

Responses to submissions from the Public Consultation on Intermediate Temporary Storage guidance

4 November – 9 December 2019

Document Submitted by	
Organisation	Wm Cyril Mc Guinness Ltd
Email	
Section	Intermediate Temporary Storage under COMAH
Category	Intermediate Temporary Storage under COMAH (related to)
Reference Number	CMG-sq_281119
Submission Date	28 November 2019

Submission: Further to my telecom yesterday with Ms Jean Shannon, We were advised to notify you that we may store (overnight) chemicals on a trailer. We are a haulage company and haul waste chemicals for Indaver Ireland. Indaver Ireland now are finding that due to its limits on pallets per day. (100 into its transfer station in Tolka quay per day). They may ask us to hold the load over night and deliver it the next day. We don't have warehousing, just transport, and in the ideal world would prefer to NOT hold chemicals on our trailer over night. We would request an annex of the chemical threshold as I believe that different chemicals will have different limits. I also believe that it would be better and more prudent to allow Indaver accept more waste per day and have a limit per week or month as a truck running late may not make the cut off time for delivery into the transfer station and then this messes up the count for the next day, etc. Also under ADR 1.10 Security provisions, ADR 1.10.1.3 Areas within temporary storage terminals, temporary storage sites, vehicles depots, berthing areas and marshalling yards used for the temporary storage during carriage of dangerous goods shall be properly secured, well lit and, where possible and appropriate, not accessible to the public. Which in lay mans terms means that Indavers transfer station is the best place for the load, followed by our gated and secure Transport yard, And as DGSA I was told to allways find the least onerous way to transport Cargo, (which seen to be the opposite to my view of best Practice, In this case we would have the option of parking at Truck stops or lay bys or open ground away from the public with no need to register and ahead to COMAH, With this in mind is it not far better that the limits of 18 days a year be expanded as we have a safe and secure yard, and to my mind truck stops and lay-bys are unsafe and very insecure if the driver is on sleep breaks. I would welcome you taught on this, as we have ploughed a lot of money into making our transport yard safe and secure, but feel that if we needed to change the planing may be costly exercise and if refused would put us Out of business. Is the first option of opening the volume up at the Transfer station the Best and Safest. Can you also forward me the annex of chemicals and there limits, But I do believe that we should be under the limits and days which would mean we would not have to register as we only have transport and not warehousing.

Review of submission and action taken

The referenced road tanker loads are between 20 and 30 tonnes in weight and the waste could be classified as Flammable P5c (threshold 5,000 t), Toxic H2 (threshold 50 t) or Hazardous to the Aquatic Environment, E1 (100 t). So 2-3 tanker loads of Toxic H2 classification would exceed the lower-tier COMAH threshold (based on the classifications indicated).

The submission states the material is being stored overnight/over weekend in a Transport Yard. The point made in the submission, that storage is safer in a transport yard rather than on a lay-by, is consistent with ADR provision 1.10.1.3, which makes it clear that dangerous loads (other than overnight in the transport chain) should be stored only in secure locations.

The point relating to the control of the amount of waste processed under the Waste Permit is a matter for the EPA and not within the scope of this Guidance.

The final sentence in the submission observes that the respondent company is engaged in transport and not warehousing: this does get to the nub of the issue. Under COMAH, the presence of dangerous substances is the critical factor, however it is described.

A link to the threshold quantities for the application of the COMAH Regulations will be put into the Guidance.

The general tenor of this submission supports some of the changes made under other submissions. The point that the storage period of 18 days should be extended has been taken into account, in extending the total period in the revised guidance to 480 hours, or 20 days.

Document Submitted by	
Organisation	Indaver Ireland Ltd
Email	
Section	Intermediate Temporary Storage under COMAH
Category	Intermediate Temporary Storage under COMAH (related to)
Reference Number	DC-db_31219
Submission Date	3 December 2019

Submission: Thank you for sending this draft document and opening the consultation. Indaver itself operates under COMAH & Seveso at our Transfer Station in Dublin Port and assessed our waste to Energy plant under the regulations and it does not fall under Seveso III. From time to time during the transit of dangerous substances loads to waste facilities in Ireland, Indaver's subcontracted hauliers may hold waste that are classified as dangerous substances overnight, if they cannot reach their destination in time. Indaver have a policy that waste only be held at the depots overnight or at the very most from a Friday evening to a Monday morning and so for our individual loads this would be <3 days. We do not control what other dangerous substances the depots are storing. We have sent this draft guidance onto our hauliers also for review. However this can change if the weekend is a bank holiday. Indaver would request that guidance document accounts for public holidays and if it is made clear if the days are only counted for working days (Mon-Fri) or does it cover the 7 days of the week. Indaver think it would be beneficial if this was clarified in the document.

Review of submission and action taken

The waste referred to is understood to be classified as Flammable P5c (threshold 5,000 t), or Toxic H2 (threshold 50 t) or Hazardous to the Aquatic Environment, E1 (100 t).

A level of risk is present whenever a hazard is present, whether that is on a working or non-working day. The longer the hazard is present, the greater the risk. The risk relates both to the public and to those at work.

The timescales in the Guidance apply to all times and not just work times: this will be clarified in the Guidance by the addition of footnote 7.

'Bank Holiday' situations were intended to be covered by the 3-day rule (that is, covering Saturday, Sunday and Monday). It is now accepted that this provision does not cover the full period.

Therefore the Guidance will be adjusted so that the continuous qualifying period is increased to 4 days (actually to 96 hours – see later submission)

There are 9 public holidays in a full year: in making this change, we hold the view that storage should not be planned for or anticipated on each and every Bank Holiday period and prior arrangements should be made to avoid this.

The Guidance will be altered to allow for storage on up to 5 bank holidays before the Regulations will be deemed to apply. The total permissible storage period in any one year will therefore be 5 x 96 = 480 hours. (~ 5.5 % of a year).

Document Submitted by	
Organisation	Irish LPG Gas Association
Email	
Section	Intermediate Temporary Storage under COMAH
Category	Intermediate Temporary Storage under COMAH (related to)
Reference Number	LD-zx_71219
Submission Date	7 December 2019

Submission: Section 4 We would propose to insert " or part days" to prevent a loophole where if containers are at a location for two consecutive days and on the third day a container leaves and is taken on a journey just to remove it from the location for a short period to keep under the 3 consecutive day period and then return to the location Appendix 2 Would suggest adding " including storage waiting for onward distribution or drawing off by a customer as dictated by business need"

Review of submission and action taken

As the risk is proportional to the length of time that dangerous substances are present, it is considered unreasonable to count a portion of a day as a whole day.

Also, reflecting responses given on other submissions, the continuous period (or near continuous - to thwart removal for a short time thereby creating a discontinuity) in the Guidance will now be specified as 96 hours and total storage period in any one year will be 480 hours.

The Guidance, as sent out to public consultation (see paragraph 3 of Section 3), adequately covers 'storage waiting for onward distribution or drawing off by a customer as dictated by business need' so it is not considered necessary to add the additional words suggested.

Document Submitted by	
Organisation	National Chemical Co
Email	
Section	Intermediate Temporary Storage under COMAH
Category	Intermediate Temporary Storage under COMAH (related to)
Reference Number	AL-wt_91219
Submission Date	9 December 2019

Submission: Our view on the potential imposition of a time limit on “directly related intermediate temporary storage” is, it would put an enormous strain on the manufacturing, pharmaceutical and BioTech sector as a whole. Over the past 2 years or so, Ports including Cork and Dublin, have restricted storage time on quay and forced the above industries to remove dangerous goods cargoes, The industry has to source storage in suitable interim locations until ready under clause 3.3c. Responsible stakeholders such as NCC have taken the time to audit and satisfy themselves that competent operators have plans in place to deal with emergencies and suitable facilities to cater for the cargo concerned. Unfortunately not all production, pharmaceutical & Bio-Pharma facilities enjoy a large footprint to store tanks for extended periods of time, particularly in Dublin City. Ireland does not enjoy the same infrastructure and raw material manufacturing facilities as those found in the United Kingdom & mainland Europe, and as such are completely reliant on imports of raw materials into the country in order to continue what is a thriving and well-established addition to the GDP/GNP of the state. Many pharmaceutical plants in the Netherlands, Spain, France, Germany can have a tanker delivered overnight by rail or road from the other side of Europe. Ireland’s position and location means we must import in large bulk with iso tank containers in order to continue business. Taking the Netherlands for example, they have storage locations for solvents, corrosives and other raw materials in places like Rotterdam, where these materials are held in large storage tanks in the ports ready for vehicle loading when required, again Ireland does not have such an infrastructure in place for these important commodities. Our belief and view is that once the following actions take place; Clause 3.3C can continue to be valid;

- No transfer to bulk storage (storage tanks)
- No pumping
- No decanting or breakdown to drums/packages
- Store in Bunded areas or bunded yards
- No transferring or product handling

Review of submission and action taken

In essence, the submission made is that, provided only static storage is involved, the Regulations should not apply, even if the applicable COMAH thresholds are exceeded.

While the operations listed do contribute more to the risk, storage itself is not risk-free and the Directive does not differentiate between storage and other activities. COMAH applies only when the specified dangerous substance threshold is exceeded, so a significant quantity of dangerous substance must be present for application to be invoked.

It should be noted that, while variations exist in approaches within the Union, all states have some time-period after which the Seveso legislation applies to storage activities. To do otherwise would allow unlimited periods of storage of dangerous substances in uncontrolled* locations (*from a major accident perspective).

The Guidance addresses the length of storage time allowed before formal notification is required and remains as set out.

However, under the responses to other provisions, it is proposed to increase the continuous period (or near continuous) of storage to 96 hours and the total storage period in any one year to 480 hours, before the COMAH provisions become applicable.

Document Submitted by	Individual
Organisation	
Email	
Section	Intermediate Temporary Storage under COMAH
Category	Intermediate Temporary Storage under COMAH (related to)
Reference Number	
Submission Date	18 November 2019

Can I please get a clarification on this?

Please see the first bullet point references ‘containers’ – do you mean containers as defined in the ADR and hence are all other type of transport unit being excluded.

Intermediate Temporary Storage under COMAH

4. Proposed Approach

Taking account of the situation as outlined above, Ireland’s geographical location (meaning that Ireland is generally at the beginning or end of a transport chain), the potential location of intermediate temporary areas in populated areas or areas with sensitive environmental and human receptors in the vicinity, the limited guidance available on the topic and the varied approaches within the European Union, the Central Competent Authority for the Seveso Directive, based on its experience and technical competence in this area, proposes to take the following approach.

For locations that are not docks, wharves or marshalling yards, an assessment of these locations will be made, based on:

- the duration that any particular number of containers of dangerous substances will be present at the location;
- the duration for which the COMAH threshold will be exceeded.

Where the COMAH threshold would be exceeded for a period of 3 consecutive days or for a total of 18 days in any 12 month period (18/365 ≈5%), the COMAH Regulations will be interpreted to apply and the location operator (that is, the entity with economic control) will be required to make a formal notification under the COMAH Regulations.

This will trigger consequent land-use planning, emergency response planning and public information requirements arising from the Regulations.

Review of submission and action taken

‘Container’ is meant to refer to any form of primary containment of a dangerous substance. This will be clarified in the Guidance (Footnote 2 on page 2).

The approach set out in Section 4 (Page 5) will now refer only to the presence of dangerous substances without mention of containers.