

HSE Consultation Document:

Consultation on proposed minor administrative changes to the Control of Major Accident Hazards Regulations 2015

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The Consultation Document

**This consultative document is issued by the Health and Safety Executive in compliance with its duty to consult under section 50 (3) of the Health and Safety at Work etc. Act 1974.**

**HSE tries to make its consultation procedure as thorough and open as possible. A summary of responses to this consultation document will be made available on the consultation webpage after the close of the consultation period, where they can be viewed by members of the public.**

**Information provided in response to this consultation may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), thel Data Protection Act 2018and the Environmental Information Regulations 2004 (EIR)).  Statutory Codes of Practice under the FOIA and EIR also deal with confidentiality obligations, among other things.**

**If you would like us to treat any of the information you provide as confidential, please explain your reasons for this in your response.  If we receive a request under FOIA or EIR for the information you have provided, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.  An automatic confidentiality disclaimer generated by your IT system will be disregarded for these purposes.  Requests for confidentiality should be made explicit within the body of the response.**

**HSE will process all personal data in accordance with the GDPR.  This means that personal data will not normally be disclosed to third parties and any such disclosures will only be made in accordance with the Regulations. See** [HSE’s Privacy Policy Statement [External link](http://www.hse.gov.uk/privacy.htm)](http://www.hse.gov.uk/privacy.htm)**.**

Enquiries should be sent to:

Written: HSE – Chemicals and Land Use Planning policy team, Health and Safety Executive, 2.1 Redgrave Court, Merton Rd, Bootle, Merseyside, L20 7HS

Email: [Comah.Enquiries@hse.gov.uk](mailto:Comah.Enquiries@hse.gov.uk)

Consultation by the Health and Safety Executive

This Consultation relates to administrative changes to the Control of Major Accident Hazards Regulations 2015 (COMAH) which are required because of the dissolution of Public Health England (PHE).

The Health and Safety Executive (HSE) consults stakeholders to seek their views on its proposals. It believes that public consultation provides an open and transparent approach to its decision-making. Following consultation, HSE will make a recommendation to the Secretary of State on the best way forward.

Code of Practice on Consultation

HSE is committed to best practice in consultation and to the Government’s Consultation Principles. The Government is improving the way it consults by adopting a more proportionate and targeted approach, so that the type and scale of engagement is proportional to the potential impacts of the proposal. The emphasis is on understanding the effects of a proposal and focussing on real engagement with key groups rather than following a set process.

Additional guidance can be found at:

[https://www.gov.uk/government/publications/consultation-principles-guidance](https://www.gov.uk/government/publications/consultation-principles-guidance%20)

How to respond

A summary of the proposal and the questionnaire can be found at: (insert link)

Our preferred method for receiving comments is via the online questionnaire. This is the most effective way for us to fully consider and analyse responses.

However, you can also respond by:

•Completing the word questionnaire and sending it by email to: [Comah.Enquiries@hse.gov.uk](mailto:Comah.Enquiries@hse.gov.uk)

• Downloading the word questionnaire and sending a written response to:

COMAH consultation, Chemicals and Land Use Planning policy team, 2.1 Redgrave Court, Merton Road, Bootle, Merseyside, L20 7HS

We would be grateful if you could send an email address when you provide your response. This will allow us to inform you when HSE intends to publish information concerning consultation responses on its websites.

Responses must be received by 8th August 2021.

If you require a more accessible format of this document, please send details to [HSE.Online@hse.gov.uk](mailto:HSE.Online@hse.gov.uk) and your request will be considered.

What happens next?

We will acknowledge all responses and give full consideration to their substance in the subsequent proposals. We may contact you again if, for example, we have a query in respect of your response.

We will also tell you when we publish information concerning the consultation responses. We will provide a summary of responses to this consultation and the views expressed about each question. This information will be placed on the HSE website.

Quality assurance and complaints

If you have any complaints about the consultation process (as opposed to comments about the issues, which are the subject of the consultation) please address them to:

Susan Robinson

HSE Consultation Coordinator

5S3 Redgrave Court

Merton Road

Bootle

L20 7HS

Email: [susan.robinson@hse.gov.uk](mailto:susan.robinson@hse.gov.uk)

We aim to reply to all complaints within 10 working days. If you are not satisfied with the outcome, you can raise the matter with the Information Commissioner’s Office at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or HSE’s Chief Executive, Sarah Albon at Health and Safety Executive, Redgrave Court, Merton Road, Bootle, Merseyside, L20 7HS. You can also write and ask your MP to take up your case with us or with Ministers. Your MP may also ask the independent Parliamentary Commissioner for Administration (the Ombudsman) to review your complaint.

Purpose of this consultation

The COMAH Regulations currently require operators of upper tier establishments to consult PHE in preparing an internal emergency plan (reg 12(5)(e)), if the establishment is situated in England.

COMAH also requires a local authority to prepare an external emergency plan for upper tier establishments in their area, and to review it at intervals not exceeding three years. In preparing and reviewing the external emergency plan, the Local Authorities (LAs) must consult with PHE (regs. 13(7)(d) and 14(3)(a)), if the establishment is situated in England.

In August 2020, the Government announced its plans to reform the public health system in England, including the dissolution of Public Health England. The UK Health Security Agency (UKHSA), an Executive Agency of the Department of Health and Social Care, will take over the emergency planning functions previously carried out by PHE from 1 October 2021.

The proposed changes to COMAH consist of deleting references to Public Health England in regs 12(5)(e), 13(7)(d) and 14(3)(a) of COMAH 15 and replacing them with UK Health Security Agency.

This means that under the COMAH Regulations 2015, operators will be required to consult with UKHSA when preparing internal emergency plans and LAs will be required to consult with UKHSA when preparing and reviewing external emergency plans.

This is a public consultation so we would welcome all responses but we want to hear from Upper Tier COMAH Operators and Local Authorities in particular on the minor administrative amendments to the COMAH Regulations 2015 to remove references to PHE and replace them with references to UKHSA.

**Please see Table A below for a summary of the proposed amendments:**

|  |  |  |
| --- | --- | --- |
| Regulation | Requirement | Amendment |
| Reg. [12(5)(e)](https://www.legislation.gov.uk/uksi/2015/483/regulation/12/made) | Preparation, review and testing of internal emergency plans | Replace references to PHE with UKHSA |
| Reg. [13(7)(d)](https://www.legislation.gov.uk/uksi/2015/483/regulation/13/made) | Preparation of external emergency plans | Replace references to PHE with UKHSA |
| Reg. [14(3)(a)](https://www.legislation.gov.uk/uksi/2015/483/regulation/14/made) | Review and testing of external emergency plans | Replace references to PHE with UKHSA |

This Consultation Document seeks your views on what, if any, changes you will need to make as a result of the amendments.

Background

The COMAH Regulations apply to establishments that hold certain types of dangerous substances at or above thresholds set down in the Regulations. COMAH establishments are either designated as lower tier or upper tier establishments based on their inventory of dangerous substances.

The COMAH Regulations currently require operators of upper tier establishments to consult PHE when preparing an internal emergency plan. LAs also have duties under COMAH to prepare an external emergency plan for upper tier establishments in their area, and to review it at intervals not exceeding three years. In preparing and reviewing the external emergency plan, the LA must consult with PHE.

The UK Health Security Agency (UKHSA), an Executive Agency of the Department of Health and Social Care, will take over the emergency planning functions previously carried out by PHE from 1 October 2021. This means that upper tier operators will need to consult with UKHSA when preparing internal emergency plans and LAs will need to consult with UKHSA when preparing and reviewing external emergency plans.

The Department for Health and Social Care are acting as the lead Department to take forward a Statutory Instrument which will make the required changes to a variety of legislation, including the COMAH Regulations. HSE is contributing to this work and taking forward this consultation to ascertain what impact the changes will have on those with emergency planning duties under COMAH.

What will the amendment mean for dutyholders?

HSE’s current assessment is that the potential impacts on dutyholders will be minimal. This assessment estimates that there should not be any significant additional costs associated with the change.

Invitation to comment

HSE invites comments on these proposals. We are happy to receive your written comments in any form convenient to you. We will acknowledge receipt of all comments sent to us and will give them careful consideration. HSE would also like to know what you think about this consultation, both in terms of content and layout. Your views will help us to improve future consultations.

Taking into account the information provided, consultees are invited to address the following questions:

The amendment to the COMAH Regulations involves changing reference from PHE to UKHSA in the following regulations (which concern internal and external emergency plans):

* Reg. [12(5)(e)](https://www.legislation.gov.uk/uksi/2015/483/regulation/12/made) - Preparation, review and testing of internal emergency plans
* Reg. [13(7)(d)](https://www.legislation.gov.uk/uksi/2015/483/regulation/13/made) - Preparation of external emergency plans
* Reg. [14(3)(a)](https://www.legislation.gov.uk/uksi/2015/483/regulation/14/made) - Review and testing of external emergency plans

**Q1.** Other than updating contact details will you/your business need to alter anything else due to the change from PHE to UKSHA in COMAH 2015?

* Yes
* No
* Don’t know / unsure

**Q2.** What will you need to alter/change?

……………………………………………………..

**Q3.** Do you have any further comments on this change?

……………………………………………………..