May 2024**

G4 - Reporting and notification to Natural Resources Wales - Cat 3; Permit Condition 4.3.1(b)

You have been given this Category 3 score against this permit condition because you failed to notify NRW of the breach of ELV for VOCs. It is reasonably foreseeable that the failure to notify NRW could result in minor pollution of the environment as there is no evidence that the cause of the breach of ELV was identified and addressed.

Action: Ensure that you comply with your permit by notifying NRW in a timely manner when breaches of ELVs are identified **effective immediately**

Other Matters

Regulation 7 of the Environmental Permitting Regulations 2016 defines the "Operator" as the person who:

- has control over the operation of a regulated facility;
- will have control over a regulated facility, which has not yet been put into operation, when it is in operation; or
- holds the permit for a regulated facility that has ceased to operate.

EP Core Guidance ([Environmental permitting: Core guidance \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/environmental-permitting-core-guidance.pdf)) states that, "The operator must demonstrably have the authority and ability to ensure the environmental permit is complied with."

To comply with Regulation 7, the directors of Warren Farm (Powys) Ltd, or the Persons with Significant Control of Edith Patricia Parry Ltd. can demonstrate that they have the authority and ability to ensure compliance with the permit. Although Tricia Parry is a Director of Warren Farm (Powys) Ltd, she is not listed as a Person with Significant Control of that company. Additionally, although Mrs. Parry is listed as a Director of Edith Patricia Parry Ltd., she ceased to be a Person with Significant Control of that company on 8 June 2023 and therefore cannot demonstrate that she has the authority and ability to ensure the permit is complied with either directly through Warren Farm (Powys) Ltd., nor through Edith Patricia Parry Ltd.

Currently the site is not being operated in accordance with an Environmental Permit as the Operator is not the same as on the permit. NRW consider that the operator of the site is either Edith Patricia Parry Ltd., or Mr. Howard Morgan.

You were provided with advice by Liz Park (Senior Waste Officer) by email on 17 April 2023 to the extent that if you no longer met the requirements of Regulation 7 of EPR 2016 you would have to transfer the permit. Your failure to transfer the permit to the actual Operator of the site is a breach of Regulation 12 of the EPR 2016 and this offence will be dealt with independently of site compliance.

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.