The Pollution Prevention and Control (England and Wales) Regulations 2000, Regulation 24

ENFORCEMENT NOTICE

Ref: **NT/ 200651965**

To: **The Boro Foundry Limited**
Stour Vale Road
Lye
West Midlands
DY9 8PR

Dudley Metropolitan Borough Council ("the Council") hereby gives you notice that, pursuant to Regulation 24 of the Pollution Prevention and Control (England and Wales) Regulations 2000, it is of the opinion that you are contravening condition 4.8 of the Permit Reference PB/93 to operate an installation permitted at the premises known as

The Boro Foundry Limited
Stour Vale Road
Lye
West Midlands
DY9 8PR

granted to you by the Council on the 24th day of March 2005.

Schedule 1 to this Notice sets out the matters constituting the contravention(s), the remedial steps that must be taken and the period within which those steps must be completed.

Guidance which provides information to operators receiving an Enforcement Notice is attached to this Notice. This guidance does not form part of the Notice.

Dated: **30th November 2006**

Signed: .....
Nick Powell Head of Public Protection
(Authorised to sign on behalf of Dudley Metropolitan Borough).

Address for all communications:

Dudley MBC
Directorate of the Urban Environment
Claughton House, Blowers Green Road,
Dudley,
West Midlands, DY2 8UZ

Enforcement Notice.

SCHEDULE 1

Permit Condition:	Matters constituting the contravention:	Steps to be taken to remedy the said contravention:	Date by which the said steps are to be taken:
4.8	Waste particulate matter not stored in covered containers or sealed bags whilst awaiting removal from the site for disposal.	Store all waste particulate matter in covered containers or sealed bags whilst awaiting disposal.	18th January 2007

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).

Dealing with a Enforcement Notice

The person or company named on this notice is considered by the Council either to be contravening, have contravened or to be likely to contravene one or more conditions in the Pollution Control Permit granted by the Council under the The Pollution Prevention and Control (England and Wales) Regulations 2000.

Appeals

Under regulation 27(2) of the 2000 Regulations operators have the right of appeal against a enforcement 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).
Notice of appeal against a enforcement notice must be given within 2 months of the date of the notice. 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 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 permit;
- 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 be normally 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.

Offences
Failure to comply with the requirements of an enforcement 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 to imprisonment for a term not exceeding 6 months or both; or (ii) to a fine or imprisonment for a term not exceeding five years or both (regulation 32), depending on whether the matter is dealt with in Magistrates or Crown Court. Additionally, under regulation 33 of the 2000 Regulations, the Council may in certain cases take proceedings in the High Court for the purpose of securing compliance with the enforcement notice.