

MEMORANDUM OF UNDERSTANDING BETWEEN THE ENVIRONMENT AGENCY AND THE HEALTH AND SAFETY EXECUTIVE

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Introduction

1. This Memorandum of Understanding (MoU) is between the Environment Agency (the Agency) and the Health and Safety Executive (HSE). Its purpose is to ensure effective co-ordination of the regulation of plant, processes and substances and measures to protect people and the environment, which are subject to regulation by the Agency and HSE. It revises and replaces the previous version of the MoU between the Agency and HSE dated 31 March 1996.
2. The MoU establishes an overarching framework for liaison between the Agency and HSE. Supplementary MoUs describe the detailed working arrangements for co-ordination and consistency of functions on specific topics and will form annexes to this Memorandum. In particular these include broad guidance on the interface between the Agency and HSE, and their respective responsibilities. The supplementary MoUs that currently exist are listed in Appendix 1.
3. Interfaces between the Agency and HSE may arise in many ways, for example, in the regulation of new and existing substances, the regulation of industrial processes and radioactive waste, and in the prevention of pollution. Under this MoU both the Agency and HSE are committed to close co-operation to minimise duplication of regulatory effort and ensure that neither industry nor any other party is faced with conflicting demands where both regulatory authorities have an interest.
4. It is the responsibility of every individual at all management levels in both organisations to adopt an intelligent and open approach, and to ensure prompt action, whenever the need arises, to achieve effective liaison between the Agency and HSE. This may involve discussions at the working level to agree how the statutory provisions and standards issued under them should be interpreted in particular circumstances, in order to prevent misunderstanding and to determine ways of reconciling any differences that may arise. Reference to a higher level of management may be necessary in some cases.

Co-ordination Group

5. A Joint Co-ordination Group, chaired at EP Head of Function level for the Agency and Head of Policy Division for HSE, will meet whenever the need arises, and at least every 2 years, to review the working of the MoU. The chair will be taken alternately by the Agency and HSE and there will be a joint secretariat.
6. The terms of reference for the Joint Co-ordination Group are to keep under review the working of the MoU and in particular:
- a. to resolve any problems referred to the Group, and to identify, consider and if possible resolve any problems of a general nature arising from the practical application of statutory provisions and responsibilities;
 - b. to make recommendations for changes to the MoU as necessary;
 - c. to consider operational implications of policy decisions;
 - d. to identify subjects on which supplementary MoU should be prepared; and
 - e. to discuss other matters of common interest.
7. Membership of the Group will comprise representatives of both organisations (including Operations) as agreed by the respective co-chairs, and a representative of the Department of the Environment, Transport and the Regions (DETR). In the event of the Group's inability to resolve particular issues which may bear on policy matters, the Agency will refer to its Chief Executive, and Board if necessary, and HSE to its Director General, and the HSC if necessary. If issues remain unresolved HSE and EA will jointly refer to DETR. (For unresolved nuclear issues, HSE will refer to DTI).

A Framework for Liaison

8. Effective liaison is needed in each of the following activities:
- a. operational matters;
 - b. enforcement;
 - c. comments to planning authorities;
 - d. responses to incidents and emergencies;
 - e. inputs to international work;
 - f. provision of technical standards and guidance;
 - g. monitoring new developments; and
 - h. disclosure of information.

Brief working arrangements to cover each of these aspects are set out below.

Working Arrangements

Operational Matters

9. Most contacts between the Agency and HSE will arise in the context of day to day operations, and Appendix 2 lists examples of issues on which individuals are likely to liaise. It is the responsibility of individuals in both organisations to identify topics needing liaison as they arise, and ensure that they are dealt with effectively. Management at appropriate levels in HSE and the Agency are responsible for establishing and reviewing appropriate liaison contacts. This could include setting up regular meetings to discuss issues such as those suggested in Appendix 3 and/or nominating liaison officers. The effectiveness of these arrangements should be reviewed, as appropriate, at the HSE/EA Operational bilateral meetings.

Enforcement

10. The Agency and HSE will, at national and local level, take every opportunity to consider enforcement-related issues, such as the co-ordination of approaches to particular employers and operators and liaison where formal enforcement is planned at sites of joint interest. The Agency and HSE will consult before instituting legal proceedings in connection with matters of concern to both organisations.

Comments to Local Planning Authorities

11. Both the Agency and HSE provide Local Planning Authorities (LPAs) with comments about the possible impact of industrial developments on people and the environment in their vicinity. There will be a need for liaison to consider and when necessary resolve any differences of interest and to avoid any apparent contradictions whenever planning issues involve the interests of both the Agency and HSE, before comments are given to LPAs. Where appropriate, responses from both organisations to LPAs should make it clear that such liaison has taken place.

Responses to Incidents and Emergencies

12. HSE and the Agency have major roles in connection with incidents and emergencies. Whenever one organisation learns of an incident or emergency where the other may have an interest, it should pass on the information as soon as practicable.

Inputs to International Work

13. HSE and the Agency have roles in the preparation and implementation of international legislation, standards and commitments. Those concerned should consult with each other, and with DETR, as appropriate. This may involve both technical and policy considerations.

Provision of Technical Standards and Guidance

14. HSE and the Agency should liaise in the application and interpretation of technical standards and the preparation of relevant guidance.

Monitoring New Developments

15. The Agency and HSE should keep each other informed at the earliest stage of new developments which are likely to be of mutual interest. This will ensure that from the outset there is effective technical coordination in the application of both technical standards and working practices to proposed new developments.

Disclosure of Information

16. HSE and the Agency are open about their activities as part of their commitment to the Citizen's Charter and compliance with the Environmental Information Regulations 1992 and the Code of Practice on Access to Government Information 1994 (OG Code). Information requested will be disclosed unless its release would be likely to cause significant harm and is covered by an exemption in the OG Code, or if there is a statutory restriction. To encourage a consistent approach to disclosure, it is important that the enforcing authority responsible for particular premises should be aware of any significant proposed disclosure to the public, including the media and will should make the other enforcing authority aware of that disclosure. Requests by either organisation for the exchange of information with the other will normally be met, subject to any statutory prohibitions.

Signed

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Date: 10 July 2000

LIST OF EXISTING SUPPLEMENTARY MEMORANDA OF UNDERSTANDING

BETWEEN THE ENVIRONMENT AGENCY AND THE HEALTH AND SAFETY EXECUTIVE:

Nuclear Licensed Sites

Regulation of Radioactive Substances for small users (at non-nuclear sites)

COMAH

BETWEEN THE ENVIRONMENT AGENCY, HSE AND DETR:

Implementation and enforcement of legislation on the evaluation of the environmental risks of new and existing chemical substances

CONCORDAT BETWEEN THE ENVIRONMENT AGENCY AND HSE:

Research Concordat

EXAMPLES OF TOPICS LIKELY TO REQUIRE LIAISON BETWEEN THE AGENCY AND HSE

1. Permissions:

Statutory consultations.

2. Processes:

Design, operation, maintenance and decommissioning. Reliability, integrity and quality assurance. Flexibility and redundancy. Control and instrumentation, pressure relief systems.

3. Substances in process:

Minimisation of waste. Storage and treatment of waste. Reaction kinetics. Process intermediates. Toxicology.

4. Releases:

Abatement - BAT (Best Available Techniques) and BPM (Best Practicable Means). Modelling behaviour. Impact on people (including fugitive releases). Sampling, monitoring.

5. Incidents and Emergencies:

Releases which may be in breach of permitted limits or conditions.

6. Enforcement:

Issue of notices. Prosecutions.

7. Major Hazards and Planning:

Environment Impact Assessment or other environmental assessment concerning proposed/existing developments.

8. Waste on Land:

Stability of sites. Landfill gas, sampling and monitoring. Contaminated land.

9. Radioactive Waste Management:

Implementation of national strategy, application of principles for radiological protection of people and the environment, design assessments of plant and audit of waste management arrangements.

10. Pesticides/Veterinary Medicines

Point source issues. Diffuse issues

SUGGESTED ITEMS FOR GENERAL LIAISON MEETINGS BETWEEN THE AGENCY AND THE HSE

- Review and update of points of contact
- Incident response arrangements
- Briefing on major issues of shared interest or concern:
 - (i) policy developments
 - (ii) planned campaigns
- Exchanging work programmes
- Joint activities:
 - (i) Site visits
 - (ii) Site audits
 - (iii) Investigations, enforcement and prosecution
 - (iv) Awareness raising initiatives