



STATUTORY INSTRUMENTS.

S.I. No. 687 of 2011

EUROPEAN UNION (STAGE II PETROL VAPOUR RECOVERY
DURING REFUELLING OF MOTOR VEHICLES AT SERVICE
STATIONS) REGULATIONS 2011

(Prn. A11/2385)

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DURING REFUELLING OF MOTOR VEHICLES AT SERVICE
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I, PHIL HOGAN, Minister for the Environment, Community and Local Government in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2009/126/EC¹ of the European Parliament and of the Council of 21 October 2009, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Union (Stage II Petrol Vapour Recovery during Refuelling of Motor Vehicles at Service Stations) Regulations 2011.

Definitions

2. (1) In these Regulations—

"approved assessor" means a person approved by a competent authority in accordance with Regulation 9;

"competent authority" has the meaning assigned by Regulation 3;

"connected persons" means brothers, sisters, ancestors or lineal descendants, uncles, aunts, nieces or nephews;

"Directive" means Directive 2009/126/EC of the European Parliament and of the Council of 21 October, 2009, on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations;

"existing service station" means a service station which is built or for which an individual planning permission or a licence under Section 21 of the Dangerous Substances Act, 1972 (No. 10 of 1972) is granted before 1 January 2012;

"Local authority" means-

(a) a county council, and

(b) a city council,

within the meaning of the Local Government Act 2001 (No.37 of 2001);

¹O.J. L285, 31.10.2009, p.36

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 30th December, 2011.*

“new service station” means a service station which is built or for which an individual planning permission or a licence under Section 21 of the Dangerous Substances Act, 1972 (No. 10 of 1972) is granted after 1 January 2012;

"Regulations of 1979" means the Dangerous Substances (Retail and Private Petroleum Stores) Regulations 1979 (S.I. No. 311 of 1979).

“service station” means any installation where petrol is dispensed to motor vehicle fuel tanks from stationary storage tanks;

“Stage II petrol vapour recovery system” means equipment aimed at recovering the petrol vapour displaced from the fuel tank of a motor vehicle during refuelling at a service station and which transfers that petrol vapour to a storage tank at the service station or back to the petrol dispenser for resale; and

“throughput” means the total annual quantity of petrol unloaded from mobile containers into a service station.

(2) A word or expression which is used in these Regulations and which is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

Competent Authority

3. (1) Each local authority is a competent authority for the purpose of these Regulations and the Directive and shall be responsible for the enforcement of these Regulations within their functional area and shall take such steps as are necessary for this purpose.

(2) Not later than twelve months after the entry into effect of these Regulations, each competent authority shall, in respect of its functional area, establish and thereafter maintain a register of—

- (a) service stations,
- (b) the date of receipt of each application for a certificate of installation submitted under Regulation 7 and such contents of the application as it deems relevant,
- (c) the date of issue of each certificate issued under Regulation 7 and such contents of the certificate as it deems relevant,
- (d) the date of receipt of each report submitted under Regulation 10 and such contents of the report as it deems relevant,
- (e) the date of issue of each certificate issued under Regulation 10 and such contents of the certificate as it deems relevant,
- (f) the name and business address of the owner of the service station when submitted as part of an application for a certificate of installation or a certificate of testing or updated by the owner in accordance with Regulation 5(13).

(3) Each competent authority shall carry out, or cause to be carried out, such random inspections as it deems necessary or as may be required for the purposes of verifying compliance with these Regulations.

(4) The Minister may issue guidance from time to time on any aspect of the implementation of these Regulations.

Authorised Officers

4. (1) A competent authority may authorise in writing any person, hereinafter referred to as an “authorised officer”, for the purposes of these Regulations.

(2) An authorised officer may, for the purpose of insuring that these Regulations are being complied with—

- (a) at all reasonable times, enter and inspect a service station,
- (b) require any person involved in the operation of a service station or any equipment or other device at that service station to produce to him or her any books, documents or records (and in the case of such information in a non-legible form to reproduce it in permanent legible form) relating to the service station that are in the person’s power or control and to give to him or her such information as he or she may reasonably require in relation to the service station,
- (c) inspect and take copies of, or take extracts from, any such books, documents or records, including in the case of information in a non-legible form a copy of or extract from such information in permanent legible form,
- (d) inspect and copy or extract information from any data (within the meaning of the Data Protection Act 1988) found by or produced to the officer under this Regulation,
- (e) carry out, or have carried out, such examinations, inspections or tests of the Stage II petrol vapour recovery system or other devices found on the service station as the officer considers appropriate and, if the officer so thinks fit, remove or have removed from there any equipment or other devices and retain them for a reasonable period to facilitate such examination, testing or inspection,
- (f) examine any procedure connected with the manufacture, installation or maintenance of the Stage II petrol vapour recovery system,
- (g) exercise such other powers as necessary to ensure that the Regulations are complied with, and
- (h) exercise such other powers as necessary to carry out his or her functions.

(3) A person shall not obstruct an authorised officer exercising any powers under these Regulations and shall not wilfully withhold any information which an authorised officer may request for the purpose of these Regulations.

Stage II Petrol Vapour Recovery System Installation

5. (1) The owner of a new service station shall ensure that the new service station is equipped with a Stage II petrol vapour recovery system that satisfies the minimum specifications set out under Regulation 6 if—

- (a) its actual or intended throughput is greater than 500 m³/year; or
- (b) its actual or intended throughput is greater than 100 m³/year and it is situated under permanent living quarters or working areas.

(2) The owner of an existing service station shall ensure that a Stage II petrol vapour recovery system that satisfies the minimum specifications set out under Regulation 6 is installed at the time of the service station's next major refurbishment after 1 January, 2012 if—

- (a) its actual or intended throughput is greater than 500 m³/year; or
- (b) its actual or intended throughput is greater than 100 m³/year and it is situated under permanent living quarters or working areas.

(3) For the purpose of Regulation 5(2), the competent authority shall determine what constitutes a major refurbishment.

(4) The owner of an existing service station shall not proceed with repairs that require written permission from a licensing authority under Regulation 47 of the Regulations of 1979, until such time as the competent authority provides the owner with written notification as to whether such works constitute a major refurbishment under Regulation 5(2).

(5) The competent authority shall make its determination under Regulation 5(3) and inform the owner of the service station not later than such time as the licensing authority informs the owner of the service station of its decision as to whether to grant permission to undertake repairs under Regulation 47 of the Regulations of 1979.

(6) Notwithstanding Regulations 5(1) and 5(2), the owner of a service station with a throughput in excess of 3,000 m³/year shall ensure that the service station is equipped with a Stage II petrol vapour recovery system that satisfies the minimum specifications set out under Regulation 6 by no later than 31 December 2018.

(7) Regulations 5(1), 5(2), 5(3), 5(4), 5(5) and 5(6) do not apply to service stations exclusively used in association with the construction and delivery of new motor vehicles the tanks of which are being filled with petrol for the first time only.

(8) The owner of a service station shall be responsible for ensuring that all details of installation, maintenance, examination, testing and repair work carried out for the Stage II petrol vapour recovery system are recorded in a log book.

(9) Where an automatic monitoring system has been installed to monitor the petrol vapour capture efficiency, it shall automatically detect faults in the proper functioning of the Stage II petrol vapour recovery system and in the automatic monitoring system itself, indicate faults to the service station operator and automatically stop the flow of petrol from the faulty dispenser if the fault is not rectified within seven days.

(10) Where an automatic monitoring system has not been installed to monitor the petrol vapour capture efficiency, it shall be the duty of the owner to ensure that a weekly check to verify the functionality of the Stage II petrol vapour recovery system using appropriate methods shall be undertaken and an inspection for torn, flattened or kinked hoses and damaged seals on vapour return lines shall be carried out. The details of the findings of these weekly tests and checks shall be entered in the log book.

(11) Where the results of monitoring under Regulation 5(9) or 5(10) indicate that the Stage II petrol vapour recovery system is not in compliance with Regulation 6, the owner shall-

- (a) identify the cause of the non-compliance and take corrective action to ensure compliance as soon as possible,
- (b) inform the competent authority of the non-compliance of the Stage II petrol vapour recovery system,
- (c) record details regarding the cause and extent of the problem and actions taken to ensure compliance in the logbook, and
- (d) retest the Stage II petrol vapour recovery system to demonstrate compliance as soon as possible using appropriate methods.

(12) Upon the installation of a Stage II petrol vapour recovery system, the owner of the service station shall register with the competent authority and submit an application for a certificate of installation in accordance with Regulation 7.

(13) It shall be the duty of the owner of a service station to inform the competent authority, as soon as is reasonably possible, of any changes to the contact details supplied in a certificate of installation or a certificate of testing, particularly the name and business address of the owner of the service station.

Minimum level of petrol vapour recovery

6. (1) The petrol vapour capture efficiency of all Stage II petrol vapour recovery systems installed under Regulation 5 shall be equal to or greater than 85% as certified by the manufacturer in accordance with relevant European technical standards or type approval procedures referred to in Article 8 of Directive

2009/126/EC or, if there are no such standards or procedures, with any relevant European Union or national standard.

(2) The vapour/petrol ratio of recovered petrol vapour being transferred to a storage tank at a service station by a Stage II petrol vapour recovery system installed under Regulation 5 shall be equal to or greater than 0,95 but less than or equal to 1,05.

Applications for Certificates of Installation

7. (1) An application for a certificate of installation in accordance with Regulation 5 shall be—

- (a) submitted in writing, in the form prescribed in Part 1 of Schedule 1 to these Regulations to the competent authority in whose functional area the service station is located, and
- (b) accompanied by the manufacturer's and installer's certification which demonstrates that the Stage II petrol vapour recovery system installed is in accordance with these Regulations.

(2) Where a competent authority is satisfied that the form submitted under Regulation 7(1) shows that the requirements of these Regulations with regard to the installation of a Stage II petrol vapour recovery system have been fulfilled, it shall issue a certificate of installation to that effect in the form set out in Part 2 of Schedule 1 to these Regulations.

(3) A competent authority may carry out such investigations as it considers necessary in relation to a form submitted under this Regulation in order to satisfy itself that the owner of a service station has fulfilled their obligations under these Regulations.

Fees

8. The competent authority may charge a fee which shall be no greater than the amount which the competent authority estimates it will incur in, or in connection with, carrying out or causing to be carried out, the functions referred to in Regulation 10 in respect of applications for certificates of testing.

Approved Assessor

9. (1) A competent authority shall approve such person or persons as it considers possess the appropriate knowledge, training and experience to perform the functions of an approved assessor under these Regulations.

(2) An approved assessor shall not carry out an inspection for the purposes of Regulation 10 of a service station—

- (a) which is owned by him or her, or
- (b) which is owned by a connected person, or
- (c) which is to be sold or let by him or her or a connected person in their capacity as a sales or letting intermediary, or

- (d) in respect of which he/she carried out a site suitability assessment as part of the planning process or provided advice regarding the selection or installation of that petrol vapour recovery system, or
- (e) in any other circumstances in which they have a material or financial interest in the outcome of any inspection other than the fee charged for carrying out the inspection

(3) An approved assessor shall not engage in any works or processes necessary to be undertaken to ensure the service station is compliant for the purposes of the certificate of testing.

Certificate of Testing

10. (1) It shall be the duty of the owner to ensure that In-service petrol vapour recovery systems be tested by an approved assessor at least once each year, either by checking that the vapour/petrol ratio under simulated petrol flow conditions is in conformity with Regulation 6(2) or by any other appropriate methodology.

(2) It shall the duty of the owner to ensure that automatically monitored petrol vapour recovery systems be tested, by an approved assessor at least once every three years by checking that the vapour/petrol ratio under simulated petrol flow conditions is in conformity with Regulation 6(2) or by any other appropriate methodology.

(3) Where, following a test carried out in pursuance of this Regulation, an approved assessor is satisfied as to a service station's compliance with the requirements of Regulation 6 he or she shall submit a report to that effect to the competent authority in the form set out in Part 1 of Schedule 2 to these Regulations.

(4) Where, following a test carried out in pursuance of this Regulation, an approved assessor is not satisfied as to a service station's compliance with the requirements of Regulation 6-

- (a) he or she shall submit a report to that effect to the competent authority and to the owner in the form set out in Part 2 of Schedule 2 to these Regulations,
- (b) the report will include the measures or works necessary to ensure the compliance of the service station with these Regulations and also state a reasonable timeframe for undertaking such measures or works. It shall be the duty of the owner to implement any measures or works necessary to ensure the compliance of the service station with these Regulations within the timeframe stated on the report to the satisfaction of the approved assessor, and
- (c) following the implementation of such measures or works, if the approved assessor is then satisfied as to a service station's compliance with the requirements of Regulation 6 he or she shall submit a report

to that effect to the competent authority in the form set out in Part 1 of Schedule 2 to these Regulations.

(5) Where a competent authority is satisfied that a report submitted under this Regulation discloses that the requirements of Regulation 6 have been fulfilled it shall duly notify the owner of the relevant service station and shall, upon payment by the owner of the fee prescribed in Regulation 8, issue a certificate to that effect in the form set out in Part 3 of Schedule 2 to these Regulations.

(6) Where a competent authority is of the opinion that an assessor's report does not fulfil the requirements of the Regulations it shall inform the owner of the service station to which the report relates as soon as is practicable of its refusal to issue a certificate under this Regulation and shall require the owner to comply with the requirements of these Regulations within a reasonable timeframe.

(7) A competent authority may carry out such investigations as it considers necessary in order to satisfy itself as to the fulfilment of the Regulations by a service station in relation to which a report has been submitted under this Regulation.

Consumer information

11. When a service station has installed a Stage II petrol vapour recovery system, it shall display a sign, sticker or other notification on, or in the vicinity of, the petrol dispenser, informing consumers of that fact.

Offences

12. Any person who contravenes any provision of these Regulations shall be guilty of an offence.

Offences by bodies corporate

13. (1) Where an offence under these Regulations has been committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director of the body corporate.

Prosecutions

14. A prosecution for a summary offence under these Regulations may be taken by a competent authority.

Penalties

15. (1) A person guilty of an offence under these Regulations is liable on summary conviction to a Class A fine or imprisonment for a term not exceeding 3 months or both.

(2) A person guilty of an offence under these Regulations is liable on conviction on indictment to a fine not exceeding €100,000 or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

SCHEDULE 1

Part 1 — Application for Certificate of Installation

By the owner of a service station under the European Union (Stage II Petrol Vapour Recovery during refuelling of motor vehicles at service stations) Regulations 2011.

1. Name and business address of the owner of the service station:
2. Address of the service station if different from above:
3. I am applying for a certificate of installation for the above named installation under Regulation 7 of the above-named Regulations.
4. I enclose the report of the installer and manufacturer's details for the above installation.

Signature..... Date.....

SCHEDULE 1

Part 2 — Certificate of Installation Issued

By a competent authority in respect of a service station under the European Union (Stage II Petrol Vapour Recovery during refuelling of motor vehicles at service stations) Regulations 2011.

1. Name and business address of the owner of the service station:
2. Address of the service station if different from above:
3. Date of receipt of manufacturer's and installer's certification which demonstrates that the Stage II petrol vapour recovery system installed is in accordance with these Regulations:
4. Register Number:
5. Is the certificate signed by the installer-:

(Name of local authority) today (date) hereby certifies that the service station at owned by ----- complies with the provisions to install a Stage II Petrol vapour recovery system in accordance with the European Union (Stage II Petrol Vapour Recovery during refuelling of motor vehicles at service stations) Regulations 2011.

Stamp of Local Authority to be affixed here

Signature of Authorised Officer

Date of return of stamped certificate to applicant

SCHEDULE 2

Part 1 — Approved Assessor’s Report

Particulars to be included in a report by an approved assessor where a service station complies with the requirements of the European Union (Stage II Petrol Vapour Recovery during refuelling of motor vehicles at service stations) Regulations 2011.

1. Name of service station owner
2. Business address/registered office of owner
3. Address of service station (if different)
4. Service station throughput (largest total annual quantity loaded/unloaded at service station in three years preceding this installation of)
5. Date of testing
6. Brief description of tests carried out
7. Is this a first test for the purposes of these regulations- If not, state day, month and year of most recent test.

Declaration

I,, hereby confirm that I have tested the above service station on (insert date) for compliance with the provisions of the European Union (Stage II Petrol Vapour Recovery during refuelling of motor vehicles at service stations) Regulations 2011 and to the best of my knowledge and belief this service station is in compliance with the said provisions.

Signed.

Qualification/Profession and Company

Address

Date

SCHEDULE 2

Part 2 — Approved Assessor's Report for a non-compliant service station

Particulars to be included in a report by an approved assessor where a service station does not comply with the requirements of the European Union (Stage II Petrol Vapour Recovery during refuelling of motor vehicles at service stations) Regulations 2011.

1. Name of service station owner
2. Address/registered office of owner
3. Address of service station
4. Service station throughput (largest total annual quantity loaded/unloaded at service station in three years preceding this installation of)
5. Date of testing
6. Brief description of tests carried out
7. Is this a first test for the purposes of these regulations- If not, state day, month and year of most recent test.

Declaration

I,, hereby confirm that I have tested the above service station on (insert date) for compliance with the provisions of the European Union (Stage II Petrol Vapour Recovery during refuelling of motor vehicles at service stations) Regulations 2011 and to the best of my knowledge and belief this service station is **NOT** in compliance with the said provisions.

The following measures / works must be undertaken by (date) to ensure the compliance of this service station with these Regulations:

Signed.

Qualification/Profession and Company

Address

Date

SCHEDULE 2

Part 3 — Certificate of Testing Issued

By a competent authority in respect of a compliant service station under the European Union (Stage II Petrol Vapour Recovery during refuelling of motor vehicles at service stations) Regulations 2011

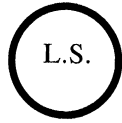
- 1. Date of receipt of approved assessor's report
- 2. Register Number
- 3. Fee received (Tick)
- 4. Is the report signed by an approved assessor-

(Name of local authority) today (date)
 hereby certifies that the service station at owned by
 complies with the provisions of the European Union
 (Stage II Petrol Vapour Recovery during refuelling of motor vehicles at service
 stations) Regulations 2011 and this certificate shall be valid for a period of not
 more than one / three (delete as appropriate) years until
 (date)

Stamp of Local Authority to be affixed here

Signature of Authorised Officer

Date of return of stamped certificate to applicant



Given under my Official Seal,
21 December 2011.

PHIL HOGAN,
Minister for the Environment Community and Local
Government.

EXPLANATORY NOTE

(This is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations introduce measures aimed at reducing the amount of petrol vapour emitted to the atmosphere during the refuelling of motor vehicles at service stations and transpose Directive 2009/126/EC of the European Parliament and of the Council of 21 October, 2009, on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations.

The Regulations provide that new service stations which meet either of the following two criteria will be required to be equipped with Stage II Petrol Vapour Recovery (PVR II) systems to recover Volatile Organic Compounds (VOC) during refuelling of vehicles:

- throughput >100m³ (or 100,000 litres) and situated under living or working quarters
- throughput >500m³ (or 500,000 litres)

The Regulations also provide that existing service stations are required to install PVR II systems when undergoing their next major refurbishment after 1 January, 2012 if they meet either of the following two criteria:

- throughput >100m³ (or 100,000 litres) and situated under living or working quarters
- throughput >500m³ (or 500,000 litres)

In addition, the Directive requires that service stations with a throughput > **3,000m³** (or 3,000,000 litres) will be required to install PVR II technology **by 31 December, 2018 at the latest** (or sooner if undergoing a major refurbishment before that date).

Owners of service stations are required to apply to their local authority for a certificate of installation after installing the PVR II system and to organise for the system to be tested periodically as appropriate by an approved assessor. Owners of service stations must also obtain a certificate of testing from their local authority. Such certificates may be issued following the receipt of a report by an approved assessor which indicates that the service station is in compliance with the requirement that petrol vapour capture efficiency of the PVR II systems is equal to or greater than 85%.

A person guilty of an offence under these Regulations is liable on summary conviction to a Class A fine under the Fines Act 2010 (€5,000 as at 01 January 2012) or imprisonment for a term not exceeding 3 months or both. A person guilty of an offence under these Regulations is liable on conviction on indictment to a fine not exceeding €100,000 or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
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