

Open Government status: Fully Open **Paper Number: ACTS/04/2004**

Meeting Date: 25 March 2004

Type of Paper: Above the line

Exempt material:

Paper File Reference:

Intranet embargo?: No

**HEALTH AND SAFETY COMMISSION
ADVISORY COMMITTEE ON TOXIC SUBSTANCES**

Proposals to introduce a new OEL framework (CD189) - Update on progress

Issue

1 Development of a new Occupational Exposure Limits (OEL) framework under the COSHH Regulations in the light of the responses to the Consultative Document (CD).

Timing

2 Subject to approval by the Health and Safety Commission and ministers, changes to the COSHH Regulations will be made in the Autumn along with changes to implement the Directive on chromium VI in cement. They would come in to force before the end of 2004.

Recommendation

3 That ACTS:

- notes the analysis of the responses to the CD; and
- agrees the OEL Working Group's strategy and timetable for introducing the new framework in the light of responses to the CD.

Background

July 1998 (ACTS/27/1998)

4 ACTS discussed the drawbacks in the current OEL Framework and agreed that a working group should be set up to develop a revised OEL Framework. The Working Group was re-energised in July 2000.

November 2001 (ACTS/36/2001)

5 ACTS agreed the publication of a Discussion Document (DD) developed by the Working Group. The DD examined the concerns with the present system, put forward and compared three options for a revised framework and proposed a new set of criteria for establishing the limits.

November 2002 (ACTS/43/2002)

6 ACTS considered the analysis of the responses to the DD and asked its Working Group to develop a CD with proposals for a new OEL framework.

July 2003 (ACTS/24/2003)

7 ACTS agreed the publication of a Consultative Document (CD) developed by the Working Group.

Argument

8 Fifty-seven replies were received to the CD, of these 2 offered no comment on any part of the CD. (This compares to 56 responses to the discussion document, six of whom didn't comment). Many of the others did not answer all the individual questions. An analysis of responses is at Annex A.

9 Responses were received from Industry; Trade Unions; Health and Safety Consultants; Energy, Health, Transport and Education Sectors; Associations, Federations, Institutes and Societies; and individuals. A list of respondents is at Annex B.

Changes to the COSHH Regulations and ACoP

10 It can be seen from Annex A, that there was strong support for the proposed new approach to adequate control; the principles of good practice for the control of exposure to substances hazardous to health; the changes to the COSHH Regulations and the COSHH ACoP. However, although most respondents supported the proposals in principle, a number across all stakeholder groups expressed concern about the complexity of the proposed ACoP text and a lack of clarity. At a meeting of the ACTS OEL Working Group on 10 March, members agreed to set up a small drafting group to work with HSE to revise the ACoP text and accompanying guidance. HSE wish to introduce the regulatory change as a package consisting of ACoP and supporting guidance.

WELS

11 There was agreement with the definition of a WEL; the proposed duties associated with the WEL; the criteria for setting WELs; and the proposed method for publishing WELs.

Good Practice Advice

12 There was strong support for the proposals to electronically link information sources on controlling chemicals with WELs (97%); and the proposals for good practice advice (94%). 91% also thought the link between the principles and good practice was clear.

13 Although the project started as a review of the OEL framework, the most fundamental change is the approach to adequate control and the provision of good practice advice. While there was strong support for the use of COSHH Essentials as the primary source of good practice advice, some respondents felt that the proposals as drafted closed the door on duty holders using alternative approaches. This was not the intention. The drafting group will ensure this concern is addressed in revising the ACoP text and support guidance.

Compliance with COSHH

14 One of the purposes of the review was to make it easier for small firms to comply with COSHH. But, in common with many consultation exercises, responses were not received from individual small firms. Those respondents who said no (46%) were those that do not have to comply themselves (consultants and associations), or were non-SME companies who do not have difficulties complying with the current system. The comments regarding this question suggest that the question should have been worded 'Will the new system make it easier for duty holders to comply with COSHH Regulations'. HSE will pilot the approach with small firms to get their views, before finalising the guidance package.

Integration of existing OELS into the new framework

15 There was support for the proposed transfer of OES's (Table 1 in the CD); MELs (Table 2a); MEL's transferred and flagged for review (Table 2b); and OESs not for transfer as they are biocides no longer authorised for use, or substances subject to the Montreal Protocol (Table 3e).

16 Responses were split almost 50:50 on the proposal to delete the 350 OESs, which ACTS agreed were not soundly based (Tables 3a – 3d). The OEL working group considered other options on 10 March. HSE will set out the pros and cons of these with a view to reaching a decision at the next meeting of the OEL Working Group.

Way Forward

17 The Working Group agreed to set up a drafting group. Stakeholders have expressed enthusiasm for working with HSE to get a package agreeable to all parties.

18 The change to the COSHH Regulations need to be aligned will those needed to implement the Directive on chromium VI in cement. This needs to be implemented by the end of 2004. To meet this timescale a package on the OEL framework will need to be agreed by ACTS at its July meeting.

Communication Plan

19 A communication plan will be developed with stakeholders prior to implementation.

Evaluation Plan

20 An evaluation plan will be developed to assess the impact the new framework has on reducing cases of occupational ill health

Relevant Control Systems

21 Not applicable.

Consultation

22 Publicity for the CD included articles in Safety and Health Practitioner; Occupational Health Review; HSL's Lablink and HSE's Express.

23 Members of the OEL subgroup gave various presentations on the proposals at events in the UK and overseas.

Presentation

24 The proposals are in keeping with HSC's new strategy for the health and safety system in Great Britain which recognises the need for the development of effective intervention strategies that will result in a reduction in occupational exposure to chemicals, and a consequent improvement in occupational health.

Cost and Benefits

25 A Regulatory Impact Assessment was at Annex 8 of the CD.

Environmental implication

26 Not applicable.

European implications

27 The proposals will facilitate the implementation of OELs established by the EU in the UK.

Devolution

28 None. Health and safety regulation is conducted on a Great Britain wide basis.

Other implications

29 None

Action

30 That ACTS:

- notes the analysis of the responses to the CD; and
- agrees the OEL Subgroup's strategy and timetable for introducing the new framework in the light of responses to the CD.

Contact **ACTS Secretariat,**
Tel: 020 7717 6184
Fax: 020 7717 6190

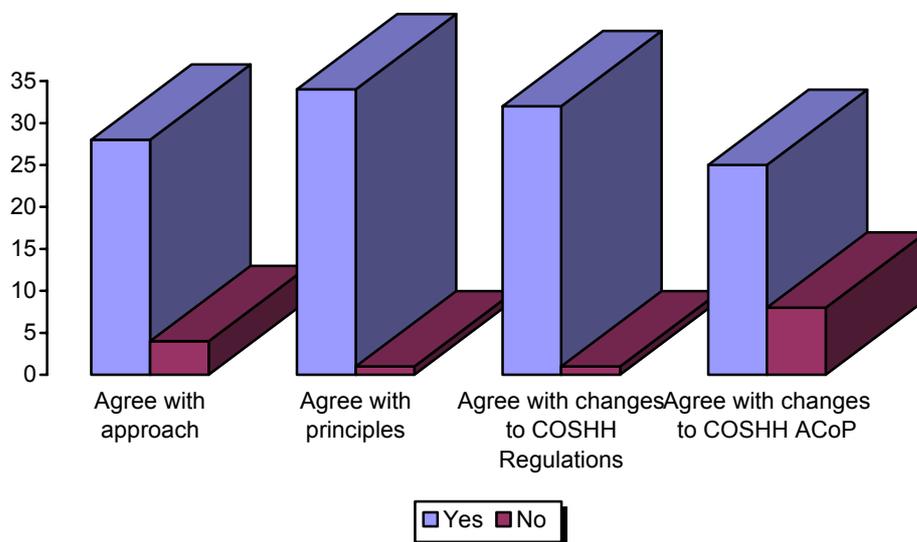
This paper sets out the number of respondents who replied to each of the questions in Annex 11 of the Consultative Document (CD). 57 responses were received to the CD, however 2 of these offered no comment on any part of the CD. The percentages shown are the percentage of the respondents replying to that particular question.

Question 1) Do you agree with the proposed new approach to adequate control? 32 respondents replied to this question. 28 agreed with the proposed new approach.

Question 2) Do you agree with the proposed principles of good practice for the control of exposure to substances hazardous to health as listed in Box 1? 35 respondents replied to this question. 34 agreed with the proposed principles of good practice.

Question 3) Do you agree with the proposed changes to the COSHH Regulations? 33 respondents replied to this question. 32 agreed with the proposed changes to the COSHH Regulations.

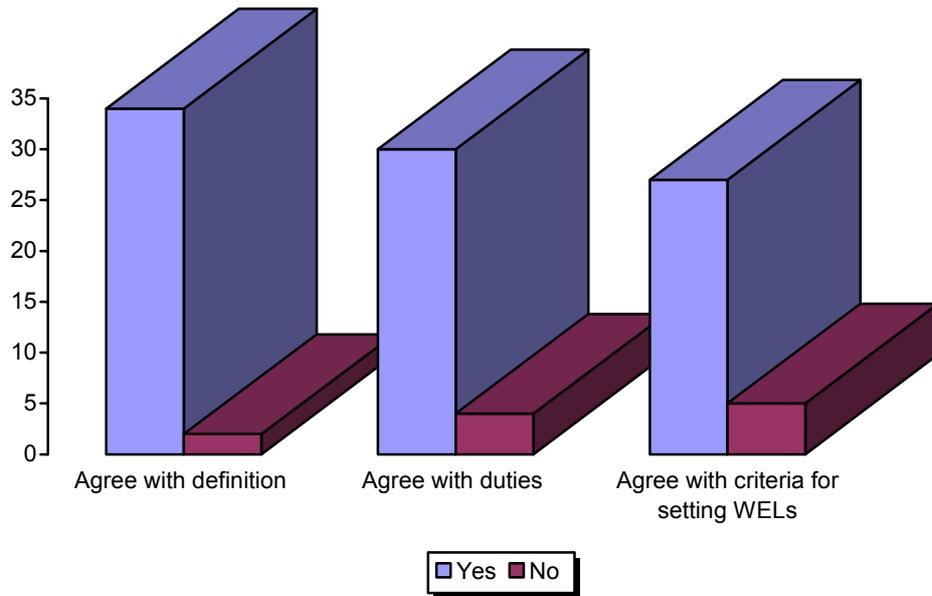
Question 4) Do you agree with the proposed changes to the COSHH ACoP? 33 replied to this question with 25 agreeing with the proposed changes to the COSHH ACoP.



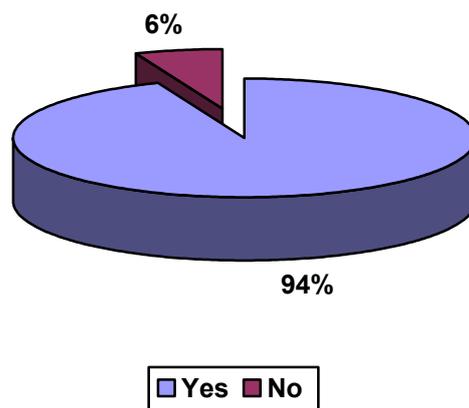
Question 5a) Do you agree with the definition of a WEL? 34 of the 36 replying agreed with the definition of a WEL.

Question 5b) Do you agree with the proposed duties associated with the WEL? Just 4 of the 34 who replied didn't agree with the proposed duties.

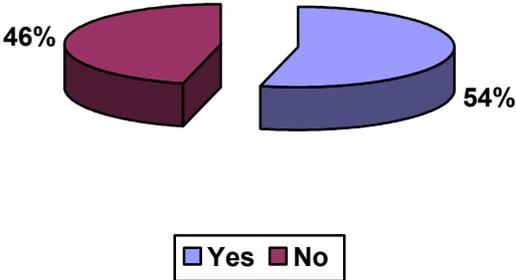
Question 5c) Do you agree with the proposed criteria for setting WELs in Annex 3? 32 replied to this question, with 27 agreeing.



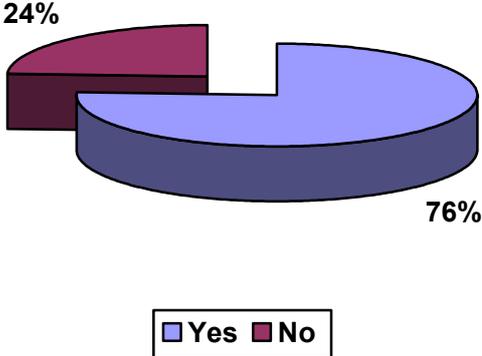
Question 6: Do you agree with the proposals for good practice advice? 33 replied to this question. 31 agreed with the proposals for good practice advice.



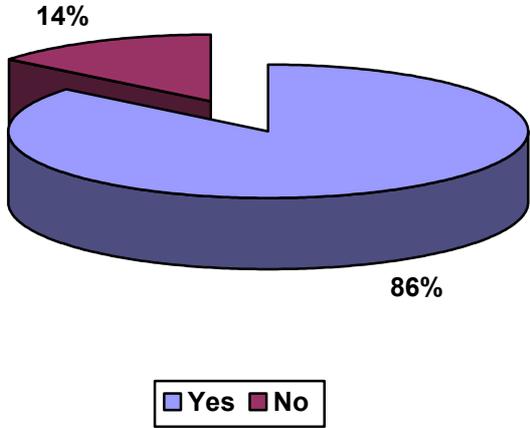
Question 7: Will the new system make it easier for you to comply with the COSHH Regulations? 26 replied to this question, with 14 agreeing it will make it easier for them.



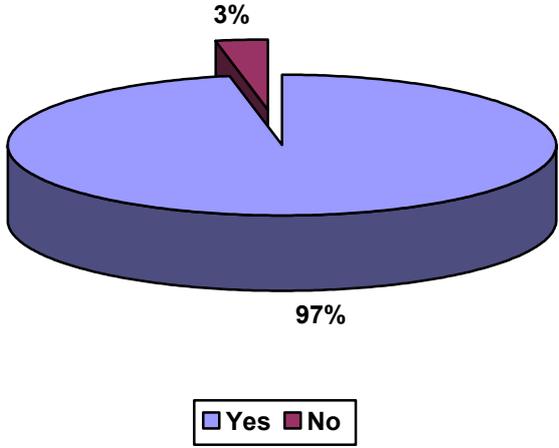
Question 8: Do you agree with the proposal to use the COSHH Essentials system to provide the primary route to good practice advice? 33 replied, with 25 saying they agreed with the proposal to use COSHH Essentials to provide the primary route to good practice advice.



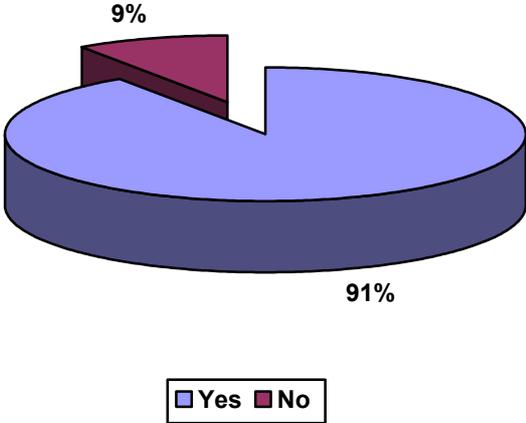
Question 9: Do you agree with the proposed method for publishing WELs? 30 of the 35 who replied to this question supported the proposal.



Question 10: Do you agree with the proposals to link WELs, COSHH Essentials and EH64? Some 32 replied to this question, 31 of whom agreed with the proposals.



Question 11: Is the link between the principles of good practice and good practice guidance, such as COSHH Essentials clear? 32 replied to this question with 29 confirming that the link was clear.



Question 12

Table 1 – OESs proposed for transfer into the new system as WELs

Do you agree with the proposed approach for Table 1? 31 replied to this question, 24 of whom agreed with the proposed approach.

Do you agree with the substances and limit values in this table? 29 replied to this question, 22 of whom agreed with the substances and limit values in this table.

Table 2a - MELs proposed for transfer into the new system as WELs

Do you agree with the proposed approach for Table 2a? 30 replied to this question, 24 of whom agreed with the proposed approach.

Do you agree with the substances and limit values in this table? 28 replied to this question, 24 of whom agreed with the substances and limit values in this table.

Table 2b - MELs going into the new system (flagged as under/needing further review)

Do you agree with the proposed approach for Table 2b? 29 replied to this question, 23 of whom agreed with the proposed approach.

Do you agree with the substances and limit values in this table? 27 replied to this question, 22 of whom agreed with the substances and limit values in this table.

Table 3a - OESs not proposed for transfer into the new system (COSHH Essentials can be used to select appropriate control measures)

Do you agree with the proposed approach for Table 3a? 32 replied to this question, 14 of whom agreed with the proposed approach.

Do you agree with the substances in this table? 29 replied to this question, 15 of whom agreed with the substances in this table.

Table 3b - OESs not proposed for transfer into the new system (gases)

Do you agree with the proposed approach for Table 3b? 32 replied to this question, 17 of whom agreed with the proposed approach.

Do you agree with the substances in this table? 28 replied to this question, 15 of whom agreed with the substances in this table.

Table 3c - OESs not proposed for transfer into the new system (process-generated dusts, mists or fumes)

Do you agree with the proposed approach for Table 3c? 31 replied to this question, 17 of whom agreed with the proposed approach.

Do you agree with the substances in this table? 28 replied to this question, 16 of whom agreed with the substances in this table.

Table 3d - OESs not proposed for transfer into the new system (Chemical Hazard Alert Notices (CHANs) would be produced for these)

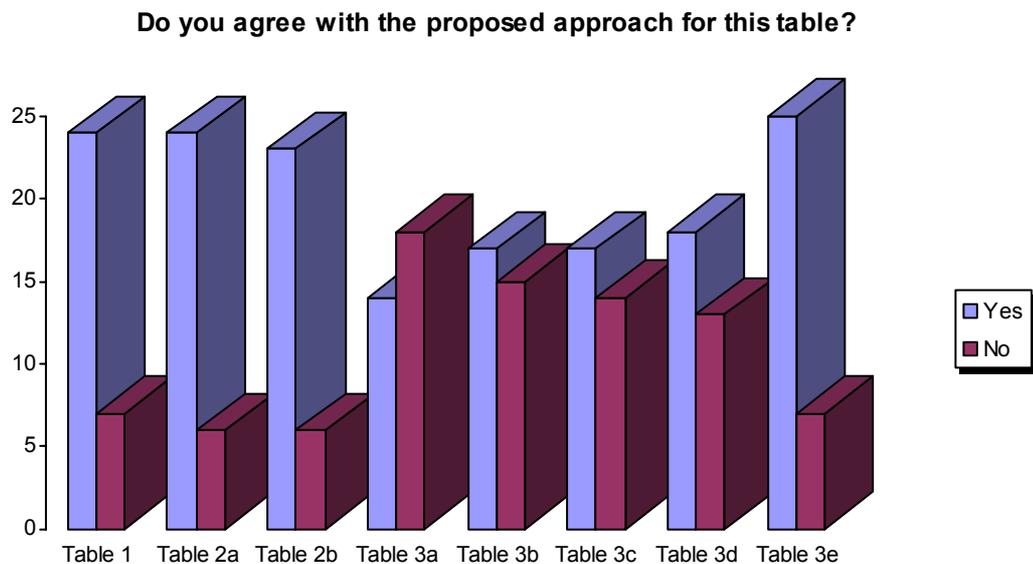
Do you agree with the proposed approach for Table 3d? 31 replied to this question, 18 of whom agreed with the proposed approach.

Do you agree with the substances in this table? 28 replied to this question, 19 of whom agreed with the substances in this table.

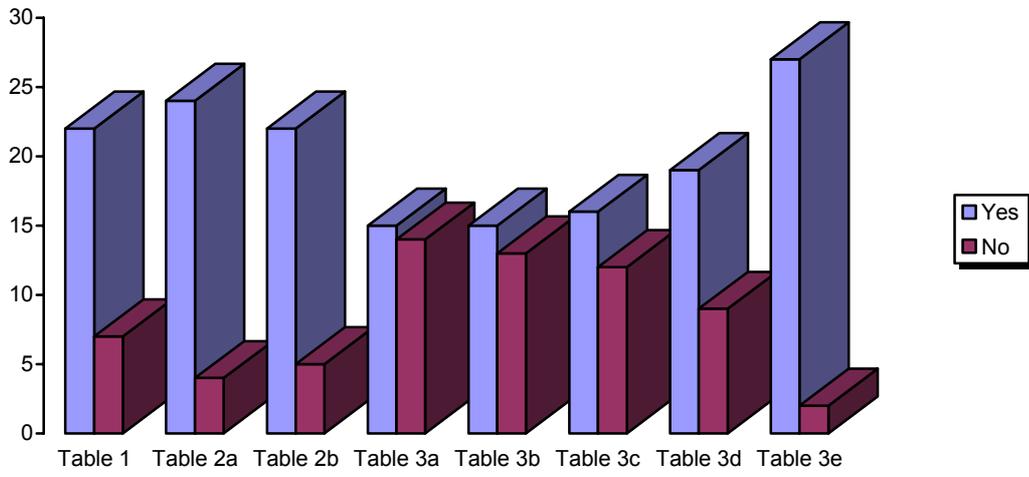
Table 3e - OESs not proposed for transfer into the new system (biocides no longer authorised for use or substances subject to the Montreal Protocol)

Do you agree with the proposed approach for Table 3e? 32 replied to this question, 25 of whom agreed with the proposed approach.

Do you agree with the substances in this table? 29 replied to this question, 27 of whom agreed with the substances in this table.



Do you agree with the substances and limit values in this table?



Alvin Woolley Associates
Andrew Easterbrook
Astley Safety Consultancy
Avecia Ltd
Bioquell
British Coatings Federation
British Nuclear Fuels plc
British Occupational Hygiene Society
Bro Morganning NHS Trust
Bury College
Castings Technology International
Charles Chard
Chemical Industries Association
Confederation of British Industry
David Wyatt
Diamond Environmental Ltd
Doctrine & Bond
Dow Chemical Company Limited
EDF Energy
Engineering Construction Industry Association
Engineering Employers Federation
Eurisol UK Ltd
Faculty & Society of Occupational Medicine
Federation of Small Businesses
Gillies Associates Limited
GMB
Hugh Wolfson
Imerys Minerals UK Ltd
Industrial Health Control Ltd
Institute of Directors
Institution of Occupational Safety and Health
John Westmoreland
London Underground Ltd
Machin Consulting
Malcolm Griffiths
Martin Gibson
Metroline Travel
National Grid Transco
National Union of Marine Aviation and Shipping Transport Officers
NHS Argyll and Clyde
NHS Trust Coventry
NNC Ltd
Occupational Hygiene Service Scotland Ltd
OEH Group Limited
Refined Bitumen Association
Robin Howie Associates
Royal Pharmaceutical Society
Silica and Moulding Sands Association

Surface Engineering Association
Tom Farmer
Transport and General Workers Union
Union of Shop Distributive and Allied Workers
UNISON
University of Manchester (BOHS Staff)
University of Manchester (Dr Gary Burgess)
University of Manchester (Senior Staff)
William Fowler