

Consultation on the Control of Pollution (Oil Storage) Regulations (Northern Ireland) 2010

Comments by

Northern Ireland Environment Link

17 June 2010

Northern Ireland Environment Link (NIEL) is the networking and forum body for non-statutory organisations concerned with the environment of Northern Ireland. Its 58 Full Members represent over 90,000 individuals, 262 subsidiary groups, have an annual turnover of £70 million and manage over 314,000 acres of land. Members are involved in environmental issues of all types and at all levels from the local community to the global environment. NIEL brings together a wide range of knowledge, experience and expertise which can be used to help develop policy, practice and implementation across a wide range of environmental fields.

These comments are agreed by Members, but some members may be providing independent comments as well. If you would like to discuss these comments further we would be delighted to do so.

Prof Sue Christie, Director
Northern Ireland Environment Link
89 Loopland Drive
Belfast, BT6 9DW
P: 028 9045 5770
E: Sue@nienvironmentlink.org
W: www.nienvironmentlink.org

Northern Ireland Environment Link is a Company limited by guarantee No NI034988 and a Charity registered with Inland Revenue No XR19598

Introduction

We welcome the opportunity to participate in the consultation process on the Department of the Environment's proposals to introduce Regulations to control above ground oil storage facilities in Northern Ireland.

Water quality is important and the Water Framework Directive (2000/60/EC) (WFD) requires that for diffuse sources liable to cause pollution, measures be put in place to prevent or control the input of pollutants and it also requires that all surface waters and groundwaters must attain a good status by 2015.

The WFD is implemented in Northern Ireland through River Basin Management Plans which were published on 21 December 2009. A commitment to make these Regulations is included in the programmes of measures that have been developed to ensure that the objectives of the WFD are met. The proposed Regulations will complement and enhance existing water pollution controls by setting minimum design standards for new and existing above ground oil storage facilities and provide a legal requirement for the standards to be met. NIEL considers that these Regulations must be introduced as soon as possible as similar measures are already in place in England and in Scotland. Most freshwater bodies in Northern Ireland are already either eutrophic or hypereutrophic and measures have been implemented to reduce agricultural diffuse sources of nutrient pollution. These measures will fail unless control of water pollution from sources such as oil storage facilities is also improved.

Comments on Specific Issues for Consultation

5 (i) We consider that the proposed Regulations will provide improved protection for the aquatic environment, hopefully to the same level as already provided in England and Scotland. Clearly, the provision of secondary containment is necessary to afford adequate protection to the aquatic environment from spillages of oil from above ground storage tanks.

5 (ii) We do not know of any activities other than those specified in draft regulation 3(2) which should be exempted from the Regulations.

5 (iii) We do not consider the timescales for the replacement of old tanks to be reasonable. We agree that the owners or custodians of new storage facilities can be given six months to comply from the date when the Regulations come into operation. However, we think that a period of two years for facilities that are within 10 metres of a waterway or 50 metres of a well, spring or borehole is far too generous. We would suggest reducing this period to one year. Even this is generous considering the additional risk posed by the locations of these facilities and the fact that other parts of the United Kingdom already have protective instruments in place. Furthermore, we also consider that four years is far too generous for remaining existing storage facilities and we would suggest two years or less for these. We appreciate that owners or custodians of these facilities will need time to make the necessary changes. However, the Regulations must be fit for purpose and must ensure adequate protection of the aquatic environment as soon as possible.

5 (iv) We consider the sectors to which the Regulations will apply to be appropriate. However, we hope that there are proper mechanisms in place to identify all such facilities in Northern Ireland so that the Regulations can be enforced.

5 (v) The penalties for non-compliance with the Regulations seem appropriate. However, it is not clear how the Northern Ireland Environment Agency will be able to monitor storage facilities effectively, and this is just as important as the level of penalties if these Regulations are to provide sufficient inducement to ensure compliance. We are especially concerned about this because of the likelihood of significant financial cutbacks in the NIEA and are therefore very concerned that the Agency will not be able to properly enforce the new Regulations. One of the ways in which the new provisions will improve protection of waters is by being proactive rather than reactive. This makes the policing of the new regime a crucial part of the system.

5 (vi) We are pleased to see that the Regulations make provision for the Department to serve a notice on anyone having custody or control of oil in transitional cases where there is significant risk of pollution. Again, however, it is not clear how the Department will be able to identify all such inadequate facilities. Perhaps the Department should publicise the new provisions and invite the general public to contact NIEA with details of any facilities that appear to pose a significant risk. There might be a role for voluntary organisations in promoting these Regulations to the public and perhaps as an intermediary for such identification of facilities.