



REPLACEMENT LEGISLATION FOR PETROL TANKER REQUIREMENTS CURRENTLY IN THE CARRIAGE OF DANGEROUS GOODS BY ROAD REGULATIONS 1996 AND THE CARRIAGE OF DANGEROUS GOODS BY RAIL REGULATIONS 1996

INTRODUCTION

1 This letter sets out the Health and Safety Commission's (HSC's) proposals for a short and straightforward set of amending regulations and seeks your views on them. The proposed new Regulations are contained in Annex 2 and are known as the Tank Vehicles (Loading and Unloading of Petroleum-Spirit) Regulations 200[-].

2 This document concerns some requirements that remain in the Carriage of Dangerous Goods by Road Regulations 1996 and the Carriage of Dangerous Goods by Rail Regulations 1996 (most of the other requirements are now contained in the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004). These requirements remaining in both 1996 Regulations involve matters relating to the transport of petrol by tanker. The requirements in the 2004 Regulations relate only to the general carriage of dangerous goods and do not include specific requirements related to petrol. The requirements in the 1996 Regulations relate to the loading, carriage and unloading of petrol and are still needed for reasons of maintaining standards of safety and also to ensure continued compliance with a European Directive.

BACKGROUND

3 The Carriage of Dangerous Goods by Road Regulations 1996 (CDGRoad) and the Carriage of Dangerous Goods by Rail Regulations 1996 (CDGRail) were reviewed by HSC with a view to replacing them with a set of new regulations called the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004. A consultative document on the proposals was published on 3 June 2003, and the regulations came into force on 10 May 2004.

4 HSC decided that these new regulations would not contain requirements that solely relate to the transport or unloading of petrol by means of tankers. However, some of the requirements in this area needed to be kept in place either to maintain standards of safety or to ensure continuing compliance with existing requirements. As a short-term measure, this has been achieved by keeping in place the relevant parts of the CDGRoad and CDGRail. However, we need to develop some new legislation to cover this unsatisfactory temporary situation. We need to consult formally on these proposals and that is the purpose of this letter. **We believe the changes will not be significant - we are merely finding a new home for existing requirements. Since the new regulations do not change any legal duties, we believe they will not have any impact on costs or benefits for industry.**

CURRENT REGULATORY FRAMEWORK

5 The relevant CDGRoad regulations requiring consideration are 5, 6 and 20 and also Schedule 2, paragraph 10.

6 **Regulation 5**, among other things, enables HSC to approve and publish 'Approved Documents'. The Department for Transport is now responsible for requirements relating to the design of tankers (but have not yet introduced any new requirements). Thus, in the meantime, there is a need to keep the tanker requirements in place.

7 HSC published a document in accordance with the requirements for approved tanks, namely *Approved Tank Requirements. The provisions for bottom loading and vapour recovery systems of mobile containers carrying petrol* (L93) which came into force on 1 September 1996, after being approved by HSC on 16 August 1996. This document specifically mentions CDGRoad regulation 5(1)(c). It also covers rail tankers (CDGRail regulation 3(1)(b)). Since coming into force, tankers have been built in accordance with these requirements. 'Bottom-loading' means that the tanker filler points are beneath the tank.

8 The document L93, with CDGRoad and CDGRail, implements that part of the European Parliament and Council Directive 94/63/EC of 20 December 1994 on the control of volatile organic compound emissions resulting from the storage of petrol and its distribution from terminals to petrol stations. This applies to mobile containers (including road and rail tankers). The Directive is primarily about environmental issues concerning air quality, rather than health and safety matters. However, the relevant government departments at the time agreed that it was more appropriate for HSC/E to implement the requirement, as they already had the regulatory lead for tanker design etc.

9 As it happens, there are secondary health and safety benefits to tanker drivers from bottom loading – it removes any need for the driver to climb to the top of the tanker, thus removing a fall from a height hazard. It also reduces the possible health hazard associated with prolonged exposure to petrol fumes.

10 **Regulation 6** places duties on dangerous goods tank or vehicle operators to ensure that their vehicles or tanks comply with the requirements set out in regulation 5. The regulation also places similar duties on such tank or vehicle designers, manufacturers, importers, suppliers, modifiers, repairers, examiners, certifiers and tank fillers. Thus, anyone connected with the design, construction, use, etc, of tanks or tank vehicles needs to ensure the tank complies with the requirements of L93.

11 **Regulation 20** was amended by Schedule 6, Part 2, paragraph 10 of the Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR). Its current requirement is to prohibit the direct unloading of petrol from a road tanker into the fuel tank of a vehicle or into a portable container. We believe this activity is potentially hazardous and difficult to manage safely. Therefore we believe the activity should continue to be prohibited.

12 **Schedule 2, paragraph 10** excludes hydrant dispensers on airfields from most of the requirements of CDGRoad. Hydrant dispensers are tankers used to refuel aircraft. As such, they unload petrol (aviation gasoline) into fuel tanks. However, as they are exempt from the requirements of regulation 20, this is a legal activity.

13 The 2004 Regulations state that 'carriage' does not include movement within the same set of premises. Therefore, as hydrant dispensers are confined to within the curtilage of an airfield, they are not covered by the 2004 regulations. However, there is a need to ensure that the exemption remains within the replacement legislation.

SUMMARY

14 The replacement legislation needs to cover two main points:

- There is a need to ensure that the HSC document *Approved Tank Requirements. The provisions for bottom loading and vapour recovery systems of mobile containers carrying petrol (L93)* continues to have the same legal status it possesses at the current time.
- There is a need to ensure that the requirements of CDGRoad regulation 20 (as amended by DSEAR) continue, but allow an exemption for hydrant dispensers used on airfields.

15 Annex 2 contains the draft Regulations. We believe that they maintain the controls that used to be in both 1996 Regulations (as amended by DSEAR), and do not create any new duties, obligations or controls.

CONSULTATION

16 If you wish to comment on the draft Regulations, please complete the questionnaire (Annex 1) and send it as an attachment to Peter Roberts at the email address given below. Alternatively, if you wish, a hard copy of the questionnaire can be posted to:

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