



Llywodraeth Cymru
Welsh Government

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Welsh Government

Consultation – summary of responses

Planning (Hazardous Substances) (Amendment) (Wales) Regulations 2014

Date of issue: 7 April 2014

Table of Contents

1. INTRODUCTION	2
2. SUMMARY OF RESPONSES	2
3. CONCLUSION	3
4. COPIES OF RESPONSES RECEIVED	3

1. Introduction

- 1.1 The “Planning (Hazardous Substances) Regulations 1992 (Amendment) (Wales) 2014” consultation document was launched on 23 September and was open for responses until 18 November 2013. A total of three questions were set out in the consultation document with a standardised form provided for ease of response.
- 1.2 The consultation document generated three responses and there was full support for proposed method of amending the Planning (Hazardous Substances) Regulations in Wales to implement Article 30 of the Seveso III Directive.
- 1.3 This document provides a summary of responses received.

2. Summary of Responses

- 2.1 In total, three responses were received for this consultation paper. Of these responses, two were from local planning authorities and one from a business. The low response rate, that followed an extensive communication exercise, indicates the non-contentious nature of the amendment and willingness to see it adopted by all stakeholders.
- 2.2 The respondents were:
 - Ceredigion County Council
 - Pembrokeshire County Council
 - Valero Energy Ltd.
- 2.3 Copies of the individual consultation responses received are available on the Welsh Government website, in the ‘Closed Consultation’ section

Question one

- 2.4 Question one asks whether the proposed amendments to insert Heavy Fuel Oils as a named petroleum product with a controlled quantity of 2,500 tonnes appropriate to transpose the requirements of article 30 of the Seveso III Directive. Should the respondent disagree, the question asks for alternative options.
- 2.5 All respondents agreed that our proposed methodology is the most appropriate method of transposing the requirements of the Directive. Our proposals were considered to provide regulatory certainty and consistency for Heavy Fuel Oils. This would ensure Wales operates on equal footing to other administrations, providing a competitive market. No alternative options were presented.

Question two

- 2.6 Question two asks if the draft partial regulatory impact assessment properly identify the costs and benefits associated with making the draft regulations.
- 2.7 All respondents agreed that our assessment provides a fair assessment of the potential costs and benefits under the three identified options. Stakeholders are in agreement that our preferred option has the greatest benefits.

Question three

- 2.8 Question three asks if the respondent has any other comments in relation to the proposal or consultation. No further comments were made.

3. Conclusion

- 3.1 The respondents to the process are supportive of the introduction of Heavy Fuel Oils as a named petroleum product within the Planning (Hazardous Substances) Regulations 1992. This will transpose the requirements of article 30 of the Seveso III Directive.

4. Copies of Responses Received

- 4.1 The following pages contain copies of the actual responses received.

Consultation reference: WG19132

Annex 2 - Consultation Response Form

Planning (Hazardous Substances) (Amendment) (Wales) Regulations 2014

We want your views on our proposals to ensure the land use planning system in Wales is amended to comply with the requirements of article 30 of the Seveso III Directive (2012/18/EU).

Please submit your comments by 18/11/2013.

If you have any queries on this consultation, please email:
planconsultations-b@wales.gsi.gov.uk or telephone Owen Struthers on 029 2082 1715.

Data Protection
<p>Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.</p> <p>The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.</p> <p>Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.</p>

Consultation reference: WG19132

Planning (Hazardous Substances) (Amendment) (Wales) Regulations 2014		
Date of consultation period: 23/19/2013 – 18/11/2013		
Name	Cath Ranson	
Organisation	Pembrokeshire County Council	
Address	County Hall, Freeman's Way, Haverfordwest, SA61 1TP	
E-mail address	cath.ranson@pembrokeshire.gov.uk	
Type (please select one from the following)	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Is the proposal to insert Heavy Fuel Oils as a named petroleum product with a controlled quantity of 2,500 tonnes within Schedule 1 appropriate to transpose the requirements of article 30 of the Seveso III Directive? If not please provide the reason and suggest alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

On balance, this seems to be the most appropriate course of action and this needs to happen in early 2014 to ensure that the requirements of Article 30 of Seveso III are satisfied.

This approach will ensure that the requirements of Seveso III in respect of Heavy Fuel Oil are satisfied.

The current approach (based on Seveso II) is considered to be unreasonable as some sites that at present require Hazardous Substances Consent do not constitute a major accident hazard.

The approach proposed will reduce the number of sites where such Consent is required and will bring with it a number of benefits, in terms of consistency of approach, focus on sites where there is a major hazard and avoidance of unnecessary time and expense for the industry and Local Planning Authorities. It will also provide consistency between the Regulations and CoMAH, avoiding problems that would arise by having dual standards.

The approach taken in Wales should be consistent with that introduced in other UK and European administrations, to ensure that no administration or state is

Consultation reference: WG19132

placed at an unfair competitive advantage or disadvantage through variations in consenting approaches.
Reducing the number of sites requiring Hazardous Substances Consent may allow the compliance issue identified in Annex 1 (section 2.3) to be addressed.
While retaining the existing approach would result in Wales having a minimum standard above that required elsewhere in Europe, this would seem to be unreasonable in the context of the level of risk, would place Welsh businesses at a competitive disadvantage and would result in unnecessary bureaucracy for businesses and Local Planning Authorities. It might also compromise efforts to address the compliance issue.

Q2	Does the draft partial regulatory impact assessment at annex 1 properly identify the costs and benefits associated with making the regulations?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Annex 1 provides a fair assessment of the potential costs and benefits under the three identified options.			

Q3	Do you have any other comments in relation to the proposal or consultation?
Comments: No further comments	

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
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How to Respond

Please submit your comments in any of the following ways:

Email

Consultation reference: WG19132

Please complete the consultation form and send it to :

planconsultations-b@wales.gsi.gov.uk

[Please include 'Hazardous Substances Regulations Consultation – WG19132' in the subject line]

Post

Please complete the consultation form and send it to:

**Hazardous Substances Regulations Consultation
Development Management Branch
Planning Division
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

If you have any queries on this consultation, please

email: planconsultations-b@wales.gsi.gov.uk or

telephone: Owen Struthers on 029 2082 1715

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Annex 2 - Consultation Response Form

Planning (Hazardous Substances) (Amendment) (Wales) Regulations 2014

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Please submit your comments by 18/11/2013.

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Planning (Hazardous Substances) (Amendment) (Wales) Regulations 2014		
Date of consultation period: 23/19/2013 – 18/11/2013		
Name	Jenny Boulton	
Organisation	Ceredigion County Council	
Address	Ceredigion County Council Penmorfa Aberaeron Ceredigion SA46 0PA	
E-mail address	jenny.boulton@ceredigion.gov.uk	
Type (please select one from the following)	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Is the proposal to insert Heavy Fuel Oils as a named petroleum product with a controlled quantity of 2,500 tonnes within Schedule 1 appropriate to transpose the requirements of article 30 of the Seveso III Directive? If not please provide the reason and suggest alternatives.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q2	Does the draft partial regulatory impact assessment at annex 1 properly identify the costs and benefits associated with making the regulations?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

Consultation reference: WG19132

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Q3	Do you have any other comments in relation to the proposal or consultation?
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Comments:

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I do not want my name/or address published with my response (please tick) ☐

How to Respond

Please submit your comments in any of the following ways:

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Please complete the consultation form and send it to :

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[Please include 'Hazardous Substances Regulations Consultation – WG19132' in the subject line]

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Development Management Branch
Planning Division
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3 NQ**

Additional information

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Hazardous Substances Regulations Consultation
Development Management Branch
Planning Division
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ

11th November 2013

Re: Welsh Government Consultation Document WG19132, 'Planning (Hazardous Substances) (Amendment) (Wales) Regulations 2014

Dear Sir/Madam,

Valero Energy Ltd owns and operates the Pembroke Refinery in south west Wales. As such we are a major refiner and supplier of Heavy Fuel Oil (HFO) in Wales. We are grateful for this opportunity to respond to this consultation on the proposals for amending the Planning (Hazardous Substances) Regulations 1992. Specifically, we would like to record our support for the Welsh Government's proposal to transpose Article 30 of the Seveso III Directive into Welsh legislation by 15 February 2014.

Whilst Valero will not be affected by any proposed alterations to Heavy Fuel Oil (HFO) classification under Article 30 of the Seveso III Directive, we nonetheless support the early transposition of Article 30 for two key reasons.

Firstly, we agree with the principle, outlined in this consultation, which argues in favour of consistency in legislative oversight of hazardous substances. Introducing HFO as a named petroleum product in the Planning (Hazardous Substances) Regulations 1992 will keep the consenting threshold for that product in parallel with COMAH regulations, and as a result reduce any potential for regulatory uncertainty. Implementation of Article 30 in 2014 will ensure legislative consistency for industry, regulators and the general public.

Indeed, Valero would encourage the Welsh Government to adopt this principle, of maintaining regulatory and legislative consistency as much as practically possible, as the standard approach for the implementation of such regulations.

In addition to this, we strongly welcome the recognition that by not transposing Article 30 into Welsh legislation in 2014, it will result in a negative impact on the competitiveness of Welsh industry in relation to the other UK nations and EU member states. The trend towards excessive implementation or 'gold-plating' of EU Directives – without regard for the impact on Welsh or UK industry in the wider EU context – is a particular concern to Valero. Therefore, we welcome this proposal where the Welsh Government is seeking to ensure that EU-wide changes to hazardous substances regulations do not leave Wales with a more onerous regulatory framework than exists in the rest of the UK or EU.

Once again, Valero encourages the Welsh Government to adopt this approach, namely of guaranteeing that implementation of EU Directives into Welsh law do not result in 'gold-plating', as a first principle when it comes to European legislation that could impact on Wales' energy industry.

Q1. Is the proposal to insert Heavy Fuel Oils as a named petroleum product with a controlled quantity of 2,500 tonnes within Schedule 1 appropriate to transpose the requirements of Article 30 of the Seveso III Directive?

Yes.

Q2. Does the draft partial regulatory impact assessment at Annex 1 properly identify the costs and benefits associated with making the regulations?

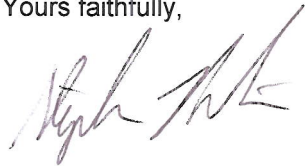
Yes.

Q3. Do you have any other comments in relation to the proposal or consultation?

No.

As always, Valero is grateful for the opportunity to discuss these issues with the Welsh Government, and we look forward to further developments with great interest.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'Stephen Thornton', written in a cursive style.

Stephen Thornton
Public Affairs Manager