

MEMORANDUM OF UNDERSTANDING
BETWEEN THE DEPARTMENT OF ENERGY & CLIMATE CHANGE
AND
THE HEALTH AND SAFETY EXECUTIVE

Introduction

1. This Memorandum of Understanding (MoU) is between the Department of Energy and Climate Change (DECC) and the Health and Safety Executive (HSE). Its purpose is to ensure effective co-ordination of the regulation of oil and gas exploration and production on the United Kingdom Continental Shelf (UKCS) and onshore in Great Britain, and measures to protect people and the environment, which are subject to regulation by DECC and HSE. It revises and replaces the previous version of the MoU between DECC and HSE dated 1995.
2. This MoU establishes a framework for liaison between DECC and HSE concerning oil and gas regulation. The Appendix to the MoU describes the detailed working arrangements for co-ordination and consistency of functions on specific topics. In particular these include guidance on the interface between DECC and HSE, and their respective responsibilities.
3. This MoU is not a legally binding document. It provides a general framework and is not intended to cover every detailed aspect of the relationship between HSE and DECC in relation to the matters that it refers to.
4. This MoU cannot override the statutory duties and powers of either HSE or DECC, nor can it override the law, for example in relation to data protection.
5. Under this MoU both DECC and HSE are committed to close co-operation to enhance regulatory effectiveness and ensure that neither industry nor any other party is faced with conflicting demands where both regulatory authorities have responsibilities.
6. Both organisations are committed to ensuring prompt action to achieve effective liaison between DECC and HSE whenever the need arises. This may involve discussions 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.

Areas of HSE's Jurisdiction

7. HSE is responsible for regulating offshore major accident hazards, conventional safety, and occupational health, welfare and safety. It does this through the major accident hazard permissioning regime regulated by the Offshore Installation (Safety Case) Regulations 2005 (SCR), the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 (PFEER) and the Offshore Installations and Wells (Design and Construction, etc) Regulations 1996 (DCR) as well as other offshore specific regulations. The Health and Safety at Work etc Act 1974 applies to activities offshore, as well as a range of other regulations which apply to conventional safety and occupational health and welfare.
8. HSE pursues a range of activities to meet its regulator goals with those who have duties under the law, known as duty holders. This includes giving advice, the assessment of safety cases, inspection of activities and major hazard notifications, investigation and enforcement.
9. Areas that HSE regulate include:
 - The design and continued operational integrity, maintenance, modification, and decommissioning of an offshore installation.
 - The design, modification, commissioning, constructing, equipping, operating, maintaining, suspending and abandonment of wells including suitable equipment to protect against blowouts and the assessment of any hazards in the geological strata below ground.
 - Arrangements for independent examination by a third party of critical components and systems for the prevention and mitigation of a major accident on an installation or any unplanned escape of fluids from a well.
 - Measures to ensure the safe production and processing of flammable substances, including the prevention of ignition.
 - Duty holder arrangements for supervision, training/competency, policies, procedures, risk assessment and audit of its overall safety management system.
 - Emergency response plans for dealing with an emergency on an offshore installation.
 - The design, construction, operation, maintenance and decommissioning of pipelines to ensure continued pipeline safety and integrity throughout the pipeline lifecycle.
 - Diving activities in connection with installations, wells and pipelines.

Areas of DECC's Jurisdiction

10. DECC's Offshore Environment Unit is responsible for development and administration of the environmental regulatory framework for offshore oil and gas exploration and production and decommissioning on the UKCS. It does this through a range of regulations designed to minimise the environmental impact of the offshore oil and gas industry.
11. DECC pursues a range of activities to meet its regulator goals with those who have duties under the law, the operators. This includes: giving advice, the assessment of environmental applications/submissions, inspection, investigation, enforcement and maintaining a 24-hour on-call service to respond to environmental incidents or any incident that may threaten security of oil and gas supply.
12. Areas that DECC regulate include:
 - The strategic environmental assessment of plans and programmes which has to be carried out before oil and gas licensing is undertaken.
 - Operator requirements to undertake an environmental assessment for a wide range of projects.
 - The Appropriate Assessment for all projects or activities that could affect the integrity of a protected habitat or species.
 - The permitted discharge by operators of oil in produced water, and chemicals.
 - The control of quantities of noxious pollutants emitted from combustion equipment, and implementation of the integrated Pollution and Control Directive for offshore oil and gas installations.
 - The authorisation of the emission of greenhouse gasses (currently on CO₂) and the implementation of the EU Emissions Trading Scheme.
 - The powers of intervention by the Secretary of State Representative (SOSREP) in the event of an incident with the potential for significant pollution.
 - The requirement for operators to prepare and submit an Oil Pollution Emergency Plan (OPEP), covering all activities where there is a risk of hydrocarbon spill.
 - HSE and DECC will, together and with other enforcing authorities, co-operate to enforce the provisions of the Registration, Evaluation, Authorisation and Restriction of Chemicals Regulations (REACH) and to fulfil their duties under the Enforcement Regulations in accordance with the already established MoU for the enforcement of REACH

Co-ordination Group

13. A Joint Co-ordination Group, chaired at Head of Function Level for the Energy Development Unit (EDU), DECC and the Head of Offshore Division (OSD) for HSE, will meet whenever the need arises, and at least annually, to review the working of the MoU. The chair will be taken alternately by DECC and HSE and there will be a joint secretariat.
14. The terms of reference for the Joint Co-ordination Group are to keep under review the working of the MoU and, in particular:
 - to maintain effective communication and working arrangements between HSE and DECC;
 - 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;
 - to make recommendations for changes to the MoU as necessary;
 - to consider operational implications of policy decisions;
 - to identify subjects on which Annexes to this MoU should be prepared; and
 - to discuss other matters of common interest.
15. Membership of the Group will comprise representatives of both organisations as agreed by alternate chairs

A Framework for Liaison

16. DECC and HSE are committed to effective liaison in key areas such as, but not limited to;
 - (a) Policy and regulatory matters, including input to international work and draft EU measures;
 - (b) Assessment and review of regulatory submissions;
 - (c) Monitoring of offshore and onshore industry, activities and trends;
 - (d) Prevention of incidents;
 - (e) Responses to incidents and emergencies;
 - (f) Inspections;
 - (g) Investigation and enforcement;
 - (h) Inspector training and competency;
 - (i) Disclosure of information; and
 - (j) Response to press and parliamentary enquiries.

Appendix 1 provides further details of the working arrangements.


17. The MoU, and/or any working arrangements made under it, may at any time be reviewed or amended by agreement of both parties, or may be terminated by either party.

Signed for DECC:



Director EDU, DECC

Signed for HSE:



Director HID, HSE

Date: 24TH October 2011.

APPENDIX 1

WORKING ARRANGEMENTS BETWEEN DECC AND HSE

(a) **Identifying and Maintaining Effective Communication**

HSE/DECC will co-ordinate a system for effective communication between the two organisations. This means that each organisation will share organisational charts and contact details and implement an effective and appropriate communications strategy which may range from verbal communications, written advice/information, to more formal team operational review meetings between HSE and DECC.

The effectiveness of communications will be reviewed, as appropriate, at the DECC/HSE annual Co-ordination Group meetings.

(b) **Areas of Mutual Interest**

HSE/DECC will work together in areas of mutual interest to strengthen working knowledge and practices within HSE and DECC with the aim of enhancing the safety of people and protection of the environment. This means that HSE and DECC will liaise as necessary when each organisation identifies concerns that may affect the regulation, intervention or other matters applicable to the other Department or being of mutual interest. The following are some examples of key areas:

- **Policy and Regulatory Matters, including input to international work**

HSE/DECC have roles in the preparation and implementation of domestic, EU and international legislation, standards and commitments. Those concerned will consult with each other, as appropriate. This may involve both technical and policy considerations.

Consideration will also be given by each organisation when developing industry guidance or technical standards in order to strengthen arrangements where possible for both safety and environment.

- **Assessment and Review of Regulatory Submissions**

HSE/DECC receive regulatory submissions for review, assessment and acceptance/approval. Examples may arise where discussions between HSE/DECC would provide additional information and scrutiny during the review and acceptance/approval process.

HSE/DECC will liaise to resolve any differences in approach between DECC and HSE in discharging their respective regulatory responsibilities.

In particular, DECC will liaise with HSE on appropriate notifications for drilling activities to confirm that HSE regulatory provisions have been satisfied before consent/approval is given by DECC.

- **Monitoring of upstream oil and gas industry, activities and trends**

HSE/DECC will share information detailing industry/operator/duty holder trends in regulatory compliance and performance that may affect the safety of people and/or protection of the environment. This means:

- sharing statistics on hydrocarbon releases between each organisation;
- advising each organisation of relevant incidents, regulatory non-compliances or areas of concern identified during incident response, inspections or investigations which may have a bearing on the other organisations regulatory jurisdictions or the performance of an operator/duty holder/industry;
- advising each organisation of Enforcement Notices served, where the Notice may be relevant to each organisation's regulatory jurisdictions;
- highlighting new developments or activity; or
- other relevant information.

- **Prevention of Incidents**

HSE/DECC will share information about relevant incidents or occurrences reported or identified (safety and environment) in order to raise awareness of the circumstances between organisations and identify any mechanism to help prevent reoccurrence.

- **Responses to Incidents and Emergencies**

HSE/DECC each have roles in connection with incidents and emergencies and regulatory provisions require mandatory reporting of applicable incidents and occurrences to HSE and DECC. HSE will provide copies of its Major Incident Response Plan to DECC and DECC will provide a copy of the Maritime and Coastguard Agency's (MCA) National Contingency Plan and the DECC Inspectorate Incident Response Procedures to HSE which includes DECC's roles and responsibilities in the event of a major offshore oil and gas environmental incident.

Both organisations will identify the incidents and emergencies where communication between each organisation would be valuable. The most effective means of communication regarding applicable incidents and occurrences will be identified and maintained. This may include sharing each other's weekly Duty Inspector rota to enable immediate communications for significant incidents, where applicable.

- **Inspections**

HSE/DECC both undertake visits to offshore installations and onshore premises to regulate against the provisions of their separate regulations and jurisdictions.

Where applicable, consideration will be given to joint inspections in order to enhance efficiency of interventions, and increase awareness of both organisations roles and responsibilities.

HSE/DECC Inspectors will share relevant information with each other from inspections which may have a bearing on each other's jurisdictions. This means that individual Inspectors in both organisations will liaise in such matters and share relevant letters or Notices sent to duty holders or operators.

- **Investigation and enforcement**

DECC and HSE will identify incidents where a joint investigation would be advantageous to each organisation. These will be mostly associated with the loss of containment/hydrocarbon releases where a significant or major discharge has taken place to sea. There may also be investigations identified where one organisation will lead an investigation and then inform the other of their findings.

In particular, each organisation shall advise the other of any enforcement notices served or prosecutions taken/reports to the Procurator Fiscal where root causes may have an impact on the others regulatory areas.

The operational contact will normally be between Inspectors involved in the case.

HSE/DECC will consider enforcement-related issues, such as the co-ordination of approaches to particular operators and liaison where formal enforcement is planned.

- **Training**

HSE/DECC has arrangements in place to train internal staff in order to raise awareness of both organisations roles, responsibilities and the operation of this MoU.

HSE/DECC will identify opportunities for sharing training and experience across the two organisations, where relevant.

- **Disclosure of Information**

HSE/DECC are open about their activities in compliance with the Freedom of Information Act 2000 and the Environmental Information

Regulations 2004. Arrangements to ensure a consistent approach to the disclosure of information will include:

DECC/HSE making the other aware of any significant proposed disclosure to the public.

Requests by either organisation for the exchange of information with the other will normally be met under normal business, subject to any statutory prohibitions.

- **Response to Press and Parliamentary Enquiries**

DECC and HSE will work together to respond to such enquiries which cover their combined areas of responsibility with the relevant party taking the lead where the balance of interests falls on their side. This will apply both in terms of responses to press enquiries and in terms of which Minister takes the lead in Parliament.

- **Legal Issues**

DECC and HSE will provide co-operation and assistance where appropriate where either party is involved in litigation which also affects the jurisdiction of the other.
