



Department
for Transport

Consultation on proposed transposition of European Union Directive 2014/94/EU (Alternative Fuels Infrastructure Directive)

October 2016

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Foreword

This consultation seeks views on the Department for Transport's ("the Department's") proposals to transpose European Directive 2014/94/EU on the deployment of alternative fuels infrastructure (the Alternative Fuels Infrastructure Directive - 'AFID').

The Directive is designed to deliver a build-up of alternative fuels infrastructure across the European Union that is compliant with common technical standards, so as to facilitate a faster transition to cleaner transport. It will play an important role in ensuring there is a consistent approach to the provision of alternative fuels infrastructure for both road vehicles and maritime vessels across the EU and support their uptake and use.

The Office for Low Emission Vehicles (OLEV) is working across government to position the UK at the forefront of Ultra Low Emission Vehicle (ULEV) development, manufacture and use, including targeted funding for our rapidly expanding infrastructure that supports ever increasing numbers of plug-in and hydrogen fuel cell EVs. Across the UK there are now more than 11,000 chargepoints, including the largest network of rapid chargers in Europe and a growing number of publicly accessible hydrogen refuelling stations.

The Directive's requirements were agreed in 2013 following detailed negotiations between EU Member States and we are now required to transpose these requirements into national legislation. This consultation provides an opportunity to input into our proposals for transposition.

Responses to this consultation will inform our final proposals before we introduce the legislation and will help us refine the assessment of our impacts. We encourage you to reflect on the proposals set out here and to respond to the consultation questions in full.

Separately, a consultation is being held on measures relating to ULEVs that the Department for Transport is considering for inclusion in the Modern Transport Bill (the Bill). The Bill is at an early stage of the legislative process having only been announced in the Queen's Speech in May 2016. A number of measures that will benefit the roll-out and use of recharging and refuelling infrastructure for ULEVs are proposed. That

consultation provides an opportunity for stakeholders to input into their development before they progress further through the legislative process. In all cases, measures would not take effect without further secondary legislation.

Further details on that consultation are available at www.gov.uk.

How to respond

The consultation period began on 25 October 2016 and will run until 23 November 2016. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at www.gov.uk or you can contact olev.enquiries@olev.gsi.gov.uk if you would like alternative formats (Braille, audio CD, etc.).

Please send your responses to the consultation questions to:

Office for Low Emission Vehicles
Zone 1/31, Great Minster House
33 Horseferry Road, London
SW1P 4DR

If you are responding via email, please send it to olev.enquiries@olev.gsi.gov.uk with the subject line “AFID consultation response”.

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act 1998 (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Alternative Fuels Infrastructure Directive Transposition

Executive summary

- 1.1 European Union Directive 2014/94/EU on the deployment of alternative fuels infrastructure (the Alternative Fuels Infrastructure Directive - AFID) introduces for the first time requirements around the provision, accessibility and design standards of infrastructure. Compliance will require the publication of a National Policy Framework (NPF) detailing the measures we believe necessary to develop the market for alternatively fuelled vehicles in the UK and some new requirements to be brought into force across the UK.
- 1.2 This consultation seeks views on our proposals to change national legislation, prompted by the Directive. We are particularly keen to better understand the costs and benefits of any such changes.
- 1.3 The majority of requirements will be met through the adoption of the NPF. It is not intended for the NPF introduce any new measures or targets, but instead will summarise and present information on the UK's ambition and approach to supporting the introduction of alternative fuels infrastructure. This will draw upon the actions set out in the OLEV publication: 'Driving the Future Today: A strategy for Ultra Low Emission Vehicles in the UK' (September 2013)¹.
- 1.4 The NPF will include our assessment of the current status and future development of alternative fuels infrastructure, national targets and objectives, and measures to promote the deployment of alternative fuels infrastructure. Further requirements are grouped

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/239317/ultra-low-emission-vehicle-strategy.pdf

around agreed technical standards and access protocols for electric, hydrogen, and gas refuelling infrastructure.

- 1.5 The NPF is not being consulted on as it will introduce no new measures. The Government is required to notify the UK's NPF to the European Commission by **18 November 2016**.
- 1.6 The remainder of the Directive imposes common technical standards, as well as some requirements around labelling. The technical standards relating to recharging points and shore-side electricity installations will be transposed into UK national law by the Regulations ("The Regulations") which are the subject of this consultation. It is intended that the Regulations, which will be UK-wide, will come into force as soon as possible following the transposition deadline of the **18 November 2016**.
- 1.7 There is no existing national legislation on alternative fuels infrastructure so rather than amending existing legislation, the Regulations will introduce new legislation. It is Government policy, wherever possible, not to supplement or go beyond EU obligations when transposing into domestic law to avoid placing any additional regulatory burdens or costs on UK business. We have followed this approach throughout, but where additional information aids clarity of a measure then we have supplemented the Directive's wording.
- 1.8 Due to the lack of relevant existing domestic powers to create secondary legislation in this policy area we will rely on section 2(2) European Communities Act 1972 which allows for the transposition of EU obligations into national law. For some articles in the Directive we believe the obligations are already being complied with by the UK market and therefore we feel it is not necessary to transpose these requirements into UK law. These are Articles 4.8, 4.10, 4.11 and 4.12.
- 1.9 The Regulations will not transpose technical standards for hydrogen refuelling points as required by article 5.2 of the Directive. The European Commission has confirmed that these standards are to be replaced, but this will not take place until after the transposition deadline. Furthermore it will not transpose standards relating to natural gas refuelling points (Article 6.9) or on labelling and price comparison standards for recharging or refuelling points (Article 7) since these standards have not been finalised by Commission.

- 1.10 The Regulation transposes the obligations set out in Articles 4.4, 4.6, 4.7, 4.9 and 7.7 that comprise obligations not already met or where we await publication of the technical standards.
- 1.11 To monitor the successful implementation of the Directive, provision is included for regular reporting and reviews of progress. Each Member State is required to submit a report to the European Commission on progress in November 2019 and then every three years following that. In turn the Commission will report back to the European Parliament every three years from November 2020.
- 1.12 The purpose of this consultation is to present our proposed options and invite views and comment from interested parties.
- 1.13 This consultation will be of particular interest if you are:
- a) The owner of a ULEV
 - b) The manufacturer of ULEVs
 - c) Involved in the manufacture, installation, ownership or operation of vehicle chargepoints
 - d) Involved in the manufacture, installation or operation of shore-side electricity infrastructure
 - e) Shipping operator or statutory port authority
 - f) Involved in the manufacture, installation or operation of hydrogen and its associated vehicle refuelling infrastructure
 - g) Involved in the manufacture, installation or operation of Liquid Natural Gas (LNG) or Compressed Natural Gas (CNG) refuelling infrastructure for both road vehicles and maritime and inland ports
- 1.14 This consultation may also be of interest to other parties and all are welcome to comment on our proposals.

Legal Disclaimer

- 1.15 This consultation document is intended to explain how the UK intends to transpose the requirements of the Directive into UK law. However, it is not a legal document and should not be relied upon

as a primary source of rights or obligations, nor as an interpretative tool.

- 1.16 On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. It will be for the current Prime Minister to begin negotiations to exit the EU, and until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.
- 1.17 Leaving the EU is not expected to change substantially the direction of this policy. The development of wider standards on ULEV infrastructure creates a level playing field and encourages economies of scale, with potential benefits for both manufacturers of the infrastructure and vehicles, as well as consumers. This in turn supports the up-take of ULEVs, which is a key part of the UK's transport, environmental and industrial strategy.

Proposals

1.18 The Alternative Fuels Infrastructure Directive (“the Directive”) is split into five key areas:

- a) National Policy Framework
- b) ‘Electricity supply for Transport’ that includes the requirements for the deployment of electric vehicle recharging infrastructure and common technical standards
- c) ‘Hydrogen Supply for Road Transport’ that includes the requirements for the deployment of hydrogen vehicle refuelling infrastructure and common technical standards
- d) ‘Natural Gas Supply for Transport’ that includes the requirements for the deployment of natural gas (liquefied natural gas (LNG) and compressed natural gas (CNG)) refuelling infrastructure and common technical standards
- e) ‘User Information’ includes the requirements for consumer information on alternative fuels and pricing

1.19 Within these areas sit the individual requirements that each Member State must meet. These are outlined below, along with a summary of the corresponding requirements and how we intend to meet them. At the end of each section are specific questions. Your answers will help us to better understand the degree to which stakeholders agree with our intended course of action, and highlight issues we should look to address in the final transposition.

1.20 In developing these proposals we have remained mindful of the need to minimise burden to industry whilst meeting our legal obligations to transpose the requirements of the Directive in full.

National Policy Framework

1.21 The NPF is a requirement under the terms of the Directive (Article 3) and will take the form of an assessment of the current alternative fuels infrastructure provision within the UK. It will present

information on the current quantity, spread and reach of alternative fuels infrastructure across the UK, such as electric chargepoints, hydrogen refuelling stations and natural gas refuelling provision for vehicles and ships. It will outline future development of the infrastructure, including details on how it is likely to be achieved.

1.22 The requirements of the NPF are set out in the Directive and we will prepare it in order to meet these requirements. These are outlined within the sections on individual alternative fuel types. It is not intended that new measures will be announced in the NPF, but instead it will reflect those already announced and in place.

Electricity Supply for Transport

1.23 The majority of requirements outlined in this section of the Directive will be met through the NPF. However, some need to be transposed into domestic law in order for them to take mandatory effect. These are set out in an article by article basis below.

1.24 Article 4.4: “Member States shall ensure that normal power recharging points for EVs, excluding wireless or inductive units, deployed or renewed as from 18 November 2017, comply at least with the technical specifications set out in point 1.1 of Annex II and with specific safety requirements in force at national level.

Member States shall ensure that high power recharging points for EVs, excluding wireless or inductive units, deployed or renewed as from 18 November 2017, comply at least with the technical specifications set out in point 1.2 of Annex II.”

1.25 Article 2 of the Directive provides relevant definitions:

- *‘electric vehicle’ means a motor vehicle equipped with a powertrain containing at least one non-peripheral electric machine as energy converter with an electric rechargeable energy storage system, which can be recharged externally.*
- *‘normal power recharging point’ means a recharging point that allows for a transfer of electricity to an electric vehicle with a power less than or equal to 22 kW, excluding devices with a power less than or equal to 3.7 kW, which are installed in private households or the primary purpose of which is not recharging electric vehicles, and which are not accessible to the public.*

- *‘high power recharging point’ means a recharging point that allows for a transfer of electricity to an electric vehicle with a power of more than 22 kW.*

1.26 We are copying out the obligations set out in Article 4.4 in full in the Regulation, but have amended the definitions of ‘normal power recharging point’ and ‘high power recharging point’ so that it is clear that the minimum technical specifications are only relevant to those chargepoints accessible to the public. It is our belief that this clarifies the wording and is in line with the intention of the Directive, which is to facilitate interoperability of chargepoints and the free movement of alternatively fuelled vehicles across Member States. Please note that with regards to these definitions and others set out in this document, the wording in the actual Regulations may differ. However, the current wording gives you a clear indication of our thoughts regarding the scope of such definitions.

1.27 We therefore will be using the following amended definitions:

- *‘normal power recharging point’ means a recharging point accessible to the public that allows for a transfer of electricity to an electric vehicle with a power less than or equal to 22kW excluding devices -*
 - (a) with a power of less than or equal to 3.7kW, and*
 - (b) which are installed in private households or the primary purpose of which is not recharging electric vehicles*
- *‘high power recharging point’ means a recharging point accessible to the public that allows for a transfer of electricity to an electric vehicle with a power of more than 22 kW.*

1.28 This definition clarifies when a chargepoint would not be considered a ‘normal power recharging point’ and removes ambiguity around whether the definition applies to privately owned chargepoints. It makes clear that it only applies to those that are publicly accessible. The removal of ambiguity will ensure Article 4.4 is applied in the proper instances. Please note that the final wording of this (and other provisions) may change in the Regulation.

1.29 Article 4.4 states that the minimum technical specifications for ‘normal power recharging points’ and ‘high power recharging points’ should be complied with if such recharging points are deployed or renewed after 18 November 2017. The Directive does not provide definitions of the terms deployed or renewed.

- 1.30 We propose to include the following definition of the term “renewed” in the Regulations, so that industry are clear when the minimum technical specifications need to be complied with:
- *‘renewed’ means the replacement of a recharging or refuelling point’s essential physical components or parts.*
- 1.31 We believe the meaning of the term deployed is clear so we do not intend to provide a definition of this term within the Regulations.
- 1.32 The Directive places an obligation on Member States to ensure that its aims and objectives are achieved. It is left to Member States to determine how best to transpose those obligations, including what parties are best placed to implement the obligations. We have identified Infrastructure Operators as the most suitable body to be responsible for ensuring compliance with Article 4.4.
- 1.33 There is no definition of Infrastructure Operator in the Directive, so propose the following definition:
- *‘Infrastructure Operator’ means the party responsible for operating a recharging point or refuelling point on the behalf of its owner or for its own account;*
- 1.34 This would mean EV charge point Infrastructure Operators will be legally required to ensure they only operate normal or high power recharging points that comply with the minimum standards in Annex II (Type 2 - EN 62196-2, and Combined Charging Solution “Combo 2” - EN 62196-3) when initially deployed or renewed from **18 November 2017**. This legal obligation will apply even if they were not responsible for the original installation, and will also apply if they do not own the asset but operate it on behalf of a third party.
- 1.35 This definition takes into consideration the differing business models currently in operation, and may be particularly relevant to Local Authorities and Devolved Administrations.
- 1.36 The Regulation will require that each charge point deployed or renewed from the above date has installed either; i) at least a Type 2 vehicle connector or socket outlet for normal power AC charge points; ii) at least a Type 2 connector or socket outlet for high power AC charge points or; iii) at least a Combined Charging System ‘Combo 2’ connector for high power DC charge points. This is a minimum standard and Infrastructure Operators will be free to install other connector or socket types providing the minimum Type 2 or

'Combo 2' connectors or sockets are also installed. Charge points remain free to offer both AC and DC charging in one unit, but this is not mandated by the Directive.



Figure 1 Type 2 Connector



Figure 2 CCS 'Combo 2' Connector



Figure 3 Type 2 Socket

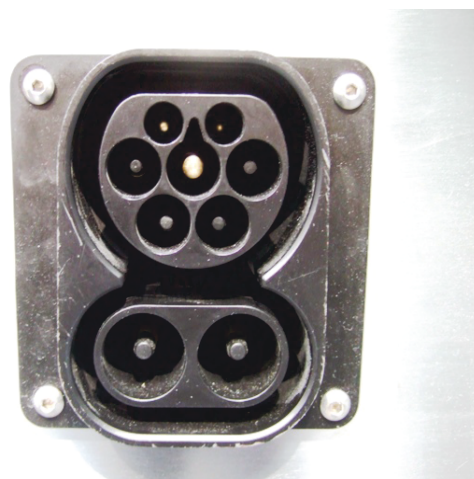


Figure 4 Type 2 CCS 'Combo 2' Socket

Consultation questions

1. What issues do you anticipate with regard to complying with these obligations?
2. Do you understand the definition used for Infrastructure Operator and are you clear whether you would fall within or outside this definition?

3. Do you understand the definition used for 'renewed' and are you clear as to the circumstances when this would apply?

1.37 Article 4.6: "Member States shall ensure that shore-side electricity supply installations for maritime transport, deployed or renewed as from 18 November 2017, comply with the technical specifications set out in point 1.7 of Annex II."

1.38 The Directive includes the following definition in Article 2 which is relevant to this obligation and which we intend to use:

- *'shore-side electricity supply' means the provision of shore-side electrical power through a standardised interface to seagoing ships or inland waterway vessels at berth.*

1.39 We intend to impose these obligations onto each Statutory Harbour Authority as defined in the Merchant Shipping Act 1996:

- (l) *"Statutory Harbour Authority" means*
(i) *in relation to Great Britain, a harbour authority within the meaning of the Harbours Act 1964; and*
(ii) *in relation to Northern Ireland, a harbour authority within the meaning of the Harbours Act (Northern Ireland) 1970*

The meaning given in the Harbours act 1964 is as follows:

"harbour authority" means any person in whom are vested under this Act, by another Act or by an order or other instrument (except a provisional order) made under another Act or by a provisional order powers or duties of improving, maintaining or managing a harbour.

The meaning given in the Harbours Act (Northern Ireland) 1970 is as follows:

"harbour authority" means any person in whom are vested under this Act, or by or under another Act, functions of improving, maintaining or managing a harbour.

1.40 The Statutory Harbour Authority will have the overall responsibility for ensuring compliant equipment is procured and installed, even if this role is contracted out to a third party. As a consequence manufacturers will need to ensure equipment compliant with the specified technical standards is available to the market.

1.41 It has been indicated to us by industry representatives that all shore-side electricity supply equipment currently available in the UK is compliant with the standard specified by this requirement. We therefore do not anticipate that mandating compliance with this standard will impose any additional financial burden on Statutory Harbour Authorities.

Consultation questions

4. Do you anticipate any operational problems in complying with this obligation from November 2017?
5. Do you anticipate there will be a sufficient number of compliant shore-side electricity installations available to the market to allow compliance with this obligation from November 2017?
6. Do you recognise and agree with our definition of Statutory Harbour Authority?

1.42 Article 4.7: “The recharging of EVs at recharging points accessible to the public shall, if technically feasible and economically reasonable, make use of intelligent metering systems as defined in point (28) of Article 2 of Directive 2012/27/EU and shall comply with the requirements laid down in Article 9(2) of that Directive.”

1.43 We consider that implementing the obligation is both technically feasible and, subject to this consultation, economically reasonable. Our rationale for this decision is that intelligent metering functionality is already incorporated into a number of chargepoints, or can be added at a relatively small additional cost. This will ensure that a minimum level of intelligent metering capability is incorporated into chargepoints accessible to the public.

1.44 In this context ‘intelligent metering system’ means an electronic system that can measure energy consumption, providing more information than a conventional meter, and can transmit and receive data using a form of electronic communication.

1.45 We intend to impose this obligation on Infrastructure Operators responsible for the operation of publicly accessible chargepoints. They will be responsible for ensuring that when a chargepoint meets the definition of accessible to the public it is equipped with the necessary functionality to make use of intelligent metering systems. The relevant sections of Directive 2012/27/EU which provides further detail as to the functionality which constitutes ‘intelligent metering’ can be found in Annex Z.

1.46 Unlike articles 4.4 and 4.6, no compliance deadline for this obligation is stipulated in the Directive. But, in order to ensure compliance with this obligation we propose to include a compliance deadline. Subject to the views received through this consultation we propose to require compliance for new and existing chargepoints by 18 November 2017. This aligns with compliance dates stipulated in the Directive for other requirements.

Consultation questions

7. Do you agree that it is economically reasonable to make use of intelligent metering systems?
8. Do you agree that intelligent metering functionality is already present in some infrastructure or can be easily incorporated?
9. What are your views on requiring all recharging points to include a basic communications standard?
10. Are there any operational reasons why the proposed compliance deadline cannot be met?

1.47 Article 4.9: “All recharging points accessible to the public shall also provide for the possibility for EV users to recharge on an ad hoc basis without entering into a contract with the electricity supplier or operator concerned.”

1.48 We interpret ‘ad hoc basis’ as having the same meaning as pay as you go, that is there should be suitable options to make it possible to use a chargepoint without needing any specialist identification, pre-registration or scheme membership. Asking users to register that the time of transaction is acceptable, but any such registration should not include any tie in to longer term membership fees or schemes. This will ensure that all Infrastructure Operators offer ad hoc charging provision, thereby giving vehicle owners’ confidence in the ability to charge at any chargepoint without needing to enter into an ongoing contract. A contract in this article is assumed to mean an ongoing contract. It should be noted that this does not preclude the possibility for any specialist identification, pre-registration or scheme membership to be included in addition to ‘ad hoc’ functionality.

1.49 The Directive provides the following definitions relevant to this article:

‘Recharging or refuelling point accessible to the public’ means a recharging or refuelling point to supply an alternative fuel which

provides Union-wide non-discriminatory access to users. Non-discriminatory access may include different terms of authentication, use and payment.

1.50 In transposing this article we propose making minor amendments to the above definition to clarify whether a recharging point or refuelling station is considered accessible to the public. We propose to use the following definitions (main differences shown in bold):

‘recharging or refuelling point accessible to the public’ is a recharging or refuelling point that supplies an alternative fuel and offers ‘non-discriminatory access’ **to the public**. A ‘recharging or refuelling point accessible to the public’ **may be privately or publicly owned, hosted or operated**.

‘non-discriminatory access’ may include different methods of access to the recharging or refuelling point such as registration, authentication, authorisation and payment of fees, but excluding access limited by vehicle make or by occupation.

1.51 A recharging point accessible to the public is one that has not been designated for exclusive use by a particular person or entity (e.g. a vehicle brand or a company such as a taxi firm), is available for the public to use, and may be accessed through a variety of different methods such as registration, authentication, authorisation and payment of fees.

1.52 Infrastructure Operators are the most suitable body to be held responsible for recharging point compliance and will need to ensure that when a chargepoint meets the definition of accessible to the public it is equipped with the necessary functionality to allow ad hoc access. We do not propose to determine the ad hoc access method through the transposition of this Directive. In instances where the Infrastructure Operator is not the party responsible for purchasing the infrastructure, or does not own it, they will still be responsible for ensuring it complies with the legal obligations in the Regulations before agreeing to operate it.

1.53 As with article 4.7, no compliance deadline for obligation is given in the Directive. But, in order to ensure compliance with this obligation we propose to include a compliance deadline. Subject to the views received through this consultation we propose to require compliance for new chargepoints by 18 November 2017 and 18

November 2018 for existing chargepoints. The date for new chargepoints aligns with compliance dates stipulated in the Directive for other requirements and the date for existing chargepoints has been selected as we feel this provides sufficient time to allow for the necessary upgrades.

Consultation questions

11. Do you anticipate any operational problems in complying with these obligations from November 2017?
12. Do you understand the definitions of 'accessible to the public' and 'non-discriminatory access'? Do these definitions present any issues?
13. Are the proposed compliance deadlines achievable?
14. Do you agree that the Infrastructure Operator should be able to determine the ad hoc access method for the user?

1.54 Articles 4.8, 4.10, 4.11 and 4.12 set out a number of requirements relating to the purchase of electricity, the transparency of consumer pricing and the relationship between chargepoint operators, distribution network operators and electricity suppliers. We propose that no action need be taken as these obligations are already complied with in the UK and do not need transposing into UK law.

1.55 Ofgem, the UK gas and electricity markets regulator, has confirmed that the existing licensing and regulatory framework, within which all UK electricity generators, distributors and suppliers are required to operate, already provides sufficient regulation to meet the requirements in Article 4.8, 4.11 and 4.12.

1.56 With regards to Article 4.10 we accept that the requirement to be 'transparent and non-discriminatory' will be enforced through the Consumer Protection from Unfair Trading Regulations 2008. We also believe that market forces will play a role in ensuring pricing is 'reasonable', and the current availability of pricing information online meets the 'clearly and easily comparable' requirement. We will retain the option to re-implement Maximum Resale Price provisions for electricity (as defined by Ofgem) should pricing no longer be considered 'reasonable' in future. Currently the resale of electricity from chargepoints in Great Britain is exempt. In Northern Ireland it is still subject to Maximum Resale Price provisions.

Hydrogen Supply for Road Transport

- 1.57 Article 5 of the Directive features a limited number of requirements relating to the provision of hydrogen supply for road transport. Article 5.1 seeks to ensure a sufficient number of hydrogen refuelling points and will be met through publication of the NPF.
- 1.58 Article 5.9: “Member States shall ensure that hydrogen refuelling points accessible to the public deployed or renewed as from 18 November 2017 comply with the technical specifications set out in point 2 of Annex II”.
- 1.59 Since the Directive was drafted, technical standard ISO/TS 20100 has been withdrawn and ISO 14687-2 has been identified as no longer suitable. The European Commission has indicated that it does not expect Member States to adopt these standards until replacements have been agreed. This is unlikely to take place until after the transposition deadline, so we propose to postpone transposition of this requirements until replacements have been agreed. We will consult on these requirements when agreed.
- 1.60 In the meantime compliance with standard ISO 17268 will be mandated as this standard remains valid. It applies to refuelling connection devices for hydrogen motor vehicles.
- 1.61 It is intended that Infrastructure Operators will be held responsible for ensuring any refuelling connectors present at publicly accessible refuelling points which they operate must comply with the stated standard. They will be mandated to meet this requirement for all deployed or renewed refuelling points from 18 November 2017.

Consultation questions

15. Does compliance with this requirement present any operational difficulties?
16. Can this requirement be met by the proposed deadline?

Natural Gas Supply for Transport

- 1.62 Virtually all of the requirements in the Natural Gas Supply for Transport section of the Directive will be met through the NPF. The scope of these requirements is spread across motor vehicles, maritime and inland waterways.
- 1.63 Article 6.9: “Member States shall ensure that CNG refuelling points for motor vehicles deployed or renewed as from 18 November 2017

comply with the technical specifications set out in point 3.4 of Annex II.” requires separate transposition.

1.64 As yet, no technical standard exists that would meet the requirement and the European Commission has indicated that there will not be something suitable until after the transposition deadline. We propose to delay transposition of this requirements until a suitable technical standard has been identified and we will consult again on these requirements once they are agreed.

User Information

1.65 Article 7.7: “Member States shall ensure that, when available, the data indicating the geographic location of the refuelling and recharging points accessible to the public of alternative fuels covered by this Directive are accessible on an open and non-discriminatory basis to all users. For recharging points, such data, when available, may include information on real-time accessibility as well as historical and real-time charging information.”

1.66 In practice, this will require the responsible entity to ensure that information on the physical location of recharging and refuelling infrastructure is freely accessible to members of the public. In addition, for recharging infrastructure dynamic data may be provided where available. This informs on whether a chargepoint is in use, as well as the amount of charging that has taken place.

1.67 We propose to place the obligation on Infrastructure Operators of recharging points and hydrogen and gas refuelling points. It is proposed that it will be left to the Infrastructure Operator to determine how the data should be made available, and therefore the Department won't be publishing operational requirements on this requirement at this stage. This approach has been taken in order to avoid going beyond the minimum requirements of the Directive where detail of how the requirement should be met has not been specified. Instead, further clarity on this issue will be introduced via measures proposed for inclusion in the Modern Transport Bill.

1.68 As with article 4.7, no compliance deadline for obligation is given in the Directive. But, in order to ensure compliance we propose to include a compliance deadline. Subject to the views received through this consultation we propose to require compliance by 18

November 2017. This aligns with compliance dates stipulated in the Directive for other requirements.

Consultation questions

17. Is it clear to you what is meant by 'when available'?
18. Are there any operational barriers which would prevent you making such data accessible?
19. Is the compliance deadline of 18 November 2017 achievable? If not, why not? Could compliance be achieved sooner?

1.69 Article 7.1: "Without prejudice to Directive 2009/30/EC, Member States shall ensure that relevant, consistent and clear information is made available as regards those motor vehicles which can be regularly fuelled with individual fuels placed on the market, or recharged by recharging points. Such information shall be made available in motor vehicle manuals, at refuelling and recharging points, on motor vehicles and in motor vehicle dealerships in their territory. This requirement shall apply to all motor vehicles, and their motor vehicle manuals, placed on the market after 18 November 2016."

1.70 Article 7.2: "The supply of information referred to in paragraph 1 shall be based on the labelling provisions regarding fuel compliance under standards of the ESOs setting the technical specifications of fuels. Where such standards refer to a graphical expression, including a colour coding scheme, the graphical expression shall be simple and easy to understand, and it shall be placed in a clearly visible manner.

(a) on corresponding pumps and their nozzles at all refuelling points, as from the date on which fuels are placed on the market;

(b) on or in the immediate proximity of all fuel tanks' filling caps of motor vehicles recommended and compatible with that fuel and in motor vehicle manuals, when such motor vehicles are placed on the market after 18 November 2016."

1.71 Article 7.3: "Where appropriate, and in particular for natural gas and hydrogen, when fuel prices are displayed at a fuel station, a comparison between the relevant unit prices shall be displayed for information purposes. The display of this information shall not mislead or confuse the user."

1.72 A coordinated approach to meeting these requirements is under development by the European standards organisations, but is unlikely to be ready before the transposition deadline. It will therefore not be possible for vehicle manufacturers and/or Infrastructure Operators to comply with this requirement by the stated 18 November 2016 deadline. We propose to delay transposition of this requirements until a suitable technical standard has been identified and we will consult again on these requirements once they are agreed.

Enforcement

1.73 To ensure the requirements introduced by the Directive are mandatory and adhered to the following enforcement principals are proposed:

- The Secretary of State for Transport will be identified in the Statutory Instrument as responsible for enforcing the Directive's requirements
- An executive agency of DfT will be selected to manage and administer enforcement of the regulations including the regular checking of a sample of infrastructure installations
- The Infrastructure Operator or Statutory Harbour Authority will be subject to civil penalty if the requirements set out in the Statutory Instrument are not met
- A warning letter may be issued in each instance where the requirements of the Statutory Instrument are not met
- Where a warning letter is issued a period of 10 days will be given, in which the responsible party will be required to make the offending infrastructure installation compliant
- A civil penalty will be levied when a breach is not remedied within the time given in the warning letter. This will take the form of a civil penalty, the size of which will be scaled according to the cost of purchasing the particular infrastructure equipment and the degree of negative impact non-compliance is likely to have on consumers
- The deadline within which the penalty must be paid is 28 days
- Upon payment of a civil penalty the relevant infrastructure installation will be re-audited and should it be found that the necessary remedial action has not been taken a new penalty notice will be issued and the process will start again
- The level of fines will be proportionate to the severity of the failure but sufficient to provide an active deterrent. The following sums are proposed:
 - a. Per non-compliant electricity recharging points: Fast = £4,000, Normal = £300
 - b. Per non-compliant hydrogen refuelling facilities: £200,000

c. Per non-compliant shore-side electricity installations:
£300,000

- Where a breach relates to the accessibility of data a suitable calculation to determine the level of civil penalty is still to be determined
- Offenders will have the opportunity to object to the administering agency against any penalties in the first instance, and then on appeal to the High Court

Consultation questions

20. Do you agree this method of enforcement is proportionate to potential offences?
21. Do you think the proposed penalty levels are appropriate? If not, why and what levels do you consider more appropriate? Why?
22. Do you consider the basis upon which penalty levels are calculated (cost and degree of impact) appropriate? If not, what alternative approach would you use?
23. Do you envisage any operational difficulties around assessing compliance for the purposes of enforcement?
24. Are there other measures, that alongside enforcement, the government should consider to encourage compliance? If so please explain your views.
25. Is the 10 day compliance deadline sufficient? If not, what would be a more suitable period?
26. What appropriate factors should be taken into account when determining the level of civil penalty which should be levied for non-compliance with data accessibility requirements?

Consultation questions

Article 4.4

1. What issues do you anticipate with regard to complying with these obligations?
2. Do you understand the definition used for Infrastructure Operator and are you clear whether you would fall within or outside this definition?
3. Do you understand the definition used for 'renewed' and are you clear as to the circumstances when this would apply?
4. Do you anticipate any operational problems in complying with this obligation from November 2017?

Article 4.6

5. Do you anticipate there will be a sufficient number of compliant shore-side electricity installations available to the market to allow compliance with this obligation from November 2017?
6. Do you recognise and agree with our definition of Statutory Harbour Authority?

Article 4.7

7. Do you agree that it is economically reasonable to make use of intelligent metering systems?
8. Do you agree that intelligent metering functionality is already present in some infrastructure or can be easily incorporated?
9. What are your views on requiring all recharging points to include a basic communications standard?
10. Are there any operational reasons why the proposed compliance deadline cannot be met?

Article 4.9

11. Do you anticipate any operational problems in complying with these obligations from November 2017?
12. Do you understand the definitions of 'accessible to the public' and 'non-discriminatory access'? Do these definitions present any issues?
13. Are the proposed compliance deadlines achievable?

14. Do you agree that the Infrastructure Operator should be able to determine the ad hoc access method for the user?

Article 5.9

15. Does compliance with this requirement present any operational difficulties?
16. Can this requirement be met by the proposed deadline?

Article 7.7

17. Is it clear to you what is meant by 'when available'?
18. Are there any operational barriers which would prevent you making such data accessible?
19. Is the compliance deadline of 18 November 2017 achievable? If not, why not? Could compliance be achieved sooner?

Enforcement

20. Do you agree this method of enforcement is proportionate to potential offences?
21. Are there other measures, that alongside enforcement, the government should consider to encourage compliance? If so please explain your views.
22. Is the 10 day compliance deadline sufficient? If not, what would be a more suitable period?

What will happen next?

A summary of responses, including the next steps, will be published within three months of the consultation closing on 23 November. Paper copies will be available on request.

Annex A Impact assessment

When responding to the consultation, please comment on the analysis of costs and benefits, giving supporting evidence wherever possible.

Please also suggest any alternative methods for reaching the objective and highlight any possible unintended consequences of the policy, and practical enforcement or implementation issues.

Annex B Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available on the Better Regulation Executive website at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator
Department for Transport
Zone 1/29 Great Minster House
London SW1P 4DR
Email consultation@dft.gsi.gov.uk

Please do not send consultation responses to this address.

Annex C Article 4.7 – Relevant sections of Directive 2012/27/EU

DIRECTIVE 2012/27/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 October 2012

on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC

CHAPTER I

SUBJECT MATTER, SCOPE, DEFINITIONS AND ENERGY EFFICIENCY TARGETS

Article 2

Definitions

For the purposes of this Directive, the following definitions shall apply:

(28) ‘smart metering system’ or ‘intelligent metering system’ means an electronic system that can measure energy consumption, providing more information than a conventional meter, and can transmit and receive data using a form of electronic communication

Article 9

Metering

2. Where, and to the extent that, Member States implement intelligent metering systems and roll out smart meters for natural gas and/or electricity in accordance with Directives 2009/72/EC and 2009/73/EC:

- (a) they shall ensure that the metering systems provide to final customers information on actual time of use and that the objectives of energy efficiency and benefits for final customers are fully taken into account when establishing the minimum functionalities of the meters and the obligations imposed on market participants;
- (b) they shall ensure the security of the smart meters and data communication, and the privacy of final customers, in compliance with relevant Union data protection and privacy legislation;
- (c) in the case of electricity and at the request of the final customer, they shall require meter operators to ensure that the meter or meters can account for electricity put into the grid from the final customer's premises;
- (d) they shall ensure that if final customers request it, metering data on their electricity input and off-take is made available to them or to a third party acting on behalf of the final customer in an easily understandable format that they can use to compare deals on a like-for-like basis;
- (e) they shall require that appropriate advice and information be given to customers at the time of installation of smart meters, in particular about their full potential with regard to meter reading management and the monitoring of energy consumption.