

**From:** [REDACTED]  
**To:** [Sunnica Energy Farm](#)  
**Subject:** Letter to Secretary of State re Information Request of 27 July: IP 20030698  
**Date:** 02 August 2023 13:09:07  
**Attachments:** [REDACTED]

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Dear Sir / Madam

Re: Information Request Letter on behalf of Secretary of State, 27 July 2023

I attach a letter to Mr John Wheadon (signatory of the above at DESNZ) regarding para. 4 (BESS Design and Hazardous Substances Consent).

This refers, confusingly, to “the Health and Safety Regulations” of which there are many, and "Schedule 1” thereto.

The Regulations governing Hazardous Substances Consent are the Planning (Hazardous Substances) Regulations 2015 but these are not cited as such.

I believe that an appropriate clarification is required and my letter attached makes that request.

Please confirm that my letter will be forwarded to Mr Wheadon or other appropriate person reporting to the Secretary of State.

Yours faithfully

Edmund Fordham PhD FInstP EurIng

**Date:** 2<sup>nd</sup> August 2023

Mr John Wheadon  
Head of Energy Infrastructure Planning Delivery  
Department for Energy Security and Net Zero  
1 Victoria Street  
London  
SW1H 0ET

Dear Mr Wheadon

**Re: Sunnica Energy Farm, Planning Inspectorate reference EN010106  
Your public letter 27 July 2023 on behalf of the Secretary of State  
to Sunnica Ltd and Natural England  
Para. 4 BESS Design and Hazardous Substance Consent (HSC)**

I am a registered Interested Party (Unique ID 20030698) at the Examination of the above Application and have contributed on the subject of the BESS elements of the proposal. Your letter above has been drawn to my attention.

Your para. 4 asks the Applicant to update its position on the BESS design and *“whether or not it will fall under one of the three categories in Schedule 1 of the Health and Safety Regulations”*.

Please clarify exactly which Regulations you refer to.

*“The Health and Safety Regulations”* are generally understood to refer to the Management of Health and Safety at Work Regulations 1999 but these are not the Regulations governing Hazardous Substances Consent. In particular Schedule 1 of the MHSW Regs 1999 does not deal with hazardous substances and does not list *“three categories”*.

I assume the Regulations to which you refer should read the Planning (Hazardous Substances) Regulations 2015 (P(HS)Regs 2015), but please confirm. Schedule 1 of those Regulations indeed contains three Parts (Categories of Hazardous Substances, Named Hazardous Substances, and Substances Used in Processes).

If my presumption is correct then I believe an appropriate clarification should be issued because the request as it stands misdirects the recipients as to the exact regulatory obligations about which the Secretary of State seeks further information.

Also, the wording *“... fall under one of the three categories in Schedule 1”* could be read as implying that the three *“Parts”* of the Schedule are mutually exclusive. This is not so. Whilst Hazardous Substances above the Controlled Quantities in any one of the Parts would be sufficient to require Hazardous Substances Consent, it is entirely possible for a proposal to require HSC under more than one Part.

For example, my view in EN010106 is that the Sunnica BESS undoubtedly fall under Part 3. However there is also a fourth “Part” to Schedule 1 P(HS)Regs 2015, where Note 6 requires, where “major accident potential” is recognised, the “provisional assignment” of “hazardous substances not covered by the CLP Regulation” to “the most analogous category or named hazardous substance” – these being hazard categories under Part 1 or particular substances under Part 2.

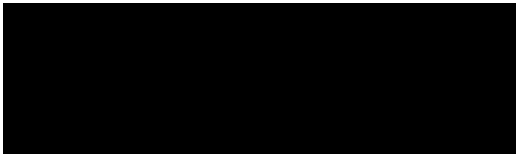
In my submissions to the Examination I made my own proposals of such “provisional assignments” based on my technical understanding of failure scenarios in BESS. This would bring the BESS in EN010106 under Part 1 as well as under Part 3.

I am not aware of any “provisional assignment” (under Part 4 Note 6) being made by the Applicant.

I appreciate your letter is issued on a “Without Prejudice” basis but I believe it is important that (i) the precise regulatory obligations referred to should be made clear (ii) that the Secretary of State should be aware of the Notes in the *fourth* Part of Schedule 1 P(HS)Regs 2015 which I did refer to in the course of the Examination.

Please confirm that the reference to “Health and Safety Regulations” will be appropriately clarified.

Yours sincerely

A large black rectangular redaction box covering the signature area.

Eurlng Dr Edmund Fordham MA PhD CPhys CEng FInstP