

Meeting:	NuLeAF Steering Group, 11 th July 2013
Agenda Item:	4
Subject:	An update on developments in Low Level Waste (LLW) Management
Author:	Phil Matthews
Purpose:	To provide an update on developments in LLW Management

Introduction:

This report covers:

- Defra response to NuLeAF letter regarding the forthcoming National Waste Management Plan;
- Update on NDA's proposed review of their strategic position on Low Level Waste (LLW);
- Report on LLW Regulators meeting;
- NuLeAF's new guidance on planning and radioactive waste;
- NuLeAF research on the Duty to Co-operate;
- Community benefits;
- Keekle Head Inquiry.

Recommendation:

The Steering Group is invited to consider the establishment of a 'task group' to help engage with NDA on community benefits in relation to radioactive waste facilities and press for a clear approach.

The other items in this report are for noting.

Contribution to 2012/13 Service Plan:

The activities described in this report relate to the following Key Tasks:

Revise NuLeAF guidance to local authorities on model local policies in view of changes to legislation and national planning policy.

Monitor revisions of local policies for radioactive waste management and encourage consistency between policies for radioactive waste management within local development waste plans.

Continue to engage with regulators to align permissions for V/LLW disposals with LA planning permissions. Update NDA regularly of revisions to local planning policies relevant to this issue.

Encourage SLCs to consult with communities impacted by site waste management plans (inc. 'Duty to Cooperate').

1. Defra response to NuLeAF letter regarding the forthcoming National Waste Management Plan (NWMP)

NuLeAF wrote to Defra in January regarding the forthcoming National Waste Management Plan (NWMP) and the apparent lack of integration with radioactive waste issues. A response was received on the 2nd May (see Annex A). However the response was not clear on the issue of the scope of the Plan and so further engagement has been undertaken.

Defra issued a further response by email on the 27th June. This states:

The Hazardous Waste National Policy Statement (NPS) will be included as part of the Plan, as it is a waste that (is) covered under the revised Waste Framework Directive. The NPS and the updated planning policy on waste management more generally, i.e. the updated Planning Policy Statement 10, will be the main consideration for local authorities for the purposes of making provision for hazardous waste both in preparing their local plans and in considering individual planning applications.

The NPS does not cover wastes classified as radioactive waste under the Environmental Permitting (England and Wales) Regulations 2010, as amended (except in the limited circumstances where such waste does not require a permit because it falls under an exemption provision). Facilities which are mainly for the purpose of the final disposal or recovery of radioactive waste are therefore outside the scope of the NPS and the Plan. However, proposals for hazardous waste facilities that might handle a relatively small proportion of low level radioactive waste alongside hazardous waste are within the scope of the NPS where those facilities are nationally significant infrastructure projects. The Plan will not include those strategies relating to higher activity radioactive wastes or solid low level radioactive wastes (radioactive waste being excluded from the scope of the Directive) which are the responsibility of DECC, being the lead department for managing the use and disposal of radioactive and nuclear substances and waste.

As we understand, King's Cliff is a Nationally Significant Infrastructure Project (NSIP) because it is primarily a hazardous waste site.

Both the WMPE and the revised planning policy on waste will be consulted upon this summer. NuLeAF will continue to press for better integration between radioactive waste policy and waste policy more generally.

2. Update on NDA's proposed review of their strategic position on Low Level Waste (LLW)

The Low Level Waste Repository (LLWR) has been commissioned by the NDA to undertake a review of LLW strategy. Regarding the timing of the review, LLWR has recently said:

The Strategic Review of the National LLW Strategy has traditionally been undertaken on a biennial timescale (with the first in 2008 and an update in 2010), and a further update was planned for 2012 in line with this timescale. The National Programme Office undertook an initial scoping exercise last year and reached the conclusion that, given that inventory data and inventory analysis form the backbone of the Strategic Review, it would be prudent to defer production of the Strategic Review by a year so as to enable inclusion and analysis of data from the 2013 UK Radioactive Waste Inventory. Production of the 2013 Strategic Review will commence imminently and will be published via the LLWR website by the end of March 2014.

At present LLWR is establishing the scope of the review and do not yet have a fully developed stakeholder engagement plan. However they have indicated that NuLeAF is seen as a key stakeholder and therefore will be engaged appropriately.

The LLW Strategy review is being undertaken in parallel to the development of a NORM (Naturally Occurring Radioactive Material) Strategy and a revision of the non-nuclear radioactive waste strategy, both of which will also be published in 2014.

The NORM strategy is being led by the Scottish Government and SEPA (Scottish Environmental Protection Agency) but with the involvement of DECC and NDA. Lancashire County Council is providing local government input into strategy development. At present it is not clear how much NORM waste is likely to be generated from oil and gas decommissioning or from other activities such as shale rock fracturing ('fracking'). However it is likely to be significant and thus may have implications for the wider management of LLW.

3. Report on LLW National Programme Regulatory meeting

The latest LLW (Low Level Waste) Regulatory meeting was held in Penrith on the 11th June 2013.

There was a presentation and discussion on the LLW National Programme Risk Register. Nine strategic risks have been identified:

1. LLWR is unable to continue to dispose of LLW.
2. Uncertainties in LLW inventory show that more or less LLW needs to be managed by the National Programme.
3. Insufficient radiological or volumetric capacity at LLWR.
4. The suppliers withdraw from the LLW marketplace.
5. Strategy for site end states means that large volumes of contaminated land are generated and have to be managed as waste.
6. Do not achieve required level of diversion.
7. Changes in regulatory policy impact National Programme and execution of LLW Strategy.

8. Trans-frontier shipment of wastes for treatment is restricted.
9. Stakeholder concerns over radioactive waste management and disposal facilities constrain development of new routes and facilities.

The outcome of the current review of the Safety Case for the LLWR is of high significance. The Drigg site is vulnerable to sea level rise and coastal erosion. The safety case will consider whether it is acceptable to continue putting LLW into the Repository for the rest of its operational life (to around 2075) and how/if the site can be protected long term.

There was also discussion at the meeting around strategic risk 9. Members of the group expressed surprise that LLWR has not explicitly recognised that permits for existing disposal routes only exist until 2016 and are not guaranteed to be renewed. LLWR are confident that they will be, but have committed to revise this element of the Risk Assessment if there were indications this was not the case.

The meeting also included a presentation by Alan Fisher of RSRL on decommissioning and in particular in the potential use of LALLW/VLLW as backfill at Winfrith. The key issue is that such material is classed as radioactive waste now, but will be 'out of scope' by the time the site is de-licensed. This raises interesting issues about the best use of such material. However the Environment Agency has concerns about the proposal and also believes that current rules will not permit it.

4. NuLeAF's new guidance on planning and radioactive waste

NuLeAF has now published a revised Briefing Paper¹, setting out advice on approaches to radioactive waste management in local plans.

This paper was prepared in consultation with NuLeAF's Radioactive Waste Planning Group (RWPG). It was felt necessary to revise planning guidance given the significant changes that have occurred or are upcoming, notably:

- The new National Planning Policy Framework, the 'Duty to Co-operate' and the forthcoming National Waste Management Plan (NWMP) for England
- NDA Strategy revision and the draft LLWR 'capacity gap' analysis

A further revision of the Briefing Paper will be undertaken following the publication of the NWMP.

5. NuLeAF research on the Duty to Co-operate

NuLeAF has been commissioned by the Low Level Waste Repository (LLWR Ltd) to undertake research on planning reform, in particular the Duty to Co-operate, and the implications for future management of Low Level Waste

¹ <http://www.nuleaf.org.uk/nuleaf/DisplayArticle.asp?ID=6516>

(LLW), particularly Very Low Level Waste/Low Activity Low Level Waste (VLLW/LALLW).

The Duty to Co-operate (DtC) came into force through the Localism Act 2011. Under the DtC the Government expects joint working on areas of common interest to be diligently undertaken for the mutual benefit of neighbouring authorities. The Duty also requires engagement with organisations other than neighbouring local authorities and with remote sites where they will be affected by proposed plans.

Councils are required to demonstrate that they have complied with DtC:

- Legally – at the independent examination of Waste Local Plans;
- As a policy test – a plan will only be found sound if it is deliverable and based on effective joint working on cross-boundary strategic priorities; and
- Through reporting – under Local Planning Regulations 2012 councils are required to report progress against DtC in their Annual Monitoring Reports (AMRs).

Councils should use DtC as an opportunity to:

- get the evidence right (and spread the cost with partner councils);
- reach agreements with partners on joint working approaches; and
- explore the opportunity for jointly adopted policies and other strategies.

The Duty to Co-operate is relevant to radioactive waste management, and strategic priorities across local boundaries will need to be properly co-ordinated and reflected in local plans. However, practice is at an early stage and is evolving. The North London Waste Plan Examination was suspended following issues raised by South East Waste Planning Advisory Group (SEWPAG) and others².

The aims of the NuLeAF research are to:

- Bring clarity as to exactly what impacts the Duty to Co-operate is likely to have on LLW management (e.g. At what 'threshold' is the DtC applicable? Who must be consulted?)
- Set this within the context of the wider changes in planning that have taken place and which will happen in the near future
- Assist LLWR and other interested parties in developing their plans for the future management of LLW

The research involves a desk review and phone interviews with national government, local authority planners and other experts. A discussion of the issues around DtC was held with NuLeAF's Radioactive Waste Planning Group and LLWR at the RWPG meeting on the 5th June.

² <http://www.nlwp.net/examination/examination.html>

Drawing together the various strands of research, a draft report will be prepared and circulated in July. Comment on the draft report will be invited from members of the RWPG, LLWR and DECC.

6. Community Benefits

NuLeAF has been pressing the NDA for a number of years on the need to establish clear rules for the provision of community benefits around nuclear sites. Of interest in this context is the announcement on the 27th June of a **Shale Community Engagement Charter** by the UK Oil and Gas Onshore Industry Group (UKOOG)³. This sets binding standards for engagement with local communities alongside a community benefits scheme.

Such examples serve to strengthen the case for similar action in relation to nuclear decommissioning and waste management – however the NDA has to date been reluctant to consider the draft NuLeAF ‘community benefits protocol’.

The Steering Group is invited to consider the establishment of a ‘task group’ to help engage with NDA on community benefits in relation to radioactive waste facilities and press for a clear approach.

7. Keekle Head Inquiry

The public inquiry into plans for a low level waste site at Keekle Head in Cumbria began on the 25th June and ran for a week. Cumbria County Council has rejected plans from Endecom UK to build the repository on the site of a former coal mine near Distington, arguing that it will have unacceptable impact on the area.

It is not known when the outcome of the inquiry will be announced.

³ <http://www.ukoog.org.uk/elements/pdfs/communityengagementcharterversion6.pdf>

Annex A



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Mr S Kemp & Mr P Matthews
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Your ref:
Our ref:
Date:

Dear Mr Kemp and Mr Matthews,

Thank you for your letter of 22 January. I am very sorry not to have responded until now.

One of our main drivers behind carrying forward of the Waste Management Plan is to meet the requirements of what the Plan needs to comprise as set out in Schedule 1 of the Waste (England and Wales) Regulations 2011 and, through that, article 28(3) of the 2008 revised Waste Framework Directive. I believe my colleague Mark Plummer from DCLG briefly outlined the intention behind the Plan when speaking at the NuLeAF Radioactive Waste Management Seminar event last month. I understand he explained that it will be a high level document which will provide an analysis of the current waste management situation in England covering the different areas of waste policy and how they complement each other, supported by hyper links to the full policy documents which sets out the detail.

Such policy documents will include the Hazardous Waste National Planning Statement (hazardous waste being one of those wastes being covered under the Directive) that has policies for low level radioactive material which, alongside proposed updated planning policy on waste management more generally to replace current Planning Policy Statement 10, will be the main consideration for local authorities for the purposes of making provision for hazardous waste both in preparing their local plans and in considering individual planning applications. The Plan will not include those strategies relating to higher activity radioactive wastes or solid low level radioactive wastes (radioactive waste being excluded from the scope of the Directive) which are the responsibility of DECC, being the lead department for

managing the use and disposal of radioactive and nuclear substances and waste.

Ultimately the core aim of the Plan is to bring current policies under the umbrella of the one national Plan and to ensure compliance with our requirements under the Directive transposed through the 2011 Regulations. It is not the intention of the Plan to change the landscape of how waste is managed or to introduce new policies. As waste is a devolved matter, the devolved administrations will also be responsible for producing a Plan for their areas. Together with the Waste Management Plan for England those Plans will collectively cover the geographical territory of the United Kingdom, meeting the requirements on the UK as a Member State under article 28(1) of the Directive.

The draft English Waste Management Plan and the update of national planning policy in PPS10 are intended for public consultation during the summer of 2013. We would welcome any response NuLeAF may wish to make on the documents once you have had the opportunity to digest what is proposed.

Yours sincerely,

H.Chughtai