

Annex 1: Detailed analysis of response to CD 266: COMAH 2015 Consultation

This analysis shows the breakdown of responses for quantifiable questions and a summary of responses to qualitative questions.

The percentages for quantitative questions are taken from the total number of responders who provided an answer to the question. In some instances where it was considered relevant, additional breakdown by sector has been included.

Although the online questionnaire directed responders to specific questions depending on where the sector they selected (industry, member of the public etc.), the majority of responders chose to download the form in full and answer the questions they thought relevant to them. We have taken all responses into consideration whether or not the question was answered in the way it was initially intended.

Question 1 (a) – Does your site already use the CLP classification? Yes / No

Table 1

Yes	41	51.9%
No	38	48.1%
Total	79	
No response	66	

Question 1 (b) – If yes, please provide details of how you use both CHIP and CLP classifications at the same time.

1. This question was answered by 62 responders
2. Many industry responders indicated that they used one set of information (usually CHIP) in the documentation provided to the Competent Authority (CA) but in practise both sets of information were used at the site, no further detail was provided as to how.
3. The majority of responders used this question to provide general comments on the transition from CHIP to CLP. Many, particularly in the warehousing sector, referred to the information they used depending on data received from further up the supply chain. Some expressed concerns about the quality of the information they received. Two industry responders said that their sites could come into scope at short notice as they stored substances from multiple suppliers using different classification information.

All sites will therefore be required to translate the classifications in their inventory from the CHIP criteria to those used in CLP.

Question 2 – How are you planning to comply with this part of the legislation? What would help you? What problems, if any, do you anticipate? You might like to comment on expertise, time, project management, internal and external issues.

4. This question was answered by 91 responders.

5. There were three main responses from sites as to how they intended to comply with the legislation: planned training and familiarisation programmes, waiting for guidance from their trade association and waiting for further guidance from HSE/the CA.
6. In answering what problems they anticipated, many sites referred to the resources required to reclassifying inventories (one responder described having over 5000 substances in their inventory) and their dependence on receiving timely, suitable information from further up the supply chain. The latter was particularly expressed by downstream sites who feared they may have limited time to do their own reclassification work. The warehousing sector stated a preference for a further transitional period of 2-3 years to take account of this.

Question 3 (a) – Will the changes in CLP lead to your site moving tier, or moving in or out of COMAH ?

Yes / No

Table 2

Yes	10	13.0%
No	67	87.0%
Total	77	
No response	68	

Question 3 (b) – If yes, please provide details / reasons for the move.

7. This question was answered by 50 responders.
8. Although most responders said they didn't think they would change tier some said that they would not have a final answer until further information or clarification had been received from the Competent Authority on topics such as alternative fuels, anaerobic digestion, sodium hypochlorite and nitric acid. As with Question 1(b), several responders indicated that they wouldn't until know their suppliers had done their reclassification and passed the information on. One operator said they may manage their inventory to ensure that they remained Lower Tier.
9. Some operators said that the change in definition of presence of dangerous substances to include storage may change their tier based on an 'anticipated presence' of dangerous substances. In some cases it is possible that the sites who raised concerns here should already have been considering this in their inventories and have had their awareness refreshed by the consultation process.

Question 4 (a) – Do you agree with the proposal that notifications should be completed electronically for all establishments that come under scope of the new Regulations ?

Yes / No

Table 3

Yes	97	93.3%
No	7	6.7%
Total	104	
No response	41	

Question 4 (b) – If no, why not ? Can you suggest any alternatives ?

10. This question was answered by 48 responders
11. The responses to this question were mainly in support of the concept of electronic notifications, although many added concerns about the security of the system. Some sites expressed concern about software/IT compatibility issues. One responder requested a provision to acknowledge submissions be included in the design. Several operators said that design of a bespoke system could be expensive particularly when notification is a one off for most sites and expressed concern that the cost would be passed on to them.
12. Overall there was sufficient support to proceed with this proposal.

Question 5 (a) – Do you have any comments or observations about making information permanently electronically available ?

Yes / No

Table 4

Yes	95	84.1%
No	18	15.9%
Total	113	
No response	32	22.1%

Question 5 (b) – If yes, is this for commercial confidentiality or national security reasons ? For each please outline:

Commercial Confidentiality

National Security

Table 5

Yes	64	86.5%
No	10	13.5%
Total	74	
No response	71	

Table 6

Yes	83	93.3%
No	6	6.7%
Total	89	
No response	56	

i. Your comments / observations

13. This question was answered by 98 responders
14. The majority of responders supported the requirement to make information permanently and electronically available, but some concerns were raised. Many thought that providing the information to the IT platform wouldn't be a burden, but if it generated further requests for information, particularly Safety Reports, that would place a burden on operators having to consider security and commercial confidentiality issues. Some industry responders thought that information should only go to those within the Public Information Zone and thought the postcode search on the IT platform should be narrowed. Some responders said that information could cause undue alarm in members of the public who wouldn't appreciate the safety and mitigation measures in place.
15. Many responders raised concerns about releasing public information on national security grounds because it could allow individuals to research sites for terrorism purposes. They would prefer information to only be given to

those with a reason for having it. Many responders agreed that there needed to be guidance for redacting Safety Reports on national security grounds to ensure clear and universal understanding, some said this should come from the Home Office. Some responders indicated they would like the Secretary of State's direction to remain and one trade association queried if there was a legal possibility for it to be reinstated if the security threat to the UK increased.

16. Some responders raised concerns that the IT Platform could be hacked giving individuals access to more information than intended. One trade association said that putting information about substances into the public domain could increase targeted thefts.
17. On Commercial Confidentiality the most widespread concern was that the release of information would give competitors access to information about a company that could be used to gain a commercial advantage. Some added there would be an additional time cost to replace specific information in a Safety Report with a more generic equivalent although there was no suggestion in the consultation that they would need to do so.
18. The responses showed some confusion about what information must currently be released under the requirements of the Environmental Information Regulations and some evidence of a perception that the IT Platform will replace the requirement from COMAH 1999 for a public register of Safety Reports.

ii. If you have discussed these issues, who you have discussed them with;

19. This question was answered by 87 responders.
20. Responders provided a wide range of sources including a variety of Competent Authority bodies and forums, local authority forums and trade associations. The Chlorine Covenant and local chlorine user groups were also mentioned as were Home Office and counter terrorism forums. Some responders had discussed these issues with neighbouring COMAH establishments and locally established COMAH groups. One site said it had discussed issues with their local MP.

iii. What you plan to do about them

21. This question was answered by 81 responders.
22. Most responders indicated that they planned to wait for further guidance for the Competent Authority and expressed disappointment that this had not already been produced to allow them to assess the impact of changes. Some responders said they would discuss it with their local inspector and ask issues to be borne in mind when preparing intervention plans, and said they would seek exclusion for their Safety Report on the grounds of either commercial confidentiality or national security. Some responders said they would like to discuss draft information with the Competent Authority before publishing to ensure that issues have been adequately dealt with and where possible with local Counter Terrorism Security Officers. One responder indicated that they plan to lobby their MP for the regulations to be changed to limit the provision of information, whilst another said that they would not provide any information unless legally compelled to do so.

Question 5 (c) – Please explain a bit more about the reasons for your concerns.

23. All additional comments including under 5(b).

Question 6 (a) – If you are an UT site do you currently receive additional requests for information from members of the public ?

Yes / No

Table 7

Yes	17	27.4%
No	45	72.6%
Total	62	
No response	83	

Question 6 (b) – If yes:

- 1. What sort of requests ?**
- 2. How often do you receive them ?**
- 3. How do you deal with them ?**

24. This question was answered by 48 responders.

25. Most responders to this question said that the requests were of a specific nature and not related to COMAH. Some said that some local residents requested information on activity at the site e.g. operational upsets, incidents or emergency exercises. Some sites reported getting requests from new businesses who were just outside the PIZ area and from individuals seeking to buy property in the area. Others reported being asked for information to contribute to a Community Safety Information and Emergency Instructions booklet. This point links to some responses to question 10(c) from local emergency planners who said they would use the public information to help develop emergency plans.

26. Although this question was aimed at UT operators there were some responses from local authorities who said they had received occasional queries related to specific offsite emergency plans.

Question 7 (a) – Have you ever requested additional information from a major hazard site operator ?

Yes / No

Table 8

Yes	58	56.3%
No	45	43.7%
Total	103	
No response	42	

Question 7 (b) – If yes, did you receive the information you requested ?

Yes / No

Table 9

Yes	53	94.6%
No	3	5.4%

Total	56	
No response	89	

Question 8 (a) – Do you agree with the proposal to host an IT platform on HSE’s website ?

Yes / No

Table 10

Yes	101	82.1%
No	22	17.9%
Total	123	
No response	22	

Question 8 (b) – If no, why not ?

27. This question was answered by 61 responders.
28. Responders to this question raised similar security issues to those in the response to question 6. Additionally several said that having such information stored in one place would make it easy for protest/action groups to find information relevant to their cause or for potential terrorists to research clusters of sites. One responder said that a request should be made to the CA before any information was released to a member of the public. Several responders raised issues with the security of the IT system in general, and many found it difficult to reconcile their security concerns with the need to make information available to the public.
29. Many responders raised issues that will be addressed in guidance such as the amount of detail that would be expected, format, lay out and nature of content. One responder stated that their site’s security arrangements would prevent them having access to the internet to provide such information, this may not be a unique scenario.
30. As in the response to question 4(b) several responders expressed a concern that the cost of the developing the system would be passed on to industry. One responder suggested that the EA’s What’s in my backyard (WIMBY) system should be used rather than developing a new system.

Question 9 (a) – Do you agree that the IT Platform for public information should be searchable by postcode or by another geographically limiting means ?

Yes / No

Table 11

Yes	98	79.7%
No	25	20.3%
Total	123	
No response	22	

Question 9 (b) – If no, why not ? Can you suggest an alternative ?

31. This question was answered by 60 responders.

32. The majority of responders supported the proposal that the IT platform should be searchable by postcode. As alternatives, some suggested site name whilst others suggested other geographic limiters such as town, city, county or borough.
33. Some responders who objected to a postcode search appear to be opposed to the IT Platform in principle. Some responders suggested problems could be caused by registered offices and actual site locations being different. Security concerns were raised again as at questions 5 (b) and 8(b). Some suggested the proposed radius should be as narrow as possible and one suggested that the system should return a maximum of one result.
34. One trade association suggested that the system should be controlled by a CA 'gatekeeper' and that anyone wishing to search by postcode should apply for permission first. It was suggested by some respondents that details of who was requesting information and for what purpose should be held.

**Question 10 (a) – Would you use this site ?
Yes / No / Not sure**

Table 12

Yes	90	80.4%
Not sure	4	3.6%
No	18	16.1%
Total	112	
No response	33	

Question 10 (b) – If no, why not ?

35. This question was answered by 32 respondents.
36. The majority of responders said that they would use this site. Those who said they wouldn't seemed to see little benefit to the IT Platform overall and said they disagreed with having the information available and saw no benefit for themselves. Some said that although they didn't think they would use the site that would depend on how the information was presented and whether it was useful

Question 10 (c) – If yes, what would you use it for ?

37. This question was answered by 90 responders.
38. This question was answered by some LA responders who provided creative uses including researching sites in their area for emergency planning purposes, checking information they had was correct and to help with domino assessments. Some industry said they would use it to research neighbouring sites whilst others suggested it would be a tool for consultants to research potential clients. PHE and some emergency services said they would use it to research sites and hazards in a particular area.
39. Some responders demonstrated a lack of clarity about what would be on the platform by saying they would use it to access Safety Reports and PIZ leaflets.

Question 11 (a) – Will you find the public information in Regulation 16 (1) and (2) useful ?

Yes / No

Table 13

Yes	72	65.5%
No	38	34.5%
Total	110	
No response	35	

Question 11 (b) – If not, why not ?

40. This question was answered by 46 responders.
41. The majority of responders said that they would find this information useful. The responses who said they would not find it useful were similar to 10(b), that other operators would have no need of the information and whilst it may be interesting it would not necessarily be useful. Some industry responded that they could already access similar information from their trade association.

Question 11 (c) – What will you do with the information ?

42. This question was answered by 81 responders.
43. The majority of local authority responders said that they would use the information to support preparing external emergency plans and would direct members of the public to it if they received queries. There were a few responses from emergency services who said that they would expect to be consulted on the content particularly how the public would be warned around Lower Tier sites with no external emergency plans.

Question 12 (a) – Can you think of a situation where you would need more information than this ?

Yes / No

Table 14

Yes	38	36.5%
No	66	63.5%
Total	104	
No response	41	

Question 12 (b) – If yes, what information would you need ? What would you use it for ?

44. This question was answered by 50 responders.
45. Some operators responded that they may need more information about major accident hazard scenarios from their domino group partners whilst some emergency planners said that they would like to know the date of the last emergency plan test and what interim arrangements a site had in place whilst a plan was being prepared. A member of the public who responded said they would like to see comprehensive information about risks to the community for operators, and information from the local authority on how they were mitigated.

Question 13 (a) – Do you support the fact that we will not make a separate provision in the COMAH Regulations 2015 for a Non-Technical Summary (NTS) of the safety report ?

Yes / No / Not applicable

Table 15

Yes	78	75.7%
No	22	21.4%
Not applicable	3	2.9%
Total	103	
No response	42	

Question 13 (b) – If no, please provide details

46. This question was answered by 45 responders.
47. The majority of responders supported the proposal to not make a separate provision for the production of an NTS. Several industry responders who disagreed said they thought the NTS could be good way of discharging the duty to make Safety Reports available to the public but with less of security risks and in a more easily accessible format. The responders who disagreed with this proposal made points such as consistency of information across sites and striking a balance between providing information and not worrying the public. Some operators said they thought not producing the NTS would lead to more requests for Safety Reports whilst one trade association said they thought the NTS would be a useful tool to explain to the local population what the site does. Some industry responders said the requirement should be copied out as it was in the Directive and would put sites on an even footing in Europe. One site raised a concern that the lack of a provision for an NTS may not the requirements of the Office for Civil Nuclear Security.

Question 14 (a) – Do you agree that the information as set out in Annex 3 meets the requirements of Regulation 16 of the COMAH Regulations 2015 ?

Table 16

Yes	91	88.3%
No	12	11.7%
Total	103	
No response	42	

Question 14 (b) – If no, please explain which parts of Annex 3 do not meet the requirements of Regulation 16.

48. This question was answered by 37 responders.
49. The majority of responders agreed that the information in Annex met the requirements of the Directive. The majority of those that disagreed felt that the exemplar at Annex 3 went beyond the requirements of Regulation 16. Several responders said that it was too detailed, providing additional information not in the Regulation e.g. the location of nearby SSSIs and nature reserves, names previous site owners and the history of the development of the site. Some added, as in response to question 5(b) that the level of detail had the potential to alarm the public rather than inform.

Regulation 18 of the draft COMAH Regulations 2015 requires the CA to make environmental information (that includes safety reports) available to the public upon request unless there are issues of commercial confidentiality or national security..... To facilitate the release of safety reports to the public, Regulation 18(2) of the COMAH Regulations 2015 requires operators to identify issues relating to national security or commercial confidentiality when they submit their information to the CA.

**Question 15 (a) - Do you anticipate any problems with this approach ?
Yes / No / Not applicable**

Table 17

Yes	75	72.1%
No	26	25.0%
Not applicable	3	2.9%
Total	104	
No response	41	

Question 15 (b) – If yes, please provide details

50. This question was answered by 79 responders.
51. The majority of responders who anticipated problems with making Safety Reports available to the public did so due to reasons of national security and/or commercial confidentiality as raised in questions 5(b) whilst some expressed concern about the resource implications of needing to redact Safety Reports.
52. As with the responses 5(b), 8(b) and 9(b) some responders did not support making such information public at all, whilst several suggested that there should be controls to identify who was requesting information and for what purpose before a decision was made to release it. Several responders said they thought that the basic information was sufficient for members of the public and that Safety Reports should not be released under any circumstances. Some said that the Regulations would be creating a new risk if there was the ability to request Safety Reports as information that was currently not in the public domain would be now. As with question 5(b) there was some lack of appreciation that Safety Reports being available on request under the requirements of EIR was not a change from the current position.

Question 16 (a) – Do you agree with the proposal that upper tier operators should be required to complete both pre-construction and pre-operation safety reports ?

Yes / No / Not applicable

Table 18 – All responses

Yes	66	58.9%
No	19	17.0%
Not applicable	27	24.1%
Total	112	
No response	33	

Table 19 – Responses from industry

Yes	32	53.3%
No	16	26.7%
Not applicable	12	20.0%
Total	60	
No response	7	

Question 16 (b) – If no, why not ? Can you suggest any alternatives ?

53. This question was answered by 41 responders.
54. Most responders saw the value in producing reports at both stages where appropriate, but raised concerns about delays in the process caused by needing Competent Authority approval to proceed. Several also raised concerns about an additional layer of costs if two Safety Reports had to be assessed. Some responders suggested that meetings with the Competent Authority could be an alternative to pre-construction Safety Report in some cases. It was suggested by one responders that there could be an alternate 'light touch' approach to pre-construction Safety Reports or that they could be required only on a case by case basis.

Question 17 (a) – Do you anticipate any issues with reviewing and updating your safety report ?

Yes / No / Not applicable

Table 20

Yes	31	29.8%
No	24	23.1%
Not applicable	49	47.1%
Total	104	
No response	41	

Question 17 (b) – If yes, what are the issues ?

55. This question was answered by 49 responders.
56. Most responders to this question highlighted the disconnect between the 2017 CLP deadline for classifying mixtures and the 2016 deadline for submitting a COMAH 2015 compliant inventory, and some points made in question 1 regarding information necessary to reclassify inventories were repeated. Many responders requested timely guidance on what would be required and by what date. Some responders expressed concerns about potential resource implications of needing to revise their Safety Reports. Some responders indicated that they would prefer to retain the current five year timetable for internal planning purposes.

Question 18 – Do you envisage needing to change your safety report to include information in addition to the CLP changes ?

Yes / No / Not applicable

Table 21

Yes	26	25.0%
No	29	27.9%
Not applicable	49	47.1%
Total	104	
No response	41	

Question 19 (a) – Do you already provide the information in Schedule 3 of the draft regulations in your safety report ?
Yes / No / Not applicable

Table 22

Yes	44	42.3%
No	7	6.7%
Not applicable	53	51.0%
Total	104	
No response	41	

Question 19(b) – If yes, please indicate what you already provide.

57. This question was answered by 49 responders.
58. Most responders said that they already provided the relevant information but would need to do more work on presenting their inventory in CLP terms and on a review of past incidents. A number of responders requested guidance on the scale and depth that would be required of this review. One responder who answered no echoed others comment that they complied with the current Regulations but would need to do some work to provide the extra information.

Question 20 – What plans do you have in place in case of an emergency on site ? Please summarise these, paying particular attention to whether they cover off-site issues.

59. This question was answered by 99 responders.
60. Most industry responders to this question provided a summary of the current arrangements. Several, including two trade associations, said that lower tier sites are often dependent on generic response options through their Local Resilience Forum and will need guidance on what is expected of them under the new Regulations. Some industry responders mentioned company wide standard procedures (especially for multi-nationals) that applied regardless of whether the site was in COMAH or not.

Question 21 (a) – Do you communicate with the public about your emergency plans ?
Yes / No

Table 23

Yes	72	74.2%
No	25	25.8%
Total	97	
No response	48	

Question 21 (b) – If yes, please provide details (frequency, method of communication, type of information etc.)

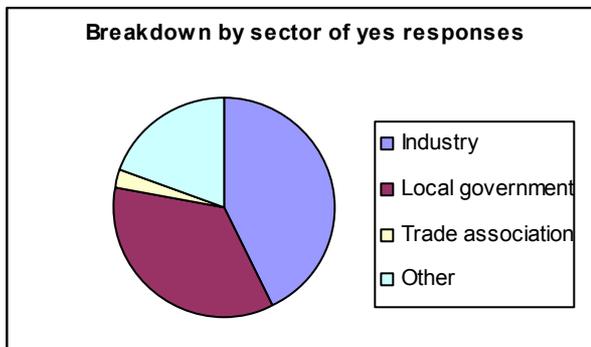
61. This question was answered by 77 responders.

62. The responses to this question were mainly general comments about current requirements to provide information to the Public Information Zone (PIZ) with some operators across two geographic areas indicating that they contributed to collective information covering more than one site. Other methods of communication mentioned included a local area website, participation in community meetings and SMS alerts. No Lower Tier sites said they provided information when they were not required to do so.

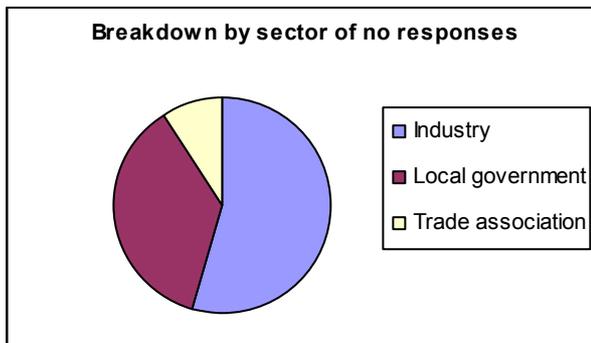
**Question 22 (a) – Should Category 1 responders be required in law to co-operate with the testing of external emergency plans for Upper Tier sites ?
Yes / No / Unsure**

Table 24

Yes	82	66.1%
No	11	8.9%
Unsure	31	25.0%
Total	124	
No response	21	



*Other includes consultancy, members of the public, NDPB, NGO and pressure group



Question 22 (b) – Please provide reasons for your answer

63. This question was answered by 123 responders.
64. Those majority of those who supported this requirement from industry, local authority and emergency services expressed the view that testing could not be considered adequate unless all the necessary participants had been involved and that, in some areas, this may require a legal duty. Some responders expressed frustration at previous tests falling through or not being as complete as planned due to lack of participation. Some operators pointed out that as the emergency services would be expected to take charge in the

event of a major accident that they needed to be familiar with the site and its scenarios. Some of those who responded positively still expressed concerns about how this proposal would be funded / cost recovered and one site said that any requirement for testing should be proportionate and not used as a fund raising source for the emergency services.

65. Those who opposed this requirement fell into three broad categories, some felt a legal requirement would be disproportionate and others that Category 1 responders already had sufficient duties to participate under the Civil Contingencies Act (CCA). The third group opposed a legal requirement as cooperation already worked well in their area although several did acknowledge that this might be different in other parts of the country. Some of the responders in this category said that if the Regulations were going to place a duty to participate, then Category 1 responders should be allowed to recover their costs. Some responders said if the requirement was put in place that measures should be taken to ensure that requests for participation were sensible and proportionate.
66. Those who responded as unsure echoed similar points to those who opposed, that they were unsure if a legal requirement was necessary as the current system worked well in their area and questioned whether the current duties under the CCA were not sufficient. Several responders indicated that their support depended on where the cost burden would lie with some saying that Category 1 responders should be able to cost recover but some others saying that as the testing was often linked to training and development that it would be unfair for the site to bear the full cost.

Question 23 (a) – Should the current timescale for the preparation of external emergency plans be kept ?

Strongly agree / agree / not sure / disagree / strongly disagree

Table 25

Strongly agree	39	32.0%
Agree	56	45.9%
Not sure	19	15.6%
Disagree	6	4.9%
Strongly disagree	2	1.6%
Total	122	
No response	23	

Question 23 (b) – Please give reasons for your answer

67. This question was answered by 110 responders.
68. The majority of those who agreed or strongly agreed with this proposal said that the current timescales worked, were achievable and appropriate and they could not see any benefit in relaxing them. Several responders from both local authorities and operators expressed the view that two years was a long period of time to be without a valid external emergency plan. Some local authorities added that the risks around sites were increased the longer an external emergency plan was not in place. One trade association said that whilst retaining this requirement would be considered gold-plating it was retaining the current arrangements that all involved were used to complying with. One local authority said they were currently responsible for 30 Upper

Tier sites and could achieve the current timescales although this may change if they became responsible for additional sites.

69. Those who answered as unsure generally gave similar views as those who supported the proposal, stating that two years was a long time to be without an external emergency plan. Some of those who answered as unsure suggested that timescales could be based on the risk profile of the site or the capacity of the local authority to produce plans. One local authority provided an example of liaising with the Competent Authority and securing an extension for an external emergency plan when they faced serious resource issues. One responder suggested that timescales should be placed on the Competent Authority to provide necessary information such as consultation distances to assist with meeting deadlines.
70. Those who disagreed or strongly disagreed did so as they stated that the Directive requirements should be copied out. One responder said they disagreed with the timescales and thought they should be shortened further as an emergency can occur at any time. One responder who disagreed appears to have misunderstood the current requirements, giving their reason for disagreeing as the change meaning a lot of effort for new sites when the proposal is to retain the current requirement.

Question 24 (a) – If you agree that the current timescales should be kept, do you envisage any difficulties based on your previous experience ?
Yes / No / Not applicable

Table 26

Yes	31	27.9%
No	52	46.8%
Not applicable	28	25.2%
Total	111	
No response	34	

Table 27

	Yes	No	Not applicable	No response
Industry	15	27	18	7
Local government	12	13	3	8

Question 24 (b) – If yes, please explain.

71. This question was answered by 51 responders.
72. Several responders appear have answered yes or no 24(a) based on whether or not they agree with the proposal at 23(a) then answered 24(b) accordingly.
73. The majority of responders who anticipated problems did so on the basis of local authority resources, with some suggesting that they struggled to meet the current requirements. Several said that the current timescales were demanding but achievable but noted that an increase in workload could make the requirements unrealistic. Some suggested that statutory consultees failing to respond in a reasonable time caused problems with meeting the current timescales. Some responders expressed concerns that some local authorities did not have the necessary resources and expertise required to complete plans within the required deadlines. A small number of local

authorities noted that they had multi year plans in place to manage work and that any change, increase or decrease, could create problems.

Question 25 – Will having an extra year to produce an internal emergency plan make a difference ?

Yes / No / Not applicable

Table 28

Yes	41	36.3%
No	34	30.1%
Not applicable	38	33.6%
Total	113	
No response	32	

Question 26 – Do you anticipate that this change of definition will bring you into the COMAH Regulations 2015 ?

Yes / No / Not applicable

Table 29

Yes	9	10.7%
No	46	54.7%
Not applicable	29	34.5%
Total	84	
No response	61	

Question 27 (a) – If you are currently a COMAH operator will this change of definition affect your COMAH status?

Yes / No

Table 30

Yes	10	13.3%
No	65	86.7%
Total	75	
No response	70	

Question 27 (b) – Please give reasons for your answer

74. This question was answered by 65 responders.
75. Most of the sites who thought this definition would cause them to change tier referred to needing to include anticipated presence through storage of incompatible substances on site in their inventories. Although as mentioned in question 1(b) it is possible that some of these sites should always have been considering this as part of their inventories.
76. Several operators who responded as no or blank to this question indicated that further guidance was needed, particularly regarding the anticipated presence of dangerous substances, before they could make an accurate response. One site responded that it would take steps to ensure it remained a Lower Tier site.
77. In answering both yes and no, some sites referred to the resource burden particularly for sites with large numbers of substances and therefore

numerous scenarios. Some industry responders raised the question of how anticipated presence of dangerous substances generated in a fire should be considered.

Question 28 (a) – Is it clear which type of establishment your site will fall into?

Yes / No

Table 31

Yes	60	82.2%
No	13	17.8%
Total	73	
No response	72	

Question 28 (b) - Please give reasons for your answer including what further clarification may help.

78. This question was answered by 58 responders.
79. The majority of responders said that they were clear about which tier they would fall into. However several added that additional clarification, particularly regarding pipelines, may be beneficial.
80. All those who responded that they weren't clear raised issues that were raised elsewhere including clarification on pipelines and anticipated presence of dangerous substances. One trade association raised a discrepancy between a named substance and a generic category (Flammable aerosols and LPG) that needed resolving for their sector.

Question 29 – Are you currently in a domino group ?

Yes / No / Unsure

Table 32

Yes	35	42.7%
No	40	48.8%
Unsure	7	8.5%
Total	82	
No response	63	

Question 30 (a) – Do you currently inform neighbouring sites and share suitable information with neighbouring non-COMAH sites ?

Yes / No

Table 33

Yes	50	62.5%
No	30	37.5%
Total	80	
No Response	65	

Question 30 (b) – If yes, what sort of information and how often ? Is it different from the PIZ information ? Please provide details.

81. This question was answered by 68 responders.

82. The majority of respondents to this question reported complying with the current requirements to provide information to local residents and neighbouring businesses within the Public Information Zone (PIZ) with some referring to sharing information via local business forums and similar events. Some responders expressed security and commercial sensitivity concerns about sharing information with neighbours and a small number of sites said they signed mutual non-disclosure agreements with neighbouring sites before any information was shared. One responder said they placed information on their website.

Question 31 (a) – Do you envisage any problems caused by the requirement to co-operate with other members of your domino group in providing neighbouring non-COMAH sites with information ?

Yes / No

Table 34

Yes	27	32.9%
No	55	67.1%
Total	82	
No response	63	

Question 31 (b) – If yes, please provide details

83. This question was answered by 52 responders.
84. The most common perceived problem was a lack of understanding by neighbours of technical issues. Many responders also cited concerns about the sensitivity and security of information that may be shared. Others said that wider sharing of information with neighbours could cause unnecessary concern, which would have knock on resource impact on operator in responding to further requests. This was a particular concern for sites in built up areas with a significant number of neighbours.
85. Other concerns raised included the difficulty of cooperation with sites with no legal duties, particularly where there was a high turnover of neighbours. Some responders highlighted difficulties in cooperation within domino groups, particularly when no site took a lead. Another responder was concerned that they didn't find out about planning applications near their establishment until late in the process and were left with the repercussions potentially include the need to enhance safeguards.

Question 32 (a) – What information do you currently consider about non-COMAH neighbouring sites when developing major accident scenarios or what information would you need to do so ?

86. This question was answered by 83 responders.
87. The majority of respondents said that they treated non-COMAH neighbouring sites as members of the public and included them in the distribution of leaflets within their Public Information Zone. Some responders mentioned considering particularly vulnerable or transient groups in their local area.. Some responders said they considered fire risks presented by neighbours but added that the site had no control over this. Some sites referred to consideration of shared services such as pipelines, drainage, utilities and emergency shut offs. A few respondents said they asked neighbours for

information on possible hazards during their hazard identification work although some saw this as a Competent Authority responsibility.

Question 32 (b) – If you don't, please indicate why not.

88. This question was answered by 8 responders.
89. The limited response to this question was that it was not an issue for reasons such as being remote or potential off site effects having minor impact or short duration.

Question 33 (a) – Do you agree with the proposal to retain the requirement from COMAH Regulations 1999 that operators must consult the local authority when producing information to be sent to people who could be affected by a major accident ?

Yes / No

Table 35

Yes	102	91.1%
No	10	8.9%
Total	112	
No response	33	

Question 33 (b) – If no, please indicate why not

90. This question was answered by 36 responders.
91. Some responders used this question to provide reasons for supporting the proposal at 33(a) saying it would drive consistency and ensure that major accident hazard scenarios were incorporated into wider local authority planning. A small number of sites said they supported the proposal as long as it dovetailed with Radiation (Emergency Preparedness and Public Information) Regulations (REPPPIR) for nuclear sites.
92. The majority of those who objected to the proposal generally suggested it may be unnecessary bureaucracy, whilst several trade associations said that the requirement should be to inform or advise rather than consult due to timescales and relevant expertise.

Question 34 (a) – Do you anticipate that this change will affect your COMAH status ?

Yes / No

Table 36

Yes	11	16.4%
No	56	83.6%
Total	67	
No response	78	

Question 34 (b) – Do you have any further comments about this ?

93. This question was answered by 55 responders.

94. Responders who selected either option for question 34(a) highlighted a potential disconnect between the consultation question and the draft Regulations that could lead to substances being double counted under COMAH and the Pipeline Safety Regs. Some responders pointed out that variables in pipelines, i.e. pressure and temperature, are often not controlled by the site whilst others raised the difficulty of getting information on pipelines for utility companies. One responder suggested that the MAHP Regs and COMAH 2015 should be amalgamated.

Question 35 (a) – Do you agree with the analysis in the Impact Assessment (Annex 2) ?

Yes / No

Table 37

Yes	51	58.6%
No	36	41.4%
Total	87	
No response	58	

Question 35 (b) – If no, please provide information about what data (or data sources) would be better

95. This question was answered by 61 responders.
96. The majority of those who provided an answer to this question said they agreed with the analysis. Several emergency services responders said that they agreed with the impact assessment, subject to further clarification on the policy options regarding the potential cost implications and the potential numbers of COMAH sites moving into, out of and between the tiers within the regulations
97. Of those who disagreed, most responded that the impact assessment underestimated the costs including failing to account for the ongoing costs of public information and underestimating the extent to which consultants would need to be involved. Several specifically referenced the costs of redacting Safety Reports to share with the public if requested to do so. Several responders said that costs for sites coming into scope for the first time or moving from Lower to Upper Tier had been underestimated. Some responders said that there was too much detail and too many variables to make a reasonable judgement.

Question 36 (a) Do you agree with the estimated percentage of UT sites who will need to update their safety report ?

Yes / No

Table 38

Yes	36	63.2%
No	21	36.8%
Total	57	
No response	88	

Question 36 (b) – If not, please explain why not

98. This question was answered by 43 responders.

99. The majority of those who provided an answer to this question said they agreed with the estimated percentage. Some responders said they had no reason to disagree with the percentage based on their own experience but added that it was difficult to judge. Some added that it was difficult for industry to estimate what would be required beyond their own site.
100. Of those who disagreed with the estimated percentage most stated they thought it had been underestimated. Some responders suggested that it should be assumed that all sites would need to revise their Safety Reports but didn't provide any further detail. Several of those who disagreed said that there were too many variables to accurately estimate how many sites may need to revise their Safety Reports.

Question 37 (a) – Do you agree with the estimated time it will take to perform a full safety report update ?
Yes / No

Table 39

Yes	32	54.2%
No	27	45.8%
Total	59	
No response	86	

Question 37 (b) – If no, please explain

101. This question was answered by 48 responders.
102. Some of those who agreed with the estimate said that the period would be very resource intensive but had no reason to disagree with the estimates made. One responder said that they agreed with the time estimate based only on the requirements to update for the Directive and not for any other requests from the Competent Authority.
103. Of those who disagreed, most believed that the amount of time required had been underestimated and noted the size and complexity of their sites as reasons. Some responders also noted that the availability of external consultants could play a part in the time required to a perform a full update. As with the response to question 36(b) some added that it was difficult for industry to estimate what would be required beyond their own site.

Question 38 (a) – Do you agree with the proposed structure of the COMAH Regulations 2015 ?
Yes / No

Table 40

Yes	117	97.5%
No	3	2.5%
Total	120	
No response	25	

Question 38 (b) – If no, why not ?

104. This question was answered by 22 responders

105. Some responders chose to answer this question even if they had not indicated no on question 38(a). Several used this question to say that more guidance was needed on some variables before further comment could be given. One responder raised that Article 4 of the Directive has not been copied out and there is no derogation mechanisms and one said they felt the new Regulations were change for the sake of change.

Question 39 – Are there any further comments you would to make on the issues raised in this consultation document, including the illustrative draft regulations ?

106. This question was answered by 124 responders.

107. A number of responders, particularly amongst the trade associations, used this question to include their full response. Where possible the points raised have been added to the commentary of the relevant question.

108. The main points raised here included, further concerns about releasing information to the public in general and questions about when guidance would be available and where from. Several responders requested guidance to define of terms used within the proposed Regulations such as 'reasonable period of time', 'demonstrate' and 'suitable'.

109. One responder asked how COMAH 1999 Safety Reports would be dealt with under the provision of information requirements between a COMAH 2015 compliant Safety Report was submitted. One industry responder added that GB Safety Reports were more detailed than those in other European Member States which could explain operators' reluctance to release them.

110. Several local authorities queried how they would be notified about new COMAH sites in their jurisdiction and requested they be informed as soon as possible. One local authority suggested that a further consultation focused on local authority concerns and issues should be conducted.

111. One industry responded commented that the legislation wasn't risk based enough whilst one trade association expressed concerns about regulation creep in a low hazard sector. The same trade association queried how similar sectors were treated in other European Member States.

112. A number of specific examples were provided to support the earlier points made on anticipated presence of dangerous substances. Whilst other scope questions were raised about the potential re-classification of nitric acid, how the anaerobic digestion industry would be treated and whether the regulations would cover fracking sites.

113. Many responders said that they thought eight weeks was too short a consultation period for such a complex document and asked this to be considered. Several added that they would like regular updates and further information as it became available to be shared between now and the Regulations coming into force.