

Compliance Assessment Report CAR_NRW0043782

Permit being assessed: AB3791FG.

For: The Maesydd, held by Maesydd Biogas Ltd

At: Pool Quay, Pool Quay, Welshpool, Powys, SY21 9LA.

Type of assessment carried out: Site Inspection, Reason: Routine.

On 13/03/2024 between 11:30 and 13:30.

Parts of permit assessed: All

NRW Lead Officer: Malcolm Dines.

Report sent to: Hadyn Langford, TCM on 25/03/2024.

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	Action only (X)	
B3 - Infrastructure - Site drainage engineering (clean and foul)	Assessed (A)	
C4 - General Management - Storage, handling labelling and Segregation	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	Action only (X)	
G1 - Monitoring and Records, Maintenance and Reporting - Monitoring of emissions and environment	C3 Minor	3.1.1

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

Total number of non-compliances recorded	Total non-compliance score
3	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
B1	Provide a written report detailing how often the site has flooded since the permit was issued.	01/05/2024
C4	Ensure that all wastes are stored separately from feedstocks for the process and are not allowed to mix.	25/03/2024
C2	Review and revise your EMS to ensure that stack emissions	01/05/2024

Criteria	Action needed	Complete by
	monitoring and reporting is included and updated the EMS to remove references to the Environment Agency and to ensure that all linked documents and processes are up-to-date and refer to NRW	
E1	The Stack Emission Monitoring for Oxides of Nitrogen are Approach To Limit. Please discuss with monitoring company and gas engine service provider what actions can be taken to ensure that emission of NOx remain below the permitted ELV	25/03/2024
G1	Arrange for stack emissions monitoring to be carried out at the earliest opportunity.	Already completed

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 announced compliance visit carried out by Malcolm Dines (Waste Regulation Officer), who met with Haydn Langford (Owner and Technically Competent Manager). The weather was overcast and there had been recent heavy rain in the area.

Prior to the compliance visit in January, the stack emissions monitoring for the site for 2022 and 2023 had been requested to be submitted to Natural Resources Wales (NRW).

Permit Breaches

C4 - Storage, handling labelling and Segregation - Cat 3; Permit Condition 2.4.1

You were given this category 3 breach under the above condition because at the time of this compliance visit the waste solid digestate was not being segregated from feedstocks for the AD process. Both feedstock and solid digestate are stored on the concrete pad outside the bunded area however there is no physical barrier between the feedstock and waste stockpiles and it could be seen that the two piles had become mixed.

You stated that the reason that the storage area was quite full was because you were waiting for the ground conditions to be suitable to spread the solid digestate. The feedstock for the AD process that was located in the storage area was chicken waste and farmyard manure (FYM). Because the chicken muck is classed as a waste, it must be stored in accordance with the permit however, FYM is not a waste and does not require to be stored

within the permit boundary. FYM can be stored anywhere on the farm, but it must be stored in accordance with The Water Resources (Control of Agricultural Pollution)(Wales) Regulations 2021. Storing the FYM outside the permit boundary would provide more space in the storage area for solid digestate without it becoming mixed with feedstock. If you are still unable to ensure that the stockpiles of solid digestate and feedstock cannot be kept separate the you will need to create a suitable physical barrier to prevent the feedstocks mixing.

Action: Ensure that feedstock for the AD plant is not allowed to mix with solid digestate **with immediate effect**

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

You were given this category 3 breach under the above condition because by storing digestate outside the permit boundary you were not following to procedure set out in your Environmental Management System (EMS). Additionally your EMS does not include a procedure for ensuring that your stack emissions monitoring is undertaken, or any assessment of the subsequent report that could identify pollution of the environment. Permit Condition 1.1.1 requires you to operate in accordance with a written EMS that, **"prevents, or minimises the risk of pollution"**. The stack emission monitoring is a one-hour monitoring of emission, once a year and so any breaches of the Emission Limit Values identified by the monitoring could be occurring on every day, 365 days of the year. By not having a written process requiring the Stack Emission Monitoring to be carried out and for the report produced to be assessed, it is reasonable to consider that breaches of the permitted Emission Limit Values could be missed resulting in a failure to address and minimise any pollution occurring.

While reviewing your EMS, I noticed that it is a template document sourced from the Environment Agency. As such it contains many references to the Environment Agency and their contact details and documents and also documents that are not used by Natural Resources Wales (NRW). It is essential that where you need to refer to your regulator, or where you need to include the regulators contact details, such as for permit numbers and emergency contact details, that you reference NRW.

By failing to have a adequate written process for stack emissions monitoring and failure to follow your EMS regarding the storage of wastes, it is reasonable foreseeable that this could result in a minor pollution of the environment.

Action: review and revise your EMS with regards to the process for ensuring that stack emissions monitoring is carried out as required by your permit and also to remove references to the Environment Agency and any Environment Agency documentation. Ensure that where you need to reference official documents or contact details, these are NRW details and any document referenced is still used and the current version **by 1 May 2024**.

Action: You must ensure that you comply with your EMS at all times **with immediate effect**.

G1 - Monitoring of emissions and Environment - Cat 3; Permit Condition 3.1.1

You were given this category 3 breach under the above condition because you failed to undertake stack emissions monitoring in 2022 and 2023 as required by the above permit condition. As noted for the breach of your EMS, the stack emission monitoring is a one-hour monitoring of emissions, once a year and so any breaches of the Emission Limit Values identified by the monitoring could be occurring on every day, 365 days of the year.

Action: NRW's response to the failure to undertake monitoring required by your permit would be require that monitoring to be carried out at the earliest possible opportunity. However, it is acknowledged that once you were notified about the requirement for stack emission monitoring you arranged for monitoring to be undertaken immediately and it was then carried out on 16 February 2024. **This action has already been completed.**

Other Matters

B1 - Engineering for the Prevention and Control of Emissions - Action Only: Permit Condition 2.4.1

During this compliance visit you explained that due to being situated in a flood plain, conditions of your Planning Permission required the AD plant to be within a flood wall however, not all the permitted area of the site is within this flood wall and waste feedstock and solid digestate are stored outside the flood wall. As can be seen from the attached photograph (20240313_114143.jpg), there is a gate in the wall adjacent to the storage area for the AD plant and the flood wall around the the AD plant. Permit Condition 2.4.1 requires that all waste solids shall be securely stored and that in the event of a leak, spill or failure, material can be contained and recovered and that digestate shall be stored within containers that are of a design and capacity fit for purpose. Currently, if your site was to be flooded, there is nothing to contain and recover wastes or effluent from the storage area and therefore could be considered that the storage area is not fit for purpose.

On-site we discussed the issue of the digestate not being stored in a container as this had been raised in a previous compliance report. My greater concern is that of the the site being flooded and how the wastes in the storage area would be prevented causing pollution. Where a permitted waste facility is located within a flood plain, I would expect the operator to put in place measures that would prevent potentially polluting material escaping into the environment in the event of a flood. Currently I consider that were your site to flood, materials classed as waste would potentially be washed into the wider environment causing pollution as there does not seem to be any mechanism to prevent this happening.

Action: At present I do not intend to score this matter as a non-compliance unless I fully understand the risk however, this may change in the future if further information identifies that there is a risk of pollution due to the waste storage area not being "fit for purpose"

Provide a written report detailing how often the site has flooded since the permit was issued **by 1 May 2024**

E1 - Emissions to Air - Action only; Permit Condition 3.1.1

The results of the stack emission monitoring undertaken in February 2024 show that the emissions for Oxides of Nitrogen (NOx) from your gas engines were at a level that we consider "Approach to Limit" (ATL). This means that the measured amount of emissions

exceeded the Emission Limit Value (ELV) set in your permit, but when the uncertainty of measurement is taken into account, could mean that the actual amount is below the ELV. Therefore this is not a breach of your permit, but you need to consider what actions could be undertaken if the monitoring of NO_x in the future continue to produce results that are ATL.

You may wish to discuss this matter with your monitoring provider and also with the gas engine service company. I must also bring to your attention that I put the monitoring data into the SCAIL air emissions screening tool and it highlighted that the Nitrogen sensitive species *Luronium natans* is found in the nearby Montgomery Canal, for which it is designated a Special Area of Conservation (SAC). Even at the current ATL levels of NO_x emitted from your site, this could be having a detrimental effect on the sensitive species due to the already high background levels of Nitrogen in the area. I have discussed this matter with specialists for this species and habitat and currently we do not think that the emissions from this site are having more than a minor affect on the SAC, but again this could change in the future as more information becomes available.

Unless your emissions were to breach the ELV in your permit after uncertainty has been taken into account, you would not be in breach of your permit under this criteria, we may consider that you are not complying with the requirements of a suitable EMS if emissions continue to have an impact on the SAC without you having taken any action to address these concerns.

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.