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Clearance and exemption CoP: A regulators' expectations

David Bennett

Environment Agency

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Outline

- **Context - 'modern regulation'**
- **Background on Exemption Orders (EOs)**
- **Industry Code of Practice - our experience**
- **The future - our expectations**

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Traditional regulation has achieved much. But the nature of regulation has to change to keep pace with changes in the economy and society. We are further developing our approach to regulation to improve and protect the environment. This approach is focused on outcomes and is risk-based. We communicate it clearly and consistently. We call this 'modern regulation' and this booklet explains what it means and why it will make a difference.

Delivering for the environment

A 21st Century approach to regulation

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Proportionate regulation: Permitting & compliance levels -

Excluded/exempt - covered in regulations



Registration



Standard permits



Bespoke permits

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Radioactive Substances Act: Basis for clearance

- Items or materials can be ‘cleared’ from regulatory control if:
 - Excluded from regulation by virtue of having concentrations less than specific activity limits in Schedule 1 of RSA93, or
 - Exempt from regulation through meeting the conditions of an ‘Exemption Order’ issued under RSA93

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Purpose of Exemption Orders

- **Early approach to proportionate regulation!**
- **Some practices or products involving radioactive substances are very widespread, and radioactivity is**
 - **Essential property (e.g. smoke detectors)**
 - **Unavoidable (e.g. phosphate fertilisers)**
 - **Trivial**
- **Registration/authorisation would be massively bureaucratic - and to what effect?**
 - **Could unreasonably discourage a useful product**
 - **Would divert regulatory effort away from more important cases**

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Exemption Orders - legal position

- Secondary legislation (Statutory Instruments) made under RSA60/93, providing exemption from Registration and Authorisation:
- EOs may contain detailed conditions - binding
- Care required in interpretation
- The user has to establish whether an EO is relevant in a particular case
- Cannot issue Enforcement Notices for conditions in EOs - prosecution is an option for failure to be authorised
- Defra have started a review of EOs

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Industry Code of Practice on Clearance: our views

- EA is supportive - valuable initiative to develop and disseminate:
 - legal and policy requirements
 - their interpretation
 - good practice
- Should lead to better standards and consistency
- Efforts to disseminate, embed, improve and review CoP are all welcome
- But...

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Caution required ...

- **The CoP cannot cover:**
 - **all requirements for demonstrating compliance with an EO**
 - **cannot cover all circumstances**
 - **higher standards may sometimes be appropriate**
- **We do need to take an independent view of the approaches used in specific circumstances**

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Feedback from our regulators: mainly good

- **Generally sites:**
 - **have clearly welcomed the introduction of the CoP**
 - **are signed up to the waste hierarchy, addressed in the CoP**
 - **reference the CoP in procedures**
 - **take account of of the CoP in ordering equipment and SQEPs**

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But, some concerns...

- Not all sites appear to be making use of the CoP, and not all plants on some sites
- Large scale sentencing:
 - Sufficient finger prints?
 - Dose implications of cleared material?
 - Shortcomings of manual monitoring
- Possible tensions with good practice and incentivisation & competition at NDA sites
- Need to see use by lower tier contractors

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What industry can do

- Continue to develop CoP
- Continue to link CoP to site procedures and protocols
- Provide scrutiny of use through rigorous monitoring and audit
- Be aware of limitations - higher or bespoke standards may be appropriate
- Large scale exemptions
 - adequate fingerprinting?
 - apply statistical expertise?
 - benefits in automation of monitoring?

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What we will do

- **Encourage wider use**
- **Challenge some aspects - fingerprinting, use of statistics**
- **Consider potential conflict with performance based incentives**
- **Consider introducing some check monitoring of cleared material**

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Overall

- **Very worthwhile initiative - better sentencing will result in better use of resources, more appropriate use of disposal routes, and lower costs**
- **Pleased to see uptake, but needs to go further**
- **Area of reputational risks - rigorous scrutiny is required**

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