

Compliance Assessment Report CAR_NRW0044311

Permit being assessed: ZP3899FX.

For: Merthyr Borough Recycling Centre Ltd-transfer Station, **held by:** Merthyr Borough Recycling Centre Ltd

At: Merthyr Borough Recycling, Dowlais, Merthyr Tydfil, Glamorgan, CF48 2TA.

Type of assessment: Report/Data Review,

Reason: Other.

On: 06/09/2023.

Parts of permit assessed: Compliance with regulation 36 notice.

NRW Lead Officer: Laoni Tye.

Report sent to: Nicholas Brannan and Stuart Watcham, Director and consultant, on 15/05/2024.

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

| Part of permitted activity assessed (compliance criteria) | Assessment result | Permit condition |
|--|-------------------|------------------|
| W3A - Waste - Emissions and monitoring - Emissions to water, air or land | Action only (X) | |

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

| Total 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 |
|----------|---|-------------|
| W3A | This CAR is our enforcement response to a regulation 36 notice issued on 23rd March 2024 and assessed on 6th September 2023 | 15/05/2024 |

Compliance 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 compliance assessment report has been produced as our enforcement response to the non-compliance with the regulation 36 notice issued on the 12th March 2023. A site inspection was conducted on the 6th September 2023 to assess compliance against the permit and we refer you to the CAR issued on that date, reference: CAR_NRW0043128.

We have reviewed our enforcement response and on this occasion we are issuing you, the operator, with a Warning letter for the partial compliance with the regulation 36 notice and the non-compliance with permit conditions witnessed on the 18th November 2022.

Please be aware however, that a new regulation 36 notice will be issued along with a CAR for the site inspection which was since conducted in March 2024. This was discussed with you at the time. This notice will include actions to bring the site back into compliance with the permit conditions. This warning along with any previous offences will be taken into consideration should any future offending take place and the matter is being taken seriously.

A warning letter has been served alongside this CAR, it is also included below.

Warning letter

Further to Natural Resources Wales's ongoing investigation into suspected illegal activity at Merthyr Borough Recycling Ltd, permit reference: EPR/ZP3899FX. After an extensive investigation, I now write to update you. NRW have completed their investigations into the matter and have identified the following offence:

Offence

It is an offence for a company to contravene the Environmental permitting regulations (England and Wales) 2016.

Contrary to regulation:

(2) It is an offence for a person to fail to comply with or to contravene an environmental permit condition.

and

(3) It is an offence for a person to fail to comply with the requirements of an enforcement notice or of a prohibition notice, suspension notice, landfill closure notice, mining waste facility closure notice, flood risk activity emergency works notice or flood risk activity

remediation notice.

The above offences relating to the non compliance of a regulation 36 notice issued on the 23rd March 2023 and the breach of permit conditions, including relating to the sites infrastructure. On this occasion we are issuing you a **warning letter** as a response to the above offences However, our decision could change if any further relevant information comes to light, including, but not restricted to, information that:

- you have committed earlier offences
- the environmental impacts of these offences are greater than we presently understand them
- the offences are continuing or have been repeated
- you have committed other offences of which we are presently unaware.

We will take these offences into account if we consider that you are involved in any future offending.

This warning does not:

- prevent any other prosecuting authority taking action against you/the Company; or
- affect our right to issue enforcement, clear-up or remediation notices, or seek recovery of costs or damages according to law.

If you have any questions please get in touch with your regulatory officer.

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.

If your assessment result in Section 1 is suspended, what does this mean?

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 Waste compliance criteria (used in section 1 and 2):

1. Management

- W1A – General management
- W1B – Energy Efficiency (MCP/SG facilities only)
- W1C – Avoidance, recovery and disposal of wastes produced by the activities

2. Operations

- W2A – Permitted activities
- W2B – Waste recovery plan
- W2C – Operating techniques
- W2D – The site
- W2E – Waste acceptance
- W2F – Technical requirements
- W2G – Improvement programme
- W2H – Pre-operational conditions

3. Emission and Monitoring

- W3A – Emissions to water, air or land
- W3B – Emissions of substances not controlled by emission limits
- W3C – Odour
- W3D – Noise and vibration
- W3E – Monitoring
- W3F – Pests
- W3G – Fire

4. Information

- W4A – Records
- W4B – Reporting
- W4C – Notification

Enforcement response

Any non-compliance with a permit condition 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 twenty 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 to 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.