

## VARIATION NOTICE

Environmental Protection Act 1990, Section [10] [11]  
The Pollution Prevention and Control (England & Wales) Regulations 2000,  
Regulation 17



PPC Permit Ref: 3.4/3/CFB  
Variation Ref: 3.4/3/V6

To: Associated British Ports Ipswich Port Ltd, Old Custom House, Key Street, Ipswich,  
IP4 1BY

Ipswich Borough Council ("the Council"), in the exercise of the powers conferred upon it by regulation 17 of the Pollution Prevention and Control (England and Wales) Regulations 2000<sup>1</sup> ("the 2000 Regulations") hereby gives you notice as follows:

1. The Council has decided to vary the conditions of permit reference 3.4/3/CFB granted under regulation 9(1) of the 2000 Regulations in respect of the operation of the installation/mobile plant at Cliff Quay, West Bank Terminal and Former Power Station Site.
2. The variation of the conditions of the permit and the date(s) on which they are to take effect are specified in [Schedule 1] to this notice. [A consolidated permit as varied by this notice [and by variation notices ref: 3.4/3/V6 is set out in Schedule 2.]
3. You are hereby required to pay by no later than 3<sup>1st</sup> March 2008 the sum of £137.00 – the fee, if any, prescribed in respect of a variation notice in the relevant charging scheme made under regulation 22 of the 2000 Regulations or section 41 of the Environment Act 1995<sup>2</sup>.

Signed on behalf of Ipswich Borough Council

.....  
Environmental Protection Services Manager  
An authorised Officer of the Council

Date: 22/02/08 .....

<sup>1</sup> SI 2000 No 1973 to which there are amendments not relevant to this variation notice

<sup>2</sup> 1995 c.25

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### Schedule 1

Variation to the Conditions of the Permit	Date(s) on which the Variation is to take place
<p>Cement Clinker:-</p> <p>The maximum throughput of cement clinker to be 25,000 tonnes per annum. Of this a maximum limit of 3,000 tonnes may be retained and stored within the purpose-built store. This is to enable the cement clinker to be accumulated and to be reasonably transported away from the site in covered lorries.</p>	

Signed on behalf of Ipswich Borough Council

  
..... Date: 22/02/08 .....

Environmental Protection Services Manager  
An authorised Officer of the Council

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## Schedule 2

Permit reference 3.4/3/CFB as varied by this notice and variation notices 3.6/LJB/08.

### Operational Limits and Controls

Cement clinker is only unloaded direct to lorries by ABP Ipswich Port Ltd at Cliff Quay adjacent to sheds 1 and 2 only as shown on the attached plan, reference 3.4/3/P5.

Loading and unloading of vessels is by crane grab. When unloading from a vessel, the crane grab discharges directly into a vehicle via a mobile hopper. The hopper design for coal and coal products is shown on drawings 3.4/3/P2 and 3.4/3/P3 attached. The hopper design for cement clinker is shown on drawing L3.4/3/P4.

### Emissions Limits and Controls

1. There shall be no deposition of dust from loading or unloading of coal or coal products or from unloading cement clinker outside the process boundary.

### Monitoring and sampling and measurement of emissions

2. A visual assessment of emissions shall be made at least twice daily during operations and the results shall be recorded in the log book required to be kept in accordance with Condition No 3. Remedial actions shall be taken immediately in the case of abnormal emissions.
3. A log book shall be kept containing a record of all visual assessments made in accordance with Conditions 2 and 14. The record shall include the time and date of the assessment, the result and the name of the person undertaking the assessment. It shall also include the wind direction and wind speed. Any adverse results shall be investigated immediately and in all cases shall be recorded, along with actions taken, in the log book. The log book shall be made available for inspection by an authorised officer from Ipswich Borough Council at ABP Ipswich Port Ltd, No 1 Stevedore's Office and shall contain at least the previous two year's records.
4. Where, in the opinion of an authorised officer of Ipswich Borough Council, there is evidence of airborne dust repeatedly being deposited offsite the operator shall undertake formal monitoring with the aim of identifying the source. Such monitoring shall either be by a relevant British Standard method or by a method agreed with Ipswich Borough Council.

### Operational Controls

5. Sweeping personnel shall be attendant throughout the operation to maintain site cleanliness.
6. All loading of cement clinker shall be through a purpose built hopper. The hopper shall be fitted with a curtain system on all four sides, as shown on drawing reference 3.4/3/P4 attached. The hopper shall also have a curtain below the hopper outlet, such that in use it sits within the vehicle being loaded.

7. Drop heights shall be kept to a minimum at all times.
8. The site and plant shall be cleaned after use.
9. For the cement clinker handling process, a supply of water shall be available on site for use in case of spillages. All such spillages that may give rise to dust emissions shall be cleaned up immediately by wet handling.
10. Cement clinker up to seven days normal supply shall be stored at the premises as part of this process in purpose provided and closable warehouses on the site
11. All road going cement clinker vehicles or vehicles carrying other dusty material shall be effectively sheeted. All vehicles shall be cleaned to a reasonable standard (given local circumstances) prior to leaving the site.
12. When unloading cement clinker, an operative shall be in full time attendance to control emissions.

## **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)

### **Dealing with a 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/or previous variations. In cases where a consolidated permit is not included this variation notice must be read in conjunction with your permit document.

### **Offences**

Failure to comply with a variation notice is an offence under regulation 32 of the 2000 Regulations. A person guilty of an offence under this regulation could be liable to (i) a fine of up to £20,000 or imprisonment for a term not exceeding 6 months or both; or (ii) to a fine or imprisonment for a term not exceeding 5 years or both, depending on whether the matter is dealt with in Magistrates or Crown Court.

### **Appeals**

Under regulation 27 of the 2000 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 given under regulations 12(15) (directions to regulators), 36 (general directions to regulators), paragraph (4) of regulation 27 (Appeals), paragraph 14(6) of Schedule 4 (directions determining applications for permits) or 6(6) of Schedule 7 (directions determining variation of permits).

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 notice, which is the subject matter of 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 circumstance.

### **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 Schedule 8 of the 2000 Regulations, paragraph 1):

- written notice of the appeal;
- 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 a hearing – a hearing must be held if either the appellant or enforcing authority requests this, or if the Planning Inspector or the Secretary of State decides 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 correspondence between the appellant and the regulator; and
- 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 commercial confidentiality under regulation 31 of the 2000 Regulations, and provide relevant details. 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 LA-IPPC and LAPPC manual.

### **Where to send your appeal documents**

Appeals should be despatched on the day they are dated, and addressed to:

The Planning Inspectorate  
 Environmental Appeals Administration  
 Room 4/19 – Eagle Wing  
 Temple Quay House  
 2 The Square  
 Temple Quay  
 Bristol BS1 6PN

On receipt of an appeal and during the appeal process the main parties will be 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**

Guidance from the Planning Inspectorate states that operator and regulator would normally be expected to pay their own expenses during an appeal. Where a hearing or enquiry is held as part of the appeal process, by virtue of Schedule 8, paragraph 4(10) of the 2000 Regulations, either the appellant or the local 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.

## COMMERCIAL CONFIDENTIALITY

An operator may request certain information to remain confidential ie not be placed on the public register. The operator must request the exclusion from the public register of commercially 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 amount of information excluded from the register should be kept to the minimum necessary to safeguard the operator's commercial advantage. It may assist the local authority if the information the operator considers to be commercially confidential is submitted in a way which will allow it to be easily removed should the claim be granted, for example on separate pages, marked 'claimed confidential'. 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 general principle is that information should be freely available to the public. Information that may be considered commercially confidential is that which if it "were being contained within the register would prejudice to an unreasonable degree the commercial interests of an individual or any other person" (regulation 31(12) of the 2000 Regulations).

Local authorities will also take into account whether the information at issue could be obtained or inferred from other publicly accessible sources.

The local authority will determine this request within 28 days of the date of such an application and will issue a Determination Notice detailing their decision. The notice may specify a time period over which the information is to remain commercially confidential (if not specified, it will be four years beginning with the date of the determination). The operator may appeal to the Secretary of State within 21 days of the notification of the decision.

If the application is granted the local authority will place a statement on the public register stating that certain information has been withheld and stating the reasons why, plus whether this information is relevant to a permit condition, and whether the permit condition has been complied with.

The local authority may consider that certain areas of the information are commercially confidential, and others are not. If this is the case it will be stated in the determination notice. The operator may appeal against this in the normal manner.

Further guidance on commercial confidentiality can be found in Chapter 8 of the LA-IPPC and LAPPC manual.