

EXPLANATORY MEMORANDUM TO
THE ENVIRONMENTAL PERMITTING (ENGLAND AND WALES) (AMENDMENT)
(No. 2) REGULATIONS 2011

2011 No. 2933

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument amends the Environmental Permitting (England and Wales) Regulations 2010.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Directive 2009/126/EC of the European Parliament and of the Council on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations requires transposition by 1 January 2012.

4.2 Directive 94/63/EC of the European Parliament and Council on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations has been transposed by means of the Environmental Permitting (England and Wales) Regulations 2010.

4.3 The amending Regulations which are this subject of this Memorandum amend the 2010 Regulations so as to include transposition of the 2009 Directive.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Emissions to the atmosphere of volatile organic compounds (VOCs) are associated with a number of environmental and health problems, due to their effects upon local air quality; formation of ozone and photochemical smog; and atmospheric warming and climate change.

7.2 VOCs are emitted to the atmosphere at various stages during the storage and distribution of petrol. The petrol vapour recovery Stage I Directive (94/63/EC) contains measures to reduce VOC emissions from the unloading of petrol at petrol stations, and its subsequent storage on the premises.

7.3 Stage II petrol vapour recovery involves recovering the petrol vapour displaced from the fuel tank of a motor vehicle during refuelling at a service station and transferring that petrol vapour to an underground storage tank at the service station or back to the petrol dispenser for resale. Directive 2009/126/EC establishes a minimum level of petrol vapour recovery across Member States and introduces requirements for more extensive deployment of Stage II controls than currently exist in the UK. (Under previous amendments to the Environmental Permitting Regulations, a domestic equivalent to Stage II was brought in for some of the petrol stations affected by Directive 2009/126/EC. The Stage II equipment was required to be fitted by 1 January 2010.) The recovered vapour can be converted back into saleable petrol.

7.4 The Stage II Directive was developed by the European Commission to fulfil commitments under the Thematic Strategy on Air Pollution; a proposal to amend European legislation on petrol and diesel quality; and provisions in a new Directive on air quality.

8. Consultation outcome

8.1 Defra, and the Welsh Government consulted key stakeholders on an emerging Impact Assessment during the Directive negotiations in the first quarter of 2010 and subsequently on the attached IA. There were no objections to the proposed Directive or the proposed means of transposition. Defra and the Welsh Government also consulted relevant trade associations and some local authorities on draft of the guidance on the meaning of “major refurbishment”.

9. Guidance

9.1 [Guidance](#) is already published on the regulation of petrol stations under the Environmental Permitting Regulations. This will be supplemented to include an explanation of the new requirements. In particular, the Stage II Directive specifies that existing petrol stations of specified sizes must be fitted with the relevant equipment where they undergo a “major refurbishment”. Guidance has been produced to help regulators decide whether site changes in any case should be regarded as amount to a major refurbishment, and to minimise impacts on smaller petrol stations, and especially those in rural areas.

10. Impact

10.1 The final Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk. It gives total costs for the UK as a whole of £50m to £80m (main affected groups), while benefits of avoided damage costs from reduced VOC emissions (Volatile Organic Compounds) of between £22m to £71m.

11. Regulating small business

11.1 The legislation applies to independent petrol stations which have a petrol throughput above the specified thresholds. Many are likely to be small businesses.

12. Monitoring & review

12.1 The Secretary of State will review the Environmental Permitting Regulations in 2015.

13. Contact

Graham Lott at the Department for Environment, Food and Rural Affairs Tel: 020 7238 5380 or email: Graham.Lott@defra.gsi.gov.uk for any queries about the instrument.

TRANSPOSITION NOTE

Directive 2009/126/EC OF THE European Parliament and of the Council on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations (OJ No L285 31.10.2009. P.0036)

The Secretary of State for Environment, Food and Rural Affairs relies, from the transposition deadline of 1 January 2012, on the provisions of the Environmental Permitting Regulations 2010 set out in the Table below in respect of the transposition of the above Directive in England.

Directive Article	Objectives	Implementation	Copy out
Article 1	Objectives of the Directive as a whole	No requirement to transpose	n/a
Article 2	Definitions	Regulation 3	Schedule 18 requires operators to exercise relevant functions in accordance with articles of the Directive which are cited and the definitions are therefore implicit.
Article 3	New requirements for new and existing service stations and stations undergoing major refurbishment	Regulation 3	Yes (except that the definitions of 'new' and 'existing' petrol stations have been slightly amended to reflect the fact that PVRII requirements have already been applied from 2010.
Article 4	Minimum levels for petrol vapour recovery	Regulation 3(3)	Yes
Article 5	Vapour recovery system checks and consumer	Regulation 3(3)	Yes

	information		
Article 6	Penalties applicable to infringements of the national provisions of the Directive	Already provided in Environmental Permitting (England and Wales) Regulations 2010	Yes
Article 7	Commission review of the Directive implementation	no requirement to transpose	n/a
Article 8	Technical adaptations - Consideration for harmonised methods and standards to ensure consistency with any relevant standard drawn up by CEN	no requirement to transpose	n/a
Article 9	Committee procedure	no requirement to transpose	n/a
Article 10	Transposition – Member State communication of transposition to the Commission	no requirement to transpose	n/a
Article 11	Entry into force	No requirement to transpose	n/a
Article 12	Addresses	No requirement to transpose	n/a