

2011 No. 2933

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

**The Environmental Permitting (England and Wales)
(Amendment) (No. 2) Regulations 2011**

Made - - - - *6th December 2011*
Laid before Parliament *9th December 2011*
Laid before the National Assembly for Wales *9 December 2011*
Coming into force - - *1st January 2012*

These Regulations are made in exercise of the powers conferred by section 2 of, and Schedule 1 to, the Pollution Prevention and Control Act 1999(a).

The Secretary of State in relation to England, and the Welsh Ministers in relation to Wales, have in accordance with section 2(4) of that Act consulted—

- (a) the Environment Agency;
- (b) such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small businesses as they consider appropriate; and
- (c) such other bodies or persons as they consider appropriate.

The Secretary of State in relation to England, and the Welsh Ministers in relation to Wales, make the following regulations.

Citation and commencement

1. These Regulations—

- (a) may be cited as the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2011;
- (b) come into force on 1st January 2012.

Amendments to the Environmental Permitting (England and Wales) Regulations 2010

2.—(1) The Environmental Permitting (England and Wales) Regulations 2010(b) are amended as follows.

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- (a) 1999 c. 24. Paragraph 9A of Schedule 1 was inserted by S.I. 2005/925. Paragraph 21A was inserted by section 38 of the Waste and Emissions Trading Act 2003 (c. 33). Paragraph 24 was amended by S.I. 2005/925. Paragraph 25 was amended by section 105(1)(a) and (b) of the Clean Neighbourhoods and Environment Act 2005 (c. 16). Functions of the Secretary of State under section 2 (except in relation to offshore oil and gas exploration and exploitation), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 3 of S.I. 2005/1958. Those functions were then transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).
 - (b) S.I. 2010/675 to which there are amendments not relevant to these Regulations.

(2) In Part B of Section 1.2 of Part 2 of Schedule 1—

(a) for paragraphs (d) and (e) substitute—

“(d) Motor vehicle refuelling activities at an existing service station after the prescribed date, if the throughput of petrol at that service station in any 12 month period is in excess of 3000 m³.

(e) Motor vehicle refuelling activities at a new service station, if the throughput of petrol at that service station in any 12 month period is, or is intended to be in excess of 500 m³.”;

(b) after paragraph (e) insert—

“(f) Motor vehicle refuelling activities at a new service station if the throughput of petrol at that service station in any 12 month period is, or is likely to be in excess of 100 m³ and it is situated under permanent living quarters or working areas.

(g) Any service station which undergoes a major refurbishment must be treated as a new service station.”.

(3) In Section 1.2 of Part 2 of Schedule 1, in *Interpretation of Part B*—

(a) for the definition of “new service station” substitute—

““new service station” means, in relation to service stations to which paragraph (e) of Part B applies, those which are put into operation on or after 1st January 2010, and in relation to service stations to which paragraph (f) of Part B applies, those which are put into operation on or after 1st January 2012.”;

(b) for the definition of “prescribed date” substitute—

““prescribed date” means 31st December 2011 if the throughput is in excess of 3500 m³ and 31st December 2018 if the throughput is in excess of 3000 m³.”;

(c) in the definition of “service station” insert at the end “but does not include any service station exclusively used in association with the construction and delivery of new motor vehicles”.

(d) for paragraph 2 substitute—

“2. Any other expressions used in Part B which, in relation to paragraphs (b) and (c), are also used in Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations(a), or in relation to paragraphs (d) to (g), are also used in Directive 2009/126/EC on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations(b) have the same meaning as in those Directives.”.

(4) For Schedule 18 substitute—

(a) OJ No L 365, 31.12.1994, p 24, as amended by Regulation (EC) No 1882/2003 (OJ No L 284, 31.10.2003, p 1) and by Regulation (EC) No 1137/2008 (OJ No L 311, 21.11.2008).

(b) OJ No L 285, 31.10.2009, p 36.

“SCHEDULE 18

Regulation 35(2)(l)

Petrol Vapour Recovery

PART 1

PVR I

Application

1. This Part applies in relation to every Part B activity falling within paragraphs (b) and (c) of Part B of Section 1.2 of Part 2 of Schedule 1.

Interpretation

2. In this Part, “PVR I” means European Parliament and Council Directive 94/63/EC on the control of volatile organic compound (VOC) emissions resulting from the storage of petrol and its distribution from terminals to service stations.

Exercise of relevant functions

3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of PVR I—

- (a) Article 3(1), first paragraph;
- (b) Article 4(1), first and last paragraphs, and 4(3);
- (c) Article 6(1), first paragraph.

(2) When interpreting PVR I for the purposes of this paragraph—

- (a) in point 1 of Annex I, “special landscape areas which have been designated by national authority” includes the Broads, the New Forest and any National Park or Area of Outstanding Natural Beauty; and
- (b) ignore points 2.3, 3.2, and 3.5 of Annex IV.

PART 2

PVR II

Application

1. This Part applies in relation to every Part B activity falling within paragraphs (d) to (g) of Part B of Section 1.2 of Part 2 of Schedule 1.

Interpretation

2. In this Part, “PVR II” means Directive 2009/126/EC of the European Parliament and of the Council on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations.

Exercise of relevant functions

3.—(1) The regulator must exercise its relevant functions so as to ensure compliance with the following provisions of PVR II—

- (a) Article 3;
- (b) Article 4;

- (c) Article 5.
- (2) But when interpreting PVR II for the purposes of this paragraph—
 - (a) in Articles 3, 4 and 5, ignore the words “member states shall ensure that” where they occur;
 - (b) in Article 4, ignore the words “with effect from the date on which Stage II petrol vapour recovery systems become mandatory pursuant to Article 3”.

6th December 2011

Taylor of Holbeach
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

3rd December 2011

John Griffiths
Minister of Environment and Sustainable Development
one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Environmental Permitting (England and Wales) Regulations 2010 (S.I 2010/675) to implement Directive 2009/126/EC of the European Parliament and of the Council on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations (OJ No L285, 31.10.2009, p. 36). Regulation 2 (2) amends Part 2 of Schedule 1 to alter the motor vehicle refuelling activities to which Environmental Permitting requirements are applied. Regulation 2(4) substitutes a new Schedule 18 which includes a new Part 2 requiring regulators to observe the requirements of Directive 2009/126/EC in relation to permits for motor vehicle refuelling activities.

A full impact assessment of the effect that this instrument will have on the costs of business is available on the Defra web site (www.defra.gov.uk) together with a transposition note, and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.