 Environment Agency	Waste Audit Report									
This form will report compliance with environmental legislation as determined by an Environment Agency Officer										
		Ref	50066NICKBR17092024JSMITH1250066							
Operator / Permit holder		Nick Brookes								
Date		17/09/2024		Time in		Out				
Premises	Installation		Waste Permit	X	Exemption		Producer		CBD	
Site contact (s)		Nick Brookes								
Officer's name (s)		Jemimah Smith		Date issued	15/11/2024					

Section 1b Assessment Summary – Duty of Care		
<p>This assessment is based on the Duty of Care requirements contained in Section 34 of the Environmental Protection Act 1990 and The Waste (England and Wales) Regulations 2011.</p> <p>A detailed explanation of any non-compliances identified and actions you may need to take are given in sections 2 & 4 below.</p>		
Compliance Summary		
Compliance check type	Assessed during audit	Non-compliance identified
Check correct EWC codes	Yes	No
Written description of waste including quantity and containment	Yes	Yes
Time and place of transfer	Yes	No
SIC code of the waste holder	Yes	Yes
Full details of both transferor and transferee	Yes	Yes
Producer, importer, carrier authorised to receive	Yes	No
Confirm waste hierarchy has been considered	Yes	No

Section 1c Assessment Summary – Waste Assessment		
<p>This assessment is based on the Duty of Care requirements contained in Section 34 of the Environmental Protection Act 1990 and The Waste (England and Wales) Regulations 2011.</p> <p>A detailed explanation of any non-compliances identified and actions you may need to take are given in sections 2 & 4 below.</p>		
Compliance Summary		
Compliance check type	Assessed during audit	Non-compliance identified
Waste Assessment	Yes	Yes

Section 2 – Waste Audit Report Detail

This section contains a report of our findings and will usually include information on:

- Any non-compliances identified
- All actions requested
- Details of advice given
- Any other areas of concern
- Any examples of good practice

Previous WAR form actions

The following actions were set out within the previous WAR form reference:
50066NICKBR26062024JSMITH1250066.

Filter cake – not assessed

Action: Classify all future outgoing filter cake correctly in accordance with WM3 ensuring that if classified using a mirror non-hazardous code there is a full waste assessment in line with WM3. Following the inspection officers requested copies of ‘all outgoing notes for filter cake for the week of 09/09/2024 to 13/09/2024 and all accompanying sampling, analysis and interpretation documents’.

These were not provided.

Waste assessments – incomplete

Action: Conduct a full waste assessment for trommel fines and filter cake which follows the guidance set out in WM3 which includes a sampling plan, chemical analysis of the waste (original lab report), and interpretation of the results including a hazardous property assessment of the analysis. Send this to jemimah.smith@environment-agency.gov.uk by 10am on 13/09/2024.

This is incomplete as evidence of a full waste assessment of trommel fines and filter cake was not sent to the officer by 10am on 13/09/2024.

End of waste criteria – incomplete

Action: Ensure all future wash plant outputs meet the End of Waste Criteria in accordance with the guidance or are accurately classified as waste.

Officers identified that waste which does not meet the end of waste criteria was being sent offsite as product.

Introduction

Officers conducted an unannounced site inspection to check compliance with outstanding CAR and WAR form actions. Officers met with the sites operations manager who showed them around the site.

This WAR form should be read in conjunction with CAR form reference: 50066/0526846.

2b. Duty of care

As set out in the duty of care code of practice, Section 34 of the Environmental Protection Act 1990 requires you to take all reasonable steps to:

1. prevent unauthorised or harmful deposit, treatment or disposal of waste;
2. prevent a breach (failure) by any other person to meet the requirement to have an environmental permit, or to breach a permit condition;
3. prevent the escape of waste from your control;
4. ensure that any person you transfer the waste to has the correct authorisation;
5. provide an accurate description of the waste when it is transferred to another person;

An assessment has been completed to check if you have fulfilled your duty of care requirements, based on the waste transfer note review which is set out below.

Waste transfer note review

Following the inspection officers requested the following:

- All outgoing notes for filter cake for the week of 09/09/2024 to 13/09/2024 and all accompanying sampling, analysis and interpretation documents.
- All outgoing notes for trommel fines for the week of 09/09/2024 to 13/09/2024 and all accompanying sampling, analysis and interpretation documents.

Officers received a document named 'Material Ticket 296279' which included a number of outgoing waste transfer notes (WTN) for '19 12 12 – Qualifying fines (Groups 1&2) '.

Further clarification from the operator confirmed these notes were for outgoing trommel fines. Waste transfer notes were not submitted for filter cake.

Action: Send all outgoing notes for filter cake for the month of October, 1/10/2024 to 31/10/2024 and all accompanying sampling, analysis and interpretation documents by 10am on 29/11/2024.

The duty of care paperwork was reviewed to check if it included the following mandatory information, as required by the Waste (England & Wales) Regulations 2011. The following issues were identified:

Written description of waste: All transfer notes include the same description 'qualifying fines – 19 12 12'. This does not provide an adequate description of the waste as it is unclear what process created the waste or what the waste is derived from, therefore it does not contain all the information required to ensure lawful and safe recovery or disposal from subsequent holders.

SIC Code of transferor: A number of the waste transfer notes did not include a SIC code.

Receiving site details: Some of the notes detail a receiving site of 'BLUE SKY RECYCLING LTD GRANGE LANE REDHILL TELFORD TF2 9PB'. This company does not hold a permit.

Signature of transferor and transferee: All transfer notes did not include a signature of Transferer (receiver), instead stated 'no one on site'. Therefore, the Waste Hierarchy declaration was missing/unconfirmed.

Duty of Care Code of Practice provides practical guidance on how to meet your waste duty of care requirements in England and Wales: <https://www.gov.uk/government/publications/waste-duty-of-care-code-of-practice>.

An example of a duty of care waste transfer note can be found: [Duty of care waste transfer note form - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/duty-of-care-waste-transfer-note-form)

Regulations and Reason for Breach: You failed to ensure the waste removed from your site had a full, accurate and appropriate written description which **is an offence under Section 34 of the Environmental Protection Act 1990 and Regulation 35 of the Waste (England and Wales) Regulations 2011**.

Action Required: The following are required to ensure your duty of care paperwork includes all required information:

1. You must include accurate and clear written description of the waste.
2. You must include the correct SIC codes of the transferor to all of your duty of care paperwork.
3. You must ensure waste is being sent to an appropriately permitted facility and include all details of the receiving site, including the permit number, on the duty of care paperwork.
4. The transferer (receiver) must sign all notes.

Action deadline: by 10am on 29/11/2024.

2c. Waste Classification

Following the inspection officers gave the operator a further opportunity to submit evidence of the completion of a full waste assessment of trommel fines and filter cake, including a sampling plan, chemical analysis of the waste (original lab report), and interpretation of the results including a hazardous property assessment of the analysis, as actioned in the previous two WAR forms. In response the operator sent the following documents for a waste sample which was analysed on 20/08/2024:

- '24-01157-01' – Analytical test report
- 'Classification report – Nick Brookes – Report 24-01157 – 20082924' – Waste Classification report

This was not accompanied by an updated sampling plan.

The analytical test report states the material tested is 'Brown Sandy Loam with Gravel', yet the waste classification report states the activity that created the waste is 'Screening and trommelling of C&D waste to produce qualifying fines'. This makes it unclear what the waste being tested and it is inconsistent with the processes taking place onsite which produces trommel fines from mixed waste. The reports do not state the date the sampling took place.

Without an adequate sampling plan, it is unclear what is being sampled, how the samples are taken, what the assessments are based on, what levels are suitable and why it meets non-hazardous standards.

No evidence of a full waste assessment for filter cake was sent to the officer.

As both filter cake and trommel fines are mirror entry EWC codes a full waste assessment must be conducted by carrying out an initial basic characterisation testing followed by ongoing compliance sampling as set out within WM3. This must be set out within a sampling plan and accompanied by chemical analysis of the waste (original lab report), and interpretation of the results including a hazardous property assessment of the analysis.

You must be able to provide evidence that the trommel fines and filter cake you are transferring is non-hazardous otherwise it must be treated as hazardous waste and be transferred under a consignment note to an appropriately authorised facility.

Regulations and reason for breach: As you do not have procedures in place to adequately assess mirror entry wastes, in this instance trommel fines and filter cake, you have failed to correctly classify waste in accordance with the guidance laid out in WM3. **This is an offense under Section 34 of the Environmental Protection Act 1990 and Regulation 35 of the Hazardous Waste (England and Wales) Regulations 2005.**

Action Required: Conduct a full waste assessment for trommel fines and filter cake which follows the guidance set out in WM3 which includes a sampling plan, chemical analysis of the waste (original lab report), and interpretation of the results including a hazardous property assessment of the analysis.

Deadline: Send this to jemimah.smith@environment-agency.gov.uk by **10am on 06/01/2025.**

End of Waste Criteria

Within previous forms, advice and guidance was given surrounding the requirements of the end of waste criteria required for a waste to be used as a product.

During this inspection aggregates, including varying grades of stones and sand grit were being produced onsite and sold as product. These are an output of the soil processing facility (wash plant) where crushed construction and demolition waste is mixed in with trommel fines, produced by the treatment of mixed household, commercial and industrial waste, are processed.

At the time of the inspection the output of the wash plant which the operator classes as aggregates were heavily contaminated with metals, plastics, glass and a battery, see photograph 1 and 2 of the contaminated output piles.

For material to meet end of waste it must meet the requirements of a relevant quality protocol or a self-assessment or have an opinion that it is not waste from the Environment Agency's Definition of waste service in accordance with the following guidance: Check if your material is waste - GOV.UK (www.gov.uk).

A self-assessment has not been made and there has been no formal opinion given that this material

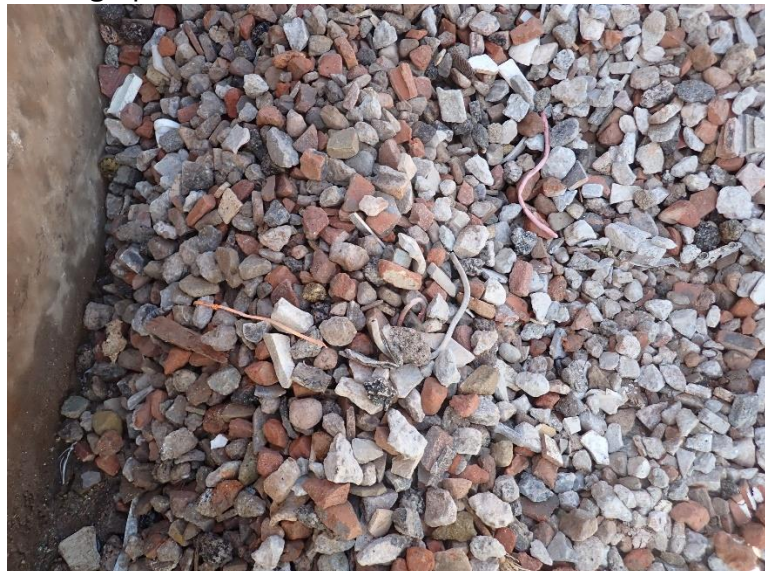
meets end of waste via the Definition of waste service. The relevant quality protocol for aggregates – the WRAP quality protocol for aggregates from inert waste – does not list the waste types that are being put through the wash plant as acceptable inert waste input material. Further to this, the quality protocol states ‘Incidental quantities of inert physical contaminants (such as soils, peat, clays, silts, wood, plastics, rubber, metal) may be present with the input material but must be removed during the processing of the waste’. As seen in photograph 1 and 2 below the output material was contaminated with metals, plastics, glass and a battery therefore not all physical contaminants are removed.

The aggregate outputs from the wash plant are therefore considered to be waste and must be further treated, recovered or disposed of accordingly.

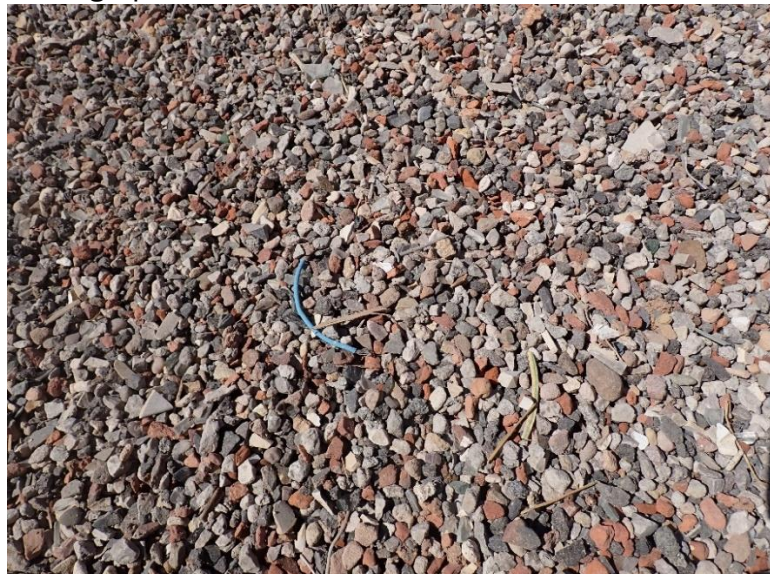
Action: Ensure all future wash plant outputs meet the End of Waste Criteria in accordance with the guidance or are accurately classified as waste.

Photographs

Photograph 1



Photograph 2



Section 3-Enforcement Response

You must take immediate action to rectify any non-compliances noted in section 1 and prevent repetition. Non-compliance with environmental legislation may result in enforcement action being taken, including criminal prosecutions.

Please read the detailed assessment in Section 2 and the steps you need to take in Section 4 below.

Other than the provision of advice and guidance, at present we do not intend to take further enforcement action in respect of the non-compliance identified above. This does not preclude us from taking enforcement action if further relevant information comes to light or advice isn't followed.	
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

In respect of the above non-compliance you have been issued with a warning. At present we do not intend to take further enforcement action. This does not preclude us from taking additional enforcement action if further information comes to light or offences continue.	
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

We will now consider what enforcement action is appropriate and notify you, referencing this form.	X
----------------------------------------------------------------------------------------------------	---

X

Section 4- Action(s)

Where non-compliance has been identified in section 1 this section summarises the steps you need to take to return to compliance and also provides timescales for this to be done

[illegible]

Section 5 - Compliance notes

To ensure you correct actual or potential non-compliance we may

- advise on corrective actions verbally or in writing
- require you to take specific actions in writing
- issue a notice

Non-compliance with environmental legislation is an offence and we may take legal action against you.

● We will normally provide advice and guidance to assist you to come back into compliance either after an offence is committed or where we consider that an offence is likely to be committed. This is without prejudice to any other enforcement response that we consider may be required.

● Enforcement action may include the issue of a formal caution or prosecution.

● Dependent upon the type of offence committed, a civil sanction Enforcement Undertaking (EU) offer may also be available to you as an alternative enforcement response.

See our Enforcement and Civil Sanctions guidance for further information

Not all legal requirements were assessed as part of this audit. It remains your responsibility to ensure that you comply with all relevant environmental legislation and maintain suitable records to evidence your compliance.

Section 6 – General Information

Data protection notice

The information on this form will be processed by the Environment Agency to fulfill its regulatory and monitoring functions. The Environment Agency may also use and/or disclose it in connection with:

- offering/providing you with its literature/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
- investigating possible breaches of environmental law and taking any resulting action
- preventing breaches of environmental law
- assessing customer service satisfaction and improving its service
- Freedom of Information Act/Environmental Information Regulations request.

The Environment Agency may pass it on to its agents/representatives to do these things on its behalf. You should ensure that any persons named on this form are informed of the contents of this data protection notice.

Customer charter

You can challenge any part of this waste assessment report by writing to the Environment Agency office local to the site within 28 days of receipt. If the issue cannot be resolved by the local office, you may request an appeal of the regulatory decision by emailing enquiries@environment-agency.gov.uk within 14 days of receipt of the outcome.

If you are still dissatisfied, you can make a complaint to the Ombudsman. For advice on how to complain to the Parliamentary and Health Service Ombudsman phone their helpline on 0345 015 4033.