

Compliance Assessment Report CAR_NRW0037544

Permit being assessed: PP3795CG.

For: Vaughan Mr K & Son M R S, held by Vaughan, Mr K & Son

At: Cwm Belan, Llanidloes, Powys, SY18 6RF.

Type of assessment carried out: Report/Data Review, Reason: Routine.

On 10/02/2021.

Parts of permit assessed: Competency of Technically Competent Manager (TCM)

NRW Lead Officer: Bethan Lewis, accompanied by Liz Park.

Report sent to: Lee Vaughan, Site Manager on 12/02/2021.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
C1 - General Management - Staff competency/training	C3 Minor	Section 74(3)(b) of the Environmental Protection Act 1990

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

Total number of non-compliances recorded	Total non-compliance score
1	4

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
C1	Provide a Technically Competent Manager (TCM) for the site by the 1st of March 2021, and provide a detailed response as to the operator of the site by the 1st of April 2021.	01/04/2021

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

As part of Natural Resources Wales' (NRW) routine assessments for compliance, the competence of the Technically Competent Manager (TCM) at K Vaughan & Son was reviewed.

Permit Breaches:

C1 Staff Competency/Training - Cat 3; Permit Condition: Section 74(3)(b) of the Environmental Protection Act 1990

Section 74(3)(b) of the Environmental Protection Act 1990 requires that the operation of a permit be undertaken by a fit and proper person. This requires that the management of the activities on site be in the hand of a Technically Competent Person. Regulatory Guidance Note 5 explains operator competence in greater detail:

<https://cdn.cyfoethnaturiol.cymru/media/679430/rgn-5-operator-competence.pdf?mode=pad&rnd=131465716600000000>

Mr Stephen Vaughan, who was considered to be the unnamed son on the permit, was deemed to be competent as he held the licence. In order to remain competent he was required to undertake the continuing competency test every two years and to manage site operations. Mr Stephen Vaughan is however no longer involved in the operation of the site. Mr Kenny Vaughan is also not in a position to operate the site. At present therefore, the site is not being operated by either permit holders, Mr Kenny Vaughan or Mr Stephen Vaughan, and there is no technically competent person on site.

As the site is currently being run by Mr Lee Vaughan, NRW sent Mr Lee Vaughan an email on the 10th of December 2020, requesting him to register with WAMITAB to undertake the relevant primary qualification for K Vaughan & Son, or to provide adequate alternative TCM cover for the site. Mr Lee Vaughan responded on the 11th of December 2020 asking how he could proceed with the WAMITAB qualification, and therefore NRW provided him with a link to further information. To date however, Mr Lee Vaughan has not provided NRW with evidence of his registration with WAMITAB, as requested in the original email. As this is something that Liz Park has previously discussed with Mr Lee Vaughan, the site has been scored for a category 3 breach, for breaching Section 74(3)(b) of the Environmental Protection Act 1990.

Please note that NRW can consider revoking a permit if an operator fails to comply with an approved competence scheme or where the holder of the permit ceases to be an operator of the regulated facility.

Actions Required:

As neither Mr Kenny Vaughan or Mr Stephen Vaughan can be considered the operators of the site as they are not in a position to exercise day to day control over the site, they must consider the future operation of the site; the transfer of the site to a person who is able to be considered 'the operator' (who will have control over the operations); and ensure that a technically competent manager is provided. Failure to do so and take steps to resolve the above in a timely manner will result in Natural Resources Wales considering enforcement

action in accordance with Natural Resources Wales Enforcement and Prosecution Policy.

A Technically Competent Manager (TCM) must be provided for the site by the **1st of March 2021**. Natural Resources Wales will accept Mr Lee Vaughan's registration with WAMITAB by this date as evidence of progressing towards compliance. The assessment must be completed within a year.

A detailed response as to the operator of the site must also be provided by the **1st of April 2021**.

Please note, it is also a requirement of the Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018 to state on the waste return who is providing technical competence, or not as the case may be, for each period that the waste return refers to.

Liz Park is happy to discuss the above on the telephone.

In this document 'Natural Resources Wales' means the Natural Resources Body for Wales established by Article 3 of the Natural Resources Body for Wales (Establishment) order 2012.

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.