

Compliance Assessment Report CAR_NRW0036412

Permit being assessed: MP3036SS.

For: Whitehall Landfill, held by Cemex U K Materials Ltd

At: Old Port Road, Cardiff, Glamorgan, CF5 6AW.

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

On 31/12/2019.

Parts of permit assessed: Q1,Q2,Q3,Q4,Annual Returns

NRW Lead Officer: Richard Taylor.

Report sent to: Miranda Clegg, Regional Environmental Manager on 23/03/2021.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C4 No impact	1.1(a)
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C4 No impact	1.1(a)
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C4 No impact	1.1(a)
E2 - Emissions - Land and groundwater	C3 Minor	3.2.3
E2 - Emissions - Land and groundwater	C3 Minor	3.2.3

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

Total number of non-compliances recorded	Total non-compliance score
5	8.3

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
G4	Attempts to gain access to points to be recorded. NRW to be notified asap via sched 1.	31/03/2020
G4	Send schedule 1 report through to NRW if samples cannot be obtained.	31/03/2020
G4	Notification why samples could not be obtained to be sent to NRW via schedule 1 as soon as practicably possible.	31/03/2020
E2	Return to permit limits	31/03/2020
E2	Return to permit limits	31/03/2020

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.

At this time, we do not intend to take any further action.

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

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		Potassium 19.7mg/l	Cat 3

	Control/trigger 14.6 mg/l			
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.

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.