

## **Department for Environment, Food and Rural Affairs**

### **Strengthening the regulators assessment and enforcement of operator competence in the waste sector**

#### **RPC rating: fit for purpose**

The IA is now fit for purpose as a result of the Department's response to the RPC's initial review. As first submitted, the IA was not fit for purpose

#### **Description of proposal**

This proposal sets out to address the problem of seriously mismanaged waste sites, by improving assessment and enforcement of four elements of operator competence in the waste sector. The rationale for intervention is that mismanagement of these sites has been shown to impose significant negative public externalities, including adverse impacts on the environment and nearby communities. Strengthening the regulator's assessment and enforcement of waste site operators' competence is expected to increase compliance levels and also to reduce the number of abandoned waste sites. This should reduce the external costs to the environment and community.

The regulator's ability to assess and enforce operator competence regulations will be strengthened in four areas: past performance; management systems; technical competence; and financial competence. The impact assessment (IA) identifies impacts on businesses, regulators and society.

#### **Impacts of proposal**

The monetised costs to business include £10.5 million in transition costs for operators to become familiar with the new regulation, become technically competent and produce management systems and an annual cost of £0.35 million for operators to renew their technical competence qualification and prepare financial competence reports. The monetised annual cost to regulators of £0.08 million reflects the additional time needed to check financial competence reports in permit applications and transfers.

Monetised benefits accrue to society and regulators. Societal benefits arise from avoided environmental and disamenity costs associated with mismanaged sites, which are estimated to total £12.2 million per year. Regulators will benefit by dealing with fewer pollution incidents from mismanaged sites, saving them £0.9 million per year.

Non-monetised benefits are also recognised. These include: improved health; reduced criminality in the waste sector; and the benefit to legitimate and compliant operators of a level playing field.

The total NPV of the proposal is estimated to be £94.8 million and the business NPV -£12 million. The RPC verifies the estimated equivalent annual net direct cost to business (EANDCB) of £1.4 million. This regulatory provision does not qualify for the business impact target as it is below the *de minimis* threshold of £5 million.

## Quality of submission

The IA provides a clear rationale for intervention and clear breakdown of the incidence of costs and benefits. The Department monetises the relevant costs and benefits and explains the methodology and assumptions used to estimate these impacts. It provides a correct EANDCB and a sufficient small and micro business assessment (SaMBA). The RPC considers the Department's rationale for not excluding small and micro businesses to be justified and proportionate. As approximately 40 per cent of waste site operators are classified as small and micro businesses, exclusion would lead to a significant loss in the benefits of the policy. The IA notes that the permitting process already takes size into account. Mitigations considered in the SaMBA include allowing small operators to produce management systems proportional to their size and permitting them to gain lower cost technical and financial competence qualifications adapted to their size and the risks associated with their operation.

## Issues addressed following RPC's initial review

As initially submitted, the IA included four issues that meant that the RPC did not consider it fit for purpose. The initial review also highlighted further areas for improvement. In response, the Department has revised the IA. As originally submitted this assessment was not fit for purpose the following reasons:

- (a) The EANCDB had been calculated incorrectly;
- (b) The Small and Micro Business Assessment (SaMBA) was missing;
- (c) There was insufficient evidence to support some calculations; and

- (d) There were missing costs.

The Department has now:

- (a) Revised its calculations so that the RPC can validate the EANDCB;
- (b) Included a SaMBA that identifies mitigations and justifies why it is not appropriate to exempt small and micro businesses;
- (c) Provided sufficient evidence to justify the assumptions highlighted in the RPC's initial review; and
- (d) Recognised and included costs that were missing.

It has also improved on the points identified as Areas for Improvement.

- (a) The RPC suggested that the Department provide further justification for their expected impact on the environment. The Department has revised its calculations and used a more conservative assumption for the amount of waste avoided.
- (b) The RPC suggested that the Department revisit its assumption that there will be no costs to operators due to the 'past performance' policy proposal. The Department has consulted the regulator who has estimated that the additional cost to operators would be minimal.
- (c) The RPC suggested that the Department account for cost of operators revising for the Chartered Institution of Wastes Management/Waste Management Industry Training and Advisory Board qualification. The Department has done this and included the cost.
- (d) The RPC suggested that the Department clarify which costs are one-off and which are ongoing. The Department has now done this throughout the IA.
- (e) The RPC suggested that the Department use sensitivity analysis. Sensitivity analysis has now been included in the IA.
- (f) The RPC suggested expanding the monitoring and evaluation plan. The Department has now included details on how the policy will be monitored and that the data gathered will be used to evaluate the effectiveness of the intervention.
- (g) The RPC suggested that the Department make clear whether costs will be recovered. The Department has now clarified that costs to the regulator will be covered through permit fees.
- (h) The RPC suggested that the Department consider the market impact of the policy. A paragraph on this has now been included in the IA.

The IA would benefit from reconciling the figures presented in the summary pages with the calculations in the options section of the IA. Firstly, the NPV in Table 2 of the

IA should be corrected. The NPV in the summary pages of the IA is correct in current prices and present value base year. Footnote 17 in the IA states that the NPV in Table 2 is different because the impacts are discounted from year 1 of the policy. To calculate the NPV correctly so that it matches the figures given on the summary pages, the first year of the appraisal period (in this case 2018) should be treated as year 0. Secondly, the ongoing cost to operators on the summary page does not appear to summarise what is presented in the body of the IA, and it does not match the cost presented in the EANDCB calculator provided. This should be corrected.

Further sensitivity analysis could be undertaken to explore the uncertain environmental benefits. Although the Department has now adopted a more conservative assumption on the level of benefits, the IA would still benefit from sensitivity analysis of the impact on benefits if different levels of environmental and disamenity costs were avoided. The sensitivity analysis could also go further by showing the impact on the NPV. The Department has given a range for the number of DEF sites affected but the IA would benefit from applying this to the costs and benefits, to clarify the impact of this assumption on the NPV.

### Departmental assessment

Classification	Non-qualifying regulatory provision (de minimis)
Equivalent annual net direct cost to business (EANDCB)	£0.9 million (initial estimate) £1.4 million (final estimate)
Business net present value	-£12 million
Overall net present value	£94.8 million

### RPC assessment

Classification	Non-qualifying regulatory provision (de minimis)
EANDCB – RPC validated	£1.4 million (2016 prices, 2017 PV)
Business Impact Target (BIT) Score	£6.9 million (not in scope)
Small and micro business assessment	Sufficient

Regulatory Policy Committee