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Llywodraeth Cymru
Welsh Government

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Consultation Document

Water Pollution Prevention – Oil Storage Standards

Prevention of Pollution (Oil Storage) (Wales) Regulations

Date of issue: **24 June 2015**

Action required: Responses by **24 September 2015**

Overview

This consultation seeks views on proposals for new controls on the storage of oil in Wales.

The Water Framework Directive (2000/60/EC) requires that water bodies achieve good ecological status by 2027. Tackling diffuse pollution is central to achieving this. Oil is one of the most significant pollutants of water in Wales and in many cases the pollution is the result of oil lost from inadequate storage facilities.

The proposed Regulations will set minimum standards for oil storage facilities, including the requirement for secondary containment to retain any oil lost from a storage tank or other container.

Similar measures are in place in England, Scotland and Northern Ireland.

How to respond

Please submit your comments by 24 September 2015, in any of the following ways:

By email: water@wales.gsi.gov.uk

By post:

Water Branch, Welsh Government
Cathays Park, Cardiff, CF10 3NQ

When responding please state whether you are responding as an individual or are representing the view of an organisation. If responding on behalf of a larger organisation please make clear who the organisation represents and, if applicable, how the views of members were collected.

Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

The draft regulations, regulatory impact assessment and guidance are available on the consultation web page, www.gov.wales/consultations

Contact details

For further information:

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Address:

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Email: water@wales.gsi.gov.uk

Telephone: 029 2082 5509

Data protection

How the views and information you give us will be used

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.

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.

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.

Contents

Chapter	Title	Page number
1	Introduction	2
2	The need for change	3
	Case studies	4
3	The Regulations	5
Appendix 1	Consultation Response Form	9
Appendix 2	The Prevention of Pollution (Oil Storage) (Wales) Regulations 2016	
Appendix 3	Consultation Stage Regulatory Impact Assessment January 2015	
Appendix 4	Draft Guidance on the Regulations	

1. Introduction

- 1.1 The Welsh Government vision for water in Wales is to ensure that Wales continues to have a thriving water environment which is sustainably managed to support healthy communities, flourishing businesses and the environment. We want the people of Wales to receive first class, value for money, water services with water used efficiently, safely and respectfully by all. Our Water Strategy outlines what we need to do to achieve this vision.
- 1.2 Although there have been significant improvements in water quality in recent years, the risk of pollution is a constant threat to our water environment and the benefits it provides. Much of the improvement has been the result of tackling point source pollution from sewage treatment works or industrial discharges. This has highlighted the impact of diffuse water pollution, which is the result of a variety of, often small, sources of pollution which can be difficult to identify and control.
- 1.3 The Strategy highlights the actions needed to reduce water pollution and in particular, to tackle diffuse pollution. One part of this is the need to reduce the frequency and impact of oil pollution incidents.
- 1.4 Despite voluntary efforts over the last 20 years, the number of oil pollution incidents in Wales shows no downward trend, and it continues to be one of the most frequently reported causes of pollution.
- 1.5 In addition, in some cases the loss of oil from a storage tank can cause serious damage to property, requiring extensive remediation measures which can be very distressing to occupants.
- 1.6 A large proportion of these incidents are the result of failures in oil storage installations and delivery processes. We therefore propose to introduce regulations which will set minimum standards for oil storage facilities.
- 1.7 We are therefore consulting on draft Prevention of Pollution (Oil Storage) (Wales) Regulations (the Regulations) which aim to reduce and prevent water pollution from inadequate and unsafe oil storage facilities that are above ground or in buildings. Key requirements will be for the storage container to be fit for purpose and to have a secondary containment system. This is normally a bund¹ or a drip tray, designed to contain any contents escaping from the storage container.
- 1.8 This consultation is aimed at all who market, install, maintain, insure, deliver to and own oil storage facilities in Wales that are above ground or in buildings. This includes organisations representing industrial,

¹ A bund is an outer wall or enclosure.

agricultural and commercial users of oil, as well as organisations representing private users. Organisations and individuals with an interest in the water environment, such as those who abstract water, have fisheries interests or related conservation concerns may also be interested. We would also like to hear from anyone with experience of oil pollution and its impact in Wales.

1.9 Because of the potential impact of oil spills on environmental health and private water supplies, especially where domestic properties are affected, local authorities may also have an interest.

1.10 A list of the organisations that we have approached directly for views accompanies this consultation at **Appendix 4** but we welcome all views, from any interested party or individual

2. The need for change

2.1 Currently the only standards for oil storage facilities in Wales which aim to protect the water environment relate to agricultural fuel storage, waste oil and certain large industrial installations. Standards for tanks exceeding 3,500 litres for domestic properties are subject to Building Regulation controls when installed.

2.2 Similar regulations to those proposed in this consultation have been in place in England since 2001, in Scotland since 2006 and were introduced in Northern Ireland in 2010.

2.3 Following the introduction of regulations in England, the number of oil pollution incidents has fallen steadily. Despite a voluntary approach to oil pollution prevention in Wales, and the fact that many organisations which operate in other parts of the UK already apply these standards on a voluntary basis for their sites within Wales, the number of such incidents in Wales has not been reduced to the same extent.

Case Studies

1. Oil spill from domestic storage tank, Aberystwyth

Following vandalism at a rural property in mid Wales in July 2014, approximately 900 litres of heating oil were discharged to a surface water drainage system. The oil flowed a short distance along a ditch before soaking into the ground within 200 metres of a public water supply borehole. Because of the threat of pollution to the groundwater, it was necessary to shut down the borehole, which remained out of use for nearly 3 months. Fortunately an alternative supply was available to replace the loss of the source for this time.

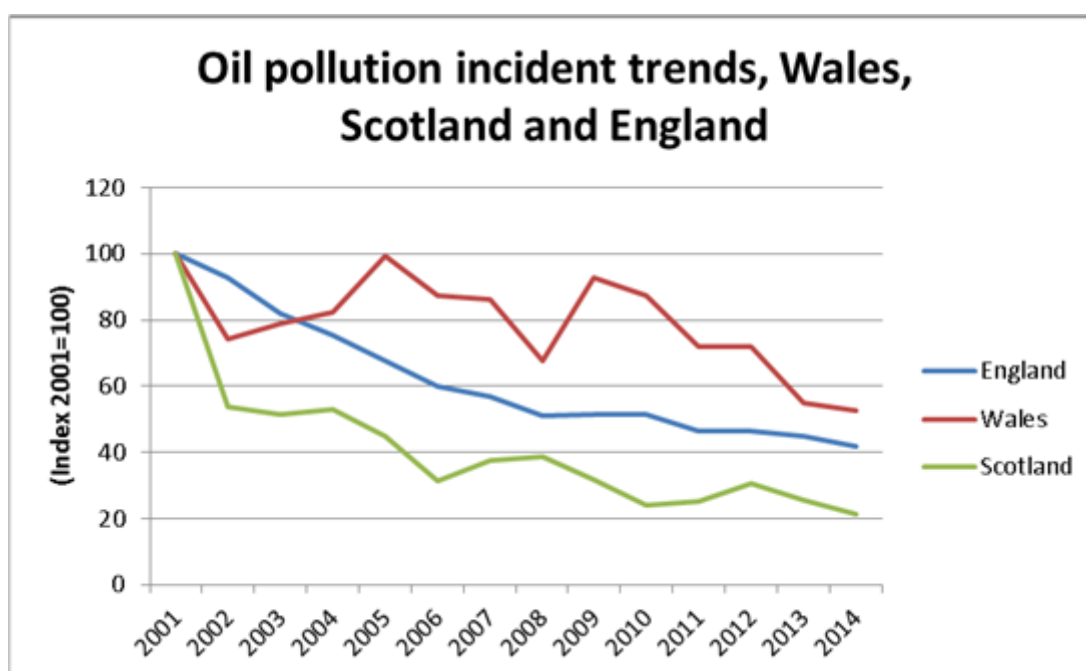
The incident involved the emergency services, the water company and Natural Resources Wales, as well as the owner's insurance company and contractors engaged to undertake the clean-up of the spill. Extensive remedial works were required to ensure that the borehole was protected, with costs to the water company alone in excess of £250k.

2. Oil loss from commercial premises, Ceredigion

Local residents in Llandysul, Dyfed, reported pollution of the Afon Teifi by oil in July 2010. More than 5 kilometres of the river were affected. The oil was traced to a storage tank at commercial premises in Pencader, Ceredigion. An estimated 2-300 litres of diesel oil had been lost from the tank following an attempt to steal oil. [The Teifi is a famous fishery, particularly for Sewin \(sea trout\).](#) Fortunately there were no reports of any harm to fish. However, local recreational activities were affected with the cancellation of a planned canoe event at Llandysul.

Specialist contractors were called in to carry out a clean up as required.

Data for Wales, comparison of trend with England and Scotland.



2.4 The implementation of these Regulations will result in an improvement in the quality of oil storage facilities in Wales and a consequent reduction in the frequency and severity of oil pollution of water. It will also reduce the incidence of damage to property and to private water supplies.

3. The Regulations

3.1 This consultation seeks views on proposed new Regulations on oil storage in Wales. Key requirements will be for storage containers that are above ground or in buildings to be fit for purpose and to have a secondary containment system. This is normally a bund (which is an outer wall or enclosure) or a drip tray, designed to contain any contents escaping from the storage container.

3.2 The proposed Regulations will apply to anybody who has custody or control of oil storage facilities that are above ground or in buildings with a storage capacity of more than 200 litres. The proposed Regulations will also apply to waste oil storage and will replace the agricultural fuel oil storage provisions of the Water Resources (Control of Pollution) (Silage, Slurry and Agriculture Fuel Oil) (Wales) Regulations 2010.

3.3 The proposed Regulations will not apply to:

- any container with a storage capacity of 200 litres or less;

- any **existing** container serving premises used wholly or mainly as a private dwelling; and
- any container which is wholly underground.

3.4 Underground oil storage requires specific precautions in order to protect the water environment. They are excluded from these regulations because the relatively simple measures required for above ground storage, in the form of secondary containment, is not appropriate for underground systems.

3.5 Provision will also be made for transitional cases with the proposed Regulations coming into operation in three stages:

1. replacement and new storage facilities on both domestic and non-domestic premises will have to comply from the coming in to force date of the Regulations;
2. existing non-domestic storage facilities, which are located within 10 metres of a watercourse or 50 metres of a well, spring or borehole, will have to comply within two years of the Regulations coming into operation;
3. all remaining existing non-domestic storage facilities will have to comply within four years of the Regulations coming into operation.

Existing domestic storage facilities will remain exempt until they are replaced.

3.6 The current exemption for agricultural fuel oil facilities predating the 1991 Water Resources (Control of Pollution) (Silage, Slurry and Agriculture Fuel Oil) Regulations will be removed and such installations will have to comply within 2 or 4 years as described above.

3.7 Natural Resources Wales will be responsible for enforcing the proposed Regulations. Contact details for Natural Resources Wales are provided at the end of Annex 3 - Draft Guidance on the Regulations.

3.8 Where Natural Resources Wales considers that there is a risk of pollution to waterways or water contained in any underground strata, it **can use its existing works notices powers**² to serve a notice on the person having custody or control of the oil to minimise that risk.

Summary of the key proposals in the draft regulations:

- A requirement for secondary containment for all new, above ground oil storage facilities.

² The Anti-Pollution Works Regulations 1999

- Construction standards for oil storage facilities including mobile bowzers.
- Phased implementation of secondary containment for existing commercial, institutional and industrial oil storage facilities. Existing domestic installations will remain exempt until they are replaced
- Offence, civil sanctions and enforcement provisions.
- Amendment of the Water Resources (Control of Pollution) (Silage, Slurry and Agriculture Fuel Oil) (Wales) Regulations 2010 to remove the agricultural fuel oil provisions, including the exemption for facilities predating the 1991 Regulations.

The following section outlines the structure of the Regulations. The full requirements are set out in the draft Regulations.

Regulation 1 details the title of the Regulations and the date they come into operation.

Regulation 2 contains definitions for some of the terms used in the Regulations.

Regulation 3 imposes requirements for the strength and integrity of portable containers of less than 200 litres capacity.

Regulation 4 outlines exemptions from requirements of Regulations 5 to 7 for portable containers which are subject to Regulation 3, underground tanks, oil distribution depots and certain sites regulated under the Environmental Permitting Regulations.

Regulation 5 sets out the general requirements for above ground oil storage. This includes requirements with respect to strength and integrity for tanks and for secondary containment system for both tanks and drums. The Regulation specifies capacity of the secondary containment, which is designed to contain oil leaking from the primary container or its ancillary pipe work and equipment and the location of pipes, valves, gauges and ancillary equipment.

Regulation 6 sets out the specific requirements for fixed tanks and related equipment. This includes requirements relating to valves, gauges, fill, draw and overflow pipes and leak detection and alarm systems.

Regulation 7 sets out the specific requirements for mobile bowzers. Any tap, valve or sight gauge fixed to the bowser must be locked shut when not in use. Also, where oil is delivered through a flexible pipe which is permanently attached to the bowser it must be fitted with a manually operated pump or valve, all of which must be locked shut when not in use.

Regulation 8 outlines the transitional provisions following the coming into operation of the Regulations. It is proposed that the Regulations will come into operation in three stages, and that all above ground oil storage facilities installed after the coming in to force date must conform to the requirements of

the Regulations. Regulation 8 sets out the dates for compliance for existing above ground oil storage facilities serving industrial, commercial and institutional sites, including mobile containers such as bowzers and drums, under the transitional provisions. Tanks located close to watercourses (within 10 metres), and wells and boreholes (50 metres) must comply within 2 years of the coming in to force date and remaining tanks within 4 years.

Regulation 9 contains the Offence provisions relating to breaches of Regulations 3 to 8.

Regulation 10 provides that Natural Resources Wales may impose civil sanctions with respect to offences under Regulation 9.

Regulation 11 provides Natural Resources Wales with the power to enforce the Regulations.

Regulation 12 contains consequential amendments to the Silage, Slurry and Agricultural Fuel Oil Regulations 2010.

Appendix 1

Specific Issues for Consultation

Consultation Response Form

Your name:

Organisation (if applicable):

Email / telephone number:

Your address:

Question 1: Do you consider that the proposed Regulations will provide improved protection for the water environment?

Yes

No

If not, why not?

Question 2: Are there any activities other than those specified in draft regulation 4 which should be exempted from the Regulations?

Yes

No

If yes, please provide details.

Question 3: Are the timescales for the provision of secondary containment for existing tanks reasonable?

Yes

No

If not, why not?

Question 4: Have you any comments to make on the sectors to which the Regulations will apply?

Yes

No

If yes, please provide details.

Question 5: Do you consider the enforcement provisions are reasonable and effective?

Yes

No

If not, why not?

Question 6: Have you any comments on particular aspects of the proposed Regulations or the regime in general?

Yes

No

If yes, please provide details.

Question 7: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Please enter here:

Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential, please tick here: