

# Agenda Item 7

GREATER MANCHESTER FIRE AND RESCUE AUTHORITY

EMERGENCY RESPONSE COMMITTEE

7 MARCH 2013

Subject: IMPLICATIONS FOR CONTROL OF MAJOR ACCIDENT HAZARDS 1999 (AS AMENDED 2005), PIPELINE SAFETY REGULATIONS 1996, RADIATION EMERGENCY PREPAREDNESS AND PUBLIC INFORMATION REGULATIONS 2001

Report of the County Fire Officer & Chief Executive

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## PURPOSE OF THE REPORT

This paper sets out the current Statutory Functions and arrangements in place to satisfy the Health and Safety Permission Regimes.

## EXECUTIVE SUMMARY

1. This paper provides an overview of the implications for Greater Manchester Fire and Rescue Authority (GMFRA) and Greater Manchester Fire and Rescue Service (GMFRS) of the following Health and Safety (HSE) permission Regimes;
  - Control of Major Accident Hazards Regulations 2005 (COMAH)
  - Pipeline Safety Regulations 1996 (PSR)
  - Radiation Preparedness and Public Information Regulations 2001 (REPPIR)

## INTRODUCTION/BACKGROUND

2. The Contingency Planning Unit (CPU), based at Fire Service Headquarters, manages the delivery of the legal requirements within the Health and Safety Executives (HSE) permission regimes on behalf of Greater Manchester Fire and Rescue Authority (GMFRA). These being: the Control of Major Accident Hazards 1999 (as amended 2005), the Pipeline Safety Regulations 1996, and the Radiation Emergency Preparedness & Public Information Regulations 2001.
3. These responsibilities extend to the writing, reviewing and testing of Off-Site emergency plans. The 'Off-Site' emergency plans are circulated within Greater Manchester to approximately 35 different stakeholders, consisting of Category I and II responders and are exercised to the required schedule on a three yearly basis (see Appendix 'A' for a list of Category I and II Responders).

## CURRENT POSITION

### Statutory Requirements

4. GMFRA is required to effectively discharge its statutory functions, under the following HSE regulations:
  - (a) Control of Major Accident Hazards Regulations 1999 (amended 2005) (COMAH)
  - (b) Pipeline Safety Regulations 1996 (PSR)
  - (c) Radiation Preparedness and Public Information Regulations 2001 (REPPIR)
5. In order to ensure compliance, the HSE and the Environment Agency (EA); known as the Competent Authority (CA) are required to review and monitor all aspects of these regulations.
6. The link to the CA and the GMFRA is the Contingency Planning Unit (CPU), which is part of the Resilience and Planning Section within the Emergency Response Directorate. Therefore, the management of the day to day COMAH workload is delivered by the CPU personnel.
7. GMFRS are one of the 7 Metropolitan Fire and Rescue Services that have statutory duties for testing, exercising and producing the off-site COMAH plans on a three yearly schedule.

### COMAH Regulations 1999 (As Amended 2005)

8. The Control of Major Accident Hazard (COMAH) Regulations apply mainly to the chemical and petrochemical industries. They may also apply to businesses that store fuels, including gas, which have large warehouses or distribution facilities or those businesses that manufacture and store explosives. The aims of the Regulations are to ensure that businesses:
  - Take all necessary measures to prevent major accidents involving dangerous substances.
  - Limit the consequences to people and the environment of any major accidents which do occur.
9. The application of the COMAH regulations is predicated on 'threshold limits' of stored and/or processed chemicals at a site. Within the regulations, the dangerous substances to which the Regulations apply are known as (Named Substances).
10. The specific chemicals or group of chemicals for consideration are either:-
  - Very Toxic
  - Toxic

- Oxidising Agents
  - Explosive
  - Flammable
  - Highly Flammable
  - Extremely Flammable
  - Dangerous to the Environment
  - Any Classification not covered by the above
11. Depending of the amount of chemicals either processed or stored will place the site into one of three categories:-
- (a) Top Tier
  - (b) Lower Tier
  - (c) Out of scope of the regulations
12. The CA will assess both the chemical category and the amounts stored; they will then apply a formula to place the site into one of the three categories.

#### Top Tier Sites COMAH Sites

13. A requirement of the regulations is for GMFRA to write and ensure the currency of these Off-Site Emergency Plans within the area of Greater Manchester. This requirement is for the sites that fall into the classification of Top Tier only.
14. GMFRA are also responsible for collating information and circulating plans and amended plans to all relevant stakeholders with Greater Manchester and where necessary to regionally based partners.
15. In addition to the duties above, there is a requirement to exercise each plan at least once every three years. Currently there are 13 Top-Tier COMAH sites that require an Off-Site Emergency Plan within Greater Manchester (see Appendix 'B' for list of Top Tier COMAH sites).
16. The Responsible Person in Greater Manchester as described within the regulations for the reviewing, testing, exercising and production of the off-site emergency plans falls with the Chairman of the GMFRA. The responsibility to facilitate the requirements is devolved through the County Fire Officer & Chief Executive and Assistant County Fire Officer (ER) to the Area Manager Resilience & Planning whose team in the Contingency Planning Unit ensures relevant compliance.
17. In line with the COMAH Regulations each site undergoes a full review, testing and exercising and production of new or amended off-site plans. The attached spread sheet (Appendix C) is the current exercising schedule that the CPU has developed. On completion of each exercise a full report from the HSE is forwarded to the CPU; any significant comments raised by the HSE are discussed with the site

operator and the necessary amendments made to the final draft of the Off-Site plan post exercise.

18. The exercise programme involves all relevant stakeholders including GMFRS Borough based Officers as well as Officers from the CPU who deliver the exercises (See Appendix C for the Exercise Schedule of COMAH sites).
19. Acting as the 'Local Authority' as stated in the case where a Metropolitan Fire Authority exists, the Fire Authority is able to recover all reasonable costs associated with the production, maintenance, testing and exercising of these plans. A charging regime is agreed at the multi-agency COMAH Planning and Exercising Group (see below for Group membership).
20. Greater Manchester Police (GMP) and North West Ambulance Service now charge for attendance at COMAH exercises, an invoice is sent to GMFRS, who in turn charge the relevant COMAH site operators as required by the regulations.

#### Lower Tier COMAH Sites

21. Where a site falls into the category of a Lower Tier COMAH Site, the regulations state that an Off-site Emergency Plan is not required. The GMFRA does not have any legal responsibilities for these sites under the COMAH Regulations.
22. The Lower Tier site operators are required to have an on-site emergency plan. The local fire stations should be involved in the creation of the on-site plans and all appropriate information captured and placed on the Operational Intelligence System (OIS).

#### Establishment of a Greater Manchester COMAH Group

23. Since 1999 one of the CPU Station Managers has chaired the six monthly Greater Manchester COMAH Planning and Exercise Group meetings. The main purpose of this group has been to ensure that the exercising and recharging regime is in accordance with the regulations and is acceptable to the multi-agency group.
24. The Group invites each responsible person i.e. the COMAH Site Safety Managers from the 13 COMAH sites within Greater Manchester as well as other supporting agencies e.g. Police, Health sector, Environment Agency, Health & Safety Executive and Local Authorities.
25. The meetings are where members can openly discuss any new developments within the field of COMAH; agree a charging regime for operators; as well as developing and amending the Greater Manchester COMAH exercise schedule. Additionally, it allows for the feedback of any learning outcomes from operational incidents that may

have occurred at the sites; and, any learning outcomes from the scheduled testing and exercising of the Off-Site plans at each respective premises. Furthermore, any items which are seen as best practice are shared with the COMAH group and implemented as seen fit by each site operator (Evidence of the outcomes of each meeting are highlighted in (Appendix D).

## Regulations

26. The following section provides an overview of the requirements within the COMAH Regulations:

- COMAH Regulations 1999 (as amended 2005) states in Regulation 11 'that a person who has prepared an emergency plan pursuant to a duty imposed on him by these regulations shall at suitable intervals not exceeding three years, review and where necessary revise the plan, and test the plan and take reasonable steps to arrange for the emergency services to participate in the test to such extent as necessary'.
- COMAH Regulations 1999 (as amended 2005) states in regulation 13 'a local authority may charge the operator a fee for performing its functions under regulations 10 and 11. The charges can only cover costs that have been reasonably incurred; this may therefore include costs incurred from charges levied by other bodies on the local authority in carrying out work or supplying services necessary to meet the requirements of regulations 10 and 11'.
- 'Where the work is carried out by local authority staff, the charge should be based upon the time spent by officers of the appropriate grades, including the average costs of their employment overheads'.
- The regulations state in Regulation 2(1) 54b 'that in areas where there is a fire and civil defence authority, the duty for the off-site emergency plan is the fire and civil defence authority's'.

27. GMFRA acts as the Local Authority for these regulations in spite of the repeal of the Civil Defence Act by the Civil Contingencies Act 2004 (CCA). Within the CCA, reference is made to the repeal but is clear the responsibilities will rest with the Fire Authorities; this is the case for all three HSE regimes; COMAH, PSR and REPPIR.

## Compliance

28. To ensure compliance with the regulations of preparation and reviewing, GMFRS have employed consultants to liaise with each respective COMAH site since 1999, the consultant receives copies

from each COMAH site operator of the Site Safety Report and then produce either a new or amended off-site emergency plan.

### Writing and Reviewing

29. In terms of writing the COMAH Plans GMFRA utilise the skills of a consultant. Our current Consultant has over 12 years' experience in Civil Contingencies and writing COMAH off-site plans; being fully conversant with emergency planning for major incidents within the Greater Manchester emergency planning fraternity. The benefits in employing a consultant to produce the off-site plans are they are experienced in the field of COMAH, they free up a considerable amount of time for the CPU which could only be facilitated via a growth bid if we had to produce the plans in-house. There is a zero cost to GMFRS when producing the off-site plans as each respective COMAH site operator must pay for the production and the finished copies sent to each partner agency (Regulation 13).
30. To assist in the quality assurance process, all Officers within CPU have a significant wealth of operational experience and are well-versed in working with our Category I & II partners. Additionally, they have attended the Cabinet Office's Emergency Planning College at Easingwold to undertake a number of bespoke training courses related to Civil Contingencies Act, Civil Protection and writing, testing and auditing emergency plans. Furthermore, uniformed Officers with the CPU are Hazardous Material and Environmental Protection Officers.
31. The final assurance process within the CPU is that Officers are either Members or Associate Members of the Emergency Planning Society (EPS). This facilitates the maintenance of skills and knowledge within the reference and CPU.
32. Other options for delivering the legal responsibilities placed on the GMFRA by these regulations have been considered, including devolving to the local authorities (LA's); however, at this time it was not seen as a viable option. For example, GMFRS CPU already imposes additional demands on the Greater Manchester Civil Contingencies Resilience Unit (GMCCRU) due to the number of COMAH exercises held each year. If the GMCCRU were to take ownership of the production of the off-site plans the additional workload would mean a potential growth bid within the GMCCRU to facilitate this. It should be remembered that there is no legal responsibility placed on Category I & II organisations under the COMAH regulations including the Local Authorities.
33. An essential factor for compliance is that the CPU needs to keep a very tight control on the processes. The deadlines placed on GMFRA by the HSE in terms of the three yearly schedules for testing, exercising and the production of the new/amended plans are extremely rigid. It is essential that the CPU remains in control as any slippage outside of

the three year regulations could result in an infraction notice served by the HSE. By placing this responsibility on the Consultant, this ensures the time-frames the Unit set/request are always met.

34. Hard copies of all 13 top tier COMAH Off-Site Emergency Plans have been circulated to Category I and II stakeholders within Greater Manchester and are available in GMP Force HQ Command Module, GMP Sedgley Park Command Module and GMFRS Control Room.

#### Testing and Exercising

35. With regard to the three yearly testing and exercising regime the exercises are arranged, conducted and reported on from within the CPU; the revenue generated from the recharging from site operators funds 0.5 of a post within the CPU.
36. Currently, the activities of testing and exercising attract the necessary support from partner agencies but there is no legal requirement for them to do so. A vulnerability going forward may be as the austerity measures continue to impact then our partners support may not be as strong.
37. Post exercise, a full and comprehensive report is written; this is then circulated to the HSE and relevant Site Operator. Any significant findings are incorporated into any new plan(s) and the findings captured in an action summary.
38. Where the action(s) are not within the remit of the CPU to be able to manage, the item will be allocated to an owner (partner/site/Local Resilience Forum) and discussed at the next COMAH Exercise Group Meeting (an extract from the Exercise Action Summary can be found in Appendix E).

#### Pipelines Safety Regulations 1996 (PSR)

39. Similar to the COMAH Regulations the Pipeline Safety Regulations (PSR) places a planning, writing and amendment duty on GMFRA. Currently there is no requirement on the GMFRA to exercise any plans created under this legislation. Within Greater Manchester two emergency plans fall into this category:

- UKD Major Hazard Pipeline
- Shell's Carrington to Stanlow Pipeline.

(Accordingly, plans have been produced to satisfy the regulations.)

40. Hard copies of both Emergency Plans have been circulated to Category I and II stakeholders within Greater Manchester and are available in GMP Force HQ Command Module, GMP Sedgley Park Command Module and GMFRS Control Room.

41. The processes and structures used to satisfy the COMAH Regulations are replicated under PSR.

#### Radiation Emergency Preparedness and Public Information Regulations 2001 (REPPIR)

42. The regulations state that, irrespective of the fact as to whether or not a site storing or using radiological materials exists within the County, a plan must be created. This is to take into account the possibility of an accident/incident occurring with a radiological source that is being transported within the County. To date, GMFRA does not have any premises that fall into the category of a REPPIR site. Notwithstanding this fact, an emergency plan has been created in consultation with all stakeholders.
43. Hard copies of the Emergency Plan have been circulated to Category I and II stakeholders within Greater Manchester and are available in GMP Force HQ Command Module, GMP Sedgley Park Command Module and GMFRS Control Room.

Legal duties are placed on:

1. Operators of premises where work with ionising radiation is carried out e.g. licensed nuclear sites, hospitals, universities, ports, airports and factories.
2. People who transport radioactive substances through a public place but not those using standard forms of transport such as road, rail, inland waterway, sea, air, or through a pipeline.
3. All local authorities, not just those who have REPPIR operators within their boundaries, and the employers of people who intervene in a radiation emergency, such as the emergency services.
4. The processes and structures used to satisfy the COMAH Regulations are replicated under REPPIR.

#### FINANCIAL IMPLICATIONS

##### Funding Recovery

44. The Authority's current arrangements for the production of COMAH, PSR and REPPIR off-site emergency plans as stated above is to secure the use of an external consultant; the testing and exercising elements are carried out by the CPU and all costs are recovered from the site operators in respect of all areas delivered.
45. The Authority is unable to claim for the production and circulation of the REPPIR plan as there is no site within Greater Manchester.



### Preparation of Off-site Emergency Plans

46. The current agreed charging regime for the production of off-site plans is in the region of £5,000. Additional CPU costs for administration, reproduction and circulation are usually in the region of £2,500 per site.
47. Over the past 12 years a general rule of thumb is that two new sites have come online each year, plus three re-writes of existing plans forming part of the review process.

### Preparation and Execution of Table-top Exercises

48. The charging regime for exercising plans is currently £2,500 for a table-top exercise, plus CPU administration costs which are usually in the region of £500 totalling approximately £9,000 per annum for three sites.
49. Due to the consistent number of top-tier sites, 2012/2013 over the past 12 years, there is a need for between four or five exercises each year.

### Review of Funding and Re-charging

50. The re-charging costs are reviewed annually and agreed with the site operators via the COMAH Planning and Exercising Group.

### OPTIONS/ALTERNATIVES

51. N/A

### CONSULTATION

52. N/A

### RESOURCES IMPLICATIONS

53.
  - a) Financial and Procurement – see paragraph 50 above.
  - b) Human Resources – Not applicable.
  - c) Legal and Constitutional – Contained within previous sections.
  - d) Health and Safety – Not applicable.
  - e) Sustainability – Not applicable.

### RECOMMENDATION

54. Members are recommended to note the content of this paper.

STEVE McGUIRK  
COUNTY FIRE OFFICER  
& CHIEF EXECUTIVE

There are no background papers to this report within the meaning of Section 100D of the Local Government Act 1972.

S. McGuirk  
(Proper Officer)  
23.02.13

**CATEGORY I RESPONDERS**

- Police
- Fire
- Ambulance
- British Transport Police
- Local Authorities
- Health Protection Agency
- Health Bodies – PCT, Acute Trusts etc.
- Environment Agency

**CATEGORY II RESPONDERS**

- Utilities – Gas, Electricity, Telephone and Water
- Network Rail and Train Operators
- Airport Operators
- Highways Agency
- Harbour Activities
- HSE

**Top Tier COMAH Sites within Greater Manchester**

- Akcros Chemicals – Eccles
- BOC Gases – Worsley
- Brenntag – Trafford
- Chemtura Chemicals – Trafford
- Holchem Labs – Bury
- Leighs Paints – Bolton
- Lyondell Basell – Urmston
- Norbert Dentressangle – Trafford
- PX Limited – Stockport
- Robert McBride – Middleton
- Stepan – Stalybridge
- Univar – Irlam
- Valero – Trafford

**Major Hazard Pipeline Plans within Greater Manchester**

- UKD Gas
- Shell UK (Carrington Pipeline)

**Appendix C**

Greater Manchester COMAH Plans Review and Exercising Schedule (Dec 2012)							APPENDIX C			
Site	Plan Issued	Local Authority	2009	2010	2011	2012	2013	2014	2015	
Akcros Chemicals Ltd	November 2010	Salford		29 April			January April			
Basell	June 2011	Trafford			26 January		October	January		
BOC Gasses Ltd	May 2010	Salford	December	3rd February			November February			
Brenntag	May 2011	Trafford			Plan Issued (May 2011)			February May		
Chemtura	March 2011	Trafford	22nd January as Tenax Road		Plan Issued (March 2011)	21 May			February May	
Holchem Labs - NEW	?	Bury					Issued Plan ?			
Leighs Paints	November 2010	Bolton		8 July			April July			
PX Limited (was Simon Management)	August 2009	Stockport	10 September			18 September			June September	
Robert McBride	January 2011	Rochdale			Plan Issued (Jan 2011)		August November			
Stepan UK Ltd	December 2011	Tameside	Plan Issued (Feb 2009)		21 October			July October		
Norbert Dentresstangle (was TDG)	October 2009	Trafford	Plan Issued (October 2009)			23 October			July October	
Univar Ltd	July 2011	Salford			25 May			February May		
Valero - NEW	?	Trafford					Issued Plan ?			

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2011	2012	2013	2014	2015
Trafford January	Trafford 21st May	Salford February	Trafford January	Trafford May
Salford June	Stockport September	Bolton July	Trafford May	Stockport September
Tameside October	Trafford October	Rochdale November	Salford May	Trafford October
			Tameside October	

Standing Plan	Exercise Plan	Review Plan	Issued Plan
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**COMAH Planning and Exercise Group - Action Summary (Outstanding Items Example) 04.09.12**

REF	DATE	ITEM NO.	ITEM	PERSON RESPONSIBLE
194	07.03.12	6 - Exercise Action Summary	Recommendations from the Basell Exercise have not been commented on and need to be passed to RDG.	Neil Gaskell
198	07.03.12	11 - Site Control Rooms	Carl Rowe from Chemtura discussed mutual aid with other site operators. Nic Mayor to send to all site operators their contact details so they can contact to discuss further.	Nic Mayor
199	04.09.12	4 - HSE update	L111 HSE to send out exert to NM for distribution to the Group.	HSE/Nic Mayor
200	04.09.12	4 - HSE update	HSE will advise further on a form of guidance on sites having on site alarms and bring to the next meeting.	HSE
201	04.09.12	5 - Updated and New Plans	Valero Site will be operational from Spring 2013, site and GMFRS to make visits and plan for production of Off Site Plan.	Neil Gaskell/Nic Mayor/ Eddie Watts
202	04.09.12	5 - Updated and New Plans	NM to provide contact number of Dave Fraser-Jones to Holchem.	Nic Mayor
203	04.09.12	6 - Action Summary Ex Recommendations	Mutual air plans within Local Authorities, Gordon Stubbs to query.	Gordon Stubbs
204	04.09.12	6 - Action Summary Ex Recommendations	Double check the volume of water at Chemtura.	Carl Rowe
205	04.09.12	7 - 2012/15 Plan Review/Ex Schedule	Revised schedule to be sent to group prior to next meeting.	Nic Mayor
206	04.09.12	8 - AOB	NM to provide updated costing list to Holchem.	Nic Mayor
207	04.09.12	8 - AOB	Basell have not been receiving updated plans. Ensure distribution list is up to date.	Nic Mayor
208	04.09.12	8 - AOB	NM to contact the Manchester Ship Canal to offer representation at the Group. BH to provide contact to NM.	Nic Mayor/Barry Hason
209	04.09.12	8 - AOB	Env. Agency to provide a copy of the outcomes from the ESSAR report.	Dave Marshall

Extract from the on-going Exercise Action Summary

COMAH Exercise Report Key Recommendations Action Summary

OUTSTANDING ACTIONS

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<b>Norbert Dentressangle Exercise Golden Braid 23.11.12</b>					
Norbert Dentressangle	1.1 1.2 1.3	Review the coverage of the COMAH alarm. If necessary we will consider moving one of the speakers to face another direction to ensure wind direction does not cause interference or block the siren	1.3 The site is to look into this detail and advice as necessary.	1.4 Site	
Norbert Dentressangle	1.5 1.6 1.3	At certain football matches there is surge on media and mobile comms, and the public in the ground are unable to acquire mobile phone signals. Nick Folkes to take this information to the Telecoms sub group to the site having access to MTPAS	1.7 All COMAH site operators are to be contacted around this arrangement.	1.8 Nick Folkes - CCRU	
Norbert Dentressangle	1.9 1.10 1.3	It was mentioned that not all plans have contact numbers of neighbouring sites. This plan has neighbours contact numbers. The GMFRS CPU will review the plans for each site during its exercising schedule	1.11 Plans will be reviewed as per the cycle.	1.12 GMFRS	

**GMFRS COMAH Management Structure**

