

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT FOR TRANSPORT AND THE HEALTH AND SAFETY EXECUTIVE ON MATTERS OF MUTUAL CONCERN IN THE CARRIAGE OF DANGEROUS GOODS AND USE OF TRANSPORTABLE PRESSURE EQUIPMENT REGULATIONS 2004 IN RELATION TO THE CARRIAGE OF RADIOACTIVE MATERIAL BY RAIL

Introduction

1. This Memorandum of Understanding (MoU) is between the Department for Transport (DfT), and the Health and Safety Executive (HSE). Its purpose is to ensure effective co-ordination between DfT and HSE over matters affecting the packaging, labelling, preparation and carriage of radioactive material by rail. Such co-ordination should improve the effectiveness of Government resources and avoid difficulties that might arise from uncoordinated approaches by DfT and HSE.

Background

2. DfT and HSE need to co-operate to ensure that the policy determined by both for the packaging, labelling, preparation and carriage of radioactive material by rail is implemented and the regulatory controls properly enforced. The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004 (the Carriage Regulations) and the Health and Safety at Work etc. Act 1974 give DfT and HSE a mutual interest in matters affecting radioactive material being prepared for carriage by rail, and in the requirements concerning the carriage of radioactive material. This MoU lays down appropriate demarcation and other administrative arrangements that are considered necessary by DfT and HSE to avoid potentially disruptive enforcement overlap, and to ensure the appropriate co-ordination of the complementary functions of the two bodies.

Objectives

3. The objectives of this MoU are to ensure that:
- a) the activities of DfT and HSE in relation to enforcement of the legislative controls on the packaging, labelling and preparation of radioactive material for carriage, and the carriage of radioactive material by rail are consistent, co-ordinated and comprehensive;
 - b) the possibility of conflicting requirements being put on those persons involved in or otherwise concerned with the packaging and preparation of radioactive material for carriage by rail and in the carriage of radioactive material by rail is eliminated;
 - c) provisions for the health and safety of people affected by the carriage of radioactive material by rail are applied consistently; and
 - d) duplication of activity within Government is minimised.

Responsibilities

4. DfT is:
- a) the GB Competent Authority for the approval of certain designs of packages used for transporting radioactive material and certain consignments;
 - b) the focal point for advice to the industry and others on the packaging and preparation of radioactive material for carriage by rail;

- c) responsible for enforcing those parts of the Carriage Regulations as laid down in the Annex to this MoU, pursuant to an Agency Agreement dated [DN: *enter date*] made between the Health and Safety Commission and the Secretary of State for Transport.
5. HSE is responsible for:
- a) providing advice to industry and others on the carriage of radioactive material by rail;
 - b) enforcing those parts of the Carriage Regulations as laid down in the Annex to this MoU;
 - c) for the enforcement of the Health and Safety At Work etc. Act 1974 and Regulations made under the Act in respect of the carriage of radioactive materials by rail (other than the Carriage Regulations). This includes the Radiation (Emergency Preparedness and Public Information) Regulations 2001 (as amended), which apply to the carriage by rail of radioactive substances in cases where they may have the capability of producing a radiation emergency.
6. DfT and HSE agree to consult one another at all stages on all present and future legislative proposals on the packaging, labelling, preparation and carriage of radioactive material by rail.

Working arrangements

7. The working arrangements to achieve these objectives are set out in the attached Annex. They are based on the following principles:
- a) either DfT's Radioactive Material Transport Division (RMTD) or HSE's HM Railway Inspectorate (HMRI) will, whenever possible, be identified as having the primary responsibility for enforcing the regulatory provisions listed in the Annex;
 - b) the body having the primary responsibility will be the normal contact point for persons involved in the packaging, labelling, preparation of radioactive material for carriage by rail, and in its carriage by rail for all matters relevant to that particular interface;
 - c) the formal dealings of persons involved in the packaging, labelling, preparation of radioactive material for carriage by rail, and in its carriage by rail will, as a general rule, be with the body which has primary responsibility;
 - d) the body having the secondary responsibility will be consulted by that having primary responsibility;
 - e) any information regarding compliance with the Carriage Regulations which is in the domain of the body with primary responsibility but which comes first to the notice of the body with secondary responsibility will be passed to the body with primary responsibility;
 - f) where DfT and HSE disagree on any matter of mutual concern which could result in requirements being placed both on the persons involved in the packaging, labelling and preparation of radioactive material for carriage by rail, and on those responsible for its carriage by rail, they will seek to resolve their differences before any specific requirements are placed upon those persons;
 - g) where such disagreements cannot be resolved the matter will be referred to a Joint Review Committee; (see paragraph 9 below)
 - h) DfT agrees to provide training to HMRI staff on the International Atomic Energy Agency's standards for the transport of radioactive material.

DfT/HSE Liaison arrangements in relation to incidents

8. The DfT/HSE liaison arrangements will be as follows:
- a) liaison with respect to incidents involving the carriage of radioactive material by rail will involve:
 - i. for HSE, HMRI's accident officer who will act as HSE's nominated liaison officer; and
 - ii. for DfT, RMTD's nominated liaison officer (or deputy);
 - b) where either DfT or HSE become aware of an incident which may involve a breach of the Carriage Regulations in relation to the carriage of radioactive material by rail, initial contact (between RMTD and HMRI) will be made by telephone, e-mail or fax, to be followed up as appropriate by more detailed information;
 - c) the body with the primary responsibility will co-ordinate the incident investigation team. Responsibilities will be decided at the operational level or, if necessary, by the Joint Review Committee (see paragraph 9 below);
 - d) where action by a body is taken in respect of issues connected with the carriage of radioactive material by rail where it has primary responsibility, copies of relevant parts of letters or any enforcement notice will be sent to the body with secondary responsibilities for information. Matters for which a body has secondary responsibility and which do not significantly impact on its own primary responsibility will only be formally raised with a duty holder by that body in exceptional circumstances and only after agreement with the body with primary responsibilities;
 - e) in the investigation of incidents which are of interest to more than one body there will be a joint investigation and a joint report. The joint investigation will be managed by the body deemed to have primary responsibility, following discussion between the nominated liaison officers. The name of the investigation leader for each body will be advised to the other body by the nominated liaison officers and the said investigation leaders will discuss and agree a mutually acceptable way of working;
 - f) where there has been a joint investigation, DfT and HSE will agree the drafting before their joint report is regarded as complete;
 - g) any submission to Ministers or press statement in relation to incidents involving the carriage of radioactive material by rail will be prepared by the body with primary responsibility (as defined in the Annex to the MoU). It will be faxed or e-mailed (in draft) to the body with secondary responsibility for comment. If the matter is pressing, or needs to be actioned outside of normal office hours, the liaison officers will consult by telephone or e-mail as appropriate.

Joint Review Committee

9. A Joint Review Committee whose members are drawn from existing members of the DfT led Carriage of Dangerous Goods Enforcement Committee will meet whenever the need arises to review the workings of this MoU. The terms of reference of the Joint Review Committee are to keep under review the working of the MoU between DfT and HSE, and in particular to:

- a) resolve any problems which have arisen;
- b) discuss matters of common interest;
- c) take a forward look at matters of common interest.

Responsibilities

10. It is the responsibility of inspectors and managers at each level within each body to ensure that the principles and procedures set out in the MoU are observed. It is recognised that this may involve discussions between DfT and HSE at the working level, to agree the necessary interpretation.

Signed

T Walker
for HSE

J Spellar
for DfT

Date

DIVISION OF RESPONSIBILITIES BETWEEN DfT (RMTD) AND HSE (HMRI) IN ENFORCING THE CARRIAGE OF DANGEROUS GOODS AND USE OF TRANSPORTABLE PRESSURE EQUIPMENT REGULATIONS 2004 IN RESPECT OF THE CARRIAGE OF RADIOACTIVE MATERIAL BY RAIL

1. DfT will take **primary** responsibility for enforcing the following regulations as they apply to the carriage of radioactive material by rail:

- regulation 11 (class 7 goods for carriage by rail), as it relates to the duties of the designer, manufacturer and consignor;
- regulation 15 (classification of goods);
- regulation 17 (dangerous goods list and special provisions);
- regulation 18 (use of packagings);
- regulation 19 (use of tanks);
- regulation 20 (consignment) as it relates to the duties of the consignor, packer or filler
- regulation 21 (construction and testing of packagings and packages);
- regulation 22 (construction and testing of tanks etc);
- regulation 50 (security requirements) as it relates to the duties of any person involved in the carriage of class 7 goods by rail, except the carrier, and except in so far as it relates to nuclear material as defined in section 76(7) of the Anti-Terrorism, Crime and Security Act 2001; and
- regulation 55 (placards, marks and plate markings for carriage within GB) as it relates to the duties of the consignor, packer or filler.

2. HSE will take **primary** responsibility for enforcing the following regulations as they apply to the carriage of radioactive material by rail:

- regulation 9 (training);
- regulation 10 (safety obligations);
- regulation 11 (class 7 goods for carriage by rail), as it relates to the duties of the carrier or person using;
- regulation 12 (safety advisers);
- regulation 13 (reports on accidents and incidents);
- regulation 14 (emergency plans for marshalling yards);
- regulation 20 (consignment) as it relates to the duties of the carrier;
- regulation 23 (carriage, loading, unloading and handling);
- regulation 50 (security requirements) as it relates to the duties of the carrier;
- regulation 53 (marshalling and formation of trains);
- regulation 54 (keeping of information by the carrier);
- regulation 55 (placards, marks and plate markings for carriage within GB) as it relates to the duties of the carrier;
- and for issuing exemptions, temporary and ad hoc exemptions as provided for in regulation 36.

3. In taking primary responsibility, that organisation is responsible for inspection to ensure compliance with the relevant legal requirements and the investigation of incidents. Each is also responsible for advising the other on incidents where there may be breaches of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004. The liaison arrangements to be followed are those set out in the MoU. In considering the issuing of a Certificate of Exemption or Letter of Approval, HMRI will consult RMTD on all applications.