



Office for
Nuclear Regulation



**Response to the Consultation on
Proposed Approved Code of Practice
for the Radiation (Emergency
Preparedness and Public Information)
Regulations 2019**

September 2019

Response to the Consultation on Proposed Approved Code of Practice for the Radiation (Emergency Preparedness and Public Information) Regulations 2019

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Executive Summary

Directive 2013/59/EURATOM lays down basic safety standards for protection against the dangers arising from exposure to ionising radiation. As part of the transposition, the Radiation (Emergency Preparedness and Public Information) Regulations 2019¹ (REPPIR 19) were laid in parliament on 27th March 2019. To accompany the Regulations, the Office for Nuclear Regulation (ONR) has produced an Approved Code of Practice (ACOP) on behalf of the Health and Safety Executive (HSE). ONR consulted on the ACOP between 10th April and 5th June 2019, with an extension until the 27th June 2019 for Local Authorities to account for the local election period, to seek views on:

- the usefulness and clarity of the proposed ACOP in helping dutyholders meet legal duties (Q1 – Q2);
- specific areas of the ACOP (Q3 – Q7); and
- any impacts with the introduction of ACOP (Q8).

In total, responses were received from 47 organisations/individuals representing a wide range of sectors including:

- industry;
- local and national government;
- category 1 responders²;
- consultants;
- non-departmental public bodies;
- non-governmental organisations; and
- professional bodies.

The highest proportion of comments were from dutyholders (28), broadly split between operators and Local Authorities, with the bulk of the technical comments coming from operators. This was anticipated as some of the ACOP is technically complex.

¹ <http://www.legislation.gov.uk/ukxi/2019/703/contents/made>

² Category 1 responders as defined in the Civil Contingences Act – such as Blue Lights emergency services

Analysis of the consultation responses, in relation to the specific questions, identified the following common themes:

- Overall responses supported the inclusion of ACOP to aid dutyholders' compliance with REPPIR 19.
- Responses on the ACOP associated with regulations 4-7 (Hazard Evaluation, Consequence Assessment and Consequences Report) and schedule 3 (Assessment of Consequences Requirements) made up almost 50% of the responses.
- A number of respondents requested further guidance on what variable factors needed to be considered in developing an adequate operator's plan.
- Contradictory responses for some of the specific questions were evident, and where we were able to we sought clarification; we considered this reflected on the clarity of the ACOP and we addressed these issues in revisions to proposed ACOP text.
- A number of respondents were concerned that the ACOP required a disproportionate and unnecessary amount of detail in some of the reports to be submitted to the regulator.

Overall, the responses to the consultation have shaped the ACOP to make it more user friendly and led to improved clarity and focus in a number of areas. We have paid particular attention to specific comments made on regulations 4-7 and schedule 3; making extensive modifications to both the structure and the wording of the ACOP to improve the logical flow of the text. For instance, our expectations on how the operator should conduct the hazard evaluation and on what basis they should advise the Local Authorities on the most appropriate technical distance for a Detailed Emergency Planning Zone (DEPZ), have been more clearly articulated. To further aid understanding we have added an extra flow diagram in the guidance to illustrate the process.

Where contradictory comments were made we have either modified the wording to aid understanding of the proposed ACOP text or provided additional guidance where further ACOP was not considered appropriate. For example, we have restructured and simplified the text of the ACOP for regulation 8 and added a definition of a DEPZ in the guidance. Where necessary, we have sought clarification of comments to ensure we fully understood their intent.

Other areas where we have added, or modified, text relate to regulations 10, 11 and 12 on the contents and adequacy of emergency plans and testing thereof; regulation 15 on cooperation between employers; and regulation 8(6) on how to determine whether a new development in the local area constitutes a change which requires a re-determination of the detailed emergency planning zone. In addition, the ACOP associated with reporting of assessments made under regulations 4 and 7 has been revised to enable operators to reference, as far as possible, their existing safety justifications.

1. Introduction

This report presents the response to the outcome of the public consultation on the ACOP that supports the Radiation (Emergency Preparedness and Public Information) Regulations (REPPIR) 2019. ONR produced the draft ACOP and managed the consultation on behalf of HSE.

The REPPIR 2001 Regulations were supported by guidance alone, with no ACOP. The decision to introduce ACOP to support REPPIR 2019 reflects both changes to the policy intent for nuclear and radiological emergency planning in Great Britain and associated changes in Regulations. The purpose of introducing the ACOP is to ensure greater consistency in the planning process, for example in the assessment of emergency scenarios and the setting of detailed emergency planning zones, which will now be set by the Local Authority rather than the Regulator. Together, these changes suggest a role for statutory guidance through ACOP to assist both operator and Local Authority dutyholders by setting out a preferred approach to complying with their legal duties.

The ACOP is statutory guidance. If a dutyholder follows the ACOP, they will be meeting their statutory duties. If they do not follow the advice in the ACOP, they may still be meeting their duties, but it will be for the dutyholder to demonstrate the approach they have taken is equivalent to the ACOP and therefore meets these expected standards. In effect, the burden of proof is reversed.

The REPPIR ACOP was developed and drafted, wherever possible, in line with the following principles which are common to all ACOPs issued by HSE:

- The means, methods or standards are those that dutyholders are normally expected to use/meet to achieve compliance;
- The nature of the issue being addressed means that in most cases dutyholders are strongly encouraged to pursue the approach the ACOP material describes i.e. the ACOP should be relevant to all sectors;
- The ACOP expands upon a duty in the Regulations without replicating any requirements elsewhere in the Regulations, and does not introduce a new duty;
- The ACOP is short, clear, concise, specific and unambiguous. It should not link to other sites or publications, nor have much if any explanatory material or contain examples; and
- HSE and/or ONR must have vires in that area.

The Regulations and ACOP are accompanied by more detailed guidance which provides further information and examples of relevant good practice.

Three general and five specific questions were asked within the consultation document³ and are set out in the analysis of responses below. In particular, ONR sought views on:

- Whether stakeholders understood the ACOP (question 1);
- Whether the ACOP provided clear advice in its totality (question 2), and in particular the sections covering the Local Authority's duty to determine the detailed emergency planning zone (question 3); testing emergency plans (question 5); and publication of the consequences report (question 6);
- Whether all variable factors to be considered in preparing the operator's emergency plan had been included (question 4);
- Whether dutyholders agreed with the proposed process for calculating the minimum distance from which to determine the detailed emergency planning zone (question 7); and
- Whether there were any impacts on introducing the new ACOP that HSE or ONR should be made aware of (question 8).

2. Previous communications with stakeholders

In drafting the ACOP in the consultation document, ONR took advice from the REPPiR Guidance Development Steering Group (RGDSG) in developing the scope and content of the document. The RGDSG, which was chaired by ONR, consisted of representatives from:

- HSE;
- the Department for Business, Energy and Industrial Strategy (BEIS);
- the Ministry of Defence (MoD);
- the nuclear industry, in the form of the Chair and Deputy Chair of the Nuclear Emergency Arrangements Forum (NEAF);
- Local Authorities, in the form of the Chair of the Local Authorities Working Group (LAWG) on radiation emergency matters;
- Public Health England, Centre for Radiation, Chemical and Environmental Hazards (PHE CRCE);
- the emergency services, in the form of the Chair of the Blue Lights Working Group (BLWG);
- The Welsh Government;
- The Scottish Government; and
- ONR's ACOP and guidance drafting team.

³ <http://www.onr.org.uk/consultations/2019/reppir-2019/reppir-acop-consultation-document.pdf>

The group met 23 times from April 2017 to support the development of the ACOP and supporting guidance, noting that detailed work, particularly on ACOP, could not start until the Regulations were available in draft form (in September 2018).

Early drafts of the ACOP were shared amongst the members of the RGDSG but also more widely across both industry and Local Authority dutyholders. Written comments were sought and received from 20 different organisations on these early drafts which assisted in the development of the version that was later issued for the statutory public consultation.

A steer was sought from the RGDSG at its meeting held on 3-4th July 2019 (i.e. following the consultation) on areas where there had been disagreement between the consultees. Any decisions that were made based on the advice provided by the RGDSG are reflected in the analysis of responses below.

3. Public consultation

The formal public consultation ran for eight weeks from 10th April 2019 until 5th June 2019. The period was extended for Local Authorities until 27th June 2019, as some of the consultation took place during the pre-election period for local government.

The launch of the public consultation was communicated via the ONR website and was sign-posted on the HSE website. Additionally, e-mails were sent to stakeholders with a particular interest including known dutyholders, Local Authorities and non-governmental organisations.

Only comments received by email or in writing were considered in making changes to the ACOP. Any comments provided on the Regulations themselves were discounted as the Regulations completed parliamentary process on 22nd May 2019 and came into force on that day.

Where comments were received that did not directly refer to the questions asked, they were nevertheless considered against the relevant parts of the ACOP. All comments received were collated and considered as having equal status.

Where we have received specific comments on the ACOP that have resulted in changes, other than editorial, we have noted this in the response below. Where we considered it was not appropriate to modify the ACOP we have added guidance to support understanding and noted this in the response too. Our response is designed to be read in conjunction with the consultative document: <http://www.onr.org.uk/consultations/2019/reppir-2019/reppir-ACOP-consultation-document.pdf>

4. Consultation events

HSE ran a webinar focusing on its dutyholders on 15th May 2019. The purpose of the event was to introduce the draft REPPIR ACOP and provide an opportunity for dutyholders to ask questions. A series of presentations were provided followed by questions and answers. Around 50 operators and Local Authority dutyholders joined the webinar.

In addition, ONR ran two consultation workshops, one in Glasgow on 17th May 2019 and the other in London on 29th May 2019. There were over 70 attendees at each workshop. A series of presentations were provided to introduce the policy intent, provide an overview of the changes to the Regulations and to introduce the ACOP. These were followed by facilitated discussion groups at which participants were encouraged to raise issues and ask questions. Whilst this gave an opportunity for discussion, all comments made at the workshop also had to be made in writing to be included in the consultation.

5. Response demographics

Responses to the consultation were received from a wide range of stakeholders including those from industry, MoD-owned establishments, local government, non-departmental public bodies, Category 1 responders, non-governmental organisations, professional bodies, consultancies and individuals.

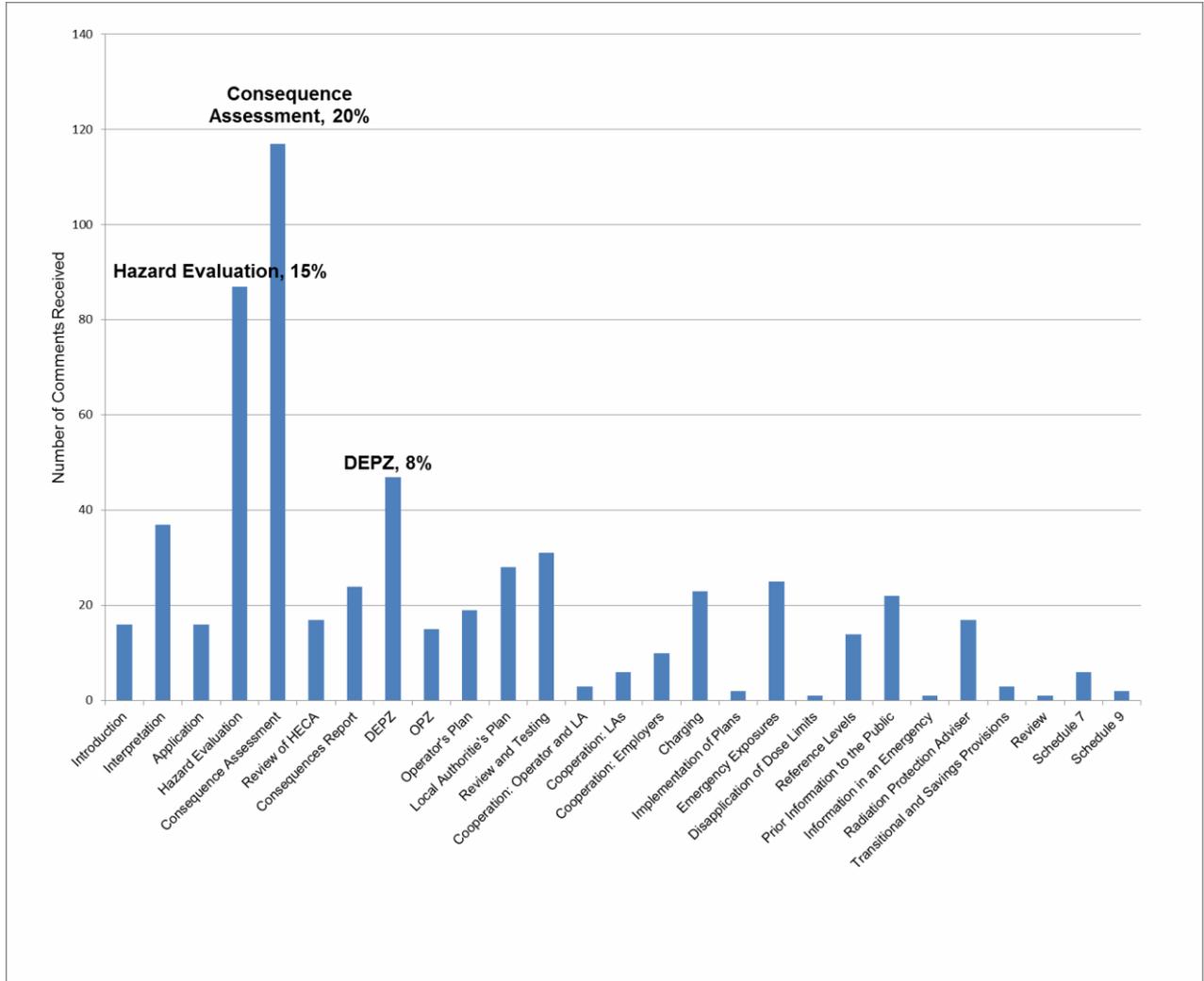
All responses were analysed to establish common themes. Not all respondents answered each of the questions and therefore, the total response figures are not the same for each question.

Response by sector

Sector	Number of responses
Category 1 responders	3
Consultancy	3
Industry	9
Local government	11
UK Government Departments	2
Members of the public	2
MoD or MoD-owned establishments /organisations	8
Non-departmental public body	3
Non-governmental organisation	3
Professional bodies	2
Other	1
Total	47

Comments by regulation

The respondents made around 600 specific comments on the ACOP and guidance. An approximate breakdown of these comments by regulation is shown in the chart below.



6. Analysis of responses

In the following sections, analysis of the responses is provided for each question showing the quantitative breakdown of responses to each question (giving the total number of responses received and the number of times each option was selected). In addition, a qualitative summary of respondents' comments and HSE/ONR's response to issues raised is also provided.

For respondents providing general narrative responses, these were counted in the numbers of reported responses only when they actively selected an option. However, the issues raised in the narrative response were included in the qualitative summary of respondents' comments.

Question 1: The proposed ACOP

easy to understand **not easy to understand**

Please provide reasons for your answer. For example, if not, which parts are not easy to understand and why?

Easy to understand	29	Not easy to understand	7	Total	36
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80% of the respondents to this question thought that the ACOP was easy to understand although many of these thought there were specific areas that required clarification. The tone of the comments reflected a view that the ACOP was beneficial and welcomed as an aid to compliance. The minority of responses that thought the ACOP was not easy to understand thought that there was inconsistency across the document, with clarity needed in a number of areas. Both those that thought the ACOP was easy to understand and those that did not provided detailed comments on specific sections where they thought there could be improvements.

Of those that thought the ACOP was easy to understand there was a general view that, in the main, the ACOP set a minimum standard of adequacy.

Some respondents thought that there was a need for more ACOP, more prescription, or that more clarity was needed in certain areas. On the other hand, other respondents thought that some sections were overly prescriptive or not relevant to the specific regulation.

A significant number of detailed comments made were directly relevant to other questions in the consultation document and have been dealt with in those responses. This is particularly true of the response to comments on regulations 4-7 and schedule 3 and regulations 8, 10 and 12.

HSE/ONR Response:

All of the detailed comments provided were reviewed to determine where improvements could be made to the clarity or detail of each particular section of ACOP.

Question 2: Do you think that the proposed ACOP:

Provides clear advice on what to do? Does not provide clear advice on what to do?

Please provide reasons for your answer. For example, if not which parts are not clear and why?

Provides clear advice	22	Doesn't provide clear advice	12	Total	34
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65% of respondents that answered this question thought that the ACOP provided clear advice on what to do, which compared to 35% who did not. Nearly all of the respondents, whether or not they thought the ACOP was clear, provided comments on specific areas where further clarity was requested. We have considered all the detailed comments provided in turn to determine how the ACOP and guidance can be made clearer.

Respondents' comments

The following paragraphs summarise the most significant of these specific comments about individual parts of the ACOP:

Regulations 4-7, Hazard Evaluation and Consequence Assessment

A couple of respondents wanted clarification either through guidance or ACOP that where an operator claims exemption from the Regulations through regulation 3(2), it was still necessary to undertake a Hazard Evaluation under regulation 4 to justify that this was the case. The significance of this comment is that when an evaluation is performed under regulation 4 the output needs to be sent to the relevant regulator whereas the assessments performed under regulation 3 are not required to be shared with the regulator. Given the greater complexity of assessments performed under regulation 3(2), HSE/ONR agrees with this comment and considers that the assessment should be shared with the regulator. In HSE/ONR's view this objective can best be achieved by making a change to the guidance for regulation 3(2), referring the dutyholder to the need to perform a hazard evaluation under regulation 4.

One respondent requested that the REPIIR risk framework diagram could be referenced in the ACOP at the end of regulation 4 rather than in the ACOP for regulation 5 to ensure it is applied at the conclusion of the hazard evaluation report, rather than at the start of the consequence assessment. HSE/ONR agrees with this comment and has amended the ACOP for regulation 4 to include reference to the risk framework diagram.

A number of comments noted that the wording of the ACOP for regulation 4(2) was not clear. This part of the ACOP covers how the radiation dose to persons off-site following a radiation emergency should be calculated for the purposes of the hazard evaluation required under the regulation. It was suggested that use of the word "maximum" was problematic as it could drive gross conservatism into the assessment since it was difficult to determine what was meant. This could lead to disproportionate levels of emergency planning to the detriment to both the public and operator. It might also prevent operators from using their existing safety justifications to support their hazard evaluation, which goes against the policy intent for REPIIR 2019 as this would require dutyholders to completely revise their existing safety submissions. This comment was also raised by numerous dutyholders at the second consultation meeting in London. Two respondents also added that the words "equivalent dose" needed to be added to the ACOP text in order to cover all exposure pathways. This enhances public protection by ensuring that events resulting in release of specific nuclides, for instance radioactive iodine, are considered when setting planning distances and that the relevant protective actions are considered.

HSE/ONR agrees with these comments and the text of the ACOP has been amended. The word “maximum” has been removed and instead it has been made clear that the calculation should be performed for the most exposed persons off-site assuming no urgent protective actions are implemented. Otherwise, providing the operator performs a suitable, conservative assessment the decision on what technical assumptions are made is a matter for the operator to decide.

A couple of respondents challenged the ACOP for regulation 4(3), which introduces an annual effective dose of 1 mSv as the threshold for determining whether a consequence assessment under regulation 5 is required. The respondents stated that they consider this to be an expansion on the requirements of the Regulations which state that the criteria for determining whether a radiation emergency is possible is whether a hazard could result in serious consequences, which in their view corresponds to a dose that is greater than 1 mSv. HSE/ONR does not agree with this interpretation since regulation 3(2) uses 1 mSv as the threshold for exemption from the Regulations for a radiation emergency situation; as such it is appropriate to also use this value for the ACOP for regulation 4(3). Thus HSE/ONR has rejected this comment.

A number of comments were also made about the ACOP for regulation 4(7) - reporting of the hazard evaluation - arguing that it should be made clear that the list of contents for the hazard evaluation report can be met by referencing safety assessments for example, to avoid the need to continually update the hazard evaluation when updates to the safety assessment occur. Defence sites also noted that some of this information would in fact be sent to the Defence Nuclear Safety Regulator (DNSR) rather than to ONR. HSE/ONR accepts these comments, noting that for emergency planning purposes only significant changes would result in a change to either the extent or content of emergency plans. The text of ACOP has been amended accordingly and moved into guidance.

A number of comments were made about the ACOP for regulation 5, including clarifying that only HSE dutyholders have to consider the need for an outline planning zone (OPZ) as other dutyholders have default distances for their OPZs set by schedule 5. HSE/ONR accepts that this part of the ACOP could be made clearer and so the ACOP text has been extensively rewritten.

As with the reporting of the hazard evaluation under regulation 4(7), a number of comments were made about the reporting of the details of the assessment of consequences, made to the regulator under regulation 7(6). This is as opposed to the consequence report (CR), which is sent to the Local Authority (and then copied to the regulator). Specifically, the ACOP for regulation 7(6) (f) and (g) was criticised for being potentially too open-ended and work-intensive. Again, defence sites noted that some of the information would in fact need to be sent to DNSR rather than to ONR. HSE/ONR accepts that the wording for these particular items was not well drafted and could be misinterpreted and so the text of ACOP has been amended accordingly and moved into guidance.

A few comments were made on the clarity of language used in the ACOP under regulation 6, for example on the use of hazard/risk terminology and the terminology used to describe records produced as part of the hazard evaluation and consequences assessment processes. HSE/ONR accepts these comments and the ACOP has been amended to improve clarity of language. Specifically, the ACOP now refers to ‘a change in the scope of the hazards and risks’ in the interpretation of whether a material change has occurred and the terminology used to refer to the records produced has been amended to align with the Regulations.

Regulations 10-11, Emergency Plans

A few respondents requested changes or clarification to the wording used in the ACOP for regulations 10(1) and 11(1) describing adequate emergency plans. Some requested further guidance on what the 'underpinning capabilities' are which are referred to in the ACOP. A couple of respondents made general comments about the appropriateness of the ACOP in describing an adequate plan.

For both the operator's plan and the off-site plan the ACOP describes adequacy, including the need for the required capabilities to be in place and readily available so the plan is ready to be implemented if required. HSE/ONR agree that more guidance on these capabilities would be useful and have provided some examples in the guidance. The ACOP for regulation 11(1) has also been amended to remove reference to the provision of equipment under regulation 10, as this is more relevant to the operator's plan. We have also made a few minor changes to the ACOP describing adequate plans to improve clarity of language.

Several respondents commented on the term 'seeking assurances' used in the ACOP under regulation 11 to describe an adequate off-site emergency plan. These responses stated that this is inconsistent with the guidance, which uses the term 'seek confirmation' and also expressed concerns that Local Authorities are being asked to undertake a regulatory role. This comment had also been raised by dutyholders at stakeholder events. HSE/ONR agrees that the inconsistency in terminology between the ACOP and the guidance could be confusing and the ACOP has thus been amended to use the term 'seeking confirmation'. The Local Authority is not expected to undertake a regulatory role but should seek confirmation from organisations with a role in the plan, so far as is reasonably practicable, that the required capabilities are in place and readily available. This is to provide the Local Authority and the regulator with confidence that the plan is adequate and could be implemented without delay when required.

Several respondents also commented on the ACOP for regulation 11(5), requiring the Local Authority to consult with the Public Health England (PHE) Centre for Radiation, Chemical and Environmental Hazards (CRCE). The majority raised potential cost implications and a few respondents queried why the ACOP only identifies PHE and not the other statutory consultees. Regulation 11(5) however requires consultation with PHE so this part of the ACOP has been provided to specify that the Local Authority should consult a particular part of PHE (PHE CRCE) on certain radiological protection matters. HSE/ONR agrees that the ACOP as worded could nevertheless be too broad, so the phrase 'in addition to any other matters the Local Authority considers appropriate' has been removed from the ACOP to restrict the matters to be consulted on more clearly.

Regulation 12, Review and Testing

A few respondents requested that the ACOP includes more focus on demonstrating an effective response and highlighted that an adequate test could identify improvements to the plan. A few respondents also thought that it could be difficult for a test to demonstrate some of the areas listed in the ACOP, for example that the plan meets all of the requirements of Schedule 7. HSE/ONR agrees that an adequate test may identify improvements which could be made to the plan so an additional point has been added to the ACOP to capture this. We have not made any changes to the other items listed in the ACOP. Here we judge that in relation to points (a) and (b) in this part of the ACOP, the plan should be prepared in accordance with Schedules 6 and 7 and the test should demonstrate this to the extent possible within the scope of the agreed test scenario.

A few respondents requested further ACOP or guidance on particular matters such as ensuring other organisations participate in the test. A couple of these responses suggested providing further guidance on demonstrating the adequacy of the listed requirements, perhaps in the National Nuclear Emergency Planning and Response Guidance ⁴(NNEPRG). The ACOP for regulation 15(1-4) relating to consultation and cooperation duties on employers has therefore been amended to include a requirement for employers of any other person whose participation is reasonably required by an emergency plan, to participate in a test of that plan as required.

A couple of respondents commented on the phrase ‘all changes’ used in the ACOP for regulation 12(1) on recording the review of the plan, requesting further clarity. This part of the ACOP has thus been amended slightly to make it clearer that it is referring to changes resulting from the formal review of the plan.

A few respondents requested that further consideration be given to the level of detail required by the ACOP for regulation 12(8) on the report on the outcome of the test with a couple of respondents highlighting security considerations. We agree and have amended the ACOP under regulation 12(8) to say that only ‘significant’ actions should be included within the report on the outcome of the test. Supporting guidance on these actions has also been added to provide advice on the level of detail which should be included.

Question 3: The requirements specified in proposed ACOP (a & b) under regulation 8(1) are:

- easy to understand** **not easy to understand**

If it is not easy to understand, please tell us why.

Easy to understand	24	Not easy to understand	11	Total	35
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69% of respondents thought the specified ACOP was easy to understand compared with 31% that thought it was not. Those that thought the ACOP was not easy to understand suggested a range of different means of improving the clarity of the text.

Five respondents thought that the ACOP could be expanded to include particular sections of guidance, specifically, guidance that relates to the Local Authority accepting the operator’s recommendation of the minimum geographical extent of the detailed emergency planning zone and not being required to have the expertise to verify the technical basis for the minimum extent set by the operator.

Four respondents thought that the purpose of having a detailed emergency planning zone was not clearly defined.

⁴ <https://www.gov.uk/government/publications/national-nuclear-emergency-planning-and-response-guidance>

One responder believed that the detailed emergency planning zone (for reactor sites particularly) should be based on the International Atomic Energy Agency (IAEA) guidance on suggested precautionary action zone (PAZ) area size, as published in [IAEA GS.G 2.1](#).

HSE/ONR Response:

The ACOP text for regulation 8(1) has been amended to reflect the comments received regarding this part of the ACOP's clarity including restructuring and simplification of the text.

The suggestion to move guidance related to the Local Authority's acceptance of the operator's recommendation of the minimum geographical extent into ACOP was not accepted. Changing this into ACOP wouldn't prevent the Local Authority from using a technical consultant to obtain an independent view of the operator's recommendation if they so choose.

A definition of "detailed emergency planning zone" has been added to the supporting guidance for REPPiR.

Setting the detailed emergency planning zone based on IAEA's default PAZ area sizes does not reflect the policy intent and therefore no change was made in this regard.

Question 4: Proposed ACOP under regulation 10(2) lists four variable factors. Are there other variable factors we could include as ACOP? If yes, please tell us what these are and why they should be included.

Yes

No

Yes	17	No	19	Total	36
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53% of respondents thought that there were no other variable factors that should be included as ACOP compared to 47% who thought there were. Nearly all of those that thought there were other factors provided details of what these should be, and one respondent suggested that the ACOP should not limit consideration of variable factors to the four categories listed. A number of respondents requested more detail on the ACOP clause (a) text (the aspects of the Schedule 3 requirements used in consequence assessments) and the ACOP clause (d) text (the multiple factors which could materialise in parallel). A few respondents requested that the ACOP clause (c) text (on the availability of personnel) is more specific to those personnel who are trained/required by the plan. A few respondents requested greater clarity on the measure for the severity of the emergency.

HSE/ONR Response:

We agreed with a number of the additional factors that were suggested but decided that these all fall within the categories already covered by the ACOP text. We have nevertheless added some of these additional examples to the guidance. We have also amended the ACOP to make it clear that those factors listed are the minimum which should be considered. We have amended (c) in the ACOP to make it clearer that it relates to personnel with a role in the operator's plan. Further guidance has also been added to provide clarity on the ACOP text at clauses (a) and (d).

Question 5: Is the proposed ACOP (B) under regulation

easy to understand not easy to understand

If not please tell us why.

Easy to understand	27	Not easy to understand	9	Total	36
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75% of respondents thought the ACOP was easy to understand while 25% disagreed. All the respondents that disagreed and some of the respondents that agreed provided comments requesting greater clarity on a wide range of issues, not just those covered by ACOP (B), although still related to testing of emergency plans. These included a few comments requesting greater consistency in the ACOP on the description of adequacy, and other individual comments relating to testing. Regulation 12 is discussed in more detail under question 2.

In relation to ACOP (B) under regulation 12(1), a small number of respondents requested greater clarity on the term 'work with ionising radiation'. A couple of respondents requested more detail on the timescales for completing the test in advance of work commencing.

HSE/ONR Response:

HSE/ONR has decided to move the proposed ACOP text into guidance. This has allowed us to rephrase the text and remove the reference to 'work with ionising radiation'.

Question 6: Is the process for deciding what to exclude from a consequence report set out in proposed ACOP (B) under regulation 21(10):

clearly set out not clearly set out

If it is not clearly set out, please tell us why.

Clearly set out	21	Not clearly set out	15	Total	36
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59% of respondents thought that the process for deciding what to exclude from a consequences report was clearly set out and 41% disagreed. Several respondents highlighted that the ACOP sets out the process for requesting approval to exclude information, not for deciding what information to exclude as the consultation question suggests. Some of these respondents thought that the ACOP should provide criteria on what information could be redacted. Several respondents requested changes to give further clarity to the process set out in the ACOP. Two respondents commented on the need for transparency, with one respondent suggesting information should not be excluded on the grounds of commercial sensitivity.

HSE/ONR Response:

The intent of the ACOP under regulation 21(10) is to set out a process for requesting approval to withhold information, redacting such information and publishing the redacted report. We have decided that inclusion of criteria for excluding information within the ACOP would be overly prescriptive; however, guidance is provided to give examples of the types of information which may be withheld and sources of independent advice.

The ACOP has been amended to reflect the comments made regarding clarity of the process.

The regulation allows for information to be excluded for reasons of commercial confidentiality; however, the ACOP sets out a transparent process for requesting approval to withhold information from the published report.

Question 7: Do you agree that the proposed process set out in ACOP Schedule 3(7-8), is the most appropriate way for the operator to identify the minimum geographical area for the detailed emergency planning zone? Yes/No

If not, please tell us why.

Yes	13	No	18	Total	31
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Question 7 on the ACOP for schedule 3 was the only specific question on ACOP that produced a negative response. The ACOP for schedule 3 was also the one that resulted in the largest number of specific comments (see earlier graph giving number of comments by regulation - the consequence assessment received 20% of the total number of comments). The general feedback was that the ACOP was cumbersome and unclear. Specific points included concerns about the time periods used in calculating the effective dose to members of the public that determine the required distances for the urgent protective action zones and the detailed emergency planning zone. It was argued that these were inconsistent since the former was based upon short term doses while the later was based upon the annual dose received. Other comments argued that the choice of conservative weather conditions was too restrictive; that there should be scope for using the upper and lower Emergency Reference Level (ERL) when determining the recommended distances; and that there should be scope for the operator to exercise technical judgement in determining the final recommended planning distances.

HSE/ONR Response:

Given the number and range of comments received, HSE and ONR have extensively reviewed the ACOP text for schedule 3 resulting in the text being significantly revised to address the points raised. The time period for the dose assessment has been changed to be consistent between the urgent protective actions and the detailed emergency planning zone. The operator has also been given scope to exercise technical judgement on the appropriate choice of weather based upon likelihood and also for the determination of the recommended planning distances. The text has also been revised to improve clarity and logic. The only comment that has not been accepted is the suggestion to move towards using the upper ERL for the determination of the detailed emergency planning zone. HSE/ONR's view is that the lower ERL should be recommended for determining the detailed emergency planning zone as this will bound all possible urgent protective action zones that the Local Authority may determine.

Question 8: Are there any impacts on introducing this new ACOP that we should be aware of?

Yes	25	No	8	Total	33
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Where comments were made on the possible impacts associated with the introduction of the new ACOP, these tended to repeat the comments made to the previous questions above and there were few new discernible themes. A small number of respondents had concerns over costs.

Two respondents thought that there may be potential inadvertent implications from the introduction of the ACOP for regulation 8(6), which focuses on change of land use as a factor in considering whether or not a redetermination of the detailed emergency planning zone is required.

Two respondents thought that the ACOP for regulation 11(5) enhances PHE’s statutory consultation role and could create a bottleneck if multiple Local Authorities approach PHE at a similar time.

HSE/ONR Response:

The ACOP text for regulation 8(6) has been modified to take into account the concerns raised regarding these potential inadvertent implications. The focus has been shifted from planning applications to actual new developments in the local area and additional supporting guidance has also been added. The concern raised on PHE resources was however rejected as this was a topic that was consulted on during the Government’s consultation on the policy intent. Comments on costs were also rejected as these are not a matter for the ACOP.