
STATUTORY INSTRUMENTS

2004 No. 107

The Solvent Emissions (England and Wales) Regulations 2004

Application for variation of the conditions of an existing permit or authorisation in relation to installations covered by the Solvent Emissions Directive

3.—(1) Where—

- (a) an installation contains—
 - (i) a new SED installation; or
 - (ii) an existing SED installation which underwent a substantial change in operation, or at which abatement equipment was installed on or after 1st April 2001 and before the coming into force of these Regulations; or
 - (iii) an existing SED installation at which a risk phrase substance or preparation began to be used before the coming into force of these Regulations; and
- (b) the affected part of the SED installation is on the date of coming into force of these Regulations subject to a permit,

the operator shall within the period of 4 months beginning on the date of coming into force of these Regulations make an application under regulation 17 of the 2000 Regulations for a variation of the conditions of that permit.

(2) Where—

- (a) abatement equipment was installed in an existing SED installation on or after 1st April 2001 and before the coming into force of these Regulations;
- (b) the activities carried out in the affected part of the SED installation fall wholly within any description of processes set out in Schedule 1 to the 1991 Regulations under the heading “Part A”; and
- (c) that part of the SED installation is on the coming into force of these Regulations wholly covered by an authorisation,

the operator shall within the period of 4 months beginning on the date of coming into force of these Regulations either make an application under section 11 of the Environmental Protection Act 1990 for a variation of the conditions of the authorisation; or make an application for a permit to operate the whole installation under regulation 10 of the 2000 Regulations.

(3) Where—

- (a) an installation contains an existing SED installation at which a risk phrase substance or preparation began to be used before the coming into force of these Regulations; and
- (b) the SED installation or part of the SED installation in which the substance or preparation is used is subject to an authorisation,

the operator shall within the period of 4 months beginning on the date of coming into force of these Regulations make an application under section 11 of the Environmental Protection Act 1990 for a variation of the conditions of the authorisation.

(4) Subject to paragraph (1), where an installation which contains an existing SED installation is subject to a permit, the operator of the installation shall by the SED date make an application under regulation 17 of the 2000 Regulations for a variation of the conditions of that permit.

(5) Subject to paragraph (2), where the activities carried out in an existing SED installation—

(a) fall wholly within any description set out in Schedule 1 to the 1991 Regulations under the heading “Part A”; and

(b) are wholly covered by an authorisation,

the operator shall by the SED date make an application under section 11 of the Environmental Protection Act 1990 for a variation of the conditions of the authorisation or make an application for a permit to operate the whole installation under regulation 10 of the 2000 Regulations.

(6) Paragraphs (1) to (5) do not apply if the permit or authorisation already includes all conditions necessary to meet the requirements of the Solvent Emissions Directive.

(7) Where—

(a) an operator of an installation containing an existing SED installation proposes to make a substantial change in the operation of that SED installation or to install abatement equipment; and

(b) the affected part of the SED installation is subject to a permit,

the operator shall make an application under regulation 17 of the 2000 Regulations for a variation of the conditions of the permit and may not make the substantial change in operation or install the abatement equipment before the positive determination date.

(8) Where—

(a) an operator of an installation containing an existing SED installation proposes to install abatement equipment;

(b) the activities carried out in the affected part of the SED installation fall wholly within any description set out in Schedule 1 to the 1991 Regulations under the heading “Part A”; and

(c) that part of the SED installation is wholly covered by an authorisation,

the operator shall either make an application under section 11 of the Environmental Protection Act 1990 for a variation of the conditions of the authorisation or make an application for a permit to operate the whole installation under regulation 10 of the 2000 Regulations, and may not install the abatement equipment before the positive determination date.

(9) Where—

(a) an operator of an installation containing an existing SED installation proposes to start using a risk phrase substance or preparation; and

(b) the SED installation or part of the SED installation in which it is proposed to use the risk phrase substance or preparation is subject to a permit or an authorisation,

the operator shall make an application under regulation 17 of the 2000 Regulations for a variation of the conditions of the permit or an application under section 11 of the Environmental Protection Act 1990 for a variation of the conditions of the authorisation, and the operator may not begin using the substance or preparation before the positive determination date.

(10) Where after the coming into force of these Regulations—

(a) a substance or preparation used in an SED installation becomes a risk phrase substance or preparation; and

(b) the SED installation or part of the SED installation in which the substance or preparation is used is subject to a permit or an authorisation,

the operator shall within 4 months beginning on the date on which the risk phrase is assigned to that substance or preparation make an application under regulation 17 of the 2000 Regulations for a variation of the conditions of the permit or an application under section 11 of the Environmental Protection Act 1990 for a variation of the conditions of the authorisation.

(11) Paragraphs (1) and (7) shall not apply to an installation containing an SED installation which undergoes a substantial change in operation where the total emissions of the SED installation do not exceed those that would have been permitted had the substantially changed part of the SED installation been subject to a permit containing conditions necessary to ensure that the SED installation complied with the requirements of Articles 5, 8 and 9 of the Solvent Emissions Directive.

(12) An application under this regulation shall contain the information specified in paragraph 1C of Part 1 of Schedule 4 to the 2000 Regulations.

(13) Where an operator fails to comply with any of the requirements of this regulation, the regulator shall serve a notice on the operator specifying the relevant requirement, requiring him to comply with the requirement and specifying the period within which it shall be complied with.

(14) A notice served under paragraph (13) shall be treated for the purposes of the 2000 Regulations as an enforcement notice served under regulation 24(1) of the 2000 Regulations.

(15) For the purposes of this regulation—

“affected part” means that part of an SED installation which undergoes a substantial change in operation or in which abatement equipment is installed or in which a risk phrase substance or preparation is used;

“positive determination date” means—

- (a) in relation to an application for a variation of a permit, the date on which the permit is varied, whether in pursuance of an application for a variation or, on appeal, of a direction to vary it;
- (b) in relation to an application for a variation of an authorisation, the date on which the authorisation is varied, whether in pursuance of an application for a variation or, on appeal, of a direction to vary it; or
- (c) in relation to an application for a permit, the date on which the permit is granted, whether in pursuance of an application or, on appeal, of a direction to grant it;

“the SED date” means—

- (a) in relation to an existing SED installation for which the operator wishes to use a reduction scheme, 31st October 2005;
- (b) in relation to all other existing SED installations, 31st October 2006.