

<b>Title:</b> Impact Assessment for the Consolidation of Petroleum Legislation IA No: <b>HSE0085</b> <b>Lead department or agency:</b> Health and Safety Executive (DWP) <b>Other departments or agencies:</b> Department of Business Innovation and Skills, DCLG, Welsh Assembly, Scottish Executive	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 13/03/2014		
	<b>Stage:</b> Final		
	<b>Source of intervention:</b> Domestic		
	<b>Type of measure:</b> Secondary legislation		
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<b>Summary: Intervention and Options</b>			<b>RPC Opinion:</b> Green

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£0.71m	£0.29m	-£0.03m	Yes   OUT

**What is the problem under consideration? Why is government intervention necessary?**

The Government, in its response to the review of health and safety laws, 'Reclaiming Health and Safety for All', a report by Professor Ragnar E Löfstedt, accepted HSE's proposal to modernise and consolidate petroleum legislation as part of a wider recommendation for further sector-specific consolidations. Petroleum legislation has grown incrementally over the last 70-80 years leading to fragmented requirements, where regulations were introduced to legislate for specific purposes.

**What are the policy objectives and the intended effects?**

The objective is to reduce the regulatory burden on business and regulators through modernisation, clarification and simplification of the legislation. The review aims to reduce burdens on business whilst retaining existing levels of safety, particularly at petrol filling stations. It will reduce the amount of regulation by removing twelve legislative instruments through effective integration and amalgamation. The consolidation has sought to involve a range of interested parties and deliver a consolidated and integrated set of new Petroleum Regulations.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Option 1: 'Do nothing'

Option 2: To consolidate and simplify the current suite of legislation into one streamlined document. It is the preferred option and will deliver greater benefits than bringing about change solely through updated guidance.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 04/2019

Does implementation go beyond minimum EU requirements?			Yes		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> N/A		<b>Non-traded:</b>

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister:  
Rt Hon Mike Penning MP



Date: 13 May 2014

# Summary: Analysis & Evidence

# Policy Option 1

Description: Do nothing option

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: 0	High: 0	Best Estimate: 0
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)	
Low	0		0	0	
High	0		0	0	
Best Estimate	0		0	0	
Description and scale of key monetised costs by ‘main affected groups’					
This is the baseline option and as such there are no associated costs.					
Other key non-monetised costs by ‘main affected groups’					
This is the baseline option and as such there are no associated costs.					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)	
Low	0		0	0	
High	0		0	0	
Best Estimate	0		0	0	
Description and scale of key monetised benefits by ‘main affected groups’					
This is the baseline option and as such there are no associated benefits.					
Other key non-monetised benefits by ‘main affected groups’					
This is the baseline option and as such there are no associated benefits.					
Key assumptions/sensitivities/risks				Discount rate (%)	
None				N/A	

## BUSINESS ASSESSMENT (Option 1)

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OTOO?</b>	<b>Measure qualifies as</b>
Costs: 0	Benefits: 0	Net: 0	No	N/A

# Summary: Analysis & Evidence

## Policy Option 2

Description: Consolidate the current suite of regulation

### FULL ECONOMIC ASSESSMENT

Price Base Year 2009	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0.16	High: 1.26	Best Estimate: 0.71

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.4	1	0.0	0.4
High	0.7		0.0	0.8
Best Estimate	0.5		0.0	0.6

#### Description and scale of key monetised costs by 'main affected groups'

The new Regulations will have little effect on what operators are required to do to comply with their health and safety duties, as the fundamental approaches are not changing. However they will need to make themselves aware of the legislative changes, and one-off familiarisation costs of around £530K have been estimated. There will also be familiarisation costs of approximately £21k to petroleum licensing authorities (PLAs).

#### Other key non-monetised costs by 'main affected groups'

None identified

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.0	1	0.1	0.9
High	0.0		0.2	1.7
Best Estimate	0.0		0.2	1.3

#### Description and scale of key monetised benefits by 'main affected groups'

Replacing the current licensing system with a petroleum storage certificate will reduce the need for regular renewals, which would deliver benefits estimated between £360k to £720k to industry over the ten year period, and around £170k to PLAs, due to the reduction in the current administrative burden associated with this work over the appraisal period.

Removing the requirement to transfer a licence from one operator to another will also lead to benefits over the ten year period of between £160K and £320K to industry, and between £210k and £420k to PLAs, due to the reduction in the administrative burden associated with this work.

#### Other key non-monetised benefits by 'main affected groups'

Removal of the term licensing and subsequently removing the ability of the enforcing authorities to impose different licensing conditions might provide greater conformity and clarity to individuals and organisations wishing to store petroleum. The legal clarity provided by the proposed change will also be beneficial to both industry and the enforcing authorities, but it is not proportionate to quantify this benefit

#### Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

We assume that most of the larger retailers (petrol stations operated by oil companies and supermarkets) accounting for around 40% of the market will opt to pay for longer certification periods; that smaller/independent retailers may opt for shorter payment periods, as is currently the case; and that an equal number of renewals occur each year. The number of operators transferring licenses each year would remain constant at the 2012 level (see paragraph 42).

### BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0.1	Benefits: 0.1	Net: 0.0	Yes	OUT

# Evidence Base (for summary sheets)

## Background

1. There have been specific legislative controls on the storage and use of petroleum for over 120 years. The requirements of the older legislation were consolidated and modified by the Petroleum (Consolidation) Act 1928 (PCA) and subsequent legislation followed. The PCA has generally remained effective and there have been few major accidents, either at petrol stations or other places where petrol is kept and used. The introduction of the Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR) disapplied petroleum legislation from all workplaces not involved in petrol dispensing<sup>1</sup>. The petroleum legislation, in the main, now applies to petrol filling stations (retail and non-retail) and domestic storage.
2. Under current legislation anyone who keeps more than 275 litres of petrol needs to obtain a storage licence from their local petroleum licensing authority (PLA). There are currently around 150 PLAs, which are generally situated within trading standards or environmental health departments of Local Authorities. In metropolitan boroughs, the responsibility generally falls to the local fire and rescue service. PLAs have powers to impose licence conditions, which in the case of petrol stations can be wide ranging; they are also responsible for enforcing DSEAR at petrol stations. To support this framework the Petroleum Enforcement Liaison Group (PELG) was set up in 1998 and aims to facilitate appropriate and consistent enforcement by PLAs through the dissemination of advice, guidance and good practice.
3. Although the current legislation has generally been effective for over 80 years, there is a need to modernise it to meet present day circumstances, while maintaining the safety standards achieved to date. This consolidation is in response to Professor Ragnar Löfstedt's recommendation in his 2012 review of health and safety legislation<sup>2</sup> that HSE undertakes a programme of sector-specific consolidations to be completed by April 2015. Subject to Parliamentary approval, the intention is for the legislative amendments giving effect to any changes to be commenced by the end of 2014.
4. The petroleum-specific legislative framework consists of a range of legislative instruments. It helps to deliver the requirements of Section 1(1) (c) of the Health and Safety at Work etc., Act 1974 (HSWA) which is about controlling the keeping and use of explosive or highly flammable/dangerous substances. At its heart is the Petroleum (Consolidation) Act 1928 which is an existing relevant statutory provision of HSWA.
5. This is an opportunity not just to consolidate, but to modernise and simplify petroleum legislation and 'future-proof' against external legislative and technical changes. The accompanying ACOPs and guidance that support the current framework are also being reviewed as part of the process.
6. HSE has engaged with key stakeholders from industry, retail and enforcement sides to help shape the future legislative landscape. Stakeholders have been instrumental in the development of the proposals and an expectation of change has built up within the sector. The public consultation<sup>3</sup> to this proposal ran from 13<sup>th</sup> December 2013 to 7<sup>th</sup> February 2014,

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<sup>1</sup> DSEAR definition: "Dispensing" means manual or electrical pumping of petroleum-spirit from a storage tank into the fuel tank for an internal combustion engine, whether for the purposes of sale or not."

<sup>2</sup> <https://www.gov.uk/government/publications/reclaiming-health-and-safety-for-all-lofstedt-report>

<sup>3</sup> <http://www.hse.gov.uk/consult/condocs/cd264.htm>

and received a total of 74 responses; there was strong majority support for the changes amongst these.

### **Rationale for intervention**

7. As explained in Professor Ragnar Löfstedt's review of Health and Safety, the current system of petroleum licensing is old and complicated, having grown via piecemeal alterations and additions to the core legislation over the past 70-80 years, and it is possible to simplify and future-proof it, removing a lot of the prescriptive elements, without any reduction in health and safety outcomes. Government intervention is needed to ensure that these changes are made.

### **Policy objective**

8. The primary objective is to reduce the regulatory burden on business and regulators through clarification, simplification and a reduction in the pieces of legislation, including simplifying some requirements, whilst retaining appropriate levels of safety. Existing petroleum legislation will be repealed/revoked and those provisions that will be maintained will be consolidated into a single set of new Petroleum Regulations. The proposals are concerned with the fire and explosion hazards associated with petrol and take no account of the health hazards of petrol (e.g. strong irritation effects) as these are already covered in existing legislation such as the Control of Substances Hazardous to Health Regulations 2002 (COSHH).

### **Options Considered**

#### Option 1: Do Nothing (Baseline)

9. Under the Baseline option the current situation would continue and therefore there are no costs or benefits. The Löfstedt recommendations have been accepted by Government and HSE is now implementing these recommendations as they relate to the petroleum legislation. The 'Do nothing' option would therefore incur high reputational costs to HSE. However, it remains the baseline against which other options are compared.

#### Option 2: Consolidation and Modernisation

10. The aim is to reduce the regulatory burden on business and regulators through clarification and simplification of the existing legislation.
11. Currently PLAs, under advice from the PELG, issue petroleum storage licences for up to three years, based upon the health and safety provisions at the petroleum storage site and the management practices in place there. It is proposed to replace the current licensing system with a new system of certificates, which will be valid for an indefinite period of time, and will only need to be replaced when practices at the petroleum storage site change.
12. The key differences between the licensing and proposed certificate regimes are that the certificate relates specifically to the storage arrangements for petrol at the site, and drives enforcement action through DSEAR rather than allowing the imposition of 'local' licence conditions by PLAs, such as the inclusion of additional requirements of an operational nature.
13. The proposals will lead to the removal of the current time-consuming system of license transfers upon a change of operator and introduce a simplified duty to notify the enforcing authority of a change of operator.

14. The streamlining of the legislation will also lead to the withdrawal of the following to avoid duplicative and overly prescriptive regulations:
  - a. COP6 - Petroleum-Spirit (Plastic Containers) Regulations 1982. Requirements for testing and marking or labelling;
  - b. Approved Document L93 'Approved Tank Requirements - Provisions for bottom loading and vapour recovery systems of mobile containers carrying petrol'.

### **Monetised and non-monetised costs and benefits of each option**

#### **Industry information**

15. The Retail Marketing Survey<sup>4</sup> published by the Energy Institute, the professional body representing the energy market, in March 2013 (with figures relating to the end of 2012) shows around 8600 petrol retail sites comprising of approximately:
  - a. 2200 – owned by large oil companies, e.g. BP, Shell
  - b. 5100 - smaller, independent dealers (who often show the logo of their supplying oil company on their signs)
  - c. 1300 - supermarkets, e.g. Tesco, Sainsbury's
16. These figures were clarified and confirmed by industry at consultation stage.
17. It is additionally estimated there are around 1300 licensed non-retail sites, e.g. car hire fleets, public utilities depots, hospitals. These estimates are based on a 2012 information gathering exercise via Petroleum Licensing Authorities (PLAs).

#### **General Assumptions**

18. Costs and benefits are assessed over 10 years as there is no reason to depart from the general advice in the Better Regulation Executive's IA guidance<sup>5</sup> to use this time frame.
19. The discount rate used is 3.5%, in line with the HM Treasury Green Book<sup>6</sup> guidance.
20. Price base and present value year is 2013.
21. The price base year for One in Two Out calculations is 2009.
22. Estimates for the cost of dutyholders' time are based on the Annual Survey of Hours and Earnings<sup>7</sup> (ASHE 2012, provisional figures) using SOC code 1109 – Managers and Directors in Retail and Wholesale, and uprating this by 30% to account for non-wage costs, giving a full economic cost of approximately £18 per hour. Estimates of the cost of an inspector in a petroleum licensing authority (PLA) are based on SOC code 2463 – Environmental Health Professional, and uprated by 30% to account for non-wage costs, giving a full economic cost for time of £23.50 per hour. These estimates are in line with Treasury Green Book Guidance.

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<sup>4</sup> <http://www.energyinst.org/information-centre/ei-publications/petroleum-review/retail-marketing-survey-2013> (Please note that access requires payment or subscription)

<sup>5</sup> <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/i/11-1111-impact-assessment-guidance.pdf>

<sup>6</sup> <http://www.ons.gov.uk/ons/rel/ashe/annual-survey-of-hours-and-earnings/2012-provisional-results/stb-ashe-statistical-bulletin-2012.html>

<sup>7</sup> [http://www.hm-treasury.gov.uk/data\\_greenbook\\_index.htm](http://www.hm-treasury.gov.uk/data_greenbook_index.htm)

23. Figures presented in this IA are generally rounded as appropriate. However, calculations are based on non-rounded numbers. Given this, some figures set out may not add up to the totals presented.

## **COSTS**

24. Costs are expected to be relatively small as most of the changes involve consolidating, clarification and simplifying the Regulations into an integrated set of new Petroleum Regulations so will not fundamentally alter longstanding approaches to health and safety within the sector. Any changes to requirements are expected to lead to savings to business, as explained below, although they will lead to familiarisation costs.

### **Familiarisation costs**

25. It is assumed that all petrol station operators will familiarise themselves with the new Regulations in the first year of the new scheme, particularly with regards the details of the proposed certification scheme that will apply to all petrol stations, supplanting the current licensing system. The familiarisation costs are based on a middle manager in the retail sector, making themselves aware of the legislative changes, at a full economic cost of £18 per hour (see paragraph 22). Based on anecdotal evidence and results from a 2012 survey of PLAs, HSE has estimated this to take, on average, between 2 and 4 hours, with a best estimate of around 3 hours per site. The number of retail and workplace petroleum storage sites is just under 10 thousand, so the total costs to industry of familiarisation are estimated to be between around £360k and £710k one off costs, with a best estimate of approximately £530k
26. Familiarisation costs for new market entrants over the appraisal period are not included. The proposed changes to the Regulations are essentially modernisation and integration of the existing regulations so new entrants will only be interested when they enter the market and not what has changed over time. The changes would form part of their baseline familiarisation on entering the industry. If anything, we would expect them to find it easier and less time-consuming to familiarise themselves with regulatory requirements, as the Regulations will be simpler and less fragmented. This is likely to result in small savings to them, but we have not considered it proportionate to quantify these.
27. There will also be costs associated with familiarisation accruing to PLAs, who will need to ensure that inspectors working with petroleum storage sites understand the changes. Based on HSE expert opinion, it is assumed that on average, two inspectors at each PLA will spend between 2 and 4 hours, with a best estimate of 3 hours, familiarising themselves with the changes. At a full economic cost of £23.50 per hour, based on the average wage of an Environmental Health Professional, this gives estimates of the costs of familiarisation to PLAs of between £14k and £28k, with a best estimate of £21k.
28. This gives total one-off expected familiarisation costs in the first year of the new regime of between £370k and £740k, with a best estimate of approximately £550k. Between £360k and £710k (best estimate of £530k) of this will fall on business, whilst the remainder, between £14k and £28k, with a best estimate of £21k will fall on PLAs (e.g. local authorities, fire services).

### **Certification/Licensing**

29. The consolidation work is not proposing any changes to fees payable by people who wish to store petroleum with the introduction of certification, and it is expected that the cost of a new petroleum storage certificate will be the same as that currently paid for a license. As such, there are no costs or benefits associated with this.

30. However, currently most licences run for 3 years, which is based upon industry custom and practice, and advice from the PELG. It is assumed that larger retailers will now take advantage of making a single payment during the 10 year appraisal period, due to higher levels of confidence around future participation in the market than smaller retailers. It is assumed that smaller retailers will continue to make payments on a 3 yearly basis. This assumption was tested during the public consultation and there were no objections raised. There are no direct costs associated with this (in addition to familiarisation) and savings are explained below.
31. There is currently a process in place whereby licences for storing petroleum can be transferred from one operator to another. It is proposed that this process is removed and a simple duty to notify is introduced. This will not incur ongoing costs (in addition to familiarisation) but deliver some administration savings as estimated below.
32. Based on a 2012 information gathering exercise via PLAs, it is estimated that there were 524 transfers in the preceding 12-month period. The fee payable to the enforcing authority is £8 per transfer, and so it is anticipated that PLAs will experience a loss in income of around £4.2k per annum. However, this will count as a benefit to industry, who will no longer have to pay the fee. As such, it will be counted as a transfer with zero net impact on society as a whole in this IA, but will affect the Equivalent Annual Net Cost to Business (EANCb) figures.
33. Current legal requirements state that enforcement practices do not need to be directly linked to visits for certification/licensing purposes and should be risk-based. As no changes from the current regime are proposed there is no negative impact for enforcers and industry. Likewise, there will be no impacts on health and safety outcomes.
34. PLAs will need to review and update their websites to reflect the move from licensing to certification. However, given the wide variation between the PLAs' time estimates, the likelihood that they will all have different practices for the updating procedure (i.e. some will do it themselves, whilst some will have IT contractors), and the fact that this will not impose any direct or indirect costs to business, it is felt that it is not proportionate to quantify these costs.

## **Summary of costs**

35. Given that the proposed changes are focused on consolidation of existing legislation, they will not change current practices in the industry, and the costs will be limited to familiarisation costs – our best estimate of these is £550k, with approximately £530K of this falling on industry and £21k falling on the licensing authorities. There will be no additional administrative costs to businesses and the public. PLAs will face some administrative costs resulting from needing to change information on their websites, but these are not quantified. There will also be a transfer of around £4.2k per year from PLAs to industry as a result of the simplification of the license transfer procedure.

## **BENEFITS**

### **Certification/Licensing**

36. There are administrative benefits to industry and enforcement bodies from the proposal to remove the need for regular renewals. It is estimated that, on average, it costs the duty holder at retail sites between 2 and 4 hours, with a best estimate of 3 hours, each time an existing licence is renewed. This assumption was tested at consultation stage and found general support.



37. It is assumed that larger retailers (including larger oil companies, main retailers and supermarkets) who make up approximately 40% of the market would have renewed their licence once every three years but under the new Regulations will make a single payment during the 10 year appraisal period (as outlined in paragraph 30) This assumption was tested at consultation stage and there were no objections.
38. Over the 10 year period, each larger retailer will save 3 hours on three separate occasions, equating to 9 hours in total. At a full economic cost of time of £18 per hour (see paragraph 22), and assuming that there are a roughly equal number of renewals each year, then the total savings to large retailers are estimated to be between approximately £360k and £720k, with a best estimate of £540k in present value terms over 10 years.
39. There will be savings for PLAs, who will be able to spend less time processing certificate renewals, of around £160k over the ten year appraisal period. This figure is based on the assumption highlighted during the public consultation that it currently takes around an hour per license renewal, and it is expected that it will now take PLAs 2 hours to process the first renewal of each license/certificate following the regulatory change, at a full economic cost of £23.44 per hour (paragraph 22), as a certificate will need to be drawn up for each site. However, this will fall to only 15 minutes for every subsequent renewal.
40. Assuming that there is a roughly equal number of renewals each year, this means that in practice, it will require an additional hour of PLA resource to process a renewal from a large petrol station over the first 10 years, but this will be offset by savings from processing renewals from smaller petrol stations, who will renew every 3 years. In effect there will be an additional hour of resource required for a small petrol station renewal in the first instance, but in the second and third instances, there will be a 45 minute resource saving each time. In the more distant future, there will be savings across both sizes of petrol station, but these are not captured within the 10 year period.
41. Removing the need to transfer licences from one operator to another will deliver administration savings to industry and enforcing authorities. Based on a 2012 information gathering exercise via PLAs, it is estimated that there were 524 transfers in the preceding 12-month period. The fee payable to the enforcing authority is £8 per transfer. There are many variations of the form and the amount and types of information that a person is currently required to complete when wishing to transfer a licence, and there is also a time cost associated with raising a payment for the transfer. Under the certification scheme, it is proposed to replace this with a much simpler, and universal, duty to notify the enforcing authority where there is a change of site operator<sup>8</sup>, and to remove any need for payment.
42. It is assumed based on information provided by stakeholders prior to public consultation that, on average, this change will save a middle-manager approximately 2-4 hours per transfer, with a best estimate of 3 hours. This assumption was tested at consultation stage and there were no objections. This change has been developed at the request of, and in conjunction with, industry and enforcing authority representatives and was supported at the consultation stage.
43. We assume that the number of licence transfers in 2012, given to be 524, is representative of the likely number in any given year. Opinions on this issue expressed during consultation generally thought that a value of between 500 and 600 transfers per annum is reasonable.

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<sup>8</sup> The notification only requires the name and address of the person, the address of the petrol station and the date of taking over responsibility for the site - the details can be provided to the PEA in an email.

44. Assuming that the total number of transfers in 2012 is representative of future transfers and assuming a full economic cost of time of £18 per hour, as outlined in paragraph 22, then savings to industry from reduced administrative burdens could be in the region of £160K to £320k, with a best estimate of approximately £240k, discounted over 10 years.
45. It is assumed that it also takes PLAs between 2 and 4 hours, with a best estimate of 3 hours (there were no objections to this during the consultation), to process a license transfer. At a full economic cost of time of £23.50 per hour (see paragraph 22), this represents a saving of between £210k and £420k, with a best estimate of approximately £320k to PLAs, discounted over the ten year appraisal period.
46. In addition, there will be savings to industry of approximately £4.2k per annum, or approximately £36k discounted over the ten year appraisal period, resulting from the reduction in fee payments to PLAs to process transfers. This is essentially a transfer from PLAs to industry, and is therefore not considered a true economic saving. However, it will be included in the EANCB calculations.
47. There are other non-quantified benefits, which will be particularly welcomed by petrol station operators. A key factor from their perspective is the removal of the term 'licensing' and subsequently removing the ability of enforcing authorities to impose licence conditions. This will ensure that there is increased conformity across PLAs with regards to health and safety conditions, and increased clarity for petrol station operators as to what their requirements are. This change will not lead to a reduction in health and safety outcomes, as the workplaces concerned remain subject to DSEAR.

**Withdrawal of the Approved Code of Practice COP6 'Petroleum-Spirit (Plastic Containers) Regulations 1982 – Requirements for testing and marking or labelling.'**

48. This ACOP was published when the use of plastic portable petrol containers was first introduced. It is prescriptive regarding some design aspects and advances in technology have not been reflected by a change in the law or guidance. In particular, the ACOP restricts the capacity to 5L, whilst other countries permit larger plastic containers. Based on modern materials and production standards, the existing law is more restrictive than it needs to be. HSE proposes to include the less prescriptive general safety principles for manufacture in the new Regulations and propose that storage is allowed in 10L plastic containers. Opinions were sought during the public consultation with respect to the potential costs and benefits but no specific responses were received. It is expected that any costs or benefits would be negligible, and they have therefore not been quantified. It is also not expected that there would be any adverse impacts on health and safety as a result of this change, as the regulations will still ensure that the current levels of protection are maintained, whilst at the same time removing some of the prescriptive element of the ACOP.

**Withdrawal of Approved Document L93 - 'Approved Tank Requirements – The provisions for bottom loading and vapour recovery systems of mobile containers carrying petrol.'**

49. This Approved Document is being withdrawn as the requirements are now adequately covered through transposition of the Petrol Vapour Recovery (Stage I and Stage II) Directives, ADR (the European agreement "Accord européen relatif au transport international des marchandises dangereuses par route") and EN Standards. HSE consulted directly with the government departments responsible for these Directives and they confirmed this coverage.
50. There has been some indication that there may be some benefits associated with this proposal, and opinions were sought on the potential costs and benefits during public

consultation. However, no responses were received and as such we assume these to be negligible and we do not seek to monetise or quantify them. The consultation responses supported removal of this Approved Document.

### **Other, non-quantified benefits**

51. The new Regulations will help ensure there is legal clarity for those businesses operating in the petrol retail sector. This creates a potential benefit in that it may reduce the amount of time that businesses in the sector spend dealing with their health and safety obligations. Whilst this reduction in time is clearly a benefit, it would not be proportionate to quantify the benefit of legal clarity as it would be very difficult to gather robust evidence on this, and there is uncertainty surrounding the potential time saving that will result as well as the number of firms that will be affected.

### **Impact on Health and Safety outcomes**

52. HSE's aim is to maintain the levels of reassurance provided by the current regime. The 'keeping of petrol', particularly with regards to public safety at petrol stations, falls within HSE's policy on permissioning regimes<sup>9</sup>, so failure to retain these provisions would pose a risk to the public safety (and might even affect the businesses adversely, if the public were to lose confidence in the safety of their sites). Additionally, as DSEAR will continue to apply to the workplaces affected, significant impacts on health and safety performance appear unlikely.

### **Rationale and evidence that justify the level of analysis used in the IA (proportionality approach)**

53. The level of analysis in the IA is thought to be sufficient for this deregulatory proposal.
54. HSE has engaged with key stakeholders in industry and other government departments to help develop the proposals. HSE has worked closely with stakeholders in consultation working groups to address specific details and have used stakeholders to disseminate key information and request assistance to clarify HSE's understanding.
55. Estimates are either taken from published statistics (e.g. the number of retail units) or are based on consultation with industry.

### **Key Risks**

56. Assumptions based on survey analysis might not be truly representative, as they will be based only on those who responded to the questionnaire, and hence were engaged with the process.

### **Direct costs and benefits to business calculations (One In Two Out)**

57. It is estimated that the total present value of the net benefit to business over the 10 year appraisal period will be around £0.29m.
58. It is estimated that the Equivalent Annual Net benefit to business will be £0.03m. therefore this proposal as a OITO "out" of £0.03m.

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<sup>9</sup> <http://www.hse.gov.uk/enforce/permissioning.pdf>

## Wider impacts

### *Competition*

59. The introduction of a certificate rather than a licence at petrol filling stations will not have a negative impact on business and regulators as it will not fundamentally change their existing health and safety duties.
60. The new Regulations will place no additional burdens on those who currently hold a licence to store petroleum.
61. The proposals will not favour or disadvantage any firm or type of firm or affect their ability to compete with others in the same market.
62. It is not anticipated that the proposed changes will have a negative impact on competition.
63. The Office of Fair Trading have four filter questions to decide whether a more detailed analysis of competition impacts is necessary, and these are answered as follows:
  1. Does the policy directly limit the number or range of suppliers?  
It is not thought the policy will directly limit the number or range of suppliers.
  2. Does the policy indirectly limit the number or range of suppliers?  
It is not thought the policy will indirectly limit the number or range of suppliers. A simpler regulatory framework might even stimulate entry into the market, by lowering what could be seen as a barrier to entry.
  3. Does the policy limit the ability of suppliers to compete?  
It is not thought the policy will limit the ability of suppliers to compete.
  4. Does the policy reduce suppliers' incentives to compete vigorously?  
It is not thought that the proposal will reduce suppliers' incentives to compete vigorously.
64. The proposed removal of some prescriptive requirements for manufacturing plastic containers could reduce the barriers to entry into the market for some manufacturers. The guidance requires the containers to be made with safety in mind and, in practice, manufacturers have been using modern methods in making these containers, which are more advanced than the ACOP required. So in reality, the effect on manufacturers is expected to be limited.

### *Requirements that are not explicit in the Directive(s)*

65. There are long-standing provisions within the current petroleum legislation that go beyond the minimum requirements of the European Directives<sup>10</sup> that were implemented in GB through the Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR). The most notable is the ongoing requirement to seek permission to store petrol at workplaces that dispense petrol, i.e. petrol filling stations. The permissioning of storage provides a fundamental building block in maintaining the safety of petrol filling stations. There are also provisions within the existing legislation regarding the storage of petrol at non-workplace premises (most commonly private dwellings) which fall

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<sup>10</sup> DSEAR implemented two European Directives: the safety aspects of the Chemical Agents Directive 98/24/EC (CAD) and the Explosive Atmospheres Directive 99/92/EC (ATEX 137).

outside the scope of the Directives, but must be maintained so standards are not reduced.

66. The 'keeping of petrol' falls within HSE's policy on permissioning regimes<sup>11</sup> and failure to retain these provisions could pose a significant risk to public safety, particularly due to public access and the use of petrol at retail petrol filling stations. If this were the case, it may also lead to the public losing confidence in the safety of such sites, with a potential negative impact on business. In the absence of new risk-based evidence which challenges the established long-standing regulatory arrangements, or demonstrates major business benefits, there was no case to propose fundamental changes to these arrangements.
67. The revised regulatory framework was developed through close working with representatives of the petrol industry (including a representative of independent retailers many of which are SMEs) and relevant enforcement authorities. The new regulations, whilst retaining the permissioning element for the 'keeping of petrol', relieve industry of a number of burdens associated with the current licensing regime. However, they continue to provide enforcing authorities with a suitable mechanism to ensure that risks relating to the storage of petrol are properly controlled and safety standards are not being reduced. This will help to ensure continued public confidence in the safety of these sites whilst reducing burdens on business.

#### *Small/Micro Firms and the self-employed*

68. We propose that the new Regulations apply to small/micro firms and the self employed. If storage of such a highly flammable substance was placed outside of legislative control it could pose significant hazards to neighbouring businesses and members of the public by way of their potential to form catastrophic events. The risks from public access at petrol stations remains similar, irrespective of the size of the site, and therefore small/micro businesses should not be exempt from the Regulations.
69. It could be argued that smaller firms benefit more than larger firms from the effect of permissioning regimes on public perception of their safety. With larger firms (especially those which are part of chains, or which are part of businesses which are also in other lines of work, such as supermarkets), the public will trust that they are safe because the firm has a reputation to uphold. This is not the case with the smallest firms, and the public will often trust in their safety only because they know the sector is regulated and therefore certain standards are required.
70. It is therefore not thought the proposals will have a negative impact on small firms. Indeed, they will share the benefits of this deregulatory change.

#### *Hobbyists*

71. There is a large and active hobbyist community (car rallies, boating clubs, etc.) but it is not thought that the proposals will have a negative impact on this sector as there are no fundamental changes to the factors which concern them.

#### *Environment*

72. No impact is expected.

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<sup>11</sup> <http://www.hse.gov.uk/enforce/permissioning.pdf>

**Summary and preferred option with description of implementation plan.**

73. The petroleum consolidation team has worked closely with regulators, industry and Government Departments in developing the proposals to identify any changes or impacts for these stakeholders and to negotiate any concerns. There is a continued commitment to work with these and other stakeholders during the implementation of the Regulations.
74. The preferred option is Option 2 as detailed above. In terms of implementation the proposal will form part of Statement of New Regulations 8 and will be made into law in October 2014.