

Extract from "Evaluating the Cumulative Impact of Safety, Health and Environmental Regulation on the UK Industrial Coatings, Aerosols and Speciality Chemicals Sectors" by London Economics in association with RPA – August 2006

Executive Summary

The DTI's Chemicals Unit commissioned this study on behalf of the Chemicals Regulatory Forum (CRF). The study was directed by a Steering Group comprising representatives of the DTI, Defra, the Cabinet Office, and three trade associations: the British Aerosol Manufacturers' Association (BAMA), the British Coatings Federation (BCF) and the British Association for Chemical Specialities (BACS).

The main tasks set out in the Terms of Reference (ToRs) were the following:

- To estimate the cost of compliance with current SHE regulations in excess of the minimum costs necessary to ensure current levels of protection; and,
- To solicit proposals for reductions in the cost of compliance with current SHE regulations, while maintaining current levels of protection.

The study also outlines, in Annex 2, a study toolkit describing how other researchers could replicate and use our methodology in future studies for other sectors or the economy.

Methodology

Information has been gathered through in-person interviews with representatives of 48 different sized firms, gathered from a wide range of sub-sectors and trade associations. The objective of using personal interviews was to engage actively with representatives of firms on the relevant issues while minimising the burden on firms that participation in the study created.

In this study the cost of regulation is computed by analysing the total and excess costs of complying with current SHE regulation. Total compliance cost is defined as the cost compared to a situation of no regulation. Excess compliance cost is defined as the additional unnecessary expenses incurred over the minimum necessary to achieve the same level of SHE protection (hence eliminating excess costs should provide the same SHE goals, while elimination of total costs could put the benefits of SHE protection at risk).

The sector of interest is "industrial coatings, aerosols and speciality chemicals" as given in the ToRs. This definition is quite broad because it defines the sector at a very high level of aggregation and includes subcategories outside the sector. For the purposes of this study, we defined the sector of interest by 4-digit Standard Industrial Classification (SIC) code matching the sectoral coverage specified in the ToRs.

Results

The results are based on the responses of a relatively small sample of firms – many of which were unable or unwillingness to place a precise value on the costs of regulation which they incur – and the use of data at a very high level of aggregation which limits the precision of the definition of the sector. This creates some uncertainty surrounding our estimates of the total and excess costs of current SHE regulation.

In this study, the average total cost of compliance with SHE regulation for the industrial coatings, aerosols and speciality chemical sectors was estimated to be around 2.1% of turnover. As for the excess cost of regulation, firm representatives estimated that the unnecessary or excess cost of SHE regulation was approximately 0.6% of turnover on average.

Estimates of the cost of regulatory compliance for the entire industrial coatings, aerosols and speciality chemicals sectors have been obtained using a weighted average by turnover category to take account of the size distribution of the sector. It was found that compliance costs were only roughly constant across firms of all sizes, and the weighted estimated total cost of compliance for the sector is 1.20% of turnover, or £278m per year¹. The weighted excess cost of regulation is 0.38%, or £87.4m per year. In policy terms this suggests that, based on the assumptions made in this study, some £87.4m per year could be saved each year without detriment of SHE benefits and goals through the better design and implementation of current SHE regulations. A further interesting result was that, by asking firms to think of the cost of compliance with regulation as the cost of activities they would not undertake were regulation not to exist, their estimates of the cost of regulation fell. This was because many claimed that their firm would carry out most of the tasks prescribed by regulation even if they were not forced to by law, in some cases for insurance purposes.

Sources of excessive cost of regulatory

We asked interviewees to break their estimates of excess cost down into different components. The respondents found that excess costs are particularly of 3 types:

- Staff time, typically spent reading and understanding regulations and guidance notes, dealing with inspectors, and conducting risk assessments;
- Changes to labels after reclassifications of chemicals, which in some cases required expensive new software; and,
- Changes to products, particularly after reclassifications of chemicals, such as changes to CHIP.

The regulations most frequently cited as creating excess compliance were the Packaging Waste Regulations (PWRs), COMAH and the Biocidal Products Directive/Regulations.

¹ Total turnover in the industrial coatings, aerosols and speciality chemicals sector, as defined in this study, was some £23,154m in 2004 (Source: Annual Business Inquiry (ABI), Office for National Statistics (ONS)).

Benefits of regulation

We also asked interviewees if SHE regulations had benefited their firms. The main benefits of regulation that interviewees cited fell into the following five main groups:

- Improving SHE performance;
- Improving the efficiency with which firms deal with waste;
- Benefits of visits from regulators;
- Improving firms' reputations with consumers and the general public; and,
- Forcing firms to analyse their processes systematically.

Proposals for better implementation of current regulation

Interviewees made many recommendations for improving regulation. The nine most common recommendations across interviewees were:

- 1) Clearer, more concise and timelier guidance on the requirements of regulations;
- 2) Regulators should keep industry informed of future changes to regulations;
- 3) Make information collection from firms more efficient;
- 4) Make inspections more efficient;
- 5) Reduce duplication of policies across regulators;
- 6) Make inspection and enforcement more risk-based;
- 7) Make charging for inspections fairer;
- 8) Relax regulatory requirements for 'trivial' risks; and,
- 9) Ensure that inspections take account of the requirement in SHE law placing responsibility on individual employees.

Proposals for changes to regulation

Respondents indicated the following as the main proposed changes to the structure of regulations:

- 1) Integrate the large number of separate environment SHE into an overall regulatory regime and ensure that they are consistent across the UK;
- 2) Replace multiple site permits with consolidated single site permits;
- 3) Create a single regulator to enforce the single site permits;
- 4) Tailor regulations more closely to risks;
- 5) Make better use of voluntary actions and learn from industry experience;
- 6) Improve the effectiveness of communication of risk to consumers and industry customers;
- 7) Develop central registers of information on companies to ensure that regulators are aware of all companies subject to regulation;
- 8) Create a hierarchy of laws so that industry can apply a single law for products that fall under several different regulations;
- 9) Ensure consistency between regulation in across the UK;

In terms of specific existing regulations, respondents proposed to:

- 1) Improve consistency between different regulations;
- 2) Simplify the Packaging Waste Regulations;
- 3) Reduce requirements for registration and testing of products under the Biocidal Products Directive;
- 4) Remove the requirement on firms to research the geology beneath their sites under IPPC. Instead, require experts in the EA to instruct firms on the geology of ground underneath sites, based on information available to them, and any concerns this causes;
- 5) Amend the European Commission's Green Procurement Plan;
- 6) Under the Hazardous Waste Regulations and CHIP, de-classify items as 'hazardous' if these pose a trivial risk to public health or the environment; and,
- 7) Under landfill regulations, permit landfill disposal or incineration of empty sacks that have contained toxic materials.

Proposals for changes to the process of producing regulations

Some interviewees argued that changes to the political process were required to prevent what they saw as an 'avalanche of regulation' that caused ongoing problems for their firm. Their proposals focussed on:

- 1) Legislators to think carefully what new regulations would add to existing ones;
- 2) Legislators to consider the impacts of regulations along the supply chain;
- 3) Legislators to avoid changes that would require reclassification of chemicals unless well justified by safety gains;
- 4) Where changes in classification are required, ensure these are 'stacked up' and thus only required every two years or so;
- 5) UK legislators to consider more closely whether UK implementation of EU regulations is stricter than in the rest of the EU and to consider the cost-benefit consequences of this situation for the UK; and
- 6) Examine the value of assumptions used in cost-benefit assessments of regulations.