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Consultation on proposed amendments to the Environmental Noise (England) Regulations 2006

A consultation document issued by the Department for Environment,
Food and Rural Affairs

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About this consultation exercise

Summary

The Environmental Noise (England) Regulations 2006 (S.I. 2006 No. 2238), 'the Regulations', came into force on 1 October 2006. The Regulations implemented the requirements of the EC Directive relating to the assessment and management of environmental noise (2002/49/EC). Minor amendments to the Regulations were previously made by the Environmental Noise (England) (Amendment) Regulations 2008.

The aim of this consultation is to set out our proposals for further amendments to the Regulations and to invite your comments.

What this consultation package contains

There are two parts to the consultation package:

- The consultation document
- The draft regulation amendments

Consultation questions

We are asking consultees to comment on the following main issues:

- Do you agree with the proposed amendment to regulation 13 regarding the identification of quiet areas?
- Do you agree with the proposal to revoke the duty as regards consolidated noise maps in regulation 14(2) and to replace this with a power on the Secretary of State to produce consolidated noise maps in respect of any area?
- Do you agree with the proposal to revoke the specific duty on the Secretary of State to publish guidance in regulation 14(1) and to replace this with a general power to publish guidance?
- Are there any other comments relating to the proposed amendments that you would like to make?

Responses

Defra would welcome responses to this consultation paper by **11 May 2009**. It would be helpful if in your response you could make clear the nature of your organisation (if any) where this is not readily apparent, and the capacity in which you are responding (e.g. an officer representing an organisation or an individual). It will also assist us in taking account of the points you raise if you make clear the section or consultation question to which they relate.

Any responses received may be made public, unless you have specifically asked for them to remain confidential.

Responses and general enquiries about this paper should be sent to:

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Introduction

Proposed Amendments to the Environmental Noise (England) Regulations 2006

Directive 2002/49/EC relating to the assessment and management of environmental noise is often referred to as the Environmental Noise Directive (END). The END introduces a new regime of strategic noise mapping and subsequent action planning for major roads, railways, airports and agglomerations in all Member States. The END, adopted by the European Parliament and the Council of the European Union on 25 June 2002, was transposed into English law by the Environmental Noise (England) Regulations 2006^a. These Regulations came into force on 1 October 2006 and recent minor amendments were made by the Environmental Noise (England) (Amendment) Regulations 2008^b.

This consultation proposes further amendments to the Environmental Noise (England) Regulations 2006 and seeks views on the proposed amendments.

The amendments proposed in this consultation document aim to streamline the procedures for the implementation of the END. The noise mapping process and results which arose from this suggests that a change in approach in certain areas of the implementation of the END will lead to a more efficient and beneficial action planning process.

The proposed amendments would come into force in mid-2009.

^a S.I. 2006/2238 - http://www.opsi.gov.uk/si/si2006/uksi_20062238_en.pdf

^b S.I. 2008/375 - http://www.opsi.gov.uk/si/si2008/pdf/uksi_20080375_en.pdf

Proposed Amendments

1. Amendment to regulation 13 of the Environmental Noise (England) Regulations 2006 (Identification of Quiet Areas)

1.1 Proposed amendment

To amend regulation 13 of the Environmental Noise (England) Regulations 2006 on the identification on quiet areas. The current regulations state that a list of identified quiet areas should be published in the form of regulations no later than 30 September 2007 for first round agglomerations and 30 September 2012 for all agglomerations.

The proposed amendment replaces this provision with a duty on the Secretary of State to identify and publish quiet areas in first round agglomerations and agglomerations. The duty to identify quiet areas must be exercised for the purpose of ensuring that action plans drawn up under existing regulation 17 meet the requirement set out in existing regulation 15(1)(c). Regulation 15(1)(c) requires that all action plans must aim to protect quiet areas against an increase in noise. The Secretary of State must publish the list of identified quiet areas in such form as the Secretary of State considers appropriate.

1.2 Discussion

The END requires the competent authorities of member states to draw up action plans for agglomerations with more than 250,000 inhabitants. It also requires that the plans shall aim to protect quiet areas within agglomerations against an increase in noise. Following a consultation in 2005, the Environmental Noise (England) Regulations 2006 came into force requiring the Secretary of State to identify quiet areas in the form of regulations by 30 September 2007 for first round agglomerations and by 30 September 2012 for second round agglomerations. In the consultation we considered different criteria for identifying potential quiet areas, including relevant land use designations and acoustic thresholds. Defra subsequently undertook research on the subject, the results of which suggested possible criteria for identifying quiet areas^c.

As the process developed, however, it became evident that a centralised approach would be rather inflexible and potentially difficult to implement. The development of the noise maps themselves also highlighted technical difficulties concerning the identification of quiet areas in the form of regulations.

In addition, it became increasingly clear that making the identification of quiet areas an integral part of the action planning process – rather than being independent of it – could be beneficial in ensuring that, from a local perspective, the appropriate areas are identified.

^c <http://www.defra.gov.uk/environment/noise/research/pdf/quiet-areas.pdf>

As a consequence of these issues it was not practical to meet the date originally specified in the Regulations for identifying quiet areas.

What is now being considered is an approach to identification of quiet areas that incorporates both national and local elements. Noise is a predominantly local issue and perception of what constitutes a quiet area within an urban area is likely to vary across the country. At a national level, the results of the noise mapping should inform the process, but local knowledge of potential quiet areas should also play a role in the final determination. Relating the identification and management of quiet areas to existing policies and practices used by local authorities for the management of open spaces and other areas valuable to the local community may also be desirable.

The proposed change in the Regulations will allow potential quiet areas to be identified and confirmed as part of the implementation of agglomeration action plans. It is intended that local knowledge can be used to assist the Competent Authority in ensuring that appropriate local policies are developed to protect such areas against an increase in noise. This is a more flexible approach that will allow more local engagement than the requirements under the current Regulations.

It is the intention under this proposal that more details of the approach to be used to identify quiet areas be outlined into the agglomeration action plans. Consultation on this aspect will therefore be captured within the consultation on the agglomeration action plans themselves.

Question 1

Do you agree with the proposed amendment to regulation 13 regarding the identification of quiet areas?

2. Amendment to regulation 14(2) to the Environmental Noise (England) Regulations 2006 (production of consolidated noise maps)

2.1 Proposed amendment

To amend regulation 14(2) to give the Secretary of State a discretionary power to produce consolidated noise maps in respect of any area.

2.2 Discussion

The Regulations currently state that the Secretary of State has a duty to produce a consolidated noise map from all strategic noise maps which are adopted pursuant to regulation 23. The proposed amendment is to give the Secretary of State a discretionary power to produce consolidated noise maps in respect of any area based on strategic noise maps produced for rail, roads, air and agglomerations.

While consolidated noise maps will be useful tools in the action planning process for agglomerations, consolidated noise maps produced from the strategic maps of road, rail and air outside agglomerations are unlikely, by their very nature, to be meaningful, and therefore will only be of limited value in the action planning process. Giving the Secretary of State a discretionary power to produce consolidated noise maps for the future will provide a cost-effective solution which can be tailored to meet the requirements of the action planning process.

Question 2

Do you agree with the proposal to revoke the duty as regards consolidated noise maps in regulation 14(2) and to replace this with a power on the Secretary of State to produce consolidated noise maps in respect of any area?

3. Amendment to regulations 14(1) and 30 of the Environmental Noise (England) Regulations 2006 (guidance)

3.1 Proposed amendment

To remove regulation 14(1) and to amend regulation 30 so as to provide a revised power for the Secretary of State to publish guidance under regulation 30.

3.2 Discussion

The Regulations currently impose a duty on the Secretary of State to publish guidance setting out limit values or other criteria for the identification of priorities for actions plans by no later than 17 July 2007 (regulation 14(1)).

The proposed amendment would remove this duty, coupled with a revision to the power in regulation 30. The proposed revision to regulation 30 provides that the Secretary of State has the power to issue guidance to competent authorities, at any time, with respect to the exercise of their functions under the Regulations. Competent authorities are required to have regard to the guidance when exercising their functions. A power to issue guidance is more flexible because guidance may be in relation to the exercise of any function carried out by competent authorities. This will allow for a greater variety of approaches across transport sources and urban areas and provide a more flexible system to support the action planning process.

Question 3

Do you agree with the proposal to revoke the specific duty on the Secretary of State to publish guidance in regulation 14(1) and to replace this with a general power to publish guidance?

Question 4

Are there any other comments relating to the proposed amendments that you would like to make?

4. Further Amendments to the Environmental Noise (England) Regulations 2006

4.1 Ambulatory references

There is a possibility that the technical annexes of the END or other parts of the END will be changed. Amending the definition of the Directive to include any future amendments (see the preamble to and regulation 3(3) of the draft Regulations) will remove the need for further amendments to the Regulations if the Directive is changed. This will not, however, cover a new Directive.

4.2 Identification of noise sources as published maps

A further amendment incorporated in these Regulations is to remove the requirement to identify noise sources for mapping in the form of regulations (see regulation 4 of the draft Regulations). From 2011 onwards, noise sources will instead be identified in the form of published maps.