

Compliance Assessment Report CAR_NRW0038441

Permit being assessed: AP3798FB.

For: E.J. Metals Recycling Ltd, held by EJ METALS RECYCLING LTD

At: Creuddyn Bridge, Lampeter, Ceredigion, SA48 8BA.

Type of assessment carried out: Site Inspection, Reason: Routine.

On 12/05/2021 between 10:00 and 12:00.

Parts of permit assessed: Waste Storage, TCM, EMS

NRW Lead Officer: Malcolm Dines, accompanied by Ffion Quan.

Report sent to: Evan Jones, Owner/Operator on 29/06/2021.

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	Condition A as set out in Paragraph 1(1) of Part 3 of Schedule 9 of The Environmental Permitting Regulations 2016
C2 - General Management - Management system and operating procedures	C3 Minor	Condition A as set out in Paragraph 1(1) of Part 3 of Schedule 9 of The Environmental Permitting Regulations 2016
C4 - General Management - Storage, handling labelling and Segregation	C3 Minor	2.1.1
C4 - General Management - Storage, handling labelling and Segregation	C3 Minor (Suspended)	1.2.2
C4 - General Management - Storage, handling labelling and Segregation	C4 No impact (Suspended)	2.2.1
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C4 No impact	6.1.1

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

Total number of non-compliances recorded	Total non-compliance score
6	12.1

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
C1	You must ensure that you contract the services of a suitably qualified person to act as the Technically Competent Manager at your site for at least 8 hours a month. You must ensure that they record their arrival and departure from the site as well as provide their details and a copy of their qualification as soon as it is available.	01/07/2021
C2	Ensure that the site is operated in accordance with the Environmental Management System that ELV's are stored on impermeable pavement with sealed drainage and that the site has a suitably qualified Technically Competent Manager and that the site waste returns are completed and submitted to NRW within the required timescales.	01/08/2021
C4	1) Identify, document and provide a risk-rating for all ELV's stored on unmade ground at the site; 2) Identify and document any non-waste vehicles on-site and make these vehicles clearly identifiable on-site; 3) Clear enough ELVs from the unmade area of the site to ensure that there is a clear 5 metre wide access route around the site that will allow the Fire and Rescue Service to fight a fire in any part of the site	01/09/2021
C4	Ensure that all storage of un-depolluted ELVs meets the requirements of Schedule 5 of the End-of-life Vehicle Regulations 2003 that requires ELVs to be kept in, "areas of the site that have impermeable surfaces with spillage collection systems"	01/09/2021
C4	Ensure that all wastes accepted at the site for exempt waste activities are kept clearly segregated and identified	01/07/2021
G4	Submit annual waste returns for financial years 2019-20 and 2020-21	01/08/2021

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

Outstanding Actions

1) Waste Returns/TCM

Please see comments below about this on-going non-compliance

2) Environment Management System

Your full Environment Management System was acknowledged during the site visit and is a substantial improvement on the document provided at the last compliance visit. The EMS was not reviewed as part of this compliance visit, but will be reviewed as part of NRW's compliance work at your site later this year.

3) Waste Returns

You have not submitted waste returns for the financial year 2019-20 as required on CAR_NRW0037214. Please see comments below about this continuing non-compliance.

Technically Competent Manager

You currently do not have a Technically Competent Manager. Following the action required following the last compliance visit (CAR_NRW0037214) you paid for a third party to qualify and complete a relevant WAMITAB course and once qualified that person then went a worked elsewhere. You have now registered to undertake the WAMITAB course and in the meantime has agreed to employ an appropriately qualified contractor once a month for the next three months to improve operations and site administration. This agreement will be reviewed at the next site visit in August 2021. This is a breach of condition Environmental Protection (Miscellaneous Amendments)(England and Wales) Regulations 2018. Although there were other breaches of permit identified during the site visit that can be attributed to not having an appropriately qualified manager at the site, there was no evidence that these were currently causing pollution and therefore there it is only reasonably foreseeable that this would cause a minor environmental harm. There is no permit condition that specifically requires the provision of a TCM however, paragraph 9.10 on page 57 of the Environmental Permitting: Core Guidance for the Environmental Permitting (England and Wales) Regulations 2016 EP Core requires that, "The operator's wider management system should contain mechanisms for assessing and maintaining technical competence. The competence of individuals should form part of those management systems". Therefore this is a breach of Paragraph 2 (6)(b) of Part 3 of Schedule 9 of The Environmental Permitting Regulations 2016 and receives a CCS score of 3 against CAR criteria C2 (?)

Permit Condition 2.3.1 requires that if your Technically Competent Manager changes you are required to submit to NRW details of the new manager and their qualifications within 5 days of the change. Please ensure that you do this as soon as possible and no later than the 17th July 2021. If you do not comply with this action then this will be a breach of permit.

Environment Management System

The site Environment Management System (EMS) is called a Working Plan and was written in 2018. At the previous compliance visit you didn't realise I wanted to see this document and not just the overview document that you call the EMS. It is recommended

that these documents are consolidated and named as the EMS. This document will be reviewed after the next compliance visit to give the third-party TCM a chance to review and update if necessary. It is clear that this document is either deficient or not being complied with due to the non-compliance regarding separation of exempt and permitted activities as well as un-depolluted vehicles being stored on hardstanding.

Site Staffing

There are still significant concerns about the level of suitably trained staff at the site. The whole site seems to be running with a minimal number of staff at times despite you stating that you had undertaken significant recruitment since NRW last visited the site. This is especially relevant to the de-pollution activity at the site. This is the activity that is the most polluting and critical to the through-flow of waste at the site. Therefore it is recommended that additional staff are trained to de-pollute vehicles.

Waste Storage

You accepted that it was no longer possible to assess all the vehicles that you have accepted at the site to determine whether they were suitable for being put back on to the road. This is due to a combination of not enough staff and time and because of the amount of vehicles currently stored at the site meaning it is not easy to access the vehicles. You agreed that because of this, all the vehicles at the site would be depolluted. This means that all these vehicles are now classed as waste and must be stored in accordance with your permit which requires that all non-depolluted ELVs must be stored on impermeable pavement with sealed drainage.

Prior to the next compliance visit in about three months, you must have made significant progress to clear the ELVs that are stored on unmade ground. NRW accepted that not all of them will be cleared but, as part of this process, you must document all the ELV's at the site and identify their priority with regards their risk to the environment. Those showing signs that they are leaking fluids or that have been significantly damaged etc. should be considered to be of higher risk, while those that clearly have no fluids in, or were bought to put back on the road may be considered as a lower risk. However, it is for you to carry out and document this assessment. Any vehicles that you DO NOT consider to be waste and which you can prove you own or are being stored for another person must also be documented with an explanation of why they are not to be considered an ELV. These vehicles must then be stored in an area that is clearly designated as non-waste and that is distinct from any area used to stored wastes. This is something that can be discussed at a later date once progress has been made on clearing the ELVs on unmade ground.

At present the area of site served by impermeable pavement and sealed drainage is full of ELVs waiting to be depolluted. It is recommended that some of these ELV's are de-polluted to allow any ELV's not stored on impermeable pavement and which are subsequently identified as leaking fluids can then be moved to the impermeable pavement area of the site. You MUST NOT accept further ELV's If you are not able to store them on the area of impermeable pavement served by sealed drainage. At present there is no clear access to any part of the site other than immediately in front of the depollution building. Clear access around ALL parts of the site is essential so that in the event of a fire, the Fire and Rescue Service are able to gain access to the whole site.

At the time of the compliance visit there was no evidence of any pollution of the ground

where ELVs are being stored, therefore this is a breach of permit condition 2.1.1 and receives a CCS score of 3 against CAR criteria (authorised activities).

ACTIONS:

1. Identify, document and provide a risk-rating for all ELV's stored on unmade ground at the site
2. Identify and document any non-waste vehicles on-site and make these vehicles clearly identifiable on-site
3. Clear enough ELVs from the unmade area of the site to ensure that there is a clear 5 metre wide access route around the site that will allow the Fire and Rescue Service to fight a fire in any part of the site.

Waste Returns

You have not submitted waste returns for financial years 2019-20 or 2020-21. This is a breach of permit condition 6.1.1 and as such receives a CCS score of 3 against CAR Criteria X. Please ensure that these returns are completed correctly and submitted before 1st August 2021. The submission of your annual waste returns are also an important part of demonstrating compliance with the requirement to have an appropriately qualified technically competent manager.

Permitted and Exempt waste operations.

The site is clearly defined into two parts for the permitted and exempt waste activities that you carry out however, there are some exempt wastes such as light aluminium that are stored within the area designated as part of the permitted activity. The permit does not prevent this, but condition 2.2.1 does require that they are kept, "clearly segregated and identified". At present this isn't the case as the light aluminium is overflowing the storage area and mixing with wastes from the permitted activity and as such is a breach of permit condition 2.2.1. It is reasonably foreseeable that this breach would not result in any environmental harm and therefore receives a CCS score of 4 against CAR criteria X. Please ensure that all exempt activities (including storage) are kept clearly identified and segregated from activities being carried out under the waste permit before 1st August 2021. This could be just a case of exporting some of the light aluminium from the site and labelling the storage area.

IMPORTANT NOTE

Please be mindful that if you do not comply with the actions set out in this CAR form (especially in relation to the clearance of ELV's and the provision of a suitably qualified Technically Competent Manager), until the actions are complied with, it is reasonably foreseeable that any future breach of these conditions would result in environmental harm and therefore would be given a higher CCS score. It may also result in NRW considering using additional powers to ensure that these actions are carried out such as serving a notice or stopping further ELVs being accepted at the site.

Scrap Metal Exempt Activity (T9)

Although this activity is not assessed as part of the compliance with your permit, it is carried out on within the boundary of the waste permit and so was assessed for compliance with the exemption criteria.

The height of the main scrap metal stockpile was probably exceeding the 5 metre limit specified in the exemption criteria. At the time of the site visit you stated that you had told your staff that they needed to lower the height of the stockpile. You must make sure that your staff understand this requirement as you must ensure that the scrap metal activity complies with the exemption criteria at all times.

At present there is a backlog across the whole site created due to the COVID pandemic, there are scrap cars within the exempt area and scrap metal within the ELV area as well as scrap that is being stored in articulated trailer outside the site boundary. There was no evidence of any material on the site that does not comply with the T9 or S2 exemptions that you have notified at the site, other than material that has been identified as not being compliant with the exemption criteria and which is currently being stored in the quarantine skip.

However, the skip being used for this purpose is too big as non-compliant wastes are being stored for at least 12 months before being removed from the site. If you find non-permitted material in a delivery that has already been accepted onto site, you should identify and quarantine this before sending it to an authorised site as soon as practicable. You must be prepared for this situation and investigate the cause. Think about how to stop it happening again. For example, contacting and working with the producer to prevent reoccurrence, or send the material back to the producer. The quarantine skip is not to be used to store waste until it is full and so it may be beneficial to replace the current quarantine skip with a smaller, covered skip. This will also provide the benefit of making more space on the yard.

It is not acceptable to store wastes outside the site as paragraph 4 of Chapter 1, Part 1 of Schedule 3 of the Environmental Permitting Regulations 2016 states that a place or a container is secure when all reasonable precautions are taken to ensure that the waste cannot escape from it and that members of the public are not able to gain access to it, neither of which requirements are met by storing wastes outside the site.

ACTION: Please ensure that all wastes are stored securely and that non-conforming wastes are removed from site as soon as is reasonably practicable. The deadline to comply with this action is 1st August 2021. Non-compliance with the criteria of a waste exemption is an offence and may result in the exemption being de-registered and enforcement action being taken.

Please also note that Paragraph 17 of Schedule 2 of the Environmental Permitting Regulations 2016 requires that anyone carrying out a T9 waste operation **MUST** keep chronological records of the quantity, nature, origin and destination of all waste recovered or disposed of while carrying out that activity. You must also retain these records for a period of two years. Please ensure that this is being done as this is something that NRW may review in the course of a future compliance visit to the site.

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.