



Permit Reference: 112
Enforcement Notice: 112
Reference: 112/1

Coventry City Council
The Environmental Permitting (England & Wales) Regulations 2010, Regulation 36

ENFORCEMENT NOTICE

To: The Company Secretary
DSK (Nottingham) Ltd
17 Claremont Avenue
Bramcote
Nottingham
Notts.
NG9 3DG

Coventry City Council ("the Council"), in the exercise of the powers conferred upon it by regulation 36 of the Environmental Permitting (England & Wales) Regulations 2010 ("the 2010 Regulations") hereby gives you notice as follows:-

The Council is of the opinion that you are contravening conditions of your permit (reference 112 and issued in August 2005) granted under regulation 13 of the 2010 Regulations in respect of the operation of the installation at Total Service Station, 134 Binley Road, Coventry, CV3 1HB.

The conditions which are being contravened are detailed in Schedule 1 attached.

The steps you are required to take to remedy the contraventions are detailed in Schedule 1 attached to and forming part of this notice. Such steps must be taken within the time periods stated in Schedule 1 attached.

Signed on behalf of Coventry City Council

.....
Neil Chaplin
Senior Environmental Protection Officer
An authorised officer of the Council

Date.....

SCHEDULE 1

Requirement of the condition of the permit	Reason for contravention of the permit condition	Steps to be taken and/or works required with completion date
<p>1.3 <u>Condition</u> All reasonably practicable steps shall be taken to prevent uncontrolled leaks of vapour from vents, pipes and connectors from occurring. The Authority shall be advised without delay of the circumstances of such a vapour leak if there is likely to be an effect on a local community, and in all cases such a vapour leak should be recorded in the log book required under Condition 1.24</p> <p>In this condition and in Condition 1.4, a vapour leak means any leak of vapour excepting those which occur through the vent mentioned in Condition 1.11, during potentially hazardous pressurisation.</p>	<ul style="list-style-type: none"> • There is no written procedure in place informing competent persons supervising deliveries on how to monitor for leaks of vapour from vents, pipes and connectors during potentially hazardous pressurisation and deliveries. • There is no written procedure in place to inform all staff on how to respond to incidents of leaks of vapour from vents, pipes and connectors. • There is no procedure in place for all staff for reporting incidents to the local authority if there is likely to be an effect on the local community. 	<p>Implement suitable and adequate written procedures for:</p> <ul style="list-style-type: none"> • Competent persons supervising deliveries on how to monitor for leaks of vapour from vents, pipes and connectors during potentially hazardous pressurisation and deliveries. • All staff on how to respond to incidents of leaks of vapour from vents, pipes and connectors. • All staff for reporting incidents to the local authority if there is likely to be an effect on the local community. <p>Implement these procedures and provide copies to the Council by 9th December 2011.</p>
<p>1.5 <u>Condition</u> Instances of vapour lock shall be recorded in the log book and under the circumstances detailed in Condition 1.3 be reported to the Authority.</p>	<ul style="list-style-type: none"> • Staff were not aware of what vapour lock is and how to identify it. • There is no written procedure in place for reporting such incidents to the Council. 	<p>Implement suitable and adequate written procedures for reporting incidents of vapour lock to the Council.</p> <p>Implement this procedure and provide a copy to the Council by 9th December 2011.</p>
<p>2.3 <u>Condition</u> Staff at all levels shall receive the necessary training and instruction in their duties relating to control of the activities and emissions to air. Records shall be kept which details all relevant training provided to staff, and these records shall be kept for a minimum of 2 years.</p>	<ul style="list-style-type: none"> • Management and staff were not adequately trained to identify issues of vapour leak and vapour lock or able to identify adverse emissions during deliveries. • The vapour recovery component has not been covered in the current training for competent persons. 	<p>Undertake new training for management and staff so that staff are adequately trained and understand how vapour recovery works, how to identify vapour leaks and vapour lock. Provide valid training certificates to the Local Authority by the by 9th December 2011.</p>

Guidance for operators receiving an Enforcement Notice

(This guidance does not form part of the Enforcement Notice, but it is for the guidance of those served with the notice.) Further guidance can be found in the Environmental Permitting General Guidance Manual at: <http://www.defra.gov.uk/publications/files/env-permitting-general-guidance-a.pdf>

Failure to comply with an Enforcement Notice is an offence under regulation 38(3) 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 and/or imprisonment for a term not exceeding 6; or (ii) to an unlimited fine and/or imprisonment for a term of up to 5 years, depending on whether the matter is dealt with in the Magistrates or Crown Court.

Appeals

Under regulation 31 and Schedule 6 of the 2010 Regulations operators have the right of appeal. 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 an Enforcement 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 an Enforcement Notice must be given within **two months** from the date of the service of this Notice, which is the subject matter or the appeal. The Secretary of State 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 charges for appealing. An appeal form has been prepared and is available for use on the Planning Portal Website at: www.planningportal.gov.uk/planning/appeals/appeals

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 2010 Regulations):

- written notice of the appeal to the appropriate authority
- a statement of the grounds of appeal
- a statement indicating whether the appellant wishes the appeal to be dealt with by written representations procedure or at a hearing
 - a hearing must be held if either the appellant or local authority requests this, or an appointed person or the Secretary of State decide to hold one (appellants must copy the above three items to the local authority when the appeal is made)
- a copy of any relevant application
- a copy of any relevant 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.

Appellants should state whether any of the information enclosed with the appeal has been the subject of a successful application for confidentiality under regulation 49 of the 2007 Regulations, and provide relevant details – see below. Unless such information is provided all documents submitted will be open to inspection.

Where to send your appeal documents

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

Tel: 0117 3728726

Fax: 0117 3728139

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.

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 explained, together with the procedures, in chapter 8 of the Environmental Permitting 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.