

August 2011

Summary of Responses to the Consultation on Draft Guidance for the Major Off-site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulation 2009

Mining Waste Directive: Article 6 Category “A” Waste Facilities

Period of consultation: 26 March 2010 – 21 June 2010

Contents

1	Introduction	1
2	Summary of responses	2
	Local Authorities	2
	Industry	3
	The Way Forward	3
	List of Respondents	4

1 Introduction

- 1.1 Defra launched a consultation on 26th March 2010 seeking views from stakeholders on draft guidance with respect to the transposition of Article 6 of the Mining Waste Directive¹ (MWD) into English and Welsh Law by the Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009² (“the Regulations”). The guidance is specifically aimed at the elements of the MWD relating to the drawing up of off-site emergency plans for Category “A” sites, and in particular at the competent authority that will have to draw up and, in the case of a major emergency, implement such emergency plans.

¹ Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC

² S.I. 2009/1927

- 1.2 The primary purpose of this document is to provide guidance to the competent authority and also provide the operators with an understanding of their requirements under the Regulations.
- 1.3 The consultation period ended on 21 June 2010. We received a total of 13 responses. There were 4 responses from Local Authorities, 7 from Industry and one response from the Environment Agency. This document summarises the responses received and the Government response to issues raised.
- 1.4 It is not possible to address all aspects of each response, which were wide-ranging. However, copies of individual responses will be supplied on request to personal callers or in response to telephone (0207 238 6575) or email requests (defra.library@defra.gsi.gov.uk).
- 1.5 We thank the organisations and individuals who spent time and effort to respond with their comments.

2 Summary of responses

- 2.1 The comments received covered a wide range of issues. Generally respondents made comments to specific paragraphs in the consultation document which this summary does not detail. The majority of responses came from Local Authorities and Industry. There was 1 response from the Environment Agency which we have considered as part of our Government discussions. There were 2 respondents who provided a “no comment” response to the consultation.

Local Authorities

- 2.2 Defra received comments from Cornwall and Devon County Councils and the Cleveland Local Resilience team from Hartlepool Council. There were also no comment responses received from Sheffield City Council and Shropshire Council Authority. The Local Authorities provided some detailed comments to the consultation, a few of which were general comments on wording which the Government have taken onboard and amended the guidance accordingly.
- 2.3 Generally, respondents felt that there should be more clarity in the guidance document on the definitions, for instance who is the “competent authority.” One respondent suggested that the guidance document should show clearly, text that was directly taken from legislation.
- 2.4 One respondent suggested that there was a lack of clarity within the guidance as to when the relevant date of six months to prepare an off-site emergency plan commences. A question also arose of the benefit in using Waste Management Plans to draft an off-site emergency plan.
- 2.5 There was one respondent who indicated that there was no statutory requirement for the competent authority to consult the operator.
- 2.6 One responded voiced concern with the possibility of having to produce several plans at the same time. It was also felt that by the same respondent that Local Authorities will not be in a position to judge whether they have enough information to produce a plan. This information will only be known after there has been experience in producing the off-site emergency plans.

- 2.7 Another key concern raised was the shortage of emergency planners. It was highlighted that this may be a problem if some Local Authorities have a large volumes of off-site emergency plans. A Local Authority also raised the concern on whether they will be able to recover the actual costs of developing these plans.

Industry

- 2.8 Defra received 7 comments from Industry, with 2 consultees having “no comments.” One consultee responded to the consultation but did not provide any comments directly related to the consultation. Comments were received from Aggregate Industries UK Ltd., CBI Minerals Group, Federation of Independent Mines, International Association of Emergency Managers, Minerals Engineering Society, South West Water and the Lodge Paternership.
- 2.9 A major issue raised by the mining and quarrying Industry was the requirement in paragraph 51 of the draft guidance for the off-site emergency plans to be tested every 3 years. Industry have pointed out that the Mining Waste Directive does not actually require plans to be tested. This issue has been dealt with in the guidance.
- 2.10 Two respondents expressed concern over the ability of Local Authorities to draw up emergency plans within very tight timescales. There should also be more clarity in the guidance of when the ‘relevant date’ is for the competent authority to produce off-site emergency plans.
- 2.11 One respondent felt that the process may be overly bureaucratic for the competent authority. This respondent also suggested that it may be usefully for the competent authority to use emergency management cycle principles to draw up off-site emergency plans.

The Way Forward

- 3.1 The Government has considered all issues raised in the consultation carefully. We will amend the draft guidance in line with the comments received where we agree that the changes will improve our guidance. The guidance will be published on our website Summer 2011.

List of Respondents

- Aggregate Industries UK Limited
- CBI Minerals Group
- Cleveland Emergency Planning Unit
- Cornwall Council
- Devon County Council
- Environment Agency
- Federation of Independent Mines
- International Association of Emergency Managers
- Minerals Engineering Society (no comments)
- Sheffield City Council (no comments)
- Shropshire Council (no comments)
- South West Water (no comments)
- The Lodge Partnership on behalf of Imerys Minerals Limited

© Crown copyright 2011

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk

This document/publication is also available on our website at:

www.defra.gov.uk/environment/waste/

Any enquiries regarding this document/publication should be sent to us at:

Defra

Waste Regulation and Crime

Area 6D, Ergon House

Horseferry Road

LONDON SW1P 2AL

miningwasteoffsiteguidanceconsultation@defra.gsi.gov.uk