

Compliance Assessment Report CAR_NRW0039549

Permit being assessed: BB3794CF.

For: Pencefn Feeds Ltd, held by Pencefn Feeds Limited

At: Pencefn Drysgol, Dewi Rd, Tregaron, Cerdigion, SY25 6JW.

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

On 03/03/2022 between 13:30 and 14:50.

Parts of permit assessed: See criteria listed

NRW Lead Officer: Jeremy Goddard.

Report sent to: Mr. Bill Lloyd, Company Director & Technically Competent Manager on 16/03/2022.

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

Part of permitted activity assessed (criteria)	Assessment result	Permit condition
B1 - Infrastructure - Engineering for prevention and control of emissions	Assessed (A)	
C1 - General Management - Staff competency/training	Action only (X)	
F1 - Amenity - Odour	Assessed (A)	
F2 - Amenity - Noise	Assessed (A)	
F3 - Amenity - Dust/fibres/particulates and litter	Assessed (A)	
F4 - Amenity - Pests/birds and scavengers	Assessed (A)	
F5 - Amenity - Deposits on road	Assessed (A)	
G1 - Monitoring and Records, Maintenance and Reporting - Monitoring of emissions and environment	Action only (X)	
G4 - Monitoring and Records, Maintenance and Reporting - Reporting and notification to Natural Resources Wales	Action only (X)	

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

Total number of non-compliances recorded	Total non-compliance score
0	0

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	Can you please send me copies of your certificates and be mindful that you need to undertake a continued competency	13/04/2022

Criteria	Action needed	Complete by
	test every two years from the date published on the Primary Qualification certificate.	
G1	You need to submit an annual monitoring report as specified by permit condition 3.5.2. Please refer with the permit condition and once you have spoken with your consultant come back to me to discuss the report that needs to be submitted annually.	13/04/2022
G4	Can you please send all the outstanding quarterly waste returns for each reporting period since the permit was issued on 11/08/2020. Please submit the completed spreadsheets to the following email address, copying me in: waste.returns@cyfoethnaturiolcymru.gov.uk	13/04/2022

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.

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

Jeremy Goddard of Natural Resources Wales (NRW) conducted a routine compliance visit to Pencefn Anaerobic Digestion plant and met with Mr. Bill Lloyd and Mr. Jim Lloyd of Pencefn Feeds Limited. The visit was pre-arranged.

The site has been permitted since 11 August 2020 but according to the Lloyd brothers has never accepted the waste material allowed under the conditions of the Standard Rules 2018 No.11 - 'On-farm Anaerobic Digestion plant using farm wastes only' permit. It was explained that much of the land at Pencefn Drysgol is used for growing a hybrid rye grass energy crop which is used as a feedstock for the Anaerobic Digestion (AD) plant. Digestate produced within the system is then spread back on the same fields as a fertiliser. Although the business does have a mobile plant permit - EPR/BB3493FX, held by Pencefn Livestock Limited it has never been used. As no waste is placed within the AD plant the resultant digestate is also treated as a 'non-waste'.

General Site Inspection

The site was clean and tidy and as per our last compliance visit on 9 November 2020 concreted and bunded. Your engineer provided your evidence at the time of the permit application to demonstrate that the current bunding arrangement is sufficient to contain any liquids lost from the AD plant located within it.

Waste Returns

There has been a great deal of confusion regarding the site's waste returns. You have previously been advised that because the energy crops being used within the AD plant are not waste, NRW consider that your site is 'pre-operational'. This means that until you accept waste into your facility you only need to submit 'Nil' returns for your quarterly waste returns. The failure to submit these returns would be a breach of permit and, as previously explained, would be scored in accordance with NRW's Compliance Classification System (CCS) and could affect your annual subsistence fee accordingly.

It appears that in an attempt to obtain the spreadsheet needed to submit waste returns you have been given some incorrect advice by our customer contact centre and were provided with a hazardous waste return spreadsheet. I have subsequently provided you with the correct spreadsheet to use for waste returns. We will not score this permit non-compliance due to the mitigating circumstances but in future all waste returns must be submitted on time using the correct form. You must also submit any waste returns missing from the date when the permit was issued in August 2020.

ACTION - Can you please send all the outstanding quarterly waste returns for each reporting period since the permit was issued on 11/08/2020. Please submit the completed spreadsheets to the following email address, copying me in: waste.returns@cyfoethnaturiolcymru.gov.uk Further information on waste returns can be found at the following link to our website: [Natural Resources Wales / Submit your waste return](#)

Waste Status of the Digestate

During the visit I said that I would seek confirmation of the waste status of the digestate produced within the AD plant. I can confirm that if an AD plant is fed with energy crops (purposely grown for AD) then it falls outside waste regulation.

The digestate produced from this process is also not a waste, unless there are no outlets available for it and it has to be discarded. Discard in this case would also mean where you apply the digestate to land and it has no benefit (this is in effect 'disposal' and makes what you apply to land a waste). You stated during the visit that you employ an agronomist to ensure that you apply what is required by the crop and have your own specialist spreading equipment to ensure you only apply the required amount of digestate per field.

You also mentioned the potential selling of 'non-waste' digestate as a fertiliser to farmers. I would recommend that you look into joining a relevant biofertiliser certification scheme which would provide assurance to consumers, farmers, food producers and retailers that digestate produced from the anaerobic digester is safe for human, animal and plant health. This would involve obtaining the relevant Publicly Available Specification (PAS) standard, which in this case would be PAS110. Producing digestate to a recognised standard protects all those in the chain including you the producer and the end-user.

Emission Reporting

There are other requirements that you need to be aware of which apply whether you are processing waste or non-waste. At AD plants, Combined Heat and Power (CHP) engines that have a net rated thermal input between 1 and 50 MW will require a permit to operate and will have emissions limits and monitoring requirements to meet. Your standard rules permit SR2018 No11 - 'On-farm anaerobic digestion facility using farm wastes only' includes

the implementation of the Medium Combustion Plant (MCP) Directive and Specified Generators Regulations within its conditions so in addition to treating waste by AD it has conditions and limits relating to the combustion activity. What this means is that to run an AD plant of this size you need some form of a permit. If you decided to surrender your waste facility environmental permit as you are not processing waste within the AD plant you couldn't operate permit free. Instead of an waste facility environmental permit you would need to apply for a medium combustion plant directive (MCPD) environmental permit to meet air quality requirements. The MCPD environmental permit would cover the combustion activity only. Your existing permit covers both the processing of waste and the combustion activity.

You need to refer to conditions 3.1.2, Table 3.1 of your permit which sets out the point source emissions to air - emission limits and monitoring requirements and condition 3.5.2 which requires records of the monitoring required by the permit be submitted to NRW annually in the form of a report.

ACTION - You need to submit an annual monitoring report as specified by permit condition 3.5.2. Please refer with the permit condition and once you have spoken with your consultant come back to me to discuss the report that needs to be submitted annually.

Technical Competence

It was discussed that both Bill Lloyd and Jim Lloyd have Technical Competence Awards from WAMITAB.

ACTION - Can you please send me copies of your certificates and be mindful that you need to undertake a continued competency test every two years from the date published on the Primary Qualification certificate.

Additional Guidance

Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021

During the visit you asked for clarification on how the Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 will apply to the application of biowaste and non-waste digestate to land.

Firstly I recommend that you take a look at the Welsh Government guidance document on the regulations which can be found at the following link - [The Water Resources \(Control of Agricultural Pollution\) \(Wales\) Regulations 2021 Guidance for Farmers and Land Managers \(gov.wales\)](https://gov.wales/guidance/13644).

Definition of 'Nitrogen Fertiliser'

The regulations will apply to any 'nitrogen fertiliser' defined as 'any substance containing one or more nitrogen compounds used on land to enhance growth of vegetation' and would include manufactured inorganic fertiliser, organic slurry or organic manures.

The definition of 'organic manure' in the regulations says that this is any nitrogen fertiliser or phosphate fertiliser derived from animal, plant or human sources and includes livestock manure – I am told that this definition would also capture biowaste and non-waste anaerobic digestate created from an industrial process. In summary if the digestate being applied to

land contains nitrogen it will be caught in some way by the regulations.

Closed Periods for spreading of organic manures with high readily available nitrogen

Within the Control of Agricultural Pollution regulations there is reference to closed periods for organic manures with high readily available nitrogen (which are due to come into force on 1 August 2024) where the spreading of organic manures with high readily available nitrogen (a total nitrogen content available to the crop at the time of spreading of more than 30%). The closed period varies depending on what soil and crop type the organic manure is being applied to.

Anaerobic digestate would be classified as an organic manure within the regulations, however whether it was captured by the closed periods or not would depend on whether it has an available nitrogen content at the time of spreading of more than 30%. You would need to assess the available nitrogen content within the digestate produced to see whether the closed period restriction applies - you mentioned that you routinely sample the digestate to allow your agronomist to calculate how much needs to be spread on your rye grass energy crop. In summary anaerobic digestate or biowaste with a available nitrogen content of greater than 30% would be subject to the relevant closed period whilst digestate or biowaste with a nitrogen content of less than 30% could be applied within the closed period. If the you were spreading a waste you would need to show in your mobile plant deployment notification that there was agricultural benefit to spreading during the closed period, which would likely be more difficult to do. It would be up to your FACTS qualified consultant to outline within the agricultural benefit statement on why there was a crop need to spread at a particular time of year.

There are also closed periods for manufactured nitrogen fertiliser application which came into effect on 1 April 2021.

Further Guidance on the Control of Agricultural Pollution regulations

You can see that it's not straightforward whether biowaste application to land is captured by the Control of Agricultural Pollution regulations and very much depends on the nitrogen content of the specific biowaste you are dealing with. I am told that Natural Resources Wales hopes to issue guidance to mobile plant permit holders in the coming months. There is also a potential review of the regulations which could have changed things by 1 August 2024, but we can only advise on how things stand at the present time.

ENDS

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.