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|  <b>Regulatory Policy Committee</b>   | <b>Opinion</b>   |                |
| <b>Impact Assessment (IA)</b>  | The transposition of the Seveso III Directive into UK Law through the COMAH Regulations 2015 |                |
| <b>Lead Department/Agency</b>  | Health and Safety Executive  |                |
| <b>Stage</b>   | Consultation   |                |
| <b>IA Number</b>   | HSE 0082   |                |
| <b>Origin</b>  | European   |                |
| <b>Expected date of implementation</b>   | April 2015 (SNR 9)   |                |
| <b>Date submitted to RPC</b>   | 21 February 2014   |                |
| <b>RPC Opinion date and reference</b>  | 3 April 2014   | RPC14-HSE-2036 |
| <b>Overall Assessment</b>  | <b>GREEN</b>   |                |
| <b>RPC comments</b><br><br><p>The IA is fit for purpose. The IA would benefit from a clearer explanation of the impact on storage sites that will either be changing between the regulatory controlled classification tiers or coming under the scope of the Directive for the first time. The IA could also provide a summary position on how many sites are affected by each element of the proposal.</p>  |  |                |
| <b>Background (extracts from IA)</b><br><br><p><b>What is the problem under consideration? Why is government intervention necessary?</b></p> <p><i>“The EU currently regulates sites with major accident potential through Directive 96/82/EC, more commonly known as the Seveso II Directive. This is implemented in Great Britain (GB) through the Control of Major Accident Hazard (COMAH) Regulations 1999 as amended and land use planning legislation. Northern Ireland and Gibraltar have corresponding legislation. Due to changes in the EU system of classifying chemicals (on which the Seveso Directive is based) the European Commission (EC) has replaced the current Seveso Directive with a new Directive. At the same time, the Commission took the opportunity to modernise the Directive in line with other environmental legislation. UK Government intervention is required to implement new COMAH Regulations 2015 to transpose the Directive fully into UK law by 1 June 2015.”</i></p> <p><b>What are the policy objectives and the intended effects?</b></p> <p><i>“The UK policy objectives are to ensure that implementation of the changes is clear, coherent and easy to understand, and does not place a disproportionate burden on industry, regulators or other stakeholders. Successful transposition of the changes will continue to ensure that high levels of protection for human health and the environment are maintained”.</i></p> <p><b>Options</b></p> <p><i>“There are three permutations within the new COMAH regulations in relation to the</i></p> |  |                |

*testing of emergency plans at Upper Tier sites; specifically in relation to the question of who would bear the cost for the involvement of Category 1 emergency services in this testing – industry or local authorities. As this area of the policy is still under development, the options in this impact assessment will reflect the three policies currently being considered and which will be further tested during consultation:*

*Option 2: the Local Authority bears the cost*

*Option 3: the COMAH site bears the cost*

*Option 4: the local authority has discretion whether to pass the cost onto the COMAH site.*

*At this stage there is no preferred option.”*

### **Identification of costs and benefits, and the impacts on business, civil society organisations, the public sector and individuals, and reflection of these in the choice of options**

The IA proposes to transpose the Seveso III Directive, through the COMAH Regulations 2015. The Directive covers the prevention of major accidents involving dangerous substances and how to limit the consequences when accidents do occur. The IA provides a clear discussion of the likely impact of the Directive at this stage of policy development.

The IA explains that the proposal will have an impact on business through:

(i) familiarisation costs associated with proposed changes on updating of safety reports, (ii) provision of notifications to the public, and (iii) the reviewing and testing of emergency plans.

The IA also explains how sites storing hazardous substances are classified, for regulatory control purposes, as being a Lower Tier site, an Upper Tier site or considered out of scope of the Directive. As a result of the proposals, the status of some of the existing sites may likely change between the tiers. The IA would benefit from a clearer explanation of the impact of proposals on those sites either changing tier or will fall within scope of the Directive as a new entrant. The IA could also provide a summary position on how many sites are affected by each element of the proposal.

While no preferred option is set out in the IA at this stage, following consultation, the final stage IA should clearly assess any potential differences in costs between the proposed options i.e. depending on whether costs of the proposal will be borne by business or local authorities. At present, the IA assumes that costs and benefits are likely to be the same for all options.

### **Comments on the robustness of the Small & Micro Business Assessment (SaMBA)**

A SaMBA is not required because the proposal is of EU origin.

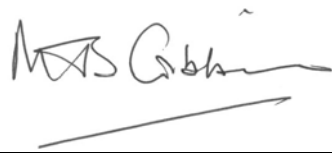
**Comments on the robustness of the OITO assessment.**

This proposal is of European origin. Seven areas of the proposal involve 'gold plating' as a consequence of retaining existing higher standards, which if not retained, would constitute an overall reduction in safety standards. As these seven areas already exist, the HSE has included their cost within the baseline, because retaining these requirements will not result in any increase in the burdens on business (paragraph 12).

However, the IA explains that there are three specific regulatory elements of the proposal – (i) notifications to the HSE (ii) reviewing and testing of external emergency plans; and (iii) provision of information to the public, (paragraph 13) - that would be in scope of OITO as new gold plating. These would impose a direct net cost to business (an 'IN'), in line with the current Better Regulation Framework Manual (paragraph 1.9.10).

The Department will need to produce an equivalent annual net cost to business (EANCB) figure for the three elements of the IA that constitute new 'gold plating' and score in the Government's OITO account. The Department should also provide an EANCB figure covering the 'non-gold plated' EU elements of the proposal for RPC validation at the final stage, in order to support balanced reporting of overall EU burdens.

**Signed**

A handwritten signature in black ink, appearing to read "Michael Gibbons", with a long horizontal line underneath it.

**Michael Gibbons, Chairman**