

Regulatory Triage Assessment

Title of regulatory proposal	Environmental Permitting Regulations (England and Wales) (Amendment) (No. X) Regulations 2015
Lead Department/Agency	Defra 1939
Expected date of implementation	Feb, 2016 SNR 5
Origin	EU
Date	02/06/15
Lead Departmental Contact	
Departmental Triage Assessment	Low-cost regulation (fast track)

Rationale for intervention and intended effects

New EU legislation on Stage II petrol vapour recovery (PVR) during the refuelling of motor vehicles at service stations has been introduced. Directive 2014/99/EU on Stage II PVR amends previous PVR legislation (Directive 2009/126/EC) such that Stage II PVR systems, and the testing of their efficiency, will need to comply with new European Committee for Standardisation (CEN) standards by 13 May 2016.

Viable policy options (including alternatives to regulation)

In order to transpose the Directive, we are proposing to introduce an amendment to the Environmental Permitting Regulations (England and Wales). Our amending Regulations will update the definition of 'PVRII' in paragraph 2 of Part 2 of Schedule 18 of the Environmental Permitting Regulations so that it reflects the amendments introduced through the 2014 Directive.

The amending Regulations are deemed to be the most appropriate method for transposing the Directive because industry welcomes the certainty and clarity of a single regulatory approach across Europe. Also, the regulations will permit us to introduce the necessary technical changes whilst maintaining the existing legislative framework for PVR, meaning, for example, that the current system of fines and penalties for non-compliance will be maintained.

The amending Regulations will have the effect of ensuring that England and Wales are compliant with the Directive. Scotland and Northern Ireland will be transposing separately.

A possible alternative to regulation would be the introduction of non-statutory guidance. However, we consider the amending Regulations to be preferable because non-statutory guidance would not allow for fines and penalties in the event of non-compliance. This approach would be challenged by the Commission for non-transposition.

Initial assessment of business impact

The transposition of the Directive by amending the Environmental Permitting Regulations will have a limited impact on UK businesses, in terms of both financial and regulatory burdens. Consultation with the key stakeholders such as the Petrol Retailers Association and representatives of manufacturers of PVR equipment, such as Gilbarco Veeder-Root has been carried out and their views have been taken on board in the assessment of the impacts of the Directive.

The reasons for our conclusion are outlined below:

1. European manufacturers of Stage II PVR equipment pressed for the establishment of European Committee for Standardisation (CEN) Standards on certification and testing as it was deemed to be less burdensome, both technically and financially, to introduce pan-European standards rather than to have multiple different, national sets of technical guidelines.

2. The CEN standards made mandatory by the Directive are largely based upon an existing set of technical guidelines (VDI2405), which had been used to regulate Stage II PVR in the UK. Hence, petrol retailers in the UK will not need to invest in new PVR technology because their existing equipment will already comply with the CEN Standards when they become mandatory.
3. There will be no alteration to the frequency of inspections of PVR equipment at service stations, as the 2009 Directive required that they be inspected at least once a year and this remains unchanged in the 2014 Directive.
4. There will be some recertification costs for manufacturers of PVR equipment. Through discussions with industry, we understand that these costs will be approximately €15-50k per manufacturer, depending on the scale of their operations. From consultation with industry, we understand that there is only one UK site manufacturing PVR equipment which will directly bear the costs of recertification, as most manufacturers are based in other Member States. Therefore, the total cost in the UK will be approximately £10,500-£36,000 (€15-50k).
5. We do not expect the transposition of the Directive to have an impact on small businesses, as service stations will be able to continue their operations as normal and the UK site producing PVR equipment is run by a large manufacturer.
6. The Directive aims to reduce the emissions of volatile organic compounds (VOCs) from the refuelling of vehicles at service stations. VOCs are a precursor to ozone. The reduction of their emissions across Europe arising from the implementation of an EU-wide regulatory regime for Stage II PVR will help to reduce the transboundary effects of pollution and lead to associated social and economic benefits.

One-in, Two-out status

Since the amending Regulations are EU-derived legislation, they do not fall within the scope of 'one-in, two-out'.

Rationale for Triage rating

Our reason for selecting a fast-track appraisal route is twofold. Firstly, given that the estimated cost of the transposition of the Directive is below the cost threshold for a full impact assessment, and there will be no increase to the regulatory burden on industry, it was deemed appropriate to opt for an RTA over a full IA. Secondly, the amending Regulations represent a minor technical change to existing legislation as opposed to a major overhaul of regulatory requirements or an entirely new legislative proposal.

Departmental signoff (SCS):

Date:

Economist signoff (*senior analyst*):

Date:

Better Regulation Unit signoff:

Date:

Supporting Evidence for RTA of Environmental Permitting Regulations (England and Wales) (Amendment) (No. X) Regulations 2015 Policy Issue and Rationale for Government Intervention

The Stage II Petrol Vapour Recovery (PVR) Directive (2009/126/EC) aims to reduce the emissions of petrol vapour during the refuelling of motor vehicles at service stations by setting requirements for the certification and testing of vapour recovery equipment. The Directive contains a provision for adaptation to technical progress, specifically in the event that European Committee for Standardisation (CEN) standards on stage II PVR are developed. CEN standards on the certification and testing of stage II PVR equipment were introduced in 2013 (standard EN16321-1:2013 concerns certification and standard EN16321-2:2013 concerns in-service efficiency testing). Hence, Directive 2014/99/EU was introduced in order to amend the 2009 Directive as a result of technical progress by making the use of the new CEN standards mandatory across the EU.

Member States must transpose the Directive prior to its entry into force on 13 May 2016. As Stage II PVR has previously been regulated in England and Wales through the Environmental Permitting Regulations (EPR), we are proposing to transpose the 2014 Directive by amending the relevant section of this legislation such that it reflects the new requirement to comply with the CEN standards.

Policy Objectives and Intended Effects

The aim of making this amendment to the Environmental Permitting Regulations is to ensure that the Directive is transposed ahead of its entry into force, and also ahead of the deadline for amendments to the EPR prior to its proposed consolidation (this means that the Regulations will need to be laid in Parliament by the end of February 2016).

The intended effect of the Regulations is that compliance with the new CEN standards on Stage II PVR will now be mandatory for UK manufacturers of stage II PVR equipment and service stations.

Policy Options Considered, Including Alternatives to Regulation

Introducing an amendment to the Environmental Permitting Regulations is deemed to be the most appropriate method for transposing the Directive because industry welcomes the certainty and clarity of a single regulatory approach across Europe as this will lead to a reduction of the regulatory burden on industry as manufacturers of PVR equipment will only need to certify their products in accordance with one set of technical standards rather than a separate set of standards for each Member State. Also, the regulations will allow for the introduction of the necessary technical changes whilst maintaining the rest of the existing legislative framework for PVR, such as the current system of fines and penalties for non-compliance.

The possibility of introducing non-statutory guidance on stage II PVR has also been considered. It has been found to be less effective for two key reasons. Firstly, as opposed to Regulations, non-statutory guidance would not provide regulators with the power to impose fines and penalties on non-compliant manufacturers and service stations. Secondly, we would also likely face a challenge from the Commission for non-transposition because non-statutory

guidance would be deemed to have insufficient legal standing to constitute full transposition of the Directive.

Expected Level of Business Impact

Service Stations

Figures from the Petrol Retailers Association (PRA) estimate that there are 8,611 service stations in the UK in total. These businesses will all be required to comply with the amendments to the EPR we propose to introduce.

Having consulted informally with the PRA (correspondence attached), we consider that the impact on UK service stations (including independent, oil company, and supermarket service stations) will be extremely low. The reason for this is twofold. Firstly, the new CEN standards are largely based upon an existing set of German technical guidelines (VDI2405) which have historically been used to regulate stage II PVR equipment in the UK. Hence, service stations will not be required to invest in new PVR equipment and there will be no significant monetisable costs arising from transposition. The second reason we consider that transposing the 2014 Directive will have a limited impact is that the Directive makes no changes to the existing regulatory regime for PVR. It maintains the current system of the inspection and testing of stage II PVR equipment in service stations. Therefore, there will be no increase in the regulatory burden on business arising from transposition.

Stage II PVR Equipment Manufacturers

We have also informally consulted with Gilbarco Veeder-Root (correspondence attached), a major manufacturer of PVR equipment with regards to the cost to manufacturers of re-certifying their products in accordance with the new standards. Their rough estimate of the cost of re-certification is approximately €15-50k per manufacturer, depending on the size of their operations.

We understand that there is one site in the UK involved in the manufacture of stage II PVR equipment which will directly bear this cost. Hence, the monetisable impact on the UK manufacturing sector will be limited.

Furthermore, it was European manufacturers of stage II PVR equipment who pushed for the development of EU-wide CEN standards. The rationale for this was that it was deemed to be preferable, both in terms of economic benefit and regulatory burden, to introduce mandatory compliance with pan-EU standards than for manufacturers to certify their equipment in accordance with a variety of national technical guidelines. So, whilst there may be some costs involved in re-certifying equipment in accordance with the CEN standards, this will be less financially burdensome than having to certify the same products to show their compliance with many sets of technical standards. The UK was involved in the development of the CEN standards.

Impact on Small Businesses

As outlined above, independent service stations will not be required to invest in new PVR equipment once compliance with the CEN standards becomes mandatory as their existing technology will already meet their requirements.

They will also not experience an increase in regulatory burden as frequency of testing and inspection will remain unchanged.

The PVR equipment manufacturer mentioned in the *Stage II PVR Equipment Manufacturers* section is run by a large company and hence the limited cost of product re-certification will not be borne by small business at all.

The Directive aims to reduce the emissions of volatile organic compounds (VOCs) from the refuelling of vehicles at service stations. VOCs are a precursor to ozone. The reduction of their emissions across Europe arising from the implementation of an EU-wide regulatory regime for Stage II PVR will help to reduce the transboundary effects of pollution and lead to associated social and economic benefits.