

REGULATORY IMPACT ASSESSMENT

AMENDMENTS TO THE POLLUTION PREVENTION CONTROL REGULATIONS

Risk and Annual Review

1. Title of proposal

Proposal to make minor amendments to the Pollution Prevention Control (England and Wales) Regulations 2000.

2. Purpose and intended effect

Objective

Four amendments to the regulations are proposed:

- Implementation of Petrol Vapour Recovery “Stage II” Controls (known as “PVR II”),
- Amendment which will increase the penalties for offences committed under the PPC Regulations in line with those in Section 105 of the Clean Neighbourhoods and Environment Act (the “CNEA”)¹,
- To provide that where a coin-operated dry cleaning machine is to cease operation in October 2007 because it is not possible to comply with the Solvent Emissions Directive² (the “SED”) no application for a PPC permit is required in the interim.
- Minor technical amendment to regulations concerning burning of landfill gas containing halogens.

2. Background

2.1 PVR II

A consultation, which closed on 7 February 2006 has been carried out on the general principles and policy of PVR II. Details of this consultation, including a Regulatory Impact Assessment is available on the Defra website at:

¹ Clean Neighbourhood and Environment Act 2005.

² Directive 1999/13/EC on the limitations of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations. Implemented in England and Wales by the Solvent Emissions (England and Wales) Regulations 2004 (SI 2004 No. 107).

<http://www.defra.gov.uk/corporate/consult/pvr-stage2/index.htm>
Further information concerning PVRII is available on the Defra website at: <http://www.defra.gov.uk/environment/airquality/pvr-stage2/index.htm>

2.2 CNEA

A RIA on the CNEA was carried out during 2004 and the regulations made in 2005. This amendment will increase the penalties specified in the PPC Regulations in line with those in section 105 of the CNEA.

The changes are: an increase in penalties from not exceeding £20 000 and or six months imprisonment to £50 000 and or 12 months imprisonment.

It should be noted that these penalties apply to the Magistrates Court only. The situation with respect to the Crown Court where unlimited penalties may be imposed remains unchanged.

2.3 Landfill gas

It has been noticed that, in their current form, the regulations mean that the flaring or burning of landfill gas may also fall within Section 5.1 (disposal of waste by incineration). This will occur if halogens are present in landfill gas. Adequate controls, such as those in Section 5.2 (disposal of waste by landfill) are already in place for the regulation of these sites and their inclusion in Section 5.1 is unnecessary

The amendment concerning is of a minor technical nature and a RIA is not considered necessary.

2.4 Dry cleaners

The PPC regulations currently provide that all dry cleaners must submit a duly made application to the regulator by 31 October 2007. Some coin-operated dry cleaners are unlikely to be able to comply with the SED, and for these there is no benefit from an application being submitted. The amending regulations would remove this requirement.

3. Rationale for government intervention

As described in paragraphs 2.1 – 2.4 above.

4. Consultation

4.1 PVR II

As already noted in paragraph 2.1 a consultation has already taken place.

4.2 CNEA

As already noted in paragraph 2.1 a consultation has already taken place.

4.3 Landfill Gas

As already noted in paragraph 2.3 the amendment concerns a minor technical issue that has been noticed in the regulations.

4.4 Dry cleaners

Consultation has been undertaken with the National Association of the Launderette Industry. The Textile Services Association and local authority regulators have been made aware.

5. Options

5.1 PVR II

We are required to make these regulations and, as noted in the RIA, the preferred option is being implemented.

5.2 CNEA

We are required to make these amendments in line with legislation already made (the CNEA). In this instance the option of “do nothing” is not available.

5.3 Landfill Gas

The alternative would be for the burning of landfill gas to remain in Section 5.1. This is confusing to the operators and regulators alike and has no benefit in terms of environmental protection. The amendment clarifies a minor technical issue in the regulations.

To “do nothing” will only maintain the error in the regulations.

5.4 Dry cleaners

The “do nothing” option would result in the relevant businesses incurring unnecessary expense in preparing an application and

submitting it with an application fee of £132. Local authorities would have the unnecessary work of determining the application. The alternative is the proposed option.

Costs and benefits

It has already been noted in Section 2 Background of this RIA that: an RIA concerning PVR II and CNEA has already been carried out and one concerning landfill gas is considered to be unnecessary. Consequently this section relating to “Costs and Benefits” applies to the amendment concerning “dry cleaners” only.

1. Sectors and groups affected

The dry cleaning amendment affects coin-operated dry cleaners who will be stopping operation by 31 October 2007.

2. Benefits

Relevant coin-operated dry cleaning businesses will avoid incurring unnecessary expense in preparing an application and submitting it with an application fee of £132. Local authorities will avoid the unnecessary work of determining the application.

3. Costs (overall, to LAs, to operators)]

The dry cleaning amendment will result in a cost saving to operators and regulators.

4. Small Firms Impact Test

All relevant coin-operated dry cleaners are likely to be small firms and will benefit as noted above.

5. Competition assessment]

Competition issues do not arise. All dry cleaners in the EU must comply with the SED.

6. Enforcement, sanctions and monitoring

Dry cleaners are regulated by local authorities. Monitoring of local authority performance is undertaken by Defra through an annual statistical survey, periodic performance reviews, regular meetings with

stakeholders, and assorted other techniques. A 2-3 monthly update newsletter is being published by Defra for regulators and dry cleaners during the introduction phase of the new dry cleaning controls.

7. Implementation and delivery plan

Dry cleaners and regulators have been advised that this amendment is in prospect and not to make or require applications. The regulations will provide formal confirmation.

8. Post implementation review

Local authority compliance with the amending regulations will be monitored through the above-mentioned techniques for monitoring local authority delivery of the PPC controls.

9. Summary and recommendation

The proposed amendment will benefit both operators of coin-op dry cleaning machines and regulators and will have no environmental detriment.