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Submitted via email: contact@onr.gov.uk

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Dear Sir/Madam,

Consultation response: The management of higher activity radioactive waste on nuclear licensed sites - Joint guidance from the Office for Nuclear Regulation, the Environment Agency, the Scottish Environment Protection Agency and Natural Resources Wales to nuclear licensees

1. Introduction

This is a joint response to the above consultation by **Nuleaf (the Nuclear Legacy Advisory Forum)** and **SCCORS (Scottish Council Committee on Radioactive Substances)**, as the local government representative bodies on nuclear decommissioning and waste management covering England, Scotland and Wales:

- Nuleaf is the Local Government Association (LGA) representative body on nuclear legacy wastes and decommissioning, covering England and Wales.
- SCCORS represents Scottish local authorities on these matters.

Nuleaf hosts the SCCORS Secretariat and, while we are separate organisations, we work together on issues of mutual interest. As this Guidance covers the whole of Great Britain, we feel it appropriate to provide a joint response.



The management of Higher Activity Waste (HAW) is important to our member local authorities and the communities they represent. We wish to see all HAW managed in the most sustainable ways possible, with full recognition of the impacts on communities.

We are providing a written response as we were unable to include all the comments we wished to make in the space provided in the online questionnaire. We provide some brief responses under Questions 1, 2 and 3; and then set out our detailed comments on the whole document under Question 10. We are happy to provide further information or clarification if required.

2. Response to Questions

1. How would you best identify yourself?

Other: As noted above we are networks of local authorities.

2. How familiar would you say you are with the content of the HAW Joint Guidance?

Moderately – Understand the concepts but have not worked on something directly related to it.

3. How well has the HAW Joint Guidance achieved its stated main aims to:

- *provide a comprehensive source of information that can be used by nuclear site licensees and the regulators' staff, and referred to by other stakeholders; and*
- *advise licensees on how to obtain regulatory acceptance of their proposals for radioactive waste management?*

For non-technical stakeholders it broadly meets the aims but there are a number of sections identified where clarity could be improved (see comments below).



10.If you have any thoughts or comments about the HAW Joint Guidance that have not been covered in previous questions, please provide them in the free text box below.

As the representative bodies for local authorities in England, Scotland and Wales, we note the engagement of the environmental regulators covering the three countries and are pleased that the document highlights the different policies for the disposal of waste in the respective nations.

However, we note the use of the term 'geological disposal' is used in the text to include the long-term-management in near surface facilities in accordance with Scottish policy for the management of HAW and believe that this could be misleading to anyone not reading the document in its entirety. With changes to national policy introduced in 2024 making provision for Near Surface Disposal for some HAW in England and Wales, for clarity, we suggest the use of the term 'geological disposal (or near-surface management/disposal)' throughout.

Whilst the guidance is written to support nuclear site licence holders to comply with applicable legislation for the management of HAW, it is also intended to be a source of information for stakeholders. These could include members of the public or local authorities who represent local communities as set out in paragraph 54, on page 16.

The inclusion of an executive summary is helpful for a non-technical audience but it should aim to provide a summary of the document content, rather than simply setting out what is included in each section. Whilst a range of stakeholders are identified in paragraph 54, it may be helpful for an updated guidance document to include a description in the glossary to provide clarity on those who may be interested in the management of HAW on nuclear sites and therefore the potential audience for this document.

It is unclear if the guidance is applicable to all Higher Activity Radioactive Waste (including HAW arising on defence sites) or that arising from civil nuclear facilities only. It would be helpful if this could be clarified in the scope of any update. With the Nuclear Decommissioning Authority (NDA) being given greater responsibilities by government since the guidance was issued, this wider remit may need to be considered in other sections too, for example



the national record management facilities and the national nuclear archive on page 72.

The development of facilities for the management of HAW may require planning consent from the relevant Waste Planning Authority. Whilst planning authorities are considered a regulatory body, it may be helpful for an updated scope section to clarify that the guidance does not cover the regulatory regime for land use planning, including planning for waste management infrastructure or the transport of radioactive wastes between sites.

It is helpful that the government policy section on page 8 sets out the different approaches to the management of HAW in England, Scotland and Wales. When discussing governments wider policies, references should be to the management of radioactive waste, not disposal, to reflect the overarching principles of the waste hierarchy. For example, the reference to disposal organisations in paragraph 14 on page 8 might better reference management organisations to reflect this and the potential for interim storage.

In light of the organisational restructure of the NDA since the guidance document was published, the role of the NDA will need to be considered throughout any updated document. For example, the use of the document by the NDA is referenced on page 8 - but it's role isn't clearly defined as strategy development or well as producer (NRS), holder (NRS) and manager of the waste (NWS).

It may be helpful for there to be clear distinction between the regulatory roles of the ONR and the environmental agencies, in particular for the non-technical stakeholder audience. For example, in England, the Environment Agency (EA) are responsible for nuclear site radioactive substance regulation (RSR) which includes radioactive substance activities including storage, treatment and disposal to air, land and water, but the environmental legislation section on page 10 only describes the regulation of radioactive disposals and transfer between sites.

The concepts of BAT and BPM are introduced in the environmental legislation section in paragraph 25. It would be helpful for clarification on the different legislative regime, e.g. BAT used by the EA/NRW in England and Wales, with BPM used by SEPA in Scotland.



Paragraph 27 on page 11 makes reference to Principles for the regulation of radioactive substances in England and Wales. It's not clear if there is an equivalent principles document in Scotland but if not, it would be helpful for this to be stated.

Paragraph 37 refers to other stakeholders including the public. In the context of holding early consultations, we feel that it might be better to refer to the local community as consultation with the wider general public would not seem appropriate or feasible. It may be appropriate to reference the Site Stakeholder Groups (SSG) as an important element of local engagement.

Paragraph 41 describes that *'the RWMC for a waste stream should cover the period from its generation, through the conditioning, storage and up to the removal of the waste stream from site for eventual disposal'*. It would be useful to note that this may include arrangements for wastes that are transferred to another site for interim disposal - for example the transfer of wastes from Oldbury to Berkley pending disposal to GDF. With the transition of the AGR fleet to the NDA and consideration of consolidated facilities as a result, this should be reflected in any update.

Paragraph 51 refers to the EA and SEPA but there is no reference to NRW.

Nuleaf and SCCORS are pleased that the guidance gives due consideration to stakeholder engagement, specifically that stakeholder engagement at appropriate times is good practice. Paragraph 54 acknowledges local authorities and the general public as having an interest in how radioactive waste on a nuclear site is managed. Again we would suggest that the term 'local community' would be more appropriate in this context.

We would stress the importance of timely and transparent engagement with relevant stakeholders and clarification on how that engagement is to be achieved. The role of the SSG would appear to be relevant as part of this process but is not acknowledged.

In the context of the Waste Hierarchy, reference is made in paragraph 139 on page 30 to avoidance rather than prevention. Avoidance is also referenced as the first step in waste hierarchy in the glossary on page 75. The term prevention is referenced in paragraph 134 on page 29. For consistency with DEFRA and EU guidance on the waste hierarchy and the 2024 national policy



for decommissioning and the management of radioactive waste, the term Prevention should be used throughout any updated document.

The guidance document sets out requirements for record keeping for radioactive wastes in section 7, page 62 onwards. For some stakeholders familiar with conventional waste management legislation and the Duty of Care, it may be helpful for any updated guidance to set out that radioactive waste is exempt from the documentary requirements for waste transfers, with separate legislation to address the specific risks and characteristics associated with these wastes and the requirements for record keeping.