

MEMORANDUM OF UNDERSTANDING

between

The Department of Emergency Services

and

The Department Industrial Relations

regarding

**Arrangements
For the Shared Administration
of
the *Dangerous Goods Safety Management Act 2001***

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PREAMBLE/CONTEXT

The following are the agreed outcomes of discussion between the Department of Emergency Services (DES) and the Department of Industrial Relations (DIR) in relation to the roles, responsibilities and interests of both Departments in providing for the safe storage and handling of dangerous goods and the control of Major Hazard Facilities.

DIR endorses the delegation process and will actively encourage its officers to ensure that due diligence and a high level of consistency are exercised in administering their responsibilities.

DES will be the agency responsible for maintaining the legislation and will provide training, advice and technical support to facilitate its administration.

DIR will be the agency responsible for administering the *Dangerous Goods Safety Management Act 2001 (DGSM Act)* for certain classes of dangerous goods.

For delegated matters, DIR officers trained by DES will have the relevant powers of an Authorised Officer under the *DGSM Act*.

1.0 Introduction

For Dangerous Goods Locations (DGLs) and other workplaces where dangerous goods are stored and handled this MOU covers arrangements for the shared administration of the *DGSM Act* under delegated authority.

For Major Hazard Facilities (MHFs) this MOU covers arrangements for the shared administration of the *DGSM Act*, utilising a team approach, across government.

In broad terms, the MOU confirms primary carriage of dangerous goods safety management issues by the Workplace Health and Safety Queensland within DIR for all classes of dangerous goods, other than Class1, Class2.1, Class3, Class6.2 and Class 7 dangerous goods.

Non-technical coverage is specified for Class2.2 and Class2.3 dangerous goods, as is shared coverage of generic issues arising under Parts 2 and 3 of the DGSM Regulation (eg placarding) for Class2 and Class 3 dangerous goods and combustible liquids.

2.0 Purpose

This MOU is made for the purpose of facilitating:

- a co-operative approach between DIR and DES in the administration of the *DGSM Act*;
- an understanding of the roles, responsibilities and obligations of the parties with respect to the shared administration of the *DGSM Act*;
- the cost-effective use of resources devoted to the enforcement of regulatory requirements arising under the *DGSM Act*; and
- an effective and efficient integration of operational demands arising under the *DGSM Act*, with the ongoing operations of the Workplace Health and Safety Queensland (WHSQ) within DIR.

3.0 Definitions

The following is a glossary of the terms used in this MOU.

- “ADG Code”** means the Australian Code for the Transport of Dangerous Goods by Road and Rail, as in force from time to time.
- “Authorised Officer”** is a person appointed as an authorised officer under the *DGSM Act*.
- “Combustible liquid”** is one defined as such under the Australian Standard for the Storage and Handling of Flammable and Combustible Liquids (AS1940-1993). For example, diesel.
- “Dangerous Goods”** are goods listed as such or as goods too dangerous to be transported under the ADG Code.
- “Dangerous Goods Location”** (DGL) is a place or site where stated dangerous goods or flammable or combustible liquids are stored or handled, or are likely to be stored or handled, in quantities that exceed thresholds prescribed under the DGSM Regulation.
- “Dangerous Goods Working Group”** (DGWG) is a committee of dangerous goods specialists drawn from government, industry and community sectors, for the purpose of developing, implementing and improving dangerous goods safety management legislation. DIR is represented.
- “Facility”** is a place where hazardous materials are, or are to be, stored or handled.
- “Flammable Liquid”** is one defined as such under the Australian Standard for the Storage and Handling of Flammable and Combustible Liquids (AS1940-1993). For example, petrol.
- “Hazardous Material”** is as defined in Section 12 of the *Dangerous Goods Safety Management Act 2001 (DGSM Act)*:
- “12. (1)** A **“hazardous material”** is a substance with potential to cause harm to persons, property or the environment because of 1 or more of the following –
1. the chemical properties of the substance;
 2. the physical properties of the substance; or
 3. the biological properties of the substance.
- (2)** Without limiting subsection (1), all dangerous goods, combustible liquids and chemicals are hazardous materials”.
- (Note: the Act gives ‘chemicals’ the meaning given in the Environmental Protection Regulation 1998, schedule 9.)

- “Major Accident”** is a sudden occurrence (eg fire, explosion or emission) leading to serious danger or serious harm to persons, property or the environment.
- “Major Hazard Facility”** (MHF) is a facility, classified as such by the chief executive under Part 4 of the *DGSM Act*. Places that have quantities of Dangerous Goods in excess of the threshold levels specified in the DGSM Regulation (for example, oil refineries and bulk ammonia storage /production sites) are potential MHFs.
- “Place”** includes land, a building, another structure or installation, a road, a vehicle, a tent or marquee, or any other place (even if the place is in a natural or underdeveloped state) whether the place is on or under water or on the bed of any waters.
- “The parties”** are the Workplace Health and Safety Queensland (WHSQ) of the Department of Industrial Relations (DIR) and the Chemical Hazards and Emergency Management (CHEM) Unit of the Department of Emergency Services (DES).
- “State”** means the state of Queensland.
- “Workplace”** is any place where work is, is to be, or is likely to be performed by a worker, self-employed person or employer.

4.0 Acknowledgements

The parties to this MOU acknowledge that:

- the objective of the *DGSM Act* is to protect the safety of persons and to prevent harm to property and the environment from hazardous materials;
- DES is recognised as:
 - a provider of emergency management services (emergency management includes prevention, preparedness, response and recovery) contributing to the safety, health and well being of the Queensland community;
 - the Queensland Government's Lead Agency for the Management of Hazardous Substances;
 - the facilitator of a whole-of-government approach to hazardous materials safety management and a shared approach to the administration of the *DGSM Act*; and
 - a source of expert technical and policy advice with respect to dangerous goods safety management issues.
- DIR is recognised as:
 - the agency responsible for promoting safer and healthier workplaces;
 - the administrator of workplace health and safety legislation;
 - having a lead role in the management of occupational exposure to hazardous materials in the workplace and the prevention of injury and disease to all who are exposed to risks arising from workplace activities; and

- the agency responsible for the operation of a statewide workplace health and safety inspectorate.

In broad terms, DES is the agency responsible for maintaining the DGSM legislation and will provide ongoing training, advice and technical support to facilitate its shared administration.

DIR is primarily responsible for enforcing the DGSM legislation as it applies to Dangerous Goods Locations (DGLs) and other workplaces, whereas DES will manage enforcement for Major Hazard Facilities (MHFs) supported by DIR and other agencies.

Within this scenario, DIR officers will administer the provisions of the DGSM Act at places covered by the *Workplace Health and Safety Act 1995 (WHS Act)*.

Towards this end, appropriate DIR officers will have the powers of an Authorised Officer under the *DGSM Act*.

However, these powers will be limited to matters within the area of DIR's delegated responsibilities.

In broad terms, delegated powers will include authority for the investigation of incidents at workplaces, as well as the investigation of complaints and related matters at workplaces.

Investigations by WHSQ officers will be conducted according to the WHSQ Enforcement Framework.

This MOU is not intended to interfere, inhibit or prevent the actions of a DGSM authorised officer under another statute. That is, a Workplace Health and Safety Queensland inspector can still perform his or her duties under the *WHS Act* or any other Act under which they are authorised.

5.0 Policy Development and Consultation

DES recognises the need to consult with and support DIR in its performance of delegated safety management responsibilities.

Both Departments agree that DES is responsible for developing administrative arrangements, for the management of the *DGSM Act* and the co-ordination of dangerous goods enforcement policy.

Policy Development

Both Departments are members of the Inter-Departmental Hazardous Substances Co-ordinating Committee (IDHSCC) - a forum convened to give effect to a whole-of-government approach to the safe management of hazardous materials in Queensland.

Both Departments are also members of the Dangerous Goods Working Group (DGWG) - a sub-committee of the IDHSCC, which will serve as a forum for the ongoing resolution of dangerous goods safety management issues relating to the DGSM Act and its implementation.

In keeping with the spirit of DGWG membership, each Department will consult the other on hazardous materials issues which have the potential to impact on the other Department's areas of interest and responsibility, within the broader context of the DGWG's ongoing business.

DES agrees to consult DIR during the development and amendment of dangerous goods policy, standards, guidelines, legislation and advisory papers, which may influence DIR's role or activities.

Both DES and DIR will seek consensus as an outcome of their consultations.

Community Awareness

This MOU recognises the importance of industry and community education and awareness programs in achieving excellence in safety outcomes. Accordingly, the parties will:

- co-operate in the development of education and awareness programs and the provision of information to industry, small business and the community at large;
- utilise communication facilities, such as internet homepages and forums such as the DGWG, to exchange information and consult on dangerous goods issues; and
- implement a broad and ongoing education and awareness campaign aimed at informing industry, small business and the general community about the advent and implications of the *DGSM Act* and all administrative arrangements supporting the legislation.
- DES will provide the financial resources to facilitate these programs at its discretion.

6.0 Jurisdictions

Joint Jurisdictions – WHSQ and NRME

WHSQ jurisdictions overlaps with that of the Department of Natural Resources, Mines and Energy (NRME) on any site that is subject to the requirements of the *DGSM Act* and the Petroleum and Gas Production and Safety Act.

For example any workplace (excluding that used for obtaining, mining or transporting petroleum) where Class 2 dangerous goods are present together with other classes of dangerous goods would be subject to joint jurisdiction.

Where joint jurisdictions apply, it is proposed that DGSM responsibilities be shared according to the following principles:

- Agencies other than NRME that enforce the requirements of the *DGSM Act* and Regulation (Parts 2 and 3) under delegated authority will, in the case of Class 2 dangerous goods, limit their application of the DGSM legislation to the non-technical aspects of dangerous goods safety management with a view to providing for the holistic management of all stated dangerous goods (including Class 2) at a workplace.
- For its part, NRME will support such agencies with technical advice and, where the technical aspects of Class 2 dangerous goods safety management (eg gas reticulation) are dominant, will take carriage of issues arising under the Gas Act.
- In the case of Class 2.1 dangerous goods, NRME will enforce the requirements of the *DGSM Act* and Regulation (Parts 2 and 3) under delegated authority with a view to providing for:

- the safe management of individual Class 2.1 installations (bulk or packaged) within a workplace; and
- the holistic management of Class 2.1 dangerous goods at places where that is the only class of dangerous goods stored and handled.

The technical aspects of Class 2 dangerous goods safety management are those that require the application or interpretation of a gas related technical standard such as AS1596 or AS 5601. They include, for example, matters related to the use and operation of devices and equipment that have been designed, constructed and installed specifically for the storage and handling of compressed or liquefied gases.

Joint Jurisdictions – WHSQ and Local Government

WHSQ jurisdictions overlaps with that of Local Government on any site that is subject to Flammable and Combustible Liquids licensing.

In such situations, the intended coverage for Local Government, acting under devolved authority, is confined to Part 4 of the DGSM Regulation – with respect to which the requirements of AS1940 provide a formula for compliance.

The intended coverage for WHSQ includes all matters relating to Class 3 Dangerous Goods - other than those that arise under Part 4 of the DGSM Regulation – which are devolved to Local Government – specifically, the requirements of AS1940 will be a matter for Local Governments only to interpret and enforce.

In summary, the intended coverage for WHSQ is all matters relating to Class 3 dangerous goods, other than those coming under Part 4 of the DGSM Regulation.

Joint Jurisdictions – Summary

The following table summarises each agency’s broad areas of responsibility for the storage and handling of dangerous goods and combustible liquids.

AREA OF APPLICATION		DEPARTMENTAL RESPONSIBILITIES	
		Workplace Health and Safety Queensland (DIR/WHSQ)	Other Government Agency Under Delegated or Devolved Authority
1.	Class 1 (Explosives).	No jurisdiction under the <i>DGSM Act</i> .	NRME (Explosives) [Full jurisdiction under delegated DGSM Authority and the Explosives Act]
2.	Class 2.1 (Flammable Gases)	Partial jurisdiction under the <i>DGSM Act</i> limited to shared coverage of generic issues (eg placarding).	NRME (Gas) [Full jurisdiction under delegated DGSM authority and the Gas Act]
3.,	Class 2.2 and 2.3 (Other Gases).	Shared jurisdiction under the <i>DGSM Act</i> - limited to coverage of non-technical issues (eg bottled gas storage) and generic issues (eg placarding).	NRME (Gas) [Shared jurisdiction under the Gas Act - limited to technical issues (eg gas reticulation)]
<p>Note 1: “Generic issues” are those that arise under Parts 2 and 3 of the <i>DGSM Act</i> Note 2: “Non-technical” issues do not require the interpretation of specified technical Australian Standards Note 3: NRME focuses mainly on flammable gas as an energy source. Specifically, LP gas, natural gas and coal gas. Its technical expertise resides mainly in the area of gas reticulation and delivery systems.</p>			
4.	Class 3 (Flammable Liquids) and Combustible Liquids – Part 4 of the DGSM Regulation (Conditions of Licence)	No jurisdiction under the <i>DGSM Act</i> .	Local Government [Full jurisdiction under devolved DGSM authority]
5.	Class 3 (Flammable Liquids) and Combustible Liquids - Parts 2 and 3 of the DGSM Regulation.	Partial jurisdiction under the <i>DGSM Act</i> limited to shared coverage of generic issues (eg placarding).	Local Government [Full jurisdiction under devolved DGSM authority]
<p>Note 1: Local Government has exclusive carriage of Part 4 of the DGSM Regulation. Note 2: Under Section 92 of the DGSM Regulation, a licensee must comply with the Act and Local Governments may also set licence conditions that give effect to the Act. Note 3: A situation of shared coverage therefore exists with respect to generic issues.</p>			
6.	Class 6.2 (Infectious Substances)	No jurisdiction under the <i>DGSM Act</i> .	Class 6.2 - Queensland Health [Under own head of power]
7.	Class 7 (Radioactives).	No jurisdiction under the <i>DGSM Act</i> .	Class 7 - Queensland Health [Under own head of power]
<p>Note: The Chemical Hazards and Emergency Management (CHEM) Unit will assist WHSQ by providing technical support and information, if requested, in its areas of expertise (eg hazardous materials classification, non-technical gas requirements). Areas of specialised jurisdiction are under the full or partial control of specialist agencies (eg explosives, radioactives, infectious substances and the technical aspects of Class 2 dangerous goods).</p>			

AREA OF APPLICATION		DEPARTMENTAL RESPONSIBILITIES	
		Workplace Health and Safety Queensland (DIR/WHSQ)	Chemical Hazards and Emergency Management (DES/CHEM Unit)
7.	Class 4 (Flammable Solids) Class 5 (Oxidizing agents) Class 6.1 (Toxic Substances) Class 8 (Corrosive Substances) Class 9 (Miscellaneous) Goods too dangerous to be transported.	Full Jurisdiction under the <i>DGSM Act</i>	CHEM assists by providing technical advice and information if requested.
8.	Accident or incident at a non-workplace.	DIR staff assist (if requested by DES).	Full jurisdiction under the <i>DGSM Act</i> .
9.	Accident or Incident at a workplace.	Full jurisdiction under the <i>DGSM Act</i> and the <i>WHS Act</i>	CHEM assists by providing technical advice and information, if requested.
10.	Major accident at a non-workplace.	DIR staff assist (if requested by DES).	Full jurisdiction under the <i>DGSM Act</i> .
11.	Major accident at a workplace MHF.	Shared Jurisdiction under the <i>DGSM Act</i>	
		DIR staff act within the jurisdiction of the <i>WHS Act</i> .	DES staff act within the jurisdiction of the <i>DGSM Act</i> .
		Officers co-operate, share information and support a team approach.	
12.	Emergency response.	WHSQ officers have no emergency response duties.	Full jurisdiction.
13.	Complaints emanating from a Queensland workplace concerning dangerous goods.	Full jurisdiction under the <i>DGSM Act</i> .	Assist by providing technical advice and information, if requested.
14.	Complaints emanating from a Queensland workplace concerning placarding.	Full jurisdiction under the <i>DGSM Act</i> .	Assist by providing technical advice and information, if requested..
15.	Investigation of dangerous goods incidents and subsequent prosecution.	Investigate according to WHSQ procedures to prosecution.	Assist by providing technical advice and information, if requested.
Note: For MHFs, the decision to proceed to prosecution should be made in consultation between the parties. Advocate bears the cost. [see Section 12]			

Joint Jurisdictions – Diagrammatic Summary

A diagrammatic summary of jurisdictions for the regulation of dangerous goods and combustible liquids is set out in Appendix ‘A’, together with supporting text.

7.0 Delimitation of Jurisdictions

Not applicable in this MOU.

8.0 Roles and Responsibilities – Dangerous Goods Locations (DGLs) and other workplaces.

This section establishes the roles and responsibilities of DES and DIR in relation to providing for the safe storage and handling of dangerous goods at Dangerous Goods Locations (DGLs) and other workplaces.

8.1 Enforcement

The parties agree that:

Scope

- DIR will have primary carriage of all enforcement matters for all classes of dangerous goods except as noted above for:
 - Class 1 (Explosives);
 - Class 2.1 (Gases);
 - Class 3 (Flammable Liquids)
 - Combustible Liquids;
 - Class 6.2 (Infectious Substances); and
 - Class 7 (Radioactives).
- For Class 2.2 and 2.3 dangerous goods, DIR coverage will be limited to non-technical coverage.
- For Class 2.1 and Class 3 dangerous goods and for combustible liquids, DIR shall have partial jurisdiction limited to shared coverage of generic issues (eg placarding) that arise under Parts 2 and 3 of the DGSM Regulation.
- DIR's roles and responsibilities may be further extended or limited by mutual agreement.
- DIR's carriage of responsibilities under the DGSM Act shall not negate or detract from its administration of the WHS Act, which continues to be of force and effect.

Approach

In applying the requirements of the *DGSM Act*, DIR will strive to ensure that:

- officers authorised under the *DGSM Act* have the appropriate skills or experience and participate in the training provided by DES;
- Workplace Health and Safety Queensland will allocate staff and provide reasonable access to the professional development programs;
- relevant guidelines or administrative procedures are adopted to achieve consistency of administration.

- Officers authorised under the *DGSM Act* may issue directives under the *DGSM Act*. The issue of directives will be in accordance with the current WHSQ Enforcement Framework.
- The parties will work towards the use of a single consolidated form for issue under the *DGSM Act*.

8.2 Delegated Powers

The parties agree that:

- DES will delegate to DIR all powers and functions necessary to effect compliance with the requirements of the *DGSM Act*.
- Specifically, DES will delegate to DIR's Chief Executive all powers and functions necessary to facilitate the appointment of Authorised Officers under the *DGSM Act*, for matters delegated.
- The instrument of delegation will be a written confirmation of specific powers, signed by the Chief Executive officer of DES;
- DIR shall administer the requirements of the *DGSM Act* according to the instrument of delegation and this MOU.
- DIR will arrange to have its Authorised Officers' identity cards annotated to confirm their status under the *DGSM Act* and will issue and maintain the identity cards system to meet its own requirements.

8.3 Auditing and Monitoring

The parties agree that:

- DIR will provide appropriate officers and the infrastructure (office accommodation, transport, communication, word-processing, consumables) necessary to support the ongoing audit and inspection of DGLs and other workplaces with a view to meeting their responsibilities under this MOU;
- In doing so, DIR will integrate the operational demands of the *DGSM Act* with the operational demands of the *WHS Act*;
- The nature, timing and extent of integration will be at DIR's sole discretion;
- Records of DIR staff involvement in activities associated with the *DGSM Act* will be kept by DIR.
- Specifically, DIR shall record time spent in issuing directives and conducting investigations under the *DGSM Act*.

8.4 Complaints

The parties agree that:

- DIR will respond to serious complaints in accordance with current DIR/WHSQ Enforcement Framework.

8.5 Joint Jurisdiction Protocol

- The parties agree that Joint jurisdictions arise where Class 2.1 dangerous goods and Class 3 dangerous goods or combustible liquids are present in sufficient quantities on sites storing other classes of dangerous goods.
- The agencies involved could include an individual Local Government or the gas or explosives inspectorates of the Department of Natural Resources, Mines and Energy.
- As dangerous goods typically give rise to environmentally relevant activities, the regional arm of the Environmental Protection Agency may also be present.
- To avoid duplication and to promote consistency, the parties agree that the following intervention protocols are to be observed in relation to auditing and monitoring sites (MHFs and DGLs) that are workplaces and which fall under the joint jurisdiction:
 - where possible, the parties will encourage liaison between involved agencies to ensure that auditing and monitoring of installations and facilities creates minimal disruption to operations;
 - this will involve attendance at the same time, or agreement that one agency can represent the other; and
 - any information arising in the course of an audit or any monitoring carried out by one agency will be reported to the other agency through agreed channels.

8.6 Training

The parties agree that:

- DES will provide all Authorised Officers with comprehensive and ongoing training in:
 - obligations established under the *DGSM Act*;
 - the powers of Authorised Officers;
 - the safe storage and handling for dangerous goods; and
 - placarding and manifest requirements for the full range of dangerous goods.
- All DES training (including content and venues) will be prepared and paid for in consultation with WHSQ;
- DES will provide training materials and reference documentation for the use of authorised officers.

8.7 Technical Advice and Interpretation

The parties agree that:

- In relation to the technical aspects of dangerous goods safety management the CHEM Unit will serve as a source of expert scientific advice and will assist WHSQ in the resolution of technical issues.
- In doing so, the CHEM Unit will co-ordinate advice to DIR from the most competent or appropriate quarter.
- For the technical aspects of Class 2 dangerous goods safety management (eg gas reticulation) the Gas Examiner has agreed to serve as a source of expert scientific advice.
- The CHEM Unit will also facilitate the resolution of disputes over interpretation of the *DGSM Act* by way of written advice to DIR/WHSQ.
- To facilitate DIR access to technical advice, the CHEM Unit will provide and circulate key contact information via the CHEM Unit home page and this MOU (see Appendix 'B').
- In relation to OH&S issues within the CHEM Unit's sphere of operations, DIR will serve as a source of expert advice and will assist DES in the resolution of OH&S issues.

8.8 External Requests for Information and Advice

The parties agree that:

- DES and DIR will, in the first instance, respond directly to all requests for information and advice relating to the safe storage and handling of Dangerous Goods – within the limits of their officers' technical abilities.
- Where DES officers respond directly, they will note that the administration of DGSM requirements and the requirements of the *WHS Act* are matters for the authorised officers of WHSQ and will inform DIR of any significant requests for such information.
- The key contact within DIR for this purpose will be the District Manager. For contact details see Appendix 'C'.-
- Where DIR officers respond directly, they may consult the CHEM Unit in fielding the enquiry, whereupon the CHEM Unit will provide them with technical advice as necessary.
- The key contact within DES for technical advice and interpretation will be the CHEM Unit's Dangerous Goods Service Manager – PH 3247 8444.
- In the broader context, DIR will refer to DES all requests for information and advice on:
 - matters relating to its co-ordinating role (such as the ongoing development of guidelines and legislation);
 - the general operation of the *DGSM Act*; and
 - emergencies.
- DES will refer to DIR all requests for information and advice on the *WHS Act* and its subordinate legislation.

9.0 Roles and Responsibilities – Major Hazard Facilities (MHFs)

This section establishes the roles and responsibilities of DES and DIR in relation to providing for the control of Major Hazard Facilities (MHFs).

9.1 Enforcement

The parties agree that:

- DES will have primary carriage of all MHF enforcement matters while DIR will have a supporting role.
- DES will be the lead administering agency for the control of MHFs (other than Class 1, Class 2.1, Class 6.2 and Class 7 MHFs) and will exercise all the relevant powers necessary for the pursuit of that role.

9.2 Auditing and Monitoring - MHF Team Approach

The parties agree that:

- Compliance with the MHF requirements of the *DGSM Act* will be evaluated by an audit team drawn from a range of participating agencies.
- The audit team leader will normally be drawn from the agency whose core responsibilities most closely match the nature of the facility in question.
- DES will typically facilitate and coordinate the activities of the audit team.
- DIR will assign appropriate officers from the region in which the MHF is located to the audit team.
- DIR audit participation will be limited to the audit of physical facilities against the site safety report and any pre and post audit work directly associated with the audit.
- DIR staff will contribute occupational health and safety knowledge and expertise to the MHF audit team.
- Specifically, DIR staff will provide health and safety management systems advice to the audit team.
- The extent of DIR contribution to MHF auditing will depend on the extent to which occupational health and safety considerations have a bearing on the work of the audit team.
- Any clear breach of the *WHS Act* that is revealed during the course of a MHF audit shall immediately be brought to the attention of the MHF audit team.
- The audit team will then discuss and resolve what course of action should follow and under which statute - without limiting DIRs right to pursue any action under the *WHS Act*.
- Where practicable, preference will be given to a remedy arising under the *DGSM Act*;

- MHF auditing and monitoring programs will be scheduled by the relevant MHF audit team.

9.3 Training

The parties agree that:

- DES will provide access to ongoing training and information on:
 - MHF obligations established under the *DGSM Act*;
 - the operational methods of MHF audit teams; and
 - the safety audit protocols that will be adopted.
- DES will provide training venues, training materials and reference documentation.

9.4 Advice and Information

The parties agree that:

Technical Advice and Interpretation

- MHF audit teams will foster compliance with the requirements of the *DGSM Act* by working with industry on MHF safety issues;
- While the CHEM Unit will be represented on each audit team, CHEM Unit staff will defer to the technical expertise of their counterparts, as appropriate, within a collegiate approach;
- The CHEM Unit will be the leading authority for matters of interpreting the *DGSM Act* and will serve as the “first port of call” for DIR in this regard;
- For technical matters, the CHEM Unit will co-ordinate advice to DIR from the most competent or appropriate quarter.

General Advice and Information

- Where practicable, DIR will refer all external requests for information and advice relating to the control of MHFs to DES;
- DES will refer to DIR all requests for information and advice on matters relating to its role.

10.0 Incident Notification and Response

DIR will continue to respond to serious incidents in accordance with current DIR enforcement policy and, for the duration of this agreement, incident notifications will continue to be covered exclusively by existing State legislation and, where applicable, Local Government licence conditions. It follows that:

- incident notifications for all classes of dangerous goods and combustible liquids will continue to be covered by the *WHS Act*;

- Class 1, Class 2.1 and Class 7 dangerous goods will also be covered by specific State legislation; and
- Class 3 dangerous goods and combustible liquids will, in most cases, also be covered by Local Government flammable and combustible liquids licences, and licence conditions.

DIR will therefore have an overlapping interest in Class 1, Class 2.1, Class 3 and Class 7 dangerous goods and combustible liquids incidents - from an occupational health and safety standpoint.

As a co-administrator of the *DGSM Act*, DIR will inform DES of any major accidents involving dangerous goods or combustible liquids that come to its attention.

However, emergency response shall remain the sole responsibility of DES.

Where the hazardous material was a Class 1, Class 2.1, Class 6.2 or Class 7 dangerous good, DES will share the information provided with the relevant State government agency.

Where the hazardous material was a Class 3 dangerous good or a combustible liquid, DES will share the information received with the relevant Local Government and DIR where holistic management of other stated dangerous goods are affected.

The incident will then be managed by the relevant authority, as happens now, with support from the CHEM Unit, if required.

When managing an incident within its jurisdiction, DIR shall have the discretion to proceed under either the *WHS Act* or the *DGSM Act*, where an officer present is appropriately authorised.

11.0 Major Accidents and Investigations at MHFs

It is recognised that either or both parties will initially be made aware of major accidents at MHFs involving dangerous goods.

11.1 Principles

As an overarching principle, the parties recognise the need and importance of co-operation on matters of interest to each other and undertake to:

- Participate in and support a team approach to the investigation of major accidents;
- Keep each other fully and freely informed of reported major accidents in an expeditious manner;
- Take responsibility for passing on all relevant information when an investigation begins;
- Work together to ensure an outcome consistent with all relevant legislation;
- Inform the other when an election is made to relinquish involvement in an investigation;
- Strive to undertake all monitoring and investigative tasks with the maximum of efficiency and the least disruption to industry and the community; and

- Consult through the appropriate channels, on the release of each other's information under Freedom of Information (FOI) Legislation.

It is not envisaged that DIR will normally initiate or co-ordinate a major accident investigation at a MHF.

11.2 DIR Responsibilities

In the event of a major accident at a MHF, the MHF Team Leader may call on DIR staff to perform or assist with those functions for which they would normally have delegated responsibility.

This could require DIR staff to:

- undertake a site inspection;
- secure evidence;
- take statements; or
- compile an accident report.

11.3 DES Responsibilities

The CHEM Unit within DES provides a 24-hour emergency response service, which may place CHEM Unit staff at the scene of an accident ahead of a DIR Authorised Officer.

Under normal circumstances, CHEM Unit staff will support DIR Authorised Officers in their deliberations and investigations at an accident scene through the provision of advice on scientific and technical matters.

In the case of a major accident at a MHF, however, it is agreed that CHEM Unit staff will assume a co-ordinating role with DIR support.

Where a team-based or joint investigation is undertaken, it shall be led by the most appropriate authority and, specifically, by a person mutually agreed between the parties as having the most experience in the type of accident in question.

11.4 Operational Protocols

To facilitate their respective roles and functions, the parties agree that:

- The regional arm of the agency (where applicable) receiving advice of a major accident is to provide notification to the other agency as soon as the accident is assessed as being of interest.
- For DIR, an accident is of interest if it involves a workplace.
- For DES, an accident is of interest if it involves serious danger or serious harm to persons, property or the environment.
- The agency receiving the advice will also notify the informing agency as soon as practicable of:

- in the case of DIR, any wish to proceed with an investigation; or
- in the case of the DES, any wish to co-ordinate an investigation.

- Where a decision is made to proceed with or co-ordinate an investigation, the receiving agency is to attend the scene as soon as practicable.

- Both agencies will co-operate to ensure timely and accurate outcomes for investigations where both are involved. This may entail:
 - joint interviews of witnesses; or
 - sharing of photographic and other evidence; or
 - agreeing to the location of, and access to, seized evidence.

- Where either party undertakes an investigation of mutual interest, a copy of any report prepared in relation to the investigation will be forwarded without charge to the other party on the basis that doing so will not prejudice any legal proceedings, which have been, or may be, initiated.

12.0 Prosecutions

The following points relate to prosecutions mounted under the *DGSM Act* for breaches of dangerous goods safety management requirements:

For Workplaces that are not MHFs

For workplaces that are not MHFs it is agreed that:

- DIR will have carriage of prosecutions arising within its jurisdiction.

- DES will provide expert scientific advice and support during investigations, together with advice on the viability of prosecutions under the *DGSM Act*.

- The agency advocating prosecution under the *DGSM Act* will bear the cost of proceeding.

For Major Hazard Facilities (MHFs)

For Major Hazard Facilities it is agreed that:

- DES will, as appropriate:
 - Co-ordinate investigation;
 - Provide for enforcement actions, excluding prosecutions; and
 - Keep the MHF team fully informed.

- The agency leading the MHF team will manage and bear the costs for prosecutions.

- The decision to proceed with a prosecution will be made after consultation between the parties.

- Where there is dissent the agency advocating prosecution under the *DGSM Act* will bear the cost of proceeding.

For all Workplaces

Consideration will be given to all other avenues for achieving the safety outcomes required by the *DGSM Act* prior to any prosecution being mounted.

The rights of either party to launch prosecutions under its own legislation are not affected by these arrangements.

13.0 Implementation and Commencement

With regard to the implementation of this MOU, DES and DIR agree to:

- Pursue the intent of this Agreement in a spirit of co-operation;
- Maintain regular contact to monitor and promote its effective implementation; and
- Consult from time to time as to its interpretation or operation.

DES and DIR undertake to circulate this MOU to all relevant officers within their departments and to encourage compliance with its contents.

This MOU will also be combined with others covering the shared administration of the *DGSM Act* and published and distributed to promote industry awareness of the arrangements agreed.

Commencement

This MOU commences on 7 May 2004.

14.0 Dispute Resolution

DES and DIR agree to work together to arrive at mutually acceptable solutions to any problems or disputes that may arise in relation to this MOU.

Where regional/district personnel are in dispute as to either agency's jurisdiction or responsibilities or as to what course of action is appropriate in any given circumstance, the dispute is to be referred to the General Manager - Workplace Health and Safety Queensland (for DIR personnel) and the Director, CHEM Unit (for DES personnel).

Where problems or disputes cannot be resolved at this level, it is agreed that the matter should go before the chief executive officers of each agency.

15.0 Term of MOU

It is agreed that this MOU shall have a term of three years from the commencement date unless, by mutual agreement, it is reviewed at an earlier time and re-drafted.

The parties undertake to formally review this agreement and finalise the review within one month of the second anniversary of its execution.

16.0 Privacy Information

In the interests of protecting personal information as required under Information Standard No 42 - Information Privacy (*IS42*), both the Department of Industrial Relations and the Department of Emergency Services are obliged to protect against the loss or misuse of personal information. Both agencies will comply with the 11 Information Privacy Principles contained in *IS42* and will only use personal information shared/disclosed within this MOU for the purpose described in this agreement. Neither agency will disclose or share any personal information to third parties without the prior consent/agreement of the other agency, unless required by law.

17.0 Variations

DES and DIR agree that this MOU may be varied or modified at any time with the agreement of all signatories.

The MOU may also be terminated by the written agreement of all signatories.

Amendment or termination of the MOU will not affect the terms of agreements or contracts, which are in place.

18.0 Execution of Agreement

Dated this _____ of _____ 2004.

Signed for and on behalf of the Department of Emergency Services.

.....
Michael Kinnane
Director-General
Department of Emergency Services

Signed for and on behalf of the Department of Industrial Relations.

.....
Peter Henneken
Director-General
Department of Industrial Relations

SUMMARY OF REGULATORY JURISDICTIONS
FOR THE STORAGE AND HANDLING OF DANGEROUS GOODS AND COMBUSTIBLE LIQUIDS

DG CLASS	1	2.1 ⁺	2.2 ⁺	2.3 ⁺	3* (and combustible liquids)	4*	5*	6.1*	6.2	7	8	9*
HEAD OF POWER and MAIN ENFORCEMENT AGENCY	<i>Explosives Act and DGSM Act</i> NRM&E (Explosives Inspectorate)	<i>Gas Act and DGSM Act</i> NRM&E (Petroleum & Gas)	<i>DGSM Act</i> DIR ⁺⁺ (WHSQ) [Non-technical coverage]	<i>DGSM Act</i> Local Government	<i>DGSM Act</i> DIR (WHSQ)				<i>Health Act</i> Qld Health	<i>Radiation Safety Act</i> Qld Health (Radiation Health)	<i>DGSM Act</i> DIR (WHSQ)	
COORDINATION	<i>Dangerous Goods Safety Management (DGSM) Act</i> DES (CHEM Unit)											
RELATED ACTIVITIES	Environmentally Relevant Activities - <i>Environmental Protection Act</i> - EPA DG transport - transport operations legislation** - Queensland Transport											

DES Department of Emergency Services
DIR Department of Industrial Relations
WHSQ Workplace Health and Safety Queensland

EPA Environmental Protection Agency
NRME Department of Natural Resources, Mines and Energy

+ For gases other than LP gas, natural gas and coal gas, enforcement occurs mainly (as indicated) under the *DGSM Act*

++ With support from NRME for technical issues (eg gas reticulation). DIR jurisdiction is limited to coverage of non-technical issues (eg cylinder storage)

* Materials that are explosives (but not Class 1 dangerous goods) are also regulated under the *Explosives Act* by the Explosives Inspectorate

** For transport of materials other than explosives – which is regulated under the *Explosives Act* by the Explosives Inspectorate

AN OVERVIEW OF REGULATORY JURISDICTIONS FOR THE STORAGE AND HANDLING OF DANGEROUS GOODS AND COMBUSTIBLE LIQUIDS – SUPPORTING TEXT

STORAGE AND HANDLING

Regulation of the storage and handling of dangerous goods and combustible liquids arises from a number of heads of power which are administered by a number of different agencies according to dangerous goods class, as outlined below and illustrated in the accompanying diagram.

Class 1

Class 1 dangerous goods (explosives) are regulated under the *Explosives Act 1999*, which is administered by the Explosives Branch in the Department of Natural Resources, Mines and Energy (NRME).

The Explosives Branch also regulates explosives of other classes and the transport of explosives (see below).

Class 2

Class 2 dangerous goods are regulated by two agencies under shared jurisdiction:

- the Petroleum and Gas Operations Branch (P&G) in NRME; and
- Workplace Health and Safety Queensland (WHSQ) in the Department of Industrial Relations.

P&G focuses on the following areas under the *Gas Act 1965* (to be replaced soon by the future *Petroleum and Gas Production and Safety Act*) and the *DGSM Act*:

- Fuel gases of Class 2.1 (LPG, natural gas, coal seam gas and commercial gases derived from sewage, rubbish tips or similar); and
- Reticulation of gases (including hospital gases).

In the case of Class 2.1, P&G enforces the requirements of the *DGSM Act* and Regulation (Parts 2 and 3) under delegated authority with a view to providing for:

- the safe management of individual Class 2.1 installations (bulk or packaged) within a workplace; and
- the holistic management of Class 2.1 dangerous goods at places where that is the only class of dangerous goods stored and handled.

P&G approaches these areas of jurisdiction from the technical perspectives of Class 2 dangerous goods safety management, i.e the application or interpretation of a gas-related technical standard such as AS1596¹ or AS 5601² and ensuring that acceptable approval processes have been applied to devices used to consume, transport or use gases. Such aspects include, for example, matters related to the use and operation of devices and equipment that have been designed, constructed and installed specifically for the storage and handling of compressed or liquefied gases e.g. gas cylinders and regulators, LPG tanks and associated pipework.

¹ Australian Standard AS 1596 ‘Storage and Handling of LP Gas’

² Australian Standard AS 5601 (AG 601) ‘Gas Installations’

However, P&G's jurisdiction is not limited to the technical aspects. It can also address the general storage and handling requirements of DGSM, as they apply to Class 2.1 or impact on that Class. Examples include ventilation, segregation and ignition sources.

Where the technical aspects of Class 2 dangerous goods safety management (eg gas reticulation) are dominant, P&G will take carriage of issues arising under either the *Gas Act* or the *DGSM Act*.

In addition, P&G supports other agencies by providing advice on technical aspects relating to all Class 2 dangerous goods.

WHSQ focuses on general aspects of Class 2 dangerous goods safety management i.e. those that have general application for the holistic management of stated dangerous goods and combustible liquids, particularly those arising from Part 5 of the *DGSM Act* and Part 3 of the DGSM Regulation. This can include but is not limited to separation, segregation, ventilation, cylinder handling and restraint, sources of ignition, and placarding.

Class 3 (and combustible liquids)

Class 3 dangerous goods and combustible liquids are regulated under shared jurisdiction by:

- individual Local Governments; and
- Workplace Health and Safety Queensland (WHSQ).

Local Government jurisdiction is limited to Class 3 (flammable liquids) and combustible liquids at premises that have (or should have) a flammable and combustible liquids (FCL) licence issued by the Local Government.

The licensing authority is devolved to Local Governments in Part 4 of the DGSM Regulation which applies to the storage and handling of flammable and combustible liquids to which AS 1940 applies. Local Government jurisdiction is based on the requirements of the DGSM legislation as they apply to the storage and handling of FCL. Certain types of premises are exempt from this licensing requirement, namely:

- Places not covered by the application of the DGSM Act (s.3);
- Places that store only minor quantities of FCL (as defined in AS 1940³, Table 2.1);
- Rural places as defined in the DGSM regulation (Schedule 1); and
- Places to which AS 1940 does not apply.

When issuing a FCL licence, the Local Government may attach conditions of licence appropriate to give effect to the DGSM legislation. Conditions may be drawn from AS 1940, another appropriate standard or the DGSM legislation itself. The DGSM Regulation (s.92) prescribes compliance with the Act as a condition of licence.

WHSQ focuses on the general aspects of flammable and combustible liquids safety management, i.e. those that have general application for the holistic management of stated dangerous goods and combustible liquids, particularly those arising from Part 5 of the *DGSM Act* and Part 3 of the DGSM Regulation. This can include but is not limited to separation, segregation, ventilation, sources of ignition, and placarding.

³ Australian Standard AS 1940 'The Storage and Handling of Flammable and Combustible Liquids'

This jurisdiction applies at a premises regardless of whether or not it has (or should have) a FCL licence.

Classes 4, 5, 6.1, 8 and 9

Dangerous Goods of Classes 4.1, 4.2, 4.3, 5.1, 5.2, 6.1, 8 and 9 are regulated solely by WHSQ, except where they are classified as explosives under the *Explosives Act 1999* (see below).

Class 6.2

Dangerous Goods of Class 6.2 (Infectious Substances) are regulated solely by Queensland Health under Health legislation.

Class 7

Dangerous Goods of Class 7 (Radioactive Substances) are regulated solely by Queensland Health (Radiation Health Branch) under the *Radiation Safety Act 1999*.

Explosives

Dangerous Goods of classes other than Class 1 can be declared as explosives under the *Explosives Act*. In such cases, they are regulated by the Explosives Branch (NRME).

COORDINATION

In its Lead Agency role for hazardous materials management, the Department of Emergency Services, through the CHEM Unit, provides policy coordination for dangerous goods storage and handling. The CHEM Unit supports DGSM enforcement agencies by providing training and other services.

RELATED ACTIVITIES

Under the *Environmental Protection Act 1994*, the Environmental Protection Agency addresses chemicals management issues that overlap with storage and handling of dangerous goods under DGSM, in particular:

- Environmentally Relevant Activities (ERAs); and
- Hazardous waste management.

The transport of dangerous goods (other than explosives) is regulated under the *Transport Operations (Road Use Management – Dangerous Goods) Regulation*, which is administered by Queensland Transport (Land Transport and Safety Division). The transport of explosives is regulated under the *Explosives Act* by the Explosives Branch (NRME).

The transport of class 2.1 fuel gases to premises will be regulated by P&G by defining these activities as “operating plant” under the future *Petroleum and Gas Production and Safety Act*.

CONTACT DETAILS FOR DES

DEPARTMENT OF EMERGENCY SERVICES (DES) CHEMICAL HAZARDS AND EMERGENCY MANAGEMENT (CHEM) UNIT	
OFFICE	CONTACT TELEPHONE NO.
<p>CHEMICAL HAZARDS AND EMERGENCY MANAGEMENT (CHEM) UNIT</p> <p>Block C, Level 2 Emergency Services Complex Cnr Park and Kedron Park Roads KEDRON QLD 4031</p> <p>Postal: GPO Box 1425 BRISBANE QLD 4001</p> <p>Fax: (07) 3247 8433</p> <p>Homepage: Web: http://www.emergency.qld.gov.au/chem</p>	<p>For technical advice and support</p> <p>Telephone: (07) 3247 8444</p> <p><i>ask for:</i></p> <p>The Manager, Dangerous Goods Safety Service</p> <p><i>or:</i></p> <p>The Manager, Major Hazards Safety Service</p> <p><i>or:</i></p> <p>The Manager, DGSM Legislation and Coordination</p> <p>For emergencies: call 000 in the first instance.</p>

APPENDIX 'C'

CONTACT DETAILS FOR DIR

DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) WORKPLACE HEALTH AND SAFETY QUEENSLAND	
OFFICE	CONTACT TELEPHONE NO.
BRISBANE NORTH REGION	
Level 4 Lutwyche Shopping Centre 543 Lutwyche Road LUTWYCHE QLD 4030 PO Box 820 LUTWYCHE QLD 4030	<i>Ask for District Manager</i> 3247 9444 Office Hours No.: 1300 369 915 After Hours Emergency No.: 3309 2037
BRISBANE SOUTH AND GOLD COAST REGION	
Level 2, Block B Garden Square 643 Kessels Road UPPER MT GRAVATT QLD 4122 PO Box 6500 UPPER MT GRAVATT QLD 4122	<i>Ask for District Manager</i> 3896 3363
Level 1, Wembley Place, 91 Wembley Road Logan Central QLD 4114 PO Box 829 WOODRIDGE QLD 4114	<i>Ask for District Manager</i> 3287 8310
Level 1, 10 Cloyne Road SOUTHPORT QLD 4215 Locked Mail Bag 91 SOUTHPORT QLD 4215	<i>Ask for District Manager</i> 5583 5313
WIDE BAY SUNSHINE COAST REGION	
11 Bourbong Street BUNDABERG QLD 4670 PO Box 955 BUNDABERG QLD 4670	<i>Ask for District Manager</i> 4151 9724
Level 1, 319-325 Kent Street MARYBOROUGH QLD 4650 Locked Mail Bag 63 MARYBOROUGH QLD 4650	<i>Ask for District Manager</i> 4121 1714
Level 1, Centenary Square Building 52-64 Currie Street NAMBOUR QLD 4560 PO Box 501 NAMBOUR QLD 4560	<i>Ask for District Manager</i> 5470 8855

DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) WORKPLACE HEALTH AND SAFETY QUEENSLAND	
OFFICE	CONTACT TELEPHONE NO.
SOUTH WEST QUEENSLAND REGION	
Ipswich Courthouse Level 1, Cnr East & Limestone Streets IPSWICH QLD 4305 PO Box 226 IPSWICH QLD 4305	<i>Ask for District Manager</i> 3280 1878
116 McDowall Street ROMA QLD 4455 PO Box 697 ROMA QLD 4455	<i>Ask for District Manager</i> 4622 4590
1 st Floor, James Cook Centre Cnr Ruthven and Herries Streets TOOWOOMBA QLD 4350 PO Box 234 TOOWOOMBA QLD 4350	<i>Ask for District Manager</i> 4687 2821
CENTRAL QUEENSLAND REGION	
Clerana Centre Cnr Clermont and Anakie Streets EMERALD QLD 4720 PO Box 1814 EMERALD QLD 4720	<i>Ask for District Manager</i> 4983 7485
Level 2, State Government Building Cnr Oaka Lane & Roseberry Street GLADSTONE QLD 4680 Locked Mail Bag 15 GLADSTONE QLD 4680	<i>Ask for District Manager</i> 4971 2346
1 st Floor, Post Office Square Cnr Sydney & Gordon Streets MACKAY QLD 4740 Locked Mail Bag 1 MACKAY QLD 4740	<i>Ask for District Manager</i> 4967 4490
Level 2, State Government Building 209 Bolsover Street ROCKHAMPTON QLD 4700 Locked Mail Bag 7 ROCKHAMPTON QLD 4700	<i>Ask for District Manager</i> 4938 4149

DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) WORKPLACE HEALTH AND SAFETY QUEENSLAND	
OFFICE	CONTACT TELEPHONE NO.
NORTH QUEENSLAND REGION	
193 Queen Street AYR QLD 4807 PO Box 639 AYR QLD 4807	<i>Ask for District Manager</i> 4761 2000
10-12 McLeod Street CAIRNS QLD 4870 PO Box 2465 CAIRNS QLD 4870	<i>Ask for District Manager</i> 4048 1436
12 Fitzgerald Esplanade INNISFAIL QLD 4860 PO Box 558 INNISFAIL QLD 4860	<i>Ask for District Manager</i> 4048 3390
75 Camooweal Street MOUNT ISA QLD 4825 PO Box 2249 MOUNT ISA QLD 4825	<i>Ask for District Manager</i> 4747 2301
98 Douglas Street THURSDAY ISLAND QLD 4875 PO Box 341 THURSDAY ISLAND QLD 4875	<i>Ask for Workplace Health & Safety Inspector</i> 4069 2429
254 Ross River Road AITKENVALE QLD 4814 Locked Bag 15 AITKENVALE QLD 4814	<i>Ask for District Manager</i> 4760 7926