



Department
for Environment
Food & Rural Affairs



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Consultation on proposed measures to implement elements of EU Regulation 1257/2013 on ship recycling relating to the authorisation of UK ship recycling facilities

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Part I – About this consultation

1.1 This is an explanatory document that provides an overview of the measures required to establish the most appropriate approach for ensuring compliance with EU Regulation 1257/2013 on ship recycling (the EU Ship Recycling Regulation).

1.2 This is a joint consultation between Defra and the Department of Environment Northern Ireland and relates to the introduction of draft GB and draft Northern Ireland 2015 Regulations. Health and safety issues are a devolved matter in Northern Ireland, however this is not devolved in England, Scotland and Wales. As the measures proposed for both sets of Regulations are similar, it has been agreed to consult jointly on the approach. This explanatory document provides an estimate of the expected level of business impact as a result of the proposed new measures.

1.3 Defra has written to all of the UK ship recycling facilities that are either currently operational and hold the appropriate permits and approvals or that have previously been involved in ship recycling activities to make them aware of the new EU Ship Recycling Regulation and to discuss compliance with its requirements. A list of stakeholders have also been invited to give their views (including those facilities already contacted). Other interested parties are welcome to make comments on any aspect of the proposals.

1.4 The impact of the new measures will be low with UK facilities largely already meeting the requirements of the EU Regulation. Furthermore, only three UK facilities have indicated a wish to become authorised to date. This consultation will therefore run for six weeks. This will allow sufficient time to introduce the new measures to enable the notification of UK authorised facilities to the European Commission by 31 March 2015 as required by the EU Regulation. Notified UK facilities will be included in the EU List of approved ship recyclers once it is first published by the European Commission. All responses must reach us by Tuesday 20th January 2015.

What this consultation means to you

1.5 This consultation will be of particular interest to:

(i) Ship recycling facilities or companies wishing to undertake ship recycling activities in the UK

(ii) Other businesses and trade associations principally engaged in the recycling of ships

When and where the new measures will apply

1.6 The proposed 2015 Regulations will come into effect **by the spring of 2015**.

1.7 The new measures that will be detailed in the GB 2015 Regulations will apply in England, Wales and Scotland only. The new measures that will be detailed in the Northern Ireland 2015 Regulations will apply in Northern Ireland only. This consultation covers both the GB and Northern Ireland 2015 Regulations and copies of these draft proposals can be found at www.defra.gov.uk/consult and <http://www.doeni.gov.uk/consult>.

Background

1.8 EU Regulation 1257/2013 on ship recycling¹ (the EU Ship Recycling Regulation) implements the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships². Article 14 of the EU Ship Recycling Regulation imposes an obligation on ship recycling facilities wishing to undertake recycling activities on ships flying the flag of an EU Member State falling within the scope of the Regulation to be authorised by the competent authorities of Member States as meeting the requirements of Article 13 of the Regulation. The Regulation applies to ships flying the flag of a Member State that exceed 500 gross tonnes, but excludes warships, naval auxiliary or other ships owned or operated by a state and used on government non-commercial service.

1.9 The European Commission will establish a list of ship recycling facilities which have been authorised as meeting the requirements of the EU Regulation (the European List). Owners of ships flying the flag of an EU Member State can only send their ships for dismantling in facilities that appear on the EU List

1.10 Whilst the EU Ship Recycling Regulation doesn't impose mandatory authorisation of all EU ship recycling facilities, it does require authorisation for those facilities that wish to undertake recycling activities on EU flagged ships that fall within the scope of the EU Regulation. UK facilities wishing to have access to that market will therefore need to apply to the competent authorities to become authorised.

1.11 Article 13 of the EU Regulation sets out the requirements that ship recycling facilities must meet in order to become authorised and be included on the European List. Many of the requirements in the EU Ship Recycling Regulation are of an environmental nature, and therefore will already have been taken into account under existing environmental permits/waste management licences. Furthermore, the permitting requirements of the EU Waste Framework Directive will still apply. However, Article 13 requires facilities to prepare a ship recycling facility plan, which is the cornerstone document introduced by the Hong Kong Convention. The purpose of the ship recycling

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32013R1257&from=EN>

² <http://ec.europa.eu/environment/waste/ships/pdf/Convention.pdf>

facility plan is to describe precisely in written form how the facility complies with the requirements of the EU Regulation and therefore the Hong Kong Convention.

1.12 The ship recycling facility plan must be completed by the ship recycling facility and be submitted to the relevant competent authority as part of the application to become authorised. It will then be assessed and verified by the competent authority as to whether it meets the necessary requirements. Successful applications will result in authorisation being awarded to the facility. In accordance with Article 14(1) of the EU Regulation, authorisations are valid for a maximum period of five years.

What we are consulting on

1.13 Your views are sought on the proposed policy approach for the GB and Northern Ireland 2015 Regulations. The Regulations would introduce a domestic legal framework that implements the requirements of the EU Ship Recycling Regulation. They designate the relevant national environment Agency and the Health and Safety Executive as joint competent authorities. The relevant Agency will depend on the location of the ship recycling facility wishing to become authorised (Environment Agency in England, Scottish Environment Protection Agency in Scotland, National Resources Wales in Wales and the Department of the Environment's Northern Ireland Environment Agency in Northern Ireland). The proposed Regulations will empower the UK competent authorities to undertake the necessary functions to authorise UK facilities in accordance with the EU Ship Recycling Regulation.

1.14 The proposed approach will validate that UK facilities who wish to be included in the European List meet the environmental and health and safety requirements of the EU Regulation and will ensure that the necessary controls are in place to protect the environment, the health and safety of workers and the population in the vicinity of the ship recycling facility caused by ship recycling activities.

1.15 Further details of the proposed changes are provided in Part II of this document but the consultation is primarily about how the Regulations will address the following points:

- Introducing the most appropriate measure for ensuring compliance with the relevant obligations in the EU Ship Recycling Regulation relating to the authorisation of ship recycling facilities;
- Ensuring that UK facilities that wish to undertake recycling activities on ships flying the flag of EU Member States have a means of becoming authorised and are able to compete with other EU and international companies in that market;
- Appointing competent authorities responsible for implementing and enforcing the relevant provisions of the EU Ship Recycling Regulation with regard to authorisation of UK facilities;
- Developing an approach that doesn't impose unnecessary burdens on business and that implements a consistent method for authorising facilities, fully considering and integrating existing permitting, licensing and authorisation processes;

- Enabling the competent authorities to vary existing permits and approvals so that they also provide authorisation for the purposes of the EU Ship Recycling Regulation and therefore avoid unnecessary duplication of information and work by operators of ship recycling facilities.

1.16 Your views are requested on the proposals described in Part II of this document. Specific questions have been highlighted throughout Part II. Additionally all questions are listed in Annex A.

1.17 This consultation focuses on implementation of Article 13 and 14 of the EU Ship Recycling Regulation. The other Articles in the EU Regulation do not enter into force until a later date and implementation of these Articles will be consulted on separately in the future.

Part II – Proposed new measures

2.1 This consultation is your opportunity to comment on the proposed approach for the 2015 Regulations.

2.2 Your views are sought on the proposed measures described below and your feedback on the specific questions is welcomed.

Existing environmental and health and safety requirements to undertake ship recycling activities in the UK

2.3 Whether an existing or a new site, it is important that a recycling facility has the capability to recycle the ships it purchases in compliance with the relevant UK, EU and international legislation to meet the various environmental and health and safety requirements. Even before the introduction of the new EU Ship Recycling Regulation the recovery and disposal of waste required a permit under existing EU legislation with the principal objective of preventing harm to human health and the environment.

2.4 In addition, facilities that are currently operational and carrying out recycling activities on any ships have to comply with the relevant health and safety legislation including requirements relating to worker safety, training, accident records etc.

2.5 Whilst the EU Ship Recycling Regulation doesn't impose mandatory authorisation of all EU ship recycling facilities, it does require authorisation for those facilities that wish to undertake recycling activities on EU flagged ships that fall within the scope of the EU Regulation. UK facilities wishing to have access to that market will therefore need to complete the necessary documentation and apply to the competent authorities to become authorised.

2.6 UK facilities undertaking recycling activities on non EU flagged ships don't need to be authorised but will still have to comply with existing requirements under the Waste Framework Directive and relevant health and safety legislation with regard to ship recycling activities.

Additional requirements that will apply under the EU Ship Recycling Regulation

Production of a ship recycling facility plan

2.7 The main new requirement ship recycling facilities have to meet in order to become authorised for the purposes of the EU Regulation is the completion of a ship recycling facility plan. The ship recycling facility plan is the cornerstone document introduced by the

Hong Kong Convention and its purpose is to describe precisely and in written form how the facility complies with the requirements of the EU Regulation and therefore the Hong Kong Convention.

2.8 A ship recycling plan will need to include the following core elements:

Facility Management and operations

- Facility to be a registered business entity and be in possession of all relevant permits, approvals and licenses required by national and local agencies.
- Facility to have adequate insurance to cover environmental remediation and health and safety liabilities in compliance with the relevant legislation.
- An emergency preparedness and response plan (could be a separate document) covering both environmental and health and safety procedures.
- Company information and training arrangements
- Procedures to be used for securing the ship in the event of severe weather.

Environmental compliance

- Information regarding management of hazardous materials. The facility should demonstrate that it has established implemented and maintained procedures for environmentally sound management and storage of hazardous materials and wastes.
- Proof that the facility is designed and constructed to manage hazardous wastes in an environmentally sound manner.
- Consideration of the annual material flow including:
 - The maximum quantity that a facility can receive.
 - The maximum storage capacity for each type of waste.
 - The environmental hazards caused by the waste during recycling activities and possible measures to mitigate the negative impact on the environment.
- Control of any leakage, in particular in intertidal zones, including procedures for spill, clean-up and notification.
- Details of how all wastes generated from ship recycling activity and their quantities are documented and only transferred to waste management facilities, including waste recycling activities, authorised to deal with them.
- Procedures for managing and recording any incidents and accidents impacting human health and/or the environment.

Worker health and safety compliance

- A site plan annotated with details of key areas of work, emergency access and welfare facilities.
- General arrangements for ship arrivals and recycling methodology.
- Demonstration of how the site complies with the relevant UK health and safety law including the Health and Safety Policy, the management structure and organisational arrangements in place to control health and safety at the facility during ship recycling.
- Risk assessments and demonstration of how risks are controlled in topics such as working at height, lifting operations, and general compliance with the personal protective equipment and workplace regulations, and others as part of normal operation of the site.
- Assessments and demonstration of the resulting control measures for confined space working, 'hot work', control of asbestos etc.

2.9 Since the elements above are all things that UK ship recycling facilities do already to meet existing environmental and health and safety legislation requirements it is envisaged that the ship recycling facility plan will be straight forward to complete.

2.10 The main purpose of the ship recycling facility plan will be to record that all the relevant measures and procedures are in place to meet existing regulatory requirements. To avoid unnecessary duplication of information and work by operators of ship recycling facilities it is proposed that a ship recycling facility plan will hold access to the relevant information in one place but refer the reader to more specific details in other documents that can be linked. This format is also considered to be easier for employees of the ship recycling facility and other interested parties to understand.

Question 1: Do you agree with the proposed approach to the completion of a ship recycling facility plan (i.e. to avoid unnecessary work and duplication)? If not, why not?

Environmental compliance

2.11 Since many of the requirements in the EU Ship Recycling Regulation are of an environmental nature they will already have been taken into account under the existing environmental permits/waste management licences required already to undertake ship recycling activities in the UK. Furthermore, the permitting requirements of the EU Waste Framework Directive will still apply. However, it should be noted that existing permits are not valid for the purposes of compliance with the EU Ship Recycling Regulation and will therefore need to be varied.

Health and Safety compliance

2.12 The health and safety elements needed for the relevant parts of the ship recycling plan are controls that would already be required for facilities undertaking ship recycling

activities in the UK but they are not currently subject to a permit requirement. Therefore, as with the environmental aspects, these will need to be combined to form a single authorisation for compliance with the EU Ship Recycling Regulation.

Approach to permit variation

2.13 Compliance with the relevant conditions in the EU Ship Recycling Regulation in order to become authorised doesn't require a new permit to be issued but rather a variation of existing permits and an assessment by the competent authorities to validate that facilities are complying with the relevant conditions.

2.14 Article 14(1) of the EU Ship Recycling Regulation provides scope for Member States to combine existing measures in place to meet national and EU requirements to form a single permit provided that the requirements of the EU Ship Recycling Regulation are complied with. Such an approach obviates the unnecessary duplication of information and the duplication of work by operators of ship recycling facilities.

2.15 This is the approach that is being proposed for the 2015 Regulations which will provide the competent authorities with the necessary powers to assess and verify ship recycling facility plans to ensure they meet the necessary requirements and then vary existing permits and approvals. This approach removes the need for the issuance of multiple permits with no added benefit.

Question 2: Do you agree with the proposed approach to vary existing permits and authorisations so that they are valid for the purposes of compliance with the EU Ship Recycling Regulation? If not, why not?

New entrant's to the market.

2.16 Due the nature of the ship recycling market, and heavy market dominance of facilities from outside the EU, it is considered unlikely that many, if any, new UK facilities will seek authorisation. Any companies wishing to establish a new facility, or to hire an existing facility to carry out recycling operation, would need to comply with the relevant UK, EU and international legislation to meet the various environmental and health and safety requirements, including securing the necessary authorisation required by the EU Ship Recycling Regulation if undertaking activities on ships covered by the scope of the Regulation.

2.17 Given that new facilities would not already have existing permits in place it would not be possible to vary permits in the same way as for existing facilities, therefore a new permit would be required. However, the approach for new facilities would be consistent with that being taken for existing facilities.

Competent Authority role

2.18 The proposed 2015 Regulations will appoint the competent authorities responsible for implementing and enforcing the relevant provisions of the EU Ship Recycling Regulation with regard to the authorisation of UK facilities that wish to undertake recycling activities on EU flagged ships. Given that the EU Regulation covers both environmental and health and safety requirements, the 2015 Regulations propose the appointment of joint competent authorities who will administer the environmental and health and safety aspects of the EU Regulation with a single point of initial contact. The competent authorities will be the relevant national Agency, the Health and Safety Executive and the Health and Safety Executive Northern Ireland. The relevant Agency will depend on the location of the ship recycling facility wishing to become authorised (Environment Agency in England, Scottish Environment Protection Agency in Scotland, National Resources Wales in Wales and the Department of the Environment's Northern Ireland Environment Agency in Northern Ireland). The 2015 Regulations will empower the UK competent authorities to undertake the necessary functions to authorise UK facilities in accordance with the EU Ship Recycling Regulation and use their existing powers.

2.19 It is proposed that the single point of initial contact for the joint competent authorities in England, Scotland and Wales is the Environment Agency, who will be working with the Health and Safety Executive, and who will refer the applicant to the Health and Safety Executive and the relevant Agency depending on the location of the facility. This allows the process to be more straightforward and consistent for both the ship facility owners and the competent authorities themselves. Without a single point of initial contact facilities may be unaware of who to contact, especially within the joint competent authority. It is proposed that the single point of initial contact for the joint competent authorities in Northern Ireland is the Northern Ireland Environment Agency.

Question 3: Do you agree with the appointment of joint competent authorities to administer the relevant environmental and health and safety functions with a single initial point of contact? If not, why not?

Question 4: Do you agree with having the Environment Agency as the single point of initial contact for England, Scotland and Wales and the Northern Ireland Environment Agency as the single point of contact for Northern Ireland?

Process for Competent Authority authorisation of UK ship recycling facilities

2.20 The EU Ship Recycling Regulation introduces requirements and conditions that EU ship recycling facilities must meet if they wish to be authorised. A key requirement is the submission of a ship recycling facility plan, as part of the formal application to become authorised. Competent authorities will assess the ship recycling facility plan against the requirements set out in Article 13 of the EU Ship Recycling Regulation, as well as other relevant environmental and health and safety legislation.

2.21 Assessment and verification will be concluded in a reasonable timeframe that is expected to be at least three months but may be longer for more complex applications. The assessment may include a site visit to check that the facility has established and implemented the necessary procedures and techniques aimed at protecting the environment and the health and safety of workers and human health without posing any unacceptable risks.

2.22 A well written ship recycling facility plan should contain sufficient information to enable anyone unconnected with the site to understand how it will be operated. A template ship recycling facility plan and guidance on completing the relevant sections is being developed and will be available ahead of the 2015 Regulations entering into force.

2.23 In accordance with the requirements of the EU Regulation, authorisations are valid for a maximum period of five years, after which point authorisations will have to be renewed. The 2015 Regulations propose that authorisations are valid for the full five year period permitted under the EU Regulation.

Question 5: Do you agree that authorisations should be valid for the maximum five year period permitted by the EU Regulations? If not, what is the justification for a shorter validity period and what do you suggest that should be?

Expected level of business impact

2.24 Defra have written to all of the eighteen UK ship recycling facilities that are either currently operational and hold the appropriate permits and approvals or that have previously been involved in ship recycling activities to make them aware of the new EU Ship Recycling Regulation and to discuss compliance with its requirements. At the time of writing, only three facilities have responded confirming their interest in becoming authorised in accordance with the EU Regulation.

Question 6: Are you the operator of a facility interested in becoming authorised for the purposes of compliance with the EU Ship Recycling Regulation?

2.25 Costs of complying with the new EU Ship Recycling Regulation will fall upon the UK ship recycling facilities wishing to become authorised in accordance with the EU Regulation. They will consist of a cost to the facility to produce a ship recycling facility plan, for the plan to be assessed by the competent authorities and an authorisation issued. There will also be a renewal cost after five years.

2.26 We have calculated the cost of implementing the policy based on estimates from the Environment Agency (EA) and the Health and Safety Executive (HSE) regarding what is required and what charges will be levied on ship recycling facilities for assessing and issuing the relevant authorisations. These estimates are based upon EA and HSE experiences of working with other existing permitting, licensing and authorisation regimes that involve the same principles as those required under the EU Ship Recycling Regulations to authorise UK ship recycling facilities.

2.27 The costs of authorisation per facility can be summarised as follows:

Production of a ship recycling facility plan

Costs for facilities to prepare a ship recycling plan are estimated to be between £126 and £380. Facilities already have measures in place to meet the requirements of the ship recycling facility as this is already required by existing environmental permitting and health and safety legislation. However, the main new requirement is for the various measures to be referenced in one document, the ship recycling facility plan, that holds access to the relevant information in one place but that can refer the reader to more specific details in other documents that can be linked. This will involve a small amount of managerial time which has been estimated at around three hours per application.

Initial authorisation costs for UK ship recycling facilities.

Between £5570 - £7570. Costs for initial authorisation relate to charges levied by the relevant national Agency and HSE for the assessment of the ship recycling facility plan and also a site visit to validate that facilities meet the requirements of the EU Regulation, as well as other relevant environmental and health and safety legislation.

Authorisation renewal costs

Between £2036 - £2736. Costs for renewal after 5 years relate to charges levied by the relevant national Agency and HSE for reappraisal of paperwork and a potential site visit to validate that facilities are still meeting the relevant requirements.

Question 7: Are the estimated costs an accurate reflection of the likely impacts upon stakeholders resulting from the new proposed measures? If not, please explain and provide evidence for why you think costs might be different.

Part III – Responding to this consultation

Key dates

3.1 The closing date for comments on the proposals set out in this consultation is **20th January 2015**.

How to respond

3.2 Please send your responses to Defra either by post:

Ship Recycling Facilities Regulations 2015 Consultation
Department for Environment, Food and Rural Affairs
Hazardous and International Waste Unit
Area 2B, Nobel House
17 Smith Square
London SW1P 3JR

Or email: HIWU@defra.gsi.gov.uk

3.3 Responses will be analysed by Defra and the various Competent Authorities (the Health and Safety Executive, the Environment Agency, the Scottish Environment Protection Agency, the Department of the Environment's Northern Ireland Environment Agency, and Natural Resources Wales).

3.4 When responding, please state whether you are responding as a private individual or on behalf of an organisation or company.

How we will use your information

3.5 We will consider all responses received by the closing date before finalising the 2015 Regulations.

Publishing the consultation responses

3.6 A summary of responses and a response will be published within 12 weeks of the closing date of the consultation. This may include copies of the responses received, unless you have specifically requested that your response is confidential. Please indicate in your response if you want it to be treated as confidential.

3.7 Respondents should also be aware that there may be circumstances in which Defra will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000.

Compliance with the Code of Practice on Consultation

3.8 This consultation complies with HM Government's Code of Practice on Consultation.

Annex A – List of consultation questions

Question 1: Do you agree with the proposed approach to the completion of a ship recycling facility plan (i.e. to avoid unnecessary work and duplication)? If not, why not?

Question 2: Do you agree with the proposed approach to vary existing permits and authorisations so that they are valid for the purposes of compliance with the EU Ship Recycling Regulation? If not, why not?

Question 3: Do you agree with the appointment of joint competent authorities to administer the relevant environmental and health and safety functions with a single point of contact? If not, why not?

Question 4: Do you agree with having the Environment Agency as the single point of initial contact for England, Scotland and Wales and the Northern Ireland Environment Agency as the single point of contact for Northern Ireland?

Question 5: Do you agree that authorisations should be valid for the maximum five year period permitted by the EU Regulations? If not, what is the justification for a shorter validity period and what do you suggest that should be?

Question 6: Are you the operator of a facility interested in becoming authorised for the purposes of compliance with the EU Ship Recycling Regulation?

Question 7: Are the estimated costs an accurate reflection of the likely impacts upon stakeholders resulting from the new proposed measures? If not, please explain and provide evidence for why you think costs might be different.

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<http://www.doeni.gov.uk/consult>.

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