

Meeting:	NuLeAF Steering Group, 20 October 2010
Agenda Item:	6
Subject:	Progress Report
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Purpose:	To report on a range of developments relating to nuclear legacy management

Introduction

This progress report covers the following items:

- Low Level Waste (LLW) strategy and developments
- the process for siting a Geological Disposal Facility (GDF) and
- the Submarine Dismantling Project (SDP)

The report is for noting.

Strategic Objectives

The developments reported are relevant to the following strategic objectives:

Low Level Waste (LLW) Strategy

- Seek to ensure that LLW strategy is implemented in ways that can inspire local authority and public confidence.
- Encourage and assist the NDA, Site Licensee Companies (SLCs) and the supply chain to take full account of the role and needs of the local authority planning system in the implementation of LLW strategy.
- Encourage Waste Planning Authorities to develop policy in Minerals and Waste Development Frameworks on the management of LLW (and VLLW).

Geological Disposal Facility (GDF)

- to liaise effectively with any local authority that may wish to consider, or makes, an expression of interest in the GDF siting process and to provide assistance as appropriate
- to work with Government, the NDA, CoRWM, regulators and member authorities to help ensure that the approach based on voluntarism and partnership works successfully in practice
- to ensure member authorities are briefed and up-to-date on developments in the GDF siting process.

Submarine Dismantling Project (formerly ISOLUS)

- Encourage any member authority that may be affected by the management of the radioactive wastes from laid up nuclear submarines to participate in consultation on the proposed way forward.

- Encourage MoD to adopt clear objectives and good practices in the consultation on options for managing radioactive wastes from the Submarine Dismantling Project.
- Seek to ensure that the approach taken to the implementation of the Submarine Dismantling Project is consistent with developments in the civil nuclear industry.

1 LLW Strategy and Developments

An update on national developments is that:

- **UK Strategy for the Management of LLW from the Nuclear Industry** – following approval by Government, the Strategy was published in August and is available on the NDA website at [NDA launches UK strategy for managing low level radioactive waste](#).
- **NuLeAF Briefing Paper on LLW Strategy** – a draft Briefing Paper (BP) setting out a commentary on the LLW Strategy and the implications for local authorities was reviewed by NuLeAF's Strategy Review Group on 1 October. A summary of key comments from the draft BP is attached as Annex 1. It is anticipated that the BP will be available on the NuLeAF website by the time of the Steering Group meeting.
- **LLW Strategy Group**: the most recent meeting of the NDA's LLW Strategy Group was held in mid July. An overview of the topics considered, and copies of the presentations made, are available on the LLW Repository Ltd website at [Low Level Waste Repository](#). Richard Evans from Cumbria CC made a presentation on 'support to local planners'.
- **Combustible wastes** – LLWR Ltd is introducing a new combustible waste treatment service in October 2010. Under a new framework agreement, the company is offering a range of 'service providers' and facilities for the treatment of combustible wastes. In the UK, these are: Abbot Nuclear Consulting using the Tradebe facility at Fawley; Energy Solutions using the Inutec facility at Winfrith and the Grundon facility at Colnbrook; and Studsvik, also using the Tradebe facility at Fawley.
- **On-site disposal**: LLW Repository Ltd has produced draft business case guidance for Site Licensee Companies (SLCs) who wish to consider developing LLW disposal facilities at existing nuclear sites. The draft is with NDA for comment. A revised version will then be made available to LLW Strategy Group members.
- **LLWR deliverables**: LLW Repository Ltd has updated the 'deliverables' page on its website at [LLWR Deliverables](#). This includes access, for example, to documentation on: waste management hierarchy guidance, metal treatment services, LLWR operational strategy and a transport feasibility study.
- **Evidence bases**: as reported to previous meetings, NDA had initiated some work to provide a case study setting out regional radioactive waste arisings and management facilities. This work is currently on hold pending the outcome of the NDA's 'organisational effectiveness review', but NDA intends to have some preliminary outputs by the end of the current Financial Year
- **NuLeAF seminar on 'planning and LLW management'**: it is currently intended to hold the seminar in March 2011.

The SG's attention is also drawn to DECC's revised proposals for a future **exemptions regime**. This follows consultation on initial proposals in summer 2009. An explanatory note is provided at Annex 2.

As reported to the last SG meeting, the most significant local development concerns the appeal into refusal of permission to dispose of LLW to the hazardous waste landfill site at **King's Cliffe in Northamptonshire**. The public inquiry starts on 26 October. The ED has been liaising with officers at Northants CC on the preparation of evidence to the inquiry, which will consider a range of key issues relevant to the implementation of LLW strategy.

Jo Fisher from the NDA will make a presentation to the afternoon session of the Steering Group on issues in implementation of the LLW Strategy.

2 The Process for Siting a GDF

The most recent meeting of the **West Cumbria MRWS Partnership** took place on 5 August. The main objectives of the meeting were to: develop an understanding of the inventory, the process for altering it and how the community might influence it; consider the pros and cons of different methods of informing a decision about participation, including referenda and defining 'credible support'; and understand and influence the Site Selection Process. The Executive Summary from the meeting report is attached as Annex 3.

The Executive Director (ED) took an action from the meeting to prepare a discussion paper on 'Principles for the Process of Inventory Change'. This is likely to be considered at the Partnership meeting on 10 December.

The Partnership postponed its meeting scheduled for 29 September. This was to enable discussions to be completed with Government about the funding for its work in the current financial year. The Government had been due to publish the results of a basic geological study of West Cumbria at the meeting. As the meeting had been postponed, DECC also decided to delay the publication of the study by the British Geological Survey (BGS). The discussions about funding have now been resolved, so the next meeting of the Partnership will take place on the 28 October. The results of the BGS study will be published at that meeting.

The Steering Group will also be interested to hear that the **Government** is revamping its **Geological Disposal Implementation Board (GDIB)** with the objective of providing Ministerial oversight of the implementation programme as well as enabling local communities, CoRWM, key waste consignors and green NGO's to provide direct input to, or to have direct observation of, the programme. Government hopes that it will help build confidence in the programme among key stakeholders.

It is envisaged that the GDIB will meet 2-3 times a year, with the first meeting scheduled for 15 November. Core membership is likely to consist of Government Departments, the NDA and Community Siting Partnerships (once established after any formal Decisions to Participate). Invited observers are likely to include CoRWM, the regulators, waste consignors, communities who have formally made an 'Expression of Interest', wider local government and green NGOs. It is understood that an invitation will be sent to the LGA. The ED will liaise with the LGA about NuLeAF attendance on the LGA's behalf.

3 Submarine Dismantling Project

As reported to the July SG, MoD proposes to seek the views of certain local stakeholders on proposed assessment criteria before a list of credible sites for dismantling or storage is confirmed. It also intends, at the same time, to open discussions with these stakeholders on the approach to local public consultation.

National workshop(s) are expected to form a part of this pre-consultation engagement and MoD hopes to be able to confirm dates shortly.

The ED is participating in the Consultation Sub-Group (CSG) of the SDP Advisory Group to seek to ensure that clear objectives and good practices are adopted in engagement activities associated with the SDP. A meeting of the CSG is being held on 8 October. A verbal update will be provided at the SG meeting.

Annex 1: DRAFT Summary of Key Comments in the NuLeAF Briefing Paper on LLW Strategy for the Nuclear Industry

The Briefing Paper highlights a number of key comments for local authorities that arise from the UK strategy for the management of LLW from the nuclear industry. These are:

- **The "overarching expectation" of a high standard of public acceptability:** although the strategy provides a welcome focus on the need for early and proactive stakeholder engagement, and a link to appropriate advice, it does not elaborate on what should be considered to constitute a "high standard of ... public acceptability", or how one might identify whether it has been achieved. Instead the strategy simply states that "it is for the developer and the local authority to reach appropriate agreement on the acceptability of any new proposals" (section 3.1.1).
- **A potential regional or national role for existing waste management facilities:** The emphasis in the strategy is on the use of existing waste management capacity (even if at a considerable distance from the source of waste), with a 'green light' for that capacity to take on, where practicable, a regional or national role. It is arguable that this emphasis pays insufficient regard to an objective in PPS10 that a more localised approach to waste management should be developed. This objective has informed trends towards county or unitary based self sufficiency in planning for other types of waste management. In such circumstances, a facility should not take on a regional or national LLW management role 'by default', but only after discussion has taken place with the relevant Waste Planning Authorities (WPAs) to ensure that such a role would be consistent with relevant development plans and is within the scope of the planning permission and conditions for operation of the facility.
- **Assessment of disposal options:** The requirements of Government LLW policy (to include potentially affected communities in the development of operator plans and programmes) and LLW strategy (to include consideration of recipient community issues in option assessment) have potentially important implications for the timing of the involvement of the relevant local authorities. It suggests that this involvement should come early, at the stage of option assessment, rather than wait until a preferred option has been identified and issues around potential requirements for planning permission are being addressed. Against this background, local authorities that become involved in option assessments should seek to ensure that proper consideration is given to all potential disposal options, including the potential advantages of developing facilities on or adjacent to existing nuclear sites (stronger adherence to the proximity principle and greater potential, at some sites, for public acceptability arising from the development of purpose-designed facilities under the supervision of nuclear site management).
- **Interactions with planning authorities:** The NDA has responded positively to NuLeAF's suggestions about the need to provide guidance for planners. The strategy includes a range of points on interactions with planning authorities: the strategy should be used as guidance by planning authorities when preparing and reviewing their planning strategies for waste management; waste managers and facility operators should recognise the importance of early dialogue with local government decision makers to help inform (a) the preparation of local waste development documents and (b) the handling of planning applications; where waste management authorisations for disposal to existing facilities are sought, the operator should enter into discussion with local government decision makers to take advice on whether planning permission might also be required; we recognise that

planning authorities will require a sufficient evidence base, with data about the volumes and types of LLW and High Volume VLLW arisings on a region by region basis, an indication of the timing of such arisings, and information about existing and reasonably foreseeable facilities for managing LLW and High Volume VLLW in each region; and in order to support local government decision makers we will make available information on LLW forecasts on an appropriate basis.

- **Implications for local authority plans:** NuLeAF encourages Waste Planning Authorities to address radioactive waste management in Minerals and Waste Development Frameworks. In doing so, consideration could be given to the case studies and potential planning policies outlined in this briefing. The strategy commits NDA to assisting with provision of a sufficient evidence base. That information will provide an important input to discussions with planning authorities about what facilities are required and where they might be located.
- **Implications for development control:** there is no simple answer to whether or not planning permission is required for the use of existing waste management facilities for managing LLW. Each proposal needs to be assessed against the terms of the original planning permission. If there is a condition expressly prohibiting management or disposal of radioactive waste then planning permission would be required to accept such waste. Where no condition has been imposed then the question of whether or not planning permission is required will depend on the degree to which the proposal varies from the existing permission and how material such changes are. The forthcoming public inquiry into the refusal of planning permission for disposal of LLW to the landfill site at King's Cliffe in Northamptonshire will consider a range of key issues relevant to the implementation of LLW strategy.

Annex 2: Revised Proposals for a Future Exemptions Regime

DECC has undertaken a limited programme of stakeholder engagement on revised proposals for a future exemptions regime. This follows consultation on initial proposals in summer 2009. The closing date for comments was 6 October. The outcome will be incorporated directly into the Environmental Permitting Regulations.

DECC has published an engagement package that includes:

- An engagement document, outlining the nature of the proposals
- Draft Regulations for England and Wales, Scotland and Northern Ireland
- Draft Government guidance
- Draft Impact Assessment
- Response form

The package is available on DECC's website at [Exemption Order review stakeholder engagement package - Department of Energy and Climate Change](#).

DECC explains that within the draft proposals, all materials and wastes are placed into one of three categories:

- **Outside the scope of regulation**; that is, not defined as radioactive for the purposes of regulation.
- **Within the scope of regulation**, but **conditionally exempted** from the need for prior permitting by reason of low risk.
- **Within the scope of regulation**, and requiring prior permitting by the environmental regulators.

Exemption Orders (EOs) are the mechanism by which materials and wastes that fall within the scope of the second bullet are defined. They are intended to provide a degree of control, without excessive bureaucracy, over minor uses of radioactive substances where there is a clear benefit from use, whilst ensuring continued protection of the environment and the public. The exempt matters are subject to conditions; that is, matters are only exempt if the conditions are complied with.

Exemptions are in place for five regulated activities:

- Keeping and use of radioactive materials.
- Keeping and use of radioactive materials (mobile apparatus).
- Disposal of radioactive waste.
- Accumulation of radioactive waste.
- Receipt of radioactive waste for the purposes of disposal.

DECC argues that government intervention is required across the UK to produce a new Exemptions regime which meets modern requirements in relation to practicality, legal robustness and a proportionate (i.e. risk-informed) regulatory burden.

DECC's proposed approach would introduce a simpler system (from 18 EOs to 1 top level EO). The proposed single top level EO for conditional exemption would set out the general arrangements with the detailed revised numerical values located in schedules. This would

involve a significant rationalisation and simplification of the current regime and would relegate as much detail as possible to supporting guidance to provide a measure of future-proofing.

DECC's view is that the approach would effectively reproduce the existing exemptions regime, with differences only at the margins; that is, some currently exempted practices will require permitting; and vice versa. Overall, it anticipated that the number of permitted activities will reduce slightly.

DECC notes that there are approximately 22,000 users of EOs in UK and 2200 permit holders (10 users/permit holder), utilising 3850 permits.

DECC states that the bases on which the various levels and waste disposal criteria have been developed are mainly related to the radiation dose which may be received by a member of the public. It states that the radiological impact assessments which have been carried out to support these levels take into account a wide variety of possible pathways.

It is the Government's intention that these proposals do not change the human health protection standards currently in place. It has adopted the standards as set out in the 1996 Basic Safety Standards Directive which is currently applied through RSA 93 and associated Secretary of State Directions and Statutory Guidance to the environmental regulators.

NuLeAF's comments on the initial proposals in Summer 2009 are available at [EO comments](#). These focused on: the need for openness and transparency (provision of a publicly comprehensible overview); robustness to a range of uncertainties in radiological appraisals; and need not to exempt high volume VLLW (for public confidence reasons).

In response to further enquiry, DECC have clarified the position on VLLW as follows:

The general answer to your question is no, we are not exempting high volume VLLW disposal, only low volume VLLW. If you look at the draft Exemption (Scotland) Order 2011 (which is easier to read than the corresponding EPR amendment Regs) this is shown in the top two rows of Table 3 on Page 27 and corresponds to 50 cubic metres/year volume at the maximum activity concentration.

So high volume VLLW disposal will still need to be permitted, except for NORM (naturally occurring radioactive material)waste from what are called "NORM industrial activities," (see Table 3 of the Amendment (Scotland) Regulations) or from the remediation of contaminated land from a NORM practice that is not on a nuclear site. This is set out in Part 7 of the Exemption Order (pages 10-11) and in the definition of "NORM waste" in Part 1 (page 3).

We have included these latter provisions to try and replicate, in a more modern form, the current Phosphatic Substances and Rare Earths etc Exemption Order, which are used by certain industries who process very large volumes of slightly radioactive ores (eg for production of titanium dioxide) and for the remediation of contaminated land from past practices, such as radium luminising. As mentioned above they do not apply to nuclear sites, so are in fact more restrictive than the current EO.

Annex 3: Executive Summary from the 11th Meeting of the West Cumbria MRWS Partnership

Overview. The 11th meeting took place on 5th August 2010. 37 people attended with 13 members of the public present to observe the meeting. The main objectives of the meeting were to: develop an understanding of the inventory, the process for altering it and how the community might influence it; consider the pros and cons of different methods of informing a decision about participation, including referenda and defining 'credible support'; understand and influence the Site Selection Process.

Updates. The British Geological Survey (BGS) is well under way with its initial desktop screening of West Cumbria, and the draft findings are currently being reviewed by the Partnership's two independent peer reviewers to ensure the integrity of the report before its publication on 29th September [note, subsequently postponed]. The Committee on Radioactive Waste Management (CoRWM) and the Department of Energy and Climate Change (DECC) are organising a seminar on 22nd September for Partnership members on why geological disposal was favoured nationally against other waste disposal options. The Steering Group is considering organising a visit to an operational disposal facility to build their understanding of the practicalities of a facility for the West Cumbrian community. The Nuclear Decommissioning Authority (NDA) are also organising a visit to two European facilities. The Cumbria Association of Local Councils (CALC) is in the process of seeking feedback from its constituents about how they are being represented on the Partnership. CALC asked for the dialogue that they have been holding with DECC and Cumbria County Council regarding their concerns over legal issues related to Strategic Environmental Assessment to be placed on the record.

Public and Stakeholder Engagement Rounds 1 & 2. The timed plan for delivery against the actions from the first round of PSE is now complete, and is available to view on the Partnership website. A summary note on what has been implemented in response to the findings of the independent evaluation will be published shortly. Dates have been confirmed for a series of Community Events during PSE2. The production of the Discussion Pack is under way and will be available for distribution in the autumn.

Inventory. The Partnership heard presentations from the NDA, DECC and an independent environmental consultant Pete Roche. The key issues that were discussed included the need for the community to understand what role they can play in defining and controlling the inventory, the requirement for a change management process to be in place to handle changes to the inventory over time, and for any agreements that are made to be legally binding. A set of principles for what needs to be in place at the point of a decision about participation will be drafted for consideration by the Partnership.

Credible Support. The Partnership considered a discussion paper on 'Credible Support and Decision Making about Participation'. The key issues that were discussed were around the pros and cons of using referenda, and what indicators need to be in place for the Partnership to make a judgement on whether their recommendations about a decision to participate will be 'credible' given public and stakeholder views. The issues about the use of a quantitative indicator will be discussed by the Steering Group, and brought back for further consideration at the next Partnership meeting.

Principles for Involvement of Affected Communities. The principles that will be taken into PSE2 were discussed and agreed.