



Advice Note 11, Annex F Nuclear Regulators - The Office for Nuclear Regulation, the Environment Agency and Natural Resources Wales

Introduction

The purpose of this Annex is to help applicants for development consent for nuclear power stations understand the respective roles of the Office for Nuclear Regulation (ONR), the Environment Agency (EA) and Natural Resources Wales (NRW) in the Planning Act 2008 process.

This note needs to be read in conjunction with the National Policy Statement for Nuclear Power Generation (NPS EN6) which was designated by the Secretary of State for Energy on 19 July 2011 and which provides guidance on the relationship between the regulatory framework and the planning regime for nuclear generating stations. The Nuclear Regulators recommend that applicants review the NPS EN6 and follow any policy regarding pre-application engagement.

The Planning Act 2008 (as amended) provides that the Secretary of State for Energy is the decision-maker for applications for development consent for nuclear generating stations.

This Annex provides a general overview of the role of the ONR, EA and NRW as nuclear regulators and explains how each will be involved in the consideration of an application for development consent for a nuclear generating station. (Annex A to Advice Note 11 provides an overview of NRW's role in infrastructure planning in Wales, which includes functions formerly exercised by the Countryside Council for Wales and also marine licensing. Annex A should be read in conjunction with this Annex where schemes are proposed in Wales, or likely to have an effect on land in Wales, or Welsh territorial waters). (Similarly, Annex D to Advice Note 11 provides a generic overview of the role of the EA in England in infrastructure planning).

This Annex will be kept under review so as to ensure that it remains relevant and up to date. The Planning Inspectorate welcomes feedback on the content of this Annex.

The role of ONR, EA and NRW as nuclear regulators

ONR

ONR is the principal regulator of the safety and security of the nuclear industry in the UK. It was established as a statutory Public Corporation on 1 April 2014 under the Energy Act 2013. It is an independent statutory body

whose costs are met by charging fees to the nuclear industry. ONR reports to the Department of Work and Pensions and also works closely with the Department of Energy and Climate Change.

ONR is mainly comprised of the former Nuclear Installations Inspectorate, UK Safeguards Office and the former Office for Civil Nuclear Security. In addition to nuclear safety, security and safeguards, ONR has also incorporated the nuclear regulatory functions of the Department for Transport's Radioactive Materials Transport Team. The Chief Nuclear Inspector is the regulatory Head of ONR.

ONR is responsible for licensing and regulating a broad range of nuclear facilities and activities. The main safety functions of ONR are to grant and administer nuclear site licences and to inspect, review and assess the safety of plant, people and processes on licensed nuclear sites. ONR has primary responsibility for regulating radioactive waste accumulated and stored on licensed sites.

ONR sets safety standards for nuclear installations both nationally and internationally. The Health and Safety at Work Act 1974 makes employers responsible for ensuring, so far as is reasonably practicable, the safety of their workers and the public. This responsibility is elaborated further in relation to nuclear sites by the Nuclear Installations Act 1965 which provides a nuclear site licensing regime.

As a consequence of its regulatory role, ONR participates in, and provides advice on, a broad range of planning, consenting and development control processes.

EA (England) and NRW (Wales)

EA's and NRW's environmental regulation of nuclear generating stations in England and Wales respectively includes:

- permitting discharges and disposals of radioactive waste
- licensing abstraction of water including for site dewatering or use during construction, process use or for turbine condenser cooling
- permitting aqueous effluent discharges, including the operation of turbine condenser cooling, and water treatment facilities and sewage treatment plant during construction
- permitting certain conventional plant (examples include auxiliary boilers and stand-by power supplies, and incinerators used to dispose of combustible waste)
- permitting disposal of waste by deposit on or into land including excavation materials arising from construction
- permitting work on or near flood defences
- regulating the decommissioning and remediation of nuclear sites
- control of radioactive materials prior to licensing of a nuclear site and accumulations of radioactive wastes which are not deposited on a nuclear licensed site

- impounding surface water
- placing structures that affect the flow of a watercourse
- development within the byelaw distance of a main river or tidal flood defence or development that includes raising of ground levels in the floodplain beside a main river.

ONR and EA in England, and NRW in Wales, work closely together on nuclear sites so as to ensure that their regulation of nuclear site operators is coordinated and consistent.

Control of major accidents involving dangerous substances falls to the Seveso Directive 82/501/EEC, which is transposed through the Control of Major Accident Hazards Regulations 2015 (COMAH 15). Storage of certain substances on a nuclear power station site may fall under these regulations. For nuclear sites, EA or NRW and ONR together form the joint enforcing authority for these regulations

ONR, EA and NRW assess the safety, security and environmental acceptability of new designs of nuclear power stations in their Generic Design Assessment (GDA) programme. The purpose of the GDA is to provide a robust, transparent and independent review of whether the design of a nuclear power station could be granted the necessary licenses and permits to allow it to be constructed on a suitable site in Great Britain. GDA is undertaken in advance of the assessment of other site licensing and environmental permitting issues and before large capital commitments need to be made, thus reducing project risks and uncertainty associated with the regulatory processes.

ONR, EA and NRW are subject to the provisions of the Environmental Information Regulations 2004, the Data Protection Act 1998 and the Freedom of Information Act 2000.

The Roles of ONR, EA and NRW under the Planning Act 2008 (as amended)

The roles and responsibilities of ONR/EA/NRW for nuclear power generation fall into the following categories:

- as prescribed consultation bodies under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009
- as prescribed consultees under section 42 of the 2008 Act¹;
- as statutory parties under s.88 of the 2008 Act
- as interested parties during the examination

As prescribed consultation bodies under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

¹ See Regulation 3 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

Where an applicant requests a scoping opinion from the Planning Inspectorate in relation to a proposed nuclear power station, the Planning Inspectorate will consult ONR and EA or NRW about the information they consider should be included in the environmental statement. This Advice Note, and Planning Inspectorate Advice Notes 3, 7 and 9, set out detailed advice on the implications of EIA under the Planning Act 2008 Act (as amended).

As prescribed consultees under section 42 of the 2008 Act²

ONR is a prescribed consultee for those purposes in relation to all applications likely to affect matters relevant to its purposes within the meaning of Part 3 of the Energy Act 2013. EA is a prescribed consultee for the purpose of section 42 for all applications for development consent that are likely to affect land in England, and NRW is a prescribed consultee for all applications for development consent that are likely to affect land in Wales, and Welsh territorial waters.

As statutory parties under s.88 of the 2008 Act

ONR, EA and NRW will be statutory parties for the purpose of the preliminary meeting under s88 and as such will be invited to attend and put forward views on the way that the application should be examined including the timetable³.

As interested parties during the examination

As statutory parties, ONR, EA and NRW may choose to be interested parties in the examination⁴. Where appropriate, ONR, EA and NRW may be invited to make representations on relevant matters such as on the progress of applications for consents, licences, permits and authorisations with which they are dealing in respect of the project. The Examining Authority will need to know the timescale for consents and about any proposed consent requirements. The Examining Authority may also seek ONR, EA's and NRW's opinions on any relevant requirements that are proposed to be contained in the draft DCO and invite representations on written representations submitted by other interested parties.

During the examination, the Examining Authority will consider the provisions of the draft DCO and may hold an issue specific hearing on mitigation measures and requirements. ONR, EA and NRW may be asked to attend the hearing to put their views forward and answer any relevant questions. In

² See Regulation 3 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

³ See Regulation 3 of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015.

⁴ See section 102(1)(c) of the Planning Act 2008

responding to issues raised by the Examining Authority, ONR, EA and NRW will seek to be clear about where they are providing information that relates to their regulatory decision making and where they are providing advice to the Examining Authority on matters within the remit of the Examining Authority and the Secretary of State.

It is the applicant's responsibility to comply with both regulatory and DCO requirements and applicants are strongly encouraged to liaise with ONR, EA and NRW prior to and during the examination to ensure consistency with the requirements/conditions that ONR/EA /NRW may impose on any licence or consent.

ONR Contact Details

Office for Nuclear Regulation
4N.2 Redgrave Court, Desk 26
Merton Road
Bootle
L20 7HS

ONRenquiries@onr.gsi.gov.uk

Website: <http://www.onr.org.uk>

EA Contact Details

Environment Agency's National Customer Contact Centre:

- by calling 03708 506 506 if you are in the UK
- by calling 00 44 1709 389201 if you are outside the UK
- by e-mail at enquiries@environment-agency.gov.uk
- by mail at:

National Customer Contact Centre
PO Box 544
Rotherham
S60 1BY

NRW Contact Details

Natural Resources Wales National Care Centre:

- by calling 0300 065 3000
- by e-mail at enquiries@naturalresourceswales.gov.uk
- by mail at:

Natural Resources Wales
c/o Customer Care Centre

Ty Cambria
29 Newport Road
Cardiff
CF24 0TP

PLANNING INSPECTORATE Contact Details

Director of Major Applications and Plans	Mark Southgate mark.southgate@pins.gsi.gov.uk 0303 444 5080
Head of National Infrastructure Case Management and Environmental Services	Simone Wilding simone.wilding@pins.gsi.gov.uk 0303 444 5088