

PETROLEUM ENFORCEMENT LIAISON GROUP

Action Notes of 38th PELG Meeting Held on 15th October 2008 Held at HSE Headquarters Rose Court London

Roger Marris (Vice Chair)	North East Licensing Group
Lynda Green (Secretary)	HSE
Phil Monger	Petrol Retailers' Association
Neil Simms	North West Licensing Group
Ted Beckley	COSLA
Ray Blake	CFOA
Jean Fincken (Observer)	London FEPA
Ahmed Mulla	AUKOI
Rob Tunnicliff	Midlands Licensing Group
Mike Harding	UKPIA
John Hazeldean	HSE
Brian Baker	SELCOG
Ray Nicholson	SELCOG
Jim King	DETINI

1. Roger Marris welcomed members to the 38th PELG meeting. The draft notes of the 37th PELG Meeting were agreed as an accurate record of the meeting.

Apologies were received from:

Michael Webber	SWLCOG
Steve Wenham	EA

There was no representative present from the Welsh Licensing Authorities.

Lynda Green informed the meeting that she would no longer be in a position to provide secretarial duties as she was moving out of the policy section of the HSE.

2. **Action Points arising from last meeting**, which are not included on the main agenda.

Flatcan Emergency Fuel Containers

Further discussions have been held with Mr Cornwell and his associate, Ian Russells; they are still keen to market their product especially having secured interest from across most of Europe. Mr Cornwell reported that the American Test House has now agreed that the product can be marked as a UN composite container for Packing Group II materials. HSE are still not content with this specification as the text and intent of the Petroleum Licensing Conditions is that containers filled at petrol stations should be suitable for domestic storage and that those meeting the UN Specification for carriage should be tested against the specific hazardous properties of petrol as opposed to the less onerous requirements of Packing Group II materials. PELG members were still reluctant to endorse the product by amending the standard licensing conditions because of concerns that this could lead to incidents (ie Immingham) arising from inappropriate storage and use of these containers, of the difficulties that will arising in enforcing the filling of only 'suitable containers' on the forecourt and other unresolved issues.

In light of a decision taken by the London Borough of Merton against the supermarket chain, Lidl on the sale of plastic containers that did not comply with the Petroleum-Spirit (Plastic Containers) Regulations 1982; Ray Nicholson was asked to liaise with the Trading Standards Service, Home Authority (Bedfordshire) for Flatcan to determine the legality of Flatcan under the General Product Safety Regulations 2005.

Action: R Nicholson

2.2 AA Fuel Assist

Brian Baker advised that as yet he had not been able to make contact with the AA but would continue to follow up.

Note: This matter has subsequently been resolved by email.

2.4 Control Measures at Unattended Self-Service Sites [CFOA Initiative]

Ray Blake updated the meeting with the progress of the national inspection exercise. The checklist has been produced, and all participants are happy with it. A letter has been sent to the major operators of USS. Asda and Morrisons have responded, Tescos have agreed to respond in the near future. It is intended to carry out the inspection starting at the beginning of 2009. Ray Blake will keep all participating PLA's informed. Ahmed Mulla gave a brief explanation of new technology that is being trialed by Wm Morrison Supermarkets.

Action R Blake

2.5 Carriage and Storage of Petrol

Michael Webber has drafted the guidance which has since been circulated to the group for comment by 14th November 2008. It was agreed that additional information is still needed applicable to the public as to what they can do/or not as the case may be in relation to petrol containers. It was suggested that text should be agreed in the format of a simple leaflet to be posted onto the HSE website.

The production of the guidance has been given more impetus as a result of the Immingham tragedy. See agendum 4 of the main agenda.

Action: PELG [under agendum 4]

3. DSEAR ACoP [L133] Unloading Petrol from Road Tankers

Action completed.

4. PETEL 65/56 [revised] LAPS

PETEL 65/57 has been deleted and incorporated into the revised PETEL 65/56.

5. PETEL 65/63 – Amendment to Appendix 1 'Overview of Control Measures

The PETEL website is currently being revised however this amendment has been actioned.

6. CFOA Representation on PELG

Action completed.

7. Tanks outside the scope of BS EN 12285-1:2003

Action completed as the chair of the BS EN 12285 committee has agreed to consider the amendment of the scope to cover tanks where the diameter to length ratio is in excess of the current standard.

8. Test Purchases for Underage Sales

One of the outcomes of the LFB/London Borough of Southwark exercise was the enforcement of HSWA at petrol filling stations. The enforcement allocation was discussed in more detail in agendum 6 of the main agenda. Action completed.

11. Challenging DSEAR Risk Assessments

Action completed.

12. The Round Britain Power Boat Race

Action completed.

13. TetraCan Fuel Cans – Product Recall

This matter was brought to the attention of the meeting by Mike Webber for information only. See the attached letter from Martyn Sharp, the Commercial Director of Carplan and the GIF image.

14.4 Environment Agency’s New ‘Groundwater Protection Policy’.

To be discussed at meeting on 15/10/08, agenda 14.

MAIN AGENDA

2 Future of PELG

Roger Marris, John Hazeldean and Phil Monger met with both Steve Coldrick and Mark Lawton (HSE Policy Group) on 20/8/08 to discuss: -

- a) the future of PELG;
- b) the publication of PETELs; and
- c) PELG members’ concerns as to the legal status, ambiguity and appropriateness of the Petroleum-Spirit (Motor Vehicles etc) Regulations 1929 and the Petroleum-Spirit (Plastic Containers) Regulations 1982 as they apply to domestic (non-workplace) storage of petrol.

Steve Coldrick gave the following responses to the matters raised: -

d) PELG appears to provide a valuable role in the promotion of consistency of the enforcement of petrol legislation; especially the PCA and DSEAR at petrol filling stations. Also, in its function as a ‘*stop gap*’ in the production of technical advice not covered by extant ACoPs, standards and national guidance. On this basis he believed there was a case for PELG’s continued existence but could not give an assurance of any practical support by way of providing an HSE secretariat or chair;

e) He would aim to arrange a meeting with the head of LAU to discuss the future arrangements for publishing PETELs under the HELA/LAC banner and how petrol might fit with the existing mechanisms for disseminating enforcement/technical advice to local authorities; and

f) Unless there is compelling evidence that the current petroleum legislative arrangements present unacceptable risk of harm to people, the HSE cannot allocate resources to review/replace the legislation.

Action: L Green

3 Adjournment Debate 13/10/08 – Immingham Taxi Office Explosion

Since this tragic incident occurred the relatives of the two victims have been campaigning for change in legislation as they considered it as very ambiguous and difficult to understand.

Shona McIlssac (MP) for Cleethorpes has been taking this topic forward and is also very critical of existing legislation, particularly the RRO risk assessment process and petrol storage legislation with the aim of preventing similar incidents occurring.

PELG is aware that guidance is unclear and is conscious that current regulations desperately need reviewing. PELG is aware of the hazards arising from the use of unsuitable containers and unsuitable storage places, particularly (but not exclusively) in domestic (non-workplace) circumstances. Therefore it is vital that the guidance drafted should be comprehensive enough to cover suitable containers, filling containers (at petrol stations), transportation and storage; i.e. a leaflet reflecting simple measures was an option put forward.

PELG has agreed to draft advice ready for the next meeting scheduled for 20/1/09.

When the document reaches its final stages PELG is keen to encourage involvement from other bodies to look at the interpretation of the relevant pieces of legislation.

Action: PELG to scan final draft and possibly approach Lord McKenzie via other bodies to seek their views.

4 Filling LPG Cylinders by consumers

A complaint regarding the sale of an LPG cylinder adaptor on eBay was forwarded to PELG to address.

A paper detailing the specification of the LPG cylinder adaptor was circulated to PELG prior to the meeting for information.

It was suggested that eBay should be requested to remove the advert from their site as the condition of the cylinder to be filled was unclear resulting in possible failure. The possibility of issuing a prohibition notice at sites where these devices are used was raised.

Jim King was tasked with checking out details relating to the EC marking / manufacturer, then cascading this information to Neil Simms who may possibly have to correspond with the individual to seek removal of the items from the eBay site.

Action: J King/ N Simms

6. Enforcement of HSWA and DSEAR at Petrol Filling Stations (relating to persons not employed by the licensee)

This item arose from the <16 year old test purchase exercise carried out by London FB and Southwark Borough where the PLA's enforcement remit was restricted to taking action against the licensee; albeit the attendant (wittingly) allowing the purchase was committing an offence contrary to S7 HSWA.

Roger Marris referred PELG to the occasional paper he drafted on enforcement allocation which identified the limitations on the enforcement powers of FRS and County Council PLAs (in England). In effect, these particular PLAs cannot take action against licensees' employees and other employers/employees (like tanker drivers) where these persons are suspected of breaching S7 HSWA. The enforcement remit is less clear where contractors are carrying out maintenance work on the petrol tanks, pipework and pumps etc. The Occasional Paper was circulated to members at a previous meeting when a similar matter was discussed.

7. Regulatory Enforcement & Sanctions Act 2008 – Consultation on the Primary Authority Scheme

Ray Blake gave an update on the stance that is being taken by the London Fire and Emergency Authority regarding the Act and the implications to both Prime Authority Partners and for PLA's who are not a Prime Authority. A report is being prepared to go to the Authority (LFEPA) in preparation of the likely approaches from major operators of petrol stations for London to become their Prime Authority. There would be a need to increase resources, and the cost of this can be recouped from Partner Organisations. Ray Blake will keep PELG members informed of any further developments.

Action R. Blake

8. CFOA guidance on 'Petrol Stored in Containers at Domestic & Non-Workplace Premises'

Roger Marris informed the meeting that the CFOA PetEx working group is in the process of drafting guidance for the storage of petrol at 'domestic premises' which will go on the CFOA website. It was agreed that the document would be used for the basis of the guidance PELG are aiming to produce.

The draft guidance is currently out for consultation but will be placed on the CFOA website upon completion. Conscious that this website is not user friendly, improvements are planned in the near future to hopefully resolve this issue.

Action: R Marris to circulate the draft to PELG members.

9. 'Petrol Filling Stations- Managing the Risks of Fire & Explosion'

Agreement was initially received from HSE to publish the guidance on the HSE website but due to limited resource implications they are now unable to maintain the guidance therefore a decision has been made to place it on the CFOA website and the PetEx working group has agreed to take ownership of the document.

Lynda Green will liaise with Shirley Howes (LAU) to arrange for the current link to be altered and transferred to CFOA website.

Action: L Green

10. Expert Opinion on the period between Electrical Testing of Electrical Installations on petrol filling stations.

Ray Blake informed the meeting, that having taken advice from a number of experts in the application of the Electricity at Work Regulations 1989 for equipment in hazardous areas; the LFEPA had informed one of its LAPs partners that it was unable to support their policy for biennial Electrical Testing for all sites within their network. The LAPs partner is considering their position, and may advise their contractors to provide a 2 year retest date for individual petrol filling stations that a suitably qualified electrician is satisfied may have an extended period between testing. This arrangement would satisfy the requirement for risk assessing the period between electrical testing on individual sites. Whereas a network of sites should not be risk assessed as a whole, because each site varies in age of equipment, wear and tear of equipment due to differing levels of usage, and level of corrosion dependent upon the prevailing weather conditions due to geographic location.

11. Petroleum Licence, 'Approved Arrangements'

Ray Blake showed the meeting a typical Petroleum Licence produced by the LFEPA. This included the Licence document, approved drawings and a licence schedule indicating details of all petrol related equipment installed at the premises, and any significant features such as LPG cages and ATM's. He asked the representatives of the

PLA's if they consider this to be a typical arrangement for licences, particularly as regards to approved drawings? The question had arisen when London LAPs partners had queried the need for the approved drawings to be kept with the licence on site. There was agreement that either this arrangement or one which would ensure a clear audit trail as to the current 'approved arrangements' was necessary. The regional representatives agreed to ask their groups whether the arrangements were typical.

Action point Regional Licensing Authority Representatives

12. The Manufacture and sale of bio diesel on small domestic scale

Jim King requested information of the potential hazards of the manufacture of biodiesel from vegetable oils and information on the supplier of small kits for the manufacturing process.

He explained that this matter was one where enforcement allocation may also be an issue, in that a person operating a business, say a taxi firm, would find themselves in an "at work" situation, not a domestic one.

Mr King also explained that the Registration, Evaluation, Authorisation & Restriction of Chemicals regulations (REACH) may apply if a person placed their surplus product on the market. If that was the case, in order to avail of the registration timelines, the producer would have to pre-register the methyl fatty acids in the biodiesel.

Mr Hazeldean provided information on activity by HSE to provide advice on biodiesel manufacture and of inspections carried out at work premises involved with the process.

Mr Blake gave supporting information on the fire hazards and provided contact details on one manufacturer.

13. Fuel Pods in Domestic Use

Brian Baker reported that Norfolk Fire & Rescue Service are expressing concerns in the growth of domestic Fuel Pods following an incident in Middleton Cheney, Oxfordshire where a man was badly burned making his own Bio Diesel. These Fuel Pods are being actively marketed by a company in Gloucestershire known as Green Fuels Ltd who also provide Methanol for the conversion process. The AA estimate some 20K homes have the ability to make fuel domestically. The issue is brought to this forum for information at this stage.

14. Tank Failure Survey

Brian Baker circulated sample forms where information regarding tank failures are concerned and the SELCOG initiative will commence in January 2009.

Action: Ray Nicholson to report back progress at next PELG meeting.

15. Environment Agency Consultation Policy Document on Underground Fuel Storage

Following on from the last PELG meeting the Environment Agency (EA) have now published their document "Groundwater protection: Policy and practice (GP3) Part 4 - Legislation and Policies, 2008 Edition 1."

It is an extensive document available from their website.

Esso originally raised concerns that resulted in them withdrawing planned improvements to existing sites because the EA had indicated they would object to double skinned underground tanks with monitoring etc and insist on above ground tanks, following the principals laid down in the above document.

The wording of the relevant General Policies can be found on page 25, the following paragraphs refer:

Para 1-7 Principles of Storage (Planning);
 Para 1- 8 Underground Storage (Planning)
 Para 1- 9 Sub-water table storage (Planning)

This policy may have the effect of discouraging improvements at existing sites in many areas as works requiring planning permission, for instance, may attract opposition from the EA for traditional improvement methods such as new under-ground storage tanks.

That appears to be the response from local EA officers to recent proposals from the industry to upgrade some sites. This approach may perpetuate the existence of older sites, perhaps with single skin containment. The EA's preferred means of storage - above ground tanks - could introduce additional hazards and may not be possible for many sites.

In order to take this matter forward the EI's Oil & Water Group are meeting in November with the EA to discuss this policy, its likely effects on the industry and local interpretation of the policy. The petrol retail trade associations and PO's will be in attendance.

16. Overfill Prevention Devices – Problems Found

BP have been trialing a new Overfill Prevention Device (OPD) made by Risbridger Ltd that claims to be the only such valve on the market that fully meets BS EN 13616; the relevant technical standard. However there have been vapour leak problems during the trials possibly caused by other components in the system. Only 4 sites have been trialed so far and their evaluation is awaited.

17. 'Vapa Sava' – A new innovation for condensing petrol vapours during unloading, dispensing and normal tank breathing

Roger Marris informed the meeting that consent/approval of West Yorkshire FRS and Leeds City Council had been sought by David Boothroyd to trial his vapour condensing system at a filling station in the Leeds area. The system operates on cryogenic principles and is designed to condense the vapours being returned to the road tanker during the delivery process. It is claimed that the system can be adapted to condense the returned vapours when Stage 2 (VR) is in operation. SIRA will be providing a 'third party' verification of the system. Initial indications are that it will not fall within the scope of ATEX Directive.

The trials in Leeds will be on the Stage 1b functions. Roger Marris will provide an update at the next meeting.

Action: Roger Marris

Note: Subsequent to the meeting, the company promoting the system has changed the name to Cool Fuel so as to avoid confusing with a device known as Vapa Sava.

<http://www.coolfueluk.com/>

18. AOB

18a Motor Cyclists being asked to remove their helmets

Somerfield Supermarkets have contacted Brian Baker about asking their customers to remove their helmets when filling motorcycles. However, both BP and Tesco have recently relaxed this matter as it has been acrimonious during enforcement and also

religious issues have surfaced. The requirement to remove helmets is for security purposes as well as for preventing under age sales. The general consensus was that the motorcyclist should at least dismount before attempting to re-fill and that pragmatic approach should be taken by cashiers authorizing dispensers.

18b BBC One Show – Petrol Vapour

Ray Blake informed the meeting of the answers that he had provided to the BBC One Show following their screening of an article showing that static was more likely to ignite petrol vapour than the use of a mobile phone on a petrol station forecourt. The enquirer had been given the guidance provided in PETEL 65/59a on the subject.

Ray Blake informed the meeting of a case of excessive domestic keeping of petrol which had resulted in the seizure of the 320 litres of petrol, the offender receiving a formal caution, and paying the costs of the Authority. It is also possible that the offender who was sold unsuitable containers by a petrol filling station which he was also allowed to fill with petrol at the same premises will act as a witness for prosecution action against the offending site. The site is located outside the Greater London area; the PLA for the site is liaising with the LFEPA.

18c Warrington Firm – Tasks on Petrol Forecourt

Neil Simms informed the meeting that Warrington Trading Standards had been approached by a local businessman who has developed a service which he hopes to operate on a number of petrol filling station forecourts across the NW region. The service he hopes to carry out involves checking vehicles tyres (both tyre pressure and tread depth) and cleaning windows/wing mirrors/ lights while a customer fills up. If tyres are under inflated the operative who checks them will inflate to the correct pressure using a portable mobile air cylinder. If a customer agrees to the service being provided the operative will communicate this to the cashier using Bluetooth technology and the additional charge will be added to the customers bill. A local filling station has agreed in principle to him trialling the service on their forecourt. Warrington enquired whether any other area had experienced this type of service. Due to a lack of available information, insufficient risk assessment, potential for increased ignition sources during dispensing and detergent entering the drainage and separator, this service is currently not authorised in the NW. No other area reported having dealt with a similar issue.

18d E85

Mr Hazeldean reported that he had received queries on the Gas Group classification of high ethanol fuels with respect to the selection of the correct type of certified electrical equipment. The recently published APEA guidance (Guidance on storage and dispensing of high blend ethanol fuels including E85 at filling stations) has recommended that E85 and other high blend ethanol fuels are classified as Gas Group IIA materials, following recent work carried out by the PTB in Germany. However, bulk ethanol has traditionally been assigned to Gas Group IIB and this is the classification currently provided in the British Standard BSEN 61779-1 2000. Mr Hazeldean has recommended that Group IIA electrical equipment should be used when designing new facilities, in accordance with the APEA guidance, but that it is not reasonably practicable to retrofit this equipment to existing plant where high blend ethanol fuels or bulk ethanol are stored or handled.

19. Date of Next meeting:

Due to the action on PELG to draft guidance on the extant legislation controlling the storage and carriage of petrol in portable containers (agendum 4), the next meeting scheduled for February 2009 was brought forward to Tuesday 20th January 2009. The venue was not decided as there is some doubt over the continued availability of Rose Court.

Note; As there is no room available at Rose Court on this date, the meeting will be held at the PRA offices at Great Portland Street, London (room 201).

20. Appreciation:

Roger Marris closed the meeting by thanking Lynda Green for her valuable work and willing contribution to the administration of PELG during her tenure as secretary.