

Number: WG19312



Llywodraeth Cymru
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Consultation – summary of response: annex

Consultation on transposing the
land use planning requirements
of the Seveso III Directive on the
control of major accident hazards

Date of issue: August 2015

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

11/02/2015 – 08/04/2015		
Name	John Williams	
Organisation	Fillcare Ltd.	
Address	Lanelay Rd. Talbot Green Pontyclun Mid-Glamorgan. CF72 8YZ	
E-mail address	jwilliams.fillcare@fareva.com	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input 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"/>

Delivering Seveso III objectives through land-use planning policies

Q1	Do you agree with the proposed approach to deliver Seveso III objectives through land-use planning policies?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Planning controls on hazardous substances

Q2	Do you agree with the principle of aligning the list of controlled hazardous substances which require hazardous substances consent with the Seveso III Directive subject to the exceptions for liquefied petroleum gas (LPG), liquefied natural gas (LNG) and hydrogen?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3a	Do you agree with how we propose to implement controls on new establishments?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3b	Do you agree with our proposed amendments for modifications to establishments?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

Q3c	Do you agree with our proposals relating to how an application for consent is made?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3d	Do you agree with how we propose to address obligations on additional technical measures in relation to the environment?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Protecting areas around hazardous establishments

Q4	Do you have any comments on the proposals for controlling development around establishments and the use of current arrangements to deliver protection to areas of natural sensitivity?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

Public participation and access to justice

Q5	Do you agree with how we propose of deliver Seveso III requirements on public participation on specific individual projects and on plans and programmes?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

			comment)	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6	Do you have any additional comments on the consultation paper or the draft Regulations?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			
<p>1) This consultative paper omits an explanatory note apparently included in the corresponding consultative paper for the English version of the Regulations. This note clarified the change of entry for aerosols containing LPG from 'LPG' to 'Flammable Aerosols'. As this represents a significant difference in how LPG / aerosol inventory is determined, further explanation should be included.</p> <p>2) In part 2 of Schedule 1, entry no. 12 is listed as "Ethylene", whereas the CAS no. quoted for this entry is that for "Ethyleneimine" (which was entry no. 12 in the 1992 Regulations as amended).</p>			

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
<p>Please complete the consultation response form and send it to: planconsultations-j@wales.gsi.gov.uk (Please include "WG24167" in the subject line).</p>
Post

Consultation reference: WG24167

Please complete the consultation form and send it to:

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

Additional information

If you have any queries on this consultation, please

Email: planconsultations-j@wales.gsi.gov.uk

or

Telephone: Alan Groves on 029 2082 5362 or Owen Struthers on 029 2082 6430

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

11/02/2015 – 08/04/2015		
Name	[REDACTED]	
Organisation	United Kingdom Petroleum Industry Association	
Address	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	
E-mail address	[REDACTED]	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" 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"/>

Delivering Seveso III objectives through land-use planning policies

Q1	Do you agree with the proposed approach to deliver Seveso III objectives through land-use planning policies?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We welcome the changes put forward within this consultation paper, particularly in relation to linking Land use Planning Policies and Hazardous Substances Consent (HSC) with Seveso III and the revision to the relevant HSC forms.</p> <p>Our comments against the remaining consultation questions highlight where we feel that further improvements could be made to ensure greater clarity in the application of the regulations and improving efficiency for both industry and regulators</p>				

Consultation reference: WG24167

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Planning controls on hazardous substances

Q2	Do you agree with the principle of aligning the list of controlled hazardous substances which require hazardous substances consent with the Seveso III Directive subject to the exceptions for liquefied petroleum gas (LPG), liquefied natural gas (LNG) and hydrogen?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We would welcome further clarification in the regulations with regard to ‘temporary installations’ particularly where these apply to tankered products (such as Liquefied Petroleum Gas). Please confirm that in instances such as this no separate HSC would be required for such one-off operations, and therefore would not affect the Public Information Zone (PIZ).</p> <p>We would also seek clarification in the regulations as to what defines the status of a site (Upper or Lower tier CoMAH), we assume that this is based on the actual quantities stored on the site rather than quantities specified on the HSC</p>				

Q3a	Do you agree with how we propose to implement controls on new establishments?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>None</p>				

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

Q3b	Do you agree with our proposed amendments for modifications to establishments?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

Regulation 4, Paragraphs 14-16 provides an exemption for “relevant minor changes”. Paragraph 16 makes clear that the scope of “relevant minor changes” is intended to extend to changes in quantity and type of substances which previously would have required a new or modified HSC.

Paragraph 15 sets three requirements for a “relevant minor change”. The first two conditions seem common sense, and should be of the greatest concern to a local planning authority. The third requirement in 15(a)(iii), however, is that a “relevant minor change” cannot result in “non-compliance with any conditions imposed on any hazardous substance consent”. It is very likely that this third requirement could largely negate any benefit or purpose to the concept of “relevant minor change.”

An example may be where a product is required to be moved to an adjacent tank to allow cleaning or maintenance work to be carried out on the tank originally cited on the HSC. In this instance we would not wish to have to re-apply for HSC.

We would request that further discussion is required regarding the conditions of modifications and what is classified as “relevant minor changes” to ensure that there is sufficient operational flexibility within the HSC - the third requirement may be more appropriately worded such that the “relevant minor changes” do not change the off-site risk profile for the site.

Finally, it is important for operators to understand how the HSE have set the Consultation Zones as this will assist in determining what would be classified as “relevant minor changes”

Q3c	Do you agree with our proposals relating to how an application for consent is made?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG24167

		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>In general we agree with the proposals made, however we believe that this could be further improved with the development of a 'smart' form (one which clearly and unambiguously defines the information required from the operator) if used universally this would be of benefit. It would also improve efficiency if the existing CoMAH notification process could act as the trigger for a HSC application thus reducing the need to provide the same information multiple times</p>				

Q3d	Do you agree with how we propose to address obligations on additional technical measures in relation to the environment?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>None</p>				

Protecting areas around hazardous establishments

Q4	Do you have any comments on the proposals for controlling development around establishments and the use of current arrangements to deliver protection to areas of natural sensitivity?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We have concerns that whilst there is proper provision for controlling development in the vicinity of establishments for the sake of those involved in the development, there is only very limited recognition of the potential for such development to have serious adverse effect on the site itself. There are instances where a site has had their risk profile increased as a result of development outside of their fence line which is beyond their control. Any development which increases the occupancy of the consultation distances (CDs) around a site will increase the risk that the site has to manage (unless the CDs are conservative and there are actually no off-site impacts due to Major Accident Hazards). Refineries and similar high potential hazard sites are required to demonstrate that its risks are controlled to As Low As Reasonably Practicable</p>				

Consultation reference: WG24167

(ALARP). Inadequately controlled development around any CoMAH site has the potential to cause significant issues with regard to the risk assessments and risk reduction measures identified in the site’s Safety Report and may require additional and costly risk-reduction measures due to the changes within the CDs. In these instances it should be clear that any developer will be required to cover the cost of these additional measures, and not the site operator

Public participation and access to justice

Q5	Do you agree with how we propose of deliver Seveso III requirements on public participation on specific individual projects and on plans and programmes?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Regulation 26 states that “For other relevant planning decisions, we are proposing generic provisions ensuring that these obligations are complied with in appropriate cases”. Please provide further information on how the HSE intend to fulfill the requirement to present information to the public both when an application is made, during the review process and details of the final decision. Specifically, what information will be supplied, in what form and to whom?

Q6	Do you have any additional comments on the consultation paper or the draft Regulations?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Redundant Consents:
We would have concerns regarding the power to revoke consent when a site (or a particular process/plant within that site) is out of commission for a period of time. It may be the case that a site has tanks that are unused for reasonably long periods, but we would not wish to lose HSC for those tanks. In qualifying this we would suggest that if a tank location does not have significant impact to the local community, it would be unreasonable and inefficient to automatically revoke the existing HSC and re-apply when the tank was bought back into service. As such it should be for the owner of the HSC to advise that the consent is redundant and no longer required.
We offer the following discussion points with regard to further improving the

Consultation reference: WG24167

planning process and its alignment with the objectives of Seveso III:

- Please provide clarification in the regulations with regard to changes in classification of substances that already have consents - we would expect that this would not require a full HSC re-application for the substance as we would assume that we have “deemed consent”.
- With reference to our response to question 3(c), it would also improve efficiency if the existing CoMAH notification process could act as the trigger for a HSC application thus reducing the need to provide the same information multiple times.
- There is a need to ensure access to competent personnel to allow for informed discussion and decision making between the site, the local authority and the HSE.
- There is a need to ensure that timescales identified to agree HSC applications are adhered to, and should these not be met the site has a formal and documented process by which this can be expedited.
- With regard to schedule 1, part 2, greater definition of “alternative fuels” (for example Ethanol) is required in the regulations.
- Regulation 23 makes reference to “deemed consent” however there is no reference to supporting guidance or regulations which describe the process for applying for deemed consent.
- With regard to regulation 29, we would ask that a suitable time window be built into the regulations to allow for a re-application of HSC following re-classification of a substance which will allow the site to continue to operate under its existing HSC.

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

How to Respond

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Email

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(Please include "WG24167" in the subject line).

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CF10 3NQ**

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Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

11/02/2015 – 08/04/2015		
Name	[REDACTED]	
Organisation	Dwr Cymru/Welsh Water	
Address	[REDACTED]	
E-mail address	[REDACTED]	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input 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"/>
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		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

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Planning controls on hazardous substances

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		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3a	Do you agree with how we propose to implement controls on new establishments?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3b	Do you agree with our proposed amendments for modifications to establishments?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

Q3c	Do you agree with our proposals relating to how an application for consent is made?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3d	Do you agree with how we propose to address obligations on additional technical measures in relation to the environment?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Protecting areas around hazardous establishments

Q4	Do you have any comments on the proposals for controlling development around establishments and the use of current arrangements to deliver protection to areas of natural sensitivity?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

Public participation and access to justice

Q5	Do you agree with how we propose of deliver Seveso III requirements on public participation on specific individual projects and on plans and programmes?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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			comment)	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6	Do you have any additional comments on the consultation paper or the draft Regulations?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

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

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Additional information

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Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

11/02/2015 – 08/04/2015		
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 <i>(please select one from the following)</i>	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"/>
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Delivering Seveso III objectives through land-use planning policies

Q1	Do you agree with the proposed approach to deliver Seveso III objectives through land-use planning policies?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>There is agreement with the broad approach. However, the proposal to ensure that the updated objectives are expressly applied to the Wales Spatial Plan is unexpected. Although still extant, this document has been dormant for some time. It is likely to be superseded by proposals to create a National Development Framework and to prepare Strategic Development Plans. Unless Welsh Government is committed to further revision of the Wales Spatial Plan, it shouldn't have been referenced in the consultation document.</p>				

Planning controls on hazardous substances

Q2	Do you agree with the principle of aligning the list of controlled hazardous substances which require hazardous substances consent with the Seveso III Directive subject to the exceptions for liquefied petroleum gas (LPG), liquefied natural gas (LNG) and hydrogen?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>There are some instances where the requirements under Seveso III are less onerous than those currently in place. Any diminution of safety standards in Wales must be shown to not increase the risk to the public.</p>				

Q3a	Do you agree with how we propose to implement controls on new establishments?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q3b	Do you agree with our proposed amendments for modifications to establishments?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

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Q3c	Do you agree with our proposals relating to how an application for consent is made?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Yes, these are welcomed, provided that the guidance on information requirements is made available at the same time that the new regulations come into force.</p>				

Q3d	Do you agree with how we propose to address obligations on additional technical measures in relation to the environment?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: If the current system is already compliant with the new Directive, then no regulatory change is necessary. If it has not already done so, Welsh Government might wish to seek an independent view on whether there is compliance.</p>				

Protecting areas around hazardous establishments

Q4	Do you have any comments on the proposals for controlling development around establishments and the use of current arrangements to deliver protection to areas of natural sensitivity?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG24167

Comments:

First part of the question - arrangements for drawing LPA attention to the ‘other establishments’ coming into the Directive’s scope for the first time seem vague. Although it is in the interests of these ‘other establishments’ to make themselves known, there is scope for omission. This could lead to incompatible developments taking place in close proximity to these establishments. This is undesirable for all parties.

Second part of the question - NRW must be adequately resourced to undertake this work. It must also be committed to providing the necessary feedback to LPAs in a timely manner.

Public participation and access to justice

Q5	Do you agree with how we propose of deliver Seveso III requirements on public participation on specific individual projects and on plans and programmes?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6	Do you have any additional comments on the consultation paper or the draft Regulations?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			
<p>It is not clear what the ‘significant consequences’ (paragraph 3.15 of the consultation document) would be. It might simply be whether or not there will be an extension of the consultation zones associated with the existing hazardous substances consent (paragraph 3.16 of the consultation document implies this). However, this seems insufficient. Clear criteria are needed - set out either in the Regulations or in Welsh Government guidance.</p> <p>The Regulations assume a level of expertise exists within Local Planning Authorities handling Hazardous Substances Consent applications. However, this is not the case, either at this Council or many others.</p>			

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
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Additional information
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CORPORATE MANAGEMENT TEAM

Report of: Director of Development

Date: 15th April 2015

Welsh Government consultation – the Planning (Hazardous Substances) (Wales) Regulations 2015 – response from Pembrokeshire County Council

1 Purpose of the report

1.1 Welsh Government has consulted on the draft Planning (Hazardous Substances) (Wales) Regulations, 2015. These were accompanied by a consultation document, titled:

‘Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards’.

1.2 Pembrokeshire County Council has a number of hazardous installations within its area of planning responsibility. Periodically, it is required to determine applications for hazardous substances consent.

1.3 A Council consultation response, attached at Appendix A, has been submitted to meet the consultation closing date of 8th April 2015 under delegation to the Director of Development and is reported for retrospective consideration by CMT. The Welsh Government’s consultation document and draft Regulations are presented as Appendices B and C respectively.

2 Background and context

2.1 The Seveso¹ Directive was introduced by the European Commission several years ago. It ensures that Member States have systems to prevent on-shore major accidents involving hazardous substances. The purpose is to limit the impact on the public and the environment if an accident occurs.

2.2 The European Commission published a revised Directive, known as Seveso III, in 2012 (European Directive 2012/18/EU). This supersedes earlier versions.

2.3 Member States are required to transpose the Seveso Directive’s requirements into their own legislation. In Great Britain, the requirements are mostly incorporated into health and safety legislation. However, Welsh Government

¹ The Seveso disaster was an industrial accident that occurred in 1976, in a small chemical manufacturing plant in the Lombardy region of Italy, close to the town of Seveso. It resulted in the highest known exposure to 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) in residential populations, which gave rise to numerous scientific studies and standardized industrial safety regulations. The European Union industrial safety regulations are known as the Seveso Directives.

has responsibility for transposing the land use planning requirements of the Directive in Wales.

- 2.4 The land use planning elements of Seveso III require planning policies and decisions to take account of the Directive. This includes the maintenance of appropriate safety distances between major hazard sites and other development. It also requires protection of areas of natural sensitivity.

3 Detailed considerations

- 3.1 Seveso III, like its predecessors, sets out a list of substances that are classified as hazardous. It sets thresholds (controlled quantities) for the amounts stored. These trigger requirements in relation to safety and land use planning.
- 3.2 Seveso III reflects changes made to the classification of hazardous substances. It also strengthens the requirements for public access to information and participation in decision making.
- 3.3 Changes to the Hazardous Substances Regulations in Wales are required as a consequence of the introduction of Seveso III. A single, consolidated, set of Regulations is proposed. Welsh Government is taking the opportunity to streamline current processes, where this is consistent with the Directive and industry practice.
- 3.4 In a few cases, existing domestic legislation is more onerous than the requirements of Seveso III. Some changes are therefore proposed to bring domestic controls into line with the Directive's requirements, where this doesn't affect safety. This will help to achieve European conformity of approach. The Health and Safety Executive has advised on this. Some relaxations are proposed. However, existing control levels will be retained for three substances. These are Liquefied Petroleum Gas (LPG), Liquefied Natural Gas (LNG) and Hydrogen.
- 3.5 Seveso III continues to control substances that could be generated by loss of control of an industrial chemical process. Some changes are proposed to the detail of how this is done. The Health and Safety Executive will prepare further guidance on this aspect.
- 3.6 There are some exemptions to the Directive, which Welsh Government intends to apply in full. One of the reasons for doing this is to ensure that Welsh businesses can remain competitive in European markets.
- 3.7 Seveso III categorises establishments (major hazard sites) as upper and lower tier establishments, based on the quantity of substances present. This affects the way the establishments are managed. However, there is no difference in the land-use requirements to be applied to upper and lower tier

establishments. Welsh Government believes that the existing hazardous substances consent regime already delivers the objectives of Seveso III on this aspect.

3.8 A few establishments will come within the scope of the Directive for the first time. Welsh Government will apply the existing approach for requiring hazardous substances consent to new establishments. Those operating lawfully, coming within the scope of the Directive on 01/06/15, will not be required to apply for consent. On existing consented sites Seveso III will not require new applications if classification of a hazardous substance has changed.

3.9 Where modification is proposed to an establishment, a new consent will sometimes be required. This will be where the changes proposed:

- Would have significant consequences for major accident hazards; or
- Would involve a tier change.

It is not clear what the 'significant consequences' (paragraph 3.15 of the consultation document) would be. It might simply be whether or not there will be an extension of the consultation zones associated with the existing hazardous substances consent (paragraph 3.16 of the consultation document implies this). However, this seems insufficient. Clear criteria are needed – set out either in the Regulations or in Welsh Government guidance.

3.10 Welsh Government proposes amendments to how operators make an application for hazardous substances consent. The prescribed form will be replaced with a short list of essential information required. Operators will be encouraged to use an electronic application form, which is being prepared by the Health and Safety Executive. Both the Health and Safety Executive and Natural Resources Wales will offer a pre-application advice service. These proposals are welcomed.

3.11 Welsh Government is not proposing any regulatory change to transpose new requirements for technical measures relating to the environment. The current system is considered to be compliant with the new Directive.

3.12 Seveso III requires controls on certain new developments in the vicinity of major hazard sites. Welsh Government is proposing to retain the existing approach on this. Consultation arrangements will be expanded to include 'developments that may be a source of a major accident'. A mechanism is needed to draw existing establishments, coming into the Directive's scope for the first time, to the attention of the planning system.

3.13 Seveso III has requirements relating to protection of areas of natural sensitivity or interest. It requires account to be taken of long term needs of

such areas in the vicinity of major hazard sites. Welsh Government believes existing arrangements in this respect are adequate.

- 3.14 Public consultation and participation requirements under Seveso III are more extensive than under the previous Directives. The intention is to bring the arrangements into line with the requirements of the Aarhus Convention. Welsh Government will incorporate these requirements into the hazardous substances consent regime. It will also make some generic provisions to ensure consistency with the Directive's requirements.
- 3.15 Seveso III also sets out public participation requirements in relation to plans and programmes. Welsh Government proposes a specific requirement to address this obligation. It suggests that most plans and programmes will already meet the obligations, because of existing requirements for Strategic Environmental Assessment.
- 3.16 For certain projects, Seveso III requires public access to review procedures required by the Environmental Impact Assessment Directive. This is delivered through judicial review and statutory review procedures.

4 Risks to the Authority

- 4.1 There is no direct risk to the Authority if it does not respond to the consultation. However, a number of major hazard sites are within its area of planning jurisdiction. It is therefore advisable for it to consider the draft Regulations and respond accordingly.
- 4.2 The Regulations assume a level of expertise exists within Local Planning Authorities handling Hazardous Substances Consent applications. However, this is not the case, either at this Council or many others. Hence the Council will continue to rely on the Health and Safety Executive to provide expert advice.

5 Financial implications

- 5.1 There are no significant financial implications arising from the new proposals. Procedures for dealing with hazardous substances consents are likely to be revised. However, there is unlikely to be a significant increase in application numbers for hazardous substances consent arising from the proposals.

6 Recommendation

- 6.1 That this report and the response to the questionnaire presented in Appendix A be agreed by CMT and submitted to Welsh Government as PCC's officer response to the consultation.

Dr. S. P. Jones, Director of Development

Lead officers:

Cath Ranson: Development Plans and Conservation Manager

Bob Smith: Principal Planning Officer

Officers consulted:

Mike Simmons: Development Manager (Major Applications and Planning Obligations)

LDP team

Appendix A Draft response to the consultation from PCC

Appendix B Welsh Government consultation paper on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Appendix C Draft Planning (Hazardous Substances) (Wales) Regulations 2015

WG24167 Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Response to consultation by the Welsh Government

Numbers other than those of questions refer to paragraphs of the consultation document to which the particular comment refers, unless otherwise indicated.

Q1 Do you agree with the proposed approach to deliver Seveso III objectives through land-use planning policies?

Yes

Q2a Do you agree with the principle of aligning the list of controlled hazardous substances which require hazardous substances consent with the Seveso III directive, subject to the exceptions for liquefied petroleum gas (LPG), liquefied natural gas (LNG) and hydrogen?

Yes, hazardous substances and controlled quantities should be consistent as between the Seveso III Directive, the revised COMAH regime and the hazardous substances consent regime unless there is a very good reason to impose more stringent domestic controls through the COMAH and hazardous substances consent regimes. Logically the controlled hazardous substances and quantities should be the same in the (domestic) COMAH and hazardous substances consent regimes.

The proposed approach to controlling LPG, LNG and hydrogen is reasonable given the advice from the HSE. The stricter national controlled quantities should logically apply in both COMAH and hazardous substances consent regimes. In case of doubt it is better to maintain the existing controlled quantities as there is a possibility of proliferation of establishments where these substances are stored, linked to their increasing use as motor vehicle fuels in particular. It may be that in the light of future experience the controlled quantities can be relaxed and this would present no problems. On the other hand, it would be very difficult to tighten the controls later on if this were found necessary as many such establishments might become surrounded by inappropriate development in the meantime, and that could not be “undone” later.

—

3.7 The wordings of the Seveso II and Seveso III directives which define “presence of dangerous substances” for the purposes of the respective Directives are as follows:

Seveso II:

“presence of dangerous substances” shall mean the actual or anticipated presence of such substances in the establishment, or the presence of those which it is believed may be generated during loss of control of an industrial chemical process, in quantities equal to or in excess of the thresholds in Parts 1 and 2 of Annex I.

Seveso III:

“presence of dangerous substances” means the actual or anticipated presence of dangerous substances in the establishment, or of dangerous substances which it is reasonable to foresee may be generated during loss of control of the processes, including storage activities, in any installation within the establishment, in quantities equal to or exceeding the qualifying quantities set out in Part 1 or Part 2 of Annex I.

The material differences are that Seveso III refers to substances which it is “reasonable to foresee” rather than “believed” may be generated during the loss of control of a process, and

that the loss of control within the Directive's scope is not limited to the loss of control of an "industrial chemical process" but extends to all processes in any installation in the establishment, and includes storage activities.

The practical effect of these changes in the situations likely to arise at a non-nuclear thermal electricity generating station is unlikely to be significant, as there would appear to be no reasonably foreseeable contingency which could result in other dangerous substances being generated in a loss of control situation, although until the proposed guidance from HSE is issued some uncertainty remains on this point.

More generally, it is not clear how many establishments may be brought into scope, or moved from lower to upper tier by the application of that guidance.

3.10 We agree with the approach set out in this paragraph. There does not need to be an explicit distinction between lower and upper tier establishments in the hazardous substances consent regime. It is for the operator to decide whether to notify lower maximum quantities of hazardous substances if the establishment's requirement for such substances is reduced; there is some incentive for the operator to do this if the effect would be to move the establishment from upper to lower tier as this would make COMAH compliance substantially less onerous.

3.14 to 3.16 We support the proposals for revised controls on modifications to establishments in principle. A new consent should only be required for a modification which would result in an extension to the zones in which the HSE (or ONR as the case may be) needs to be consulted on proposed developments, or in the establishment concerned moving from lower tier to upper tier.

Q3a Do you agree with how we propose to implement controls on new establishments?

Yes in relation to new establishments (Directive definition) but we have reservations in relation to how it is proposed to implement controls on other establishments (Directive definition) coming into the regime for the first time.

There does need to be a mechanism for capturing "other establishments" brought into scope by Seveso III in the land use planning system as soon as possible. While we agree that "other establishments" which operate lawfully at present and are brought into scope on 1 June 2015 should not be required to go through the full hazardous substances consent application process, we suggest that a simple process by which the small number of establishments affected could claim deemed consent could be implemented quickly and cheaply, well before such establishments are required to be notified under the revised COMAH regime. A similar procedure has been used in the past when the scope of hazardous substance control was altered and we have previously claimed deemed consent at Aberthaw Power Station under this arrangement for some additional substances brought into scope by previous changes to the Regulations. See comments on paragraph 4.3.

Q3b Do you agree with our proposed amendments for modifications to establishments?

We agree with the principle of not requiring a new application for consent in those cases where there is no increased safety hazard and hence no extension of consultation zones required, and the establishment will not move from lower to upper tier as a result.

What is proposed in the draft Regulations appears satisfactory, but the consultation document suggests at 3.15 that a tier change would require a new consent, but does not specify that this would only apply to a move from lower to upper tier. We assume that it is not

intended to require a new consent for a move from upper to lower tier, as such moves would be exempt under draft Regulation 4 paragraphs (14) to (16), but this needs to be clarified.

Q3c Do you agree with our proposals relating to how an application for consent is made?

Yes. We think that a move away from the existing prescribed form is long overdue and that the facility to apply via the proposed electronic form will also facilitate simultaneous submission of application details to the COMAH Competent Authority (CA), publication of application details on-line and hence public consultation as required by Article 15 of the Directive.

Q3d Do you agree with how we propose to address obligations on additional technical measures in relation to the environment?

Yes. We consider that the existing arrangements are adequate. In the case of a thermal generating station over 50MW (thermal) there will also be an environmental permit in place in respect of the combustion activity involved and Natural Resources Wales can therefore also impose conditions relating to operation of the installation and pollution prevention measures, including in relation to hazardous substances at the establishment, via that route.

4.2. We are unclear about what is meant by “developments that may be the source of a major accident”. Presumably this refers to the potential for an incident at a third party’s installation, not necessarily one subject to COMAH in its own right, which might have a “domino effect” and cause a major accident on the COMAH site?

4.3. When the list of hazardous substances or the controlled quantities of those substances have been revised in the past, bringing additional establishments into the scope of the regime, there has been provision for deemed hazardous substances consent to be claimed within a specified period from amending regulations coming into force, in respect of the quantities of the substances concerned which had been held at the establishment at any time during a 12-month “establishment period” preceding the coming into force of the amending regulations. This should not be onerous and could be done reasonably quickly: 3 months would be a reasonable period to allow for claims for deemed consent to be submitted to the relevant hazardous substances authority. This would shorten the period when any “other establishments” might be unknown to the planning system in the interim before they would have to be notified to the COMAH CA.

While it has been used before, the above approach is open to the objection that it may be difficult to verify retrospectively the maximum amount of each substance concerned which has been held at the establishment during the preceding 12 months. In cases where there are installed tanks etc. for the storage of hazardous substances, an alternative approach would be to allow deemed consent to be claimed (at the option of the operator) for the (larger) quantity of hazardous substance which any installed storage tanks for that substance are designed to hold as at the date the new Regulations come into force, which would be easier to verify. For substances stored in transportable containers such as IBCs the actual maximum quantity present during the preceding 12 months could still be used.

Q4 Do you have any comments on the proposals for controlling development around establishments, and the use of current arrangements to deliver protection to areas of natural sensitivity?

Yes, See answer to Question 3a and comments on paragraph 4.3 above. The fact that Natural Resources Wales is both the statutory nature conservation body and a constituent of the COMAH Competent Authority in Wales, should mean that the statutory nature conservation body is aware of hazardous substances consent applications and is able to

advise on any measures required to protect areas of particular natural sensitivity without any further specific legislative provisions for notification etc.

Q5 Do you agree with how we propose to deliver Seveso III requirements on public participation on specific individual projects and on plans and programmes?

Yes.

Q6 Do you have any additional comments on the consultation paper or the draft Regulations?

No.

Neil Richardson
Corporate Environmental Consents Manager
for RWE Generation UK plc

1 April 2015



Seveso III Consultation
Development Management Branch
Planning Division
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ

Environment & Chemistry

Your ref. -
Your letter -
Our ref. CONS/Haz SubsW/NBKR
Contact Neil Richardson
Phone 01793 893382
Fax 01793 894532
Email neil.richardson@rwe.com

01 April 2015

**The Role of Planning in Preventing Major-accident Hazards Involving
Hazardous Substances – Response by RWE Generation UK plc**

Dear Sir or Madam,

I attach our response to the above consultation, which is submitted by RWE Generation UK plc on behalf of the RWE Group companies operating in Wales. These companies include:

1. RWE Generation UK plc produces over 10% of the UK's electricity from our seven gas, coal and oil-fired power stations. We also manage a portfolio of gas and biomass fired combined heat and power plants across the UK.
2. RWE Npower Group plc which supplies gas and energy services to over 6.5 million households.
3. RWE Innogy UK Limited (formerly RWE npower renewables), the UK subsidiary of RWE Innogy, which is one of the UK's leading renewable energy developers with an operational portfolio in the UK of 750 MW and a potential UK development portfolio of over 7,700 MW, including offshore wind farms and hydro plant.

Of the above it is RWE Generation UK plc itself which is most likely to be affected by the proposed changes to the hazardous substances consent regime. We have commented in our response on some additional points as well as the specific questions asked in the consultation document. If you have any queries or wish to discuss any of our comments, please contact the undersigned in the first instance.

Yours faithfully

Neil Richardson
Corporate Environmental Consents Manager
RWE Generation UK plc

RWE Generation UK plc

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Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

11/02/2015 – 08/04/2015		
Name	Eifion Bowen	
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E-mail address	ebowen@carmarthenshire.gov.uk	
Type <i>(please select one from the following)</i>	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"/>

Delivering Seveso III objectives through land-use planning policies

Q1	Do you agree with the proposed approach to deliver Seveso III objectives through land-use planning policies?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The consultation should have taken the opportunity to review the principle of placing the responsibility of considering hazardous substances issues through the land use planning system. The statement in paragraph in 1.6, that a robust system is in place for managing risks and consequences resulting from accidents is not supported by any recent research that Local Planning Authorities have that expertise directly available to them. In paragraph 1.2 the consultation document states that the control of hazardous substances is very specialised, however there has never been an audit of LPAs that has been undertaken to demonstrate that the expertise is directly available to local authorities. Reliance is placed entirely on consultation with the Health and Safety Executive and any</p>				

Consultation reference: WG24167

advice given is open to interpretation.

Planning controls on hazardous substances

Q2	Do you agree with the principle of aligning the list of controlled hazardous substances which require hazardous substances consent with the Seveso III Directive subject to the exceptions for liquefied petroleum gas (LPG), liquefied natural gas (LNG) and hydrogen?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: This principle is based on the advice of the Health and Safety Executive and there is no reason to disagree with this expert advice.				

Q3a	Do you agree with how we propose to implement controls on new establishments?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: It is not clear how these new establishments could be considered if such a facility is near to or adjacent to allocations within a recently adopted Local Development Plan. While they be small in number they may potentially have significant impact on a specific LDP. a new allocation for housing for example, may be affected by a new establishment.				

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

Q3b	Do you agree with our proposed amendments for modifications to establishments?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3c	Do you agree with our proposals relating to how an application for consent is made?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Providing greater clarity is welcomed however these changes are proposed following consultation with the HSE and NRW which reinforces the point that such applications are best considered by these specialist bodies; with LPAs as consultees.				

Q3d	Do you agree with how we propose to address obligations on additional technical measures in relation to the environment?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Protecting areas around hazardous establishments

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

Q4	Do you have any comments on the proposals for controlling development around establishments and the use of current arrangements to deliver protection to areas of natural sensitivity?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

Public participation and access to justice

Q5	Do you agree with how we propose of deliver Seveso III requirements on public participation on specific individual projects and on plans and programmes?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6	Do you have any additional comments on the consultation paper or the draft Regulations?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			

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

How to Respond

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

Please submit your comments in any of the following ways:

Email
Please complete the consultation response form and send it to: planconsultations-j@wales.gsi.gov.uk (Please include "WG24167" in the subject line).
Post
Please complete the consultation form and send it to: Development Management Branch Planning Division Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please Email: planconsultations-j@wales.gsi.gov.uk or Telephone: Alan Groves on 029 2082 5362 or Owen Struthers on 029 2082 6430

8 April 2015

e-mail response sent to: planconsultations-j@wales.gsi.gov.uk

Dear Sir/Madam,

Response to: The Planning (Hazardous Substances) (Wales) Regulations 2015

The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing some 23,000 spatial planners. RTPI Cymru represents the RTPI in Wales, with 1,100 members. The Institute seeks to advance the science and art of spatial planning for the benefit of the public. As well as promoting spatial planning, the RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development.

Thank you for the opportunity to comment on the above consultation.

The response has been formed drawing on the expertise of the RTPI Cymru Policy and Research Forum which includes a cross section of planning practitioners from the private and public sectors and academia from across Wales.

Our response to your consultation questions is set out below.

If you require further assistance, have any queries or require clarification of any points made, please contact RTPI Cymru on 029 2047 3923 or e-mail Roisin Willmott at walespolicy@rtpi.org.uk

Yours sincerely,



Dr Roisin Willmott MRTPI

Director
RTPI Cymru

Consultation Response

11/02/2015 – 08/04/2015		
Name	Roisin Willmott	
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Address	RTPI Cymru PO Box 2465 Cardiff / Caerdydd CF23 0DS	
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Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" 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"/>

Delivering Seveso III objectives through land-use planning policies

Q1	Do you agree with the proposed approach to deliver Seveso III objectives through land-use planning policies?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Whilst we agree with the proposed approach to deliver the objectives through planning policies we would expect other policies to be used to deliver advice and information to businesses and consultancies, for example.				

Planning controls on hazardous substances

Q2	Do you agree with the principle of aligning the list of controlled hazardous substances which require hazardous substances consent with the Seveso III Directive subject to the exceptions for liquefied petroleum gas (LPG), liquefied natural gas (LNG) and hydrogen?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

Given public perception relating to controlled hazardous substances applications in respect of public safety, the suggested rationale for increasing the amount of controlled substances before consent is required, on the basis of reducing costs for businesses, does little to enhance the public's confidence in the regulatory regime.

There does not appear to be any consistency when applying the regulations in respect of LPG, LNG and hydrogen which is currently excluded from any amendments. Paragraph 3.6 does not clearly explain the reasons behind these exceptions.

Q3a	Do you agree with how we propose to implement controls on new establishments?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

It is noted the regulations include a significant number of exemptions to 'maximise flexibility'. It is also noted that existing establishments that will come into the scope of the Directive on 1 June 2015 will not be required to apply for a consent, however, the consultation document does not specify how or when they will be required to comply with the Directive.

Q3b	Do you agree with our proposed amendments for modifications to establishments?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

It is difficult to comment at this stage as the proposed procedure requires compliance with guidance that has not yet been published. This guidance is essential to allow an informed comment on the control of new or modified establishments.

Q3c	Do you agree with our proposals relating to how an application for consent is made?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

While we agree in principle with the replacement of the prescribed application form with a short list of essential information, until the content of the electronic smart form and list of information to be supplied is provided, it is not possible to comment further.

It is noted the guidance will address the information required for the most common types of application. It would also be useful if it included contact details for the less common applications.

Q3d	Do you agree with how we propose to address obligations on additional technical measures in relation to the environment?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

While Seveso II focussed on not increasing the 'risk to persons', Seveso III includes a requirement to take into account risks to human health and the environment. However, no regulatory changes are proposed to transpose these

new requirements.

It would be helpful if more detail can be provided explaining why there are no technical changes proposed to address impact upon the environment.

Protecting areas around hazardous establishments

Q4	Do you have any comments on the proposals for controlling development around establishments and the use of current arrangements to deliver protection to areas of natural sensitivity?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: This section of the consultation document lacks adequate detail. It seeks views on appropriate mechanisms for drawing 'other establishments' to the attention of the planning system. This is a major concern. Some of these establishments, for various reasons, may not wish to make themselves known to the Local Planning Authority. They also may not necessarily be concerned about, or aware of, the possibility of the encroachment of incompatible development.				

Public participation and access to justice

Q5	Do you agree with how we propose of deliver Seveso III requirements on public participation on specific individual projects and on plans and programmes?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6	Do you have any additional comments on the consultation paper or the draft Regulations?	Yes	No
		x <input type="checkbox"/>	<input type="checkbox"/>

Comments:

There is a need to transpose the Seveso III Directive into regulation however a secondary function appears to be to reduce the 'burden on business' in complying with the current requirements. The consultation document in paragraph 1.7 states the proposed approach is to minimise the burden on business and that domestic legislation, in a few areas, is more onerous than the requirements of Seveso III. Therefore changes are proposed in a number of areas where domestic controls exceed the Directive requirements. As such there is a concern that we are lowering domestic standards to comply with the European Directive and minimise the burden on business to the detriment of the environment and land use planning.

Paragraph 1.2 explains that this consultation period is less than the standard for other regulations, because the consultation is likely to impact on a smaller number of stakeholders and is unlikely to result in a rise in application numbers. While there may only be a limited number of applications the implications of those applications may be significant and as such we believe the consultation process should have been the full 12 weeks.

In addition the consultation document was not easy to understand. It assumes knowledge and understanding of the extant guidance, cross references other regulations and refers to guidance that has not yet been produced.

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

ANNEX – Specific HSE Comments - Welsh Government Consultation on implementing land use planning aspects of Seveso III Directive

1. Explosives – Licensing etc. considerations

Previous planning legislation has listed explosives, as follows:

- *EXPLOSIVE where the substance, preparation or article falls under UN/ADR Division 1.4, excluding those for which a licence granted by the Health and Safety Executive under the Manufacture and Storage of Explosives Regulations 2005 (where HSE is the licensing authority by virtue of paragraph 1(c) of Schedule 1 to those Regulations) is required or those licensed under the Dangerous Substances in Harbour Areas Regulations 1987.*
- *EXPLOSIVE where the substance, preparation or article falls under any of: UN/ADR Divisions 1.1, 1.2, 1.3, 1.5 or 1.6 or risk phrase R2 or R3, excluding those for which a licence granted by the Health and Safety Executive under the Manufacture and Storage of Explosives Regulations 2005 (where HSE is the licensing authority by virtue of paragraph 1(c) of Schedule 1 to those Regulations) is required or those licensed under the Dangerous Substances in Harbour Areas Regulations 1987.*

This wording means that all sites licensed for the manufacture and storage of explosives by HSE do not require Hazardous Substances Consent. This is because the assent process for the licensing of explosives sites is similar to the hazardous substances consent procedure i.e. involves technical assessment (by HSE) and public consultation, with the decision to assent to the licence or not being down to the local authority.

The draft Planning (Hazardous Substances) (Wales) Regulations 2015 do not include these caveats for explosives and do not specifically exempt explosives from the requirements for hazardous substances consent in the exemptions in Part 2, 4.

[NOTE: Any exemption would now be for licenses granted by the Health and Safety Executive under the Explosives Regulations 2014. The reference to the Dangerous Substances in Harbour Areas Regulations 1987 is still current].

In order for the exemption to continue the Welsh Government would need to be convinced that the provisions of Seveso III are covered by the assent process.

The key changes in an explosives context in the list at Schedule 1 of the draft regulations are the introduction of a category for self-reactive substances and mixtures (previously covered by UN Class 4.1) and the reliance on testing under the European Regulation No 1272/2008 on the Classification, Labelling and Packaging of Substances and Mixtures (CLP) rather than the application of transport classifications. We have not identified anything of particular relevance in Part 2.

Pending the likely changes to the United Nations' Globally Harmonised System on the classification and labelling of chemicals (GHS) to take account of desensitised explosives, and the likelihood that these will feed through to CLP our expectation would be that materials meeting the definition of explosives as it appears at regulation 2(1) of ER2014 (which includes desensitised explosives) would be categorised as P1a, P1b, and possibly/probably as P5a, P5b, P6a and P6b.

i.e.

* P1a & P1b being part (a) of the definition in regulation 2 (1) of ER2014 – that is articles and substance that would be classified for transport in Class 1 or explosives that are too dangerous to transport

· * P5a, P5b, P6a and P6b meeting part (b) of the definition that is desensitised explosives

To avoid duplication of requirements on explosive licensed site operators we think that excluding explosives as defined in regulation 2 (1) of the Explosives Regulations 2014 to categories of substances P1a, P1b, P5a, P5b, P6a and P6b as defined in Part 1 of the draft Planning (Hazardous Substances) (Wales) Regulations 2015, would effectively maintain the status quo and also address the extension of scope to self-reactive substances. Draft wording is suggested below;

Excluding explosives as defined in regulation 2 (1) of the Explosives Regulations 2014 -

a) for which a licence is required and has been granted under the Explosives Regulations 2014 by the Health and Safety Executive where it is the licensing authority by virtue of—

- (i) paragraph 1(b) of Schedule 1 to those Regulations in cases where the assent of the local authority was required pursuant to regulation 13(3) of those Regulations or would have been so required but for regulation 13(4)(b), (c), (d), (e), (f) or (g) of those Regulations; or*
- (ii) paragraph 1(d) of Schedule 1 to those Regulations; or*

(b) for which a licence is required and has been granted under the Explosives Regulations 2014 by the Office for Nuclear Regulation in cases where the assent of the local authority was required pursuant to regulation 13(3) of those Regulations or would have been so required but for regulation 13(4)(b), (c), (d), (e), (f) or (g) of those Regulations;

This would mean that explosives as defined in ER2014 present on a licensed site would be exempted from hazardous substances consent where assent applied or was not required because the site was in effect established to support national security by MoD or the Police.

2. Explosives - Ammonium Nitrate

Ammonium Nitrate Blasting Intermediate (ANBI) and all other substances would be subject to consent, which would be appropriate because these substances would not be considered as part of the licensing and assent process in a way that would deliver the requirements of Article 13 & 15 of Seveso III.

The following controlled quantity as shown in column 2 needs to be inserted to Schedule 1, Part 2 Named Hazardous Substances (Page 27)

Column 1	Column 2
hazardous substances	Controlled quantity (tonnes)
1. ammonium nitrate (see note 13)	5,000

3. Explosives - Dangerous Substances in Harbour Areas

The Planning (Hazardous Substances) (Amendment) (Wales) Regulations 2010 currently contain, in Schedule 1, Part B, entries 4 and 5, an exemption from hazardous substances consent for explosives licensed under the Dangerous Substances in Harbour Areas Regulations 1987 (DSHAR). This is because explosives under DSHAR are subject to a consultation and licensing procedure involving technical assessment by HSE and a public consultation procedure which is similar to the hazardous substances consent procedure (though under DSHAR the final decision is made by HSE rather than the local authority). To require them to be newly within scope of the new Planning (Hazardous Substances) (Wales) Regulations 2015 would mean that such explosives are subject to two overlapping consent procedures. This would be duplicative and would introduce new burdens for ports wishing to apply to handle explosives as well as on planning authorities. We would therefore request that the current exemption for DSHAR licensed explosives is maintained.

4. Temporary Storage

In Reg 4.1 we wonder whether you are under implementing the Directive in so much as the exemption only relates to temporary storage 'outside' the establishment in the Directive, and the Welsh Government provision omits that reference which implies temporary storage 'inside' the establishment is exempt.

5. Competent Authority

In Paragraph 3.16 there is a proposal that operators will confirm with the 'control of major accident hazards competent authority' that there would be no consequences for major accident hazards from any proposed modifications. We presume this means the COMAH CA?

6. Liaison

We note the proposal in paragraph 4.3 that HSE will work with the Welsh Government to reach establishments already existing and come into the scope of HSC because of the CLP changes - so the establishment will make itself known to the LPA. We would be happy to discuss this further with you

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

11/02/2015 – 08/04/2015		
Name	Michael Cooper	
Organisation	Chemical Business Association	
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E-mail address	michael.cooper@chemical.org.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" 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"/>

Delivering Seveso III objectives through land-use planning policies

Q1	Do you agree with the proposed approach to deliver Seveso III objectives through land-use planning policies?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Planning controls on hazardous substances

Q2	Do you agree with the principle of aligning the list of controlled hazardous substances which require hazardous substances consent with the Seveso III Directive subject to the exceptions for liquefied petroleum gas (LPG), liquefied natural gas (LNG) and hydrogen?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3a	Do you agree with how we propose to implement controls on new establishments?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3b	Do you agree with our proposed amendments for modifications to establishments?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

Q3c	Do you agree with our proposals relating to how an application for consent is made?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3d	Do you agree with how we propose to address obligations on additional technical measures in relation to the environment?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Protecting areas around hazardous establishments

Q4	Do you have any comments on the proposals for controlling development around establishments and the use of current arrangements to deliver protection to areas of natural sensitivity?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Public participation and access to justice

Q5	Do you agree with how we propose of deliver Seveso III requirements on public participation on specific individual projects and on plans and programmes?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

			comment)	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6	Do you have any additional comments on the consultation paper or the draft Regulations?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments:			

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:

Email
<p>Please complete the consultation response form and send it to: planconsultations-j@wales.gsi.gov.uk (Please include "WG24167" in the subject line).</p>
Post

Consultation reference: WG24167

Please complete the consultation form and send it to:

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

Additional information

If you have any queries on this consultation, please

Email: planconsultations-j@wales.gsi.gov.uk

or

Telephone: Alan Groves on 029 2082 5362 or Owen Struthers on 029 2082 6430

8th April 2015

Seveso III Consultation
Development Management Branch
Planning Division
Welsh assembly Government
Cathays Park
Cardiff
CF10 3NQ

Email: planconsultations-j@wales.gsi.gov.uk

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

The Chemical Business Association (CBA) is the organisation representing UK chemical supply chain, including chemical distributors and logistic service providers. Its 130 member companies distribute, as well as pack and refill, more than 3 million tonnes of chemicals each year.

CBA is very focused on the needs of small to medium sized enterprises (SMEs) as 90% of our membership qualifies for SME status within the UK, which can be broken down further to give:

- ❑ 8% Micro (Less than 10 employees)
- ❑ 38% Small (Less than 50 employees)
- ❑ 46% Medium (Less than 250 employees)
- ❑ 8% are larger than the SME definition

CBA, as an organisation is regularly involved within the Control of Major Accident Hazard regulations (COMAH) as our members operate in excess of 70 COMAH sites throughout the UK. We have been heavily involved in the BIS BRE enforcement review trying to make COMAH more 'workable'. CBA has been and still is involved at the EU level with the development of the EU "Seveso" Directive and has communicated a number of issues with the current implementation of the EU Directive in the UK planning regime directly with DCLG.

CBA is pleased to have the opportunity to comment on the above proposals and are keen to point out that for a long time our members have been committed to engagement with the regulators.

GENERAL COMMENTS

CBA has COMAH sites across all four countries within the UK and we are very concerned, as 'history has shown' that the devolved authorities often introduce 'differences in approach' that would add additional burdens for any business operating COMAH sites in more than one country of the UK.

CBA also notes that while there are indications of future guidance to accompany the new regulations, there seems to be no mention of when this will be published. CBA strongly urges that new guidance **MUST** be published before the regulation come into force, and that the Welsh Assembly Government should follow the HSE timetable for publishing COMAH 2015 guidance.

CBA have raise concerns in the past regarding the exemptions for 'goods in transit' in the planning regulations, which conflicted with the COMAH regime in specific areas. However, this consultation does not propose to 'fix' the issue and seems to be willing to continue the conflict indefinitely. The concern relates to regulation 4 'exemptions' within the proposed draft regulations in annex A. Paragraph (1) exempts temporary presence but only subject to paragraph (2). However, (2) disapplies the transit exemption if the site has a consent for any substance. The main issue here is that a site with a consent may not know what is on the back of a vehicle which arrives at a site. The vehicle may be delivering substances and be carrying other 'applicable' substances that do not belong to the COMAH site. The ADR transport regime states that for 'security concerns' loaded dangerous goods vehicles should be 'ideally' 'parked overnight in secure factory premises. By doing this a company could breach its consent limits. COMAH 1999 and the proposed COMAH 2015 exempt transit and the HSE's L111 guidance expanded this to mean on site for less than 24 hours.

CONSULTATION QUESTIONS

Question 1.

Yes.

CBA believe that land-use planning should be used to deliver the Seveso III objectives. However, we are concerned that there is often a conflict within the current UK regime that needs to be addressed to make the overall process simpler and more effective.

Question 2.

CBA believe that the UK list of controlled hazardous substances requiring hazardous planning consent should be aligned with the lists within Seveso III Directive. CBA is not involved in the area of LPG or LNG but believes that there is an error within these proposals regarding the qualifying limits proposed.

With regard to paragraph 3.7, CBA feels that no comment can be made without an understanding of the HSE perspective on hazardous substances generated during loss of control of a process. This concern has been raised directly with HSE during their consultation for COMAH 2015.

With regard to paragraph 3.13, CBA feels that there is need for additional clarity. The paragraph seems to imply that a change of classification does not require a new planning consent. CBA feels that where an establishment has consent for a substance, and that substances changes classification (is re-classified under CLP from an existing classification under CHIP), that there should be no requirement for a new consent.

With regard to paragraphs 3.14 – 3.16, CBA feels that there is a need for additional clarity. The paragraphs seem to imply that sites with consent could exceed their current consent, as long as it did not involve a change of tier, or introduce significant consequences. CBA feels that operators should not be required to apply for a new consent if any changes occur in either the quantity of material stored, the type of material, or the type of hazard presented, if there is no resulting change of tier or no significant consequences for major accident hazards.

Question 3

(a) New sites.

The text is not clear enough and could be subject to interpretation errors. CBA believes that the proposed guidance must clarify this aspect and hence must be issued before the regulation enters into force.

(b) Modifications

Yes, when there is a change of tier or significant consequences on major accident hazards.

(c) How to apply

Yes. However, we have some reservations on the level of detail that seem to be deemed necessary. We are unsure whether Reg. 5 (c) (viii) is absolutely necessary and the level of detail that would be required. This is another area where guidance is vital to help operators know what information is required, so that the process does not get 'bogged down' in numerous information request exchanges.

(d) Additional technical measures

Yes. In relation to the environment.

Question 4

With regard to paragraphs 4.1 - 4.3, CBA knows that encroachment of developments onto land adjoining COMAH sites is an extremely important issue. However, we have experience where local planning authorities have previously ignored HSE advice.

Controlling development around establishments is important and much more should be done to prevent inappropriate development in the information zones around such establishments, especially those incremental developments that could then impact detrimentally on future revisions to the establishment's own consent. There have been a number of 'near miss' incidents over the years, such as Buncefield, where the death toll from development close to COMAH sites could have been dramatic. There were concerns raised by the MIIB (Major Incident Investigation Board) regarding planning around COMAH sites. CBA believe that a number of Local Authorities regard these sites as 'a blight on development' and not as a contributor to the local economy.

Question 5

With regard to paragraphs 5.1 – 5.4, CBA is concerned that public participation as described would add extra time to the planning process and make it even more bureaucratic. The current regulations state that an application should normally be answered within 8 weeks. The HSE review of the proposed development will take between 13 weeks and 26 weeks depending on the complexity. CBA urge the Welsh Assembly Government to write suitable guidance for local authorities with regard to public participation to avoid the whole process becoming even slower than it is currently. Industry needs quick decisions to allow development decisions to be made and budgets agreed. Slow processes have historically resulted in developments being sited elsewhere within Europe, so damaging the growth in the economy of UK Plc.

CBA believes the public consultation stage should be time-limited.

Question 6

This consultation has not raised the issue of unimplemented or redundant consents, as was the case in the equivalent consultation for England. Organisations need flexibility in their business operations, especially in the current economic climate where quick decisions can make the difference when tendering for contracts. Within the warehouse sector, partial use of consent or pre-application for a consent is commonplace, where there can be rapid and large-scale changes in the volumes of hazardous substances to be stored.

There may be situations where sites have obtained hazardous substances planning consent, but do not yet exceed the relevant thresholds in the regulations. Implementation should not be time-limited. CBA know specifically of one site that operates within the COMAH regime and has the requisite consent but to-date has never exceeded their consent limits.

With regard to redundant sites, businesses must be allowed to maintain the financial value that comes with owning a site that has an existing HSC. CBA are aware of a number of organisations who have bought land with existing consent to allow the rapid development of their business. There **MUST** be no automatic revocation of consent without prior discussions with the operator and formal agreement between the two parties, with financial compensation for any consent withdrawal.

CBA is also concerned about the handling of consent applications. Many local authorities may only encounter one consent application per year and the staff involved struggle to understand the issues and give the application the attention it needs, so the process slows down dramatically.

In terms of improving the planning process, CBA would favour establishing a 'central clearing house' for processing planning consents, where experienced staff could process all consents more readily, or the development of a 'buddy system' whereby local authorities with experience in this area could provide a mentoring or advice service to other local authorities without the requisite local experience and the number of applications from which to gain that experience.

Yours sincerely

PJC Newport

Peter Newport
Chief Executive Officer

Email address:
peter.newport@chemical.org.uk

D Leech

Douglas Leech BA; BSc; CChem, MRSC,
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Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

11/02/2015 – 08/04/2015		
Name	Phil Scott	
Organisation	Chemical Industries Association	
Address	Kings Buildings Smith Square London SW1P 3JJ	
E-mail address	scottp@cia.org.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input 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"/>

Delivering Seveso III objectives through land-use planning policies

Q1	Do you agree with the proposed approach to deliver Seveso III objectives through land-use planning policies?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We understand and agree that implementing Seveso III requirements through the existing Planning and Consents regime is the pragmatic approach. In the time available it would not be feasible to take any other approach, and furthermore it is advantageous to industry for the changes to be within an overall framework it is familiar with. We think however that a more fundamental review and further reforms are necessary and beneficial, and we have commented on this later.</p>				

Planning controls on hazardous substances

Q2	Do you agree with the principle of aligning the list of controlled hazardous substances which require hazardous substances consent with the Seveso III Directive subject to the exceptions for liquefied petroleum gas (LPG), liquefied natural gas (LNG) and hydrogen?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Yes. ‘Copy out’ is generally the way we support, and alignment of the substances being controlled under Planning & Consent, and COMAH, regimes is a sensible streamlining measure that simplifies the approach for all concerned, including industry.</p> <p>The different treatment of these 3 hazardous substances potentially raises the question of ‘gold plating’ but there is not a significant enough issue for CIA membership, and we assume that the decision to propose reduced thresholds is taken on technical assessment advice from HSE and is considered necessary for maintaining public protection. It is also consistent with the approach proposed in equivalent consultations for England and Scotland. We are content to accept the proposal.</p> <p>Paragraph 3.7 of the Consultation refers to proposals to use the Consent system to control ‘substances that may be generated in the event of loss of control of a process’. The details for this are not yet clear and we note that further advice is to be provided by HSE. However our initial view is that this is something that it is not necessary to bring within Consent and we don’t agree with it - rather than controlling by Consent substances that may never actually materialise it should be covered by the COMAH procedures for dealing with potential major accidents and their mitigation (including company identification of possible scenarios and HSE assessment of the risks and measures).</p>				

Q3a	Do you agree with how we propose to implement controls on new establishments?	Yes	Yes (subject to further comment)	No
------------	---	-----	-------------------------------------	----

Consultation reference: WG24167

		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Yes - we support the proposals in paragraphs 3.11 and 3.12, and also 3.13 in respect of existing Consents for substances that change classification.</p>				

Q3b	Do you agree with our proposed amendments for modifications to establishments?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: We agree the principle of aligning the new Regulations with the Directive and reducing the need for unnecessary Consents for modifications. However there is a large element of ‘devil in the detail’ here. We cannot fully comment on the way the proposals will work until we see the guidance that is proposed, mentioned in paragraph 3.16. On an initial read, it seems as if there will still be significant and potentially time-consuming work required by operators - in liaising with the Competent Authority on proposals, informing local authorities of changes, waiting for agreement and confirmation from HSE of whether modifications ‘could have significant consequences for major accident hazards’, etc. While we are content with the fundamental approach in the consultation, it does depend on a quick, efficient and effective process between LAs/HSE/industry being in place to support it.</p>				

Q3c	Do you agree with our proposals relating to how an application for consent is made?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Yes, we agree the need for improvement and streamlining in the process to ensure the correct information is delivered first time. CIA, and some of our members, have been involved in pilots with HSE for introducing electronic forms for Consent applications (mentioned in paragraph 3.19), and provided the</p>				

Consultation reference: WG24167

problems identified can be ironed out and the appropriate guidance on their use is produced, this looks like a very welcome measure.

Q3d	Do you agree with how we propose to address obligations on additional technical measures in relation to the environment?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Yes. The proposals seem to maintain the status quo in terms of additional technical measures and protection of both people and environment.				

Protecting areas around hazardous establishments

Q4	Do you have any comments on the proposals for controlling development around establishments and the use of current arrangements to deliver protection to areas of natural sensitivity?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: While not wishing to criticise the Consultation proposals, the Seveso III requirements in regard to controlling developments in the vicinity of major hazard installations seem weak. No-one can argue with the need for there to be a sensible dialogue in relation to developments which have the potential to impact on existing major hazard inventories, or vice versa - but whether in relation to planning and consent issues in this Consultation or the parallel requirements in COMAH 2015, it all seems to be one way - major hazard sites are required to attempt to communicate with neighbouring developments but there is no requirement for them to respond, nor to initiate important information in the other direction in the first place. Encouraging them to do so via planning guidance is sensible, but it may not be a very robust or effective measure in many cases. Such arrangements may also not be very reliable for protecting areas of natural sensitivity. Encroachment is an issue of great concern to many companies, and these proposals do little to address the problem of controlling inappropriate developments in the near vicinity of existing major hazard installations. We think that the whole issue of encroachment is something that should be given specific attention and detailed work with industry, HSE and other stakeholders.				

Consultation reference: WG24167

If timescales do not permit this being done before 1st June implementation date we strongly urge that it remain on the agenda for more fundamental reform post-Seveso III.

Public participation and access to justice

Q5	Do you agree with how we propose of deliver Seveso III requirements on public participation on specific individual projects and on plans and programmes?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
Yes. From an industry perspective we do not consider these proposals to be contentious, and will leave it to anyone responding to the Consultation from a public (or ‘member of the public’) perspective to make any other comments.

Q6	Do you have any additional comments on the consultation paper or the draft Regulations?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
CIA has previously made representations on a broad range of planning and Consent issues, including in our responses to the Lofstedt Review, Red Tape Challenge, discussions with DCLG in England, and with HSE. We have also made these comments in our responses to the DCLG and Scottish consultations, as well as to this one.

The issues that we have raised and that we consider need radical change are not specifically Welsh issues, and we think that a UK-wide approach across government planning departments is needed. The issues problem areas include:

- **The unacceptably long time for processing and concluding Consent applications, which sometimes puts UK industry in a difficult position and which is a barrier to investment in UK facilities;**
- **The ways the LA/HSE/site relationship operates, which is an inefficient process that should be streamlined;**
- **In some cases (and we accept it is not all cases), poor awareness of the issues, process and appropriate procedures for Consent applications by staff in hazardous substance authorities. This may be due at least in part to relatively infrequent applications to some local authorities - the consultation recognizes**

Consultation reference: WG24167

this issue;

- **Increasing encroachment of retail and residential development around existing major hazard sites - including in some cases by LAs ignoring HSE advice, or by the process by which developers can use small incremental developments to secure approval when one large application may not be approved ('salami slicing').**

We appreciate that these issues cannot be resolved by the current consultation and in time for Seveso III implementation date of 1st June. However we consider that the system needs a thorough review in cooperation between the relevant departments in Wales, Scotland and England, and a consideration of alternative options that would benefit all stakeholders. These are complex issues. The first step in this could be a Working Group involving at least Welsh Assembly Government, Scottish Government, DCLG, HSE and industry. CIA (and some of our member companies) would welcome the opportunity to participate - this has been a long-running issue, which has remained unresolved in the past despite previous work, it is damaging to industry interests, and potentially increases the number of public potentially at risk from consequences of infrequent major accidents.

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:

Email
Please complete the consultation response form and send it to: planconsultations-j@wales.gsi.gov.uk (Please include "WG24167" in the subject line).
Post

Consultation reference: WG24167

Please complete the consultation form and send it to:

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

Additional information

If you have any queries on this consultation, please

Email: planconsultations-j@wales.gsi.gov.uk

or

Telephone: Alan Groves on 029 2082 5362 or Owen Struthers on 029 2082 6430

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

11/02/2015 – 08/04/2015		
Name	Henry Betts - Head of Process & Occupational Safety	
Organisation	Calor Gas Ltd	
Address	Athena House, Athena Drive, Tachbrook Park, Warwick, CV34 6RL	
E-mail address	HBetts@calor.co.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input 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"/>

Delivering Seveso III objectives through land-use planning policies

Q1	Do you agree with the proposed approach to deliver Seveso III objectives through land-use planning policies?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Planning controls on hazardous substances

Q2	Do you agree with the principle of aligning the list of controlled hazardous substances which require hazardous substances consent with the Seveso III Directive subject to the exceptions for liquefied petroleum gas (LPG), liquefied natural gas (LNG) and hydrogen?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree that the 25Te limit on LPG is acceptable and maintains the status quo. However we think the LNG limit should be increased to 25Te as the old 15Te limit was designed for high pressure natural gas installations (e.g. compressor stations) and not Liquefied Natural Gas. LNG installations are more akin to LPG installations and can justifiably be treated in a similar way regarding their risks and for hazardous planning purposes.</p>				

Q3a	Do you agree with how we propose to implement controls on new establishments?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>No comment</p>				

Q3b	Do you agree with our proposed amendments for modifications to establishments?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>No comment</p>				

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

Q3c	Do you agree with our proposals relating to how an application for consent is made?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q3d	Do you agree with how we propose to address obligations on additional technical measures in relation to the environment?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Protecting areas around hazardous establishments

Q4	Do you have any comments on the proposals for controlling development around establishments and the use of current arrangements to deliver protection to areas of natural sensitivity?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The current process is not always robust. If a new development is planned near an existing notifiable site, the site owner of that site should always have the right to comment on the new development - if not it may result in inappropriate development near a hazardous facility, which may then result in unnecessary debate / costs to rectify the situation. At the moment a hazardous site operator may get informed in writing (if they are adjudged to be a neighbour) or they may see a planning notice posted at the new development or in the press. Calor				

Consultation reference: WG24167

believes that the planning authority should be obligated to inform the hazardous site operator if any development is proposed within the PIZ (public information zone) around such sites.

Public participation and access to justice

Q5	Do you agree with how we propose of deliver Seveso III requirements on public participation on specific individual projects and on plans and programmes?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q6	Do you have any additional comments on the consultation paper or the draft Regulations?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment			

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:

Email

Consultation reference: WG24167

Please complete the consultation response form and send it to:

planconsultations-j@wales.gsi.gov.uk

(Please include "WG24167" in the subject line).

Post

Please complete the consultation form and send it to:

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

Additional information

If you have any queries on this consultation, please

Email: planconsultations-j@wales.gsi.gov.uk

or

Telephone: Alan Groves on 029 2082 5362 or Owen Struthers on 029 2082 6430

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

11/02/2015 – 08/04/2015		
Name	Andrew Gibbs	
Organisation	Natural Resources Wales	
Address	Ty Cambria, Cardiff, CF24 0TP	
E-mail address	Andrew.Gibbs@cyfoethnaturiolcymru.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" 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"/>

Delivering Seveso III objectives through land-use planning policies

Q1	Do you agree with the proposed approach to deliver Seveso III objectives through land-use planning policies?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales agree with the approach to delivering the Seveso III objectives through land-use planning policies.</p>				

Planning controls on hazardous substances

Q2	Do you agree with the principle of aligning the list of controlled hazardous substances which require hazardous substances consent with the Seveso III Directive subject to the exceptions for liquefied petroleum gas (LPG), liquefied natural gas (LNG) and hydrogen?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales have no further comments.</p>				

Q3a	Do you agree with how we propose to implement controls on new establishments?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales support the requirement for new establishments to hold a hazardous substances consent.</p>				

Q3b	Do you agree with our proposed amendments for modifications to establishments?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales believe the requirements to notify the Competent Authority to assess the modifications provide the necessary level of control.</p>				

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

Q3c	Do you agree with our proposals relating to how an application for consent is made?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales support the proposals to provide clarity on information required to make changes to their hazardous substances consent.</p>				

Q3d	Do you agree with how we propose to address obligations on additional technical measures in relation to the environment?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales support the proposal to keep the existing controls in place.</p>				

Protecting areas around hazardous establishments

Q4	Do you have any comments on the proposals for controlling development around establishments and the use of current arrangements to deliver protection to areas of natural sensitivity?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: Natural Resources Wales support the use of the current arrangements to deliver protection to areas of natural sensitivity.</p>				

Public participation and access to justice

Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major-accident hazards

Consultation reference: WG24167

Q5	Do you agree with how we propose of deliver Seveso III requirements on public participation on specific individual projects and on plans and programmes?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales have no further comments.</p>				

Q6	Do you have any additional comments on the consultation paper or the draft Regulations?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: Natural Resources Wales have no further comments</p>			

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

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