

Removal of equipment containing polychlorinated biphenyls (PCBs) by 2025

Department for Environment Farming and Rural Affairs (DEFRA)

RPC rating: fit for purpose

The Regulatory Policy Committee (RPC) reviews, and comments on, impact assessments supporting regulatory proposals. Regulatory measures with an equivalent annual net direct cost to business (EANDCB) below £5 million do not require RPC scrutiny under the framework rules for the 2017-19 Parliament (the rules for the present Parliament have not yet been agreed). The RPC welcomes the decision by the Department to voluntarily submit this IA to the RPC for scrutiny even though its EANDCB is expected to be below the £5m threshold.

Description of proposal

Polychlorinated biphenyls (PCBs) are man-made organic compounds which pose risks to human/animal health, such as cancer and reproduction problems, due to their toxic and bio-accumulative properties. Their use in production has been illegal in the UK since 1987.

The impact assessment (IA) relates to the domestic implementation of the revised EU Persistent Organic Pollutant regulation (EU 2019/1021), which came into force on 15 July 2019. The regulation requires member states to remove equipment containing more than 0.005% and volumes greater than 0.05dm³ of PCBs, as soon as possible and by no later than 31 December 2025. To implement the regulation, the Department is introducing a deadline of 31 December 2025 for holders of equipment contaminated with more than permitted levels (0.005%/0.05dm³) of PCBs, to remove such equipment from use.

Impacts of proposal

The primary costs to businesses are the brought forward cost of testing, removing, disposing and replacing contaminated equipment before the end of its useful life, estimated at £35.2m. Based on the Environment Agency (EA) PCB inventory for England and Wales, most of the costs will be borne by 11 Energy Distribution Companies (EDCs) who hold the majority of the equipment (>99%). A very small

number of units are held by businesses of varying sizes and public bodies have also been identified by the Department.

In addition, the Department have quantified familiarisation costs of £25,147 and air quality emission costs of £11,074.

The regulation is expected to bring benefits to human health and the environment including biodiversity and air quality; however, the Department has been unable to monetise health benefits due to a lack of evidence available to quantify the impact of exposure to PCBs to any given case of cancer in the current population. There will also be small savings to businesses in registration costs which are expected to be £2 million and climate benefits from reduced CO₂ emissions valued at £8,599 over the 27-year appraisal period which comes from BEIS guidance that the cost of emissions increases over time, and the emissions themselves being brought forward.

Quality of submission

The Department has provided a detailed, clear and well monetised assessment of the costs and benefits to the environment and business. Benefits to health have not been monetised due to the lack of attributable evidence. The Department has explained that it did not go out for consultation on this measure as it was able to identify all businesses with possibly contaminated units, through their legal registration with the Environment Agency. The RPC commends the Department for identifying all of the businesses impacted by the measure, including 11 small and micro businesses (SMBs) and engaging directly with all of them either directly or through the Energy Network Association.

Furthermore, the Department has provided a sufficient small and micro business assessment (SaMBA). On this, the RPC commends the Department for including an assessment of the impacts on small and micro businesses, despite not being required to by the Better Regulation Framework. 0.01% of the total units of equipment affected by the regulation are currently in the possession of SMBs. While SMBs will not be exempt, the EA will support SMBs by advising them of the law and helping them to develop plans for the removal of PCBs or the contaminated equipment from their premises. This is aimed at reducing the administrative burden of the policy. There are no mitigations of the policy cost for SMBs in line with the 'polluter pays' principle as set out in the EU directive on Environmental Liability.

The RPC also welcome the consideration in the IA of the impacts the policy may have on UK trade patterns.

The RPC considers the analysis presented to be fit for purpose and is content with the Department's assessment that for purposes of the Business Impact Target (BIT) the measure is a non-qualifying regulatory measure under the *de minimis* exclusion.

Overall, the quality of analysis presented in the IA is high; there are, however, a number of areas which, if addressed, could further improve the IA.

Points for improvement

1. **Business impacts:**

- a. **EANDCB:** The Department has assumed that the capital value of contaminated equipment represents a sunk cost and therefore zero. Whilst the RPC recognises that contaminated equipment has been paid for, it still has value to the holders for the duration of its operational life. This value will be reduced to zero as the lifespan of equipment is being artificially shortened by varying lengths by this policy. The Department has calculated the cost to business from lost residual value of contaminated equipment being replaced before the end of its expected lifespan, however this is contained in an annex. The RPC considers that the EANDCB figure of £2.2 million *contained in the annex* is more appropriate, and, subject to the requirements of the framework for the current Parliament, recommends that this is the EANDCB that should be reported. The figure should however be adjusted to use 2019 as a base year in line with framework guidance.
- b. **Profile of asset replacement:** The Department has assumed an equal distribution of contaminated assets within the profile of asset replacement. The assessment could be made more robust through consideration of when PCBs were most widely used in production in the years preceding 1987, and whether the level of PCB use in production varied. If for example PCBs were more widely used in the years immediately preceding the ban, then both the number of contaminated units and the lost value from bringing forward replacement would be understated which may have a material impact on the EANDCB and could impact its exclusion as a *de minimis* measure.

2. **Rationale:** The Department explains that part of the rationale for the measure is to comply with the UN Stockholm Convention on Persistent Organic Pollutants and to implement EU regulation requirements. Measures resulting from EU directives are excluded from the BIT. The IA would benefit from increased clarity on why this measure is not excluded for that reason if the rationale is partly to meet UK obligations stemming from EU regulations.

3. **SaMBA:** Within its assessment the Department has considered SMBs and has provided a course for mitigating familiarisation costs through the provision of two PCB officers in the EA to advise of the law and support the development of compliance plans. However, it appears there is no provision to mitigate the policy cost despite average costs across different types of units ranging from thousands to hundreds of thousands of pounds. The IA could therefore be improved by further considering the policy costs on SMBs, and the risk that the policy could cause some firms to cease trading activity.
4. **Public Costs:** The IA should also include an explanation of any public expenditure cost covering units held by, for example, prisons or universities. Although the RPC recognises these costs are small as public sector bodies hold less than 1% of registered units.
5. **Risks:**
 - a. The IA could be enhanced by greater consideration of the risks of the policy. The Department has considered the impact on the domestic replacement industry of a step-change increase in replacement over the first five years, however it does not appear to have considered the impacts of the resulting decrease in replacement from 2025.
 - b. Further, the Department could consider where the cost of the policy will fall in the relatively unlikely event that a business ceases trading before the replacement and disposal of PCB contaminated units in their possession.
6. **Appraisal Period:** The Department has used a 27-year period to appraise the policy. The RPC understands the rationale for using this period to appraise costs given the timing of when business impacts fall. The IA could be improved through greater consideration of whether or not a 27-year period is also appropriate for considering benefits. Many of the benefits to human health may be felt over a longer time frame while there may be benefits in the shorter term if for example, leakages are avoided, so the use of the 27 year period to appraise benefits needs to be more firmly justified.
7. **Familiarisation costs:** Estimation of familiarisation costs within the IA appears, while sufficient, to be limited, assuming that only one professional (regardless of their area of expertise), in each company would be required to understand the regulations. The IA would benefit from a consideration of whether businesses may incur other costs associated with familiarisation such

as the cost of disseminating the information across the business and consider accounting for those costs. Furthermore, the IA would benefit from increased clarity on whether procurement and contract management costs are included in additional administration costs, or it is assumed that businesses would incur these costs irrespective of the policy.

8. **Benefits:** The Department has been unable to monetise the main health benefits from the policy and has only monetised the savings to business from reduced registration costs and the benefit to society of bringing forward CO₂e emissions. The IA could be improved by quantifying the scale of health benefits, although the RPC understands that precise quantification may not be proportionate considering the *de minimis* impact of the measure, the complexity of calculating health related benefits and the effects of other interacting policies. One approach could be to calculate the percentage of the EDCs' workforces have exposure to these units and then use standardised cancer incidence/mortality rates to calculate the benefit. Further to this, the IA has not considered the economic impact on animal health in sectors including the agricultural sector, apart from where those animals are consumed by humans and therefore impact human health. The RPC recommends that a narrative on such would be of benefit to the IA.
9. **Disposal:** The Department has not considered the effects of the policy on the sector responsible for the safe disposal of contaminated equipment. The IA would be improved through consideration of whether this sector has the ability to increase its capacity to meet the brought forward demand. The IA could also have considered the risks including to human health, if the end-of-life sector is unable to increase its capacity for the safe disposal of contaminated assets.

Departmental assessment

Classification	Non-qualifying regulatory provision (<i>de minimis</i>)
Equivalent annual net direct cost to business (EANDCB)	£1.9 million (£2.2 million)
Business net present value	-£35.2 million

RPC assessment

Classification	Under the framework rules for the 2017-19 Parliament: non qualifying regulatory Provision (<i>de minimis</i>) To be determined once the framework rules for the current Parliament are set ¹ .
Small and micro business assessment	Not required but sufficient
RPC rating	Fit for purpose

Regulatory Policy Committee

¹ The Government is yet to set the better regulation framework for the current Parliament. This includes the setting of a business impact target, its scope and metric, and the appointment of an independent verification body. The RPC is, therefore, unable to confirm the BIT classification, or validate the estimated business impact figures, for any regulatory proposal at present.
