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19 July 2007

All licence holders

REVISED ENVIRONMENTAL POLICY GUIDANCE - A CONSULTATION

1. In light of the importance of sustainable development issues, the railway industry is currently taking forward a wide range of initiatives aimed at developing and maintaining a sustainable railway. We recognise and fully support this work, and are collaborating with the industry in a number of areas to achieve this aim. As part of our involvement, in October 2006 we consulted on the way in which we should discharge our statutory sustainable development and environmental duties.¹ One of our key policy conclusions² from this consultation was our intention to review and update the original environmental policy guidance that we published in 1996.³ We have now completed this review and would welcome your views on the draft revised guidance attached to this letter.

Background

2. Licence holders are required to establish and maintain written environmental policies. The attached draft guidance sets out a checklist of the information that we think such policies should normally include.

¹ *ORR's sustainable development & environmental duties – a consultation document*, October 2006 (available at <http://www.rail-reg.gov.uk/upload/pdf/304.pdf>).

² *ORR's sustainable development & environmental duties: conclusions*, April 2007 (available at <http://www.rail-reg.gov.uk/upload/pdf/324.pdf>).

³ *Railways operations and the environment: environmental guidance*, ORR, March 1996 (available at <http://www.rail-reg.gov.uk/upload/pdf/29-environment96.pdf>).

3. Our guidance, when published, will not be a substitute for environmental legislation. We have no responsibility for enforcing such legislation. This lies with the Environment Agency (in England and Wales), the Scottish Environment Protection Agency (SEPA) (in Scotland), local authorities or affected individuals. We assume, of course, that all licence holders do - and will continue to - comply with environmental statutory requirements.

The revised guidance

4. The revised guidance focuses on environmental issues. It does suggest, however, that wider sustainability issues (for example performance, reliability and costs), which now are integral to the business operations of many operators, be taken into account when developing environmental policies.

5. The revised guidance itself closely reflects the original 1996 document. There are, however, three key differences:

- (a) we consider that future policies should include a commitment to support industry initiatives to improve sustainable performance. In the April conclusions document we committed to implement and publish a small set of key performance indicators (KPIs) reflecting the sustainability performance of the railway (good or bad) year on year. We want the industry to take responsibility for producing accurate and verifiable data to support these KPIs (once they have been agreed). We have therefore included drafting on this issue in the revised guidance (see paragraph 7);
- (b) in terms of the objectives that we would hope to see covered by such policies, we consider that the sharing and implementing of best practice initiatives should be addressed (paragraph 8 refers); and
- (c) in the light of the number of complaints that we see in respect of nuisance, we feel it important that policies clearly set out how environmental issues that might impact on passengers and members of the public are dealt with (see paragraph 9).

6. In developing policies, we would not expect licence holders to replicate any information that is already being produced (perhaps through company Corporate Responsibility or Environmental Reports or in connection with relevant British Standards). It may therefore be appropriate for environmental policies to refer to such documents and their content. In such cases we would expect to have sight of the relevant documents to enable us to review compliance with our guidance.

7. The guidance will apply to environmental policies under licences issued after it is finalised and comes into effect. While we are not required to approve environmental policies we will review new policies and, where appropriate, provide feedback on areas that we feel could be improved. Those producing policies under the new guidance may therefore find it helpful to show them to us in draft so we can offer any further guidance.

8. The revised guidance reflects the obligations in the environmental licence condition that policies should:

- (a) be reviewed periodically (we suggest annually in order to ensure that the underlying objectives remain relevant and up-to-date); and
- (b) be resubmitted when any material changes are made to them.

9. We plan to look at the policies of existing licence holders over the coming months, and will offer advice where we consider that revision may be helpful to bring the policy more into line with the new guidance.

Next steps

10. We invite you to comment on the revised policy guidance attached and any other issues set out in this letter by **21 September 2007**. We intend to publish our revised guidance by the end of October 2007.

11. Responses should be sent in electronic format to:

Andrew Eyles
Sustainable Development Manager
Office of Rail Regulation
1 Kemble Street
LONDON WC2B 4AN

Email to: andrew.eyles@orr.gsi.gov.uk

12. All responses will be made available in our library, published on our website and may be quoted from by ORR. If you wish all or part of your response to remain confidential, you should set out clearly why this is the case. Where a response is made in confidence, it should be accompanied by a statement summarising the submission, but excluding the confidential information, which can then be used as above. We will publish the names of respondents in future documents or on our website, unless a respondent indicates that they wish their name to be withheld.

13. This letter and the draft revised guidance will be published on our website at (<http://www.rail-reg.gov.uk/server/show/nav.1399>).

Yours faithfully



Sarah Straight

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Guidance on environmental arrangements for licence holders

Introduction

1. You are required to have a policy designed to protect the environment from the effects of your licensed activities. You must also establish supporting objectives and management arrangements to give effect to your policy.
2. We have developed this guidance after consulting the industry on 19 July 2007. We published our conclusions on [] 2007.

General requirements

3. Your arrangements must be effective within six months of your licence coming into force.
4. You should review your arrangements regularly and keep them up to date.
5. You should send a copy of your policy and a summary of the supporting objectives and management arrangements to ORR when you first make them, and also when you make material changes to them. We will review the policies we receive, and may give you general feedback on areas we think could be improved. We will make available the latest version of your policy through our library and on our website at <http://www.rail-reg.gov.uk/>.
6. Environmental issues are integral to many industry workstreams, such as those on performance, costs and sustainability. We recommend you consider your environmental arrangements in that wider context. For example, your environmental policy could be better set down as part of a wider sustainability policy, including social and economic considerations.

Guidance

7. Your *policy* should set out your commitment to:
 - ☐ comply with relevant environmental legislation;
 - ☐ do business in a way that prevents and mitigates the adverse effects of railway operations on the environment;
 - ☐ improve your environmental performance in the light of new technology and best practice, where appropriate; and

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- ☐ support industry initiatives to improve environmental performance and contribute to a sustainable railway, including gathering data to meet the industry's agreed KPI objectives (see Annex A).
8. Your *objectives* should be specific, quantifying the scale of any improvements planned and the associated timescales. They may usefully cover:
- ☐ meeting current legal requirements, or meeting them more effectively;
 - ☐ anticipating future changes to legal requirements, to ensure compliance by the time they come into effect;
 - ☐ implementing initiatives in areas not covered by legal requirements, but which would improve environmental performance;
 - ☐ implementing best practice, whether from the rail industry or other sectors;
 - ☐ training, staff briefings or communications generally on environmental issues; and
 - ☐ working with others to identify and share best practice and to develop and implement cross industry environmental initiatives.
9. Your *management arrangements* may usefully cover:
- ☐ who is responsible for environmental issues and how they are made aware of their responsibilities;
 - ☐ how you ensure environmental issues are properly considered, e.g. when new projects are being planned;
 - ☐ your liaison arrangements with environmental regulators and industry bodies (e.g. the Environment Agency, local authorities, RSSB);
 - ☐ how you handle environmental issues that impact on passengers or the public; and
 - ☐ how you monitor your environmental performance and progress against your objectives.

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Further help

10. You may find these resources helpful:

- The [British Standards Institution](#) website has details on several relevant standards, including:
 - International Standard ISO 14001: Environmental Management Systems; and
 - British Standard BS8900:2006: Guidance for managing sustainable development.
- The [European Community eco-management and audit scheme](#) established by Council Regulation (EEC) No. 1836/93 (OJ No. L168, 10/7/93).
- *Securing the future: delivering UK sustainable development strategy*, Defra, March 2005 (available at www.sustainable-development.gov.uk/publications/pdf/strategy/SecFut_complete.pdf).
- *Choosing our future – Scotland's sustainable development strategy*, Scottish Executive, December 2005 (available at <http://www.scotland.gov.uk/Publications/2005/12/1493902/39032>).
- *Review of the EU Sustainable Development Strategy*, Brussels, June 2006 (available at <http://register.consilium.europa.eu/pdf/en/06/st10/st10117.en06.pdf>).
- *The rail industry - a way forward on sustainable development*, RSSB, February 2006 (available at [http://www.rssb.co.uk/pdf/reports/research/T438 The Rail Industry and Sustainable Development Final Report.pdf](http://www.rssb.co.uk/pdf/reports/research/T438%20The%20Rail%20Industry%20and%20Sustainable%20Development%20Final%20Report.pdf)).

Annex A: Industry KPIs

[To be completed]

1. In order to provide reliable data against which the sustainable performance of the railway can be measured and monitored, the industry has agreed to produce accurate and verifiable data to populate a number of key performance indicators (KPIs) that will be published and commented on by ORR.

2. The agreed KPIs, and the data required to populate them, are set out below:

[To be completed once KPIs established following industry agreement]

3. It is intended that these KPIs will be published annually within the National Rail Trends Yearbook and the underpinning data will therefore need to be supplied to ORR by early April each year.