| Regulatory Policy Committee | **Opinion** | |
|---|---|---|
| **Impact Assessment (IA)** | The transposition of the Seveso III Directive into UK Law through the COMAH Regulations 2015 | |
| **Lead Department/Agency** | Health and Safety Executive | |
| **Stage** | Final | |
| **IA number** | HSE 0082 | |
| **Origin** | European | |
| **Expected date of implementation** | April 2015 (SNR 9) | |
| **Date submitted to RPC** | 28 October 2014 | |
| **RPC Opinion date and reference** | 2 December 2014 | RPC14-HSE-2036(2) |
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| ***Departmental Assessment*** | | |
| **One-in, Two-out status** | IN | |
| **Estimate of the Equivalent Annual Net Cost to Business (EANCB)** | £0.1m (IN)<br><br>£3.59m Out of scope (EU) | |
| | | |
| **RPC Overall Assessment** | **GREEN** | |

**RPC comments**

The IA is fit for purpose. The IA covers the implementation of Seveso III through COMAH Regulations in the UK and provides two estimates to cover both meeting the minimum requirements of the Directive and a small additional net cost to business from the reviewing and testing of external emergency plans.

The Committee can validate both estimates of the impact on business.

**Background (extracts from IA)**

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

*"European member states currently regulate establishments with major accident potential through Directive 96/82/EC, more commonly known as the "Seveso II Directive". This is implemented in Great Britain (GB) through the Control of Major Accident Hazard (COMAH) Regulations 1999 as amended and land use planning legislation. Northern Ireland and Gibraltar have corresponding legislation. Due to changes in the EU system of classifying chemicals (on which the Seveso Directive is based) the European Commission (EC) has replaced the current Seveso Directive with a new Directive (Seveso III). At the same time, the Commission took the opportunity to modernise the Directive in line with other environmental legislation. UK Government intervention is required to implement new COMAH Regulations 2015 (COMAH'15) to fully transpose the Seveso III Directive into law in Great Britain by 1 June 2015."*

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

*"The UK policy objectives are to ensure that implementation of the changes is clear, coherent and easy to understand and does not place a disproportionate burden on industry, regulators or other stakeholders.*
*Successful transposition of the changes will ensure continued high levels of protection for human health and the environment are maintained."*

**Comments on the robustness of the OITO assessment**

This proposal is of European origin. Seven areas of the proposal involve 'gold plating' as a consequence of retaining existing higher standards, which if not retained, would constitute an overall reduction in safety standards. As these seven areas already exist, the HSE has included their cost within the baseline, because retaining these requirements will not result in any increase in the burdens on business. The IA also explains that there are three specific regulatory elements of the proposal – (i) reviewing and testing of external emergency plans; (ii) notifications to the HSE; and (iii) provision of information to the public which would be in scope of OITO as new gold plating. Following the consultation the HSE explains that of these three areas only the reviewing and testing of external emergency plans would lead to a cost for business and considered as gold plating. The HSE considers that (ii) and (iii) would be handled by HSE's own online systems with negligible additional costs to business.

The IA says that the reviewing and testing of external emergency plans would impose a net cost to business (an 'IN') with an estimated equivalent annual net cost to business of £0.10 million. This is consistent with the current Better Regulation Framework Manual (paragraph 1.9.10) and, based on the evidence presented, appears to provide a reasonable assessment of the likely impacts.

The implementation of the EU Directive imposes equivalent annual net cost on business of £3.59 million. As stated above, seven elements of the proposal would not be interpreted as going beyond minimum EU requirements. This is as a consequence of retaining existing higher safety standards, which if not retained, would have an impact on the UK economy. These elements of the proposal are out of scope of One-in, Two-out in line with past interpretations of paragraph 1.9.8.ii of the BRFM.

**Comments on the robustness of the Small & Micro Business Assessment (SaMBA)**

A SaMBA is not required because the proposal is of EU origin.

The HSE estimates that part of the proposal which refers to testing of external emergency plans for Upper Tier COMAH establishments goes beyond the requirements of the EU Directive. This would result in the average annual cost to COMAH establishments of around £138,000 (which is consistent with the EANCB of £0.1 million). The Committee notes the HSE's assumption that only about 13% of all COMAH establishments are likely to be genuinely small. Therefore, based on the information provided in the IA, the annual cost imposed on small and micro business due to the proposal going beyond the EU requirements is likely to be negligible.

**Quality of the analysis and evidence presented in the IA**

The HSE proposes to transpose the Seveso III Directive, through the COMAH Regulations 2015. The Directive covers the prevention of major accidents involving dangerous substances and how to limit the consequences when accidents do occur. This would entail businesses ensuring that all safety requirements covered by the Directive, such as updating safety reports and reviewing inventories, are maintained.

We note that the IA provides a clearer explanation, than provided in the consultation IA, of the impact on storage sites that will either be changing between the regulatory controlled classification tiers or coming under the scope of the Directive for the first time. The IA also provides a summary position on how many sites are affected by each element of the proposal (table 8).

**Signed** **Michael Gibbons,** Chairman