

Health and Safety Executive Board		HSE/14/31	
Meeting Date:	9 April 2014	FOI Status:	Open
Type of Paper:	Above the line	Exemptions:	
TRIM Reference:	2014/124548		

PROPOSED PETROLEUM (CONSOLIDATION) REGULATIONS 2014:

OUTCOME OF PUBLIC CONSULTATION AND REQUEST TO PROCEED WITH IMPLEMENTATION

Purpose of the paper

1. To inform the Board of the outcome of the public consultation on the proposed Petroleum (Consolidated) Regulations 2014.
2. To seek Board approval to recommend to the Minister that the proposed Petroleum (Consolidation) Regulations 2014 are implemented.

Background

3. The consolidation of petroleum legislation is one of the five 'sector' consolidations the Government, in response to the Löfstedt review, committed to completing by the end of 2014. The Board approved the consultation exercise in October 2013 and the eight-week public consultation on the proposed draft Petroleum (Consolidated) Regulations 2014 closed on 7 February 2014.
4. We propose to repeal/revoke all existing legislation and to replace this with new regulations that consolidate, modernise, and, where practicable, simplify the current legislative arrangements, whilst maintaining existing standards of safety and reducing unnecessary burdens on business.
5. The proposed framework primarily covers storage of petrol at workplaces where petrol is dispensed (in the main at retail petrol filling stations), enforcement, non-workplace storage (usually at domestic dwellings) and petrol containers. The development of the framework in the proposed draft regulations was carried out in an open and collaborative way, drawing on a wide range of views from industry, regulators, other government departments (OGDs) and hobbyists (whose activities involve storage of petrol).

Argument

6. Overall the consultation was well received and the 74 responses received did not indicate a need for a fundamental shift in any of the policy proposals. The majority of the proposals were supported with a high agreement rate, many in excess of 70%. The high level of agreement reflects work carried out with stakeholders in advance of developing the draft regulations. In particular, we worked closely with a group of key industry and enforcement representatives to develop proposals to replace the current licensing regime for petrol filling stations with a certification scheme. An analysis of the 74 responses is at Annex 1.

Petroleum Regulations 2014 – proposed framework

Petrol filling stations

7. In the case of petrol filling stations, both retail and non-retail (e.g. for filling of fleet vehicles), the current licensing regime is essentially concerned with the safe storage of petrol before it is dispensed into vehicle fuel tanks. Due to the intrinsic hazards of petrol and the associated public safety aspects, HSE wants to maintain public assurance that the risks of storage continue to be suitably controlled. There was general support, in line with the Board's earlier recommendation (at its meeting in September 2012), for the need to maintain a permissioning element for storing petrol at these premises.
8. The key change for petrol filling stations is the proposal to move away from licensing and to introduce a petroleum storage certificate. The certificate will relate specifically to the storage arrangements for petrol at the site and the proposed scheme will continue to provide the means for the local enforcing authority to satisfy itself that a site has in place appropriate physical arrangements for the safe storage of petrol. There was general agreement regarding the criteria for granting a petroleum storage certificate and the consultation provided many helpful comments on its proposed content that HSE will take into account for implementation.
9. The certificate, unlike the licence which is renewed every 1-3 years, will remain valid until a 'prescribed material change' (i.e. one that affects the validity of the petroleum storage certificate) is made, or the site is no longer in use. Some PLA respondents had strong views regarding the fact that the proposed regulations do not include responsibilities for site operators to notify other types of changes (and certain incidents such as petrol spillages) as is the case under current licence conditions. However, as a number of the changes cited relate directly to operational matters rather than the physical arrangements, these do not affect the validity of the petroleum storage certificate. Licence conditions are not formally included in the current legislative framework but HSE intends to revise the draft regulations to ensure some of the stakeholder comments in relation to proposed material changes are captured and that other notification requirements are detailed in guidance so these aspects are not lost.
10. The current licensing regime includes the facility to transfer a licence between operators when ownership of a petrol station changes hands. There was agreement (78%) with the proposal to remove the need for this administrative process and to instead introduce a simpler duty to notify the enforcing authority regarding such a change.
11. There were some differing views on the proposed transitional arrangements as sites move from licensing to certification over the next three years. The consultation highlighted industry's view that licences should be replaced by certificates when the regulations are implemented (or within 6 months of that date), while enforcers did not provide any strong views on this issue. To minimise burdens HSE proposes to maintain the transitional arrangements as drafted in the regulations. This will lead to a phased introduction of certification for existing sites as licences will be replaced with certificates as they expire or if a 'prescribed material change' takes place prior to the licence expiry date. This is beneficial for both business and enforcing authorities as on implementation no actions are required for sites that hold a valid licence.

Enforcement and enforcement authorities

12. There was a lot of support (89%) for the proposals to maintain the existing enforcement responsibilities. There was also support (89%) for renaming Petroleum Licensing Authorities (PLAs) to Petroleum Enforcing Authorities (PEAs) to better reflect the intentions of the new regulations.

Non-workplace storage

13. The draft regulations define what can be stored at non-workplace premises, (most commonly domestic dwellings), e.g. small quantities kept by individuals for fuelling private vehicles or for use in lawn mowers, boats, etc. The consultation confirmed our view that there is some confusion about the current requirements as concerns were raised regarding the introduction of new/different storage thresholds when in fact these have essentially remain unchanged. One of the aims of the consolidation is to bring clarity to this area and the regulations will be supported by updated guidance that clearly defines storage amounts and arrangements at non-workplace premises.
14. There was a high level of support (78%) for the proposal to maintain the licensing requirement for storage of more significant amounts at non-workplace premises because storage arrangements are likely to vary and duty holders are likely to have poorer understanding of the risks and hazards associated with storing petrol.
15. We received some helpful comments about the amounts of petrol that can be stored without notifying the enforcing authority or applying for a licence. The draft regulations proposed that no more than 20 litres could be stored in suitable portable containers (or no more than 30 litres in a demountable fuel tank). In light of the responses, HSE proposes to revise the draft regulations to reflect that for either type of storage the limit will be no more than 30 litres (or for a combination of the two types no more than 30 litres in total).
16. We received some incisive and well constructed comments from a respondent representing the interests of boat owners regarding storage on boats. HSE proposes to reflect these comments in the draft regulations to help ensure that boat owners, and others with similar requirements, will not be disadvantaged compared to the current situation, by the introduction of the new regulations.

Petrol containers

17. The current legislation in relation to plastic containers includes requirements for basic safety features with a supporting ACOP that contains a range of prescriptive provisions. There was strong support (91%) for the proposal to retain basic safety features and strong agreement (89%) to withdraw the ACOP (also see para 19 below), allowing for continuing innovation and further developments in technology. There were some differing views regarding the sizes of containers that should be permitted; for example, some were against raising the limit of plastic containers to 10 litres whilst others believed it should be raised to 20 litres.
18. HSE proposes to retain the basic safety features as set out in the draft regulations and also intends to take forward the limit of 10 litres for the size of plastic petrol containers. HSE has set up a stakeholder working group involving manufacturers, suppliers, distributors and enforcing authorities to work together to develop guidance on petrol containers. The aim is to take the container requirements in the draft regulations, consider what standards are available and develop guidance that supports the legal requirements.

Approved Codes of Practice (ACOPs) and Approved Document

19. There are two ACOPs and one Approved Document associated with the petroleum consolidation work.
 - a) *L133: Unloading petrol from road tankers*. The proposal to review the ACOP was almost unanimously (98%) supported. Subject to separate Board approval a public consultation is planned for June 2014 with a view to publishing a revised version of L133 by the end of 2014.
 - b) *COP6 – Petroleum-Spirit (Plastic Containers) Regulations 1982. Requirements for testing and marking or labelling*. The plan to withdraw this ACOP was strongly supported (89% of respondents agreed with the proposal). As mentioned above HSE has set up a stakeholder working group to produce updated guidance regarding petrol containers.
 - c) *L93 – Approved tank requirements. The provisions for bottom loading and vapour recovery systems of mobile containers carrying petrol*. The plan to withdraw this Approved Document was strongly supported (94%) as the requirements are covered in other more appropriate legislation.

Devolved Administrations

20. The safe storage of petrol is not a devolved matter so the Petroleum (Consolidation) Regulations 2014 will apply to Scotland and Wales. Although having no specific comments on the proposals, the Scottish Government has been very helpful in resolving an issue in respect of the petroleum regulations relating to disused petrol tanks and links to a piece of primary legislation in Scotland. No comments were received regarding the proposals from the Welsh government. Northern Ireland has its own legislation and HSE informed them of the consultation but no response was received. Members of Scottish and Welsh petroleum enforcing authorities provided responses to the consultation and were also represented on the working group that developed the framework for the regulations.

Main risks identified

21. The draft regulations include provisions regarding the manufacture of petrol containers and fire-proofing in domestic premises. Therefore under the EU [Technical Standards Directive](#) they are considered to be a 'draft technical regulation'. This means there is a mandatory three month standstill period to provide EU Member States with the opportunity to comment on the draft regulations. The standstill period is due to end on 6 May 2014 and if an opinion is logged during this period it could result in a further 3 month standstill period for consideration of that opinion. No opinions have been logged thus far.

Timescales

22. The intention is to submit the regulatory package to the Minister during May 2014 so the regulations can be laid in June enabling them to come into force on 1 October 2014 (following Parliamentary scrutiny). However, if one or more EU Member State(s) logs an opinion in relation to the TSD then this could delay the process and consideration would need to be given to delaying the coming into force possibly to the next Common Commencement Date.

Communications

23. The consolidation team has begun work to ensure updated guidance is available in line with government timescales. We are working with stakeholders on guidance in relation to petrol containers and to assist enforcing authorities and industry in relation to transitional arrangements. We will also develop guidance for the public on the

dangers of petrol, the amounts that can be stored at private premises and the appropriate storage containers to use.

Action

24. The Board is asked to:

- note the outcome of the public consultation on the consolidation of petroleum legislation and;
- subject to agreement of HSE's proposals in response to the consultation, recommend to the Minister that the proposed Petroleum (Consolidation) Regulations 2014 are implemented.

Paper clearance

25. The HSE Senior Management Team at its meeting on 26 March 2014.

Consultation on Proposals for the Consolidation of Petroleum Legislation

Consultation Analysis

Introduction

HSE published a consultation on proposals for the consolidation of petroleum legislation to seek views from stakeholders. The consultation formally closed on 7 February 2014 and responses were received via a range of media.

This report is based on the 74 responses to the consultation document. As some respondents may have offered a number of opinions in relation to some but not all questions, total percentages under any one question are expressed as a measure of those answering each question, not as a measure of all respondents.

The breakdown of respondents is as follows:

Local/regional Government: 37 (50%)
Industry/business: 12 (16%)
Trade Associations: 9 (12%)
Public: 8 (11%)
Consultants: 2 (3%)
National Government: 2 (3%)
Non Government Organisation: 1 (1%)
Unions: 1 (1%)
Academic: 1 (1%)
Charity: 1 (1%)

The report starts with an overview, followed by a summary analysis of the responses to each question within the consultation.

Overview

The consultation was generally well received and there was a high level of agreement to most of the proposals (many in excess of 70%). This is likely to reflect the development of the proposals through close working with a stakeholder working group consisting of key industry and enforcement representatives.

In considering the responses we have taken into account the fact that around half of respondents currently work within Petroleum Licensing Authorities (PLAs) which outweighs the numbers of responses from industry/trade associations (who account for less than 30% of responses received). Industry responses were mainly received via their representatives/trade organisation(s).

This overview addresses the three main areas covered by the petroleum regulations, workplace storage (i.e. retail and non-retail petrol filling stations), non-workplace storage and petrol containers.

Workplace storage (retail and non-retail petrol filling stations)

A key element of the proposals is the replacement of a licence with a petroleum storage certificate for petrol filling stations. There was general agreement that, due to the dangers of petrol and the presence of the general public, there is a need to continue with a permissioning regime for storage of petrol at petrol stations. Overall, stakeholders understood how this will work in practice, but some enforcing authorities expressed concerns regarding the loss of some current licence conditions. For example, there were strong views from some PLAs regarding the fact that the regulations did not include responsibilities for site operators to notify them of certain incidents, e.g. petrol spillages, as in existing licence conditions, although, as with other licence conditions, this is not a legal requirement under the current legislative framework.

The consultation provided stakeholders with the opportunity to see a draft version of a petroleum storage certificate and the information it is proposed to include. Overall it had general support but, based on some comments received, it is felt that some respondents did not fully understand the exact purpose of the petroleum storage certificate. For example, a number of comments from PLAs related to day-to-day operational aspects rather than the storage of the petrol. However, the responses provided a range of useful comments/suggestions on the content of the petroleum storage certificate that will help improve it prior to implementation.

There were some differing views on the proposed transitional arrangements as sites move from licensing to certification. The consultation highlighted industry's view that licences should be replaced by certificates at implementation (or within 6 months of that date), although enforcers did not have strong views on this aspect. A number of respondents expressed concerns regarding what they perceived as a requirement, on transition, for existing sites to produce drawings (site plans), even where they do not currently exist, which could prove difficult and costly. This perception may be due to a lack of clarity in the consultation document as that is not the intention. It is proposed that drawings would only be required for new sites or where it is planned to make significant structural changes at a site. This will be clarified in the updated regulations and also be covered in guidance that supports the introduction of the new regulations.

There were some concerns raised regarding an anomaly in relation to the supply of petrol to those under sixteen years of age and this will be rectified in the regulations.

Non-workplace storage

Based on a number of the comments received, there appears to be a general lack of understanding of the current legislation for storage of petrol at non-workplace premises. Some concerns were raised regarding the 'introduction' of new/different storage thresholds but these essentially remain unchanged as do the notification/licensing requirements for this type of storage. This confirms that the current legislation is confusing and not well understood; a key aim of the consolidation is to bring clarity around this area.

We received some helpful comments on the amount of petrol that can be stored without notifying the Petroleum Enforcing Authority (PEA) and these will be taken on board. Additionally, we received some incisive and well constructed comments in relation to storage on boats that will help to ensure that owners, and others with similar requirements, will not be disadvantaged by the introduction of the new regulations.

Petrol containers

There was general support for the proposals relating to suitable containers for the storage of petrol. There were some differing views regarding allowing storage of petrol in 10 litre plastic containers, as some were against this whilst others believed the limit should be raised to 20 litres. The majority of respondents supported maintaining basic safety features for the design and manufacture of petrol containers and therefore the withdrawal of 'COP6 – Petroleum-Spirit (Plastic Containers) Regulations 1982. Requirements for testing and marking or labelling'. However, there was some disagreement with this view, particularly from two manufacturers of petrol containers stating that the withdrawal of the ACOP will lead to the development of low quality containers, particularly those made of plastic.

HSE proposes to retain the basic safety features as set out in the draft regulations but to help in this area HSE will work with manufacturers, suppliers, distributors and enforcing authorities to develop guidance on petrol containers.

Summary of responses

1 Do you agree or disagree with the proposed definition of 'petrol'?

There were 65 responses: 62 (95%) Agreed 3 (5%) Disagreed

There was mostly agreement with the proposed definition. One of those who disagreed provided a useful comment because, as currently written, the definition (read in conjunction with other aspects of the regulations) could potentially bring in substances that are not necessarily intended to be used as a fuel. HSE is reviewing these aspects of the draft regulations ahead of implementation to ensure this is not the case.

2 A petroleum enforcement authority must be 'satisfied that the containment system for petrol at the dispensing premises ... may reasonably be used to store petrol without creating an unacceptable risk to the health or safety of any person' before granting a storage certificate. Do you agree or disagree with this requirement?

There were 64 responses: 44 (69%) Agreed 20 (31%) Disagreed

The majority of respondents agreed with this proposal although some PLA respondents commented that in order for them to reach this level of confidence additional information to that proposed should be provided by the dutyholder and therefore included in the regulations, e.g. schedule for the inspection and testing of the electrical installation, wet stock reconciliation system.

Some respondents from industry disagreed as they believe that this should be the case for new sites but not for existing sites which have a current licence granted by the enforcing authority. They expect that any site which is currently licensed would be granted a petroleum storage certificate as part of a 'deeming process' because if a licence is currently in existence the site has been judged suitable to store petrol by the enforcing authority. This is what is intended by the draft regulations and the requirement does not apply to existing sites on implementation.

A range of comments from those who disagreed raised other issues that were taken into account when reviewing responses to other consultation questions. Examples of these include:

- comments that are more relevant to the proposals on transitional arrangements / prescribed material changes;
- comments relating to day-to-day operational activities at the site rather than the specific issue of the containment system for storing the petrol;
- the competency of enforcing authorities and site operators.

HSE proposes to retain the requirement with respect to the granting of a petroleum storage certificate within the regulations without imposing additional burdens on industry.

3 Do you agree or disagree with the information that is included on the petroleum storage certificate - see Annex 1?

There were 61 responses: 32 (52%) Agreed 29 (48%) Disagreed

The purpose of this question was to help refine the detail of the information included in the certificate, so a level of disagreement was expected. Therefore, the consultation exercise has provided the opportunity to gather a range of comments.

Some of the key themes raised were:

- more clarity is needed in relation to drawings, e.g.
 - definition of a drawing is required (including proposals for the definition);
 - more information needed when drawings are required, particularly in respect of existing sites;
- inclusion of additional documents, e.g. hazardous zone plan, details of dispensing equipment;
- requirement to record the storage of other fuels on site;
- specific comments on updating individual sections/wording on the certificate;
- some comments (from respondents who disagreed) relate to additional information the site operator should have to provide to the PEA.

The responses provided useful information that will help HSE to adapt and update the petroleum storage certificate.

4 Do you agree or disagree with the proposal for notifying prescribed material changes?

There were 61 responses: 45 (74%) Agreed 16 (26%) Disagreed

Most respondents across the various stakeholder groups supported this proposal. The main theme from those who disagreed relates to terminology in the draft regulations regarding the role of the enforcing authorities where prescribed material changes take place, as it is currently stated that a petroleum storage certificate 'must' be issued. This implies that this is irrespective on whether the site remains safe for petrol storage which is not the intention and the regulations will be updated to ensure clarification on this point.

A number of PLAs suggested other types of changes that should be notified and this is covered at Q5 below.

The regulations will be supported by guidance that clearly explains the procedure for notifying changes that are not a prescribed material change, i.e. those that do not affect the validity of the petroleum storage certificate.

5 Do you agree or disagree with what is included in the list of items that constitute a prescribed material change at Schedule 1 of the draft regulations?

There were 60 responses: 28 (47%) Agreed 32 (53%) Disagreed

This question resulted in a slightly higher number of respondents who disagreed. In retrospect the consultation document could have been more explicit in describing what is meant by a prescribed material change as this is new terminology. The intention is not to include all those material changes that must currently be notified to enforcing authorities in line with existing model licence conditions as these are not specified explicitly in the current petroleum legislative framework. Under the proposed new regulations prescribed material changes are only those changes that directly relate to the storage of petrol at the site and therefore specifically what is included on the petroleum storage certificate.

Suggestions of some other 'material' changes to be notified include:

- grade change involving petrol & diesel;
- removal or installation of any part of the sites spillage containment system and leak detection system;
- installation of facilities which may affect site safety, e.g. LPG cage, ATM machine.

Many of the comments in disagreement relate to day-to-day operational issues rather than directly relating to the storage of the petrol. However, a number of common themes were raised regarding the content of the certificate (plus reference to some minor drafting errors in the proposed regulations). The key issues raised were:

- absence of any specific reference in Schedule 1 to any alteration to the site spillage containment/drainage systems;
- clarification required where some, but not all, storage tanks are decommissioned;
- there should be specific reference to petrol pump/dispensers so that it doesn't include diesel (or even water dispensers) which do not come under the remit of the Petroleum Enforcement Authority.

These issues will be addressed in an updated version of the petroleum storage certificate.

6 Do you agree with the proposed timeframe for notifying a prescribed material change to the enforcing authority?

There were 60 responses: 52 (87%) Agreed 8 (13%) Disagreed

The vast majority of respondents agreed with the proposed timeframe, many stating that it is a reasonable period. In the main, the comments from those who disagreed were not directly relevant to the question asked but related to comments that a duty holder should be aware of the consequences for failure to notify the PEA of a prescribed material change.

HSE proposes to maintain the timeframe as detailed in the draft regulations.

7 The table at Appendix 1 of the petroleum storage certificate lists other changes that could be notified to the PEA and, in some cases, may result in the issuing of a new certificate. Do you agree that such changes are notified to the enforcing authority?

There were 61 responses: 44 (72%) Agreed 17 (28%) Disagreed

The majority of respondents agreed with the changes that should be notified and the responses provided useful information for development of the petroleum storage certificate. Many who agreed thought some other types of changes should be incorporated into the regulations but that is not our intention as the operational aspects referred to, e.g. change to the mode of operation, are not related to the storage of the petrol and under the proposed regulations not considered a prescribed material change, i.e. because it would not result in a new certificate being required.

A number of the respondents who disagreed referred directly to the comments they made in their response to Q4 and are captured above.

In line with many responses, it is proposed that 'other changes' will not form part of the petroleum storage certificate but will be incorporated into supporting guidance.

8 Do you agree or disagree with the proposal to remove the transfer procedure for petrol filling stations?

There were 60 responses: 47 (78%) Agreed 13 (22%) Disagreed

The majority of respondents agreed with the proposal to remove the transfer procedure and it was particularly welcomed by many. Some commented that the current transfer fee (£8) in no way covers PLA costs for transferring and re-issuing a licence, and it is burdensome for the operator. The proposed notification of a change of site operator achieves the same goals without the burdens and cost implications.

There were concerns from some respondents who disagreed because they believed it may result in a site not having a registered operator in place. This eventuality should not occur as the regulations place a legal responsibility on those leaving or taking over a site to notify the enforcing authority at least 28 days in advance of this occurring. Some commented that there should be evidence that a new operator is competent to operate a site, this is not contained in current petroleum legislation but is required under other relevant health and safety law.

HSE intends to remove the transfer procedure for petrol filling stations and as proposed include a simpler notification process in the regulations.

9 Do you agree or disagree with the procedure and timescales to notify a change of site operator?

There were 60 responses: 55 (92%) Agreed 5 (8%) Disagreed

The vast majority of respondents agreed with this proposal and no-one disagreed with the proposed timescales. Some of those who agreed stated that a definition of an operator is required and also that sanctions should be put into place for failure to adhere

to the prescribed procedure. As above, there were comments that there is a need to check the competency of the new site operator. It is not proposed that competency will form part of the regulations as such a requirement is not in current petroleum legislation but is required under other health and safety law.

The procedure and timescales were agreed and will be included in the regulations. The methods acceptable for notification, e.g. email, will be incorporated into supporting guidance.

10 Do you agree or disagree with the proposed transitional arrangements?

There were 58 responses: (72%) Agreed 16 (28%) Disagreed

Although the vast majority of respondents agreed with this proposal, some of the disagreement appears to be caused by some minor drafting errors regarding references within the draft regulations. Also, some respondents commented that it appeared that at the point of transition all sites would be expected to have drawings for the site, which is not the case.

Industry respondents generally believe that all petrol filling stations should receive a new certificate immediately after the new regulations come into force (or within 6 months of that date).

PLAs generally commented that they agreed with the proposals believing them to be straightforward and achieve an enhanced level of consistency in administration. However, to achieve a smooth transition, there is a need for comprehensive guidance to be developed and published via the Petroleum Enforcement Liaison Group (PELG). PELG have already highlighted the need for such guidance and believe they are the appropriate body to take this work forward.

11 Do you agree or disagree with the proposals to review and update the ACOP L133 on the unloading of petrol?

There were 61 responses: 60 (98%) Agreed 1 (2%) Disagreed

There was universal agreement amongst respondents to this question as the only comment that disagreed did not reflect the question asked.

12 Do you agree or disagree with the withdrawal of the ACOP L93?

There were 49 responses: 46 (94%) Agreed 3 (6%) Disagreed

The vast majority of respondents agreed with this proposal. There was only one fundamental disagreement with its withdrawal but this was a general point against HSE removing any ACOPs, rather than it being specific to L93.

13 What is the impact, if any, of withdrawing ACOP L93?

There were 46 responses.

Most of the comments (39) stated there would not be an impact. A concern was raised that some important information may be lost but as explained in the consultation document the requirements contained in this ACOP are covered via appropriate environmental and transportation legislation.

Therefore, as proposed, the ACOP will be withdrawn as part of the consolidation exercise.

14 Do you agree or disagree with the proposals for retaining the current enforcement bodies and enforcement arrangements?

There were 63 responses: 56 (89%) Agreed 7 (11%) Disagreed

Consideration of the respondents is important because, as mentioned above, 50% of the overall responses to the consultation came from enforcing authorities who currently carry out the petroleum licensing authority role and all therefore support this proposal.

Some of those who agreed stated that this is subject to PEAs being required to follow the National Local Authority Enforcement Code (although they are already bound by this and it is not a new requirement of the regulations). One respondent, although agreeing with the proposals for petrol filling stations thought that non-workplace storage should be enforced by the fire and rescue service/police.

Some disagreement related to an error in the draft regulations which appeared to change enforcement responsibility in some councils. This was not the intention, has been recognised and will be corrected. There were also comments relating to the training and competency of some staff in enforcing authorities but, as mentioned at Q9 above, this does not form part of the proposed regulations.

HSE proposes to retain existing enforcement arrangements as laid out in the draft regulations, ensuring that the error regarding councils is corrected.

15. Do you agree or disagree with the proposal to change the name from Petroleum Licensing Authority (PLA) to Petroleum Enforcement Authority (PEA)?

There were 61 responses: 54 (89%) Agreed 7 (11%) Disagreed

The vast majority of respondents agreed with this proposal, many stating that the name is more appropriate as it better reflects their role and the intentions of the draft regulations. Two of the respondents who disagreed quoted possible cost implications in effecting the change. There is no evidence to support this and the intention is to use the new terminology once the regulations are implemented.

16. The draft regulations include a provision for saving existing byelaws – do you agree there is a need to preserve the effect of existing byelaws?

There were 55 responses: 36 (65%) Agreed 19 (35%) Disagreed

The majority of respondents agreed that existing byelaws should be preserved but it appears that some respondents may have been confused in how the question was phrased. For example, although agreeing with the proposal their comments disagree with the retention of the byelaws. Although the majority of people agreed with the proposal those who registered disagreement had stronger comments, a number citing inconsistency if byelaws are retained.

The consultation responses did not provide any detail regarding existing byelaws although such information was not specifically requested. The provision to retain existing byelaws will be maintained within the draft regulations.

17 Do you agree or disagree that HSWA section 20 and 25 powers provide sufficient powers for enforcement purposes?

There were 61 responses: 43 (70%) Agreed 18 (30%) Disagreed

The majority of respondents agreed with this proposal but there were a number of contradictory comments, particularly from the range of PLAs that responded. Some of them disagreed and expressed concerns regarding their powers of entry into domestic premises whilst some others agreed and stated that HSWA powers are sufficient and appropriate for all their enforcement purposes. One respondent pointed out that these powers are subject to the review of the impact of the Protection of Freedoms Act 2012 (which may subsequently have an impact on section 20 powers). [See Q18 for how HSE proposes to take this forward.]

18. Do you agree or disagree that all of the powers provided by Section 18 of the Petroleum (Consolidation) Act 1928 need not be retained?

There were 61 responses: 40 (66%) Agreed 21 (34%) Disagreed

This question is very closely linked with question 17 and therefore resulted in a similar outcome as the majority of respondents agreed with the proposal. A number of respondents from PLAs stated that the section 18 power enabling entry into domestic premises, even though rarely (if ever) used, should be maintained in the new regulations. However, as with Q17 above, this is contradicted by some other PLAs who state that powers provided under HSWA are sufficient and appropriate.

HSE intends to retain the provisions as laid out in the draft regulations, particularly in relation to the scrutiny of powers as part of the review of the impact of the Protection of Freedoms Act 2012. It would prove very difficult to include specific provisions within petroleum regulations where powers already exist in other relevant legislation, i.e. HSWA.

19. Do you have any comments on the proposal to continue with the current appeals procedure?

There were 52 responses.

More than half of the responses (27) stated they had no comments and a further three were not relevant to the question asked. The other responses supported the continuation of an appeals procedure as part of the new regulations and these provisions will be maintained.

20. Do you agree or disagree with retaining petroleum licensing for storage at domestic and other relevant premises?

There were 63 responses: 49 (78%) Agreed 14 (22%) Disagreed

The majority of respondents agreed with this proposal. In the main those who disagreed did not appear to do so in principle as their comments were relevant to the amounts that can be stored rather than the concept of licensing (these comments are incorporated within Q22 below). Although some respondents disagreed this was not in line with their supporting comments which stated that a control mechanism for domestic storage must be retained.

Overall, there was a high degree of support to retain licensing at these premises and this will be maintained within the draft regulations.

21. Do you agree or disagree that licences for storage at domestic and other relevant premises should not be transferable?

There were 60 responses: 54 (90%) Agreed 6 (10%) Disagreed

The vast majority of respondents agreed with this proposal, some pointing out that any change of ownership of non-workplace premises, at which a licence to store petrol is in existence, needs to be subject to some formal arrangement to ensure that the new owner knows their responsibilities.

Two of the respondents who disagreed did so as they disagreed with the principle of licensing. Two had missed a definition contained within the regulations and another appeared to misunderstand the question asked. One person commented that there should be a provision in relation to when someone dies so was not actually disagreeing with the question asked.

There was no strong opposition to this proposal and this provision will be maintained in the regulations.

22. Do you agree or disagree with the proposed storage amounts at domestic and other relevant premises?

There were 63 responses: 37 (59%) Agreed 26 (41%) Disagreed

A proportion of those who disagreed appear to misunderstand the current position on storage at such premises, believing that the regulations were introducing new controls whereas they essentially reflect the current situation. One respondent raised concerns over the proposal to increase the size of plastic/metal containers that could be used to store petrol.

The consultation resulted in some excellent feedback on this issue including notable information from one particular respondent representing the interests of boat owners, regarding the position of storage on boats. HSE proposes to reflect these comments in the draft regulations to help ensure that boat owners, and others with similar requirements are not disadvantaged by the introduction of the new regulations.

We received some very helpful comments regarding the amounts of petrol that can be stored without notifying the enforcing authority. The draft regulations proposed that no more than 20 litres can be stored in suitable portable containers (or no more than 30 litres in a demountable fuel tank). In response to consultation comments, HSE proposes to revise the draft regulations to reflect that for either type of storage the limit is no more than 30 litres (or for a combination of the two types no more than 30 litres in total).

23. Do you agree or disagree with the proposals to maintain basic safety features for the design and manufacture of petrol containers within the new regulations?

There were 64 responses: 58 (91%) Agreed 6 (9%) Disagreed

The vast majority of respondents agreed with this proposal. A number of those who agreed stated that it would be preferable if all containers were manufactured to a BS EN Standard and have UN approval for transportation. A number of respondents believe that the regulations simplify the information regarding containers and also allows for future development of suitable containers.

It was pointed out that the onus should be on the individual using and filling such containers to ensure that they are appropriate although site operators have a duty to provide adequate information through signage or reference guidance.

There were mixed views on what sizes of containers should be allowed to be used with some respondents keen to retain a maximum of 5 litres for plastic whilst others stated this should be raised to 20 litres (and another respondent suggested only metal cans should be allowed). Others stated that the proposed container sizes are helpful as it is better aligned with containers available throughout the EU.

HSE proposes to retain the basic safety features and also intends to take forward the limit of 10 litres for the size of plastic petrol containers as proposed in the draft regulations. As mentioned above, HSE has set up a stakeholder working group to develop guidance on petrol containers to ensure that there is guidance on the quality expected.

24. Do you agree or disagree with the proposal to withdraw, without replacement, the ACOP on plastic petrol containers?

There were 63 responses: 56 (89%) Agreed 7 (11%) Disagreed

The vast majority of respondents agreed with this proposal and there were many similar comments to those for Q23 in relation to a possible BS EN Standard (and UN Approved). Some of those who agreed stated the ACOP is outdated often conflicts with other European standards, creating an additional burden on UK manufacturers and retailers.

Those who felt most strongly against this proposal were two companies who manufacture petrol containers stating that the withdrawal of the ACOP will lead to the development of low quality containers, particularly those made of plastic.

As previously mentioned, HSE proposes to retain the basic safety features as set out in the draft regulations and has set up a stakeholder working group to work together to develop guidance on petrol containers.

25. What is the impact on you, if any, of withdrawing COP6?

There were 55 responses.

Of the 55 responses received to this question, 36 said there was no impact or stated no comment. Many of the comments referred directly to responses given to Q24. A number of respondents requested that clear guidance should be produced and others believe it to be a good idea as it allows other appropriate containers to be used.

HSE proposes to withdraw the ACOP as part of the consolidation exercise and will work closely with the working group to develop guidance on petrol containers.

26. Do you agree that LNG is not currently stored and is unlikely to be stored in the future at non-workplace premises?

There were 55 responses: 49 (89%) Agreed 6 (11%) Disagreed

The vast majority of respondents agreed with this proposal. The comments of five of those who disagreed related to potential future use of LNG, for example, in heating systems but none made a strong case that storage is likely to take place.

See Q27 below.

27. Do you agree or disagree with the proposal to revoke The Petroleum (Liquid Methane) Order 1957?

There were 54 responses: 53 (98%) Agreed 1 (2%) Disagreed

With the exception of one respondent to this question there was unanimous support for revocation of The Petroleum (Liquid Methane) Order 1957. The respondent who

disagreed did so as they were uncertain of the purpose for the revocation. There were plenty of comments in support of its revocation with the key themes being:

- Applicability of DSEAR (at workplaces);
- No longer relevant;
- The regulations deal specifically with petrol.

The responses to Q26 and Q27 support the revocation of The Petroleum (Liquid Methane) Order 1957 as part of the consolidation work.

28. Do you agree or disagree that the exceptions included in The Dangerous Substances (Notification and Naming of Sites) Regulations 1990 (NAMOS) should continue with the proposed certification scheme?

There were 44 responses: 42 (95%) Agreed 2 (5%) Disagreed

There was almost unanimous agreement with this proposal. Of the two respondents that disagreed, one offered no reason and the other seemed to misunderstand the purpose of the NAMOS Regulations. Therefore, the exceptions in the NAMOS Regulations will continue to apply to petrol filling stations as defined in the draft regulations.

29. Do you agree or disagree with the proposal to revoke The Petroleum (Mixtures) Order 1929?

There were 53 responses: 51 (96%) Agreed 2 (4%) Disagreed

All but two respondents agreed with this proposal. There was a lot of support for the proposed revocation and the main supportive comment was that the updated proposed definition within the draft regulations makes the Petroleum (Mixtures) Order redundant. The two that disagreed offered no reason for doing so. Therefore, the Petroleum (Mixtures) Order will be revoked, as proposed, as part of the consolidation exercise.

30. Do you agree or disagree with the analysis in the impact assessment?

There were 45 responses: 23 (51%) Agreed 22 (49%) Disagreed

Responses on this were evenly split with one more respondent agreeing rather than disagreeing. A key reason for seven of the respondents disagreeing was to clarify data regarding the current breakdown of petrol filling station operators. Three of those who disagreed did so in relation to potential costs for operators providing drawings (and three alluded to PEAs potentially increased printing costs) once the new regulations are implemented. There were also some generic comments such as “too many assumptions”, “too early to judge”.

There was a small degree of challenge to some of the assumptions made and therefore some of the figures (not including the site operator data mentioned above) in the impact assessment. However, no new information to better inform the impact assessment was provided in the responses received.

HSE updated the Impact Assessment in line with the clarifications received.

31. Is there anything you particularly like or dislike about this consultation?

There were 48 responses.

The most common dislike was from seven (7) respondents, in particular industry representatives, who stated that the consultation period of 8 weeks was too short, particularly as it encompassed the Christmas holiday period.

Most of the other comments picked up on issues relating to a range of other questions asked as part of the consultation and these have been taken into account in the analysis of the relevant question(s).

32. Do you have any other comments on the proposals that have not been covered by this questionnaire?

There were 60 responses to question 32 many of which re-iterated or related to comments that have been captured above. Some key themes of the responses to this question were:

- comments on various aspects of the content of the consultation document;
- querying why the regulations ceased to have effect after 7 years;
- ability to grant temporary licences;
- limiting the number of containers that can be filled (by the public) at petrol stations.
- specific points regarding various provisions in the regulations;
- under age sale/supply of petrol;
- links between payment of fee and 'period(s)' of certification;
- requirement to notify a range of incidents to the PEA;
- record keeping responsibilities of site operators;
- exemption for testing of dispensers for accuracy or during repairs;
- future legislation of petrol and links with 'new' fuels, e.g. hydrogen.