Title: Council Directive 2009/119/EC - obligation on Members States to maintain minimum stocks of crude oil and / or petroleum products	**Impact Assessment (IA)**
IA No: DECC 0082	Date: 02/03/2012
	Stage: Final
Lead department or agency: DECC	Source of intervention: EU
	Type of measure: Secondary legislation
Other departments or agencies:	Contact for enquiries: anne.pearcey@decc.gsi.gov.uk paul.borthwick@decc.gsi.gov.uk

Summary: Intervention and Options

RPC: RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB in 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
£484m	£484m	£48m	No	In/Out/Zero Net Cost

What is the issue under consideration? Why is government intervention necessary?

EU Directive 2006/67/EC required EU Member States to hold emergency oil stocks for use in the case of oil supply disruption. It has been replaced by Directive 2009/119/EC which needs to be transposed into UK law by the end of 2012. The new Directive requires some changes to some of our domestic provisions concerning oil stocking provision.

What are the policy objectives and the intended effects?

The new Directive brings in revisions which enhance the EU oil stocking system, bringing it into line with the existing rules of the International Energy Agency (IEA, part of the OECD) and optimising administrative obligations in Member States.
The aim of transposing this Directive into UK law is to ensure that the UK can meet its EU and international oil stocking obligations and be able to participate effectively in maintaining the security of supply for oil.

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

Option 1 (Baseline) - Do nothing. This option is not applicable. Transposition of the new Directive by end 2012 is a legal requirement. This option serves as a counterfactual to assess the costs and benefits of the new Directive.

Option 2 - Implement the Directive into UK law in line with Better Regulation principles and with no or minimal impact on the UK economy and obligated companies. The change does not go beyond minimum requirements of the Directive, so gold-plating is not an issue.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date: Mid-2015**

Does implementation go beyond minimum EU requirements?			**No**		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro Yes**	**< 20 Yes**	**Small Yes**	**Medium Yes**	**Large Yes**
What is the CO2 equivalent change in greenhouse gas emissions? (Million tonnes CO2 equivalent)			**Traded: N/A**	**Non-traded: N/A**	

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: John Hayes Date: 12/11/2012

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2010	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: £484m

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate	£0		£14m	**£126m**

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

The level of stocks required to be held by the UK is calculated on the basis of either net imports or final consumption, whichever is the larger. The new Directive includes consumption from certain deliveries such as non-energy use, deliveries to the armed forces, and for national shipping, which were not previously included. As a result, the UK obligation will increase by 250kt or around 3% of the UK's total obligation, and hence the level of emergency stocks which companies must hold will need to increase. This will lead to a slight increase in the cost of meeting the UK oil stocking obligation. See section 4 for more details.

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	Optional		Optional	**Optional**
High	Optional		Optional	**Optional**
Best Estimate	£0		£59m	**£554m**

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

Savings occur by companies being able to use a wider range of petroleum products to meet the majority of their obligation. This will give companies greater flexibility in which stock to hold and therefore access to cheaper stocks.

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

Improvement in emergency preparedness in case of a supply disruption as oil stocked better reflects oil demanded. More transparency and clarity on key aspects of the obligation on stockholding for emergency. Lower administrative burden as the new Directive will bring the EU obligation more in line with the IEA obligation on the same import basis and in terms of types of product to be held.

Key assumptions/sensitivities/risks | **Discount rate (%)** | 3.5%

Scenario analysis on ticket prices[1] has been included in this impact assessment.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	**Benefits:**	**Net:**	No	In/Out/Zero Net Cost

[1] 'Tickets' are contracts which give an obligated company the right to buy oil from another party in the event of a supply crisis.

Evidence Base (for summary sheets)

TRANSPOSITION OF THE EU OIL STOCKING DIRECTIVE 2009/119/EC

1. ISSUE UNDER CONSIDERATION / POLICY OBJECTIVE

The key policy objectives are:

a) t*o transpose the new EU Directive into UK law so that the UK can meet its EU and international oil stocking obligations and be able to participate effectively in coordinated collective action to mitigate the global impacts of any international oil supply disruption*

b) to ensure that the UK holds and can deploy sufficient emergency oil stocks effectively to mitigate the detrimental impacts on the UK of any oil supply disruption.

EU Directive 2006/67/EC required Member States (MS) to hold emergency oil stocks for use in an oil supply disruption. This was replaced by EU Directive 2009/119/EC and the UK is required to transpose it into UK law by the end of 2012. At the current time, the UK has a parallel oil stocking obligation as a member of the International Energy Agency (IEA, part of the OECD) although the same stocks can be used to meet both obligations.

The UK meets both its EU and IEA obligations by directing companies under powers in section 6 of the Energy Act 1976 ("the Act") to hold minimum levels of oil stocks. The Petroleum Stocks Order 1976[2] makes provision about the cases and circumstances in which stocks will count towards companies' emergency stocks, and who can be treated as being a 'substantial supplier' to the UK market and therefore obligated (required) to establish new emergency stocks under section 6(2)(b) of the Act.

The Secretary of State issues directions to businesses which supply petroleum products (light distillates, middle distillate and fuel oils) to the UK market as refiners and importers, requiring them to hold minimum level of stocks that are proportional to what they supply to market.

Under current Directive 2006/67/EC, it is up to Member States how to hold stocks, which in practice means they can be held either through an agency, or through obligations imposed on industry, or a mixture of both systems. The Directive makes provision about a number of other matters, in particular the categories of fuels which can be used to make up the obligation, and the requirements for monitoring and reporting.

Key changes in the new Directive

EU Directive 2009/119/EC[3] offers greater comparability between the EU and IEA directive and makes a number of changes to this effect. These are:

- Moving from three categories of oil stocks (i.e. light distillates, middle distillates and fuel oil) to individual product types (e.g. petrol, gasoil/diesel and aviation fuel);

- Moving away from the requirement for stocks to be held in the three broad categories of oil in proportion to consumption in each category. Instead, a Member State must either hold one third of its oil stocks in the form of the most consumed finished products or commit to holding a minimum level of 'Specific Stocks' (which are state-owned or agency-owned stocks of finished products);

- Requiring deliveries for non-energy use and to national shipping and the Armed forces to attract an obligation to hold stocks;

[2] As amended by the Petroleum Stocks (Amendment) Order 1982 and the Petroleum Stocks (Amendment) Order 1983.
[3] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:265:0009:01:EN:HTML

- Reducing the number of days of stocks required to be held (to nearer 60 days), but offsetting this by including an additional 10 per cent on stocking obligations for oil that is deemed inaccessible because it is held in the bottom of tanks. The overall result is that stock levels will remain similar;

- Requiring stocks to be reported as crude oil equivalent

The Secretary of State will continue to use the Energy Act 1976 to impose the compulsory stocking obligations (CSO) on UK companies, but the Petroleum Stocks Order 1976 will be revoked and replaced with a new Order to implement the detailed requirements of the new Directive. Some changes will also need to be made to the text of the directions issued to companies.

2. RATIONALE FOR INTERVENTION

The UK is required to meet its EU and international oil stocking obligations to mitigate the detrimental impacts on the UK, and its EU and international partners of an oil supply disruption. If sufficient oil stocks are not in place, the security of energy supply for the UK and other MS is threatened, impacts include both oil prices rising significantly and a lack of product available to the market.

Recent events, such as Hurricane Katrina and the disruption in Libya, along with the upcoming embargo on Iranian oil, have proved the continuing necessity for having sufficient stocks across MS to tackle future similar emergencies.

3. DESCRIPTION OF OPTIONS CONSIDERED (INCLUDING DO NOTHING)

Option 1 - do nothing, is not applicable as all EU member states are required to transpose the Directive into law.

Option 2 - implement the Directive into UK law in line with Better Regulation principles.

Whilst much of the Directive stipulates the requirements on Member States quite closely, there are a small number of choices on how facets of the policy are implemented. In particular:

a) <u>Whether the stocks are held by an agency or by industry -</u> Whilst there is significant interest in establishing an industry based agency, the UK does not currently have an agency, so this transposition requires that the UK will retain the current system of industry stocks. Work is ongoing to assess the longer term issues in moving to an agency based system.

b) <u>How stocks are calculated -</u> The Directive offers Member States the option to count all petroleum product stocks held by a Member State, or a subset of those stocks (petrol, aviation fuel, gas oil/diesel). The difference between the two methods centres on the factor applied to the stocks to transform the petroleum products to crude oil equivalents. The difference between the two methods, when applied to 2011's data, is around 1 per cent. The UK intends to count all stock as this gives greater flexibility to industry in meeting the obligations.

c) <u>Whether or not to hold 'specific stocks' -</u> The Directive offers Member States the choice of either holding 'Specific Stocks', or holding at least 1/3rd of their emergency stocks as finished products. Specific stocks would mean that the UK would need to hold minimum levels of state-owned or agency-owned stocks in specified product categories. The UK – in common with many other Member States - is not proposing to hold specific stocks, which would be expensive for HMG to establish and maintain. As a consequence, the UK will need to ensure that $1/3^{rd}$ of the obligation imposed on companies is held as finished products.

d) Which products will be obligated? – $2/3^{rds}$ of stocks can be held in the form of crude oil or any products, giving more flexibility to obligated companies overall about which stocks they have to hold. For the remaining $1/3^{rd}$ of the obligation, the finished product requirement, the Directive requires Member States to obligate oil products in those categories which equate to at least 75 per cent of inland consumption. The UK's oil consumption breaks down as 44 per cent for gas and diesel oil, 26 per cent for gasoline, 19 per cent for aviation fuel, with the remainder being made up of heating oil (7 per cent) and fuel oil (4 per cent). The UK will obligate petrol, gas oil/diesel and aviation fuel. This will provide a good basis for ensuring that stocks are held in the highest demand product categories.

e) The inclusion of bio-fuels to meet the UK's obligation -The Directive allows the counting of bio-fuels to meet obligations on the basis of rules set by the MS. The UK is proposing to allow bio-fuel stocks to be counted in proportion to the hydro-carbon element, and is engaging with industry to develop guidelines on how this will occur in practice.

DECC has consulted Industry, both bilaterally and through a formal stakeholder event in November 2011. Annexes 3 and 4 contain further details. Industry is broadly supportive of DECC's chosen options.

4. MONETISED AND NON-MONETISED COSTS AND BENEFITS OF EACH OPTION

This section estimates the costs and benefits of Option 2 relative to Option 1.

Article 3 of EU Directive 2009/119/EC requires Member States to adopt provisions to ensure that they hold emergency stocks equal to 90 days of average daily net imports or 61 days of average daily inland consumption, whichever is the greatest.

The average daily inland consumption is calculated after excluding 10% for inaccessible bottoms of oil tanks, which means that these obligations are very similar to our existing EU obligations. However, some of the underlying rules about how the level of stocks are calculated and what stocks can be counted towards our stockholding totals have been amended.

In terms of costs and benefits analysis, the most important differences in the new Directive are:

1) The level of stocks required to be held by the UK under Article 3 will continue to be calculated on the basis of our total inland consumption in the previous calendar year, but the new Directive requires us to include consumption from deliveries for non-energy use, to the Armed Forces, and for national shipping, that were previously excluded. As a result, the UK obligation will increase by 250kt or around 3% of the UK's total obligation, Hence, the level of emergency stocks which we require companies to hold will need to increase.

2) For Member States, such as the UK, which do not intend to hold state-owned or agency-owned 'specific' stocks, Article 9(5) requires that a third of obligated stocks should be held in the form of finished products. Under Article 9(3), it is a requirement that the obligated products held to meet the $1/3^{rd}$ obligation must be products which between

them equate to at least 75 per cent of inland consumption. For the UK this means that petrol, gas/diesel oil and aviation fuel will be obligated (the UK's consumption patterns offer limited sensible opportunities to reach 75 per cent on energy consumption without obligating these products). This should ensure supply of those products if refineries' production is disrupted, with the composition of product stocks reflecting consumption patterns. Consequently, 1/3rd of the UK emergency stocks held by obligated companies will have to take the form of finished product. Overall, as 2/3rds of the obligation can be held in the form of crude oil or any products, UK obligated companies will have more flexibility in meeting their obligations than they do at present.

3) Article 8(1) restricts the sub-delegation of stocks. At present, companies can buy 'tickets' from companies which do not themselves hold stocks, potentially resulting in long chains of contractual obligations. Under the new Directive, an obligated company will only be able to buy tickets direct from a company which holds oil stocks. Theoretically, this might result in fewer tickets being available and/or the use of tickets might be less flexible. The cost of tickets for finished products may also increase. However, the fact that the majority (2/3rds) of the obligation can now be held as crude oil or any product (see previous paragraph), means that obligated companies will be able to fish in a larger pool of tickets to meet their obligation.

Cost Analysis

The inclusion of consumption deliveries for non-energy use, to the Armed Forces and for national shipping, leads to an increase of 250kt (or around 3%) of the UK's obligation per year (point 1 above). The current obligation is at around 10.5 million tonnes. This will affect the costs of meeting the obligation across the EU and in the UK.

An unpublished study commissioned by DECC and the Industry in 2010 to assess the current system and alternative models for meeting the UK's stocking obligation was used to estimate the cost of the additional obligation as domestic production declines. The table below summarises the study's estimates of the annual cost of meeting the projected obligation[1]. The annual cost of the additional 250kt is calculated proportionally to the current obligation of 10.3 million tonnes.

The study estimates cover the period 2015, 2020 and 2023. As the new directive will come into force in 2013, it has been assumed that the cost prior to 2015 is equal to that in 2015. A constant growth rate in the period 2015-2020 and 2020-2023 has been assumed.

Annual Cost of the Incremental Obligation

	2010	2015	2020	2023
Total annualised cost of the obligation (£m)	481	481	605	696
Annual cost of the additional 250kt obligation (£m)	11.7*	11.7	14.7	16.9

*0.250ml/10.3mt*481m=11.7m

[1] Deloitte estimates are in 2009 prices, ONS data on the GDP deflator were used to convert these in 2010 prices (http://www.hm-treasury.gov.uk/data_gdp_fig.htm)

Benefit Analysis

Under the current Directive, companies are required to hold stocks in proportion to the products which they supply to the market. The new Directive provides that they will only have to hold 1/3rd in the form of specified products, and companies will therefore be able to hold the remaining 2/3rds in any form they like. This will give companies more flexibility to buy cheaper tickets for those stocks. The section below estimates these benefits.

Methodology

The ticket market allows parties subject to compulsory stock obligation requirements to fulfil these by having stocks held on their behalf by third parties, either in the UK or other EU countries. Tickets are rights to withdraw oil from stocks held remotely, which can be purchased for monthly/quarterly/annual cover.

The impact of the new Directive on the ticket market is estimated by assessing overall company spending on tickets to meet the obligation and how this compares with total spending under the current Directive. Total spending is calculated by multiplying the price of the tickets by the amount purchased.

Ticket Prices

Trading occurs both Over the Counter (OTC), through brokers and directly through industry parties. Price reporting is complicated by the availability of contracts of different lengths. Price transparency is relatively poor in the market and we did not find any reliable dataset on ticket prices. As a result, we applied scenario analysis around ticket prices. We assumed three scenarios for ticket prices, as shown in the table below. The current price case is based on Q4 2011 companies' and brokers' information provided confidentially to DECC[4].

Current ticket prices are based on stocks of finished products, crude oil and feedstocks. Future price for petrol, aviation fuel & gas oil/diesel will be based on finished products only and therefore a smaller volume will be available. As a result, it is expected that prices for those stocks will be higher than they are now.

Ticket Prices Assumptions (£/t)

	Current prices	Future ticket prices		
		Low	**Central**	**High**
Petrol	0.6	0.9	1.2	1.8
Aviation fuel & Diesel	2.5	3.75	5	7.25
All other products	0	0.45	0.6	0.9

Ticket Demand

Companies must be compliant at all times, not just for month-end reporting and therefore will tend to hold more stocks than strictly needed. As most obligated companies do not have enough stocks to meet their own obligation, all the surplus is assessed to be held as tickets.

[4] Prices are quoted in $/t, 2011 average £/$ exchange rate of 1.55 was used to convert $ figures into £.

The analysis is based on data on:

1) Shortfall: average shortfall between companies' average stocks and their obligation.
2) Surplus: surplus companies hold to meet the obligation at all times.

Demand for tickets under the current Directive has been estimated, using aggregate data for each obligated company, based on i) average stocks, ii) obligation, and iii) average surplus held. The analysis is based on stock surplus held to comply with the obligation from January to July 2011[5]. Data is reported by individual companies to DECC on a confidential basis. Data used for this analysis has been aggregated.

Demand for tickets under the new Directive has been estimated by considering the average number of tickets needed to meet their obligations exactly. As companies' obligations for petrol, gas oil/diesel and aviation fuel will decrease by two-thirds, it is expected their surplus will decrease by at least the same proportion, if not more. Companies will be able to forecast their compulsory stocking obligation position more precisely and they will need to buy fewer tickets to cover their obligation.

In addition, it is likely that companies will hold minimum surplus, if any, for their 'all other products' obligation. In fact, as non-refiners have the incentive to minimise their costs, they will buy the exact amount in tickets to cover their 'other product' obligation and therefore will not hold any surplus. Refiners should hold enough stocks of 'all other products' to meet this obligation and won't need to buy tickets to cover it.

	Current Directive			**New Directive**		
Thousand tonnes	Average monthly shortfall	Average monthly surplus	Total monthly Ticket Demand	Average monthly shortfall	Average monthly surplus	Total monthly Ticket Demand
Petrol	300	400	700	180	130	310
Aviation fuel & Diesel	2530	680	3210	250	230	480
All other products	0	0	0	1200	0	1200
Total	2830	1080	3910	1630	360	1990

Savings from the ticket market

Savings occurring in the ticket market, due to the new Directive, are calculated by taking the difference between spending based on current prices and spending under future price of tickets. This is then multiplied by 12 to give an annualised figure. The savings result from the fact that the bulk of the obligation will be able to be held as 'any products', so companies will have more flexibility on which tickets to hold and will choose the tickets representing the cheaper oils. They will no longer be tied to the costs of category 1 (light distillates) and category 2 (middle distillates) tickets, as specified in the current Directive

As shown in the table overleaf, obligated companies as a whole could save between £39.9 million annually, if ticket prices are high, to around £69.9 million annually if ticket prices are low.

There are essentially two off setting effects. One is a reduction in the total number of tickets required that generates savings. However, for all the tickets that are still required to be purchased there is an additional cost associated with this due to higher ticket prices. The effects

[5] This period was used as data from August onward are not considered to be representative as some stock was released as part of the IEA emergency stock release to offset Libya supply loss.

act in opposite direction but the analysis suggests that the saving from reduced ticket purchases should still offset the increase in costs due to the higher ticket prices. Both of these effects result from implementation of the new directive. The greater the ticket price increase resulting from the directive the smaller the total savings to business are.

Annualised Average Benefit from the ticket market (£m)*

	Low Price Scenario	**Central Price Scenario**	**High Price Scenario**
Petrol	1.7[6]	0.6	-1.7
Aviation fuel & Diesel	74.7	67.5	54.5
All other products	-6.5	-8.6	-13.0
Total	**69.9**	**59.4**	**39.9**

* Positive numbers indicate savings

Discounting

In line with Green Book guidance, the net present benefits of the new Directive, compared with the current Directive, have been estimated assuming a social time preference rate of 3.5% over 10 years.

Summary table (£m) under a central price scenario

	2013	**2015**	**2020**	**2023**	**Total**	**Average***
Annualised Costs	11.7	11.7	14.7	16.9	150.6	13.7
Annualised Benefits	59.4	59.4	59.4	59.4	653.8	59.4
Net Annualised Benefits	47.8	47.8	44.8	42.5	503.2	45.7
Net Present Benefits	47.8	44.6	35.2	30.2	428.0	38.9

***Average over the period 2013-2023

Conclusion

To sum up, under the central price estimate, the new Directive presents net present benefits (option 2) compared to the do-nothing option (option 1) of £44.6.m in 2015, £35.2m in 2020 and £30.2m in 2023.

Distributional Impact

Individual impact on companies will depend on their business strategy (e.g. amount of stocks they decide to hold, production patterns and other business strategies decisions). As a result, the net benefits to individual companies may vary.

However, no companies will be worse off due to the new Directive as all of them will benefit from the increased flexibility of being able to hold 2/3^{rds} of their obligation as “any other products”.

[6] Annualised spending current Directive – annualised spending new directive: [(700*0.6) -(310* 0.9)]*12 = £1.7m

Non-Monetised costs and benefits

The inclusion of bio-fuels will provide a small additional benefit to obligated companies, but it is unclear at this stage what advantage companies will take of this. The advantages are assessed to be relatively small and would already be included in the variation expressed in the ticket prices.

By requiring that 1/3rd of stocks be held in the form of finished products, reflecting inland consumption patterns, the new Directive will improve emergency preparedness in case of a supply disruption as the products in greatest demand will be held already.

In addition, the new Directive will lead to greater transparency and clarity on key aspects of the obligation on stock holding for emergencies, as it will clarify which products to hold.

The new Directive will bring the EU obligation more in line with the IEA obligation, which is likely to lead to a lower administrative burden on those Member States (including the UK) with membership of both the EU and the IEA. We have been unable to quantify the likely cost savings, but simplified reporting systems should certainly reduce costs.

As the new Directive is a revision of the previous one, there will be no additional implementation or familiarisation costs and reporting systems are already in place.

Also, obligated companies will not incur extra costs as the UK's implementation does not alter their actions in practice.

Costs to the Public Purse arising from implementing the new Directive will be absorbed within the existing administrative resources for managing the UK’s current oil stocking system.   No other non-monetised costs have been identified.

5. **DIRECT COSTS AND BENEFITS TO BUSINESS CALCULATIONS (FOLLOWING OIOO METHODOLOGY)**

This transposition is out of scope for the OIOO methodology because it is an EU Directive.

6. **WIDER IMPACTS**

EU Consideration

Directive 2006/67/EC has been replaced by Directive 2009/119/EC, which must be transposed in the UK by 31st December 2012.

Current proposals for implementing the new Directive would be achieved through secondary legislation, which would replace three existing Orders (SI 1976/2162, SI 1982/ 968 and SI 1983/909). The new Order is likely to be subject to the affirmative resolution procedure (this is not certain, as there is a choice of Parliamentary procedure in the European Communities Act 1972 under which the order would be made).

Gold-plating

As set out in section 3 above, where there is a choice as to how to implement the Directive, we do not intend to go beyond its minimum requirements.

The Department intends to use copy-out where possible to implement the Directive. However, the opportunities for copy-out in this case will be relatively limited. The Directive is drafted in terms of a framework of obligations for Member States, which gives them the choice as to whether they implement this through a central agency model or company obligations, whereas our domestic legislation will need to be clear about what obligations we are imposing on UK companies.

We have consulted industry and will be implementing the new Directive in a way which places the minimum requirements on industry. The stakeholders we have consulted strongly support that approach. Also, they were unanimously in support of the creation of an industry agency (Central Stocking Entity (CSE)), in the medium to long term, rather than any shortfalls in obligation being placed on individual companies.

UK's statutory climate change targets / environment
The downstream oil sector has an important role in the wider drive to decarbonise the economy and reduce emissions of greenhouse gases. For the public, this will be noticeable in the way they make greater, more effective use of biofuels.

Even as the UK moves towards a low-carbon economy, we will still rely upon fossil fuels for a significant proportion of our energy requirements, in particular for use as transport fuels. Consequently, the downstream oil sector will continue to play a vital role in the UK economy by providing the required transport fuels and associated infrastructure to produce, import and distribute these fuels.

The impact of oil storage in relation to climate change statutory targets or to environmental considerations would be unchanged.

Equality Duty
The transposition of the new Directive would not create unlawful discrimination, harassment, victimisation or any other conduct prohibited by the Equalities Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it.

While micro businesses are covered by the original Directive and this transposition, there are none currently obligated. To be obligated, a business would need to supply in excess of 50,000 tonnes of oil to the UK every year, which equates to supplying over 1000 barrels per day costing in excess of £70,000 per day (assuming a crude oil price of $110 per barrel and an exchange rate of 1.55 $/£).

Economic / Financial
There are no expected impacts on consumers or employment.

Competition
The transposition of the new Directive would have no impact on EU or UK competition.

Other
There are no devolution issues as emergency oil stocks are a reserved matter and the oil stocking obligation will continue to cover the UK. Energy generally is devolved in Northern Ireland, but oil stocking is not. There are no implications for DECC strategy, finance, or energy bills. There are no Coalition issues.

7. SUMMARY AND PREFERRED OPTION WITH DESCRIPTION OF IMPLEMENTATION PLAN

EU Directive 2009/119/EC makes some changes to the basis on which Member States are required to hold emergency oil stocks for use in an oil supply disruption, which must be implemented by the end of 2012.

We propose that the Petroleum Stocks Orders should be revoked and replaced by a new Order to transpose the Directive 2009/119/EC in the UK.

ANNEX 1

Key Terms used in the EU OIL STOCKING DIRECTIVE 2009/119/EC

Inland Consumption, in broad terms, means the total quantities of both crude oil and petroleum products delivered within a country for both energy and non-energy use, calculated according to Annex II of the Directive to produce a crude oil equivalent figure. It is based on the following products: motor gasoline, aviation gasoline, gasoline-type jet fuel, kerosene-type jet fuel, other kerosene, gas/diesel oil (distillate fuel oil) and fuel oil (high sulphur and low sulphur content.)

Specific Stocks is a new concept brought in with this Directive. Each MS is invited to commit to maintaining specific stocks, but has a choice as to whether to do so or not. If they do, they must maintain a minimum level of consumption, defined in terms of number of days and the stocks must be composed of stocks chosen from one of the stock categories listed in Article 9(2).

Specific stocks must be owned by the state or a central agency, and cannot form part of the commercial stocks used by industry. They are consequently relatively more expensive to hold. Any MS which has not made a commitment to hold specific stocks, must hold 1/3rd of its obligation in finished product, made up of products corresponding to at least 75% of that state's consumption in the previous year. For the UK, that means we must hold stocks of petrol, gas oil/diesel and aviation fuel.

Tickets are commercial deals between petroleum companies, where one company agrees to hold stocks of petroleum products on behalf of another company (e.g. in the form of a right to buy those stocks in the event of a supply crisis) in exchange for a fee. This allows companies with lower stocks to meet their obligation.

Biofuels - means liquid or gaseous fuel for transport produced from biomass (biomass being biodegradable products from agriculture, forestry and related industries or from industrial and municipal waste).

Abbreviations

CSE – Central Stocking Entity (agency)
CSO – compulsory stocking obligation
IEA – International Energy Agency
MS – Member States

ANNEX 2

Outline of UK legal framework

Section 6[7] of the Energy Act 1976 allows the Secretary of State (SoS) to give directions to businesses producing, supplying or using crude oil or petroleum products within the UK market, requiring them to hold minimum levels of oil stocks. We intend to retain this provision to implement Directive 2009/119/EC. The Directive does not specify which economic operators may be required to fulfil stockholding obligations, so DECC's intention is to minimise any regulatory change and subsequent burden on industry by maintaining the obligation on those businesses supplying (i.e. refining and importing) petroleum products to the UK market.

At present the 1976 Petroleum Stocks Order (SI 1976/2162[8], as amended by two other Orders, SI 1982/968[9] and SI 1983/909[10]) makes provision regarding the cases and circumstances in which stocks will count towards companies' emergency stocks, and who can be treated as being a 'substantial supplier' to the UK market and therefore required to establish new emergency stocks under section 6(2)(b) of the Act. This Order will need to be revoked and replaced with a new Order which reflects the cases and circumstances in which stocks can be counted under the new Directive. Under the Petroleum Stocks Order 1976, a 'substantial supplier' is defined as a company that is supplying in excess of 50ktpa. This approach will be retained (although the Order itself is likely to be replaced).

To comply with our current EU law obligations under Directive 2006/67/EC, at present, obligated companies are required under our directions to ensure that they are compliant at all times in each of three separate product categories (based on the country's current EU stockholding obligations): motor spirit and gasoline-based aviation fuels, middle distillates (gas oil, diesel oil, kerosene and kerosene-based aviation fuels) and fuel oils. The volume of stocks which they must hold in each category is specified in their direction. In the event of an emergency, the SoS can authorise companies to release part or all of their obligated stocks to the market. While the categorisation of stocks will be different under the new Directive, we intend to continue to use directions to specify the volumes of different type of stocks which must be held.

Obligated companies are monitored monthly on their compliance via their reporting. Completion of monthly reports is a legal obligation imposed through the Secretary of State's directions. Company reports are reviewed monthly and companies are audited using a risk-based approach. This broad approach will be maintained under the new Directive, but some additional information will be required about the location of stocks.

Where there is a failure to comply with the regulatory powers, DECC has a number of powers under sections 18[11] and 19[12] of, and Schedule 2[13] to the Energy Act 1976 to help enforce compliance. Those provisions include powers to obtain information and inspect premises, as well as powers to bring a prosecution for non-compliance. DECC uses a proportionate and graduated enforcement policy when companies fail to meet their stocking obligations starting with informal warning after confirmation of non-compliance with scope to escalate to prosecution (not been used).

In addition to the measures set out above, our Order to implement the Directive will need to include provision to protect the emergency and specific stocks held in the UK on behalf of other Member States (notably by prohibiting anyone from preventing the transfer or sale of those stocks in the event that the Member State on whose behalf they are held authorises an

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[7] http://www.legislation.gov.uk/ukpga/1976/76/section/6
[8] http://www.legislation.gov.uk/uksi/1976/2162/made
[9] http://www.legislation.gov.uk/uksi/1982/968/contents/made
[10] http://www.legislation.gov.uk/uksi/1983/909/contents/made
[11] http://www.legislation.gov.uk/ukpga/1976/76/section/18
[12] http://www.legislation.gov.uk/ukpga/1976/76/section/19
[13] http://www.legislation.gov.uk/ukpga/1976/76/schedule/2

emergency stock release), in line with Article 5, paragraph 2. Provision may also be required to ensure that insolvency proceedings or enforcement action against obligated UK companies do not affect the availability of UK emergency stocks, by requiring companies to notify DECC as soon as they becomes aware that their stocks are under threat, and possibly by allowing companies to obtain a suspension of court proceedings affecting emergency stocks.

Annex 3 - Consultation responses.

Consultation

Given the technical nature of stocking obligation, Better Regulation and the Cabinet Office agreed that DECC could engage directly with stakeholders rather than holding a public consultation on the transposition of the new Directive. DECC held a stakeholder engagement workshop in November 2011 to discuss the new Directive and seek responses from industry. 18 stakeholders accepted the invitation to attend. The meeting was very encouraging with industry broadly positive about the changes. After the meeting, those who had attended and those who had not were invited to comment in writing on the key proposals for transposing the directive. A summary of industry's comments and DECC's responses is set out below.

Summary of responses to key issues

Issue	Strength of support from Industry	DECC's Response
Which of two methods (defined in Annex 1, Page 15 of Directive) to use for calculating stocks?	95% of industry respondents opted for Method 1, giving them greatest flexibility to meet their obligation.	DECC proposes to adopt method 1, also our preference.
Companies seeking earliest possible guidance on transposition as activities in 2012 will affect stock holding calculations for 2013.	100% of respondents	DECC consulted face to face in November and is working to transpose Directive in time to meet required EU deadline (31st December 2012). Will keep industry informed of progress and publish guidance notes in advance.
What products should be used to make up the 1/3rd product obligation, based on a choice of products making up at least 75% of UK consumption	100% of respondents stated that they opposed going above minimum requirement.	The Directive requires Member States which do not hold specific state-owned stocks to hold at least 1/3rd of their obligation in the form of finished products. It offers Members States the ability to choose which products to obligate, providing the products chosen reflect at least 75 per cent of inland consumption. Industry appears to have misunderstood the proposal as being a requirement to hold at least 75% of their stocks in the form of specified products. DECC is working to ensure that all obligated companies understand the requirements clearly.
Much greater clarification on	Major suppliers pushing for	DECC is providing as much

treatment and classification of biofuels.	this.	guidance as possible and coordinating approach with other MS.
Clear cut off between provisions of old and new directive.	About 50% of companies pushing for phased transition to new provisions and continued use of retrospective tickets.	This is not possible under provisions of the directive. There must be a clean cut off on 31st December 2012.
How to handle any shortfall in meeting obligation because of companies going out of business. (This is an existing issue, which is outside the scope of the transposition.)	100% of companies were against sharing out such shortfall between remaining companies. Felt DECC should cover in short term. 100% of companies responding supported setting up a UK agency.	DECC has no facility to cover the shortfall itself. Further discussions needed with industry about how it might cover itself against short term risks (e.g. through insurance). DECC has undertaken to consider an industry owned / operated agency model in the medium to long term and has started researching costs and legal implications. Costs would have to be borne by industry. The lead in time required by both HMG and industry to move to an agency model means that it would not be feasible to establish an agency in time for the transposition deadline.

Annex 4 – UK Stakeholders Consulted (Not for Publication)

	No. of Employees (approx)
BP	10,000+
British Airways	10,000+
Cargill	10,000+
PetrochemCarless	10-100
ConocoPhillips	10,000+
Eastham	10-100
Essar	10,000+
Esso	10,000+
Glencore	10,000+
Greenergy	100
Harvest	10-100
Ineos	100+
JP Morgan	10,000
KPIAC	1,000
Mabanaft	10-100
Murco	10,000
Nynas	1,000
Petroplus	100- 1,000
Prax	10-100
RWE	1,000
Shell	10,000
Statoil	1,000
Total	10,000
Valero	10,000
Vitol	1,000+
World Fuel Services	1,000

Trade Associations
Downstream Fuel Association
Federation of Petroleum Suppliers
UK Petroleum Industry Association (UKPIA)

Ticket brokers (don't have oil stocking obligations)
Connect Oil
Fuel Trading Company
Spectron

This list shows the current composition of the market. However, in transposing the new Directive, we need to ensure provision is retained to cover companies with fewer than 10 employees.