

ADVISORY COMMITTEE ON DANGEROUS SUBSTANCES

FLAMMABLE SUBSTANCES SUBCOMMITTEE

PETROLEUM WORKING GROUP

ACTION NOTES OF 5 AUGUST 2003 MEETING

Chair:	Stewart McEwen (HSE)
Industry:	Philip Monger Chris Hunt Rory Hennessy Rex Wheeler Peter Wortley Tony Jenner
LGA:	Andy Berry Steve Rowe
North LA:	Roger Marris
COSLA:	Ted Beckley
Environment Agency:	Mark Chandler Jon Naylor
MOD:	Ratts Rattenbury
DEFRA:	Ian Oldfield
HSE:	John Hazeldean (Technology Division) Peter Roberts (Working Group Secretary)

Introductions and apologies

1 Stewart McEwen welcomed members to the eighth meeting of the working group. Apologies had been received from Alison Edwards and Jeff Watson.

Action note from last meeting

2 The last meeting had been held on 7 August 2002 ie, nearly a year ago. All of the outstanding actions from the meeting had been subsequently cleared, mainly via the introduction of the Dangerous Substances and Explosive Atmospheres Regulations 2002 and the publication of the ACOP on Unloading petrol from road tankers.

3 The ACOP appears to be operating quite successfully but members were assured that any practical difficulties could be addressed as part of the Phase 2 project.

Modernising petroleum legislation – Phase 2 – Draft project plan

4 A copy of the relevant paper had been sent to members before the meeting (ACDS/PWG/03/01). Stewart McEwen apologised for the delay in starting Phase 2 of the project – this was primarily due to HSE diverting resources to other essential work, in particular to respond to new proposals for fire legislation originating from the Office of the Deputy Prime Minister, and also work arising out of the Fire Services dispute and the Gulf War. There had also been some unexpected work involving refining the unloading ACOP before it could be published.

5 Stewart ran through the various stages of the plan. Members asked for clarification on a number of minor points but generally were content with the proposed timetable.

Modernising petroleum legislation – Phase 2 – Discussion of options

6 A copy of the relevant paper had been sent to members before the meeting (ACDS/PWG/03/02). HSE had identified 5 possible options for future controls on filling stations:

Option 1

Do nothing. Continue with annual licensing of PFSs, supported by standard licence conditions (currently being reviewed).

Option 2

Continue with annual licensing supported by a minimal number of standard licence conditions.

Option 3

Develop and introduce a consent regime for new PFSs, with deemed consent for existing PFSs, to replace the requirement for a licence. This would include the requirement for consent from the PLA for a material change to take place.

Option 4

Develop and introduce a notification regime for new PFSs and existing PFSs with proposed material changes. This could be linked to statutory planning requirements.

Option 5

Remove the current licensing regime and do not replace it with any industry specific regulations; relying on existing health and safety legislation, eg HSWA, DSEAR, EWR etc.

7 During a wide-ranging discussion, there was a general consensus that Option 1 was being rapidly overtaken by events, in that the LACORS consultations on licence conditions was likely to make it a non-starter. Most members also agreed that option 5 would be unlikely to find favour with some HSC Commissioners who had always agreed with the argument that filling stations required some legislative safety controls over and above those required for more run-of-the-mill activities.

8 Option 3 – a consent regime – found no favour with any members. There was general agreement that the discussions following the 1997 consultative exercise had revealed that this option was not practicable.

9 Option 2 – retain licensing, but with a very limited number of licence conditions – did mean that some revenue would still accrue to the PLAs. However, there was the problem that many commentators thought licensing an inappropriate level of control for a fairly low-risk industry. This view is supported by the conclusions reached by the Commission in their recent policy statement on permissioning regimes.

10 Option 4 – a notification regime - was, to at least some degree, acceptable to all members even if some would prefer to retain licensing.

11 HSE's view was that a paper would need to be prepared listing the initial 5 options, but concluding that options 1, 3 and 5 were either unacceptable or unworkable. The paper would then go on to argue the merits and disadvantages of options 2 and 4. HSE requested members to submit information and arguments concerning these two options within the next few weeks. It would be particularly useful to receive examples of what members thought would be relevant matters for 'notification' under option 4.

Action: Members

12 HSE would prepare a paper for the next meeting of the working group based on the information supplied by members. HSE would also be happy to meet individuals or small groups of members who might want to discuss the modernisation issues on a bilateral basis.

Guidance

13 Members agreed that whatever option was finally chosen, it would be necessary to produce an ACOP and guidance on the day-to-day management of a filling station. This document would replace the outstanding elements of HSG41 and all of HSG146. It would also incorporate much of the information contained in current PETELs. It would need to take account of the review of the Blue Book.

Enforcement

14 Peter Roberts explained to members that there were a number of issues being developed which could affect enforcement at filling stations. The

Office of the Deputy Prime Minister has issued a White Paper on the future of the fire and rescue services, which could result in a revised fire authority structure. There was also the possibility of new Regional Assemblies being established which could alter the county council structures in some parts of the country. HSE will update members on these issues as required.

Any other business

15 None

Date of next meeting

16 The next meeting will be on 4 November at 10 30. It will be in Rose Court's Rose Room.