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SCOTTISH EXECUTIVE

Scottish Executive Environment Group
Water Environment Oil Storage (Scotland)
Regulations 2006

A Consultation Paper including Draft
Regulations

December 2005
Paper 2005/36

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ISBN: 0-7559-2863-6

Scottish Executive
St Andrew's House
Edinburgh
EH1 3DG

Produced for the Scottish Executive by Astron B44538 12/05

Published by the Scottish Executive, December, 2005

Further copies are available from
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Water Environment Oil Storage (Scotland) Regulations 2006

PURPOSE

In March 2003 the Scottish Executive published a consultation on the Control of Pollution Oil Storage (Scotland) Regulations. This set out the Executive's proposals for Regulations and guidance to be introduced on the storage of oils.

Oil storage controls were also consulted on as a General Binding Rule in the Controlled Activities Regulations consultation of April 2004.

These proposals have subsequently been revised and will now be implemented under the Water Environment and Water Services (Scotland) Act 2003 as the Water Environment (Oil Storage) (Scotland) Regulations 2006. They are now being published to allow further final comment prior to the regulations being made.

The original consultation can be viewed at
www.scotland.gov.uk/library5/environment/pollution.PDF

Comments on the proposals should reach us by 24 January 2006

Thereafter we plan to lay the Regulations in the Scottish Parliament.

ARRANGEMENTS FOR RESPONSES

Please send your views and comments on the proposals in this paper to:

Water Division
Scottish Executive
Area 1-H, Victoria Quay
EDINBURGH EH6 6QQ

Tel 0131 244 0386
Fax 0131 244 0245
e-mail waterdivision@scotland.gsi.gov.uk

Responses should reach us by 24 January 2006

Earlier responses would be welcome.

Responses received will be made available publicly unless respondents ask for their comments to remain confidential. Details about how to access the responses can be obtained from Ian Speirs on 0131 244 0189

INTRODUCTION

The Executive consulted in 2003 on proposals for Oil Storage Regulations under the Control Of Pollution Act 1974. The provision under which the Regulations would have been made, has been superseded by the introduction of new powers under the Water Environment and Water Services (Scotland) Act 2003.

We now propose to make the Regulations under the Water Environment and Water Services (Scotland) Act 2003 (WEWS).

The WEWS Act established a broad framework for the future management of our rivers, lochs, coasts and groundwater. It gives Ministers powers to make regulations to control activities that impact on the water environment.

The inclusion of the storage of agricultural fuel oil within the proposed regulations will mean that the agricultural fuel oil provisions of the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003 will be revoked when the Water Environment (Oil Storage) (Scotland) Regulations 2006 come into force

Due to this revision of the regulations and the changes to our original proposals, we wish to give stakeholders the opportunity to comment on the revised proposals, prior to making the regulations.

1. Oil Storage Regulations

The draft regulations are primarily the same as those on which the Executive consulted on in 2003, with the additional provisions under 2 below

2. Revised Proposals

- Where oil is stored in any portable container with a storage capacity of less than 200 litres, the container must be of sufficient strength and structural integrity so as to ensure that it is unlikely to burst or leak in its ordinary use.
- The inclusion of the storage of agricultural fuel oil:

“agricultural fuel oil” means oil intended for use as a fuel for the production of heat or power but does not include oil intended for use exclusively as a fuel for heating a farmhouse or other residential premises on a farm and which is stored separately from other oil.

The Silage Slurry and Agricultural Fuel Oil regulations allowed an exemption where the quantity of fuel stored on a farm did not exceed 1250 litres. This does not apply in the proposed regulations.

It is considered that most tanks on farms would now be of greater capacity than 1250 litres and would already conform to the requirements of the revised Regulations. Any tanks above 1250 litres not of the required standard will be pre 1991 with a further 4 years in which to comply.

When the Water Environment (Oil Storage) (Scotland) Regulations 2006 come into force, the agricultural fuel oil provisions of the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003 will be revoked.

The proposed regulations will consolidate the control of the storage of oil which is not already covered by other legislation.

We would welcome any comments regarding these revised regulations.

2006 No.

ENVIRONMENTAL PROTECTION

WATER

The Water Environment (Oil Storage) (Scotland) Regulations 2006

<i>Made</i> - - - -	2006
<i>Laid before the Scottish Parliament</i>	2006
<i>Coming into force</i> - -	2006

The Scottish Ministers, in exercise of the powers conferred on them by section 20 of, and Schedule 2 to, the Water Environment and Water Services (Scotland) Act 2003(a), and of all other powers enabling them in that behalf, after consulting the persons specified in section 21(1) of that Act, and having published a draft of the proposed general binding rules in accordance with section 21(2), having had regard to the representations received about those proposed rules in accordance with section 21(4) of that Act, and having complied with the requirements of section 21 of that Act, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Water Environment (Oil Storage) (Scotland) Regulations 2006, and shall come into force on 2006.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Water Environment and Water Services (Scotland) Act 2003;

“agricultural fuel oil” means oil intended for use as a fuel for the production of heat or power but does not include oil intended for use exclusively as a fuel for heating a farmhouse or other residential premises on a farm and which is stored separately from other oil;

“container” means a single or double skinned fixed tank, a drum, a mobile bowser or (even if not connected to fixed pipe or fixed pipework) an intermediate bulk container;

“drum” means an oil drum or similar container used for storing oil;

“EEA State” means a Member State, Norway, Iceland or Liechtenstein;

“fixed tank” includes an intermediate bulk container which is connected to fixed pipework;

“oil” means any kind of oil and includes petrol, diesel, waste and vegetable and plant oil, but does not include uncut bitumen;

“premises” includes land and mobile plant, but does not include vehicles or vessels;

(a) 2003 asp 3; amended by section 66 of, and paragraph 6 of Schedule 2 to, the Anti Social Behaviour Etc (Scotland) Act 2004 (asp 8).

“the principal Regulations” means the Water Environment (Controlled Activities) (Scotland) Regulations 2005(a);

“private dwelling” means any part of a building used or intended to be used as a dwelling;

“secondary containment system” means a drip tray, an area surrounded by a bund or catchpit, or any other system for preventing oil which is no longer in its container from escaping from the place where it is stored.

(2) Words and expressions used in these Regulations and not defined in paragraph (1) take the meaning given in the principal Regulations.

(3) In these Regulations, any requirement for any container, drum, fixed tank or other product to comply with a specified standard is satisfied by compliance with:

- (a) a relevant standard or code of practice of a national standards body or equivalent of any EEA State or the Republic of Turkey;
- (b) any relevant international standard recognised for use as a standards by any EEA State or the Republic of Turkey; or
- (c) a technical specification or code of practice which, whether mandatory or not, is recognised for use as a standard by a public authority of any EEA State or of the Republic of Turkey,

in so far as the standard, code of practice, international standard or technical specification in question enables the objectives of these Regulations to be met in an equivalent manner.

Application of the principal Regulations

3.—(1) The activities specified in regulations 4 to 6 are controlled activities within the meaning of regulation 4 of the principal Regulations and, subject to paragraph (2) and regulation 7, the principal Regulations apply to those activities accordingly.

(2) A controlled activity specified in regulations 4 to 6 is deemed to be authorised under regulation 7 of the principal Regulations if it is carried on in accordance with the requirements of the regulation in which it is specified.

Storage in portable containers

4. Where oil is stored in any portable container with a storage capacity of less than 200 litres, the container must be of sufficient strength and structural integrity so as to ensure that it is unlikely to burst or leak in its ordinary use.

Private dwellings

5.—(1) Where oil, used solely to serve a fixed combustion appliance installation providing space heating or cooking facilities, is stored in a container with a capacity of 2,500 litres or less on premises used wholly or mainly as a private dwelling, the requirements of paragraph (2) must be met.

(2) A container to which paragraph (1) refers which is installed or altered must comply with the requirements of any applicable regulations under the Building (Scotland) Act 2003(b)

Storage of oil - general

6.—(1) The storage of oil on premises other than—

- (a) in circumstances provided for in regulations 4 and 5;
- (b) in any container which is situated wholly underground (unless the container is situated wholly within a building underground);
- (c) where the oil is stored in accordance with—

(a) S.S.I. 2005/348.

(b) 2003 asp 8.

- (i) an authorisation under Part I of the Environmental Protection Act 1990^(a) in respect of a Part A process falling within the description set out in Schedule 1 to the Environmental Protection (Prescribed Processes and Substances) Regulations 1991^(b); or
- (ii) a permit under the Pollution Prevention and Control (Scotland) Regulations 2000^(c) in respect of a Part A activity as defined in Schedule 1 to those Regulations; or
- (d) premises used for the onward distribution of oil to other places,

shall be carried out in accordance with the following provisions of this regulation.

(2) The oil stocks shall be stored in a container which is of sufficient strength and structural integrity, and has been installed so as to ensure that it is unlikely to burst or leak in its ordinary use.

(3) The container must be situated within a secondary containment system which satisfies the following requirements—

- (a) subject to paragraph (6), it must have a capacity of not less than 110% of the container's storage capacity or, if there was more than one container within the system, of not less than 110% of the largest container's storage capacity, or 25% of the average aggregate storage capacity, whichever is greater;
- (b) it must be positioned, or other steps must be taken, so as to minimise any risk of damage by impact so far as is reasonably practicable;
- (c) its base wall must be impermeable to water and oil;
- (d) its base and walls must not be penetrated by any valve, pipe or other opening which is used for draining the system; and
- (e) if any fill pipe, or draw off pipe, penetrates its base or any of its walls, the junctions of the pipe with the base of the walls must be adequately sealed to prevent oil escaping from the system.

(4) Any valve, filter, sight gauge, vent pipe or other equipment ancillary to the container (other than a fill pipe or draw off pipe or, if the oil has a flashpoint of less than 32°C, a pump) must be situated within the secondary containment system.

(5) If the connection point to a fill pipe is not within the secondary containment system, a drip tray must be used to catch any oil spilled when the container is being filled with oil.

(6) Where any drum is used for the storage of the oil in conjunction with a drip tray as a secondary containment system, it is sufficient if the tray has a capacity of not less than 25% of—

- (a) the drum's storage capacity; or
- (b) if there is more than one drum used at the same time with the tray, the aggregate storage capacity of the drums.

(7) Where a fixed tank is used for storing oil the following requirements must be satisfied—

- (a) any sight gauge must be properly supported and fitted with a valve which must be closed automatically when not in use;
- (b) any fill pipe, draw off pipe or overflow pipe must be positioned or other steps must be taken, so as to minimise any risk of damage by impact so far as is reasonably practicable and—
 - (i) if above ground, must be properly supported;
 - (ii) if underground—
 - (aa) must have no mechanical joints, except at a place where it is accessible for inspection by removing a hatch or cover;
 - (bb) must be adequately protected from physical damage;
 - (cc) must have adequate facilities for detecting any leaks;

(a) 1990 c.43; amended by the Environment Act 1995 (c.25), the Pollution Prevention and Control Act 1999 (c.24), the Anti-Social Behaviour (Scotland) Act 2004 (asp 8) and the Pollution Prevention and Control (Scotland) Regulations 2000 (S.S.I. 2000/323).

(b) S.I. 1991/472; amended by S.I. 1991/836, 1992/614, 1993/2405, 1994/1271, 1995/3247 and 1998/767; and S.S.I. 2000/323, 2004/26 and 2004/512.

(c) S.S.I. 2000/323; amended by paragraph 7 of Schedule 2 to the Anti-Social Behaviour etc. (Scotland) Act 2004 (asp 8), S.I. 2002/493, 2003/146, 170, 221, 235 and 411, 2004/26, 110, 112, 512 and 2005/101.

- (dd) if fitted with a leakage detection device which is continuously to monitor for leaks the detection device must be maintained in working order and tested at the appropriate intervals, and at least every 5 years, to ensure that it works properly; and
- (ee) if not fitted with a leakage detection device, must be tested for leaks before it is first used and further tests for leaks must be performed in the case of pipes which have mechanical joints, at least once in every 5 years, and in other cases, at least once in every 10 years; and
- (iii) if made of materials which are liable to corrosion, must be adequately protected against corrosion, and pipes permeable by hydrocarbon vapours must not be used where hydrocarbons are stored;
- (c) the tank must be fitted with an automatic overflow prevention device (which may include an alarm sounding device) if the filling operation is controlled from a place where it is not reasonably practicable to observe the tank or any vent pipe;
- (d) where a screw fitting or other fixed coupling is fitted, it must be maintained in good conditions and used whenever the tank is being filled with oil;
- (e) where oil from the tank is delivered through a flexible pipe which is permanently attached to the container–
 - (i) the pipe must be fitted with a tap or valve at the delivery end which closes automatically when not in use;
 - (ii) the tap or valve must not be capable of being fixed in the open position unless the pipe is fitted with an automatic shut off device;
 - (iii) the pipe must be enclosed in a secure cabinet which is locked shut when not in use and is equipped with a drip tray, or the pipe must–
 - (aa) have a lockable valve where it leaves the container which is locked shut when not in use, and
 - (bb) be kept within the secondary containment system when not in use;
- (f) any pump must be–
 - (i) fitted with a non-return valve in its feed line;
 - (ii) positioned or other steps must be taken, so as to minimise any risk of damage so far as is reasonably possible; and
 - (iii) protected from unauthorised use; and
- (g) any permanent vent pipe, tap or valve through which oil can be discharged from the tank to the open must satisfy the following requirements–
 - (i) it must be situated within the secondary containment system;
 - (ii) it must be arranged so that any oil discharged from the tank other than to its intended destination is contained within the system; and
 - (iii) in the case of a tap or valve, it must be fitted with a lock and locked shut when not in use.
- (8) Where a mobile bowser is used for storing oil, it shall satisfy the following requirements–
 - (a) any tap or valve permanently fixed to the bowser through which oil can be discharged to the open must be fitted a lock and locked shut when not in use;
 - (b) where oil is delivered through a flexible pipe which is permanently attached to the mobile bowser–
 - (i) the pipe must be fitted with a manually operated pump or a valve at the delivery end which automatically closes when not in use;
 - (ii) the pump or valve must be provided with a lock and locked shut when not in use;
 - (iii) the pipe must be fitted with a lockable valve at the end where it leaves the container and must be locked shut when not in use; and
 - (c) any sight gauge tanks must be secured to the mobile bowser and be fitted with a valve or tap which must be locked in the shut position when not in use.

Transitional provisions

7.—(1) Subject to paragraphs (2) to (4), where an activity referred to in regulations 4 to 6 is being carried on immediately before the date on which these Regulations come into force, the provisions of the principal Regulations and these Regulations do not apply until 1st October 2009.

(2) Regulation 28 of the principal Regulations apply to that activity from the date on which these Regulations come into force.

(3) Subject to paragraph (4), where that activity (or any part of it) is being carried on less than—

- (a) 10 metres away from any surface water or wetlands; or
- (b) 50 metres away from any well or borehole,

the provisions of the principal Regulations and these Regulations do not apply to that activity until 1st October 2007.

(4) If a notice is served under regulation 28 of the principal Regulations in respect of that activity and is not complied with, unless the time limit relevant to that activity under paragraph (1) or (3) expires first, the provisions of the principal Regulations and these Regulations apply to that activity from whichever of the following is the later—

- (a) the expiry of the time limit imposed in the notice, or
- (b) if there is an appeal against the notice, the date on which the appeal is determined or withdrawn.

Amendment of the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003

8.—(1) The control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003^(a) are amended as follows.

(2) In regulation 1—

- (a) in paragraph (2)—
 - (i) the definition of “fuel oil” is omitted; and
 - (ii) in the definition of relevant substance, the words “fuel oil” are omitted; and
- (b) in paragraph (3), the words “, fuel storage tank” are omitted.

(3) Regulation 4 and Schedule 3 are omitted.

(4) In regulation 5—

- (a) between the words “silo” and “slurry”, for “,” there is substituted “or”; and
- (b) the words “or fuel storage tank or container” are omitted.

(5) In regulation 10—

- (a) between the words “silo” and “slurry” for “,” there is substituted “or”; and
- (b) the words “or, as the case may be, fuel storage area” are omitted.

(6) In regulation 11, “4(1)” is omitted.

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh

2005

(a) S.S.I. 2003/531.

RESPONDEE INFORMATION FORM

Please complete the details below and attach it with your response. This will help ensure we handle your response appropriately:

Name:

Postal Address:

Consultation title:

1. Are you responding as: (please tick one box)

(a) an Individual (go to 2a/b)

(b) **on behalf of** a group or organisation (go to 2c)

2a.INDIVIDUALS:

Do you agree to your response being made available to the public (in SE library and/or on SE website)?

Yes (go to 2b below)

No, not at all

2b. Where confidentiality is not requested, we will make your response available to the public on the following basis (**please tick one** of the following boxes)

Yes, make my response, name and address all available

Yes, make my response available, but not my name or address

Yes, make my response and name available, but not my address

2c ON BEHALF OF GROUPS OR ORGANISATIONS:

Your name and address as respondents **will be** made available to the public (in the SE library and/or on SE website). Are you content for your response to be made available also?

Yes

No

SHARING RESPONSES/FUTURE ENGAGEMENT

3. We will share your response internally with other SE policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for the Scottish Executive

to contact you again in the future in relation to this consultation response?

Yes []

No []

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ISBN 0-7559-2863-6



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