

EP Permit ref EPR/104
Variation ref EPR/104/V01/2017

Shed 4
Cat 3 / Food
Waste

Calderdale Metropolitan Borough Council

The Environmental Permitting (England and Wales) Regulations 2016

Regulation 20

Variation Notice

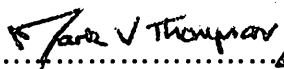
To: The Company Secretary
Omega Proteins Limited
Office 1
Swales Moor Farm
Swales Moor Road
Halifax
HX3 6UF

Calderdale Metropolitan Borough Council ("the Council"), in the exercise of the powers conferred upon it by regulation 20 of the Environmental Permitting (England and Wales) Regulations 2016 ("the 2016 Regulations") hereby gives you notice as follows-

The Council has decided to vary the conditions of permit reference EPR/104 in respect of the operation of the animal by-products storage installation at Building 4 Swales Moor Farm, Swales Moor Road, Halifax HX3 6UF.

The variations of the conditions of the permit and the date on which they are to take effect are specified in Schedule 1 to this notice. A consolidated permit as varied by this notice is set out in Schedule 2.

Signed on behalf of the Council


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Date... 11th July 2017

Mark Thompson
Acting Director of Economy and Environment
An authorised officer of the Council

Schedule 1

Certain terms have been defined in the preamble to the permit, and some of the conditions have been reworded to use these definitions.

Definitions: in this permit the phrases shown in italics below shall have the meanings assigned below:

Best Available Techniques and the abbreviation *BAT* shall have the meaning given in Article 3(10) of the Directive 2010/75/EU.

Building 4 and *The installation* shall mean the building designated Building 4 on plan EPR/104/P1, and any building erected partly or wholly over the footprint of that building that is intended to be used for the storage of animal or vegetable matter.

The installation boundary shall mean the red line on plan EPR/104/P1.

Material intended for Building 4 shall mean animal or vegetable matter brought onto the site, or moved within the site, with the intention of unloading it into Building 4, whether or not such unloading subsequently takes place.

'As soon as practicable' means within 30 minutes unless a longer time is justified.

'Site Environmental Management System' means the documented system supplied as part of the operator's application to vary the permit in June 2017, including the odour management plan v1.0 and documents referred to in that plan.

The changes to the permit conditions are set out Table 1, which forms part of this notice. Other conditions have been renumbered, and where permit conditions include references to other conditions, this renumbering has been incorporated. In Table 1 numbers in square brackets e.g [3.3] refer to the renumbered conditions.

Table 1: Variations to the conditions of the permit

Condition	Details	Reason/ source
2.1	Reworded - The site weather station shall be maintained and used to monitor and record the wind direction.	A weather station is on site, and the wind direction indicator is not required.
2.2	Reworded - Environmental monitoring including odour monitoring will be carried out in accordance with the procedures in the site Environmental Management System	The operator has provided an Environmental Management System setting out procedures (see definitions)
2.3	Reworded - Odour assessments will be carried out by a person or persons not directly involved in the permitted process and this person shall be possessed of normal faculties for sensing and distinguishing odours.	Wording suggested by operator

2.4	Reworded - Details of the monitoring undertaken in accordance with Condition 2.2 shall be recorded on the form designated in the site procedure, including details of wind direction taken from the on-site weather station or from Met Office Data should the weather station be temporarily unavailable	Wording suggested by operator, adapted to match with 2.1 and 2.2
2.5	Reworded – In the event of observation of site odours likely to impact on nearby sensitive receptors, or the operator becoming aware of offensive odour off site, investigation shall be carried out as set out in the procedures in the site Environmental Management System.	Follows wording suggested by operator
3.2	Reworded - Where odorous material is accepted onto site intended for Building 4 the unloading of such materials shall take place as soon as practicable after arrival on site. Unloading shall take place within Building 4 with the roller shutter and personnel doors closed.	The operator suggests that the original condition is not required, but it is possible that the need to bring odorous material onto site will arise from time to time.
3.3	Deleted	No longer needed
3.4 [3.3]	Reworded - Empty vehicles and containers from which material has been unloaded into Building 4 shall be kept in Building 4 until transferred to the wash area for cleaning. Cleaning shall take place as soon as practicable after the containers are removed from the building.	Follows wording suggested by operator, but allows for vehicles unloading into Building 4. The term 'as soon as practicable' is defined in the permit.
3.5 [3.4]	Reworded - Spillages of animal material occurring outside Building 4, of materials intended for or removed from Building 4, shall be contained and cleared as soon as practicable.	Follows wording suggested by operator, but specifies material intended for Building 4 as the permit does not apply to other material.
3.6	Deleted	Covered by other conditions
3.7	Deleted	Covered by other conditions
3.8 [3.7]	Reworded - Animal by-products shall be kept in Building 4 for a maximum of three days hours after receipt, or for four days over a public holiday. Odorous material shall be removed as soon as it is possible to do so.	Follows wording suggested by operator, but reference to odorous material added.
4.2	Merged with Condition 4.1	Suggested by operator, although the original wording has been retained.
4.7 [4.6]	Smoke testing interval changed to 12 months	
4.8	Reworded - All doors to Building 4 shall be close fitting and shall be kept closed when not in use for entry or exit.	Suggested by operator, although some of the original wording has been retained.
4.9	Deleted	Refers to door alarm

4.10	Deleted	Cleaning facilities now centralised.
5.1	Reworded - The operator shall designate an appropriate person as the primary point of contact for all matters relating to the permitted activity. Changes to the primary point of contact shall be promptly notified to the Council.	Suggested by operator.
5.2	Reference to alarms deleted.	Not relevant.
5.4	Reworded - Checks on the fabric and structure of Building 4 shall be carried out in accordance with the site Environmental Management System.	Removes references to alarms and cleaning equipment.
5.6	Deleted	Largely duplicates 2.5.
5.7	Deleted	This is an implied condition in all existing permits.

All variations shall come into effect on 7th August 2017.

Schedule 2

The complete varied permit is enclosed with this notice.

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 EPR General Guidance Manual on the DEFRA website www.defra.gov.uk.

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 previous variations. 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 38(1) (b) of the 2016 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 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.

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 or 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;

EP Permit ref EPR/104
Variation ref EPR/104/V01/2017

- 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.

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

Or for appeals in Wales:

The Planning Inspectorate
Crown Buildings
Cathays Park
CARDIFF
CF10 3NQ

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, ie 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.