

Compliance Assessment Report CAR_NRW0037341

Permit being assessed: AB3690CP.

For: J M Envirofuels (Barry) Limited, held by JM ENVIROFUELS (BARRY) LIMITED

At: Berth 31 Wimbourne Rd, Barry Docks, Barry, CF63 3DH.

Type of assessment carried out: Site Inspection, Reason: Incident Response (Incident number 2008669).

On 17/12/2020 between 12:45 and 13:25.

Parts of permit assessed: Permit & operational area

NRW Lead Officer: David Warwick-Brown, accompanied by Loku Ranasinghe, Gillian Coates.

Report sent to: Managing Director, TCM on 08/03/2021.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
D2 - Incident Management - Accidents, emergency and incident planning	C2 Significant	3.4.1
C2 - General Management - Management system and operating procedures	C3 Minor	1.1.1
C4 - General Management - Storage, handling labelling and Segregation	C3 Minor	2.1.1
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C4 No impact	4.2.2

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

Total number of non-compliances recorded	Total non-compliance score
4	39.1

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
D2	Please see regulation 36 compliance notice issued with this CAR	15/02/2021
C2	Please see regulation 36 compliance notice issued with this CAR	15/02/2021
C4	Please see regulation 36 compliance notice issued with this CAR	15/03/2021
G4	Please submit Q 1 Jan – March waste returns to NRW by the 31st January 2021.	31/01/2021

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.

We are currently considering taking enforcement action against you for the non-compliance recorded above. We will contact you in due course.

4. Details of our assessment

Compliance Assessment Report – JM Envirofuels (Barry) Limited (EPR-AB3690CP)

Officer David WARWICK-BROWN attended JM Envirofuels (Barry) Limited on 15/12/2020 for an inspection following the receipt of public complaints concerning the recent import of woodchip to the site. The weather was overcast & dry. Time at site: 11:45-12:12.

The site was then revisited on 17/12/2020 by Officers David WARWICK-BROWN, Gillian COATES and Loku RANASINGHE due to further public interest received by NRW, and to assess the progress of the site's current import operation. The weather was sunny/cloudy and dry. Time at site: 12:45-13:25.

Site inspections

15/12/2020

During the first inspection, the operator was nearing the completion of unloading 1,970 tonnes of woodchip from a large vessel onto the dockside, while being simultaneously transferred from the dockside to the sites allocated storage bays. The Managing Director informed NRW that the import operation had begun early morning on 14/12/2020 and expected it to be completed by approximately 14:00 on 15/12/2020. 800 tonnes of the woodchip were to be exported from the site before Christmas, and 400 tonnes are to be exported each week in January 2021 until all woodchip has been exported.



Figure 1 – unloading of woodchip from vessel during inspection on 15/12/2020

A mist cannon was being used to suppress the dust from the material as it was offloaded from the vessel. The Officer considered this method of dust suppression to be effective, and there were no significant pools of water accumulating on the dockside from this activity, other than the small pool by the cannon as seen in figure 2 below.



Figure 2 – use of mist cannon viewed during inspection on 15/12/2020

A considerable amount of the woodchip had been spilt and spread onto the site's surface while being transferred from the dockside to the bays. NRW were made aware that this material was to be swept up immediately following completion of the import operation.

Approximately a third of the stockpiled material on site was made up of unprocessed wood.

It was noted that the stacks of both the woodchip and unprocessed wood were stacked high and in numerous places were in excess of the height of the concrete walls built to separate the stacks in the case of a fire. The Officer was informed that the stacks were to be brought down to the height required by the

operator's FPMP (4m*) by using an excavator within the coming days of the import operation.



Figure 3 – stockpiled woodchip exceeding height of concrete walls during inspection on 15/12/2020

17/12/2020

On the second visit considerable changes to the site were apparent: the import operation had been completed, the site surface had been mostly cleared by a road sweeper as mentioned, and 20 loads (400 tonnes) of the woodchip had already been exported from the site. Some of the stacks had been notably reduced in height but were still considered to be in excess of the required 4m height *, and therefore not in compliance with the FPMP (V5).

Regarding stack widths, numerous piles were also considered to be in excess of the 17.5m maximum width as specified within the FPMP (V5). During the inspection, the widths of the unprocessed wood piles were paced out accordingly and were estimated as follows: 1st pile = 20.1m; 2nd pile = 22.11m; 3rd pile = 26.8m; and 4th pile – 35.51m. These widths also exceed the limits specified in the FPMP Guidance (2017), which states stacks are to be a maximum of 20m wide, provided there is appropriate access on both sides of the stack.

The Managing Director confirmed that a total of 1,970 tonnes of woodchip had been imported from the vessel, in addition to approximately 1,400 tonnes of unprocessed wood already on site – this adds up to approx. 3,370 tonnes (limit according to table 2.1 of the permit – 10,000 tonnes at any one time). NRW were informed that JMEL were continuously importing and exporting the unprocessed wood, and that the last time this part of the site was clear was approximately 6 months ago. However, the conditions of the permit state that no waste must be stored for more than 3 months. Waste transfer notes will be requested to confirm the total volumes of waste currently on site.

NRW Officers queried details of the fire water storage vessel during the inspection. The Officers were informed that the water tank was full but were unable to confirm this due to the height of the water tank walls. It was confirmed that the tank does not have a relevant coupling system for the Fire & Rescue Service to attach a fire hose to – it was assumed by the operator that the FRS would be able to pump water from the tank onto the site as and when required. This is further discussed in the compliance section below.

The sites quarantine area was temporarily being used to store a large quantity of A-grade wooden pallets, which were again estimated to be stacked higher than the limit by the FPMP Guidance. NRW were informed

that this material is to be removed from this area in the coming weeks once enough woodchip material had been exported. It was noted that there was still considerable space elsewhere on the site that would be capable of accepting and managing 50% of the largest stack in the event of a fire. However, this section of the site is not currently being used for its intended purpose and should remain clear. For operational reasons you may want to keep the location of the quarantine area flexible. However, you should identify on your site plan all the areas you could use and ensure at least one of these areas is always free.



Figure 4 – stacked wooden pallets within designated quarantine area during inspection on 17/12/2020

Please see the compliance section below regarding the further details of these non-compliances with the permit.

During this inspection NRW were made aware that the site is expected to be completely cleared by the end of January 2021, before another shipment of woodchip is due to be imported to the site in February 2021.

Compliance

D2 - Accident, Emergency and Incident Planning – Permit condition 3.4.1 – C2 breach

Condition 3.4.1 of your permit states that *'The operator shall manage and operate the activities in accordance with a written fire prevention plan using the current, relevant fire prevention plan guidance.'*

NRW have not yet reviewed the latest FPMP (version 6), so are assessing the compliance of this permit condition in line with version 5 of the FPMP and the FPMP Guidance mentioned in the condition above.

A **category 2 breach** is being scored for the non-compliance with this permit condition as it is reasonably foreseeable that should a fire occur it would cause a significant impact on the environment and/or human health the reasons for which are summarised as follows:

- Stack sizes exceeding the dimensions as specified within the FPMP (V5), which on p.9 states that 'The Stocks will be stored within Maltese Cross configurations, 17.5m x 17.5m x 5m, each quadrant

storing 735m³ (367.5 tonnes per quadrant, 1470 tonnes per Maltese Cross), 1m freeboard and a minimum of 9m between the cross configurations (in accordance with FPMP 2017)'. This has been interpreted that the stacks should be kept at a height of 4m with a 1m freeboard visible at the top of the stack to ensure prevention of material being blown over the top onto a neighbouring stack in the event of a fire. Stack heights on both inspections exceeded the 4m maximum, as well as the 17.5m widths. Accurate heat readings of the stacks are not considered possible at their current dimensions. It is therefore considered that the stacks at their current dimensions pose a significant fire risk.

- The FPMP (V5) refers to separation distances of 6m between the Maltese cross stacks, as outlined in table 2 from 'The Environment Agency Technical Guidance Note' (TGN7.01) – distances between the unprocessed wood stockpiles were not compliant with this separation distance. The FPMP Guidance, however, requires separation distances of 9m between two loose stacks of waste stored at widths of 17.5m (graph 1, 22), which will need to be implemented within the updated FPMP and on site.
- Inappropriate use of quarantine area for waste storage. As mentioned, this area was being used to store wooden pallets during the inspections and is therefore not compliant with the site map as shown on p.26 of the FPMP (V5).
- Lack of required coupling system on water storage tank – p.8 of the FPMP (V5) states that this coupling system will be compatible with the FRS equipment. During the second inspection NRW were informed that there is no coupling system to connect the water tank with FRS equipment – the current plan in the event of a fire would be to pump water from the tank via a hose over the top of the tank. However, this is not possible due to the rigidity of the FRS hoses, so the tank will need to be adapted so it is compatible with FRS equipment.

Action: Please see regulation 36 compliance notice issued with this CAR.

C2 – Management Systems – Permit condition 1.1.1 – C3 breach

Permit condition 1.1.1 states that *'The operator shall manage and operate the activities: (a) in accordance with a written management system that identifies and minimises risks of pollution, including those arising from operations, maintenance, accidents, incidents, non-conformances, closure and those drawn to the attention of the operator as a result of complaints; and (b) using sufficient competent persons and resources.'*

A **category 3 breach** against this permit condition is being scored as the root cause of the other non-compliances, since the stockpiled waste has not been managed in accordance with the Environment Management System (EMS).

Action: Please see regulation 36 compliance notice issued with this CAR.

C4 – Storage, Handling, Labelling and Segregation – Permit condition 2.1.1 – C3 breach

Condition 2.1.1 of your permit states that *'The operator is only authorised to carry out the operations specified in table 2.1 below ("the activities")', which states that 'No waste must be stored for more than 3 months.'*

The inspections confirmed that the unprocessed wood had potentially been stored on site for up to 6 months. Although it was stated that this material has been constantly imported and exported over the last 6

months, the volume of this material currently on site (approximately 1,400 tonnes) inferred that some of this material had been stored for longer than the 3-month limit. As previously mentioned, NRW will be requesting for waste transfer notes to be submitted to verify the incoming and outgoing volumes of this waste following the submission of this CAR form.

The waste returns provided for Q2 & Q3 2020 also indicate that this material has been on site for longer than 3 months, and potentially longer than 6 months.

Section 6.3.3 of the FPMP (V5) mentions the potential use of an 'Extended Storage Programme', outlining a list of control measures for material remaining on site in excess of the initial 3-month period. Control measures 1-7 outline the details of an extensive monitoring programme, should waste be stored for this length of time – NRW have not been made aware that this programme has been implemented. Control measure no. 8 states that *'Provided that the stock can be safely stored and retains its fuel value JMEL will liaise with NRW and advise that it wishes to retain the stock for a further 3 month extended storage period'*, which has not been complied with.

A **category 3 breach** is being scored for this non-compliance.

Action: Please see regulation 36 compliance notice issued with this CAR.

G4 – Reporting and notifications – Permit condition 4.2.2 – C4 breach

Condition 4.2.2. states that *'Within one month of the end of each quarter, the operator shall submit to Natural Resources Wales using the form made available for the purpose, the information specified on the form relating to the site and the waste accepted and removed from it during the previous quarter'*.

Waste returns from January-March 2020 have not been received – a **category 4 breach** is being scored for this non-compliance.

The waste returns for state that between April & September 4,504 tonnes of waste wood have been imported while 1,132 tonnes have been exported, leaving 3,372 tonnes on site at the end of September. Although the figures for October-December have not yet been received, it should be noted that the current figures suggest that the import of 1,970 tonnes of woodchip in December would increase the estimated tonnages provided to NRW during these inspections.

Action: Please submit Q 1 Jan – March waste returns to NRW by the 31st January 2021.

Further comments

Some of the actions for the breaches to the permit conditions have been outlined and enforced in a regulation 36 notice which has been issued with this CAR form.

Thank you for taking the time to show us around the site during these inspections.

If you have any issues with this report, please contact David Warwick-Brown on 0300 065 3683 or david.warwick-brown@cyfoethnaturiolcymru.gov.uk

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.

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.