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**Emergency Preparedness and Response**

**Interim Review of progress of operator and local authority implementation of REPP19**

Project Assessment Report ONR-TD-PAR-20-002  
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### EXECUTIVE SUMMARY

The Radiation (Emergency Preparedness and Public Information) Regulations 2019 came into force on 22 May 2019 and provided a twelve-month transition period to allow operators and local authority duty-holders to become compliant by the end of 21 May 2020.

In March 2020, ONR was made aware that, due to the need to prioritise resources to responding to the Covid-19 pandemic, many operators and local authorities (LA) were finding it challenging to fully implement the requirements of REPP19 into their respective on- and off-site emergency arrangements by the statutory implementation date of 21 May 2020.

In view of the LA's stated position, ONR's EP&R team coordinated an information gathering exercise to establish the general position on the challenges facing local authorities and operators with regard to implementing REPP19. This exercise has allowed ONR to identify the specific compliance issues provide targeted, proportionate advice to duty-holders, with the intention of moving them to full compliance with REPP19 as soon as possible and whether any formal enforcement is required.

In their responses, a substantial number of operators and local authorities declared that they were unlikely to be fully compliant with REPP19 by 21 May 2020. After reviewing the information I concluded that:

- The UK's arrangements for responding to a radiation emergency at a nuclear site remain robust and both operators and local authorities would respond effectively to the on- and off-site elements of a nuclear emergency.
- Operators are compliant with REPP19 requirements in so far as they can be, given the constraints on the ability of the local authorities to cooperate due to the Covid-19 pandemic response.
- All operators have completed their hazard evaluations, consequence assessments, consequences reports and the identification of minimum geographical distances for local authorities to determine a DEPZ. These minimum geographical distances were used by the local authorities for the sites to allow them to complete the determination process to establish the DEPZs for the area. DEPZ determinations have been made for all UK licensed nuclear sites, including MOD authorised sites.
- The remaining areas of non-compliance are all administrative in nature, are well understood by operators and local authorities, and there are adequate contingency measures in place to manage them.
- Local authorities are acting responsibly and are making good progress with the update of their off-site emergency plans and should be able to implement them by November 2020 in line with Regulation 28(3)(b).
- The Covid-19 response is actively testing many of the arrangements set out in the local authorities' off-site plans and important learning is being captured and implemented which will be included in the updated off-site plans.

A detailed ONR Assessment Report supports the continued operation of all the affected facilities, recognising the nature and extent of the administrative compliance shortfalls. Whilst a substantial number of operators and local authorities were not fully compliant with REPP19 on 21 May 2020, I consider that the UK's arrangements for responding to a radiation emergency at a nuclear site remain robust, i.e. both operators and local authorities would respond effectively to the on- and off-site elements of a nuclear emergency should one occur.

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In consequence no additional enforcement action is recommended beyond continuing to provide proportionate advice to duty-holders to help them achieve full compliance with REPP19 as soon as possible.

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### 1. INTRODUCTION

#### 1.1 Background

1. The Radiation (Emergency Preparedness and Public Information) Regulations 2019 (REPPiR19), (Ref. 1) came into force on 22 May 2019, replacing the 2001 regulations (Ref. 2). Regulation 28 of the Regulations created a twelve-month transition period to allow operators and local authority duty-holders to be compliant with these regulations by the end of 21 May 2020.
2. In January 2020 most local authorities remained confident that they would achieve full compliance by May 2020. However, a small number of local authorities informed ONR that they would not meet the required timescales as their determination process had been delayed, owing to them receiving consequence reports from some operators much later than had been anticipated. However in March 2020, ONR recognised that, due to the need to prioritise resources to responding to the Covid-19 pandemic, most local authorities were finding it challenging to implement the remaining requirements of REPPiR19 fully into their off-site emergency arrangements by the statutory implementation date of 21 May 2020. However, REPPiR19, regulation 28(3)(b) states *'within 6 months of the coming into force date, if an operator has complied with its obligations under these Regulations in full, that operator may continue to work with ionising radiation or commence work with ionising radiation, as the case may be, although the local authority has not prepared its off-site emergency plan as required by these Regulations, where the regulator, exceptionally, determines that it would be reasonable so to do.'* This therefore affords the local authorities until 21 November 2020 to achieve compliance.
3. I recognised the exceptional circumstances that duty-holders were facing in responding to the on-going Covid-19 situation and therefore, I put arrangements in place to ensure that the approach taken by local authorities to implement REPPiR19 was proportionate against the priorities required to respond to the pandemic. Since then, ONR's focus has been to ensure that the existing emergency arrangements are maintained and that all duty-holders (operators and LAs) are fully aware of, and have suitable temporary arrangements for, addressing any gaps that had arisen during the transition from REPPiR01 to REPPiR19.
4. ONR's EP&R team established an information gathering exercise to enable us to understand potential challenges facing local authorities with regard to implementing REPPiR19, including:
  - Whether the local authority expected to be fully compliant with REPPiR19 by the end of 21 May 2020.
  - Any requirements of REPPiR19 that were not expected to have been implemented in the local authority's arrangements by 21 May 2020, and an outline of any temporary arrangements that are being adopted to address them.
  - An indication of when the local authority expects each requirement to have been fully implemented (noting the high level of uncertainty associated with the continued Covid-19 response at that time).
5. Notwithstanding the potential shortfalls against full compliance revealed from ONR undertaking this exercise, a notable positive was that DEPZ determinations had been made for all UK nuclear sites e.g. thus demonstrating that local authorities have successfully determined their DEPZs as per regulation 8.

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6. Furthermore, ONR was aware that nuclear sites with duties under REPP19 were also facing challenges to implement the new regulations because of working restrictions on their sites and also difficulties coordinating with the local authorities on matters relating to off-site arrangements (due to their redeployment to the Covid-19 response). Consequently, ONR determined that a similar information gathering exercise on expected REPP19 compliance was also required for the site operators.
7. The overall purpose of this information gathering exercise was to allow ONR to identify the full extent of these compliance issues, determine whether enforcement action was warranted and provide better targeted, proportionate advice to all duty-holders (operators and local authorities), with the intention of putting in place interventions to help them to full compliance with REPP19 as soon as possible.

### 1.2 Scope

8. The information gathering exercises applied to all site operators and local authorities for nuclear sites that require a Detailed Emergency Planning Zone (DEPZ) and/or Outline Planning Zone (OPZ) under REPP19.

### 1.3 Methodology

9. To facilitate a standardised approach for operators and local authorities to provide feedback on their anticipated level of compliance, ONR provided a simple form for use by both groups of duty holders. This was distributed electronically as an attachment along with a covering email providing background information and guidance for completion. The forms ensured that information would be collected in a consistent manner, whilst minimising undue burden on duty holders at a critical time in the Covid-19 response.

## 2. REVIEW OF COMPLIANCE INFORMATION

10. ONR received responses from operators and local authorities for all 34 UK nuclear sites that have either a DEPZ and/or an OPZ. Those responses revealed the following information:
  - 22 of the sites reported that they expected to be compliant, whilst 12 stated that they expected to be not fully compliant.
  - 5 of the local authorities for the sites reported that they expected to be compliant, whilst 29 stated that they expected to be non-compliant.
  - Notwithstanding this current position, we anticipate all operators and local authorities to be fully compliant by November 2020, but noting the high level of uncertainty associated with the continued Covid-19 response.
11. All operators have completed their hazard evaluations, consequence assessments, consequences reports and the identification of minimum geographical distances for local authorities to determine a DEPZ. These minimum geographical distances were subsequently used by the local authorities for the relevant sites to allow them to complete the determination process to establish the DEPZs for the area, i.e. taking into full account local geographical, demographic and other external considerations. We have been able to confirm that DEPZ determinations have been made for all UK nuclear sites. ONR has undertaken five assessments of DEPZs determined and all were considered adequate under regulation 8 of REPP19. In addition, the methods

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used to make the determination including the consultation with relevant organisations, were consistent with the REPPiR19 guidance. This is one of a number of significant steps successfully delivered in moving towards full REPPiR19 compliance, as these determinations will underpin the off-site emergency arrangements as set out in the local authorities' off-site plans.

12. Summarised below are some of the typical areas of shortfall identified by either the operators (of nuclear sites (licenced / authorised)) or the local authorities. A detailed report of the areas of shortfall identified is recorded within ONR Assessment Report (Ref 3).
13. For operators of licenced nuclear sites, demonstration of compliance with REPPiR19 is achieved through their on-site emergency plans that are put in place to satisfy Licence Condition 11. As allowed for in the nuclear site licence, ONR has formally approved these on-site emergency plans. In some cases on-site emergency plans may need to be modified to reflect changes in the corresponding off-site emergency plan; these changes would then need to be re-approved by ONR. Importantly though, the site emergency plans are unlikely to be significantly affected by the introduction of REPPiR19 since their hazards will remain the same. Consequently, the changes to the on-site emergency arrangements are largely administrative in nature. Reflecting this, none of the shortfalls in the operators' emergency arrangements associated with REPPiR19 are considered to challenge the normal, safe operation of the site or the licensee's ability to respond to a nuclear event.
14. REPPiR19 included provisions to cover the likelihood that local authorities would not be fully compliant on the implementation date of 21 May 2020. Specifically, regulation 28(3) allows operators to continue working with ionising radiation in the six months after the implementation date in the event that the local authority has not prepared its off-site emergency plan. This regulation is dependent upon operator having complied with its own obligations, and ONR deems it reasonable to do so.
15. Considering the factors described in this section, it is my opinion that all operators are compliant with REPPiR19 to the extent they could be given the constraints on the ability of the local authorities to cooperate with them due to their own Covid-19 pandemic responses. The non-compliances are all administrative in nature, suitable mitigations have been put in place and none of the gaps challenge safe normal or emergency operations. As such, I consider that it would have been disproportionate for them to interpret regulation 28(3) as requiring that they cease work with ionising radiation after the 21 May 2020. Consequently, we formally advised those operators that had reported that they were not going to be fully compliant that we had judged that there were no known REPPiR19 compliance matters that prevented them from continuing to work with ionising radiation after 21 May 2020.
16. In summary, whilst some operators of nuclear licensed sites have been unable to complete final administrative changes to their on-site emergency plans and so demonstrate full compliance with REPPiR, they have completed the most significant requirements of the revised regulations and done all that was in their power to comply with the remainder. I further consider that all operators are able to demonstrate that they can continue to operate safely and be able to respond to a radiation emergency if one were to arise.
17. ONR has been actively engaging with local authorities during the REPPiR19 implementation phase and in addition through the Covid-19 pandemic response. Whilst I (ONR) was fully aware that a number of the local authorities did not expect to be fully compliant by 21 May 2020 (it is to be noted that the local authorities charged

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with producing off-site emergency plans for the EDF Energy operating reactors, the Consequences Reports were reissued in January 2020, this requiring several affected local authorities to revisit and review their original DEPZs). ONR was fully apprised of this development and I have considered ONR's guidance on enforcement (Ref. 4) and judge that the nature of any perceived non-compliance did and does not require formal enforcement at present, although we reserve the right to escalate if local authorities fail to take reasonable action to address any gaps in the coming months. Post 21 May 2020, ONR has introduced increased liaison with local authorities and has continued to provide support and guidance where appropriate. As stated, enforcement action has not been considered appropriate, or proportionate due to the significant impact that the current Covid-19 pandemic response has had upon local authorities and supporting agencies and organisations. In view of this, ONR's priority has been to ensure that all DEPZ determinations were made and that the extant off-site emergency arrangements remain robust and have not been unduly challenged by the Covid-19 response.

18. Since 21 May 2020, ONR has implemented an enhanced liaison programme with all local authorities. Monthly meetings (or more if required) have been introduced and local authority emergency planning officers have been requested to provide an update on their progress and identify an expected timeline to publishing their off-site emergency plans. At the time of generating this report, all local authorities' state that they will have their emergency off-site plans published by 21 November 2020, in line with regulation 28(3)(b). I consider that the local authorities have a good understanding of where REPP19 compliance gaps remain, and all have contingency arrangements in place to manage them whilst the off-site emergency plans are being updated.
19. REPP19 regulation 12 requires each operator and local authority who has prepared an emergency plan, must at suitable intervals not exceeding 3 years [unless otherwise agreed by the regulator] to test their plan. Due to the Covid-19 pandemic response, several local authorities who were / are required to test their plans this year (post the onset of the pandemic response); have written to ONR requesting an extension. ONR recognises the exceptional circumstances that have required local authorities to request said extensions and all local authorities that have requested an extension have had their request granted. The testing of these plans will be conducted in the future, once local authorities and their supporting agencies / organisations are able to support and facilitate. In addition to the above, REPP19 allows for the extent of testing required to take into account the response to a real radiation or non-radiation (e.g. evacuation for flooding) emergency that has confirmed the adequacy of certain elements of the plan when assessing the effectiveness of the off-site emergency plans. A REPP19 testing strategy is being developed to ensure continued compliance with regulation 12 and will address any 'back-log' in REPP19 tests.

### 3. CONCLUSIONS AND RECOMMENDATIONS

#### 3.1 Conclusions

20. Whilst a substantial number of operators and local authorities were not fully compliant with REPP19 on transition day of 21 May 2020, I consider that:
  - **The UK's arrangements for responding to a radiation emergency at a nuclear site remain robust and both operators and local authorities would respond effectively to the on- and off-site elements of a nuclear emergency.** The hazards that could give rise to radiation accidents at nuclear sites have not

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changed since the new legislation was introduced and well-established and adequate arrangements remain in place to respond to them.

- **Operators are compliant with REPP19 requirements in so far as they can be given the constraints on the ability of the local authorities to cooperate due to the Covid-19 pandemic response.**
- **All operators have completed their hazard evaluations, consequence assessments, consequences reports and the identification of minimum geographical distances for local authorities to determine a DEPZ. These minimum geographical distances were used by the local authorities for the sites to allow them to complete the determination process to establish the DEPZs for the area. DEPZ determinations have been made for all UK licensed nuclear sites, including MOD authorised sites.**
- **The remaining areas of non-compliance are all administrative in nature, are well understood by operators and local authorities, and there are adequate contingency measures in place to manage them.**
- **Local authorities are acting responsibly and are making good progress with the update of their off-site emergency plans and should be able to implement them by November 2020 in line with Regulation 28(3)(b).** All DEPZ determinations for nuclear sites have been made and plans are being developed to address any additional requirements of REPP19.
- **The Covid-19 response is actively testing many of the arrangements set out in the local authorities' off-site plans and important learning is being captured and implemented which will be included in the updated off-site plans.** REPP19 guidance allows for the extent of testing required to take into account the response to a real radiation or non-radiation (e.g. evacuation for flooding) emergency that has confirmed the adequacy of certain elements of the plan when assessing the effectiveness of the off-site emergency plans. Early indications are that, although resources are stretched, the arrangements are robust.

### 3.2 Recommendations

21. ONR's assessment report (Reference 3) made two recommendations; these were internally focussed and are currently being actively implemented. Therefore, the recommendation from this PAR is to write a further Assessment Report upon full REPP19 implementation and compliance post 21 November 2020. Any future recommendations that may be revealed as part of this Assessment Report (post 21 November 2020) will be identified.

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### 4. REFERENCES

1. The Radiation (Emergency Preparedness and Public Information) Regulations 2019 (REPPIR19)
2. Statutory Instruments 2001 No. 2975 Radiation (Emergency Preparedness and Public Information) Regulations 2001.
3. ONR Assessment Report - Review of Implementation of REPPIR19 ONR-TD-AR-20-001, dated 2 June 2020
4. ONR Guide – Enforcement, ONR-ENF-GD-006, Revision 2, August 2019

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