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## **Domestic oil tanks / Building Regulations and Control of Pollution Regulations Position paper.**

The control of Pollution (Oil Storage) (England) Regulations 2001 were introduced with the objective of reducing oil related water pollution incidents, by 60% from the 1998 level. Oil pollution at that time represented 30% of all water pollution incidents in England.

The Environmental Agency figures for 2002 show that the number of oil pollution incidents has, - contrary to expectations, - *increased* by 15%. Our analysis of the reasons for this deterioration in the oil pollution figures, concludes that the focus of the Control of Pollution Regulations, which required that bunding was obligatory for the commercial, industrial and agricultural sectors of the oil tank market, failed to recognise the proportion of oil pollution incidents that the much larger domestic oil tank sector represents. Since the proportion of oil tanks in the non-domestic sector is significantly smaller than the domestic sector, it is now evident that the deliverables expected from the regulations, would be very difficult to achieve, because of the incorrect assumption on the proportion of pollution incidents domestic tanks represented.

The domestic tank sector pollution potential is currently addressed by a risk assessment procedure, which required that those tanks in the domestic sector, which are assessed as being exposed to a higher risk of pollution, by a competent installer, should be banded. With the benefit of hindsight, we now conclude that this well-intentioned approach to reducing the risk of oil pollution incidents from the domestic oil tank sector is wholly inadequate, in providing the kind of safeguards the domestic sector requires. As a consequence overall oil pollution incidents are likely to continue to increase, contrary to the objective of the Regulations introduced in 2001 in England and Wales, and in process in Scotland. This is despite the significant and effective failsafe environmental protection that is now being put in place in the non-domestic tank sector

A more detailed reasoning behind this conclusion is attached.

We have concluded that the only effective way that pollution incidents can be dramatically reduced to levels consistent with the objectives of the Control of Pollution Regulations is to introduce the ethos and principles of the Control of Pollution Regulations to the domestic sector. The only deviation from the measures applied to the non-domestic sector, would be to accept that a mandatory replacement of all single skin tanks currently in situ, would be unworkable, and probably unenforceable.

In proposing this change, we have critically assessed how this change would impact on each of the major constituencies who make up the oil heating industry. This has been informed by wide informal discussions with senior people in each constituency, from which we've summarised the issues relating to this proposed regulatory change, from the perspective of whether or not it would be in the best interests of each of these constituencies. Taking each constituency in turn and in no particular order: -

**OFTEC** has an obligation to ensure that the oil industry prospers, and that any threats to the industry are competently and professionally addressed through the introduction of whatever improvement schemes are necessary to safeguard the long-term future of the industry, and to lobby government to that effect.

The key drivers for OFTEC and the oil industry are maintaining cost competitiveness of oil, versus competing fuels, and increasingly, improving environmental competitiveness. This environmental improvement driver is becoming more important than cost competitiveness, as it is recognised that the cost competitiveness against for example, natural gas, (if it is available as a choice) only addresses a part of the factors new customers weigh up, in making their fuel choice decision. Likewise, whilst other heating alternatives such as LPG, and electricity are more costly than oil, their market penetration will increasingly be influenced by how they are perceived in relative environmental terms, and also convenience. OFTEC recognises that if the UK oil heating market is not to suffer the same inexorable decline that has occurred in such markets as US, Canada, New Zealand, environmental vulnerabilities associated with oil heating need to be quickly and proactively removed.

An initiative to ensure bunded tanks are adopted across the oil heating market, irrespective of market sector, would represent an important contribution to environmental improvement, insofar as it would ensure that government and Environmental Agency targets for pollution prevention could be achieved, in line with the goals underpinning the Control of Pollution regulations. It is now recognised that the steps to have domestic tanks at risk, bunded, through a risk assessment exercise has not worked as originally intended, and has been subject to deliberate or unwitting misinterpretation. UK and Ireland are practically the only countries in Europe who still accept single skin oil tanks, despite such tanks representing the biggest and growing environmental vulnerability should they develop a problem. OFTEC acknowledges that it has a responsibility to all stakeholders to ensure that environmental improvements are adopted throughout our supply chain.

**Oil Distributors and Installers.** Who have been consulted acknowledge that the regulations as currently enacted are not only failing to protect the environment, but they also represent a “cowboys charter” insofar as responsible installers and oil distributors lose business to irresponsible installers who will install single skin tanks despite the risk assessment, and through saving the customer some money, will heighten the risk of a pollution incident. Further, empirical evidence suggests that less competent installers, who ignore the requirement to carry out a thorough risk assessment, may also fail to pay attention to other safety critical areas of the installation, thereby further increasing environmental and safety concerns. This confirms the earlier comments of how risk assessments can be open to (mis)interpretation. The situation has been exacerbated by local Building Control Officers being unaware of the requirements of Section J of the building regulations, and therefore failing to enforce these regulations. The ODPM has recognised the shortcomings of the information provided by BCOs and intends to address it, but all concerned would welcome any simplification of the regulations. Most Oil distributors would support an extension of the Control of Pollution regulations to require all domestic oil tanks installation in the future, to be bunded.

Responsible oil distributors recognise that any factors, which increase the public perception of oil being viewed as a pollutant rather than an environmentally acceptable fuel, must be rapidly and decisively addressed.

**Appliance manufacturers** we believe, would accept that the small additional cost of bunding to the domestic sector, in an overall installation costs (est. 7%) will not lead to a reduction in available market, for the reasons outlined above. Indeed, in many countries (e.g. Belgium, Germany, Spain) with much stricter fuel storage requirements (relative to the UK and Ireland), oil heating is significantly more popular than in the British Isles.

**Oil tank manufacturers** are in favour of a regulatory extension to bunding of all domestic oil tanks, since this eliminates any confusion on the type of tank to be installed. This would protect the homeowner given the fact that the average cost of clean ups is rising exponentially. Oil tank manufacturers have in the past, generally paid for any clean up costs, associated with an oil tank failure, and given the customer the benefit of any doubt as to the reasons for tank failure, as part of their product warranty. As clean up costs associated with a typical oil leak have risen, tank manufacturers are tightening up their warranty terms to reject any claims for costs associated with poor installations, or any claims where there is any doubt over their cause. .

Any tanks installed incorrectly against a subsequent risk assessment will almost certainly not be covered, and end users will subsequently be obliged to look after their own cost of clean up. This unavoidable response to the exponential rise in individual pollution claims would undoubtedly have an adverse effect on the oil heating market, unless the cause is addressed quickly and decisively, through a change in the Regulations to include domestic tanks.

**Government and Environmental Agency** support any proposal, which ensures they can successfully achieve the targets they set for a reduction in oil related water pollution incidents. They have been consulted on what is being considered, and are totally supportive. Changes in the Building Regulations could probably be put in force, as part of the 2005 review as soon as the industry makes a formal proposal.

Summarising the above, we believe that the interests of the five constituencies converge over the issue of bunding domestic oil tanks, and there is an overwhelming case for extending the Regulations to ensure all domestic tanks installed, going forward, are bunded.

Alternative approaches, such as a voluntary withdrawal of single skin tanks by tank manufacturers will not work, given the highly competitive nature of the industry. Single skin tanks need to be effectively banned by government, for there to be decisive environmental gain. The semi voluntary risk assessment scheme has clearly not worked, mainly due to the lack of communication with the industry, the BCOs and the public and has, if anything operated to the detriment of our industry.

We would be pleased to discuss this proposal further with any of the constituencies so that agreement can be speedily secured. Following this, a proposal can be formally tabled with government, so that the best interests of our industry and the environment are safeguarded

It is obviously important, assuming the above is accepted, that the regulations governing oil storage in the Agricultural Sector are similarly amended.

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