

Compliance Assessment Report CAR_NRW0038844

Permit being assessed: NP3030BJ.

For: Enersys Newport , held by Enersys Ltd

At: Enersys Ltd , Stephenson Street , Newport, Newport, NP19 4XJ.

Type of assessment carried out: Report/Data Review, Reason: Routine.
On 18/10/2021.

Parts of permit assessed: 1.1.1 (a) Management of incidents & accidents

NRW Lead Officer: Rebecca Green.

Report sent to: Jeff Bull, EHS Manager on 21/10/2021.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
C2 - General Management - Management system and operating procedures	C3 Minor	4.3.1 & 4.3.2 Notifications
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C4 No impact	4.3.2 Notifications
C1 - General Management - Staff competency/training	Action only (X)	
D2 - Incident Management - Accidents, emergency and incident planning	Action only (X)	
B1 - Infrastructure - Engineering for prevention and control of emissions	Assessed (A)	
G1 - Monitoring and Records, Maintenance and Reporting - Monitoring of emissions and environment	Assessed (A)	
A1 - Specified by permit	Assessed (A)	

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

Total number of non-compliances recorded	Total non-compliance score
2	4.1

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
C2	Ensure ALL personnel involved with any aspect of incident & accident management fully understand the notification requirements given in the permit.	17/11/2021
G4	Report all incidents/accidents to NRW within the time	22/10/2021

Criteria	Action needed	Complete by
	specified in the permit.	
C1	Train all necessary personnel in the notification requirements given in the permit. Update training records.	17/11/2021
D2	Update procedures to reflect need to notify NRW of any incidents or accidents.	26/11/2021

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.

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

An estimated 250Kg of red lead powder was released during a site delivery on 9th April 2021. Natural Resources Wales (NRW) received the Schedule 5 Notification on 15th October 2021.

A tanker was delivering red lead (Pb) powder to a silo at EnerSys. A passing employee noticed an escape of the powder and alerted the driver, the delivery was stopped immediately. The driver was in his cab and was not personally supervising the delivery. EnerSys immediately set their incident management procedures in motion, thus preventing any Pb reaching the nearby reën. A specialist company was engaged to assist EnerSys with the clean-up. Pb analysis of water in the surface water interceptor on 12th April gave a concentration of 0.43mg/L; the emission limit value for Pb to surface water is 2.0mg/L. The contents of the interceptor were removed for disposal on 15th April by a specialist waste disposal contractor. Samples from the ambient air monitors were not sent for analysis. All the waste generated by the clean-up was collected and disposed of by a specialist waste disposal contractor.

The incident was caused by a snapped "O" ring on the coupling from the tanker which allowed the Pb powder to escape. The delivery company and the driver have accepted responsibility. EnerSys have purchased spare "O" rings.

EnerSys are advised to conduct a supplier audit of the delivery company to ensure that they have put appropriate corrective actions in place, including maintenance schedules and checking equipment before a delivery is started. Supervision of deliveries by EnerSys personnel could also be considered.

EHS management in post at the time did not consider that NRW needed to be informed about this incident, (quote from internal EnerSys report) - "Due to the localised nature of the spillage this event is not considered to be reportable under section 4.3.1(a) of the Environmental Permitting Regulations 2016 as the release has not significantly affected the environment."

This statement is incorrect. EPR 2016 does not contain a section 4.3.1(a). Permit conditions are derived from the EPR 2016 but are not necessarily written down in the regulations.

Permit Condition 4.3 states -

4.3 Notifications

4.3.1 (a) In the event that the operation of the activities gives rise to an incident or accident which **significantly affects or may significantly affect** the environment, the operator must immediately -

- (i) inform Natural Resources Wales,
- (ii) take the measures necessary to limit the environmental consequences of such an incident or accident, and
- (iii) take the measures necessary to prevent further possible incidents or accidents;

(b) in the event of a **breach of any permit condition** the operator must immediately -

- (i) inform Natural Resources Wales, and
- (ii) take the measures necessary to ensure that compliance is restored within the shortest possible time;

(c) in the event of a breach of permit condition which **poses an immediate danger to human health or threatens to cause** an immediate significant adverse effect on the environment, the operator must immediately suspend the operation of the activities or the relevant part of it until compliance with the permit conditions has been restored.

4.3.2 Any information provided under condition 4.3.1 [(a)(i), or 4.3.1 (b)(i) where the information relates to the breach of a limit specified in the permit,] shall be confirmed by **sending the information** listed in schedule 5 to this permit **within the time period specified in that schedule**.

NRW consider that this incident was reportable under permit conditions 4.3.1(a), (b) and (c). It may have had a significant effect on the environment; it was a breach of permit condition 3.1.1; it must have posed an immediate risk to human health otherwise affected areas would not have been evacuated.

Please complete the actions detailed in C2, G4, C1 and D2 by their due dates to ensure that this does not happen again.

It may be useful for EnerSys to ask their analytical contactor if the samples taken from the ambient air monitors around the time of the incident could be analysed to confirm that there was no release of Pb to air.

NRW would like to see the consignment notes/waste transfer notes that were raised to cover the disposal of the waste from the clean-up. This could be done during NRW's next site visit.

Fortunately this incident has demonstrated that the accident and incident control procedures in place at the time are adequate and thus prevented any damage to the environment or human health. They seem to have been put into action quickly and efficiently. The failure of previous EHS and plant management to understand permit conditions and the need to notify NRW immediately infer that there may be a weakness in the management system which NRW hope has already been rectified.
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.