



**MEMORANDUM OF UNDERSTANDING**

**between**

**THE OFFICE OF NUCLEAR REGULATION**

**and**

**THE SCOTTISH ENVIRONMENT PROTECTION AGENCY (SEPA)**

**on**

**MATTERS OF MUTUAL INTEREST IN SCOTLAND**

**Introduction**

- 1 This Memorandum of Understanding (MoU) is between the Office for Nuclear Regulation (ONR) and the Scottish Environment Protection Agency (SEPA).
- 2 The purpose of this MoU is to ensure effective cooperation and collaboration between ONR and SEPA in the regulation of nuclear safety, nuclear security, radioactive materials transport, nuclear safeguards and environmental protection on licensed nuclear sites and at other sites where both ONR and SEPA have regulatory functions<sup>1</sup>. ONR and SEPA recognise each other's status as independent statutory regulatory bodies.
- 3 ONR is the UK regulator for nuclear safety, nuclear security and conventional health & safety on nuclear sites. ONR also regulates radioactive materials transport on road and rail and ensures that safeguards obligations for the UK are met. ONR enforces a range of legislation including the Nuclear Installations Act 1965, the Health and Safety at Work etc. Act 1974 and the Nuclear Industries Security Regulations 2003.
- 4 SEPA is a non-departmental public body of the Scottish Government whose role is to make sure that the environment and human health are protected, to ensure that Scotland's natural resources and services are used as sustainably as possible and to contribute to sustainable economic

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<sup>1</sup> Arrangements concerning regulation of the Control of Major Accident Hazards Regulations 2015 (COMAH) on nuclear licensed and other sites are detailed in the COMAH Memorandum of Understanding of which ONR and SEPA are signatories.

growth. SEPA enforces the relevant legislation and its statutory duties and responsibilities on matters of environmental protection and improvement set out in the Regulatory Reform (Scotland) Act 2014 and the orders, enactment or regulations made under that. On nuclear sites in Scotland, SEPA regulates radioactive substances activities involving radioactive waste under the Environmental Authorisations (Scotland) Regulations 2018.

### **Purpose and Objectives**

- 5 In accordance with legislation, UK and Scottish Government policy and international obligations, the goals of both ONR and SEPA are together:
  - i) to deliver effective and efficient regulation of the nuclear industry in Scotland and to ensure international safeguards obligations for the UK are met;
  - ii) to maintain and improve standards of human and environmental protection from the potential hazards from ionising radiations;
  - iii) to ensure that radioactive wastes are safely and securely managed in both the short and long term; and
  - iv) to contribute to the Scottish Ministers' aim of sustainable economic growth for Scotland.
- 6 ONR and SEPA recognise that each regulator is legally obliged to exercise its powers and duties in line with specific legislative requirements, including:
  - i) for ONR, its principal function to do whatever it considers appropriate for the ONR's purposes (i.e. nuclear safety purposes, nuclear site health and safety purposes, nuclear security purposes, nuclear safeguards purposes, and transport purposes) as set out in Part 3 of the Energy Act 2013; and
  - ii) for SEPA, its general purpose of protecting and improving the environment (including managing natural resources in a sustainable way), contributing to improving the health and well-being of people in Scotland, and achieving sustainable economic growth, as set out in section 20A of the Environment Act 1995.
- 7 ONR and SEPA recognise that a close interface often exists between the regulatory powers and duties exercised by them on nuclear sites. In the regulation of such matters, and in particular in relation to the regulation of the management of radioactive waste, ONR and SEPA agree to work together and support the other regulator to ensure that both ONR's principal function and SEPA's general purpose can be achieved.

- 8 The purpose of this MoU is to provide the high level framework for how the regulatory activities of ONR and SEPA will be coordinated in Scotland, in particular with regard to licensed nuclear sites and at other sites where both ONR and SEPA have regulatory functions, to achieve the above goals. Such coordination should improve the effectiveness with which public sector resources are deployed and avoid potential difficulties which might otherwise arise.
- 9 Shared objectives, to take full account of the provisions of the Regulators' Code or similar provisions in the Scottish Regulators Strategic Code of Practice, are to facilitate better regulation by ensuring that:
- i) the activities of SEPA and ONR are, where practicable, consistent, coordinated and comprehensive;
  - ii) early engagement with duty holders<sup>2</sup> is encouraged in order to minimise uncertainties and impacts from potentially conflicting requirements;
  - iii) regulatory synergies are exploited and the appropriate balance of precautions is attained;
  - iv) joint regulation is the goal of both organisations with duplication of regulatory activity minimised; and
  - v) public confidence in the regulatory system is maintained.

### **Working Arrangements**

- 10 To support the effective implementation of this agreement, ONR and SEPA will produce joint guidance to explain in more detail the regulatory interactions between the two organisations at working level. In particular, joint guidance will explain how ONR and SEPA will collaborate to take due account of their respective duties and responsibilities recognising that, for some topics, both ONR and SEPA have regulatory interests. Working arrangements, both in general and those contained within any joint guidance, will be based on mutual trust and respect and are guided by the following principles:
- i) ONR and SEPA continue to develop and maintain a co-operative working relationship and, in doing so, build and maintain good interactions at all levels, including areas of strategy, work planning and programming, and regulation;
  - ii) ONR and SEPA continue to consult each other at the earliest opportunity, and, where appropriate, with the fullest of information on

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<sup>2</sup> Duty holder is defined as any person or organisation holding a legal duty under the legislation ONR or SEPA enforces.

matters that may affect the other, and in doing so, take full account of each other's views;

- iii) ONR and SEPA engage, as appropriate, in joint working and, where appropriate to do so, engage with other nuclear site regulators, site licensees/operators and other stakeholders;
- iv) ONR and SEPA will seek to ensure that the respective working arrangements do not compromise either organisation in the exercise of their respective statutory powers, functions, duties and responsibilities as set out in relevant legislation and policies (including decisions on the taking of and the nature of regulatory enforcement action);
- v) ONR and SEPA establish mechanisms and methods of working together which facilitate dialogue and encourage better regulation;
- vi) ONR and SEPA provide, in a timely manner, all such information requested by ONR or SEPA in pursuance of ONR or SEPA regulatory activities;
- vii) ONR and SEPA do not issue, vary, transfer or revoke any regulatory instruments that may affect the other, without prior consultation with the other, taking full and meaningful account of the other's regulatory locus;
- viii) ONR and SEPA will, where necessary, identify their respective responsibilities in relation to each of the regulatory interfaces under any joint guidance;
- ix) The body having the legal responsibility will be the normal contact point for the operator for all matters relevant to that particular interface. This will not, however, remove the requirement for the duty holder to obtain all necessary authorisations, licences or other consents required from ONR or SEPA;
- x) Where ONR and SEPA disagree on any regulatory matter, they will make every effort to resolve their differences before any specific requirements are placed upon the duty holder;
- xi) ONR and SEPA will act in accordance with and, over time, review and improve the operation of this MoU.

#### **Disclosure of Information**

11 With respect to the disclosure of information shared under this agreement, ONR and SEPA are subject to the requirements of the Energy Act 2013, the Environment Act 1995, the Freedom of Information Act 2000, the Freedom of Information (Scotland) Act 2002 and the Environmental Information Regulations 2004. To encourage a consistent approach to

disclosure, if either ONR or SEPA is intending to disclose information relevant to the other, it shall make the other aware of its intention prior to disclosure.

**Resolution of Disputes**

12 ONR and SEPA will, in the first instance, seek to resolve any disputes at a working level, escalating to relevant managers as appropriate. In the rare occurrence where agreement cannot be reached at these levels, the ONR Chief Executive and the SEPA Chief Executive will meet to resolve the issues.

**Provision of Services and Advice**

13 ONR and SEPA will provide advice to each other for the purpose and aims of this MoU. Unless agreement in writing is made to the contrary, ONR and SEPA will provide this advice at no cost to either organisation.

14 Where allowed by relevant legislation, ONR and SEPA may, by mutual agreement, enter into arrangements to pay for advice or services from the other.

**Review of the Memorandum of Understanding**

15 ONR and SEPA will review this MoU not later than three years after it has been signed.

**Termination**

16 Either ONR or SEPA may terminate this MoU giving two months' notice in writing to the other party.

Signed



Terry A'Hearn  
Chief Executive

on behalf of the Scottish  
Environment Protection Agency

Date:

8/1/19



Adrienne Kelbie  
Chief Executive

on behalf of the Office for Nuclear  
Regulation

Date:

10/12/18

