

PETROLEUM ENFORCEMENT LIAISON GROUP

Action Notes of 39th PELG Meeting on 20th January 2009 Held at Petroleum Retailers Association, Gt. Portland Street, London

Present:

Roger Marris (Vice Chair)	West Yorkshire FRS (North East Licensing Group)
Diane Thomas (Secretary)	HSE
Phil Monger	Petrol Retailers' Association
Neil Simms	Lancashire CC (North West Licensing Group)
Ted Beckley	Dumfries & Galloway DC (COSLA)
Ray Blake	London FEPA (CFOA)
Ahmed Mulla	Wm Morrison Supermarkets Plc (AUKOI)
Rob Tunnicliff	Stoke City Council (Midlands Licensing Group)
John Hazeldean	HSE
Craig Bell	HSE
Ray Nicholson	Surrey CC (SELCOG)
Jim King	DETINI
Steve Wenham	Environment Agency
Rupert Ainsworth	UKPIA (deputising for Mike Harding)

Apologies:

Mike Harding	UKPIA
Mike Webber	Poole DC (SWLCOG)

Agenda item 1. Welcome, Introductions and apologies for absence

Roger Marris welcomed members to the 39th PELG meeting. He also welcomed Diane Thomas and Craig Bell from HSE's Policy Group.

Diane will be acting as Secretariat for this meeting. Craig stated that due to re-organisation within Policy Group it has not yet been confirmed if Diane will continue this role and will inform Roger as soon as the position is known.

There was no representative present from the Welsh Licensing Authorities. Diane has a contact at WHOTS and will approach them to identify a Replacement for Steve Grey

Action 1.1: Diane Thomas

Agenda item 2. Use and Storage of Adblue & Pollution Prevention Guidance

Steve Wenham introduced this item, stating that due to a number of incidents related to the storage of Adblue, the EA has been tasked with producing guidance and was asking input from PELG. The members agreed that PELG could not offer much assistance as there was no known bulk storage of Adblue at petrol filling stations, but Phil Monger said he would contact the Energy Institute to see if they would be in a position to help. As he was also the technical officer for PEIMF, he also agreed to consult with their members.

Referred to EI; no further action by PELG.

Agenda item 3. (PPG) 7- Refueling Facilities review/consultation

Steve Wenham informed members that this is shortly due for review. He is keen that the guidance has to explain clearly how users must comply with the law. He is inviting the group to look at the document and let him know if they have any suggestions for improvement; even considering if there's a need for it, before the formal consultation

take place. Send comments and suggestions to Diane in the next 4 weeks. Diane will compile the responses and forward to Steve. Phil Monger also agreed to consult PEIMF members.

Action 3.1: All/ D. Thomas

Agenda item 4. HSE/PELG working together on guidance for petrol storage and petrol containers

Craig Bell gave an update on actions resulting from the fatal incident at Immingham. He confirmed Lord McKenzie's view was that the current legislation was fit for purpose, but recommended a review of existing guidance. Roger Marris /John Hazeldean/Craig Bell met in December 2008 and made the following suggestions for the way forward:

1. Update of PETEL 65/9
2. Review of HSE webpage on flammable substances, which has not been revised since DSEAR came into force.
3. Leaflet to be handed out at Filling stations. It will explain what can be filled and what can be kept (without a licence). It will target both employers/employees and private individuals.

Craig informed that Lord McKenzie wishes to be kept informed on progress and has asked for an update after this meeting.

Update of PETEL 65/9. Roger Marris informed the meeting that he had incorporated the comments submitted from members in the pre-meeting consultation. The additional text was shown in pink font on the draft presented for discussion at the meeting.

It was agreed that, other than the descriptions the types of containers that can be filled at a petrol filling station, the PETEL should not cover the sale of petrol.

There was a query, raised by Ted Beckley, as to the number of 5 litre plastic containers that can be kept with metal containers under the harmonised requirements of the Motor Vehicles Regulations (MVR) and the Plastic Containers Regulations (PCR). Roger Marris was of the opinion that 2 x 5 litre plastic containers could be kept in addition to the quantity/number of metal container limits imposed by MVR. At the request of Roger Marris, Craig Bell agreed to seek a legal opinion from the HSE's solicitors' office. John Hazeldean said that he would do a little more research and work on Appendix 'B' (UN Approved Containers) to ensure its accuracy (especially on the pressure test criteria) and to make it more understandable for the layperson to read.

Other than completing the PETEL, the next stage or the action is to prepare a précis of the legislation that will be published as a single page (A4) leaflet for distribution at petrol filling stations. Ray Nicholson offered to make a start with the drafting of the leaflet, as it applies to domestic/non-workplace storage; the HSE will be adding the wording for the 'workplace' element of the leaflet.

Actions:

4.1 Roger Marris and John Hazeldean to finalise the draft of the PETEL.

4.2 Ray Nicholson to prepare the first draft of the leaflet.

4.3 Craig Bell to: -

- seek a legal opinion on the relationship between MVR and PCR with respect to the number of plastic containers that can be kept under the MVR regime; and
- arrange for the wording to be drafted for the workplace element of the leaflet.

Agenda item 5: Query from Wiltshire on licensing of Petroleum Installations on MOD sites

It was reported that the MoD Fuel services Group has taken over licensing of petrol installations on MoD sites. Discussions were held as to whether PCA and DSEAR apply to these sites, or whether they have crown immunity; it was agreed by members that

clarification is needed. The question was also raised that if MoD sites did not have crown immunity who would enforce DSEAR?

Action 5.1: Craig Bell to check Crown status

Agenda item 6: Actions from the last meeting and any matters arising

Actions from previous meetings

Flatcan Emergency Fuel Containers

Ray Nicholson said that he had reviewed the legislation that would apply to the supply of the Flatcan product to consumers. The General Product Safety Regulations 2005 (GPSR) would arguably apply in this situation as the Petroleum-Spirit (Plastic Containers) Regulations 1982 as amended now only apply to the storage of petrol in domestic situations. The Flatcan product is not designed for long term storage, it being designed as a one-off use item in the event of a motorist running out of petrol away from a PFS. The Flatcan is a composite package: ie a plastic inner and fibreboard outer (UN standard [6HG2])

If the supply of petrol cans for private use was therefore covered by GPSR they would have to meet the requirements of regulations 5 + 6 of GPSR. Regulation 6 lists the hierarchy of methods of meeting "presumption of conformity". In the absence of other relevant ISO, EU or BS standards the UN standard as specified in the Model Licensing Conditions would seem to be the most appropriate. It was noted that the UN standard was open to interpretation and that test house opinion would be vital in demonstrating that the Flatcan was (or was not) a container that complied with the United Nations standard for use for storing and/or carriage of petrol.

Richard Chattaway at Bedfordshire Trading Standards has been informed of this opinion and agrees with it and will be relaying it to Mr Cornwall and associates either directly or via colleagues. NOTE: Bedfordshire has recently been re-organised into two new Authorities.

Action 6.1: Ray Nicholson to monitor any further activity with respect to Flatcan and their response

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

Ray Blake confirmed that the national inspection regime had commenced at the beginning of January 2009. It is hoped that the results will be available at the end of March 2009. To date the inspections had identified a number of anomalies, and questions had been raised. He will report further.

Action 6.2 ongoing: Ray Blake

Filling LPG Cylinders by Customers at Retail Petrol Filling Stations

Neil Simms is currently liaising with e-bay on the removal of the items from the website

Action on-going 6.3: Neil Simms

Actions from last meeting –main agenda items

Future of PELG

Craig Bell confirmed that HSE had agreed to continue to support PELG, though clarification on what is meant by "support" is still needed. Craig will seek clarification and report back to the members.

Action 6.4: Craig Bell

Craig to meet with LAU as soon as possible, to discuss who will oversee it –until decisions have been made Roger will continue to act as Chair.

Action 6.5: C. Bell

Roger reported that a number of PETELs that have not been revised within 5 years have been removed from the LAU website. They need to be looked at to see if they are still relevant. It was agreed that a list and copy of all deleted PETELs be sent to each member and each member chooses one to take the lead on.

Action 6.6: all

Roger requested that any enforcement queries be sent to Diane for dissemination to the relevant body.

Action 6.7: All/ Diane Thomas

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

Ray Blake reported that the consultation with BERR had been completed on 3rd December 2008. There was currently a further document for consultation from the LBRO, comments to be submitted by 28th February 2009. In the mean time the London Fire and Emergency Planning Authority (LFEPA) had looked into the feasibility of operating a number of Prime Authority Partnerships under Petroleum Legislation. As well as the ongoing discussions with their existing Lead Authority Partners, the LFEPA had been approached by four possible partner organisations that were keen to enter into agreements with them. Ray Blake undertook to keep PELG informed of all developments.

For information only; no further action by PELG

CFOA Information Note on “Petrol Stored in Containers at Domestic and Non-workplace Premises

Roger Marris explained that he was encountering difficulties in getting the document published on the CFOA website. As and when the revision of PETEL 65/9 is completed and published, a decision will need to be made as to whether the CFOA Information Note should be withdrawn if it does not compliment or expand on the information in 65/9.

For information only; no further action by PELG.

“Petrol Filling Stations- Managing the Risks of Fire & Explosion”

Diane reported that this action had not been completed. Roger confirmed that the document was not yet on the CFOA website. He will let Diane know when it has been put on and then Diane will liaise with LAU on amending the link. In the meantime it is remains available to view or download from the WYFRS website.

<http://www.westyorkshire.gov.uk/new/fireSafety/petroleumExplosives/PetrolFillingStationsGuidanceFinal.pdf>

Action ongoing 6.9: Roger Marris/Diane Thomas

Petroleum Licence ‘Approved Arrangements’

Representatives of regional groups stated that the LFEPA ‘approved arrangements’ for petroleum licence documentation by way of a plan showing storage tank positions/numbering/capacities/grades etc outlined at the last meeting, was something that other PLA’s aspired to, but did not normally have the resources to implement. Ray Blake agreed to forward electronic copies of a Licence Schedule to some members of PELG.

For information only; no further action by PELG.

Tank Failure Survey

Ray Nicholson reported that the Jan 09 deadline had not been met. He will update at the next meeting.

Action Ongoing 6.11: Ray Nicholson

Environment Agency Consultation Policy Document on Underground Fuel Storage

Steve Wenham reported that there have been issues regarding planning applications where in some EA areas (mainly the South East) personnel have been misunderstanding the policy statement. He confirmed that even though this is not being dealt with by him, he reported that a position statement presentation was being given on 22nd January by Mark Morton of EA. Steve offered to disseminate a copy of the presentation to members before the next PELG meeting. He will also feedback what is discussed at the Thursday meeting, at the next PELG

Action 6.12: Steve Wenham

VR Refiner Coolfuel UK Ltd

Roger Marris reported that the company is going to re-design the pumping unit for the refrigerant which may bring the device into scope of the ATEX directive. Roger will give an update at the next meeting.

Action ongoing 6.13: Roger Marris

Agenda item 7- Problems with the completing of Petroleum Licence Transfer Forms by potential licensees

Ray Blake explained that the LFEPA had experienced problems with the incoming licensee being unable to have the 'model licence transfer form' completed by the outgoing (current) licensee. To overcome this, the LFEPA had produced a covering letter which was sent out with transfer forms which explained that under these circumstances it may be necessary to issue a new full licence. A copy of the letter had been circulated with the documentation for the meeting.

For information only; no further action by PELG.

Agenda item 8- DEFRA proposal to make PVR permit fees risk based

Phil Monger explained that Defra were proposing that the permit fees for PVR 1& 2 should be risk based. The methodology for risk assessment took into consideration training, maintenance, and operation of the 'process'. Although Defra were recommending an initial 'low risk' ranking for PVR 1 sites he had concerns the LA's might interpret differently. There was little training or maintenance required on Stage 1, which was little more than altered vent plumbing.

For information only; no further action by PELG.

Agenda item 9 - Case Referral: Designated smoking areas on petrol filling stations.

A copy of case referral paper and photographs (2) was circulated for the meeting. Roger Marris reported that he had spoken to the Inspector who raised this issue. The outcome of the conversation was that it is apparent that whilst the inspector was concerned at the position of the designated smoking area, he had not challenged Tesco's risk assessment/control measures for the disabled car park bay which is located adjacent to the vent stack; in a closer position than the designated smoking area. The meeting agreed that this was a matter for the LFEPA to take-up up with Tesco under the current LAPS.

Referred to Ray Blake (LFEPA). No further action by PELG.

Agenda item 10 - LAPS Esso agreement and not conforming on rebuilds.

Rob Tunnicliff introduced this item, which had originally been raised by Shropshire County Council, where an Esso station in their area was arbitrarily changing to an 'on the run' site and issues surrounding CCTV were not being used as agreed in the

Esso/Surrey CC LAPS. Ray Nicholson said he aware that Esso are not always operating as agreed and would discuss this and other issues with the company.

The meeting agreed that this was a matter for Surrey CC to take-up up with Esso under the current LAPS.

Referred to Ray Nicholson (Surrey CC). No further action by PELG.

Agenda item 11 - Spillage Problems Associated with the Refuelling of (some models) Ford Cars

Roger Marris outlined to the meeting the spillage (during refuelling) problem which some models of Ford cars fitted with a '*capless fuel tank*'. Concern regarding the fire and pollution risks associated with the spillages having been raised by a filling station licensee who operates an 'attended service' site in the Halifax area. Ford appears to recognise that there is a problem insofar as the company has re-issued, in April 2008, a Technical Service Bulletin (64/2007) which advises on the correct method of inserting the (dispenser) nozzle into the fuel tank aperture to prevent spills from the overflow pipe. (A copy of the Technical Service Bulletin had been circulated with the documentation for the meeting). As the occasional spillages would be occurring in a designated zone 2 hazardous area, the members were of the opinion that incidents did not significantly increase the risks of fire. The meeting decided to refer the matter to DEFRA as there was a possibility that the spills would negate any benefits of Stage 2 VR.

Referred to DEFRA; no further action by PELG.

Agenda item 12 - Issues relating to the introduction of Bio Fuels

Ray Blake explained the procedures being used to clean and dewater unleaded tanks prior to them being converted to E5 unleaded. This involves the opening entries into the tanks which when the site has operational Stage II VR is likely to be under pressure. A number of contractors and site operators were putting a method of releasing the pressure in place which involves connecting a temporary vent pipe to the stage 1b vapour return connection.

For information only; no further action by PELG.

13. AOB

Stage 2 VR – EC Directive:

1. Phil Monger drew attention to the proposals by the EC Commission for a Directive on Stage 2 PVR. The first attempts for a Directive had been dropped about ten years ago, but the emergence of a larger community and cross boundary pollution had led to a new proposal. This would have little impact on the UK who was in the process of implementing Stage 2 Controls by the end of this year for domestic reasons. The technical requirements of the Directive were not more onerous than the UK scheme although the volume threshold was lower at 3 million Litres per annum. As the Directive was proposing a 2020 implementation date and site volumes were continuing to increase the ratio of diesel to petrol year by year, this would not affect any more UK sites.

For information only; no further action by PELG.

Temporary Petrol Filling Stations:

2. Ray Blake informed the meeting that through the LFEPA's LAPs partnership with Sainsbury's, he had been consulted on the installation of a temporary above ground petrol filling station (pfs) to be located within the car parks of supermarkets for the duration of a redevelopment of the existing pfs at the premises. He had informed Sainsbury's that the temporary pfs must have an adequately sized imperforate surface for the tanker stand and vehicle fuelling areas. Normal pfs drainage arrangements apply;

the temporary pfs must have both Stage 1b and Stage II VR, and be licensed in the same way as a permanent pfs. The temporary pfs was currently under construction, it would initially be installed in Taunton, Somerset, and would subsequently be used at a further 8 to 12 locations around the UK over a 3 or 4 year period.

For information only; no further action by PELG.

Petrol Storage Tanks – Low Stock Levels – Risks of Leaks:

3. Neil Simms notified the group that many smaller independent filling stations in Lancashire are maintaining the stock levels in their below ground storage tanks at 50% of the full capacity. This means that the upper 50% portion of the tank structure is not being continuously leak monitored. This gives rise for concern as should the site operator decide to increase his stock levels, the liquid phase of the product will be in contact with an area of the tank wall for which the integrity cannot be assured; thereby increasing the risks of leaks occurring.

For information only; no further action by PELG.

Creating List of On-Going PELG Actions:

4. Roger Marris expressed concern that some outstanding actions were being overlooked with the passage of time; the DCO letter to all PLAs making them aware of the model licensing conditions and application forms being an example. Roger's proposal for a separate (to the action notes) list of 'actions' to be created and maintained by the secretary was accepted by the members.

Roger asked if all members could inform Diane of any overlooked or outstanding actions they were aware of.

Action 13.1: All/ Diane Thomas

Date of Next meeting:

Meeting date set for 13th May 2009; the venue to be confirmed.

Secretary's note: This has been re-arranged for 21st May 2009, Rose Court