

Notice Reference: EPR/A2/001

Environmental Permitting (England and Wales) Regulations 2016 (as amended), Regulation 20

Variation Notice

To: O-I Glass Limited

Of: Edinburgh Way
Harlow
Essex
CM20 2UG

Harlow Council ("the Council"), in exercise of the powers conferred on it by Regulation 20 of the Environmental Permitting (England and Wales) Regulations 2016 (as amended) ("the 2016 Regulations"), hereby gives you notice that:

The Council has decided to vary the conditions of permit reference EPR/A2/001 in relation to the Part A glass melting activity at the following installation:

O-I Glass Limited
Edinburgh Way
Harlow
Essex
CM20 2UG

The Council hereby gives you notice as follows:-

The variation of the conditions of the permit are specified in Schedule 1 to this notice. A consolidated permit forms Schedule 2.

Environmental Health Services
Harlow Council
Civic Centre
The Water Gardens
Harlow
Essex
CM20 1WG

Dated: 23rd December 2019



The Authorised Officer for this purpose

Address for all communications

Guidance for Operators receiving a Variation Notice

This guidance does not form part of the Variation Notice, but it is for the guidance of those served with the Notice. Further guidance can be found in the General Guidance Manual at www.defra.gov.uk/environment/ppc

Dealing with an Variation Notice

This notice varies the terms of the permit specified in the Notice by amending or deleting certain existing conditions and/or adding new conditions. The Schedules attached to the notice explain which conditions have been amended, added or deleted and the dates on which these have effect. The Council may have included a 'consolidated permit', which takes into account these and previous variations. Where a consolidated permit is not included this variation notice must be read in conjunction with your permit document.

Appeals

Under regulation 31 and Schedule 6 of the 2016 Regulations operators have the right of appeal against the conditions attached to their permit by a variation notice. The right to appeal does not apply in circumstances where the notice implements a direction of the Secretary of State/Welsh Ministers given under regulations 61 or 62 or a direction or when determining an appeal. Appeals against a Variation Notice do not have the effect of suspending the operation of the Notice. Appeals do not have the effect of suspending permit conditions, or any of the mentioned notices. Notice of appeal against a Variation Notice must be given within two months of the date of the variation notification, which is the subject matter of the appeal. The Secretary of State/Welsh Ministers may in a particular case allow notice of appeal to be given after the expiry of this period, but would only do so in the most compelling circumstances.

How to appeal

There are no forms or charges for appealing. However, for an appeal to be valid, appellants (the person/operator making the appeal) are legally required to provide (see paragraphs 2(1) and (2) of Schedule 6 of the 2016 Regulations):

- the appropriate authority written notice of the appeal;
- a statement of the grounds of appeal;
- a copy of any relevant application;
- a copy of any relevant environmental permit;
- a copy of any relevant correspondence between the appellant and the regulator;
- a copy of any decision or notice which is the subject matter of the appeal; and
- a statement indicating whether the appellant wishes the appeal to be in the form of a hearing or dealt with by way of written representations.

Appellants should state whether any of the information enclosed with the appeal has been the subject of a successful application for confidentiality under regulation 48 of the 2016 Regulations, and provide relevant details – see below. Unless such information is provided all documents submitted will be open to inspection. Further guidance on commercial confidentiality can be found in chapter 8 of the PPC General Guidance Manual. Appeals should be despatched on the day they are dated, and addressed to:

The Planning Inspectorate
Environment Team, Major and Specialist Casework
Room 4/04 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol, BS1 6PN

If an appeal is made, the main parties will be kept informed about the next steps, and will also normally be provided with additional copies of each other's representations. To withdraw an appeal – which may be done at any time - the appellant must notify the Planning Inspectorate in writing and copy the notification to the local authority who must in turn notify anyone with an interest in the appeal.

Costs

The operator and local authority will normally be expected to pay their own expenses during an appeal. Where a hearing or inquiry is held as part of the appeal process, by virtue of paragraph 5(6) of Schedule 6, either the appellant or the authority can apply for costs. Applications for costs are normally heard towards the end of the proceedings and will only be allowed if the party claiming them can show that the other side behaved unreasonably and put them to unnecessary expense. There is no provision for costs to be awarded where appeals are dealt with by written representatives.

Offences

Failure to comply with a Variation Notice is an offence under regulation 38(1) (b) of the 2010 Regulations. A person guilty of an offence under this regulation could be liable to (i) a fine of up to £50,000 or imprisonment for a term not exceeding 6 months or both; or (ii) to an unlimited fine or imprisonment for a term not exceeding 5 years or both, depending on whether the matter is dealt with in the Magistrates or Crown Court.

Confidentiality

An operator may request certain information to remain confidential, i.e. not be placed on the public register. The operator must request the exclusion from the public register of confidential information at the time of supply of the information requested by this notice or any other notice. The operator should provide clear justification for each item wishing to be kept from the register. The onus is on the operator to provide a clear justification for each item to be kept from the register. It will not simply be sufficient to say that the process is a trade secret. The test of whether information is confidential for the purposes of being withheld from the public register is complex and is explained, together with the procedures, in chapter 8 of the PPC General Guidance Manual.

National security

Information may be excluded from the public register on the grounds of National Security. If it is considered that the inclusion of information on a public register is contrary to the interests of national security, the operator may apply to the Secretary of State/Welsh Ministers, specifying the information and indicating the apparent nature of risk to national security. The operator must inform the local authority of such an application, who will not include the information on the public register until the Secretary of State/Welsh Ministers has decided the matter.

Variation Notice

Schedule 1

Variation to the conditions of the permit

- 3.1.2 Measured emissions for comparison with emission limits in condition 3.1.1 shall be calculated by conversion from concentrations to mass emission, and:
- a) For continuous measurements, a 15-minute average sampling period shall be used.
 - b) All values for concentrations in waste gases refer to standard conditions: dry gas, temperature 273.15 K, pressure 101.3 kPa.
- 3.1.3 For discontinuous measurements, the emission limits provisions of condition 3.1.1 should refer to the average value of three spot samples of at least 30 minutes each. Where a single measurement is undertaken, no result shall exceed the emission concentration limits specified.
- 4.1.3 Where Continuous Emission Monitors are installed to comply with the monitoring requirements; the Continuous Emission Monitors shall be used such that;
- a) valid 15-minute averages shall be determined within the effective operating time (i.e excluding the start-up and shut-down or hot hold periods).
 - b) daily average values shall be determined as the average of all the 15-minute average values within a calendar day. The daily average value shall be considered valid if no more than five 15-minute average values in any day have been determined not to be valid;
 - c) no more than ten daily average values per year shall be determined not to be valid.
- 4.1.4 Exhaust gas volumetric flow rate from melting furnaces shall be continuously monitored and continuously recorded.

Variation Notice

Schedule 2

Consolidated permit reference EPR/A2/001.