



Ministry
of Defence



Office for
Nuclear Regulation

GENERAL AGREEMENT

BETWEEN

MINISTRY OF DEFENCE

AND

OFFICE FOR NUCLEAR REGULATION

FOR REGULATION OF THE DEFENCE NUCLEAR PROGRAMME

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Ministry of Defence

28

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on behalf of the
Office for Nuclear Regulation

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GENERAL AGREEMENT BETWEEN MINISTRY OF DEFENCE AND OFFICE FOR NUCLEAR REGULATION

AIM

1. This Agreement outlines the relationship between the Ministry of Defence (MOD) and the Office for Nuclear Regulation (ONR) in discharging their respective roles and responsibilities for nuclear, radiological and conventional health and safety (H&S) in respect of the Defence Nuclear Programme (DNP)¹. It sets out the:

- a. Responsibilities for safe delivery of the DNP.
- b. Nuclear and radiological safety legislative environment for the DNP, including identifying Defence exemptions.
- c. Approach of MOD to regulating where it has exemptions from legislation.
- d. Regulatory responsibilities at DNP sites.
- e. Approach of ONR as a regulatory authority for activities on DNP sites, including discharging their conventional H&S responsibilities.
- f. Security and disclosure of information.
- g. Reporting of incidents.
- h. Defence Nuclear Emergency Response.
- i. Routine liaison arrangements.

2. A separate Letter of Understanding, at Enclosure 1, between ONR and the Defence Nuclear Safety Regulator (DNSR) details the high level intentions for coherent, complete and seamless regulation of the DNP which is achieved by working in a joined up manner.

3. The specific arrangements for the enforcement of General Fire Precautions (GFP) on premises associated with the DNP are elaborated at Enclosure 2.

RESPONSIBILITY FOR THE SAFE DELIVERY OF THE DNP

4. The Secretary of State for Defence (SofS) is responsible to Parliament for the safety and security of the DNP. The SofS's responsibilities flow down through the MOD's Top Level Budget Structure. Director Submarines (DSM) is appointed by Chief of Material Fleet (COM(F)) as the Chief Nuclear Engineer within MOD with responsibility for ensuring the safe delivery, design approval and through life support of the equipment delivering the DNP. First Sea Lord is responsible for ensuring the safety of activity, personnel, equipment and platforms in generating the submarine operating capability, including the submarines and HM Naval Bases (HMNBs) Clyde and Devonport. This responsibility is discharged via Assistant Chief of Naval Staff (Support) for the Naval Bases and Assistant Chief of Naval Staff (Surface Ships & Submarines) for operational submarines.

¹ Comprising both the Naval Nuclear Propulsion Programme (NNPP) and the Nuclear Weapon Programme (NWP).

LEGISLATIVE ENVIRONMENT

5. ONR has interfaces with MOD on activities including inspection, assessment and audit (hereafter called “inspection”) in relation to nuclear and radiological hazards against the requirements of the:

a. Energy Act 2013. Part 3 of the Act creates ONR as a public corporation and transfers to it specific ‘purposes’ for nuclear safety, site health and safety, security safeguards and transport and allows regulations to be made under the Act. The Act also requires ONR to appoint inspectors to discharge its purposes. The Nuclear Installations Act 1965 (as amended) is now a Relevant Statutory Provision (RSP) of the Energy Act 2013.

b. Health and Safety at Work etc Act 1974 (as amended) – HSWA. The HSWA and its RSPs apply to all employers including MOD. As well as the Energy Act 2013, ONR’s Inspectors are also appointed under section 19(1) of the HSWA and as such have all the powers of HM Inspectors of Health and Safety provided by the Act. In the exercise of their powers of inspection, investigation and enforcement on MOD operated DNP sites, ONR will follow the General Agreement between the MOD and the HSE².

c. Nuclear Installations Act 1965 (as amended) – NIA. Where the MOD, a Crown body, is in direct control of relevant nuclear activities, the NIA 1965 does not apply. However, it does apply where a commercial organisation, under contract to MOD, is in control of relevant nuclear activities even if working with MOD-owned assets, unless further legal exemption exists (see below).

i. Nuclear Weapons³. The AWE Sites are subject to the requirements of the NIA by virtue of the AWE Act - Atomic Weapons Establishment Act 1991 & Amendment Order 1396/1997. However, the licence conditions attached to the Site Licence shall not apply to the extent that such conditions affect the design of a nuclear device⁴, or any other device (other than a nuclear reactor) intended to simulate⁵ the properties of a nuclear device. Nuclear devices are also exempt from licensing requirements when they are at other Sites. For such activities, the HSWA, IRR and REPIR (see paras 5.d and 5.e below) apply as detailed in this agreement.

ii. Submarine Reactors. The licensing requirements of the NIA do not apply to the use of a site for activities involving nuclear reactors “comprised in a means of transport” (see Section 1(1)(a) of the NIA). This is interpreted as exempting from licensing requirements only activities involving “completed” nuclear reactors operating or under commissioning in a submarine. For such activities HSWA, IRR and REPIR apply as detailed in this agreement and are regulated by ONR.

iii. Emergency Arrangements. Where a Licensee is reliant upon assistance from MOD in its emergency arrangements, ONR accepts that the Licensee can take due account of such arrangements in meeting the requirement of Licence Conditions.

² General Agreement between the MOD and the HSE (extant version signed December 2014).

³ Letter of Understanding in respect of the Regulation of Operations at AWE Sites between Chief Inspector NII (now Office for Nuclear Regulation (ONR)) and the then DG (Nuc) on 16 June 1997, see paragraphs 10 and 11 for extract.

⁴ The term nuclear ‘device’ is taken to mean all those devices whose design intent is to be able to produce an uncontrolled nuclear reaction.

⁵ The installation or operation of any nuclear reactor is a licensable activity and pulsing reactors may be used to simulate some properties of “completed” nuclear devices. It is intended that these will be treated as not being exempt.

iv. Licences, Approvals, Consents, Permissions, Agreement et al. MOD recognises ONR's authority to issue Licences, and any Instruments, Approvals, Consents, Directions, Agreements, Notification and Specifications under nuclear site licences to Licensees without reference to MOD. However, both MOD and ONR recognise that to ensure an alignment of understanding, there needs to be interface and communication between the Licensee, who is legally responsible for his site, the MOD Programme Team, who contracts the Licensee for safe delivery from the site and the Regulators, both ONR and DNSR.

d. Ionising Radiations Regulations 1999 – IRRs. IRRs apply to all relevant activities on DNP Sites and are regulated by ONR. Where MOD proposes to seek a Secretary of State for Defence (SofS) exemption⁶ from aspects of the IRR or REPPiR as is allowed by Regulations 40(2) and 40(5) of IRR or Regulations 18(2) and 18(3) of REPPiR, MOD will:

- i. notify ONR of the proposal and its circumstances and any alternative arrangements;
- ii. give ONR the opportunity to comment before a decision is reached;
- iii. notify ONR of the decision on the proposal, its period of applicability and any other conditions attached to the decision; and
- iv. notify ONR when the decision is rescinded;

Where urgent and vital defence operations are concerned, the above requirements should be followed as far as is reasonable given the circumstances prevailing. In particular a without limit of time exemption⁷ exists with respect to both IRRs and REPPiR for foreign Nuclear Powered Warships (NPW) visiting the UK.

e. Radiation (Emergency Preparedness and Public Information) Regulations 2001 – REPPiR. REPPiR applies to all relevant activities on DNP Sites and is regulated by ONR. DNSR acts as a Competent Authority in this regard, providing assurance to ONR that the detailed DNP design information contained within relevant Hazard Identification & Risk Evaluations is valid and has been used appropriately. Exemption to the provisions of REPPiR may be sought and is enduring for any visiting foreign Nuclear Powered Warship⁸.

f. Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (as amended) – NR(EIAD)R. NR(EIAD)R (the regulations) apply when a dismantling or decommissioning project is carried out to a nuclear power station or a nuclear reactor. They do not apply to defuelling where this is in accordance with normal procedures. Regulation 3(3) of the regulations, as amended in 2006, exempts projects "serving national defence purposes where the SofS is of the opinion that application of these Regulations would have an adverse effect on the defence purposes of the project". MOD will follow the exempting procedure set out as for IRRs and REPPiR (at paragraph 5d above) when it proposes to seek exemption under this Regulation. Notwithstanding any such exemption, and in accordance with the SofS Policy Statement, MOD expects to apply the processes called for in the regulations where appropriate to any exempted project.

g. Carriage of Goods and Use of Transportable Pressure Equipment Regulations 2009 (amended 2011). In respect of the transport of radioactive materials within Great Britain other than by air or sea the responsibilities of the competent authorities are as

⁶ Such proposals would be in the interest of national security or because suitable alternative arrangements have been agreed.

⁷ SofS Certificate of Exemption from IRRs 1999 and REPPiR 2001 dated 30 September 2006 in respect of Visiting Forces.

⁸ Ibid.

defined in regulation 25 of the 2009 Regulations as amended. DNSR, on behalf of the SofS for Defence, is the Competent Authority in relation to Defence Class 7 goods. ONR is the Competent Authority for those functions in relation to civil Class 7 goods.

6. MOD⁹, and ONR will review this agreement in the light of any relevant new legislation or as required following the annual Level 0 Programme Regulatory Interface Forum (see para 38b).

MOD EXEMPTIONS FROM LEGISLATION

7. As identified in Paragraph 5 above, Defence has exemptions from H&S legislation relating to nuclear and radiation safety. Nonetheless, the SofS for Defence states in his Policy Statement on Health, Safety and Environment Protection (HS&EP) in Defence¹⁰ that where Defence has exemptions from such legislation, 'we maintain Departmental arrangements that produce outcomes that are, so far as reasonably practicable, at least as good as those required by UK legislation'.

8. DNSR has been appointed to regulate nuclear and radiological safety, environmental protection and radioactive materials transport within the DNP where Defence has exemptions from H&S legislation. As required by JSP815¹¹, DNSR operates regimes that are aligned, where reasonably practicable, with ONR's in order to produce outcomes that achieve the HS&EP Policy. DNSR regulates against Authorisation Conditions that are closely aligned with ONR Licence Conditions and, where appropriate, uses the ONR Safety Assessment Principles (SAPs) and Technical Assessment Guides (TAGs) in effecting that regulation. ONR and DNSR work together to ensure coherent, complete and seamless regulation of the DNP, whilst each remains clearly responsible in its own particular areas, see Table 1. In addition, to reflect the mobile nature of submarine reactors and the specific requirements of the NWP, DNSR produce Further Authorisation Conditions and their own DNSR TAGs and SAPs.¹²

ONR	DNSR
Regulation of nuclear safety on GB nuclear sites (Licensed Sites and any sites during their NIA §5 period of responsibility)	Regulation of nuclear safety through life ¹³ of the submarine Nuclear Reactor Plant (NRP) and Competent Authority to ONR on the NRP.
Regulation of conventional safety, including IRRs and REPPIR on GB nuclear sites, Defence Authorised Sites, nuclear new build construction sites and HSWA §6 (supply chain) design and manufacture of items intended exclusively or primarily for use on a nuclear site.	Regulation of nuclear safety through life ¹⁴ of the Nuclear Weapon and Competent Authority to ONR on the Nuclear Weapon.
Regulation of radiological protection and emergency response (solely IRRs and REPPIR), on Nuclear Powered Warship Berths	Defence Competent Authority for transport of DNP related Class 7 goods (including rad-waste)
	Regulation of nuclear safety on Authorised Sites and Activities including packaging and transport operations.

Table 1 – ONR and DNSR Authorities

⁹ MOD representation will be drawn from across the defence stakeholder community.

¹⁰ Secretary of State for Defence HS&EP policy statement August 2014.

¹¹ JSP 815 Defence Health, Safety and Environmental Protection Part 1: Directive Version 3.0 December 2014 where "Defence" encompasses everyone and all organisations who deliver defence activities including the Armed Forces, MOD civilians, contractors and partner organisations.

¹² In addition, where activities are not adequately covered by ONR regulations and guidance, DNSR produces DNP specific regulations (Further Authorisation Conditions) and guidance (DNSR TAGs; Nuclear Weapon Regulator SAPs and Nuclear Propulsion Regulator interpretation of ONR SAP's for Naval Nuclear Propulsion Programme application).

¹³ CADMID cycle – Concept, Assessment, Design, Manufacture, In Service and Disposal which includes activities within the supply chain.

¹⁴ Ibid.

APPROACH TO THE REGULATION OF DNP SITES AND ACTIVITIES

9. The DNP is delivered through a mixture of sites, including those owned and operated by the Crown, owned by the Crown but operated by Contractors (GOCO) and contractor owned and operated. Given the legislative environment DNP sites and activities are regulated as per Table 2 below.

SITE/ACTIVITY	ONR RESPONSIBLE FOR IRR/REPIR/Conv H&S		COMMENT
	DNSR AUTHORISEE	ONR LICENSEE	
RRMPOL Manufacturing and Neptune Licensed Sites, Derby		✓	RRMPOL operated
Rosyth Royal Dockyard Ltd Licensed Site, Rosyth		✓	Babcock operated
Devonport Royal Dockyard Ltd Licensed Site, Devonport	✓	✓	Babcock operated
BAE Systems Marine Ltd Licensed Site, Barrow-in-Furness	✓	✓	BAE Systems operated
AWE Aldermaston Licensed Site	✓	✓	AWE plc operated
AWE Burghfield Licensed Site	✓	✓	AWE plc operated
HM Naval Base Clyde Authorised Site	✓		Not licensed due to Crown Control
HM Naval Base Devonport Authorised Site	✓		Not licensed due to Crown Control
Vulcan Naval Reactor Test Establishment	✓		Not licensed due to Crown Control
Devonport Royal Dockyard Ltd 5 Basin	✓		Not licensed as NRP in means of transport
Nuclear Powered Warship Berths	✓		Not licensed as NRP in means of transport
Overseas Facilities including TEUTATES ¹⁵	✓		✓ (IRR & REPIR only)
Defence Nuclear Material Transport	✓		
Nuclear Reactor Plant Design Through Life	✓		
Nuclear Weapon Design Through Life	✓		

Table 2 – Regulation of DNP Sites and Activities

¹⁵ Overseas DNP facilities made available under Government to Government arrangements.

FURTHER AGREEMENT ON AWE SITES

10. For AWE sites, which are MoD owned but contractor operated sites that are used for the production of nuclear weapons, a further mutually agreed understanding of the disapplication of the conditions attached to the Nuclear Site Licence under the provisions of the NIA was agreed between ONR and MOD¹⁶. It has been agreed that the intent of the wording of paragraph 6(1) of the Schedule to the AWE Act is to exclude ONR from consideration of the design of a nuclear device. The following points are agreed as an aid in identifying the operations where design issues may arise.

- a. Operations involving a nuclear device when it incorporates fissile and explosive material. These specifically include all activities on a nuclear warhead from the point in the assembly process at which the explosive components are brought into proximity with the fissile components, until the point in disassembly at which the explosive components are separated from the fissile components, and removed from the assembly facility.
- b. Operations intended to simulate the properties of nuclear devices. These specifically include all experiments in which fissile material and explosive material (or simulated explosive material) are incorporated in an experimental assembly. It also includes experiments where energy is applied to fissile materials in order to investigate processes which occur in a nuclear device.

11. It is understood that, irrespective of the disapplication of the use of licence conditions where they affect the design of a nuclear device, AWE operations are legally subject to ONR inspection in respect of the Energy Act 2013, HSWA and regulations made under the Acts. In respect of ONR's non consideration of nuclear device design issues, the following points of agreement apply:

- a. MOD will maintain an adequate oversight arrangement which considers the adequacy of the safety assessment for nuclear device related activities. This includes design considerations and the standards set for process safety controls.
- b. MOD will ensure that the nuclear site licensee considers carefully any comments given by ONR that are intended to improve nuclear safety in areas of their interest but which may affect nuclear device design matters.
- c. ONR will liaise with DNSR to ensure the boundaries between MOD and ONR assessments are defined and understood.
- d. ONR will not seek information on the design of nuclear weapons which is not relevant to radiological safety.
- e. ONR undertakes not to challenge or seek changes in the design of nuclear weapons including materials used in their construction.
- f. A Hazard Identification and Risk Evaluation (HIRE) based on the requirements of REPPiR will be produced to summarise the hazards, risks and consequences associated with possible emergencies involving nuclear devices to ensure the emergency response arrangements are appropriately scoped.
- g. Any such HIRE will not include detailed information on the design of nuclear devices nor will it provide a detailed analysis of the likelihood of events which could lead to accidental initiation of explosives in the device. It will include, however, an identification and specification of the system and controls which are required to avoid

¹⁶ LoU between CNI NII and DGNuc dated 16 Jun 97 in Respect of Operations at AWE sites.

accidents/incidents, and identify the measures taken to mitigate the consequences of any emergencies.

h. ONR retains the right to investigate fully any emergency/incident on AWE Sites.

ONR ACCESS TO DNP SITES

12. Access to Sites by ONR to exercise their statutory rights shall be permitted and will follow the General Arrangements for Inspection, Investigation and Enforcement of Annex A to the MOD–HSE General Agreement. MOD undertakes to ensure that ONR inspectors are provided with personal safety information, particularly doses incurred while on a MOD-controlled Site, in a form and at a time that does not impede their access or egress from the Site.

13. Any difficulties in relation to access should be referred through normal command and management chains for resolution.

ONR APPROACH TO THE DNP

ORGANISATION

14. Within ONR, a Deputy Chief Inspector (DCI) has been appointed as the Programme Director with specific responsibility for the Defence Programme. As appropriate, ONR may use the services of other empowered Health and Safety Executive (HSE) inspectors with appropriate specialist expertise to conduct specific inspections or investigations.

CONVENTIONAL H&S

15. ONR will follow the same approach to discharging its regulatory responsibilities on DNP sites (Authorised and/or Licensed) as laid out in the General Agreement between the Ministry of Defence and the Health and Safety Executive.

16. Conventional health and safety on nuclear sites refers to risks arising from operations not associated with nuclear material, or nuclear licensed activities. It includes, for example, ionising radiation, other than site radiography, (e.g. the Ionising Radiations Regulations 1999); risks arising from work at height; hazardous substances; noise; confined spaces; vibration; electricity; asbestos; machinery; construction work; lifting equipment; and transport.

17. ONR will enforce the relevant statutory provisions (RSPs) in Part I of the Health and Safety at Work etc Act 1974, the existing acts listed in Schedule 1 to the Health and Safety at Work etc. Act, as well as legislation made under them, and the Regulations made under section 15 of the Health and Safety at Work etc Act 1974.

18. Specific arrangements for the regulation of conventional health & safety by HSE inspectors on sites regulated by ONR as set out in Table 2 are in place for certain functions, as outlined below. HSE inspectors attending defence-related nuclear sites will either be ONR warranted, or they will be authorised in writing to enter nuclear premises accompanied by an ONR warranted inspector:

a. As part of the ONR - HSE collaborative approach to construction inspection agreed by the ONR and HSE Boards, ONR will warrant HSE Field Operations Directorate (FOD) Construction Division (CD) inspectors to regulate construction work on sites regulated by ONR.

b. The Control of Asbestos Regulations 2012, will be regulated by ONR-warranted HSE FOD CD inspectors, An exception will be made for Regulation 4 duties to manage asbestos, which will be regulated by inspectors from ONR.

c. MOD sites are generally outwith the scope of Control of Major Accident Hazards (COMAH) legislation unless run for MOD by a civilian operator. For these latter sites, ONR will warrant HSE HID inspectors to regulate COMAH where COMAH is applicable.

d. ONR-warranted, HSE Hazardous Installations Directorate (HID) specialist inspectors will undertake explosives regulation, including licensing, and diving regulation on sites licensed by ONR where these activities are not regulated by MOD. However, on Defence regulated sites, ONR-warranted HSE HID inspectors have an engagement plan with internal Defence Regulators to ensure there is an equivalent level of safety commensurate with the RSPs for Explosives Regulations 2014.

e. Site radiography undertaken by a contractor on sites regulated by ONR will continue to be regulated by ONR-warranted or authorised HSE specialist inspectors. ONR will regulate site radiography undertaken by the site licensee themselves.

FEES

19. Under section 81 of the Energy Act 2013, ONR has the power to propose health and safety fees regulations, which would be made under section 43 of HSWA. These could be applied to MoD in future. Additionally, ONR could charge the MoD for any 'relevant advice' it gives to the MoD under section 89 of the Act.

20. ONR will consult with all stakeholders and discuss with MoD any application of fees to MoD sites well ahead of any such fees coming into force.

ANNUAL REPORTING TO MOD

21. ONR will contribute to the MOD's Annual Health, Safety and Environmental Protection Assurance Reporting process by submitting a report from the Defence Programme Director to DNSR. This will allow the Defence Board and Ministers to consider both DNSR's and ONR's regulatory view on nuclear and radiological safety across the totality of the DNP. It is recognised that this report may be the mature draft for inclusion in the overall ONR CNI's report.

SECURITY AND DISCLOSURE OF INFORMATION

PRINCIPLES

22. There are 3 key principles to the management of information¹⁷ covered by this Agreement:

a. Provision of Information - MOD will facilitate the provision of information that will allow ONR, Licensees and other employers on sites to fulfil their duties.

b. Limitations on Use - ONR in gaining access to such information will not seek to influence the design of nuclear submarine reactors, nuclear devices or Strategic Weapon Systems provided through the Polaris Sales Agreement or their operations.

c. Security Management Arrangements - All classified information, including that on electronic communications, will be managed by ONR with appropriate arrangements noting that DNP security classifications (ACO 117/130) are in addition to the standard Government Security Classifications.

PROVISION OF INFORMATION

¹⁷ "Information" in this context means adequate information to define the hazard, justify the risks and demonstrate adequate management of the risks. Thus, it will include safety justifications, safety cases, and Hazard Identification & Risk Evaluation (HIREs) under REPPiR.

23. Information is required by ONR:
- a. from the Licensee of a Licensed Site to justify the safety of activities on site and to demonstrate compliance with the requirements of the conditions attached to the Site licence, HSWA and other appropriate legislation such as IRR and REPIIR;
 - b. from MOD associated with its duties under HSWA, IRR and REPIIR and in circumstances where the MOD considers it appropriate to adopt the procedures laid down in the NR(EIAD)R; and
 - c. from other employers whose employees may be working with ionising radiation on the Sites.
24. MOD undertakes to facilitate the ability of the Licensee and other employers on the sites covered by this agreement to fulfil their duties by providing them with adequate and timely information. In particular, MOD will provide, cause or allow to be provided, sufficient technical and other safety related information to the licensee or other employer, which may then be made available to ONR, to enable the licensee to comply with the nuclear site licence conditions, HSWA, IRR and REPIIR in respect of activities which are:
- a. on the nuclear license site; or
 - b. off the licensed site but which could impinge upon the licensed site safety.

25. Noting the security restrictions on some information related to the design, performance and operation of nuclear submarine reactors and nuclear devices, there are security limitations on access to such source design and operating material. ONR have the right to obtain clarification of the information provided (except where MOD itself may be constrained in obtaining US-sourced information under the terms of the 1958 Mutual Defence Agreement and/or Polaris Sales Agreement¹⁸) but where this relates to information on reactor plant or nuclear device design or operation or other matters out with the control of the Licensee, then clarification shall be obtained from the MOD Design/Approving Authority, facilitated where necessary by DNSR, keeping the licensee suitably informed of the request. Where the MOD does not provide the source information, DNSR will act as a Competent Authority in the provision of assurance to ONR as to the provenance of such MOD supplied information. For example, should a Licensee require MOD to provide an input into a facility safety case regarding the response of a reactor or nuclear device to a particular initiating event, the MOD may only provide an answer in terms of response, not the substantiation behind it. In such circumstances, should ONR require clarification, DNSR will provide assurance to ONR that appropriate justification exists and ONR will not seek further details of that justification.

LIMITATIONS ON USE

26. In gaining access to information on the DNP, ONR will not seek to influence the design of nuclear submarine reactors¹⁹, nuclear devices²⁰ or Strategic Weapon Systems. ONR will neither seek to influence the operational deployment of such items nor activities²¹ associated with their operational deployment.

¹⁸ The "1958 Agreement" is the "Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America for co-operation on uses of atomic energy for mutual defence purposes". The "Polaris Sales Agreement" is the "Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government and the Government of the United States of America dated 6 April 1963".

¹⁹ The term nuclear submarine reactor is taken to be the same as that covered by nuclear steam raising plant.

²⁰ This includes activities, excluding nuclear reactor operation, intended to simulate the properties of nuclear devices.

²¹ In relation to the power range testing of nuclear submarine reactors this means that ONR inspectors will not seek to change the types of test necessary for ensuring their operability but may seek confirmation that adequate arrangements are in place to minimise the risk to the public and employees.

SECURITY MANAGEMENT ARRANGEMENTS

27. ONR will ensure that appropriate arrangements are in place to handle information classified under the Official Secrets Acts. All such information will be excepted from public availability under the terms of REPPPIR regulation 16(6).

28. Prior to the release of any information related to the DNP, ONR will provide drafts for review by MOD via DNSR with a declared required by date from the MOD. MOD will respond to any reviews in an appropriate timescale or when this cannot be achieved will formally request ONR extend the timescale. Any proposed redactions or changes by the MOD will be justified against the requirements of JSP440/441, ACO117, ACO130 and/or FOI legislation.

REPORTING OF INCIDENTS

29. ONR shall be informed of safety related incidents²² that occur on the DNP Sites in accordance with the requirements of the appropriate legislation. ONR shall consult with MOD, via DNSR, before passing any detailed information concerning such an incident outside of ONR and only provide detailed information on the circumstances surrounding the incident with agreement of MOD. Defence Ministers shall discharge their responsibilities by reporting to Parliament incidents affecting the DNP Sites²³.

30. ONR produces quarterly statements of incidents occurring at licensed sites that meet ONR's Publication Criteria (which are identical to Ministerial Reporting Criteria) or are INES Level 2 or above. In addition, ONR produces an annual summary of all events reported to ONR using their INF1 process. These reports will include DNP licensed sites and ONR undertake to advise MOD, through DNSR, prior to publication of at least the DNP elements such that Defence Ministers can be briefed in advance of ONR publication.

DEFENCE NUCLEAR EMERGENCY RESPONSE

32. This section provides information on the role of ONR in the response to a defence nuclear emergency wherever it may occur in Great Britain.

33. At Licensed Sites, MOD undertakes to provide elements of the emergency response organisation including a Military Co-ordinating Authority (MCA). MOD is the Lead Government Department (as defined in the national guidelines "Dealing with Disaster") for all defence nuclear emergencies.

34. In the event of a defence nuclear emergency it may be anticipated that the public, pressure groups, the media and Parliament might question the ONR. They would be looking for opinion and comment and reassurance from the statutory nuclear safety regulator. It is, therefore, in the interests of both ONR and MOD to ensure that information about the emergency, its circumstances and the response is shared. In addition, ONR's statutory responsibilities give it the right to receive certain information needed in order to fulfil its functions to:

- a ensure that appropriate health and safety legislative requirements are being adhered to;
- b inform any subsequent investigations or legal actions; and
- c provide independent information and advice (to senior managers in ONR, relevant authorities and the Government).

²² A "safety related incident" is taken to mean incidents which may affect the safety of personnel on the Sites or the public or attract reasonable public concern. It does not include incidents that solely relate to the operability of the nuclear submarine or nuclear device.

²³ This is not intended to curtail or restrain ONR inspectors from carrying out investigation, reporting on their findings, etc in accordance with their powers under the HSWA.

The sharing and provision of information may take place at several levels.

35. As the Lead Government Department, MOD is responsible for co-ordinating the central Government response. This is achieved primarily through the Nuclear Emergency Information and Advisory Group (NEIAG). As the Government's principal source of independent nuclear and radiological health and safety information/advice, the ONR is invited to be a member of the NEIAG.

36. In accordance with "Dealing with Disaster" and REPPIR, the response to any emergency would be led locally by the emergency services and local authorities. A significant defence nuclear emergency (with the potential for the release of radioactive material) will require the convening of a Strategic Co-ordinating Group (SCG) by (initially) the Chief Constable of the police force local to the incident. MOD response at the SCG would be led by a MCA. It is expected that the ONR would take up a seat at the SCG. In addition to acquiring information, ONR would be available to give independent advice on the protection of the public and workers and of the conduct of activities being undertaken at the incident site to control the emergency. If the emergency involved assets or sites controlled by a licensee, ONR would be able to provide additional advice to the SCG about the conduct of the licensee.

37. In accordance with ONR's responsibilities under the HSWA, ONR would require access to information and to the incident site both during the emergency and recovery phase in order to investigate or to assist other investigating authorities (of which there may be more than one) with any subsequent investigation.

ROUTINE LIAISON ARRANGEMENTS

38. Routine liaison occurs across the programme at multiple levels, as described below, to ensure a coherent approach. Table 3 identifies an outline schedule:

a. Ministerial Interface. Given constitutional responsibility of the SoS for Defence to Parliament for the safety of the DNP, ONR Chair and Chief Executive Officer will call on a Defence Minister on an annual basis, generally after the issue of the ONR Chief Nuclear Inspector's (CNI) annual report.

b. Level 0 Programme Regulatory Interface Forum (RIF). An annual formal meeting will be held, co-chaired by the ONR Chief Nuclear Inspector (CNI) and the Director Submarines (DSM) (or by agreement their nominees), to liaise on relevant matters, and to resolve any outstanding issues. D DSEA as the MOD's lead for engagement with the statutory regulators will also attend to review the workings of this agreement. It will also discuss the safety performance of the DNP to ensure common understanding and to ensure that appropriate actions are in place to drive improvements where necessary. This meeting will be attended by the ONR Defence Programme Director and DNSR Head supported as required and will occur prior to the issue of the CNI's annual report. At the 6 month point, an informal meeting will be held to provide an update on issues and allow the formal meeting to be properly structured.

c. Level 1 Programme RIF. 6 monthly (or more frequently as required), a meeting will be chaired by DSM's Chief Engineer-Safety and attended by other appropriate MOD representatives, the ONR Defence Programme Director and the DNSR Head (or by agreement their nominees). These meetings will consider regulatory liaison and site safety performance. The meeting will consider issues which cannot be resolved by normal regulatory liaison means and will ensure delivery of actions from the Level 0 Programme RIF.

d. DNSR/ONR Coordination Meeting. 6 monthly (or more frequently as required), a meeting between ONR Defence Programme Director and DNSR Head will take place, generally in advance of the Programme L1 RIF, to consider regulatory issues for raising

at Programme L1 RIF and the detailed working of this Agreement and that of the ONR-DNSR Letter of Understanding (see Enclosure 1).

	FINANCIAL YEAR				
	Q1 Apr-Jun	Q2 Jul-Sep	Q3 Oct-Dec	Q4 Jan-Mar	
Ministerial Interface	✓				ONR Chairman and CE
Programme L0 RIF		Informal		Formal	DSM, D DSEA & CNI
Programme L1 RIF (ESDF Regulatory)	✓		✓		DSM CE-Safety, DCI & DNSR
DNSR/ONR Coordination Meeting	✓		✓		Pre Programme L1 RIF

Table 3 - High Level MOD ONR Liaison Meetings

39. Site RIFs will be held by each Site Licensee/Authorisee with ONR and DNSR. The higher level Site RIFs should also include appropriate representation from the responsible MOD Programme Team, on behalf of DSM. This will ensure that there is a consistent and coherent approach between the Licensee responsible for nuclear safety, the MOD Programme team who will be contracting and paying for the activities and the nuclear safety regulators.

40. As required, on a frequency and at a level to be agreed by the parties involved, operational liaison meetings will be held between the ONR and relevant MOD officers. Such meetings, which will normally be attended by DNSR, will review operational matters associated with the inspection and assessment of the activities covered by this Agreement including the resolution of issues that cannot be resolved via normal interactions.

Enclosures:

1. Letter of Understanding between the Office for Nuclear Regulation and the Defence Nuclear Safety Regulator.
2. The arrangements for fire safety regulation on DNP sites.