

**EXPLANATORY MEMORANDUM TO
CONTROL OF POLLUTION (OIL STORAGE) REGULATIONS (NORTHERN
IRELAND) 2010**

2010 No. 412

Introduction

1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany SR No. 412 which is laid before the Northern Ireland Assembly.
2. The Statutory Rule is made under the powers conferred by Articles 14 and 61(2) of The Water (Northern Ireland) Order 1999 and is subject to the negative resolution procedure.
3. The Rule is due to come into operation on 20 March 2011.

Purpose

4. The Statutory Rule will meet the commitment given in the River Basin Management Plans (RBMPs), which were published on 21 December 2009, to ensure the objectives of the Water Framework Directive (WFD) are met. The purpose of the rule is to reduce and prevent pollution of the aquatic environment from any inadequate above ground oil storage facilities.

Background

5. The WFD requires that for diffuse sources liable to cause pollution, measures are put in place to control the input of pollutants. It also requires that all surface waters and groundwater attain “good” status by 2015.
6. With the exception of the agricultural and domestic sectors in Northern Ireland and sites regulated under the Control of Major Accident Hazards Regulations (Northern Ireland) 2000 (CoMAH), storing 2,500 tonnes of oil or more, there is no specific regulatory control for above ground oil storage facilities.
7. The Regulations will complement and enhance existing water pollution controls and will set minimum design standards for new and existing above ground oil storage facilities, providing a legal requirement for the standards to be met. A key requirement will be for the storage container to have a secondary containment system (a bund, which is an outer wall or enclosure designed to contain the contents of an inner tank, or a drip tray) to ensure that any leaking or spilt oil is contained and does not enter the aquatic environment.
8. It was proposed that the Regulations would apply to anybody who has custody or control of above ground oil storage facilities with a storage capacity of more than 200 litres on industrial, commercial and institutional/residential (e.g. schools, day care

centres, hospitals, nursing homes) premises, to waste oil storage facilities and to companies who refine or distribute oil.

9. It was proposed that the Regulations would not apply to:
- any container with a storage capacity of 200 litres or less;
 - any premises used wholly or mainly as a private dwelling if the storage capacity of the container in which the oil is stored is 3500 litres or less;
 - any farm if the oil is used in connection with agriculture within the meaning of the Agricultural Act (northern Ireland) 1949; or
 - any container which is wholly underground.

Consultation

10. A consultation setting out the Department's proposals ran from the 26 March 2010 to 17 June 2010. A total of 39 responses were received, the majority of which were supportive of the proposals. However, five issues arose which required further consideration:
- the inclusion of CoMAH regulated sites storing 2,500 tonnes of oil or more;
 - the inclusion of oil distributors;
 - the exclusion of the agricultural sector;
 - the exclusion of the domestic sector (tanks holding 3500 litres or less); and
 - the timeframe allowed for compliance.
11. The Department reviewed these comments and met with representatives of the oil industry as a result of which minor amendments were made to the Regulations and accompanying guidance.
12. A synopsis of the responses received was considered by the Environment Committee at their meeting on 30 September 2010. Committee Members were content for the Department to proceed with the policy.
13. In addition, as the legislation creates new offences it is by definition cross-cutting and so Executive Committee approval was required. The Executive Committee considered the proposals at their meeting on 18 November 10. Members were content for the Department to proceed with the policy.

Equality Impact Assessment

14. Consideration has been given to equality issues and it has been determined that the Regulations will have no impact in terms of the main groups relevant to the section 75 categories of the Northern Ireland Act 1998.

Regulatory Impact Assessment

15. A Regulatory Impact Assessment was completed in September 2010. It found that there will be some financial implications for consumers and suppliers. However, over a 10-year period it is estimated that the financial benefits for savings made in relation

to a reduction in clean-up costs will outweigh the financial costs to consumers and suppliers.

Financial Implications

16. The Regulations will have some financial implications for consumers and suppliers of above ground oil storage facilities. However, over a 10-year period it is estimated that the financial benefits for savings made in relation to a reduction in clean-up costs will outweigh the financial costs to consumers and suppliers.

Section 24 of the Northern Ireland Act 1998

17. The Rule does not discriminate on the grounds of religious belief or political opinion nor does it modify the European Communities Act, the Human Rights Act 1998 or other statutory provisions listed in section 7 of the 1998 Act.

EU Implications

18. The Statutory Rule will meet the commitment given in the River Basin Management Plans (RBMPs), which were published on 21 December 2009, to ensure the objectives of the Water Framework Directive (2000/60/EC) (WFD) are met.

Parity or Replicatory Measure

19. Similar measures are already in place in England under the Control of Pollution (Oil Storage) (England) Regulations 2001 and in Scotland these Regulations are enacted as a General Binding Rule under the Water Environment (Oil Storage) Scotland Regulations 2006.

Additional Information

20. N/A