

<b>Title:</b> Petroleum (Consolidation) Regulations 2014 (PCR 2014) <b>PIR No:</b> PIR003 <b>Original IA/RPC No:</b> HSE0085 <b>Lead department or agency:</b> Health and Safety Executive <b>Other departments or agencies:</b> <a href="#">Click here to enter text.</a>  Contact for enquiries: <b>lyndsey.baldwin@hse.gov.uk</b>	<b>Post Implementation Review</b>
	<b>Date:</b> 18/07/2019
	<b>Type of regulation:</b> Domestic
	<b>Type of review:</b> Statutory
	<b>Date measure came into force:</b> 01/10/2014
	<b>Recommendation:</b> Keep
<b>RPC Opinion:</b> Choose an item.	

**1. What were the policy objectives of the measure?** (Maximum 5 lines)

The Petroleum (Consolidation) Regulations 2014 (PCR) implemented a recommendation of the Lofstedt Review of health and safety in the UK by consolidating, modernising and simplifying the previous legislative arrangements. PCR covers the safe storage of petrol at workplaces that dispense petrol and at non-workplaces. The purpose of PCR was to reduce the regulatory burden on business and regulators while maintaining existing safety standards.

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**2. What evidence has informed the PIR?** (Maximum 5 lines)

The impact on industry of PCR was minimal and, on this basis, a light touch PIR was deemed a proportionate approach. HSE hosted an online survey for 8 weeks inviting members of a key stakeholder group to complete. HSE received 29 responses to the survey and a workshop was held with 16 delegates to discuss issues raised during the survey.

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**3. To what extent have the policy objectives been achieved?** (Maximum 5 lines)

The evidence from the research and analysis gathered for this PIR suggests that the overall objectives of the regulations have been met. As a result, the regulations will remain in place and be reviewed again in 5 years to check that they continue to be relevant and deliver their intended objectives.

Sign-off for Post Implementation Review: Chief Economist

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.***

Signed: **Shaun Donaghy**

Chief Economist

Date: 18/07/2019



## Further information sheet

Please provide additional evidence in subsequent sheets, as required.

### **4. What were the original assumptions?** (Maximum 5 lines)

The purpose of PCR was to simplify and modernise the existing legislation with minimal impact on industry with £30,000 net savings per annum. The main change was to replace licensing with petroleum storage certificates at dispensing premises. A certificate remains in place until there is a change which impacts the validity of the certificate. An annual fee for the certificate remained but an operator can choose to make an annual payment or a single payment over a longer period. This was expected to save the regulator and petrol operators time in applying for and renewing annual licences.

### **5. Were there any unintended consequences?** (Maximum 5 lines)

The change to petroleum storage certificates has meant some regulators now spend more time collecting overdue fees and say this has created another level of bureaucracy. Petrol operators also question what they receive for the annual certificate fee as the certificate is not renewed annually. The Ministry of Defence were not covered by the previous petroleum legislation but self-regulated in line with them. MOD sites are now subject to PCR but have not been named as a regulator.

### **6. Has the evidence identified any opportunities for reducing the burden on business?** (Maximum 5 lines)

HSE will review the petrol storage certificate fees to determine if the fees remain fit for purpose for the new petroleum regime and work with the MOD to develop a solution to this unintended consequence.

### **7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business?** (Maximum 5 lines)

These regulations are not EU-derived. However, PCR includes provisions regarding the manufacture of containers under the EU Technical Standards Directive 98/34/EC. There is a requirement to notify the EC of any changes to the requirements in accordance with this Directive.

<b>Title:</b> The Petroleum (Consolidation) Regulations 2014 (PCR) Post Implementation Review (PIR) Report <b>Lead department or agency:</b> Health and Safety Executive <b>Other departments or agencies:</b> None <b>Contact for enquiries:</b> Lyndsey Baldwin (Tel 0203 028 3186) Lyndsey.Baldwin@hse.gov.uk	Post Implementation Review
	<b>Source of intervention:</b>
	<b>Type of regulation:</b> Domestic
	<b>Type of review:</b> Statutory
	<b>Date of implementation:</b> 01/10/2014

## Introduction

The Petroleum (Consolidation) Regulations 2014 (PCR) came into force on 1st October 2014. This followed a recommendation by Professor Löfstedt for HSE to simplify its legislative framework in his report 'Reclaiming health and safety for all: An independent review of health and safety legislation'.

The Regulations cover the safe storage of petrol at workplaces that dispense petrol (dispensing premises) and at non-workplaces.

PCR is a permissioning regime which requires petrol operators to make an application to the regulator to store and dispense petrol. The Dangerous Substances and Explosive Atmosphere Regulations 2002 (DSEAR) is the risk-based goal setting legislation which requires petrol operators to assess and control the fire and explosion risks in relation to their undertaking.

HSE is not the regulator for PCR, it is Petroleum Enforcement Authorities (PEAs) which are local authorities or fire and rescue services.

The Regulations include a statutory requirement to undertake a post implementation review (PIR) within 5 years of coming into force. The purpose of a PIR is to evaluate whether intended objectives of the regulations have been met and, in this case, to determine if the regulations in place are still the best way to regulate the storage and dispensing of petrol.

This report presents evidence gathered from stakeholders, the regulator or regulatory bodies to establish if the Regulations achieved their objectives and whether stakeholders had experienced any additional costs because of the regulations.

### 1. What were the policy objectives and the intended effects?

The purpose of PCR was to reduce the regulatory burden on business and regulators by consolidation, modernisation, clarification and simplification of the legislation whilst retaining the existing levels of safety. The review consolidated 12 pieces of existing petroleum legislation into a single set of regulations.

### 2. Describe the rationale for the evidence sought and the level of resources used to collect it, i.e. the assessment of proportionality.

A light-touch approach was taken in the research of this PIR. The justification for this is that the policy intent of PCR was to simplify and modernise the existing legislation with minimal impact on industry and an estimated saving of £30,000 for business per annum.

HSE was confident that key stakeholders (Petroleum Enforcement Liaison Group (PELG)), who were instrumental in shaping the new petroleum legislation, could provide good quality evidence

of how the regulations were working in practice. The PELG membership represents the sector (regulators, petrol operators and industry representatives) and they were aware of the requirement for the PIR, the timeframe and expressed an interest in assisting with the process.

A survey was developed to gather views from PELG on the effectiveness of the Regulations to inform the PIR. This ran from 23 July to 14 September 2018 and was hosted on the HSE's survey communities. PELG were notified of the survey and asked to share with the members they represented.

The results of the survey suggested that safety standards had reduced following the introduction of PCR. This was critical to the outcome of the PIR so HSE hosted a workshop with attendees equally representing the sector to specifically discuss safety standards (further information about the outcome of those discussions is in Q4 below).

### **3. Describe the principal data collection approaches that have been used to gather evidence for this PIR.**

- The survey was hosted on HSE's online web communities' portal and ran from 23 July to 14 September 2018.
- A reminder to PELG members was sent at the mid-way point of the survey and a week before it closed.
- The survey initially received 20 responses with 80% from regulators, 5% from petrol operators and 15% other.
- HSE reopened the survey for a further 3 week period in November 2018 to obtain views specifically from petrol operators who had not initially engaged in the survey.
- The survey received 29 responses in total with six additional responses from petrol operators (58% regulators, 24% petrol operators and 18% other).
- HSE's Economic Analysis and Social Research Unit conducted two separate surveys with petrol operators and the regulator to specifically gather data on the costs of PCR.
- HSE held a workshop with 16 attendees equally representing regulators, petrol operators and industry representatives to specifically discuss safety standards.

### **4. To what extent has the regulation achieved its policy objectives? Have there been any unintended effects?**

#### Policy objectives

The survey asked if PCR had achieved its policy objectives to simplify and make it easier to comply with the legislation and maintain existing safety standards.

On simplification, 50% of respondents agreed or strongly agreed that PCR had been simplified. 15% neither agreed or disagreed and 35% disagreed or strongly disagreed.

30% of respondents agreed PCR was easier to comply with than the previous legislation, 45% neither agreed or disagreed and 25% disagreed or strongly disagreed.

For safety standards being maintained, 27% agreed they had been maintained, 11% neither agreed or disagreed and 62% disagreed or strongly disagreed.

50% of responses from PEAs suggested safety standards had reduced. This was attributed to the removal of a requirement for petrol operators to notify any change on site to the regulator which was required by the previous legislative regime.

The regulators used these notifications as a mechanism for interventions with petrol operators which was not risk based or proportionate. However, there was no evidence to support the view that safety standards had reduced in RIDDOR incident reports and PEAs could not provide enforcement data. HSE explored this through a workshop attended by 16 people equally representing regulators, petrol operators and industry representatives. The consensus at the workshop was that safety standards had remained the same.

The workshop concluded that the change of approach to petroleum legislation from a prescriptive licensing regime to a risk-based goal setting regime had been a difficult transition for regulators and petrol operators and there was inconsistency with implementation. This evidence from the workshop explains the responses to the survey which disagreed or strongly disagreed that PCR was simplified and easier to comply with.

### Guidance

79% of respondents to the survey said that HSE guidance was helpful or partly helpful, however, 83% of responses said it could be improved.

HSE guidance is webpage based and is supported with industry guidance (produced by PELG). The discussion at the workshop revealed that awareness of the guidance is variable, particularly with smaller independent operators and there is a need to improve promotion of the guidance.

### Impact of PCR

The survey asked whether PCR had a positive or negative impact on businesses and organisations. 56% of respondents said there had been a negative impact, 12% said a positive impact, 20% said no impact and 12% did not know.

The negative impact was expressed as concerns about the mechanism for interventions with petrol operators and collection of fees for a petroleum storage certificate (PCR requires a petrol operator to apply for a certificate to store and dispense petrol). The responses suggested that the power to levy fees is now missing from the Regulations, it takes more time to collect overdue payments and there is difficulty in forecasting payments. The petrol operators also questioned what they receive for an annual fee when the certificate remains valid until there is a significant change to the containment system for the storage of petrol or the site ceases to operate.

### Unintended consequences

The survey asked if PCR had brought any unintended consequences. 62% said there had been unintended consequences, 30% said there had not and 8% did not know.

The same concerns about the mechanism for intervention and petrol storage certificate fees were also raised under this question.

The Ministry of Defence (MOD) see PCR having a negative impact on their ability to regulate. This is because the previous legislative regime did not apply to Crown bodies but the MOD self-regulated in line with the legislative requirements.

## **5a. Please provide a brief recap of the original assumptions about the costs and benefits of the regulation and its effects on business (e.g. as set out in the impact assessment).**

The impact assessment (IA) estimated that costs to business would be relatively small as most of the changes involved consolidating, clarifying and simplifying the regulations into an integrated set of new regulations.

The only costs estimated in the IA were familiarisation costs to petrol station operators and PEAs related to the new certification scheme. The IA estimated a one-off familiarisation cost in the first year of around £550,000 (2013 prices), of which around £530,000 would fall to petrol station operators and the remainder to PEAs.

The IA estimated there would be some administrative benefits to industry and PEAs from the removal of the need for regular renewals of certificates. The IA estimated larger retailers would pay for their certificate once every ten years under the new regulations, and smaller retailers once every three years. The IA estimated the total savings would be around £540,000 in present value terms over the ten years.

It was estimated there would be some savings for PEAs who would spend less time processing certificate renewals, of around £160,000 in present value terms over the appraisal period.

The IA estimated that removing the need to transfer licenses from one operator to another and replacing it with a simpler duty to notify the PEA about change of ownership, would deliver administrative savings to industry and PEAs. The IA estimated savings from reduced administrative burdens to be around £240,000 to industry and £320,000 to PEAs in present value terms over the ten-year appraisal period.

## **5b. What have been the actual costs and benefits of the regulation and its effects on business?**

The responses to the survey on costs suggest the IA underestimated familiarisation costs for PEAs, which were originally estimated to be around £21,000. Responses to the survey for this PIR indicate familiarisation might have been three times the original estimate. The responses from petrol operators on familiarisation confirmed that the costs estimated were accurate.

The majority of large petrol retailers who responded to the survey on costs appear to pay for their petrol storage certificates more frequently than the original IA estimated of once every ten years. The approximate figure is closer to once every three years, which is the same frequency as before the regulations were changed.

Almost half of the smaller independent petrol retailers thought the estimate of paying for a certificate once every three years was about right, whilst the other half indicated they paid for their certificate once every two years.

The majority of responses from PEAs aligned with the larger petrol operators view of paying for certificates once every three years, with a smaller percentage suggesting once every five years. There were fewer responses from PEAs about smaller petrol operators, so it is not possible to compare this data.

Therefore, the savings estimated in the original IA from paying for certificates over 10 years may not have been realised. The level of research for this PIR was light touch with only a small sample of petrol operators completing the survey. This number may not be representative enough to be definitive about the savings.

There was not conclusive data to robustly challenge the estimate in the original IA that there would be “between 500 and 600 transfers per annum” for the new duty to notify scheme. Most of the respondents to the survey were unsure when asked about the original estimate. As such, we cannot say with confidence whether the savings were realised or not.

Respondents were asked if they had experienced any other significant costs as a result of the changes. Eight respondents answered they had but did not give any quantitative data. The comments from eight PEAs focused on: costs of collecting unpaid fees; costs of additional enforcement action; and staff time dealing with the above issues as well as administration of new certificate system (e.g. processing renewals and material changes).

Respondents were also asked if they had experienced other significant savings as a result of the changes. Nine respondents answered that they had but did not give any quantitative data. Comments from the nine respondents mentioned administrative savings due to not having to renew licenses and documents being digital.

## **6. Assessment of risks or uncertainties in evidence base / Other issues to note**

There were no risks or uncertainties raised in the evidence base.

## **7. Lessons for future Impact Assessments**

The evidence gathered as part of this review highlighted that there is scope in future impact assessments to consider financial planning with regulatory decision makers.

## **8. What next steps are proposed for the regulation (e.g. remain/renewal, amendment, removal or replacement)**

There have been negative responses from regulators (mainly) to PCR, however we must balance achievement of regulatory simplification against this unease. Overall, in our opinion there is no case for change and PCR remains the most appropriate approach to the regulation of petrol.

HSE will review petrol storage certificate fees to determine if the fees remain fit for purpose for the new petroleum regime.

HSE will also work with the MOD to develop a solution to regulation of PCR.

To improve implementation of the regulations the following recommendations are proposed:

- Regulators to target interventions with a risk based and proportionate approach in line with the [Regulator's Code](#) and [HSE's National Local Authority Enforcement Code](#);
- Training for regulators to provide competent and consistent enforcement advice; and
- Improved guidance to help regulators and petrol operators (large and small) to fully understand their duties, and the relationship between PCR and DSEAR.