



ENVIRONMENT
AGENCY



WORKING TOGETHER

on

NUCLEAR SITES

A summary report on the way forward to develop the working relationship between the Environment Agency and the Health and Safety Executive in relation to nuclear licensed sites resulting from a workshop for HSE and EA nuclear regulators, held on 16 October 2001, and a seminar on nuclear regulation involving representatives of the nuclear industry and Government Departments held on 9 November 2001.

This report also responds to an action taken by HSE and EA at the November 2001 seminar to ensure clear unambiguous regulatory processes and expectations that have ownership and lead to the public interest being taken forward.

The nuclear operators have also responded with principles by which they can enhance the effectiveness of regulatory processes. A summary of their principles is included here.

In what follows, 'we', unless otherwise qualified, refers to EA and HSE.

January 2003

Introduction

1. On 8th August 2001 the Chief Executive of the Environment Agency (EA) and the Director General of the Health and Safety Executive (HSE) signed a Statement of Intent on the working relationship between HSE and EA on nuclear safety and environmental regulatory issues. This was in response to concerns from the nuclear industry that the different regulatory regimes for nuclear safety and environmental protection were causing problems.
2. Subsequently, we set about reviewing our working relationship in respect to nuclear sites. The first stage of this involved:
 - a) A workshop involving nuclear regulators; and
 - b) A seminar involving, as well as regulators, representatives of the industry, DEFRA, DTI, MoD, SEPA and the RWMAC secretariat. NuSAC was unable to provide a representative.
3. This report presents the issues raised by the workshop and seminar and the consequent actions to which the regulatory organisations are committing themselves. Not all of these commitments are new, many are based on examples of current good practice that would benefit from wider application and some are continuations of existing practice restated to complete the picture.

The issues

Transparency of Regulatory Processes

4. Regulatory processes are not always as transparent as they could be. Industry needs to know, for any regulatory process, what is expected of them, what they may expect from the regulators, what standards are being applied and, where different standards exist, how they interact.
5. We are committed to being as open as possible, have already published much material and will continue to do so where possible. We will explore what can be done to make it clearer to those being regulated how the 'safety' and 'environmental' approaches will interact. There is a great deal of published information on regulatory processes in general, however, we will be looking at how best to ensure that, for each individual regulatory process, the people involved are adequately informed at the outset.

Early resolution of Regulatory Issues and Tripartite working

6. A combination of tripartite working and early identification and resolution of regulatory issues is key to delivering effective joined-up regulation.
7. The industry has, through its Safety Directors' Forum, [Ref.1] put forward principles for their part in promoting effective regulation. The key points from the operators' proposals are:
 - a) *“Operators should communicate to regulators, as soon as practicable:*

- *any issues¹ known or considered likely to be of significance to regulators*
 - *reasons for their actions or intentions, including any input from third party 'requirements', options considered and the reasons for preferring the selected option*
 - *any dependencies of issues on future actions by third parties. Operators should not await the outcomes of third party action before revealing 'conditional' proposals.*
 - *who 'speaks for the operator' on the issues*
 - *any changes to the above*
 - *initial suggestions for regulatory 'hold points' where appropriate (to initiate discussion with regulators)*
- b) *Communications with regulators must be expressed clearly, with a positive intent to avoid misunderstanding.*
- c) *Early communication of issues by operators promotes trust, avoids surprises, minimises the danger of an operator's investment being put at risk, enables the regulators to plan their work and give advice at an early stage, and identifies potential imponderables associated with stakeholders and other parties. "*
8. The industry's proposals for 'early notification' have been taken on board in the revised Memorandum of Understanding.
9. With respect to early notification of issues, and tripartite working (taking note of the operators' proposals listed above) we shall communicate to operators and to each other, as soon as practicable:
- which issues notified to us by the operator are of interest to us
 - which issues we regard as 'key issues'
 - which regulator will take the lead where more than one is interested
 - our planned regulatory processes, joint or co-ordinated where necessary
 - the involvement of statutory consultees and other stakeholders
 - the intended 'end points' of the regulatory processes
 - who 'speaks for the regulator(s)' on the issues, particularly the 'key issues'
 - any changes to the above
10. As noted in the MoU, we will strive to avoid unnecessary delays, conflicts or duplication of activities in nuclear safety and environmental requirements, including post-event investigations. If, despite our best efforts, a significant problem arises, the operator will be informed of the relevant issues, together with the process and schedule for resolution.

¹ The 'working materials' for tripartite interactions are generally described in this document as 'issues'. A very widely drawn definition is intended. On an operator's part they encompass proposed courses of action, new projects or activities, events and investigations etc of interest to regulators, including responses to regulatory requirements. On a regulator's part they encompass any 'concerns', investigations and audits and their outcomes, changes of regulatory processes etc.

11. For projects which could result in long or multi-staged regulatory processes, we will endeavour through effective tripartite project management, to identify possible objections or technical problems early in the process, so that the operator runs significantly less risk of later regulatory refusal or unexpected requirements. Early consultations with other stakeholders, including the public, may be necessary to achieve this.

Planning and joint inspections

12. There are clear benefits in terms of efficiency if, when the two regulators plan to explore the same, or related, topics, we do so together.
13. We will share with each other our forward strategies and plans at the time they are being prepared, with the aim of taking best advantage of joint action.

Enforcement

14. The industry is concerned by separate investigations of the same event, multiple questioning of witnesses and separate enforcement action; they prefer that the totality of the regulatory action should be proportionate to the event in question.
15. We accept that there may be scope for further integration of enforcement activity and that the good practice so far identified should be encouraged. Without prejudicing the legal responsibilities of each regulator, we will work together to minimise regulatory overlap in the follow-up to events. For example consultation will take place to ensure that, where appropriate, actions are co-ordinated and the impact on individuals (e.g. through duplication of interviews) is minimised.

Delivery of our objectives

16. There needs to be a genuine commitment to working together.
17. Both organisations will ensure that staff at all levels deliver on the commitments set out in the Statement of Intent and the revised Memorandum of Understanding.

The way forward

Revision of the Memorandum of Understanding

18. Work is already complete on a revision of the Memorandum of Understanding (MoU) between HSE and EA in respect to licensed nuclear sites. This was signed on 23 April 2002 by the Director General of HSE and by the Chief Executive of the EA. It makes a clear reference to the need for consultation between HSE and EA to take place at the earliest possible opportunity, and to the need for tripartite working at appropriate times. The MoU is published on both EA and HSE websites.

Review, update, and publicise internal procedures and policies

19. We will complete a review of our internal procedures by early 2003 to ensure they reflect the aims of the Statement of Intent, the revised Memorandum of Understanding and our intentions on early resolution of issues and tripartite working.

20. As an aid to the transparency of regulatory processes, HSE's NSD is already committed to publishing, on the HSE website, such of their procedures as will contribute to this transparency without compromising regulatory effectiveness. The EA makes available its procedural guidance, and has placed its enforcement and prosecution policy on its Web site. The EA will consult on future guidance for regulating radioactive discharges from nuclear sites.

Joint Guidance

21. There is a commitment in the Statement of Intent to produce joint guidance. The subject has been added to the routine agenda of the six monthly liaison meetings between HSE/NII and EA. The aim is to: initially identify the process by which such joint guidance will be produced; then identify appropriate topics before going on to produce the guidance.

Staff training etc

22. We have reviewed our routine training courses to ensure that the aims of the Statement of Intent and the revised Memoranda of Understanding are included where appropriate.

23. Consideration has been given to staff from each organisation lecturing on, and attending each others training courses, where appropriate, to enable staff to get a better understanding of the other organisation's ways of working, roles and responsibilities. Participation in training courses is already in place. For similar reasons, short term secondments between the regulators are also being considered.

24. Both organisations have also explored what other means can reasonably be used, (e.g. seminars, group meetings, additional training courses etc) to 'get the message' on working with the other regulator to all of their staff.

Review

25. As with any improvement process, it is important that the process is reviewed and any changes evaluated. This paper only sets out the intentions of each organisation; details of any changes will be progressively developed and implemented.

26. As an initial stage of the review process a joint report will be produced in early 2003 reporting on what actual changes and improvements have been implemented. This will form the basis for a later review of their effectiveness.

27. A formal review of the EA/HSE Memorandum of Understanding will be started in late 2004 with the aim of a further revision being signed in 2005. This will include an evaluation of the changes and improvements currently being considered and will involve external consultation.

Conclusions

28. The process reported on has been useful in identifying the issues underlying the concerns about the HSE/EA working relationship. Some areas for improvement have been identified. These include making the regulatory processes more transparent, more tripartite working with licensees and more emphasis on early interactions.

29. We are committed to continuous improvement and will not only learn from this exercise, but will evaluate the changes they make and review the working relationship, both on a formal and informal basis, at regular intervals.

References

- 1 Working Together with Regulators on Nuclear Sites. SDF/2003/03 Issue 1. January 2003.

Timescales

8 th August 2001	Statement of Intent signed
16 th October 2001	EA/HSE regulators' workshop
9 th November 2001	Seminar with industry and other stakeholders
23 rd April 2002	Revised Memorandum of Understanding signed.
26 th June 2002 MoU	First formal NII/EA liaison meeting under the new MoU
early 2003	Review and report on progress to date (one year on)
late 2004	Review of Memorandum of Understanding initiated
Spring 2005	Revised MoU signed (if changes necessary)