

This form will report compliance with your permit as determined by an NRW officer

Site	Whitehall Landfill	Permit Ref	MP3036SS		
Operator/Permit holder	Cemex U K Materials Ltd				
Regime	Waste Operations				
Date of assessment	02/03/2020	Time in	N/A	Out	N/A
Assessment type	Report/Data Review				
Parts of the permit assessed	Q1,Q2,Q3,Q4,Annual Returns				
Lead officer's name	Taylor, Richard				
Accompanied by					
Recipient's name/position	Miranda Clegg/ Regional Environmental Manager	Date issued	03/03/2020		

Section 1 – Compliance Assessment Summary

This is based on the requirements of the permit under the Environmental Permitting Regulations or the licence under the Water Resources Act 1991 as amended by the Water Act 2003. A detailed explanation is captured in "Compliance Assessment Report Detail" (Section 2) and any actions you may need to take are given in the "Action(s)" (section 4). This summary details where we believe any non-compliance with the permit has occurred, the relevant condition and how the non-compliance has been categorised using our Compliance Classification Scheme (CCS). CCS Scores can be consolidated or suspended where appropriate, to reflect the impact of some non-compliances more accurately. For more details of our CCS scheme, contact your local office.

Permit conditions and compliance summary	CCS Category	Condition(s) breached
E2 - Emissions - Land and groundwater	C3	3.2.3
	C3	3.2.3
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C4	1.1(a)
	C4	1.1(a)
	C4	1.1(a)

KEY: See Section 5 for breach categories, suspended scores will be indicated as such.

A = Assessed or assessed in part (no evidence of non-compliance), **X** = Action only,

O = Ongoing non-compliance, not scored.

Number of breaches recorded	5	Total compliance score (see section 5 for scoring scheme)	8.3
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If the Number of breaches recorded is greater than zero, please see Section 3 for our proposed enforcement response

Section 2 – Compliance Assessment Report Detail

This section contains a report of our findings and will usually include information on:

- The part(s) of the permit that were assessed (eg. Maintenance, training, combustion plant, etc)
- Where the type of assessment was 'Data Review' details of the report/results triggering the assessment
- Any non-compliances identified
- Any non-compliances with directly applicable legislation
- Details of any multiple non-compliances
- Information on the compliance score accrued inc.
- Details of advice given
- Any other areas of concern
- Any actions requested
- Any examples of good practice
- A reference to photos taken

Cemex Whitehall Quarry – Permit MP3036SS

Annual Returns Review for 2019 data.

Q1 – NRW received the data on time (12/3/19). All samples were within permit limits. BH9 (upstream) had insufficient flow.

Q2 – Received by NRW on 23/7/19. All samples taken were within the permitted limits. BH15 could not be located due to overgrown vegetation. BH14 had issues with an ant's nest but managed to take samples nevertheless.

Issue; The inability to access sampling points was raised in the CAR form sent to site on 3rd July 2018. It was stated that we would take regulatory action if samples were missed without NRW being informed. Site needs to maintain the access to sampling points and cut away obstructing. Access to the sampling points must be maintained through management of the vegetation prior to samples being attempted. Access to points on neighbouring land without the landowner's permission must be attempted. Proof of the attempts needs to be shown and reported to NRW on a schedule 6 form if access cannot be made. The schedule 6 form needs to be sent to us as soon as practicably possible in accordance with the site permit in the event of the access being denied.

In the previous CAR form, we stated that future missed samples without notification would result in permit breaches being applied. Therefore, minor breach scores have been applied to all missed quarterly samples where we have not been notified. We apply a noncompliance for non-reporting BH15 during Q2 as a permit breach without an environmental effect which results in a Cat 4 breach. **Decision; This is a CAT 4 breach of permit condition 2.2.3.4** for not providing the samples for groundwater points BH14 and BH15 during the Quarterly period, and not informing NRW of the situation.

Q3 - Site submitted the Q3 report on time on 26/9/19. BH9 was reported as dry. BH14 and BH15 were reportedly inaccessible due to vegetation. Notification was not received for the missing data prior to submission of the quarterly report. **Decision; the two breaches have been combined into a single Cat 4 breach of permit condition 2.2.3.4** (following NRW CCS guidance) for not providing the samples for groundwater points BH14 and BH15 during the Quarterly period, and not informing NRW of the situation.

Site notified NRW that they had two exceedances of the permit limit for Groundwater Potassium at BH12 in July 2019 with 19.7mg/l against a limit of 18.6mg/l, and Ammoniacal Nitrogen with 0.47mg/l against a limit of 0.39mg/l. Both samples were sent for retests which confirmed the levels initially reported. Further discussion is found below.

Q4 – The report was received on time on 8th Jan 2020. BH13 had insufficient flow. BH14 was inaccessible, and BH15 could not be accessed due to vegetation. No notification of the inaccessibility was received by NRW at the time. Therefore, **A Cat 4 breach is applied** for not providing the samples for groundwater point BH13 during the Quarterly period, and not informing NRW of the situation.

Discussion; Permit conditions are in place to determine the environmental effect the site has on its surroundings. Permit condition 4.3.1(a) concerns the failure of techniques/equipment to be reported to NRW on the schedule 6 report sheet. Not gaining the samples is a failure of the management system under pc1.1(a). Also, permit condition 3.6.1(a) sets out the compliance to trigger levels which are agreed with after the 6 yearly HRA review. The last HRA was in 2016. This produced a requirement for these limits to be reassessed on an annual basis. Therefore, the limits applied to the site have changed since the permit and subsequent variations were issued. Definite limits are not written into the permit, but must be deduced through researching previous HRA's, annual submissions, and email correspondence. This is not the ideal situation when clarity is sought. The principles of setting permit limits are laid down in the LFTGN02 and the Landfill Directive.

Access to Sampling Points

NRW understand that some boreholes are situated on neighbouring land. This makes it necessary to gain the landowners permission to access them. It also takes it out of the permit holders' hands regarding maintenance of the boreholes. However, we expect there to be documented attempts to gain access, or proof that access was attempted/denied. This should be notified to us as soon as possible via the schedule 6 form system as highlighted in permit condition 4.3.1.

Non-Notification regulatory Decisions

This situation was raised in the last CAR form from 3/7/18 with the instruction that *'If monitoring cannot be made, we need to be informed as soon as practicably possible with reasons why'. 'Future missed samples without notification will be dealt with as permit breaches and incur penalties with immediate effect'*. Therefore, in line with CCS guidance we will issue a Cat 4 noncompliance for each Quarter where missed samples have not been reported and we have received no notification.

Decision	Permit condition	Period
Cat 4	2.2.3.4	Q2 2019
Cat 4	2.2.3.4	Q3 2019
Cat 4	2.2.3.4	Q4 2019

Potassium

Site reported a Potassium control level exceedance in July 2019 with a reading of 19.7mg/l. The current permit limits for groundwater were set by HRA review from July 2016 and based upon 3 standard deviations from the 2012-2016 data and periodically adjusted. This was to accommodate a higher than background potassium source which was reportedly migrating underneath and through the substrata of the landfill at the time. Permitted limits were agreed with NRW July 2016 via email. The limits for potassium and Ammoniacal Nitrogen were agreed as follows;

Levels in place during 2019	Potassium (Groundwater)	Ammoniacal Nitrogen (Groundwater)	Q3 Reported emission	Non Compliance
BH1	Compliance limit 27 mg/l Control/trigger 19 mg/l	Compliance limit 0.39mg/l		
BH12	Compliance limit 18.6 mg/l Control/trigger 14.6 mg/l		Potassium 19.7mg/l	Cat 3
BH13, BH14	Compliance Limit 12mg/l	0.39mg/l	Ammoniacal Nitrogen 0.47mg/l	Cat 3

In this case we believe the compliance limit for potassium to groundwater has been breached. Therefore, following CCS guidance we issue a Cat 3 breach of permit limits. **Decision – 1x Cat 3 breach of permit limit under condition 3.2.3 for Potassium to Groundwater.**

Ammoniacal Nitrogen

Site reported an exceedance in Ammoniacal Nitrogen from BH13 in July 2019. The reading was 0.47mg/l against a limit value of 0.39mg/l. Subsequently for the Q4 samples, the borehole was blocked, and insufficient water could be sampled. Again, NRW were not notified of the missed samples. It would have been prudent to ensure that the samples could be taken in Q4 from BH13 especially as the limits were exceeded in Q3. This means that the borehole has not been sampled since Q3. **We therefore impose a Cat 3 breach for the exceedance of permit limits for the exceedance of AmmNi.** This is seen as a breach with minor effect. Again, this is permit condition 3.2.3. and scores 4 OPRA points.

According to Landfill Technical Guidance note 2 (LFTGN02), at fig 7.3, the following actions will be taken;

1. A review is needed for the monitoring frequency of the downstream boreholes BH01, BH12, BH13, and BH14. The review will be taken by us shortly after we receive the Q1 2020 results after 31st March 2020. Non samples without prior notification will be treated as permit breaches.

2. If the sample cannot be obtained for the quarter, we will require reinstatement of monthly sampling. This will be required so that the migration of the potassium and AmmNi can be followed more closely. All results will be plotted so that a better understanding of the origin can be made.

It is noted that the breach of AmmNi is below the current UK drinking water standard is 0.5mg/l but needs to be monitored closely so that this is not breached. Therefore, this non-compliance serves to trigger the site monitoring and reporting mechanism to safe guard the future.

Decision; Cat 3 breach of agreed permit limits for AmmNi referenced through permit condition 3.2.3.

Summary of Non-Compliances and Permit Breaches applied.

Category of breach	Period	Permit Condition	
Cat 4	Q2 2019		Non – notification of missed samples
Cat 4	Q3 2019		Non notification f missed samples
Cat 4	Q4 2019		Non notification of missed samples
Cat 3	Q3 2019	3.2.3	Potassium Limit breach
Cat 3	Q3 2019	3.2.3	Ammoniacal Nitrogen limit breach.
Total 8.3 Points			

TGN02 Reference;

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/321602/LFTGN02.pdf

End.

EPR Compliance Assessment Report

**Report ID:
CAR_NRW0036412**

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Operator/Permit holder	Cemex U K Materials Ltd	Date	02/03/2020

Section 3 – Enforcement Response

You must take immediate action to rectify any non-compliance and prevent repetition. Non-compliance with your permit conditions constitutes an offence and can result in criminal prosecutions and/or suspension or revocation of a permit. Please read the detailed assessment in Section 2 and the steps you need to take in Section 4 below.

Other than the provision of advice and guidance, at present we do not intend to take further enforcement action in respect of the non-compliance identified above. This does not preclude us from taking enforcement action if further relevant information comes to light or advice isn't followed.

Section 4 – Action(s)

This section summarises the actions identified during the assessment along with the timescales for when they will need to be completed.

Criteria Ref.	CCS Category	Action required/advised	Due Date
See Section 1 above			
G4	C4	Attempts to gain access to points to be recorded. NRW to be notified asap via sched 1.	31/03/2020
G4	C4	Send schedule 1 report through to NRW if samples cannot be obtained.	31/03/2020
G4	C4	Notification why samples could not be obtained to be sent to NRW via schedule 1 as soon as practicably possible.	31/03/2020
E2	C3	Return to permit limits	31/03/2020
E2	C3	Return to permit limits	31/03/2020

Section 5 – Compliance notes for the Operator

To ensure you correct actual or potential non-compliance we may

- Advise on corrective actions verbally or in writing
- Require you to take specific actions verbally or in writing
- Issue a notice
- Require you to review your procedures or management system
- Change some of the conditions of your permit
- Decide to undertake a full review of your permit

Any breach of a permit condition is an offence and we may take legal action against you

- We will normally provide advice and guidance to assist you to come back into compliance either after an offence is committed or where we consider that an offence is likely to be committed. This is without prejudice to any other enforcement response that we consider may be required.
- Enforcement action can include the issue of a formal caution, prosecution, the service of a notice and/or suspension or revocation of the permit.

See our Enforcement and Civil Sanctions guidance for further information

This report does not relieve the site operator of the responsibility to

- Ensure you comply with the conditions of the permit at all times and prevent pollution of the environment
- Ensure you comply with other legislative provisions which may apply

Non-compliance scores and categories

CCS category	Description	Score
C1	A non-compliance that could have a major environmental effect	60
C2	A non-compliance which could have a significant environmental effect	31
C3	A non-compliance which could have a minor environmental effect	4
C4	A non-compliance which has no potential environmental effect	0.1

Operational Risk Appraisal (Opra) - Compliance assessment findings may affect your Opra score and/or your charges. This score influences the resource we use to assess permit compliance.

Section 6 – General information

Data protection notice

The information on this form will be processed by the Natural Resources Wales (NRW) to fulfil its regulatory and monitoring functions and to maintain the relevant public register(s). The NRW may also use and/or disclose it in connection with:

- Offering/providing you with its literature/services relating to environmental matters
- Consulting with the public, public bodies and other organisations (eg. 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 its service
- Freedom of Information Act/Environmental Regulations request

The NRW may pass it on to its agents/representatives to do these things on its behalf. You should ensure that any persons named on this form are informed of the contents of this data protection notice.

Disclosure of information

The NRW will provide a copy of this report to the public register(s). However, if you consider that any information contained in this report should not be released to the public register(s) on the grounds of commercial confidentiality, you must write to your local area office within fifteen working days of receipt of this form indicating which information it concerns and why it should not be released, giving your reasons in full.

Customer charter

What can I do if I disagree with this compliance assessment report?

If you are unable to resolve the issue with your site officer, you should firstly discuss the matter with officer's line managers using the informal appeals procedure. If you wish to raise your dispute further through our official Complaints and Commendations procedure, phone our general enquiry number 0300 065 3000 (Mon to Fri 08.00 – 18.00) and ask for the Customer Contact team or send an email to enquiries@naturalresourceswales.gov.uk. If you are still dissatisfied you can make a complaint to the Public Services Ombudsman for Wales. For advice on how to complain to the Ombudsman phone their helpline on 0845 607 0987.

Welsh Language

If you would like this form in Welsh please contact your Regulatory Officer.