Submissions from the Public Consultation on
RIA on the Transposition of Directive 2012/18/EC ('Seveso III')
September 15 – October 15, 2014
(10 Submissions received)

Submission 1

Document Submitted by	Simon Garrett
Organisation	
Email	Sgarrett2@its.jnj.com
Reference Number	SG-us_151014
Submission Date	15 October 2014
Document reviewed by Pat Conneely	

From a site perspective, the concerns would be around any additional costs to the business and the provision of information to the public domain relating to materials held on site. Apart from the proprietary side of things, it does leave the site more vulnerable to security issues such as break-ins.

Decision/Result of review
The Directive requires that key information is provided to the public. This information relates to the establishment activities, hazards associated with the establishment and the appropriate action to be taken in the event of an accident. Implementing this requirement helps to ensure that the proposed regulations will be in line with the Aarhus Convention. The details that will be published to the web, relating to the materials held at an establishment, will be quite general in nature and there will be scope to exclude any proprietary or confidential or genuine security information from external emergency plans and or any information published to the web. It is inevitable that costs will be associated with the provision of information. The RIA set out best estimates on cost but is not definitive. The RIA suggests possible options on how the costs could be carried. The draft regulations will address charging for services.

Submission 2

Document Submitted by	Elaine Rowley
Organisation	Allergan Pharmaceuticals Ireland
Email	Rowley_elaine@allergan.com
Reference Number	ER-wu_151014
Submission Date	15 October 2014
Document reviewed by Pat Conneely	

Allergan Pharmaceuticals Ireland wishes to submit the comments in relation this public consultation in relation to the Seveso III Directive. Although Allergan is currently not a Seveso site, we wish to make the following comments: 1. Article 7aNotification – 1(g) More info required on the immediate environment of the establishment and impact of neighbouring establishments. Guidance would need to be clear on what is required here. Comment: Would information be forthcoming from our neighbours?
2. Article 12a Emergency Plans Comment: The availability of this information to the public could have implications on the security and/or business sensitivities of the site?
3. Article 14 – Information to the Public Article 14 on public information, requiring current information on establishments at both upper-tier, and for the first time ever at lower-tier and their hazards to be made permanently and electronically available to the public and to be kept up to date. Allergan would be concerned that business sensitive information may be made available to the public.
4. Article 20 2(d) – Inspections Comment: Although a more scheduled and structured approach to inspections by the CA is seen as beneficial. A member of the public on reading information in relating to a site inspection may form a negative opinion of the site and will not be informed of all the positive measures that an establishment has completed.

Decision/Result of review

Your observations are noted.
1. Updated guidance will be provided for all the major elements of the regulations and will be done in consultation with stakeholder groups, including those from industry etc.
2. There will be scope in the regulations to exclude any proprietary or confidential or genuine security information from external emergency plans.
3. It will be possible to exclude any proprietary or confidential information from the public information published to the web.
4. The CCA will ensure that inspection reports provide a rounded picture of the measures in place at an establishment at the time of inspection.

Submission 3

Document Submitted by	Gerry Costello
Organisation	Shell E&P Ireland Ltd.
Email	
Reference Number	COR-01-SH-GM-2052
Submission Date	15 October 2014
Document reviewed by Pat Conneely	

Shell E&P Ireland Limited's (SEPIL's) Bellanaboy Bridge Gas Terminal falls under the Control of Major Accident Hazards (COMAH) regulations and the Petroleum (Exploration and Extraction) Safety (PEES) Act and there is a complete overlap in terms of major accident hazard regulation by the Health and Safety Authority (under the COMAH regulations) and by the Commission for Energy Regulation (CER) (under the PEES Act). SEPIL is currently the main contributor to the significant Petroleum Levies which are associated with the development of the CER's Petroleum Safety Framework. SEPIL, strongly advises that this duplication of regulatory remit s removed as soon as possible as it would not be reasonable if SEPIL also had to incur costs related to the transposition of the Seveso III Directive.

Regarding the options presented, it is SEPIL's view that Option 3 would be adequate.

Decision/Result of review
SEPIL is currently the only COMAH establishment that is also regulated by the CER. The inspection plans and programmes for any such establishment will reflect the significant regulatory role of the CER and will try to avoid duplication and unnecessary regulatory burden consistent with the requirements of the Regulations.

Submission 4

Document Submitted by	Maeve McKenna
Organisation	AWN Consulting
Email	info@awnconsulting.com
Reference Number	MMcK/14/Seveso III_RIAL01
Submission Date	15 October 2015
Document reviewed by Pat Conneely	

This submission contains comments on the Regulatory Impact Assessment (RIA) of transposition of Directive 2012/18/EC (Seveso III) under the following headings:

1. General
2. Notification
3. Inspection
4. Information to the public
5. Safety report
6. Major Accident Prevention Policy
7. External Emergency Plan
8. Land Use Planning and modifications to establishments
9. Cost recovery

1. General

Option 5 has been identified as the preferred option for transposition of the Seveso III Directive. Paragraph 1.5.5 of the RIA (option 5) as set out clearly goes beyond the requirements of the Directive and is overly burdensome on operators which will prove to be a barrier to attracting new business to Ireland and a financial, administrative and commercial disadvantage for current businesses operating here which may result in business moving elsewhere or downsizing or closing due to the disadvantages.

2. Notification

In relation to the notification (required by Article 7 of the Seveso III Directive), the requirement to provide the Central Competent Authority (CCA) with commercially confidential information on chemical names is a concern for operators. It is submitted that transposition of the Seveso III Directive should provide for operators to provide the CCA with information on chemical hazards, without having to fully identify commercially confidential chemicals.

Paragraph 1.3.8 of the RIA provides that additional information may be needed on the inventory (in relation to notifications). Where in the Directive is this provided for?

3. Inspection

No comments.

4. Information to the public

Option 3, as per paragraph 1.5.3 of the RIA, whereby operators will be responsible for the provision of information to the public would be preferable from an operator's point of view given that the management of confidential information will be of great concern to operators.

Option 5, as described in the RIA document, involves the CCA hosting an information portal and developing a screening system for confidential information. Should this system be implemented, the following aspects will need to be clarified:

- Will the operator be required to submit confidential information to the CCA?
- If so, how will the CCA store such confidential information and what security systems will be in place?
- Once confidential information has been submitted to the CCA, who will then decide what is confidential – the CCA or the operator – and what information will be made available to the public?
- If the CCA is the arbiter of what is confidential, what criteria will be used? Will policies and guidelines be produced?

5. Safety Report

Options 3 to 5, as described in the RIA document, will include for clearer submission deadlines for safety reports. It is submitted that clearer submission deadlines should also be prescribed within which the CCA will provide feedback to the operator, request further information, and sign off on Safety Reports.

In relation to the inclusion of commercially sensitive and confidential information such as chemical names and CAS numbers, if this information is to be provided to the HSA as part of an operator's safety report, then operators will require assurances from the HSA as to how this information will be dealt with by the HSA so as to ensure that it is kept confidential. This will be necessary before any confidential information may be shared with the HSA so as to ensure that valuable company trade secrets remain protected.

6. Major Accident Prevention Policy

Under Option 5, operators of lower tier establishments will submit the MAPP to the CCA with the notification document. The Seveso III Directive allows one year from the date from which the Directive applies to the establishment for preparation and submission of the MAPP to the competent authority.

It is submitted that operators of lower tier establishments should be allowed 1 year for preparation and submission of the MAPP, in line with the Seveso III Directive.

7. External Emergency Plan

The Seveso III Directives requires Member States to give the public an early opportunity to give its opinion on external emergency plans when they are being established or substantially modified. How will this be transposed into legislation? Surely the current system of public consultation for EEPs is sufficient?

8. Land Use Planning and modifications to establishments

In relation to land use planning, Options 3 and 5 require the operator to provide the CCA with information to enable them to provide technical LUP advice to planning authorities. The provision of confidential information is of concern to operators. In the case of modifications to an establishment requiring planning permission (and thus a technical LUP assessment), potential implications on timescale are a major issue.

This has the potential to become a major block to inward investment in Ireland – where an Operator has to obtain H&SA review of what is "significant" or not and if the proposed change is "significant" then the Operator will have to go down the planning route, for a change such as increasing inventory, which would not previously have triggered planning, as we know the planning route in Ireland already is a time consuming process, being up to 1 year if an application is appealed to An Bord Pleanala. This proposal adds another time period, can the H&SA guarantee to respond in 3 weeks with a determination of what is "significant".

The following points require clarification in legislation:

- Will the operator be required to provide the CCA with confidential information on chemical names, storage and operating conditions?
- If so, how will this information be stored and what security systems will be used?
- Will confidential information be included in technical land use planning advice submitted to planning authorities by the CCA?
- Will the timescales for provision of technical LUP advice comply with planning legislation timescales?

Option 4 requires operators to prepare and supply the CCA with generic technical LUP advice. The following points would require clarification in legislation:

- What level of information will be required to be included in the advice?
- Who will sign off on the assessment?
- What timescales would be involved?

In relation to modifications to an establishment, what criteria will the CCA apply to 'significant' modifications that require planning permission? Will this be prescribed in the legislation or will the CCA produce guidance? The definition of "significant" must be published by the H&SA. For example if a site stores 100 tonnes of methanol in a 150 tonne tank and now wishes to store 120 tonnes, is this significant? Significant in what context? Does the Operator have to wait 2 months or whatever timeline the H&SA requires, in order to get a determination from the H&SA that this is significant? Will the H&SA require Major Accident Scenario modelling to demonstrate that the additional 20 tonnes do not cause any significant on-site or off-site impacts? What is significant in this context? We contend it should be an increase in the Specified Area, and that should be the only significance criterion. What will the timescale be for the CCA to make a decision in this regard?

Given that considerable scope is given to the member states under the Directive in relation to the implementation of the requirements of Articles 11, 13 and 15 of the Directive, and given that the requirement for an operator who wishes to make a significant change to be subject to the planning system as is suggested at paragraph 1.3.4 of the RIA would be a considerable obstacle for operators in the course of running their business, very clear guidance and legislation would be required in respect of operators obligations with respect to these provisions, the definition of "significant modification" and a much tighter and more efficient process than the current system for planning permission would be required to be put in place.

Furthermore it is submitted that Article 11 of the Directive provides merely that operators must review and update its notification, MAPP, safety report and safety management system and inform the competent authority in advance of the modification, but it does not provide that consent must be obtained in advance of modification. Article 13 provides that controls shall be provided for with regard to modifications to establishments so as to ensure the stated objectives, but the Article does not specify as to what form the controls may take. Article 15 provides that the public should be given an early opportunity with regard to significant modifications to establishments where such modifications are subject to obligations provided for in article 13 (i.e. not all significant modifications to establishments).

9. Cost recovery

In general, it appears from the RIA that costs to the operator will increase. Operators need to know now, in order to budget for 2015, as to what these costs will be.

Conclusion

Overall, it is submitted that the main issues for operators are the provision of commercially confidential information to competent authorities, potential increases in costs, and timescales for decisions on the significance of modifications and land use planning advice. These issues have the potential to lead to a serious and significant competitive disadvantage in attracting new industry to Ireland.
The issues highlighted will also lead to a disadvantage for businesses currently operating in Ireland who may find the additional burdens too onerous to continue to expand here or to continue operating here at all.

Decision/Result of review

1. General. It is not expected that implementation costs in Ireland will be any more burdensome than the norm in the European Union. The costs to Irish business under the current regime are set out in the RIA and can be seen to be extraordinarily favourable in comparison to the situation in, for example, the UK. Charging will be addressed in the draft regulations.

2. On Notification. It will be possible to exclude any proprietary or confidential information from the public information published to the web.

The notification requirements set out in Article 7 of the Directive will be precisely replicated in the regulations.

Regarding the query in this section of the submission concerning Section 1.3.8 of the RIA (which states 'For example, additional information may be needed on the inventory and on the immediate environment'), this statement reflects the new requirements on notification that are set out in Article 7 of the Directive (the new elements are underlined):

> (d) information sufficient to identify the dangerous substances and category of substances involved or likely to be present;
>
> (g) the immediate environment of the establishment, and factors likely to cause a major accident or to aggravate the consequences thereof including, where available, details of neighbouring establishments, of sites that fall outside the scope of this Directive, areas and developments that could be the source of or increase the risk or consequences of a major accident and of domino effects.

4. The preference for Option 3 is noted. Following a review of all the submissions, it has been decided to proceed to draft the regulations in accordance with option 5 because this option if favoured by the Authority and is the option which has received most support during the consultation.

In relation to the comments on Option 5, these are addressed immediately below and are relevant to whatever option is chosen.

- It will be possible to exclude any proprietary or confidential information from the public information published to the web.
- The Authority will ensure appropriate systems for safeguarding confidential information are in place, using its previous experience with REACH-IT and RIPE, systems for handling chemical and inspection information provided under the REACH Regulation.
- Under freedom of information legislation, the public body decides on the confidentiality of information based on an assessment of any submission made by the operator using the 'freedom of information' criteria.
- If it is seen that there will be a need for further guidance then appropriate further guidance will be produced. However, there is already a significant amount of guidance on this topic

already available, including:
(http://www.environ.ie/en/Legislation/Environment/Miscellaneous/FileDownLoad,30001,en.pdf and
http://www.unece.org/fileadmin/DAM/env/pp/ppdm/Aarhus_Implementation_Guide_second_edition_-_text_only.pdf.

5. The Safety Report. Timelines for the completion of assessment of safety reports by both the operator and competent authority will be further elaborated on in the draft regulations and will take into account that additional information is frequently requested by the Competent Authority and that this will have to be supplied within a defined time period in order for the Competent Authority to complete its assessment within its specified time period.

The confidentiality issue has already been addressed in point 4 above.

6. The MAPP. Option 5 would allow one year, as the notification update is required by June 1st, 2016.

7. The EEP. Under the 2006 regulations, there is no specified method set out for public consultation on External Emergency Plans. Following the review of all the submissions received, the view of the Authority is that the requirement should be set out explicitly in the Regulations so that the local competent authorities can demonstrate they have fulfilled this particular obligation.

8. LUP. It is clear from the Directive that 'significant' changes should be subject to the formal planning process to which the public has appropriate access and rights. The CCA will have to administer this function efficiently but imposing a 3-week turnaround could be detrimental to the operator by forcing a decision from the Competent Authority in complex or difficult cases which would benefit from a more flexible approach.

The confidentiality issues raised here have already been addressed.

Discussions will take place between the DJEI and the DECLG regarding timescales and other administrative arrangements that will give effect to the LUP aspects of the Directive.

There were no submissions in favour of Option 4, therefore this option will not be pursued further.

The CCA will produce guidance on what constitutes a significant modification. The process and timescales envisaged in assessing a significant modification will be put into the draft regulations.

The point raised in the final 2 paragraphs of this section of the submission, on whether operators should obtain the consent of the Competent Authority in advance of modifications, it is the Authority's view that there is a requirement to notify the Competent Authority in advance (in Article 11) together with a requirement (in Article 13) that modifications to establishments (covered by Article 11) should be controlled.

In order for the Competent Authority to decide whether the modification is significant enough to have to go through the formal planning process (where the public potentially affected can have their say), the CA must assess all proposed modifications in advance, to prevent any inappropriate modification from proceeding.

It should also be noted that some modifications may have significant on-site safety implications and while not required to go through the formal planning approval system, would have to satisfy the Competent Authority in relation to Article 13(2) (c) ['in the case of existing establishments, to take additional technical measures in accordance with Article 5 so as not to increase the risks to human health and the environment.'] before the modification would be permitted to proceed.

9. The draft regulations will address charging for services.

Submission 5

Document Submitted by	Michael Gillen
Organisation	IBEC
Email	Michael.gillen@ibec.ie
Reference Number	
Submission Date	15 October 2014
Document reviewed by Pat Conneely	

Pharmachemical Ireland (PCI) welcomes the opportunity to make a submission on the draft RIA on the transposition of Directive 2012/18/EC. The main objective of Directive 2012/18/EU is to prevent major accidents involving large quantities of dangerous substances (which are listed in an annex to the Directive, either by name or by hazard category) and to limit the consequences of such accidents for human health and the environment. We are also conscious that European Commission sought to align the Directive with the UNECE Convention on public information, public participation in decision-making and access to justice on environmental (known as the Aarhus Convention). Our submission reflects both of these objectives and covers a number of areas.

Scope

We acknowledge that the scope of the Seveso III Directive is based on the EU legislation on the classification, packaging and labelling of chemical substances and mixtures (known as the CLP Regulation). There are some changes in both named categories of dangerous substances and named dangerous substances between the current Annex I and the Seveso III Annex 1. The toxicity categories have moved from Very Toxic and Toxic to Acute Toxic Categories 1 -3 with exposure routes (dermal, oral and inhalation) specified in some case. Indeed some of the qualifying quantities for application of Directive 2012/18/EU as set out in Annex 1, Parts 1 and 2; have decreased in a number of cases for both lower tier and upper tier requirements. This could cause an establishment to fall within the scope of the Directive as a lower tier site, or to change its classification to an upper tier establishment, without any change in its current or standard inventory, even if the actual inventory is only marginally in excess of the corresponding revised quantity limit. This could mean that, unless the inventory could be reduced where this would be feasible for business reasons, a considerable additional burden would result, especially for SMEs, without any significant change in their operations. This has no additional benefit towards the prevention of major accident hazards. Furthermore it is probable that operations involving batch chemical processes which, typically, may be carried out for very limited periods in any one year, and/or repeated only at infrequent intervals, may cause an establishment to fall within the scope of the directive for very limited periods of time, while, in effect, for the greater part of the year not exceeding the qualifying quantities for application of the Directive. A significant percentage of PCI member companies fall into this category of batch manufacture.

Information to the public

PCI acknowledges that he Aarhus Convention is globally regarded as the benchmark for access to information, public participation and access to justice in environmental matters and is based around three central pillars

- Access to environmental information
- Public participation in environmental decision-making
- Access to justice in environmental matters

The new public information requirements in Seveso III, and the implications of alignment with the Aarhus Convention, represent a culture shift for both industry and regulators. In line with the Aarhus Convention the changes will mean that;

- All sites will have to provide basic information about their sites, Upper Tier sites will be required to provide more information than Lower Tier sites.
- Further information including Safety Reports and Inspection Reports will have to be made available on request.

PCI member companies already operate a communications policy which facilitates readily available access to up to date electronic Information on their sites. Enquiries from members of the public can and are directed to site management and who readily provide further information to interested parties in accordance with that policy. However sites have real concerns around the information to be made available electronically and request that it is limited to general emergency information and does not include specific or sensitive information, site maps or any other detail likely to be of value to those with malicious intent. May of our member companies are headquartered in the US and in the aftermath of 9/11, the US Environmental Agency removed from the public domain several key pieces of information; specifically facility reported lists of 'highly hazardous materials' as defined in the OSHA process Safety Management regulation and the EPA Risk management program regulation. Public records that define specific chemicals, their hazards and inventories are viewed as significant security vulnerability. Similar provisions have been adopted elsewhere – for example in the UK for the same reasons a Secretary of State Direction prohibits the placing of safety reports on the public register. In the event that a conflict arises between the security concerns of a member company and the Competent Authority's view of the extent of public right to access, that there will need to be an adequate mechanism to provide appropriate arbitration. The provisions within REACH for making claims of confidentiality for information which is commercially sensitive would be a good example of how this could be managed.

Inspections

PCI welcomes and encourages a flexible risk/hazard-based inspection frequency. This make a lot more sense than prescribed set intervals. Consequently we have a concern that the minimum inspection frequencies, as suggested in the RIA, to be set for all establishments.

We note that there is a new definition of 'Inspection' which means any contact with a site. Relevant findings of inspections under other EU legislation will need to be taken into account in the hazard/risk assessment of sites and where possible inspections will need to be co-ordinated with other EU legislation. PCI asks that this is done in such a manner that additional regulatory burdens arising are minimised and that companies based in Ireland are not put at commercial or indeed regulatory disadvantage relative to their European competitors.

Modifications to establishments and land use planning

We note that changes that will result in a lower-tier establishments becoming upper-tier will be considered a 'significant' change and will be subject to the planning system as will 'significant' modifications of the type listed in Article 11 of the Directive. Given that this may be purely as a result of a paper exercise to change from CPL to CLP, we ask that consideration is given to the circumstances outlined under 'Scope' above. Furthermore we suggest that safety distances should be based on risk profiles rather than unmitigated hazard radii.

Costs

We note that the specific costs incurred in the implementation of the new regulations will fall on the operators of establishments and the competent authorities and will depend on the extent of the distribution of duties and functions under the different options. We would have real concerns if these costs were incurred as a consequence of a bureaucratic exercise that added no value to the primary objective of Directive 2012/18/EU, which is to prevent major accidents involving large

quantities of dangerous substances. We also note that the HSA has not carried out a formal study on the cost of implementation of Seveso on operators of establishments in this country. We ask that a separate cost review group, comprising a cross section of COMAH installations, be established to look at the feasibility of this.

Decision/Result of review

1. Scope: We note the comments on scope and the potential for some manufacturing sites to have fluctuating inventories, sometimes falling below the application thresholds.
2. Public Information - the concerns expressed are noted. It should be realised that the notification information supplied to the Central Competent Authority will be separate from the electronic information that must be made available to the public, (which will be much more limited).

The CCA will take the advice of An Garda Siochana regarding security issues. Safety reports and inventory information will be available on request to members of the public, but this is subject to the conditions set out in Article 22 of the Directive and this will be fully implemented in the draft regulations.

3. Inspection - the comments on inspection are noted.

4. Modifications and land-use planning - we note the suggestion that safety distances should be based on risk profiles. The Regulations will faithfully implement the Directive's requirement regarding the necessity for establishments to supply information necessary for land-use planning purposes to the Competent Authority. This should ensure that the information will be available to take a risk-based approach, as set out in our guidance document - (http://www.hsa.ie/eng/Your_Industry/Chemicals/COMAH/Approach_to_LUP_under_Comah_Regs.pdf)

Costs - We note your suggestion for a cross-sectional cost review group. It is planned in any case to establish a COMAH stakeholder group to advise on technical guidance.The draft regulations will address charging for services.

Submission 6

Document Submitted by	Orla Duggan
Organisation	PM Group
Email	Dublin@pmgroup-global.com
Reference Number	-
Submission Date	15 October 2015
Document reviewed by Pat Conneely	

PM Group welcomes and appreciates the opportunity to contribute to the consultation process on the new legislation.

Comments on the Regulatory Impact Assessment:

1. Option 5 lists many activities not listed under options 3 and 4 and, because it is more comprehensive, it is the obvious preferred option. Although overall costs are discussed, the resources of the HSA to pursue, develop and deliver on Option 5 are of concern. Clarification of the likely cost implications for operators resulting from the implementation of the regulations is considered necessary.

2. Under Section 5 Review, the following performance indicators are suggested:
    a. number of inspections/annum for upper tier sites and lower tier sites
    b. no. of new notifications from operators coming under Seveso III for the first time
    c. no. of notifications from existing operators
    d. no. of major incidents reported
    e. no. of requests from the public for information

    Formal feedback could also be sought from operators via a questionnaire, on the effectiveness and ease of implementation of the regulations.

3. Section 1.3.4 of the RIA states that *'operators will be required to provide information to the CCA in advance of the specified modifications'*. The current regulations (regulation 26(4)) also require '*The Central Competent Authority within a reasonable period of time after receiving a safety report or revised details'* to *'examine the safety report or revised details, communicate the conclusions of its examination of the safety report or revised details to the operator, if necessary after requesting further information.*
    Could the HSA consider publishing guideline timeframes for new operators and those seeking to make significant modifications, that set down the 2 timelines for the initial submission examination and subsequent examination of additional information? This would allow operators to adequately plan capital expenditure & scheduling of new developments.

4. Land Use Planning & the Environment – is it anticipated that Appendix 4 of the *Policy & Approach of the Health & Safety Authority to COMAH Risk-based Land-use Planning (19 March 2010)* guidelines would be updated to provide more specific guidance (including quantitative criteria) on assessing environmental impacts with respect to LUP? Additional guidance in this area would be welcomed.

5. Section 1.5.5 states that under Option 5 notifications will be valid for a period of one year. Could the HSA clarify the meaning and implications of this?

General Comments on administration of Seveso III:

1. It is suggested that the HSA consider increasing general awareness of the new SEVESO III Directive and the planned Irish regulations to bring the Directive into force. Some sites currently outside the scope of the Seveso II Directive will need to check the changes to Annex 1 of the Seveso III Directive and assess their situation. The general awareness programme therefore should not be confined to current upper tier and lower tier sites but to the wider business community. The HSA could link up with IBEC and other industry groups to promote awareness of the new Directive.
2. It is suggested that the current HSA website be updated to present more information on the Seveso III Directive, the implications of the regulations, what operators need to do. Detailed guidance is needed on areas of particular concern – i.e. compliance with the new classification system, maintenance of confidentiality where necessary, and costs. Guidance on the new regulations should be published as soon as possible after June 1st 2015.

Decision/Result of review
1. The preference for option 5 is noted and the associated concern regarding costs. The draft regulations will address charging for services. 2. The suggestions for performance indicators are welcomed although it may be that some of the suggested indicators would provide limited data or information on the operation and implementation of the Regulations in any given year. The suggestion of a formal feedback questionnaire on implementation is one we will consider once the Regulations are in place. 3. The draft regulations will contain timelines on safety report assessment, assessment of significant modifications and on the provision of technical land-use planning advice. 4. The Authority is anxious to engage with industry experts and safety and environmental professionals on guidance in the areas you have outlined (and indeed areas beyond) and we will put in place mechanisms to achieve this in 2015. 5. The validity period for notification proposed in the draft regulations will be for a 5 year period (unless withdrawn by the operator). With reference to your concluding general comments, the CCA will engage in awareness-raising in 2015 and the website will be updated, including with guidance of the type already referred to in 4 above. A general guide to the regulations will also be produced.

Submission 7

Document Submitted by	Anthony Owens
Organisation	
Email	
Reference Number	-
Submission Date	15 October 2015
Document reviewed by Pat Conneely	

Noting that the qualifying quantities for application of Directive 2012/18/EU as set out in Annex 1, Parts 1 and 2, have decreased in a number of cases for both lower tier and upper tier requirements, it seems probable that this could cause an establishment to fall within the scope of the Directive as a lower tier site, or to change its classification to an upper tier establishment, without any change in its current or standard inventory, even if the actual inventory is only marginally in excess of the corresponding revised quantity limit. This could mean that, unless the inventory could be reduced where this would be feasible for business reasons, a considerable additional burden would result, especially for SMEs, without any significant change in their operations.

It seems, moreover, probable that operations involving batch chemical processes which, typically, may be carried out for very limited periods in any one year, and/or repeated only at infrequent intervals, might cause an establishment to fall within the scope of the directive for very limited periods of time, while, in effect, for the greater part of the year not exceeding the qualifying quantities for application of the Directive. In addition, the actual mix of materials in the inventory and the overall balance of these, corresponding to certain hazard categories, may vary from time to time in relation to the business of a batch manufacturer of fine chemicals, and this could also lead to the situation where an establishment would fall within the scope, say, of a lower tier establishment on some occasions, or for limited intervals, and not at all on other occasions and for longer periods.

It is suggested, therefore, that to avoid a disproportionate burden, especially on SMEs, that there might some provision in the transposition of the Directive into Irish law for transitional or marginal cases such as described in a reasonable and workable way. Such a provision would also reduce the burden of administration on the competent authority.

Decision/Result of review
The comments on scope and the potential for some manufacturing sites to have fluctuating inventories, sometimes falling below the application thresholds are noted. The suggestion made for marginal cases is interesting but in practice it is difficult to see how this could be implemented other than currently, where the demonstration of safety and the taking of all necessary measures should be proportionate to the risks.

Submission 8

Document Submitted by	Thomas Leonard
Organisation	Byrne Ó Cléirigh,
Email	admin@boc.ie
Reference Number	14A0494
Submission Date	15 October 2014
Document reviewed by Pat Conneely	

Regulatory Requirements

Public Information

The additional requirements for the provision of public information represent one of the more significant changes under the new legislation. Given that this is driven by the Aarhus Convention, we understand that Ireland does not have much leeway in its implemented.

The new legislation places increased obligations on operators to make information publically available. However, there is scope also for the operators to request that certain information provided to the authorities is considered confidential on the basis of, for example, commercial sensitivity or security considerations.

We note that, regardless of the provisions under Seveso, information held by the HSA is already available to the public on request, subject to satisfying the requirements of the Directive on public access to environmental information (2003/4/EC). This Directive also includes provisions for not disclosing information under various circumstances, such as intellectual property rights or security concerns. Given the precedent for accessing information has already been set, the proposed arrangements that will be in place under the new legislation appear reasonable to us. All that remains is to see how this is implemented in practice, i.e. whether the operators of Seveso establishments and the HSA hold broadly similar views on what should and should not be considered confidential.

Safety Reports

Safety Reports will need to be updated if they do not reflect the changes brought about by the transition from the Dangerous Substance Directive (DSD) to the Classification Labelling and Packaging Regulation (CLP). These changes underpin the transition from Seveso II to Seveso III. The RIA document states that operators of existing establishments will need to update their Safety Reports by June 2016, unless the existing Report already contains the new CLP information. This seems to be a reasonable approach as it will hopefully avoid a situation in which large numbers of operators are required to submit new Reports at the same time.

Land Use Planning (LUP) Implications for Modifications to Establishments

Under the new legislation, any significant changes planned at an establishment will have to be assessed in advance to ensure that they are in accordance with the criteria for Land Use Planning (LUP) determinations. This would include modifications that result in a change in status (Lower Tier to Upper Tier) or any modifications which have significant implications for major accident hazards.

The operator will be required to provide details to the HSA in advance of carrying out significant changes and may also need to update other documents, such as the MAPP, SMS, Safety Report and/or the Emergency Plan. There may also be a requirement for the operator to carry out an LUP assessment for the site, depending on which of the five options identified in the RIA document are chosen when implementing the new legislation. Where Planning Permission is required for a

development there is already a set process to be followed and so we would anticipate that any LUP assessments could be reviewed by the HSA in parallel with this in order to avoid any delays. However, where no Planning Permission is needed, it will be important to ensure that these assessments are carried out in an efficient manner in order to minimise potential delays which might hold up the implementation of changes at a Seveso establishment.

We note that the HSA's guidance for LUP risk assessments describes a reasonably high-level methodology which should help to minimise the costs involved in carrying out this assessment and the time required for the HSA to review, document and forward their advice [instruction?] on the development.

Site Inspections

We note that the new Directive will place more formal obligations on the HSA to draw up plans and schedules for site inspections, both at Lower Tier and Upper Tier establishments. We understand that the Authority plans to develop a scaling system to rank each of the establishments and this will serve as a basis for drawing up site-specific inspection schedules. We agree with this approach, which should allow the HSA to focus its attention where it is most needed. We also note that the HSA still has the scope to carry out additional unannounced site visits outside of the planned schedule and, again, this appears to be a reasonable approach.

Notification

Operators will be required to issue new Notifications to reflect the new system for classifying materials under the CLP Regulation. We agree that this is a necessary step to ensure that the HSA has an accurate picture of the inventories of materials at each establishment and can confirm the correct status of these establishments as Lower or Upper Tier under the new legislation.

Emergency Plans

The HSA's RIA document suggests that the changes in scope are likely to require the majority of operators to review and update their emergency plans by June 2016. We envisage that this would be implemented as part of company's normal schedule for reviewing and testing their plans.
The new legislation will also require operators of Lower Tier sites to provide information to the public on how they would be alerted and how they should behave in the event of an emergency - this requirement previously applied only to Upper Tier establishments. This is a reasonable approach as it is prudent to put such arrangements in place at any site (whether Upper or Lower Tier) where there is a significant risk of off-site impacts arising as a result of an accident. This would help the operator to put forward the argument that 'all necessary measures' are in place at its establishment, as required under Article 5 of the Seveso III Directive.

Legislative Options

The RIA sets out five options for implementing the Seveso III Directive in Ireland. Two of these (Options 1 and 2) are ruled out and three are taken forward for more detailed discussion.

- Option 3: Minimal regulations under the Chemicals Acts
- Option 4: As above, with further duties for operators
- Option 5: New Regulations with enhanced HSA role

Options 3 and 4 both involve implementing the Seveso III Directive in a broadly similar manner to the current arrangements under Seveso II. The main difference between the two is that under Option 4, the onus for carrying out the LUP assessment would fall on the operator, who will be required to develop the LUP risk contours for the establishment, based on the HSA's guidance.
It is not explicitly stated as such, but from the RIA document it appears that the HSA are looking to ultimately have a situation in place whereby LUP risk contours have been drawn up around all

Seveso establishments. At present, this type of assessment is only carried out where there is a Planning Application made for a development at, or in the vicinity of, a Seveso establishment. If implemented, this new approach would have the advantage of streamlining any future advice given by the HSA with respect to planning decisions, although there would be a cost issue here also (which could be a cost incurred by the HSA and ultimately passed on to the operator or a cost directly incurred by the operator).

Option 5 is a more significant change to the current arrangements. Many of the elements proposed under this option go beyond the requirements from the Directive. In many cases these will place greater obligations on the HSA as well as on the operator. There are certainly benefits under this option and it is the preferred option in the RIA document.
We would second this, except that it is not clear at this juncture what the cost implications would be under any of the options. Regardless of which approach is used, there will be changes to the structures by which the HSA recovers enforcement costs. Option 5 places the greatest burden on the HSA and so it would also result in the greatest enforcement charges to operators. It would be helpful if the HSA could provide details of the levels of charges expected under each option in order to weigh these up against the benefits that this option would provide to operators.

Decision/Result of review
The Authority notes the considered analysis of the Seveso Directive in the areas of Public information, Safety Report, modifications and LUP, inspection, notification, emergency planning and the assessment of the legislative options set out in the RIA. The generally supportive comments for the approach outlined in the RIA by the CCA are noted. The concern to avoid delays in both the plant modification and LUP processes are noted and the draft regulation will include timelines to address these. On emergency plans and public information for lower-tier establishments, it is intended that this electronic information will be at a fairly high-level, in keeping with the expressed general approach of the Member States and the Commission. The preference for option 5 and the associated concerns in relation to costs is noted. The draft regulations will address charging for services.

Submission 9

Document Submitted by	
Organisation	Engineers Ireland
Email	
Reference Number	-
Submission Date	15 October 2014
Document reviewed by Pat Conneely	

1.2 Summary of the Main Changes
(4) It is therefore appropriate to replace Directive 96/82/EC in order to ensure that the existing level of protection is maintained and further improved, by making the provisions more effective and efficient, and where possible by reducing unnecessary administrative burdens by streamlining or simplification, provided that safety and environmental and human health protection are not compromised. At the same time, the new provisions should be clear, coherent and easy to understand to help improve implementation and enforceability, while the level of protection of human health and the environment remains at least the same or increases.

Comment 1.
Article (4) is key to understanding the purpose of the new directive and more than any other part explains the reason for the changes required by the new directive. It should be included in the summary of main changes as it is a main tenant of the new directive. The new regulations must ensure the concepts espoused in Article 4 are realised in practice and must be a focussed objective of the new administration frameworks of the new regulations.

1.3.2 Public Information
The requirement in bringing Seveso III into line with the Aarhus Convention requiring current information on establishments both upper-tier and, for the first time, lower-tier – and their hazards to be made permanently and electronically available to the public and to be kept up to date - - -

Comment 2:
This requirement will allow the public direct access to (and to become more aware of) information on the hazards that they are potentially exposed to from adjacent major hazard facilities and what the risk levels are.

It is important that information on risk levels presented by Operators of COMAH establishments is made in a uniform and standardised manner. The HSA will therefore need to give clear guidance as to how risk levels are generated and presented, and what are acceptable risk values.

From a pubic perspective there should be no ambiguity on the information put into the public domain and its interpretation, on what is an acceptable level of risk.

This is particularly important in a situation where there is more than one neighbouring major hazard facility presenting information on risk levels in different formats.

Clear guidance is essential to ensure public confidence is maintained.

1.3.3 Safety Reports
Scope changes mean that operators of existing establishments will have to review their safety reports and update them to reflect the CLP changes where necessary. For the majority of sites it is not anticipated that there will be any need to change actual safety management arrangements unless a new dangerous substance is added as a result of the change to CLP classification.

Comment 3:
The new directive will require evaluation of the existing safety management arrangements it requires a new more integrated and robust competency based approach for safety management systems.

1.3.4 Modification to Establishments and Land use Planning
Changes that will result in a lower-tier establishments becoming upper-tier will be considered a 'significant' change and will be subject to the planning system as will 'significant' modifications of the type listed in Article 11 of the Directive. - - - - -

Comment 4:
A definition / criteria as to what constitutes a significant change needs to be outlined by the HSA / in the regulations.
For example, in the case of a lower tier site becoming an upper tier site due to a change in a classification of a raw material made by a supplier. Will this require planning?
Is it realistic to expect changes to go through a planning application for a facility that is already built and operating (possibly in existence for a long number of years).
Significant changes in a planning context should be restricted to:

1. a proposed new building used for the storage or processing of hazardous materials that could result in a major accident hazard,
   or
2. An existing building proposed to be used to store or process hazardous materials that could result in a major accident hazard.

Comment 5:
A suggested wording / definition of significant modification / change for notification to the HSA could read:
'the introduction of a hazardous material to an establishment that presents a **new** major hazard scenario or **increases** the potential consequences of an existing identified major hazard scenario'.

1.3.5 Inspections
The inspection of establishments is a function of the CCA. The definition of inspection will be expanded and will mean all actions, including site visits, checks of internal measures, systems and reports and follow-up documents, and any necessary follow-up, undertaken by or on behalf of the competent authority to check and promote compliance of establishments with the requirements of the Directive. This has implications in relation to the requirement to provide public information on 'inspections'.

Comment 6:

Inspection protocols used by the HSA should be made public (i.e. on-line) to allow Operators to prepare for audits and to assist all interested parties (e.g. Engineers Ireland) to understand the requirements / expectations of the HSA in compiling Safety Reports / MAPP / Emergency plans etc.

Comment 7:
Inspection protocols should be competency based similar to the approach of the UK HSE model for inspecting / selecting plants for inspection which follow the COMAH Competent Authority Inspection of Competence Management Systems at COMAH Establishments (Operational Delivery Guide). There are also cost benefits following the competency management approach. The frequency of inspection is as a result of the competency model in place, the better the competency model the safer the site is and the frequency of CA inspections is less. The competency model is an element of the overall Process Safety Mangement Framework.

1.3.6 MAPP
The regulations will now explicitly state that the MAPP must be in writing and proportionate to the major hazards at the establishment. In addition the MAPP must address the management role in continuous improvement and in ensuring a high level of protection.

Comment 8:
A clear understanding of what is 'proportionate, should be provided / made clear by the HSA, giving examples to support this.

Comment 9:
The new directive will require evaluation of the existing safety management arrangements it requires a new more integrated and robust competency based approach for safety management systems.

1.3.7 Competent Authorities
The regulations will specify that the duties of the various competent authorities are to be fully coordinated by the central competent authority (CCA).

Comment 10:
There are currently differences in approach in the implementation of off-site emergency plans between various parts of the country. For example, how off site emergency plans are tested and exercised. The cost of conducting exercises and charges incurred by the operator varies across the country from no charge to significant.
In the Cork area companies are charged significant amounts of monies for conducting exercises. In the Dublin area no charges are levied.
The CCA should specify how and when charges are to be levied.

1.3.9 Emergency Plans
The Directive requires a similar emergency planning regime to that of the current COMAH Regulations, SI 74 of 2006. However Member States have discretion in how some requirements will be implemented, for example, on how the public will have an early opportunity to give an opinion on external emergency plans. - - - - -
Operators will have broader duties placed on them in relation to domino effects and particularly in sharing information with neighbouring sites and in cooperating in

providing information to the public and for external emergency plans. - - - - -

Comment 11:
What is the definition of public?
For lower tier sites how is the public defined?
Will there be an equivalent specified area for a lower tier facility to that for a top tier?
Effectively given the proposed changes in the regulations there little difference between upper tier and lower tier from an emergency planning perspective.
These issues pose the question as to why there is a need to have lower tier and upper tier sites within the Directive if in practice there is be little difference.
The intent of the Directive is that the duties imposed on Top Tier establishments is greater as they present a greater hazard due to the quantity of hazardous materials stored/process. This intent should be reflected in the regulations.

Comment 12:
For Domino Effects the requirement for 'sharing of information with neighbouring sites'.
What does neighbouring mean?
How does an operator assess what is neighbouring?
It should be a function of the HSA to identify if sites are neighbouring and provide guidance on what information has to be shared and the protocol for doing so?

1.5 Legislative Changes
1.5.5 Option 5 - New regulations under Chemicals Acts with CCA role enhanced.
Additional measures over option 3 include the following:

- **The CCA will provide an e-notification system editable by the operator*.**

Notifications will be valid for a period of one year*

Comment 13:
Why only one year and does this require to re-notify every year. Is this practical?
Five years is more reasonable if no changes occur within the establishment.

2. COSTS, BENEFITS AND IMPACTS
The specific costs incurred in the implementation of the new regulations will fall on the operators of establishments and the competent authorities and will depend on the extent of the distribution of duties and functions under the different options. - - - -

Comment 14:
This section sets outs an analysis of the potential costs of the regulatory impact of Seveso.

The HSA acknowledge that they have not carried out a formal study on the cost of implementation of Seveso on operators.

How these regulations are interpreted and implemented in Ireland in comparison to how the regulations are implemented in other member states can lead to significant cost competiveness issues on operators if the regulations are interpreted and enforced in a more stringent manner in Ireland.

For example the cost of implementing control measures such as tertiary containment, conducting SIL risk assessments and implementing SIL rated control systems, providing inertion (or not), emergency planning requirements, and so on. These can incur substantial and significant costs.

There is currently wide variation within member states on how such issues are enforced & interpreted.

Clear guidance notes at European level on implementation of the Directive is required to ensure no cost competiveness disadvantage is placed on operators in Ireland.

Comment 15:
The implementation of competency models and the ANNEX III requirements including mandatory Safety Performance Indicators / Key Performance Indicatorss will have an initial cost impact but should have costs benefits in time and it will increase the capability of workers at all levels within COMAH establishments while increasing the level of protection of human health and the environment.

Comment 16:
Annex III introduces new concepts from the previous Seveso II directive which **will** / **should** change the safety management systems already in place in COMAH sites. To implement the requirements of Annex III will require a revaluation of COMAH organisations approach to process safety management. The source of a major accident will most likely come from a Process Safety related incident. Process Safety Management is currently perceived to be the exclusive domain of Process Safety Professionals or specialist COMAH consultants. To be successful in managing major hazards, a robust practical management system with the appropriate competencies required to manage it must be embedded in the organisations business at all levels. The ongoing operation and application of sound practices which prevent major accidents hazards requires an across organisation awareness and joined up approach. How an organisation executes its business in relation to COMAH requires involvement at all levels and across all departments of an organisation. A good safety management system will require a management structure which understands the competency, knowledge, skills and experience required by personnel at all levels of the organisation. The new regulations should legislate and provide guidance for the new type of safety management system required and should include a high level framework for process safety management. The Energy Institute in the UK has developed such a framework it is this type of model that should be considered as a basis for inclusion in the Irish regulations or supporting guidelines refer to the *Energy Institute High level framework for process safety management*. This model is supported by the HSE in the *UK ……. "Controlling risks within major hazard enterprises requires a robust process safety management system, driven forward by high standards of leadership and supported by effective feedback mechanisms to show the status of critical control measures. The value of this guidance produced by the Energy Institute is that it sets out a clear framework on which to develop and implement a process safety management system and from which effective 'on the ground' control measures can be derived and maintained. Lessons from recent major incidents both in the UK and internationally show in very stark terms the costs of getting process safety management wrong and I would encourage you to apply those lessons to your own organisation by the adoption and maintenance of a robust process safety management system."* ***Gordon Macdonald Director - Hazardous Installations Directorate Health and Safety Executive.***
Elements of High level Framework for process safety management
PSM elements
Within each of the focus areas are a number of elements, 20 in total, which set out the key aspects of operations that organisations need to get right in order to assure the integrity of the operations. Each element contains a number of expectations which set out a more detailed definition of what they need to get right in order to meet the intent of each element.

Process safety leadership
There are five elements within the process safety leadership focus area that set out how organisations should define and communicate the level of performance they are prepared to accept and how they should ensure that they put in place the necessary resources to achieve the required level of performance:
1. Leadership commitment and responsibility.
2. Identification and compliance with legislation and industry standards.
3. Employee selection, placement and competency, and health assurance.
4. Workforce involvement.
5. Communication with stakeholders.

Risk identification and assessment
There are two elements within the risk identification and assessment focus area that set out what organisations should ensure is done to identify and assess the risks that they need to manage in order to assure the integrity of their operations, how they should identify the necessary control measures and how they should record and maintain the process safety knowledge developed from these risk identification and assessment activities:
6. Hazard identification and risk assessment.
7. Documentation, records and knowledge management.

Risk management
There are 11 elements within the risk management focus area that set out the key areas of risk and how organisations should implement and manage the control measures that have been identified during their risk identification and assessment activities:
8. Operating manuals and procedures.
9. Process and operational status monitoring, and handover.
10. Management of operational interfaces. 11. Standards and practices.
12. Management of change and project management.
13. Operational readiness and process start-up.
14. Emergency preparedness.
15. Inspection and maintenance.
16. Management of safety critical devices.
17. Work control, permit to work and task risk management.
18. Contractor and supplier, selection and management.

Review and improvement
There are two elements within the review and improvement focus area that set out how organisations should measure and review their compliance with the expectations of EI *PSM framework* and how they should ensure that they learn from these measurements and the findings from investigations:
19. Incident reporting and investigation.
20. Audit, assurance, management review and intervention.
(vi)----- **The procedures could also include performance indicators such as safety performance indicators (SPIs) and/or other relevant indicators;**

Comment 17:
Safety reports, safety audits and safety management systems should have a focus on the leading performance indicators which may prevent a Major Accident. The Energy Institute UK has completed some excellent research in this area. In the IP (EI) research report 'A Framework for the use of key performance indicators of Major Hazards in Petroleum

Refining', industry reporting systems and criteria are critiqued and compared. A long form and a short form KPI is proposed for the refining industry. The Energy institute research heavily leverages off work completed by the HSE in the UK and also the Institute of Chemical Engineering.
It is recommended to include within the regulations; a) mandatory reporting on the development of robust engineering systems within the safety management system framework, including mandatory internal performance monitoring reporting of how well the engineering systems are working b) mandatory reporting on common industry leading KPIs so that cross company and industry comparisons can be made. The Energy Institute espouses common reporting KPIs which would appear to be applicable across industries, reference *IP Research report 'A Framework for the use of key Performance Indicators of Major Hazards in Petroleum Refining'.*

Decision/Result of review

This detailed submission including observations and comments is noted.

Comment 1. Your comments will be considered in developing the administrative aspects of implementation.

Comment 2. The electronic information on risk will be at a high level and the Authority will ensure that there is consistency in the information presented.

Comment 3. The Authority is in the process of developing the inspection approach for Seveso III and your comments are helpful.

Comments 4. & 5. LUP requirements are future-orientated so there will be no requirement to seek planning permission for modifications previously made. Process/Inventory changes must be 'significant' for the planning route to be considered appropriate by the CCA. It is intended to engage with industry experts and safety and environmental professionals to produce guidance in this area.

Comments 6/7/9. The suggestion of publishing inspection protocols is noted. The Authority is developing its approach to COMAH inspection to ensure it remains clearly focused on the relevant major accident hazards of the particular establishment under inspection, and that the interval of inspection relates to the risk potential.

Comment 8. Proportionality by its nature will be difficult to pin down but guidance could be developed in conjunction with a COMAH stakeholder group.

Comment 10. Charges for external emergency plan tests will be a matter for the relevant Minister.

Comment 11. The public will be defined in the draft regulations. The requirements on lower-tier sites in informing the public will be less onerous than for upper-tier establishments. It is intended that this electronic information will be at a fairly high-level, in keeping with the expressed general approach of the Member States and the Commission.

Comment 12. 'Neighbouring establishment' will be defined in the draft regulations and there will be a role for the CCA in identifying such sites.

Comment 13. The Authority notes your suggestion that the re-notification period should be every 5 years and this matter will be reflected in the draft regulations.

Comment 14. The Authority intends to apply appropriate internationally accepted techniques to determine the appropriate prevention, control and mitigation measures that are necessary and will raise the issue of a need for EU-wide guidance at the Committee of Competent Authorities.

Comment 15, 16 &17. The favourable comments on safety performance indicators are noted and the CCA has been encouraging operators to make progress in this area over the last two years as part of the assessment of the Risk Control Systems during the inspection process (one of a suite of tools used to assess the Safety Management System and which are sent to operators prior to inspection).

Submission 10

Document Submitted by	Roger Casey
Organisation	Cantwell Keogh & Associates
Email	roger@cantwellkeogh.com
Reference Number	FC-xv_51014
Submission Date	03 November 2014
Document reviewed by Pat Conneely	

I have two points to make:

(1) Information to the Public
Firstly I don't know whether or not the HSA have made a final decision on the new format of the information to the public.

My understanding is that in the UK this will take the form of just more detail on the nature of major hazards and control . What I would like to see would be a relatively short paragraph on each representative major accident scenario detailing in simple format the cause, consequences and the controls i.e. like the sort of thing that might be given to the EES. Anything more e.g. frequency / risk figures will confuse the Public.

There was originally some talk of Safety Reports being available on line. I would be against this for a number of reasons. Security is an obvious issue. There are also business confidentiality issues for Seveso's sites - the more detailed the risk assessments are the easier it is for competitors to piece together information on the process, type of equipment used, etc. Another example would be product truck frequency figures, where the volumes handled and suppliers is being given away. Yes some of this info can be obtained elsewhere if required but giving it in the safety report puts it on a plate for a Seveso sites competitors. From my own point of view there are business confidentiality issues in safety reports for consultants. e.g. plagiarism of reports. You can spend a lot of time researching something technical and again you are putting it on a plate for a competitor if safety

reports are freely available. There was an environmental company last year who have never done any Seveso work, ringing around Seveso sites in a particular industry looking for copy of their report.

(2) Costs for External Emergency plan tests Article 46 of SI 74 of 2006 entitles the competent authority to charge for services for such items as examination of safety reports, preparation of external emergency plans and testing of external emergency plans. While the charges published and applied by the Health and Safety Authority for examination of Safety Reports etc. are not unreasonable, I have concerns about the charges applied by the External Emergency Services (EES) for the testing of External Emergency Plans, particularly for smaller companies.

The EES appear to apply a standard charge €25,400 for preparation of the EEP and an approximately 3 hr desk top exercise in a hotel. While the first revision of the plan will take some time, subsequent revisions are usually minor. While there is a certain cost factor associated with organising and holding such exercises, I feel these costs are grossly excessive. In most cases no breakdown of the figures is given.

In most cases, there are recommendations made in the Safety Reports which have significant cost implications for the sites. Lessening of the excessive charges for testing external emergency plans would allow companies put limited financial resources to much better use in site safety improvements.

SI 74 of 2006 states that "A charge made by a Competent Authority…..shall be made only in accordance with such scale of charges as may be specified by the appropriate Minister".

In summary, I am looking for a scale of appropriate and reasonable charges for preparing and testing external emergency plans by the External Emergency Services to be published.

Decision/Result of review
The comments on the format of the information to the public are noted. Safety reports will not be available on-line but will be available on request. The grounds for refusing a request are set out in the European Communities (Access to Information on the Environment) Regulations - Guide here: http://www.environ.ie/en/Legislation/Environment/Miscellaneous/FileDownLoad,30001,en.pdf The comments on the charging regime of the HSA are noted. The draft regulations will address charges for services.