



PUBLIC PETITION NO.

PE01522

Name of petitioner

Simon Brogan

Petition title

Improving bulk fuel storage safety

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to review the current statutory provisions applying to bulk fuel storage sites to ensure the same level of secondary containment is in place irrespective of the reason for the fuel being stored.

Action taken to resolve issues of concern before submitting the petition

I have been a thorn in the side of the HSE Edinburgh, SEPA, European Parliament Petitions Committee (0366/2011), my MSP and MP. My first attempt at the Scottish Parliament Petitions Committee (PE936). My local council and Community Council. The Highlands and Islands Fire and Rescue Service. Scottish Information Commissioner. I've tried everything, persistently over a very long period ever since the Buncefield explosion and fire 2006.

Petition background information

My argument is this:

The bulk fuel storage site 40m from my front door is not governed by the WATER ENVIRONMENT OIL STORAGE REGULATIONS SCOTLAND ACT 2006 because the oil is for "onward distribution". The power station in Kirkwall is governed by this act because its bulk fuel is NOT for "onward distribution". The latter therefore are required to have an impermeable barrier beneath and surrounding within the secondary containment (the banding). Court case between SSE as owners of Loch Carnan Power Station South Uist and SEPA (November 2008).

Lifting bulk fuel storage tanks to place an impermeable barrier underneath is difficult and expensive. SSE chose not to do it even though they spent much upgrading their banding at Loch Carnan in advance of the Water Environment Oil Storage Scotland 2006 Regs coming in.

This petition is to improve fuel storage safety on sub-Comah sites where the Water Environment (Oil storage)(Scotland) Regulations 2006 [WEOSSR/06] regulations do not apply.

I have had correspondence with SEPA and the Scottish Government Environmental Division. (documents available) My MSP, Liam McArthur, has asked questions of the

Scottish Parliament on my behalf, but I keep being told that storage depots such as the one at Shore Street, Kirkwall, are not subject to any regulations because they come under section 6(1)(d) of the WEOSSR/06 Act which exempts bulk storage installations where the oil is for 'onward distribution'.

Where two sites store the same amount of fuel such as at Shore Street and at the power station (both in Kirkwall), one is subject to the WEOSSR/06 regulations and the other is not because of this clause. If the fuel escapes and leaks into the environment, or causes an explosion in the centre of a residential area, the effects will be the same whether the oil was for onward distribution or not.

The responses that I have received suggest that James Curran of SEPA, shares some of my concerns, and SEPA is currently conducting a pilot study into seven of the shore-side depots, as they are clearly uncomfortable with this exemption. My petition is for the Scottish Parliament to re-evaluate the implications of this clause and bring these smaller but no less potentially damaging sites under strict regulations.

Furthermore, although HSE did not reply to the consultation, the head of their chemicals division, Peter Baker, is on record as saying that: "ageing tank assets cause many loss incidents" and that during 2011/12, out of 142, "dangerous occurrences that occurred in the UK at fuel sites, 69 were related to the release of substances".

He also admits that even where there are regulations in place, and sites have been advised of defects after inspection, the sites are very slow to respond, indicating that "relying on sites themselves to follow best practice" is unlikely.

SUMMARY OF RELEVANT DOCUMENTS

1. Letter from S Brogan to SEPA dated 07/02 12: The letter outlines all the sites where the containment measures, even when recently inspected, have spectacularly failed. He also points out that after Buncefield, which is covered by regulations (unlike sub-COMAH sites), we should be making sure that our security at all these sites is improved.

2. Reply from J Curran SEPA 28/02/12

- "SEPA's Operations teams are... looking more closely at a sample number of sub-COMAH oil storage installations to review the containment measures to prevent release reaching external environment... which we expect to complete by September 2012."

3. Letter from Liam McArthur 18/06/12 replying to letter from S Brogan 25th May where he feels he can do no more at present.

4. Article from Supplement of Energy Review 12/12 by Peter Baker, Head of Chemicals Division UK HSE's Hazardous Installations Directorate:

- Statistics show that COMAH authority has been slow to respond to incidents by improving its safety and operational performance
- 2011-2012 period 142 'dangerous occurrences' of which 69 related to the release of substances.
- During 2011-12, 92 enforcement notices handed out.
- Ageing tank assets cause many loss incidents... around 75% sites were below compliance, but even after inspections and alerting sites to these defects still 70% were below compliance. (4 of the 6 tanks at the Kirkwall depot were built in 1938)

5. Liam McArthur submitted two written questions to the Scottish Parliament on 14/03/2013:

Q1. To ask the Scottish Government how it determines which fuel storage sites are subject to the provisions of the Water Environment (Oil storage)(Scotland) Regulations 2006 [WEOSSR2006]

Q2. To ask the Scottish Government for what reasons the SSE Power station on South Uist is subject to the provisions of the WEOSSR2006 but the Shore Street depot in Kirkwall is not.

6. Response 27/03/2013 from Mr Paul Wheelhouse:

To Q1: "Regulations 4-6 of the WEOSSR2006 set out the criteria to determine which oil storage facilities are subject to the provisions of the regulations. The Regulations can be found at www.legislation.gov.uk/ssi/2006/133/contents/made".

- Clause 6 (1) The storage of oil on premises other than: (d) premises used as an oil distribution depot for the onward distribution of oil to other places.
- (2) The oil stocks shall be stored in a container which is of sufficient strength and structural integrity, and has been installed so as to ensure that it is unlikely to burst or leak in its ordinary use.
- (3) The container must be situated within a secondary containment system which satisfies the following requirements—
- (3) (a) subject to paragraph (6), it must have a capacity of not less than 110% of the container's storage capacity or, if there was more than one container within the system, of not less than 110% of the largest container's storage capacity, or 25% of the aggregate storage capacity, whichever is greater;
- (3) (b) it must be positioned, or other steps must be taken, so as to minimise any risk of damage by impact so far as is reasonably practicable;
- (c) its base and walls must be impermeable to water and oil;
- (d) its base and walls must not be penetrated by any valve, pipe or other opening which is used for draining the system;

7. Letter from Cara Everitt, SEPA, in reply to S Brogan's request for, "the action plan relating to the 'Pilot Study of Oil Tanks' in relation to the sites at Loch Carnon, Fort William, Portree, Oban and Ardreenish":

- She replies that she cannot comply with his request because: "the project is ongoing due to continued discussions with the site operators. We cannot advise when the information will be completed." (This information was set to be complete in 2012).

8. Cara Everitt (SEPA) also enclosed document "Environmental Harm Reactive Operations 2012/13, which outlines the remit for the project referred to above.

This document states that:

- "Its purpose... is to outline and... [make a] risk assessment...leading to appropriate remedial action...at oil storage premises that are used as depots for the onward distribution of oil to other places. This does not include COMAH sites but will include PPC Part B sites."
- Its aim is also: "to determine the extent to which these facilities pose a risk of pollution of the water environment and to take actions necessary to minimize that risk".

Under, 'Background and Justification' it states:

- "On premises with exception such as at oil distribution depots...the operators take account of the Energy institute document 'Environmental guidelines for petroleum distribution installations' when considering environmental management. These guidelines promote the control philosophy, 'prevention is better than cure', focussing on the integrity of primary containment and the management measures that can be taken to prevent spillages occurring".
- "A number of storage installations.... Fall outside the scope of the regulations but by virtue of their location are considered to pose a significant potential to cause harm to the water environment if oil were to escape from them"

The document also lists the sites to be included in the Pilot Study.

9. Letter from Ian Speirs, Environmental Division, Scottish Parliament (in reply to letter from S Brogan 25/10/2013) asking for a copy of their consultation response. This included a list of the respondees to the consultation and he notes that HSE did not respond.

I Speirs said:

- "An exemption applies to any premises used as an oil distribution depot for the onward distribution of oil. Onward distribution should be the primary business of that site. The exemption applies to the premises and therefore included any oil that is part of

the onward Distribution Chain and also oil that is stored such as heating oil or oil for refuelling vehicles. However we would consider compliance with the regulations as good practice.”

Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/PE01522>

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1

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