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S.I. No. 374 of 1997.

ENVIRONMENTAL PROTECTION AGENCY ACT, 1992 (CONTROL OF VOLATILE ORGANIC COMPOUND EMISSIONS RESULTING FROM PETROL STORAGE AND DISTRIBUTION) REGULATIONS, 1997

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S.I. No. 374 of 1997.

Environmental Protection Agency Act, 1992 (Control of volatile organic compound emissions resulting from petrol storage and distribution) Regulations, 1997.

The Minister for the Environment and Local Government in exercise of the powers conferred on him by Sections 6 of the Environmental Protection Agency Act, 1992 (No. 7 of 1992) and for the purposes of giving effect to the provisions of Directive 94/63/EC(1) on the control of volatile organic compound emissions resulting from the storage of petrol and its distribution between terminals or from terminals to service stations, hereby makes the following Regulations.

(1) O. J. NO L 365/24 of 31 December 1994

PART I

1. These Regulations may be cited as the Environmental Protection Agency Act, 1992 (Control of volatile organic compound emissions resulting from petrol storage and distribution) Regulations, 1997.

2. These Regulations shall come into operation on the 1st day of October, 1997.

3. (1) In these Regulations, any reference to an article or schedule which is not otherwise identified is a reference to an article or schedule of these Regulations.

(2) In these Regulations, any reference to a sub-article or paragraph which is not otherwise identified is a reference to the sub-article or paragraph of the provision in which the reference occurs.

4. In these Regulations:

(1) a word or phrase which has been assigned a meaning by the Directive has that meaning except where otherwise indicated;

"the Agency" means the Environmental Protection Agency established by the Minister under the Environmental Protection Agency (Establishment) Order, 1993;

"applicant" means an applicant for a permit or for a review of a permit, as appropriate, under these Regulations and shall be construed accordingly;

"application" means an application for a permit or for a review of a permit, as appropriate, under these Regulations and shall be construed accordingly;

"carrier" means,

(a) in relation to mobile containers carried by road, a person who is the registered owner of a composite vehicle, articulated vehicle, tank trailer, or tank semi-trailer, comprising one or more fixed or demountable tanks or of any other vehicle used for the conveyance or delivery of petrol to or from a storage installation at a terminal or a storage tank at a service station, and,

(b) in relation to mobile containers carried otherwise than by road, every person carrying petrol in a tank by rail or by waterways;

"the Directive" means Council Directive 94/63/EC;

"existing petrol storage installations, loading installations, service stations, mobile containers and terminals" means such installations, service stations, mobile containers and terminals which were in operation before the coming into operation of these Regulations;

"harbour authority" has the same meaning as in the Harbours Act, 1946;

"local authority" means for the purposes of these Regulations:

(a) the council of a county, or

(b) the corporation of a county or other borough;

"manager" means the person having the general management and control of a terminal;

"mobile container" means:

(a) any tank used, solely or in part, for the transfer of petrol from one terminal to another or from a terminal to a service station by road by a composite vehicle, articulated vehicle, tank trailer, or tank semi-trailer, comprising one or more fixed or demountable tanks or by any other vehicle used for the conveyance or delivery of petrol to or from a storage installation at a terminal or a storage tank at a service station, and,

(b) any tank used, solely or in part, for the transfer of petrol from one terminal to another or from a terminal to a service station by rail or by waterways;

"new petrol storage installations, loading installations, service stations, mobile containers and terminals" means such installations, service stations, mobile containers and terminals other than existing installations, service stations, mobile containers and terminals;

"objection" means an objection made under article 19 of these Regulations;

"objector" means a person who makes an objection under article 19 of these Regulations;

"oral hearing" means an oral hearing held by the Agency under article 24 of these Regulations;

"party to the objection" means

- (i) an objector, or
 - (ii) the applicant for a permit, or the permit holder in the case of a review of a permit, in relation to which an objection is made by another person (other than a person acting on behalf of the applicant or permit holder, as appropriate)
- and "party" shall be construed accordingly;

"permit" means, for the purposes of these Regulations, a statement by the Agency in the form set out in the Second Schedule that it is satisfied that a terminal complies with the appropriate requirements of the Directive and a reference to a permit shall include a first permit or a review of a permit, as appropriate;

"petrol" means any petroleum derivative, with or without additives, having a Reid vapour pressure of 27.6 kilopascals or more, which is intended for use as a fuel for motor vehicles, except liquefied petroleum gas (LPG);

"rail tanker" means a mobile container used solely, or in part, for the transport of petrol by rail;

"road tanker" means a mobile container used solely, or in part, for the transport of petrol by road;

"throughput" means the largest total annual quantity of petrol loaded from a storage installation at a terminal into mobile containers or vice versa during the three preceding years before the appropriate dates for compliance with the requirements of article 5.

(2) Where a requirement of or under these Regulations requires submissions or observations to be made, or documents, particulars or other information to be submitted, to the Agency within a specified period and the last day of that period is a Saturday, a Sunday, a public holiday (within the meaning of the Holidays (Employees) Act, 1973) or any other day on which the offices of the Agency are closed, the submissions or observations, or documents, particulars or other information, as the case maybe, shall be regarded as having been received before the expiration of that period if received by the Agency on the next following day on which the offices of the Agency are open.

PART II

5. (1) It shall be the duty of the owner of a terminal with regard to its design and the duty of the manager of a terminal with regard to its operation to ensure that petrol storage installations at terminals shall be designed, operated and maintained, as appropriate, in accordance with the Fourth Schedule and that equipment for the purpose of loading petrol into, or unloading petrol from, mobile containers at terminals shall be designed, operated and maintained, as appropriate, in accordance with the requirements of the Fourth and Seventh Schedules and, where intermediate storage of vapours is permitted by the Fifth Schedule, with the further requirements of the Sixth Schedule.

(2) Sub-article (1) shall apply as regards the design, operation and maintenance, as appropriate, of storage installations at terminals:

- (i) from the first day of January, 1998 in the case of new installations;
- (ii) from the thirty first day of December, 1998 in the case of existing installations where the throughput loaded into or from mobile containers at a terminal is greater than 50,000 tons per year;
- (iii) from the thirty first day of December, 2001 in the case of existing installations where the throughput loaded into or from mobile containers at a terminal is greater than 25,000 tons per year;
- (iv) from the thirty first day of December, 2004 in the case of all other existing storage installations at terminals.

(3) Sub-article (1) shall apply as regards the design, operation and maintenance, as appropriate, of equipment for the purpose of loading petrol into, or unloading petrol from, mobile containers at terminals:

- (i) from the first day of January, 1998 in the case of new terminals for loading petrol into, or unloading petrol from road tankers, rail tankers and/or vessel;
 - (ii) from the thirty first day of December, 1998 in the case of existing terminals for loading petrol into, or unloading petrol from, road tankers, rail tankers and/or vessels where the throughput is greater than 150,000 tons per year;
 - (iii) from the thirty first day of December, 2001 in the case of existing terminals for loading petrol into, or unloading petrol from, road tankers, rail tankers and/or vessels where the throughput is greater than 25,000 tons per year;
 - (iv) from the thirty first day of December, 2004 in the case of all other existing loading installations at terminals for loading petrol into, or unloading petrol from, road tankers and rail tankers.
- (4) Sub-article (3) shall not apply to existing terminals with a throughput of less than 10,000 tons per year, or to new terminals with a throughput of less than 5,000 tons per year located in small remote islands.

(5) The Agency, may, in its discretion, and upon a request in writing from a manager not later than six months before the coming into operation of the appropriate dates under sub-articles (2) or (3), as appropriate, unless the date of compliance is specified as the first day of January, 1998 in which case not later than six weeks prior to that date, decide that in a case where the throughput at a terminal prior to the coming into operation of these Regulations or prior to compliance with any requirements required by any appropriate dates contained therein would, but for the provisions of this sub-article, require compliance by such terminal with any or all of sub-articles (1), (2) and (3), as appropriate, but that where current throughput at the time of mandatory application for a permit required under article 6 has been reduced to below the appropriate thresholds set out in sub-articles (2) and (3), and where the Agency is satisfied that there will be no future increase in through put for the maximum period of a permit required under article 8 for that terminal had it been subject to compliance with any or all of sub-articles (1), (2) and (3), as appropriate, the said terminal shall not be deemed to be a terminal requiring to comply with the provisions of this article until and unless the throughput subsequently increases to require compliance with any or all of sub-articles (1), (2) and (3), as appropriate.

(6) Where a permit has been granted but operations at the permitted terminal have not commenced within three years after the date on which the permit was granted, or have ceased for a period of not less than three years after the grant of a permit, the permit shall cease to have effect provided all matters required to be undertaken as part of, or as a consequence to, the permit have been completed to the satisfaction of the Agency.

(7) Where a terminal has obtained a permit but subsequent to the grant of the permit and within the duration of the permit in accordance with article 8, the throughput at the permitted terminal falls below the appropriate thresholds under sub-articles (2) or (3), as appropriate, the permit holder may notify the Agency in writing of the reduced throughput and may request a cancellation of the permit.

(8) From the thirty first day of December, 2004, the requirements for bottom loading equipment set out in the Seventh Schedule shall apply to all road tanker loading gantries at all terminals other than terminals referred to in sub-article (4)

(9) All terminals, other than terminals referred to in sub-article (4), with loading facilities for road tankers, shall be equipped with not less than one gantry which meets the specifications for bottom loading equipment set out in the Seventh Schedule, in accordance with the appropriate dates set out in sub-article (3).

6. It shall be the duty of a manager to obtain from the Agency a permit stating that article 5 (1), (2), (3), (8) and (9), as appropriate, have been complied with to the Agency's satisfaction.

7. (1) It shall be the duty of a carrier:

(a) to satisfy himself/herself that a current, valid permit has been granted under article 8 prior to loading petrol into his/her mobile container, or unloading petrol from his/her mobile container, at a terminal, and,

(b) to keep available a record of the date, time and quantity of all loading and unloading of petrol made at terminals from the date of loading or unloading for a period of not less than one calendar month for production upon the request of an authorised person.

(2) It shall be the duty of a manager:

(a) to produce a permit granted under article 8 upon request to do so by a carrier, prior to the loading of petrol into a mobile container, or the unloading of petrol from a mobile container, at a terminal,

(b) to display for the purposes of inspection a copy of the permit, granted under article 8, in a prominent position within the cartilage of the terminal.

PART III

8. (1) The Agency may grant a permit, with or without conditions, for a period of not more than three years, or may refuse to grant a permit for a terminal under this article.

(2) A permit granted under this article shall contain the particulars set out in the Second Schedule and such other particulars or conditions as the Agency may deem appropriate.

9. (1) The applicant for a permit shall:

(a) within a period of two weeks prior to the making of application, publish in a newspaper circulating in the district in which the terminal is or will be situate notice of the intention to make the application in accordance with sub-article (2) and,

(b) not later than the making of the application, give notice of the application by the erection or fixing of a notice on the land or structure concerned, hereinafter referred to as a "site notice", in accordance with sub-articles (3), (4), and (5).

(2) A notice published in a newspaper pursuant to sub-article (1)(a) shall contain as a heading the words "APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR A PERMIT and shall

(i) give the name and address of the applicant,

(ii) state the location or postal address of the terminal to which the application relates,

(iii) state that a copy of the application may be inspected at or obtained from the headquarters of the Agency.

(3) A site notice erected or fixed pursuant to sub-article (1)(b) on any land or structure shall—

(i) be painted or inscribed, or printed and affixed, on a durable material,

(ii) be securely erected or fixed in a conspicuous position—

(a) on or within five metres of the main entrance to the terminal from a public road,

(b) on any other part of the land or structure adjoining a public road and shall be so erected or fixed and the text shall be so painted, inscribed or printed that the notice shall be capable of being read by persons using the said public road,

(c) where the terminal to which an application relates does not adjoin a public road, a site notice shall be erected or fixed in a conspicuous position on the land or structure so as to be easily visible and legible by persons outside the land or structure.

(4) A site notice erected or fixed on any land or structure pursuant to sub-article (1) shall be headed "APPLICATION TO THE ENVIRONMENTAL PROTECTION AGENCY FOR A PERMIT" and shall—

(i) give the name and address of the applicant,

(ii) state the location or postal address of the terminal to which the application relates,

(iii) state that a copy of the application may be inspected at or obtained from the headquarters of the Agency.

(5) A site notice in accordance with this article shall be maintained in position for at least one month after the making of an application, and shall be renewed or replaced if it is removed or becomes defaced or illegible within the period during which it is required to be displayed.

(6) Where

(a) a period of more than two weeks has elapsed between the publication in a newspaper of a notice in accordance with sub-article (1) and the making of the relevant application, or,

(b) it appears to the Agency that any notice published or given in pursuance of sub-article (1)

(i) if published in a newspaper, does not comply with the provisions of sub-article(2), or,

(ii) if erected or fixed on any land or structure, does not comply with the provisions of sub-articles (3), (4) or (5), as appropriate, or,

(iii) in either case, because of its content or for any other reason, is misleading or inadequate for the information of the public,

the Agency shall require the applicant to publish, erect or fix such further notice in such manner, whether in a newspaper or otherwise, in such terms as it may specify and to submit to it such evidence as it may specify in relation to compliance with any such requirement.

10. (1) An application for a permit under article 6 shall be made to the Agency in the form set out in the First Schedule:

(a) in the case of an initial application not later than six months prior to the dates set out in article 5 (2) or (3), as appropriate, unless the date of compliance is specified as the first day of January, 1998 in which case not later than six weeks prior to that date, and,

(b) in the case of an application for review of the permit not less than six months before the expiry date stated on the most recent permit granted by the Agency unless a terminal has subsequently increased its throughput so as to require a first permit under articles 5(2) or (3), as appropriate, for that size of terminal by the appropriate date set out in those articles.

(2) A permit may be reviewed at anytime by the Agency with the consent of, or at the behest of, the manager.

(3) The Agency may review a permit at any time where it has reason to believe that a provision of, or a condition attached to, a permit has been breached or where it considers that any emission from the terminal to which the permit relates constitutes a significant risk of environmental pollution.

(4) Where the Agency proposes to review a permit under the provisions of sub-article (2) it shall require the applicant for review of a permit to publish a notice of the Agency's intention to review a permit in a newspaper circulating in the district in which the terminal is or will be situate within one week of the date of notification to that effect by the Agency to the applicant.

(5) Where the Agency proposes to review a permit under the provisions of sub-article (3) it shall serve notice in writing to the manager indicating that a submission relating to the review may be made in writing to the Agency within one month of the date of receipt of such notice.

(6) A notice served pursuant to sub-article (5) may require the manager to submit such plans, documents, drawings, maps, evidence or other information and particulars as the Agency considers necessary for the purpose of the review.

(7) Where the manager holder fails or refuses to comply with any requirement of the Agency under sub-article (6) within one month from the date of the notice the Agency may, notwithstanding such failure or refusal, proceed with its proposed decision of the review.

(8) Every notice published in accordance with sub-article (4) shall indicate the reference number given to the permit in the register of permits, established under article 15.

(9) An application shall not be deemed valid unless it contains a signed original and five copies of the full application in accordance with sub-article (1).

(10) Where the Agency considers that an application does not comply with the requirements of sub-article (1), it may, as it considers appropriate, having regard to the extent of the failure to comply with the said requirements, by notice in writing

(i) inform the applicant of such failure of compliance and that the application cannot be considered by the Agency, or

(ii) require the applicant to furnish such further particulars, plans, drawings, maps or copies as may be necessary to comply with the said requirements, or,

(iii) determine the application having regard to the material furnished therewith.

11. The fee for the making of an application for a permit under article 10 shall be decided at the Agency's discretion and taking into account the size, nature and complexity of the application.

12. (1) The Agency shall notify the bodies set out in this article, of the receipt of an application as soon as is practicable after its receipt:

(a) the National Authority for Occupational Safety and Health,

(b) the planning authority in whose functional area the terminal is, or will be, located,

(c) any harbour authority in whose functional area the terminal is, or will be, located.

(2) The Agency shall, by not later than the third working day following a particular week, make available a list of the applications.

(3) The list referred to in sub-article (2) shall, for a period of not less than two months

(i) be displayed in or at the headquarters of the Agency in a position convenient for public inspection during office hours, and

(ii) be made available for such charge, if any, not exceeding the reasonable cost of making a copy thereof, at the headquarters of the Agency during office hours.

(4) The list referred to in sub-article (2) shall, in respect of each application to which it relates, indicate

(i) the reference number given to the application in the register of permits established under article 13,

(ii) the name and address of the applicant,

(iii) the location or postal address of the terminal to which the application relates,

(iv) the date of receipt of the application, and,

(v) where a copy of the application may be obtained.

13. (1) Every application for a permit under these Regulations shall be recorded by the Agency in a register to be established by the Agency in the format set out in the Third Schedule and shall be given a reference number therein.

(2) The register specified in sub-article (1) shall be available for public inspection at the headquarters of the Agency during office hours.

(3) A copy of an entry in the register specified in sub-article (1) shall be issued to a person requesting it on the payment by him or her to the Agency of such fee as the Agency shall fix not exceeding the reasonable cost of making the copy.

PART IV

14. Any person may make a submission in writing with regard to an application at any time prior to the making of a proposed decision on an application by the Agency under article 16.

15. (1) An application for a permit may be withdrawn at any time before the making of a decision by the Agency on the application.

(2) Where the Agency is of the opinion that an application has been abandoned it may give to the applicant a notice stating that fact and requiring that person within a period specified in the notice (being a period of not less than fourteen or not more than twenty-eighth days beginning on the date of the giving of the notice), to make to the Agency a submission in writing as to why the application should not be regarded as having been withdrawn.

(3) Where a notice has been given under sub-article (2), the Agency may, at any time after the expiration of the period specified in the notice, and after considering the submission, if any, made to the Agency pursuant to the notice, declare that the application to which the notice relates shall be regarded as having been withdrawn.

(4) Where pursuant to this article the Agency declares that an application is to be regarded as having been withdrawn, any submission made under article 14 shall not be further considered by the Agency.

16. (1) The Agency may upon an application being made under article 10 of these Regulations decide to grant, with or without conditions, or to refuse to grant,

(a) a permit, not later than the dates set out in articles 5(2) or (3), as appropriate, in the form set out in the Second Schedule, or

(b) a reviewed permit, not later than four months after the date of receipt of an application and such decision shall hereinafter be referred to as the "proposed decision".

(2) Where it appears to the Agency that it would not be possible or appropriate, because of the particular circumstances of an application, to decide on an application, in accordance with the provisions of sub-article (1), the Agency shall give notice in writing of the reasons why it would not be possible or appropriate, as the case may be, to do so and shall specify the date before which the Agency intends to carry out such procedures to the following:

(a) the applicant or permit holder, as appropriate,

(b) the planning authority in whose functional area the terminal is or will be situated,

(c) where in the Agency's discretion it deems practicable, every person who has made written submissions on the application under article 14.

(3) Where a notice has been given under sub-article (2), the Agency shall take all such steps as are open to it to ensure that the procedures are carried out before the date specified in the notice.

(4) In determining an application for a permit the Agency may impose conditions that connection lines and pipe installations at terminals are regularly inspected for leaks and that equipment for, and procedures to ensure, the shut down of loading operations are installed for the purposes of meeting the requirements of the Fifth, Sixth and Seventh Schedules.

17. (1) The Agency shall inform the applicant in writing of its proposed decision on an application.

(2) The Agency shall inform in writing the bodies prescribed in article 12 of its proposed decision.

18. (1) The Agency shall make the documents or other items specified in sub-article (2) available for public inspection during office hours, other than such information contained in the application and other documents or items submitted in accordance with sub-article (2) as the Agency may determine, at the headquarters of the Agency from as soon as may be after receipt of the documents or other items until one month after the date on which the proposed decision is given.

(2) The following are specified for the purposes of sub-article (1)—

(a) an application,

(b) such other notices as are given by the Agency under these regulations in respect of the application,

(c) such information, particulars, plans, drawings, maps, evidence, notices, objections, submissions, views or observations as were received or obtained by the Agency from the applicant or permit holder, as appropriate, or from any other person in accordance with these Regulations in respect of the application,

(d) any written submissions received by the Agency upon the application,

(e) copy of the proposed decision.

(3) Copies of the documents or other items specified in sub-article (2) shall be available during office hours for such charge, if any, as the Agency may fix not exceeding the reasonable cost of making a copy, from the time of receipt of

same by the Agency.

PART V

19. (1) Subject to the provisions of sub-article (2) any person may make an objection, in writing, to the Agency's proposed decision on an application, within one month commencing on the date of the notification by the Agency of the proposed decision.

(2) An objection, under sub-article (1) shall—

(a) be made in writing,

(b) state the name and address of the objector,

(c) state the reference number of the application in the register of permits established under article 13 and the subject matter of the objection,

(d) state the grounds for the objection and the reasons, considerations and arguments on which they are based, and

(e) be accompanied by a fee of £200

(3) Without prejudice to article 21 an objector shall not be entitled to elaborate in writing upon, or make further submissions in writing in relation to, the grounds for the objection stated in the objection or to submit further grounds of objection and any such elaboration, submission, or further grounds for the objection that is or are received by the Agency shall not be considered by it.

(4) An objection shall be accompanied by such documents, particulars or other information relating to the objection as the objector considers necessary or appropriate.

(5) An objection shall be made -

(a) by sending the objection by prepaid post to the headquarters of the Agency, or

(b) by leaving the objection with an employee of the Agency at the headquarters of the Agency during office hours.

(6) The Agency shall as soon as may be after receipt of an objection acknowledge such receipt.

(7) Where no objection is made under this article the Agency shall be bound by its proposed decision to grant, with or without conditions, or to refuse to grant, a permit and shall confirm its proposed decision as its final decision.

20. (1) The Agency shall, as soon as may be after receipt of an objection, give a copy thereof to each party to the objection.

(2) Each other party to the objection may make submissions in writing to the Agency in relation to the objection within a period of one month beginning on the day on which a copy of the objection is sent to that party by the Agency.

(3) Any submissions received by the Agency after the expiration of the period mentioned in sub-article (2) shall not be considered by the Agency.

(4) Where no submissions have been received from a party to an objection within the period mentioned in sub-article (2), the Agency may without further notice to that party consider the objection.

(5) Without prejudice to article 21, a party to the objection shall not be entitled to elaborate in writing upon any submissions made in accordance with sub-article (2) or make any further submissions in writing in relation to the objection and any such elaboration or submission that its received by the Agency shall not be considered by it.

21. Where the Agency is of the opinion that, in the particular circumstances of an objection, it is appropriate in the interests of justice, to request a party to the objection to make submissions in relation to any matter which has arisen in relation to the objection, the Agency may, in its discretion, notwithstanding articles 19(3) and (5), 20(5) and 28(4), give notice under this article

(a) requesting that party, within a period specified in the notice (not being less than fourteen or more than twenty-eight days beginning on the date of the giving of the notice) to make to the Agency a submission in writing in relation to the matter in question, and,

(b) stating that, if a submission in writing is not received before the expiration of the period specified in the notice, the Agency will, after the expiration of that period and without farther notice to the party, proceed with its consideration of the objection and make a decision on the application.

22. Where the Agency is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling it to consider an objection, the Agency may give to any party to the objection a notice under this article—

(a) requiring that party, within a period specified in the notice (being a period of not less than fourteen or more than twenty-eight days beginning on the date of the giving of the notice) to submit to the Agency such document, particulars or other information (which document, particulars or other information shall be specified in the notice), and

(b) rating that, in default of compliance with the requirements of the notice, the Agency will, after the expiration of the period so specified and without further notice to the party, make a decision on the application.

23. (1) Where the Agency is of the opinion that an objection has been abandoned, it may give to the party who made the objection a notice stating that fact and requiring that party, within a period specified in the notice (being a period of not less than fourteen or more than twenty-eight days beginning on the date of the giving of the notice), to make to the Agency a submission in writing as to why the objection should not be considered as having been withdrawn.

(2) Where a notice has been given under sub-article (1), the Agency may, at any time after the expiration of the period specified in the notice, and after considering the submission, if any, made to the Agency pursuant to the notice, declare that the objection to which the notice relates shall be regarded as having been withdrawn.

24. (1) Any person who has made an objection in accordance with article 19 to a proposed decision made by the Agency may request an oral hearing by the Agency within one month commencing on the date of the notification by the Agency of the proposed decision and such request shall contain the name and address of the person, the subject matter of, and the full grounds for, the request for an oral hearing, and be accompanied by a fee of £100

(2) The Agency shall have an absolute discretion to hold, or to refuse to hold, an oral hearing. Where the Agency decides to hold an oral hearing it shall give the following persons not less than seven days notice in writing of the time and place of the oral hearing or such shorter notice as may be accepted by all parties—

- (i) the applicant, or the permit holder, as appropriate,
- (ii) the planning authority in whose functional area the terminal is or will be situated, and,
- (iii) all those from whom objections under article 19 were received.

(3) The Agency may, at any time before the opening of an oral hearing, alter the time or place of the opening of an oral hearing and, in the event of such alteration, the Agency shall give the persons specified in sub-article (2) not less than seven days notice in writing of the new time and place or such shorter notice as may be accepted by any such persons.

25. (1) A person appointed to conduct an oral hearing shall have discretion as to the conduct of the hearing and in particular shall

- (a) conduct the hearing without undue formality,
- (b) permit any party to the objection, the planning authority in whose functional area the terminal is or will be situated, or such employee of the Agency as the Agency may decide, to appear in person or to be represented by another person,
- (c) decide the order of appearance of persons to be heard.

(2) Where the Agency has given notice in accordance with article 28(2) of its intention to take into account matters other than those raised by the parties to the objection, the parties shall be permitted, if present, to make submissions in relation to the said matters to the person conducting the oral hearing.

(3) A person appointed by the Agency to conduct an oral hearing shall be appointed in writing by the Agency to be an authorised person for the purposes of these Regulations.

26. (1) Subject to sub-article (2), the person appointed to conduct an oral hearing may, by giving notice in that behalf in writing to any party to the objection, such employee of the Agency as the Agency may decide or the planning authority in whose functional area the terminal is or will be situated, require that party, employee or authority to attend at such time and place as is specified in the notice and to produce any documents, particulars, or other information in his/her or its possession, custody or control.

(2) The following provisions shall have effect for the purposes of sub-article (1)—

(a) it should not be necessary for a person to attend in compliance with a notice at a place more than ten miles from a person's ordinary place of residence unless such sum as will cover the reasonable and necessary expenses of the attendance has been paid or tendered to that person;

(b) the Agency shall pay or tender to any person whose attendance is required such sum as the Agency, following consultation with the person appointed to conduct the oral hearing, considers will cover the reasonable and necessary expenses of the attendance;

(c) any person who in compliance with a notice has attended at any place shall, save insofar as the reasonable and necessary expenses of the attendance have already been paid to that person, be paid those expenses by the Agency, and those expenses, save as aforesaid, shall, in default of being so paid, be recoverable as a simple contract debt in any court of competent jurisdiction.

(3) A person to whom a notice under sub-article (1) has been given shall not refuse or wilfully neglect to attend in accordance with the notice or shall not wilfully alter, suppress, conceal or destroy any documents, particulars or other information to which the notice relates or having so attended shall not refuse or wilfully fail to produce any documents, particulars or other information to which the notice relates.

(4) A person appointed to conduct an oral hearing may require an officer of the harbour authority, local authority, sanitary authority or planning authority concerned to provide any information which that person reasonably requires for the purpose of the hearing, and it shall be the duty of the officer concerned to comply with the requirement.

27. (1) Subject to sub-articles (2) and (3), the person appointed to conduct an oral hearing may—

(a) adjourn or resume the oral hearing,
(b) having obtained the consent of the Agency, reopen the hearing, or,
(c) notwithstanding that any party to the objection has failed to attend a hearing, proceed with the hearing.

(2) Notice of the time and place of an oral hearing that has been adjourned indefinitely or the reopening of an oral hearing shall be given in writing by the Agency to the persons specified in article 24(2) not less than seven days before the said time or such shorter period as may be accepted by all such persons.

(3) Unless the Agency considers it expedient to do so and so directs, an oral hearing shall not be reopened after the report thereon has been made to the Agency.

(4) If, for any reason, the person appointed to conduct an oral hearing is unable or fails to conduct, or to complete the conduct of, an oral hearing or, for any reason, is unable or fails to furnish a written report on an oral hearing to the Agency, the Agency may appoint another person to conduct the oral hearing or to conduct a new oral hearing.

28. (1) The Agency may in considering an objection take into account matters other than those raised by a party to the objection.

(2) The Agency shall give notice in writing to each party to the objection of the matters that it proposes to take into account under sub-article (1) and shall indicate in that notice

(a) in a case where the Agency proposes to hold an oral hearing of an objection, or where an oral hearing of the objection has been concluded and is reopened in accordance with article 27(1), that submissions in relation to the said matters may be made to the person appointed to conduct the oral hearing, or,

(b) in a case where the Agency does not propose to hold an oral hearing of the objection, or where an oral hearing of the objection has been concluded and the Agency does not propose to consent to the reopening of the hearing, that submissions in relation to the said matters may be made to the Agency in writing within a period specified in the notice (being a period of not less than fourteen or more than twenty-eight days beginning on the date of the giving of the notice).

(3) Submissions as aforesaid that are received by the Agency after the expiration of the period referred to in sub-article (2)(b) shall not be considered by the Agency.

(4) Without prejudice to article 21, where a party to an objection makes a submission to the Agency in accordance with sub-article (2)(b), that party shall not be entitled to elaborate in writing upon that submission or to make further submissions in writing in relation to the matters referred to in sub-article (1) and any such elaboration or submissions that are received by the Agency shall not be considered by it.

29. (1) The Agency shall, in relation to a proposed decision made in accordance with article 16 which is the subject of an objection made pursuant to article 19, decide to:

— confirm the proposed decision or,
— modify the proposed decision by the addition, revision or withdrawal of conditions or,
— refuse to grant a permit as proposed by a decision
as appropriate and not later than three months after the expiration of the objection period specified in article 19(1),

(2) Where it appears to the Agency that it would not be possible or appropriate, because of the particular circumstances of an objection, to carry out the procedures for the consideration of an objection, whether or not an oral hearing is held, within three months beginning on the day after the expiration of the objection period specified in article 19(1), the Agency shall give notice in writing to

each party to the objection of the reasons why it would not be possible or appropriate, as the case may be, to do so and shall specify the date before which the Agency intends to carry out such procedures.

(3) Where a notice has been given under sub-article (2), the Agency shall take all such steps as are open to it to ensure that the procedures are carried out before the date specified in the notice.

30. (1) The Agency shall notify the applicant in writing of a decision made in accordance with article 29.

(2) The Agency shall inform each of the following in writing of a decision made in accordance with article 29.

(a) the planning authority in whose functional area the terminal is, or will be situate,
(b) any person who has made an objection under article 19, and, (c) the National Authority for Occupational Safety and Health.

(3) A notification under sub-articles (1) and (2) shall be accompanied by a copy of the decision referred to.

(4) The Agency shall, not later than the third working day following a particular week, make available a list containing details of the decisions referred to in sub-article (1) given by the Agency during that week.

(5) A copy of the list referred to in sub-article (4) shall, for a period of not less than one month commencing on the date on which the decision was given

(i) be displayed in, or at, the headquarters of the Agency in a position convenient for public inspection during office hours, and,

(ii) be made available for such charge, if any, not exceeding the reasonable cost of making the copy, at the headquarters of the Agency during office hours.

(6) A copy of the list referred to in sub-article (4) may, in addition to the requirements of sub-article (5), be displayed in any other place which the Agency considers appropriate or made available for such charge, if any, not exceeding the reasonable cost of making the copy, to any person, group or body likely to be interested.

(7) A copy of the list referred to in sub-article (4) or the relevant portion of such list shall, in addition to the requirements of sub-article (5), within 7 days of the date of the giving of the decision be published in a newspaper circulating in the district in which the terminal is or will be situate.

(8) A list referred to in sub-article (4) shall, in respect of each decision on an application to which it relates, indicate

(i) the reference number given to the application to which the decision applies in the register of permits established under article 13,

(ii) the name and address of the applicant,

(iii) the location, or postal address of the terminal to which the application relates,

(iv) the nature of the Directive compliance requirement under Article 5(1), (2) and (3) as appropriate,

(v) the nature of the decision, (vi) the date of the giving of the decision, (vi) where a copy of the decision may be obtained.

PART VI

31. The Agency shall be deemed to be the ' competent authority for the purposes of the Directive and shall enforce the relevant provisions of the Regulations accordingly.

32. (1) The Agency may authorise in writing any person, hereinafter referred to as an "authorised person", for the purposes of examination, investigation and enforcement of these regulations.

(2) Every authorised person shall be furnished with a certificate of this authorisation and when exercising any power provided by or under these Regulations, the authorised person shall, if requested by any person affected, produce the certificate to that person.

(3) An authorised person may, in respect of any terminal or mobile container:

(a) inspect any terminal or mobile container, and such records or such documents, as the authorised person, having regard to all the circumstances, considers necessary for the purposes of these Regulations,

(b) require from a carrier or a manager, such information as the authorised person, having regard to all the circumstances, considers necessary for the purposes of these Regulations.

FIRST SCHEDULE

Application for a permit for the satisfactory design, operation and maintenance of storage installations and/or loading and unloading equipment at a terminal in accordance with the Environmental Protection Agency Act, 1992 (Control of volatile organic compound emissions resulting from petrol storage and distribution) Regulations, 1997.

NOTE: THESE PARTICULARS ARE THE MINIMUM REQUIREMENTS FOR THE MAKING OF AN APPLICATION. ADDITIONAL INFORMATION MAY BE REQUESTED FROM THE APPLICANT AT ANY TIME PRIOR TO THE MAKING OF A DECISION ON THE APPLICATION UNDER THESE REGULATIONS.

1. Applicant (State whether owner, licensee or person having management/control of terminal)

2. Name and address/registered office of the applicant

3. Location of terminal

4. {First Permit (Tick as appropriate)

{Renewal of Permit

State date of previous permit

5. Throughput of terminal

6. State whether application for storage installations or loading/unloading equipment or both

7. State number of bottom loading gantries

8. Is intermediate storage of vapours undertaken at terminal? (If so, provide details)

9. State proposed measurement and analysis methods and their frequency

10. State frequency of checks for leaks in connection lines and pipe installations

11. State shut down procedures for loading operations

12. State mean vapour concentration in vapour-recovery unit exhaust (to be not greater than 3 5g/Nm³)

13. State that requirements of the Environmental Protection Agency Act, 1992 (Control of volatile organic compound emissions resulting from petrol storage and distribution) Regulations, 1997 are being satisfactorily met and give brief details

14. Full fee attached (£ 5,000)

15. Copy of newspaper notice

16. Copy of the text of site notice

17. Original and five copies of application attached (tick yes/no)

Declaration

I, -----, hereby certify that to the best of my knowledge and belief the above particulars are true and that the requirements of the Environmental Protection Agency Act, 1992 (Control of volatile organic compound emissions resulting from petrol storage and distribution) Regulations, 1997 in relation to the above named terminal have been complied with.

Date of Application

For EPA Use

Date of receipt Seal of the Agency

SECOND SCHEDULE

Permit for the satisfactory design, operation and maintenance of storage installations and/or loading and unloading equipment at a terminal granted in compliance with the Environmental Protection Agency Act, 1992 (Control of volatile organic compound emissions resulting from the storage of petrol and its distribution) Regulations, 1997.

1. Applicant

Name and address/registered office of the company, firm or person

2. Location Of the terminal

3. {First Permit (Tick as appropriate)

{Renewal of Permit

State date of previous permit

4. EPA Register of Permits Number

5. Terminal throughput

6. Permit for storage installations () or loading/unloading equipment () or both() (Tick as appropriate)

7. Type and frequency of Measurement and analysis methods (see conditions below also)

8. Type and frequency of inspection of connection lines and pipe installations for leaks (see conditions below also)

9. Equipment and procedures to ensure the shut down of loading operations for the purposes of meeting the requirements of the Directive (see conditions below also)

10. Fee Paid in fall (£5,000))(Tick yes/no)

The Environmental Protection Agency,-----, being the competent authority for the purposes of the Environmental Protection Agency Act, 1992 (Control of volatile organic compound emissions resulting from petrol storage and distribution) Regulations, 1997 hereby declares that the above application for the issue of a permit has been duly considered and that, subject to the conditions listed hereunder, a permit is hereby granted to -----with regard to the terminal located at -----for a period of----- until -----subject to the conditions set out below.

Conditions:

0) No conditions imposed (tick if appropriate)

1)

2)

3)

Date of issue of permit

Seal of the Agency to be affixed here

THIRD SCHEDULE

REGISTER OF PERMITS

1. This register of permits is required under article 13 of these Regulations and shall be established and maintained for public inspection at the headquarters of the Agency. The register shall contain, at minimum, the following entries in respect of each application for a permit or review of a permit, as appropriate:

(1) Register reference number

(2) Name and address of the applicant, or permit holder, as the case may be

(3) The nature of the Directive compliance requirement under article 5(1), (2) and (3) as appropriate

(4) The location or postal address of the terminal to which the application relates

(5) Date of notification to the Agency under article 5(5) that throughput has fallen below specified threshold before coming into effect of deadline and request to the Agency for a derogation from Directive compliance and date and nature (upheld/refused specify) of Agency decision thereon

(6) Date of notification under article 5(7) that throughput has fallen below specified threshold and request to Agency for a cancellation of permit

- (7) Date and nature of decision by Agency made under article 5(7) on request for cancellation of a permit
- (8) Date on which the Agency is in receipt of the application made under article 10(1)
- (9) Date on which an application is withdrawn under article 15(1)
- (10) Date on which Agency notifies applicant to confirm that an application is abandoned in accordance with article 15(2)
- (11) Date of notice to permit holder under article 10(5) that submission on a review of permit may be made
- (12) Date of notice to applicant that application not deemed complete under article 10(10)
- (13) Number, and date of receipt, of written submissions, if any, received under article 14
- (14) Date, and nature (specify issued with or without conditions/refused) of proposed decision on the application under article 16(1)
- (15) Date of notice under article 16(2) of extension of proposed decision period on application, specifying date by which decision to be made
- (16) Date of notice of proposed decision to applicant/permit holder under article 17(1) and to other bodies under article 17(2)
- (17) Number, and date, of objections (if any) made under article 19(1)
- (18) Date of request to party to an objection to make submission under article 21
- (19) Date of notice to party to an objection to supply documents etc. under article 22
- (20) Date of notice to party to an objection on withdrawal of an objection under article 23.
- (21) Date of a request to hold an oral hearing under article 24(1)
- (22) Date and venue of an oral hearing under article 24 and of any adjournment/resumption/reopening (specify) under article 27
- (23) Date and nature (specify upheld/modification/withdrawn) of a decision on objection under article 29(1)
- (24) Date of notice of decision under article 30
- (25) The frequency or periods within which monitoring reports or other information are required to be submitted to the Agency by or under a condition attached to a permit.

2. Each application for a permit, shall be given a reference number in the register of permits and such number shall refer consequently to each notification given in writing to the applicant/permit holder, as appropriate, in respect of a decision on said application or, in relation to any notice in relation to an objection on a decision on said application or, on any notification required under these Regulations in relation to said application or any decision thereon.

FOURTH SCHEDULE

REQUIREMENT FOR STORAGE INSTALLATIONS AT TERMINALS

1. The external wall and roofs of tanks above ground must be painted in a colour with a total radiant heat reflectance of 70% or more. These operations may be programmed so as to be carried out as part of the usual maintenance cycles of the tanks within a period of three years.

This provision shall not apply to tanks linked to a vapour-recovery unit which conforms with the requirements set out in paragraph 2 of the Fifth Schedule. Tanks with external floating roofs must be equipped with a primary seal to cover the annular space between the tank wall and the outer periphery of the floating roof and with a secondary seal fitted above the primary seal. The seals should be designed to achieve an overall containment of vapours of 95% or more as compared to a comparable fixed-roof tank with no vapour containment controls (i.e. a fixed-roof tank with only vacuum/pressure relief valves).

3. All new storage installations at terminals where vapour-recovery is required under article 5 of the regulations must be either:

(a) fixed-roof tanks connected to the vapour-recovery unit in conformity with the requirements of the Fifth Schedule; or

(b) designed with a floating roof, either external or internal, equipped with primary and secondary seals to meet the performance requirements set out in paragraph 2 above.

Requirements for vapour containment controls mentioned in this paragraph do not apply to fixed-roof tanks at terminals where intermediate storage of vapours is permitted according to paragraph I of the Fifth Schedule.

4. Existing fixed-roof-tanks must either:

(a) be connected to a vapour-recovery unit in conformity with the requirements of the Fifth Schedule; or

(b) have an internal floating roof with a primary seal which should be designed to achieve an overall containment of vapours of 90% or more in relation to a comparable fixed-roof tank with no vapour controls.

The requirements of this paragraph shall not apply to existing (be in operation before the coming into effect of these Regulations) horizontal tanks or to existing vertical tanks with a diameter of less than 6m at terminals with a throughput of less than 10,000 tonnes per year.

Requirements for vapour-containment controls mentioned in this paragraph do not apply to fixed-roof tanks at terminals where intermediate storage of vapours is permitted according to paragraph 1 of the Fifth Schedule.

FIFTH SCHEDULE

REQUIREMENTS FOR LOADING AND UNLOADING INSTALLATIONS AT TERMINALS

1. Displacement vapours from the mobile container being loaded must be returned through a vapour tight connection line to a vapour-recovery unit for regeneration at the terminal.

This provision does not apply to top-loading tankers where a top-loading system is permitted.

At terminals which load petrol onto vessels, a vapour incineration unit may be substituted for a vapour-recovery unit if vapour-recovery is unsafe or technically impossible because of the volume of return vapour. The requirements concerning atmospheric emissions from the vapour-recovery unit shall also apply to the vapour incineration unit.

At terminals with a throughput of less than 25,000 tonnes per year, intermediate storage of vapours may be substituted for immediate vapour-recovery at the terminal.

2. The mean concentration of vapours in the exhaust from the vapour-recovery unit corrected for dilution during treatment must not exceed 35 g/normal cubic metre (Nm³) for any one hour.

Measurements must be made over the course of one full working day (seven hours minimum) of normal throughput.

Measurements may be continuous or discontinuous. If discontinuous measurements are employed, at least four measurements per hour must be made.

The overall measurement error due to the equipment used, the calibration gas and the procedure used must not exceed 10% of the measured value.

The equipment used must be capable of measuring concentrations at least as low as 3g/Nm³.

The precision must be at least 95% of the measured value.

3. The competent authority shall ensure that the connection lines and pipe installations are checked regularly for leaks.

4. Competent authorities shall ensure that loading operations are shut down at the gantry in the case of a leak of vapour. Equipment for such shutdown operations must be installed at the gantry.

5. Where top-loading of mobile containers is permitted, the outlet of the loading arm must be kept near the bottom of the mobile container, in order to avoid splash loading.

SIXTH SCHEDULE

REQUIREMENTS FOR LOADING AND STORAGE AT TERMINALS AND SERVICE STATIONS WHERE THE INTERMEDIATE STORAGE OF VAPOURS IS CARRIED OUT

Vapours displaced by the delivery of petrol into storage installations at terminals and into storage tanks at service stations and in fixed roof tanks used for the intermediate storage of vapours must be returned through a vapour-tight connection line to the mobile container delivering the petrol.

Loading operations may not take place unless these arrangements are in place and properly functioning.

SEVENTH SCHEDULE

SPECIFICATIONS FOR BOTTOM-LOADING, VAPOUR COLLECTION AND OVERFILL PROTECTION OF EUROPEAN ROAD TANKERS

1. Couplings

1.1 The liquid coupler on the loading arm must be a female coupler which must mate with a 4 inch API (101.6mm) male adapter located on the vehicle as defined by:

API Recommended Practice 1004

Seventh Edition, November, 1988.

Bottom loading and vapour-recovery for MC-306 tank motor vehicles (Section 2.1.1.1 - Type of adapter used for bottom loading).

1.2 The vapour-collection coupler on the loading-gantry vapour-collection hose must be a cam-and-groove female coupler which must mate with a 4 inch (101.6mm) cam-and-groove male adapter located on the vehicle as defined by:

API Recommended Practice 1004

Seventh Edition, November, 1988.

Bottom loading and vapour-recovery for MC-306 tank motor vehicles (Section 4.1.1.2 -Vapour-recovery adapter).

2. Loading Conditions

2.1 The normal liquid-loading rate must be 2,300 litres per minute (maximum 2,500 litres per minute) per loading arm.

2.2 When the terminal is operating at peak demand, its loading gantry vapour collection system, including the vapour-recovery unit, is allowed to generate a maximum counter-pressure of 55 millibar on the vehicle side of the vapour-collection adapter.

2.3 All approved bottom-loading vehicles will carry an identification plate which Specifies the maximum permitted number of loading arms which must be operated simultaneously whilst ensuring that no vapours are released via the compartment P and V valves, when the maximum plant back pressure is 55 millibar as specified in 2.2.

3 Connection of vehicle earth/overflow detection

The loading gantry must be equipped with an overtime detection control unit which, when connected to the vehicle, must provide a failsafe permission signal to enable loading, providing no compartment-overflow sensors detect a high level.

3.1 The vehicle must be connected to the control unit on the gantry via a 10-pin industry standard electrical connector. The male connector must be mounted on the vehicle and the female connector must be attached to a flying lead connected to the gantry-mounted control unit.

3.2 The high level detectors on the vehicle must be either 2-wire thermistor sensors, 2-wire optical sensors, 5-wire optical sensors or a compatible equivalent, provided the system is failsafe. Thermistors must have a negative temperature coefficient.

3.3 The gantry control unit must be suitable for both 2-wire and 5-wire vehicle systems.

3.4 The vehicle must be bonded to the gantry via the common return wire of the overflow sensors, which must be connected to pin 10 on the male connector via the vehicle chassis. Pin 10 on the female connector must be connected to the control unit enclosure which must be connected to the gantry earth.

3.5. All approved bottom-loading vehicles must carry an identification plate (see 2.30 which specifies the type of overflow-detection sensors installed (i.e. 2—wire or 5-wire).

4. Location of the connections

4.1 The design of the liquid-loading and vapour collection facilities on the loading gantry must be based on the following vehicle-connection envelope.

4.1.1 The height of the centre line of the liquid adapters must be; maximum 1.4 metres (unladen); minimum 0.5 metres (laden), the preferred height being 0.7 to 1.0 metres.

4.1.2 The horizontal spacing of the adapters must be not less than 0.25 metres (preferred maximum spacing is 0.3 metres).

4.1.3 All liquid adapters must be located within an envelope not exceeding 2.5 metres in height.

4.1.4 The vapour-collection adapter should be located preferably to the right of the liquid adapters and at a height not exceeding 1.5 metres (unladen) and not less than 0.5 metres (laden).

4.2 The earth/overflow connector must be located to the right of the liquid and vapour-collection adapters and at a height not exceeding 1.5 metres (unladen) and not less than 0.5 metres (laden).

4.3 The above connections must be located on one side of the vehicle only.

5. Safety interlocks

5.1. Earth/Overflow detection

Loading must not be permitted unless a permissive signal is provided by the combined earth/overflow control unit.

In the event of an overflow condition or a loss of vehicle earth, the control unit on the gantry must close the gantry-loading control valve.

5.2. Vapour-collection detection

Loading must not be permitted unless the vapour-collection hose has been connected to the vehicle and there is a free passage for the displaced vapours to flow from the vehicle into the plant vapour-collection system.

Given under the Official Seal of the Minister for the Environment and Local Government

this 10th, day of September, 1997

Noel Dempsey

Minister for the Environment

and Local Government

EXPLANATORY NOTE

These Regulations transpose elements of Directive 94/63/EC into Irish law to introduce controls on volatile organic compound emissions resulting from petrol storage and distribution at terminals. The Regulations provide for the operation of a system of permits by the Environmental Protection Agency. Other provisions of Directive 94/63/EC are transposed by the AIR POLLUTION ACT, 1987 (PETROLEUM VAPOUR EMISSIONS) REGULATIONS, 1997. (S.I. No. 375 of 1997)

Source: Irish Statute Book Database

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