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HEALTH AND SAFETY COMMISSION

Railway Safety Regulations 1999 – HSE consultation on an exemption application by Network Rail : fitment of TPWS at temporary speed restrictions

A Paper by HSE Rail

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Issue

1. Formal consultation of the Commission by the Executive on a further application by Network Rail for exemption from train protection fitment requirements of the Railway Safety Regulations 1999 (the Regulations). HSE is minded to grant an exemption.

Timing

2. The consultation began on 29 October and ends on 28 November. HSE's decision is likely in December.

Recommendation

3. Mainly for information but the Commission also has the option of formally responding to consultation as a consultee. Any response should be sent no later than 28 November.

Background

4. The Commission is aware of the growing body of evidence that the Train Protection and Warning System (TPWS) is much less effective at mitigating overspeeding (mainly derailment) risk than was hoped at the time the Regulations were developed in 1998.
5. In MISC paper 03/26 we alerted the Commission that HSE was expecting an application for exemption from Network Rail from the requirement to fit TPWS at Temporary Speed Restrictions (TSRs), which have been in place for longer than 3

months. We also stressed that as the legal requirement for these temporary fitments applies from 1 January 2004, and Network Rail is not in a position to comply, some action by HSE is inevitable. We also explained that there is some doubt on HSE's part that the Regulations are correctly drafted here, and that this was certainly an area of technical contention that the Commission's 1998 consultation did not fully resolve. We also noted that Uff/Cullen's Joint Inquiry report did encourage the exemption facility to be used where a risk and cost-based case could be made.

6. Network Rail made an earlier application in late 2002, to which HSE responded suggesting further work was needed to make a convincing case. Network Rail's revised application was submitted on 26 September, allowing 3 months for completion of process.
7. The fitment of TPWS at temporary speed restrictions (TSRs) under 3 months duration was excluded from the Regulations, which define TSR as 'a speed restriction which is in place no longer than 3 months and used in accordance with special procedures established by the infrastructure controller'. The rail industry does not follow this definition – a TSR can be in place for a good deal longer. Network Rail is currently required to fit TPWS to certain speed restrictions over 3 months duration, which may be still classified by the railway as temporary, on average around 200-300 locations at any given time. Network Rail applied for a 'blanket' exemption ie. regardless of the TSR duration.
8. HSE is now consulting stakeholders (Annex 1) on its provisional view that there is a convincing case for *an* exemption to avoid the need generally for TSRs to be fitted with TPWS, but that an exemption needs to specify a time limit to define and clarify the temporary nature of these speed restrictions. While 6 months is HSE's preferred period for defining TSRs, our consultation seeks views on whether a longer period up to 12 months might be more appropriate. These periods are broadly in the same range as that for converting a TSR to a PSR under Railway Group Standards and the Network Change process under Track Access Conditions.

Presentation

9. HSE issued a press notice (Annex 2) on 29 October, covering both its decision to grant an exemption to Network Rail from TPWS fitment requirements at certain PSRs, exemption conditions on TPWS+, and consultation on the TSRs application. The consultation is also on HSE's website at :
<http://www.hse.gov.uk/railways/liveissues/tpwsconsult.htm>

Costs and Benefits

10. An economic appraisal is made at paragraphs 42-48 of HSE's consultation paper. Overall, the regulatory impact for Network Rail of the exemption HSE is minded to grant, including compliance with conditions, should be positive.

Other Implications

11. None.

Financial/Resource Implications for HSE

12. The time available to process this application has been very limited. A project team from Policy Group, HMRI (both operational and technical divisions) and solicitors assessed Network Rail's application and prepared the consultation package during October. At least 1 staff unit has been devoted full time to work on this application. The team will complete work on the process in November and December. HMRI and Solicitors work on exemptions is recoverable through charging.

13. There may be some longer-term implications, eg. monitoring of compliance with any exemption conditions, and handling any possible location-specific exemption applications for individual TSRs in place over 6 months.

Consultation

14. Internal clearance with PEFD.