

Compliance Assessment Report CAR_NRW0039246

Permit being assessed: UP3237CP.

For: Solway Foods Limited, held by Solway Foods Limited

At: R F Brookes (Solway Foods), Azalea Road, Rogerstone, Newport, Newport, NP10 9SA.

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

On 01/02/2022.

Parts of permit assessed: B5, G4

NRW Lead Officer: Ian James.

Report sent to: William Elworthy, Divisional SHE Lead on 01/02/2022.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
B5 - Infrastructure - Plant and equipment	C3 Minor	Failure of abatement equipment for odour (A1). Permit condition 2 - Operating Conditions.
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	C4 No impact	Reporting of abatement equipment failure is notifiable under condition 5.1.1. without delay. Over 2 months had passed before the Regulator was notified.

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
B5	Repair and reinstatement required	Already completed
G4	Ensure there are sufficient trained and experienced staff and that they are aware of reporting requirements relating to the Permit.	28/02/2022

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 – RF Brooks/Solway – UP3237CP

Compliance: 1x Cat 3 breach and 1x Cat 4 breach.

Introduction

On the 24th January 2022 the Operator contacted NRW to inform them that abatement equipment had failed in November. This was followed by a 'Schedule 5' notification to NRW on 25th January, over two months since the initial failure.

The site holds the following permit;

UP3237CP Version V005.

Section 6.8 Part A(1)(d)(i), Section 5.4 Part A(1)(a)(ii) plus MCP Schedule 25A and Schedule 25B. With Directly Associated Activities.

Detail

William ELWORTHY (**WE**) (Divisional SHE Lead) contacted NRW to inform them that odour abatement equipment (RTO) for A1 emission point had been inoperative since Nov 2021. The Schedule 5 notification provided on 25th January 2022 gives more detail relating to this.

*On 28th January 2022 **WE** confirmed to NRW that the equipment had been repaired and was operational.*

Whilst there have been no odour complaints reported to the Operator or NRW there is increased potential for this given the abatement equipment failure.

Permit conditions require the operation of the specified abatement technology (RTO), the failure of this is assessed and recorded as a **Cat 3 breach** of Permit condition 2 – 'Operating Conditions'.

In addition to the equipment failure the Permit details reporting and notification requirements which were not followed. There was a significant delay in notification to NRW of the abatement equipment failure. This has been identified by the Operator as a failing in internal communications. This is assessed and recorded as

a **Cat 4 breach** of Permit condition 5.1.1 – ‘Notification without delay’.

Other Permit conditions that have been considered in this assessment are the requirements to have sufficient competent persons available and an effective environmental management system.

NRW are concerned that the long-term vacant position of Environment Manager has left the Operator with weaknesses in their ability to adequately manage their Environmental responsibilities. It is for the Operator to determine how to manage this but NRW are pleased to be told that the position is to be readvertised. A suitably qualified and experienced person should be recruited soon.

There is no evidence to currently breach these conditions, but that situation may change if further information comes to light.

Actions;

1. The Operator should investigate all options including, but not limited to, alternative suppliers to expedite repair and reinstatement of the abatement equipment (RTO) within a reasonable timescale. – Update 28th January 22 – **Action complete** before sending the CAR, email received from **WE**.
2. The Operator should ensure there are sufficient, competent staff and robust processes in place to minimise environmental risk and comply with their Permit conditions. Detail how this is achieved. **Due: 28th February 2022.**
3. Clarify the current Environment Management responsibilities on site, including the roles that deputise for the Divisional SHE Lead and demonstrate their competency to do so by means of an Organogram or similar. **Due: 28th February 2022.**
4. Provide evidence that appropriate staff are trained in the systems and actions needed to report failure of equipment and processes that are regulated by their Environmental Permit. **Due: 28th February 2022.**

With thanks.

If you have any questions regarding this Compliance Assessment Report (CAR) form, please contact Ian James on 03000 654203 or via email on ian.james@naturalresourceswales.gov.uk

In this document ‘Natural Resources Wales’ means the Natural Resource Body for Wales established by Article 3 of the Natural Resources Body for Wales (Establishment) Order 2012.

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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.