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**HEALTH AND SAFETY COMMISSION
ADVISORY COMMITTEE ON DANGEROUS SUBSTANCES
PETROL WORKING GROUP**

**MODERNISING PETROLEUM LEGISLATION
NOTIFICATION PROCEDURES**

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Issue

1 At its 9th meeting on 4 November 2003 the Petrol Working Group (PWG) considered a paper (PWG/03/03) which further developed some options for Phase 2 of the modernising project. Members requested that the contents of Annex 1 to that paper should be further developed to give some more detail on the notification procedures, especially from the legislation and enforcement viewpoint.

2 This paper fulfils that agreement.

Timing

3 Routine.

Recommendation

4 Members are invited to consider the information put forward in this paper and the paper discussed at the 4 November meeting. Members are also invited to discuss the issues with colleagues within their constituencies and to report back their views by 21 January, ie, a week before the next meeting of the working group on 28 January 2004.

Argument

5 If option 4 is pursued, it is expected that some legislative controls will be needed to replace licensing. Sites will continue to be enforced through normal HSWA controls, especially the Dangerous Substances and Explosive

Atmospheres Regulations 2002 (DSEAR). However, most commentators accept that petrol filling stations require some controls over and above those available in DSEAR, mainly to reflect the fact that petrol filling stations are very public places. These additional controls would include:

- Advance notification of certain information to the petroleum enforcement authority;
- Special regulatory requirements relating to those persons who work on and use petrol filling stations.

6 These controls would be set out in a new set of regulations contained within a Statutory Instrument, perhaps called the Petroleum Filling Station (Safety) Regulations 200X. There would need to be a set of definitions, which could mostly be copied over from Schedule 6 of DSEAR. The special regulatory requirements mentioned above would form part of the main body of the regulations while the notification requirements could be contained in a Schedule.

7 The regulations will be accompanied by an Approved Code of Practice (ACOP) relating to the safety management of filling stations.

8 Failure to comply with any of the regulations, the notification requirements or the provisions of the ACOP would be an offence, which ultimately could lead to prosecution in the Courts. However, the full range of HSWA enforcement measures would be available. These range from a simple letter pointing out minor issues, through to formal improvement and prohibition notices. If a site operator believed the contents of a formal notice was incorrect or unnecessary, an appeal could be made to a Tribunal.

Notification procedures

9 Any existing licensed storage and dispensing facilities at a petrol filling station will be deemed to have fulfilled the initial notification procedures. However, for new filling stations, the following procedures would be followed:

- The PLA to be informed by the applicant when planning permission is sought for a new filling station.
- Notification of intention to start storing petroleum-spirit, at least 14 days before the event. The notification would include details of the quantity to be stored and manner of storage, eg number, capacities, types of tanks and if any other vehicle fuel is to be dispensed at the site.
- Notification of opening date, at least 14 days before the event.

10 The notifications mentioned above need to include details of the owner and, if different, the operator of the site. If the site owner and operator differ, then the notification needs to make clear who is responsible for construction and who is responsible for ongoing site maintenance.

11 For existing filling stations wishing to change current arrangements, the following procedures need to be followed:

- Notification of a change of ownership and/or operator, at least 28 days before the event.
- Notification of alterations or redevelopment of the site where this could have an impact on the safety of the petroleum storage and dispensing facilities, at least 28 days in advance of commencement of work. This would include changes to storage arrangements, eg new tanks, dispensers, site layout, changes to tanks from petrol to diesel storage (and vice versa) and proposals to introduce new fuels onto the site, eg LPG.
- Notification of any development off-site, which could adversely affect the safe storage and dispensing of fuel.
- Notification to cease operation of a petrol filling station, at least 28 days in advance of cessation.
- Notification of cessation of storage – to include details of how the site is to be maintained in a safe condition – at least 14 days before the event.
- Notification of a proposal to demolish the site – at least 14 days before the event.

12 All sites would also be covered by a duty to notify leaks, spillages, fires and explosions involving petroleum-spirit or other vehicle fuel. The notification would need to be as soon as reasonably practicable after the event.

13 It is possible that an enforcement authority will react unfavourably to a proposal made in a notification, especially perhaps to those concerning modifications to a site. The Working Group will need to consider what measures might be necessary to resolve this type of dispute.

Regulatory requirements

14 The main body of the regulations would include prohibiting some activities on filling station sites. These prohibitions would apply to “any person”, ie, would cover members of the public as well as filling station staff:

- No person under 16 years of age to dispense fuel.
- No person under 18 should be a site operator.
- No person should dispense fuel into an unsuitable container.

- No person should smoke or use unprotected mechanical or electrical equipment while dispensing fuel.

15 Similar prohibitions would apply to site operators:

- Not to allow any person under 16 years of age to dispense fuel.
- Not to allow any person under 18 to be in sole charge of a filling station.
- Not to allow any person to dispense fuel into an unsuitable container.
- Not to allow any person to smoke or use unprotected mechanical or electrical equipment while dispensing fuel.

16 The regulations would also contain provisions should storage be discontinued. These would include powers for the petroleum enforcement authority to require site operators to make the site safe and would include penalties for failure to do so.

17 Storage prior to notification would be an offence, as would false statements regarding notification.

Action

18 Members are invited to consider the information put forward in this paper and the paper discussed at the 4 November meeting. Members are also invited to discuss the issues with colleagues within their constituencies and to report back their views by 21 January, ie, a week before the next meeting of the working group on 28 January 2004.

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