

REGULATORY APPRAISAL

ENVIRONMENTAL PROTECTION, WALES

THE POLLUTION PREVENTION AND CONTROL (ENGLAND AND WALES) (AMENDMENT) (WALES) REGULATIONS 2006

Purpose and intended effect of the measure

1. The Pollution Prevention and Control Regulations 2006, (the 2000 Regulations) implement an integrated environmental approach to the regulation on industrial activity. These amending Regulations will make minor amendments to update the regime and make technical changes to ensure that Regulators and Operators have clarity of purpose in their environmental protection duties.
2. There are four proposed amendments to the Regulations:
 - an increase to the penalties for offences committed under the PPC Regulations in line with those in section 105 of the Clean Neighbourhoods and Environment Act 2005;
 - implementation of Petrol Vapour Recovery “Stage II” Controls (known as “PVR II”) that meet a UK obligation arising from the UN Economic Committee for Europe Geneva Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution Concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes;
 - 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 Directive (SED) no application for a PPC permit is required in the interim; and
 - minor technical amendment to clarify the position concerning burning of landfill gas containing halogens.
3. **Regulation 2(2)** will increase the penalties for offences committed under the Pollution Prevention Control Regulations in line with those in section 105 of the Clean Neighbourhoods and Environment Act 2005. These changes include an increase in penalties from not exceeding £20,000 and or six months imprisonment to £50,000 and or 12 months imprisonment. The precise date for the increased penalties to take effect is dependent on the commencement of the relevant provisions of the Criminal Justice Act 2003. These penalties apply to the Magistrates Court only. The situation with respect to the Crown Court where unlimited penalties may be imposed remains unchanged.
4. **Regulation 2(3)** will make amendments to implement the Petrol Vapour Recovery “Stage II” Controls (PVR II). Volatile Organic Compounds contribute to

the production of ground level ozone and summertime smog and have an adverse impact on human health and the environment. One source of Volatile Organic Compounds is fugitive emissions which escape during the refuelling of vehicles at service stations. This amendment seeks to reduce emissions of Volatile Organic Compounds which escape during the refuelling of vehicles at service stations and which are not currently regulated under existing legislation. Service stations are already regulated under the Pollution Prevention and Control (England and Wales) Regulations 2000 for the purpose of storage of petrol and its distribution. These are known as the Petrol Vapour Recovery stage I Controls (PVR 1.) PVR 1 was implemented by prescribing the requirements as Best Available Techniques for the service station sector.

5. A consultation in April 2002 proposed a negotiated agreement with industry for the introduction of Petrol Vapour Recovery "Stage II" controls (PVR II) but it has not been possible to reach such an agreement and industry has subsequently indicated a preference for a regulatory approach.
6. The proposed amendment would amend Best Available Techniques to include a requirement for service stations to install PVR II to abate the emissions of Volatile Organic Compounds during the refuelling of vehicles. Best Available Techniques for service stations takes account of the economic feasibility of fitting abatement equipment to service stations of differing sizes. PVR II would be required for all existing service stations with an annual petrol throughput greater than 3,500m³ and any new service stations with an annual petrol throughput of greater than 500 m³. Refuelling activities, at those service stations required to comply, will be listed as additional Part B processes in section 1.2 of The Pollution Prevention And Control (England and Wales) (Amendment) (Wales) Regulations 2006. This will also enable the PVR II requirements to be linked to those for PVR I and minimise the regulatory costs for implementation.
7. In 2005, there were 82 petrol stations in Wales with a throughput of more than 3,500m³ (out of a total of 664); by 2010, it is estimated that there will be 65 (out of a total of 525.) Since 1990, 85 per cent of all new fuel stations built have had an annual petrol throughput exceeding 3,500m³. The installation of PVR II by January 2010 will assist in meeting the UK's target for limiting emissions of Volatile Organic Compounds under the National Emission Ceilings Directive 2001/81/EC and in meeting the UK's obligations under the UN Economic Committee for Europe Geneva VOC Protocol. A non-statutory approach was proposed and discussed with industry. The petrol retailing industry indicated a preference for a regulatory approach.
8. **Regulation 2(3)(b)** makes a minor technical amendment to Regulations concerning burning of landfill gas containing halogens.
9. The Incineration of gases is an activity which falls within section 5.1 of The Pollution Prevention and Control (England and Wales) Regulations 2000 (200

Regulations) (Disposal of Waste by Incineration). The disposal of waste by landfill is covered by section 5.2 of the 2000 Regulations. The flaring or burning of landfill gas, which occurs when halogens are present, is currently covered under both section 5.1 and 5.2. This duplication is confusing for regulators and operators and provides no environmental benefit. The controls under Section 5.2 are sufficient for effective regulation of this process. This amendment will remove the duplication in the existing Regulations.

10. **Regulation 2(4)** takes account of the fact that some coin operated dry cleaning machines will be unable to comply with the requirements of the Solvent Emissions Directive and operators will therefore decide to cease operation before 31 October 2007 as specified in Article 4 of the Directive. The Solvent Emissions Directive set limitations of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations.
11. The proposed amendment will ensure that operators of coin operated dry cleaners will not need to apply for a Part B Pollution Prevention Control Permit from 1 November 2006. The current cost of a permit application is £134.00, by not applying for a permit, it will be deemed to be notification to the regulator that the operator will cease the activity by 31 October 2007. The amendment is intended to remove an unnecessary regulatory burden for operators of these machines during the brief period before their activity ceases. There are only a very small number of operators in this sector in Wales.

Risk Assessment

12. The regulators for the Pollution Prevention and Control system in England and Wales are the Environment Agency and local authorities, working on the basis of common regulatory guidance for both Wales and England. If no legislation was made in Wales, it would introduce differences in the way that the relevant industrial sectors were regulated across England and Wales. Separate regulatory guidance and action would be required, which would introduce additional costs and uncertainty for businesses.
13. Operators of coin-operated dry cleaning machines and anyone burning landfill gas containing halogens could potentially face additional regulatory burdens in Wales compared to England, if the amendments were made in England but not in Wales.

Options

Option 1: Do Nothing

14. As we are required to make Regulation 2(2) in line with legislation already made under the Clean Neighbourhoods and Environment Act 2005 this option is not available.

15. Not introducing Regulation 2(3) in respect of Petrol Vapour Recovery Stage II Controls would lead to no reduction of emissions of volatile organic compounds from large petrol stations in Wales.
16. Not introducing Regulation 2(3)(b) would mean that the burning of landfill gas would remain in section 5.1. This would be confusing to operators and regulators and has no benefit in terms of environmental protection
17. To not allow the exemption for operators of coin operated dry cleaners would result in the relevant businesses incurring unnecessary expense in preparing an application and incurring the expense of the £134.00 application fee. Local authorities would have the unnecessary work of determining the application. The permit would only be in place for a brief period before the installations ceased to operate by the 31 October 2007 deadline.

Option 2: Make the Legislation

18. By making these Regulations penalties for offence relating to operating permits will be in line with the existing legislation. Emissions of Volatile Organic Compounds will be reduced thus assisting the UK in complying with its obligations under the National Emission Ceilings Directive 2001/81/EC and the UN Economic Committee for Europe Geneva Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution Concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes. It would also eliminate the need to apply for an operating permit for operators of coin operated dry cleaning facilities and would clarify a minor technical issue relating to controls on the burning of landfill gas

Benefits

19. These Regulations result in the alignment of penalties under Pollution Prevention Controls with those in the Clean Neighbourhoods and Environment Act 2005, this will allow for fairer treatment where penalties are incurred. They will help to lessen the risk to human health and the environment. They will prevent unnecessary expense and work for both the operators and local authorities. They will clarify a technical error ensuring clarity for both regulators and operators.

Costs

20. There are no financial implications for the Assembly associated with this legislation.
21. Each of the proposed amendments affects different sectors covered by the Pollution Prevention and Control Regime. Below is a brief summary of the impact each amendment will have.
22. With regard to the petrol retailing sector, which will be affected by the introduction of Petrol Vapour Recovery "Stage II" controls, costs up to £6,000 per site may be incurred. Only petrol stations with a throughput over 3500m³ will need to comply

with this permit requirement. To put the figure of £6,000 in context; by 2010 the projected number of petrol stations in Wales operating at or above the 3500m³ throughput threshold will be 65. The majority of petrol stations in Wales operate below the 3,500m³ threshold and by 2010 it is estimated that 558 of these small and medium sized petrol stations will be operating in Wales.

23. The annual cost to the operator of installing Petrol Vapour Recovery "Stage II" controls is estimated from £169.00 to £6,000. Factors taken in to account include one-off costs such as installation and equipment costs to recurring costs such as maintenance, power consumption and regulatory costs. The highest estimated cost per site of £6000 includes costs associated with installing underground pipes.
24. Regulation 2(2), which updates the maximum fine a magistrates court can impose for breaches of the regime, will only impact on operators found guilty of breaching their permit conditions.
25. Regulation 2(3)(b) regarding the incineration of landfill gas is a technical amendment correcting an anomaly in the original 2000 regulations. There are no costs associated with this amendment.
26. Regulation 2(4) will save coin operated dry cleaners the cost of a permit application (currently £134.00), plus the time and administration involved in a permit application. There is nil benefit or cost to the local authority regulator as their administration costs are covered by the application fee.

Competition Assessment

27. The alignment of penalties under Pollution Prevention Control with those in the Clean Neighbourhoods and Environment Act 2005 will affect all sectors equally, if they are guilty of an offence under the PPC Regulations. Consequently no competition issues arise.
28. Petrol Vapour Recovery "Stage II" Controls (PVR II) amendments does not give rise to significant competition issues. The only competition impact is that operators of new service stations with a throughput of more than 500m³ would be required to install PVR II equipment; whereas for existing stations the equipment is only required where there is a throughput of 3,500m³. This difference is not regarded as significant because the cost of installing PVR II equipment in a new installation are much lower than retrofitting an existing station and the vast majority of new stations being constructed now have a throughput of over 3,500m³, so would therefore be subject to PVR II.
29. Competition issues do not arise for the coin-operated dry cleaning sector as all dry cleaners in the EU must comply with the Solvent Emissions Directive.

30.No competition issues arise in relation to the burning landfill gas amendment as this is a minor technical correction.

Consultation

With Stakeholders

31.A paper on the proposed amending Regulations was issued on 30 June 2006 for a 4 week consultation with stakeholders. A short consultation on the amending Regulations was undertaken because:

- a full public consultation concerning the implementation of Petrol Vapour Recovery “Stage II” controls had already been undertaken for a period of 12 weeks from 16 November 2005 to 16 February 2006;
- of the minor technical nature of the amendment concerning landfill gas;
- the amendment concerning the Clean Neighbourhoods and Environment Act 2005 gives effect to Regulations that are already in force; and
- the amendment concerning dry cleaners has already been discussed in detail with the industry who are pleased with the change. It will benefit a small number of launderettes which have coin-operated dry cleaning machines and will have no environmental consequences.

32.The consultation paper was issued to regulators, the voluntary sector, industry representatives and associations, standard environmental stakeholders such as national parks, Countryside Council for Wales and associations representing the legal profession. In total over 600 organisations in Wales were contacted. A list of consultees is attached at Annex A.

33.The consultation paper requested comments on the proposed Regulations. There were 4 responses to the consultation exercise, all were content with the proposed Regulations and no amendments were suggested.

With Subject Committee

34.The Regulations were notified to the Environment Planning and Countryside Committee on 24 May 2006 (EPC(2) -08-06, P3 (Annex 2), item No:118), via the list of forthcoming legislation, and has remained on the list ever since. The Regulations were not identified for detailed scrutiny.

Review

35.Local authorities and the Environment Agency regulate installations under the PPC Regulations. The Assembly Government monitors local authority performance through an annual statistical survey, periodic performance reviews and other activity. The Assembly Government monitors the Environment

Agency's performance through regular statistical returns and reports on progress, periodic performance reviews and regular reviews on performance that are carried out under The Welsh Assembly Government's Environment Agency Sponsorship activities.

36. These Regulations will be subject to review and assessment via the above mentioned techniques.

Summary

37. These Regulations result in the alignment of penalties under Pollution Prevention Controls with those in the Clean Neighbourhoods and Environment Act 2005, this will allow for fairer treatment where penalties are incurred. They will help to lessen the risk to human health and the environment and stop unnecessary expense and work for both the operators and local authorities. They will also clarify the legislation and thereby stop confusion for both regulators and operators.

Annex A – List of consultees

PPC Consultees

Aggregate Industries UK
Association of Private Pet Cemeteries & Crematoria
Adhesive Tape Manufacturers Association
Agricultural Industries Confederation
Agricultural Engineers Association
Aluminium Finishing Association
Aluminium Federation
Asbestos Information Centre Ltd
Association of Convenience Stores
Association of Drum Manufacturers
Association of Electricity Producers
Association of Light Alloy Refiners Ltd
Association Of Printing Machinery Importers
Association for Petroleum and Explosives Administration
Association of Private Crematoria and Cemeteries
Association of the British Pharmaceutical Industry
Arena Network
ASH in Wales
All Wales Ethnic Minority Association
ADAS
Age Concern
Association of National Park Authorities
Black Voluntary Sector Network in Wales
Black Environment Network
British Medical Association
Bituchem Group
British Aggregates Association
British Apparel and Textile Confederation
British Association for Chemical Specialities
British Association of Green Crop Driers
British Bronze and Brass Ingot Manufacturers
British Bait Breeders Association
British Cement Association
British Ceramic Confederation
British Ceramic Research Association
British Carton Association
British Chamber of Commerce
British Chemical Distributors and Traders Association
British Coatings Federation
British Constructional Steel Work Association Ltd
British Adhesives & Sealants Association
British Furniture Manufacturers Association
British Glass Manufacturers Confederation
British Hard Metals Association
British Institute of Embalmers

British Institute of Funeral Directors
British Leather Technology Centre
British Marine Federation
British Metals Recycling Association
British Non-Ferrous Metals Federation
British Plastics Federation

British Poultry Council

British Pre-cast Concrete Federation Ltd

British Printing Industries Federation

British Retail Consortium BRC

British Rubber Manufacturers' Association Limited

British Rigid Urethane Foam Manufacturers Association

British Secondary Metals Association

British Scrap Federation

British Soft Drinks Association

British Surface Treatment Suppliers Association

British Steel Sections Plates & Commercial Steels

British Tyre Manufacturers' Association

British Veterinary Association

British Water

British Waterways

British Woodworking Federation

British Wood Preserving and Damp Proofing

Cardiff Chamber of Commerce

Cardiff University

Centre for Ecology and Hydrology

Country Land & Business Association

Confederation of British Industry Wales

Chief Environmental Health Officers Wales

Chester, Ellesmere Port & North Wale Chamber of Commerce

Civil Engineering Contractors association

Countryside Council for Wales

Commission for Racial Equality Wales Office

Chartered Institution of Water and Environmental Management

Chartered Institute of Environmental Health Wales

Cabinet Office Regulatory Impact Unit

Campaign for the Protection of Rural Wales

Carpet Foundation

Cast Metals Federation

Castings Technology International

Chartered Institute of Environmental Health

Chamber of Coal Traders

Chartered Institution of Wastes Management

Chemical Industries Association

China Clay Association

Cleanaway

Coal Merchants Federation

Coal Authority

Combined Heat and Power Association

Combustion Engineering Association

Confederation of British Industry

Confederation of British Metal forming
Confederation of British Wool and Textiles Limited
Confederation of Paper Industries
Confederation of UK Coal Producers
Construction Products Association
Country Land and Business Association
Countryside Agency
Countryside Council for Wales
Cementitious Slag Makers Association
CSSA
Dairy UK
Department of Trade and Industry
Disability Rights Commission
Directorate of Safety & Claims
DOENI
EA Cooperative-NSCA
Energy Saving Trust Wales
Engineering Employers Association
Equal Opportunities Commission
Energy Industries Council
Engineering Employers' Federation
English Nature
Environment Agency Wales
Environmental Fuels Ltd
Environmental Industries Commission
Environmental Law Foundation
Environmental Research Group
Environmental Services Association
European Liquid Roofing Association
European Coil Coating Association UK Group
Farming and Wildlife Advisory Group
Federation of Master Builders for Wales
Federation of Small Businesses
Forestry Commission Wales
Friend of the Earth
Farmers Union of Wales
Federation of British Cremation Authorities
Federation of Environmental Trade Associations
Federation Of Petroleum Suppliers Ltd
Federation of Small Businesses
Federation of Spawned Compost Suppliers
Flat Roofing Alliance
Flexible Packaging Association
Food and Drink Federation
Food Standards Agency
Forum of Private Business
Friends of the Earth Wales
Funeral Furnishings Manufacturers Association
Furniture Industry Research Association
Freight Transport Association
GAMBICA Association Ltd

Garage Equipment Association Ltd
Galvanizers Association
Greenpeace
Groundwork Wales
Health and Safety Executive
Health Protection Agency
Industrial Pollution and Radiochemical Inspectorate
Institute of Biological Sciences
Institute of Geography and Earth Science
Institute of Grassland and Environmental Research
Institute of Directors Wales
Institute of Environmental Science
Institute of Welsh Affairs
Institute of Burial and Cremation Administration
Industrial Packaging Association
Institute for Environment and Sustainability Research
Institute for European Environmental Policy
Institute of Metal Finishing

1 Institute of Water and Environmental Management
Institute Of Chemical Engineers
Institute of Civil Engineers
Institute of Environmental Management and Assessment
Institute of Petroleum
Institute of Quarrying
Institute of Waste Management
International Association of Oil and Gas Producers
IPPC Support Unit
International Fish Meal and Fish Oil Organisation
Kaolin and Ball Clay Association
Keep Wales Tidy
Law Society Planning and Environmental Law Committee
Local Authority Chief Executives Wales
Local Health Boards Wales
Licensed Animal Slaughterers and Salvage Association
Light Metal founders Association
Liquid Petroleum Gas Association
Mastic Asphalt Council
Malt Distillers Association of Scotland
Meat and Livestock Commission
Meat Promotion Wales
Manufacturing Advisory Service
Metal Finishing Association
Metal Packaging Manufacturers Association
Mechanical and Metal Trades Confederation
Motor Vehicle Dismantlers Association of Great Britain
MVRA Limited
Midland Joint Advisory Council for Environmental
Ministry of Defense
National Association of Local Councils
National Association of Waste Disposal Officers

National Association of Funeral Directors
National Edible Oil Distributors
National Federation of Clay Industries Ltd
National Federation of Demolition Contractors
National Health Service Estates
National Pig Association
National Public Health Service - S E Wales
National Public Health Service for Wales
National Society for Clean Air and Environmental
Newspaper Society
NSCA
NSRI Wales
NFU Wales
North Wales Economic Forum
Non Ferrous Alliance
Office of the Director General of Water Services
Oil Firing Technical Association for the Petroleum Industry
Oil Recycling Association
Packaging & Industrial Films Association
Pet Food Manufacturers' Association
Performance Textiles Association
Pipeline and Plant Environmental Forum
Planning Inspectorate
Planning Officers Society
Planning Officers Society
Plaid Cymru
Prince's Trust Wales
Printed Circuit Interconnection Federation
Quarry Products Association
Railway Industry Association
RAPRA Technology Ltd
Retread Manufacturers Association
Renewable Energy Association
Regulated Incinerator Operators
RICS Wales
RSPB Wales
Royal Pharmaceutical Society
Regional Health Boards
Royal Commission on Environmental Pollution
Sanitary Medical Disposal Services Association
SATRA Footwear Technology Centre
Scottish Executive
Scotch Whisky Association
Screen Printing Association (UK) Ltd
Sea Fish Industry Authority
Seed Crushers and Oil Processors Association
SEPA
Shipbuilders & Ship Repairers Association
Surface Engineering Association
Sustainable Energy
Setpoint Wales

Severn Trent Water
Shipbuilders and Ship repairers Association
Small Business Service
Society of Motor Manufacturers and Traders limited
Society of British Aerospace Companies
Source Testing Association
Southern Water
Specialised Organic Chemicals Association
Surface Engineering Association
Tank Storage Association
Textile Finishers Association
Textile Services Association
The Lesbian, Gay, Bisexual Forum Equal Opportunities
The Carbon Trust in Wales
The Wales Environmental Standards Group
Timber Trade Federation
Timber Packaging and Pallet Confederation
Thermal Spraying and Surface Engineering Association
Tobacco Manufacturers Association
Town and Country Planning Association
TUC Wales
UK Cleaning Products Industries Association
UK Egg Producers Retailer Association
United Kingdom Forest Products Association
United Kingdom Association of Fish Meal Manufacturers
UK Petroleum Industries Association
UK Renderers Association'
UK Steel
UK Steel Association
University of Glamorgan
Vehicle Builders and Repairers Association
Wales Centre for Health
Water UK
Water Services Association
Wallcovering Manufacturers Association Ltd
Welding Institute
Wales Biomass Centre
Welsh Conservative Party
Welsh Liberal Democrats
Welsh Labour Party
Welsh Institute of Rural Studies
Welsh Agriculture Organisations Society
Wales Social Partners Unit Ltd
Wales Automotive Forum
WWF Wales
Wales Environment Trust
Wales Environmental Link
Wales Women's National Coalition
Welsh Hospitals & Health Services Association
Welsh Local Government Association
Wood Panel Industries Federation

Woodworking Machinery Suppliers Association
World Wildlife Fund for Nature
Yorkshire Environment Forum
Zinc Information Centre