

ENERGY ACT 2004

**NDA Designation of Sellafield
(Modification Direction No. 1)**

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Presented to Parliament by the Secretary of State for Energy and
Climate Change pursuant to sections 3, 4, 5 and 16 of the Energy Act
2004.

INTRODUCTION AND SUMMARY

This introduction and summary is not part of the direction

The Secretary of State, in exercise of the powers conferred by sections 3, 4 and 16 of the Energy Act 2004 (the "2004 Act"), made a Direction on 3 December 2004 designating the Sellafield Nuclear Site and giving the Nuclear Decommissioning Authority (the "NDA") responsibilities in relation to that site. The Direction, known as the NDA Designation of Sellafield, came into force on 1 April 2005.

Under sections 3, 4, 5 and 16 of the 2004 Act, the Secretary of State now modifies the NDA Designation of Sellafield. The person with control of the Sellafield Nuclear Site is Sellafield Limited, which has consented to the giving of this modifying Direction.

The Sellafield site was acquired by the government as a munitions factory during World War II and was transferred to the Ministry of Supply at the end of 1945 for use in the UK nuclear weapons programme and subsequently in the development of nuclear power. Sellafield was owned and managed by BNFL from 1971 to 2005 when the site was transferred by a nuclear transfer scheme pursuant to the 2004 Act into the ownership of the NDA. The site is the location for spent nuclear fuel reprocessing, waste management and fuel recycling operations and is operated by Sellafield Limited which holds the nuclear site licence.

The Sellafield site comprises a range of nuclear facilities, including redundant facilities associated with defence work, facilities associated with the Magnox Reprocessing Programme, the Thermal Oxide Reprocessing Plant (THORP), the Sellafield MOX Plant (SMP) which ceased MOX production in 2011, a range of waste treatment plants and the Calder Hall power station, which was closed in 2003 and is in the process of being decommissioned. Although not within the scope of this modifying Direction, the site may, in future, also house other facilities. The Government's stated approach is that, for reasons of nuclear security, the preferred policy for managing the vast majority of UK civil separated plutonium is reuse. A fuel fabrication plant may therefore be needed, to convert plutonium to MOX fuel (or a viable alternative) for use in civil nuclear reactors.

In summary, the NDA Designation of Sellafield (Modification Direction No. 1) modifies the NDA Designation of Sellafield Direction by—

- (a) Updating the responsibilities designated to the NDA in relation to the Sellafield Nuclear Site: for example, as a result of progress in decommissioning the Sellafield site since 2005 the First Generation Repro Plants and Finishing Lines, Floc Storage Tanks and the Other Fuel Fabrication Plant (respectively items 2, 11 and 37 of Schedule 1 to the NDA Designation of Sellafield) are now included in Schedule 1 to the NDA Designation of Sellafield (Modification Direction No. 1) at item 1 (as installations on the principal nuclear site). This means that these installations are no longer designated for the purpose of treating and storing hazardous material but are now designated for the purposes of cleaning-up and, by virtue of section 3(6) of the 2004 Act, as installations to be decommissioned. The responsibilities of the NDA in relation to SMP, THORP, the Fellside Power Plant and the BNFL Technology Centre have also been updated.
- (b) Reflecting in a more logical way, the responsibilities designated to the NDA in Schedule 1. Thus rather than trying to list buildings separately where they relate to the same process, the modified Schedule 1 lists more generally facilities and installations associated with different processes.

(c) Correcting certain inaccuracies and typographical mistakes in the NDA Designation of Sellafield. For example, the NDA Designation of Sellafield used the chemical symbol for phosphorous (P) in Schedule 1 rather than the symbol for plutonium (Pu) and this has been rectified. Similarly, although the storage of Pu was implicit in the NDA Designation of Sellafield (the Magnox reprocessing plant produces plutonium dioxide (PuO₂) which is not used to manufacture MOX fuel in SMP), express reference to the storage of Pu is now included.

1. Citation and Interpretation

(1) This Direction may be cited as the NDA Designation of Sellafield (Modification Direction No. 1).

(2) In this Direction—

(a) “the 2004 Act” means the Energy Act 2004 and references to sections are to sections of that Act; and

(b) “electronic communications network” has the meaning in section 32(1) of the Communications Act 2003 (c. 21).

(3) The Interpretation Act 1978 shall apply to the interpretation of this Direction as it applies to the interpretation of an enactment, and words and expressions used in this Direction that are defined in the 2004 Act shall have the same meaning as in the 2004 Act. Where a word or expression is defined in both the Interpretation Act 1978 and the 2004 Act or in both the Interpretation Act 1978 and this Direction, the meaning attributed to such word or expression in the 2004 Act or this Direction respectively will prevail.

(4) For ease of reference the following definitions from the 2004 Act are set out:-

“cleaning-up” and “decommissioning”	in relation to a site or installation, includes— (a) the treatment, storage, transportation and disposal of hazardous material and of other matter and substances that need to be dealt with or removed in or towards making the site or installation suitable to be used for other purposes; and (b) the construction of buildings and other structures to be used in connection with the cleaning-up or decommissioning of the site or installation;
“facility”	includes a business or other undertaking and installations, vehicles or other property comprised in or used for the purposes of a business or other undertaking;
“hazardous material”	means— (a) nuclear matter; (b) radioactive waste; and (c) any other article or substance that has been and remains contaminated (whether radioactively or chemically) as a result (within the meaning of section 36 of the 2004 Act) of nuclear activities;
“installation”	includes buildings, structures and apparatus (whether or not fixed to land);
“NDA facility”	means a facility which— (a) is being or has been used for or in connection with the storage, disposal or treatment of hazardous material;

and

(b) is a facility for the operation of which the NDA has or has had a responsibility;

“nuclear installation”

means—

(a) an installation which is situated in or on a principal nuclear site but is not comprised in an NDA facility;

(b) pipes, conduits and other apparatus which are not situated in or on a principal nuclear site but are connected to an installation falling within paragraph (a);

“principal nuclear site”

means the whole or a part of a site of any of the following descriptions—

(a) a site in respect of which a nuclear site licence is or is required to be in force;

(b) a site in respect of which such a licence would be required to be in force of the licensing requirements of the 1965 Act applied to the Crown;

(c) a site not falling within paragraph (a) or (b) in or on which there is an NDA facility;

(d) a site on which there is an installation used for practical research into the production of energy by the fusion of atomic nuclei;

(e) a site which has been a site falling within paragraphs (a) to (d) but which, without being such a site, remains contaminated (whether radioactively or chemically) as a result of nuclear activities carried on while it was such a site or before it became one;

“site”

includes—

(a) land within the United Kingdom;

(b) an area of territorial waters adjacent to the United Kingdom;

(c) the seabed and subsoil in any such area;

“treat”

in relation to any matter or substance, includes processing and reprocessing (including any use as a material in a process for the manufacture of nuclear fuel), and cognate expressions are to be construed accordingly.

2. Direction

Under sections 3, 4, 5 and 16 the Secretary of State gives the NDA this Direction for the purposes set out in paragraph 3 below.

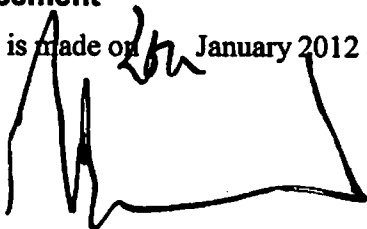
3. Designation

- (1) The NDA Designation of Sellafield is modified as set out in sub-paragraphs (2) to (5) below.
- (2) For Schedule 1 of the NDA Designation of Sellafield substitute Schedule 1 of this Direction.
- (3) For Schedule 2 of the NDA Designation of Sellafield substitute Schedule 2 of this Direction.
- (4) For Schedule 3 of the NDA Designation of Sellafield substitute Schedule 3 of this Direction.
- (5) For Schedule 4 of the NDA Designation of Sellafield substitute Schedule 4 of this Direction.

4. Commencement

The Direction is made on ²⁰ January 2012 and shall come into force on 1 February 2012.

Signed:

A handwritten signature in black ink, appearing to be 'A. J. ...', written over the word '20' in the date.

Minister of State, Department of Energy and Climate Change,
On behalf of the Secretary of State for Energy and Climate Change.

SCHEDULE 1**Designated Responsibilities**

No	Site/Installation/Facility	Description	Designation purpose (paragraphs of section 3(1) of the 2004 Act)
1	The Sellafield Nuclear Site (the principal nuclear site).	Land situated near Sellafield in the Borough of Copeland in the County of Cumbria, show outlined in dark blue on the drawing referenced OB75100 revision U, dated 12/09/2000, and entitled "BNFL Sellafield Nuclear Site Licence, Plan of Site Licence Boundary 2000, Nuclear Site Licence Reference Number 31G – Annex "A" ¹ .	(c) the cleaning-up of the principal nuclear site. ²
2	Facilities and other installations relating to Magnox-type spent fuel reprocessing.	Receipt and storage of Magnox-type spent fuel elements; preparation of Magnox-type spent fuel elements for reprocessing; conversion of Magnox-type spent fuel elements to UO ₂ and PuO ₂ and storage of that UO ₂ and PuO ₂ ; management, treatment and encapsulation of solid waste arising from Magnox-type spent fuel reprocessing; management, treatment and disposal of liquid and gaseous waste arising from Magnox-type spent fuel reprocessing; storage and transport of liquid and solid waste arising from Magnox facility.	(d) operations for treating, storing, transporting or disposing of hazardous material.

¹ Nuclear site licences are granted under section 1(1) of the Nuclear Installations Act 1965 (c. 57).

² Section 3(6) of the 2004 Act provides that unless a direction provides otherwise, the designation of a principal nuclear site for cleaning-up is to have effect as including a designation to decommission every installation situated in or on that site.

3	Facilities and other installations relating to the management of Plutonium Contaminated Materials ("PCM").	Receipt and storage of PCM; management, treatment and encapsulation of PCM; storage of treated and encapsulated PCM.	(d) operations for treating, storing, transporting or disposing of hazardous material.
4	Facilities and other installations relating to reprocessing at the Thermal Oxide reprocessing Plant ("THORP").	Receipt and storage of spent oxide fuel elements; preparation of spent oxide fuel elements for reprocessing; conversion of spent oxide fuel elements to UO ₂ and PuO ₂ ; storage of that UO ₂ and PuO ₂ ; Management, treatment and encapsulation of solid waste arising from THORP reprocessing; storage and transport of liquid and solid waste arising from THORP reprocessing.	(d) operations for treating, storing, transporting or disposing of hazardous material.
5	Facilities and other installations which were related to MOX at the Sellafield MOX Plant ("SMP").	Storage of UO ₂ and PuO ₂ ; storage of MOX fuel elements and assemblies; preparation of MOX fuel elements and assemblies for transport.	(f) decommissioning of designated installations comprised in NDA facilities.
6	Facilities and other installations relating to the Calder Hall nuclear power station.	Storage of hazardous material.	(d) operations for treating, storing, transporting or disposing of hazardous material.
7	Facilities and other installations relating to Flask Maintenance and Transport.	Maintenance of internal site transfer flasks; maintenance of export flasks; transport of hazardous material around the site; transport of hazardous material off site.	(d) operations for treating, storing, transporting or disposing of hazardous material.

8	Facilities and other installations relating to Low Level Waste ("LWW") and Very Low Level Waste ("VLLW").	<p>Receipt and storage of LLW and VLLW arising from site activities; management, treatment and encapsulation of LLW and VLLW; storage of treated and encapsulated LLW and VLLW.</p> <p>Transport of treated and encapsulated LLW and VLLW to offsite disposal and storage facilities.</p>	(d) operations for treating, storing, transporting or disposing of hazardous material.
9	Facilities and other installations relating to Intermediate Level Waste ("ILW").	<p>Receipt and storage of ILW arising from site activities, from other NDA sites and from third party consignors; management, treatment and encapsulation of ILW; storage of treated and encapsulated ILW.</p> <p>Transport of treated and encapsulated ILW to offsite disposal and storage facilities.</p>	(d) operations for treating, storing, transporting or disposing of hazardous material.
10	Facilities and other installations relating to third party waste (e.g. MoD, NHS).	<p>Management, treatment and encapsulation of third party waste; storage of treated and encapsulated third party waste; export of treated and encapsulated third party waste.</p>	(d) operations for treating, storing, transporting or disposing of hazardous material.
11	Facilities and other installations relating to Low Active Effluent ("LAE") Management.	<p>Receipt and storage of LAE; treatment of LAE; transport and Disposal of LAE.</p>	(d) operations for treating, storing, transporting or disposing of hazardous material.
12	Facilities and other installations relating to hazardous material.	<p>Receipt, storage, treatment and repackaging of hazardous material; transport and disposal of hazardous material; management, treatment and disposal of liquid and gaseous wastes arising from hazardous material.</p>	(d) operations for treating, storing, transporting or disposing of hazardous material.

13	Laboratory facilities and other related installations.	Analysing the nuclear and chemical characteristics of spent fuel and waste materials.	(c) the cleaning up of designated nuclear sites. (d) operations for treating, storing, transporting or disposing of hazardous material.
14	Laundry facilities and other related installations.	Cleansing and decontaminating personal protective equipment to allow reuse.	(d) operations for treating, storing, transporting or disposing of hazardous material.
15	Pipes, conduits and other ancillary apparatus.	Including but not limited to: water supply lines, reservoir, pumping stations, electrical, gas supply lines, effluent discharge pipelines and ventilation systems not situated in or on the principal nuclear site but which are connected to buildings, structures and apparatus in or on the principal nuclear site.	(d) operations for treating, storing, transporting or disposing of hazardous material.

SCHEDULE 2

**Installations in respect of which decommissioning is postponed
until the specified time**

1. Such installations necessary to operate THORP as required in item 4 of Schedule 1 until such time as the Secretary of State may determine.
2. All such installations as are needed to support operations at the Windscale Nuclear Site until such time as the Secretary of State may determine.
3. All installations necessary to operate the BNFL Technology Centre until such time as the Secretary of State may determine.
4. All installations necessary to operate the Fellside Power Plant until such time as the Secretary of State may determine.
5. All installations (whether or not fixed to the land) on the principal nuclear site including but not limited to: sewage, drainage, effluent discharge, electricity, water, gas or which form part of an electronic communications network operated by a person, other than the person in control of the principal nuclear site, for as long as such services are needed to supply the principal nuclear site or to provide services to users outside the principal nuclear site (i.e. cut across the site).
6. All installations utilised for or occupied by persons other than the person in control of the principal nuclear site until such time as the agreements (including any new agreements) under which such installations are occupied are terminated, or otherwise come to an end.
7. All installations necessary to operate the facilities as required in Schedule 1 (under a section 3(1) designation) until such time as such facilities are no longer needed in order to fulfil NDA operational or clean-up functions.
8. All installations on the principal nuclear site which are no longer required to perform a section 3(1) designated activity until such time as these are identified as having a suitable risk profile for active decommissioning to commence or continue, as the case may be.

SCHEDULE 3

Additional Responsibilities under section 4 of the 2004 Act

1. To operate and manage the Fellside Power Plant until such time as the Secretary of State may determine.

2. To operate and manage the BNFL Technology Centre until such time as the Secretary of State may determine.

SCHEDULE 4

General/Specific Directions given under section 16(3) of the 2004 Act

1. The NDA shall operate the Fellside Power Plant to produce and supply electricity and steam to the principal nuclear site. Any electricity produced in excess of that needed for the principal nuclear site may be supplied to the National Grid (or any other purchaser of electricity) until the agreements under which such electricity is supplied are terminated.