

Memorandum of Understanding between HM Industrial Pollution Inspectorate (Scottish Office Environment Department) and the Health and Safety Executive

1 Introduction

This Memorandum of Understanding is between HM Industrial Pollution Inspectorate (HMIPI) of the Scottish Office Environment Department and the Health and Safety executive (HSE). Its purpose is to ensure effective co-ordination in Scotland of the regulation of plant and processes subject to control under the provisions of both part I of the Environmental Protection Act 1990 (EPA) and the Health and Safety at Work etc Act 1974 (HSWA). It does not cover nuclear matters which are the subject of a separate MoU between HMIPI and HSE's Nuclear Installations Inspectorate.

2 Legislation

Part I of EPA provides for a system of regulation of emissions to the environment which requires an operator of a prescribed process to be authorised. For the purpose of this MoU, "prescribed processes" are those set out in Part A of Schedule 1 of the Environmental Protection (Prescribed Processes and Substances) Regulations 1991, as amended.

These processes are also subject to regulation under HSWA and relevant subordinate legislation. EPA, S.7(1) requires that no conditions of authorisations granted under that Act shall be imposed for the purpose only of securing the health of persons at work.

3 Objectives

The objectives of this MoU are to:

3.1 Provide arrangements by which the activities of HMIPI and HSE in Scotland may be co-ordinated.

3.2 Ensure effective co-ordination and if necessary co-operation when authorisation under EPA Part I is required and where an enforcement notice wither under EPA Part I or HSWA is determined to be necessary.

3.3 Ensure actions by HMIPI and HSE in Scotland do not place conflicting requirements on operators of prescribed processes.

3.4 Ensure any necessary exchange of views when either authority is asked to provide inputs on environmental matters to planning authorities, local authorities or other outside bodies.

4 Working arrangements

The working arrangements by which HMIPI and HSE in Scotland will implement this MoU will be based on the following principles:

4.1 The points of contact for any operator of a prescribed process will be, in respect of EPA, the relevant enforcing authority and in respect of the health and safety of persons at work in the relevant premises, HSE in Scotland.

4.2 Both before and after authorisation under EPA Part I, interactions between the duties placed on an operator under EPA Part I and those under relevant HSW legislation will be identified and wherever practicable any conflicting requirements will be resolved before any such requirement is addressed to that operator.

4.3 Where formal enforcement action on a matter of interest to both authorities is being proposed by one wherever practicable it will consult the other.

4.4 Where either authority intends serving a Notice under relevant statutory provisions on a matter of interest to the other it will advise, and as appropriate consult, the other at the earliest opportunity.

4.5 Information about incidents, reported to either authority, which have an interest for the other will be passed on and investigations will be co-ordinated. Responsibility for leading investigations will in general lie with HSE in Scotland but where an incident has led to amongst other things a breach or potential breach of authorisation conditions under EPA, it may be jointly conducted or, if appropriate, HMIPI will lead. In all cases, the lead authority will be responsible for preparing the investigation report and copying it to the other.

4.6 Matters deemed to be of interest to both authorities will as far as is reasonably practicable be identified by prior discussion by inspectors having responsibility for the site in question. In principle HMIPI is interested in any issue that may cause a breach of an authorisation granted under EPA while HSE in Scotland is interested in any matter that may cause a breach of health and safety legislation.

5 Liaison

5.1 It is the responsibility of inspectors of both authorities to ensure that the principles set out above are observed. To that end, inspectors should:

5.1.1 meet regularly to review current and future activities relating to prescribed processes.

5.1.2 identify, and from time to time review, the areas of interest of each authority at premises where prescribed processes are, or are to be, operated.

5.1.3 consult each other on matters of mutual interest.

5.1.4 liaise as necessary on interpretation of relevant legislation, guidance and standards.

5.2 issues which are not resolved through liaison between HMIPI and HSE inspectors will be as necessary be referred to the relevant Senior Inspector, HMIPI and Principal Inspector, HSE.

5.3 The Deputy Chief Inspector, HMIPI, will have a standing invitation to HSE Scottish Management meetings.

5.4 In the even that the liaison arrangements outlined in paras 5.1 to 5.3 prove inadequate or inappropriate, issues may be discussed in formally constituted meetings between the Chief Inspector, HMIPI, and HSE. Such meetings will be arranged only if and when relevant issues arise.

6 Revision of this Memorandum

The terms of this Memorandum may be revise at any time provided the revision(s) has the agreement of both signatories. It will be revised at the time of the establishment of an Environmental Protection Agency for Scotland.

Signed I WRIGHT
HM Industrial Pollution Inspectorate
8 November 1993

Signed J RENTON
Health and Safety Executive
8 November 1993