



Ministry  
of Defence



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**MEMORANDUM OF UNDERSTANDING BETWEEN**

**MINISTRY OF DEFENCE**

**AND**

**SCOTTISH ENVIRONMENT PROTECTION AGENCY**

**ON MATTERS RELATING TO**

**RADIOACTIVE SUBSTANCES**

October 2022

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## DEFINITIONS / GLOSSARY

Definitions in the Environmental Authorisations (Scotland) Regulations 2018 (EASR) will apply to this MOU, unless the context requires otherwise or unless amended by this MOU.

In this MOU reference to SEPA regulation means that SEPA is applying administratively the EASR framework as agreed in this MOU.

The **1958 Agreement** is the “Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America for co-operation on uses of atomic energy for mutual defence purposes”.

**Authorised Site** means

(a) a Defence Premises which is a site for which a licence would be required under section 1 of the Nuclear Installations Act 1965 if those provisions applied to the Crown and the activities on which are regulated by DNSR; or

(b) any other Defence Premises on which activities are conducted which are regulated by DNSR

**Defence Premises** are premises which fall within the description in EASR Part 17 Regulation 78(2)(a). Defence premises can be either Authorised or non-Authorised Sites.

**D-HS&EP** means the Directorate of Health Safety & Environmental Protection that is responsible for developing, maintaining and co-ordinating HS&EP policy and the Defence Safety and Environmental Management System (SEMS) within MOD.

**DNSR** means the Defence Nuclear Safety Regulator, part of the Ministry of Defence, as described in para 1.5 of this MOU.

**DNO** means the Defence Nuclear Organisation in the Ministry of Defence.

**DSA** means Defence Safety Authority, responsible for the regulation, assurance, enforcement and investigation of Defence Health, Safety and Environmental Protection.

**EASR** means the Environmental Authorisations (Scotland) Regulations 2018.

**Food Standards Scotland (FSS)** is a public sector body set up to protect the public health and consumer interests in relation to food in Scotland.

**HASS** means High-Activity Sealed Source as defined in Schedule 8 of the EASR.

**HS&EP** means health, safety, and environmental protection.

**Licensed Site** is a site regulated under a Nuclear Site Licence granted by the ONR, in accordance with the Nuclear Installations Act 1965.

**Laid Up Submarine (LUSM)** is a submarine that has completed its final commission within the Royal Navy. MOD is responsible for conducting routine maintenance and work in preparation for disposal on these vessels.

**MOD** means the Ministry of Defence.

**MOD Radioactive Substances Approvals Tiers 1, 2, 3 and 4** are approvals containing specific conditions for individual Defence Premises. They serve a similar function to EASR Authorisations for the purposes of this MOU.

**Non-authorised Site** refers to all Defence Premises that are not Authorised by DNSR.

**NNPP** means the Naval Nuclear Propulsion Programme.

**Nuclear device** means a device in which the design intent is to be able to produce an uncontrolled nuclear reaction.

**NWP** means the Nuclear Weapon Programme.

**ONR** means the Office for Nuclear Regulation.

**Operational Submarine** is a submarine that is commissioned and in service with the Royal Navy.

The **Polaris Sales Agreement (as amended for Trident)** is the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America dated 6 April 1963 and re-signed in 1982.

**SEPA** means the Scottish Environment Protection Agency.

## MOU BETWEEN MINISTRY OF DEFENCE AND SCOTTISH ENVIRONMENT PROTECTION AGENCY ON MATTERS RELATING TO RADIOACTIVE SUBSTANCES

### 1. Introduction

#### 1.1 Purpose of MOU

The purpose of this MOU is to assist in securing effective co-operation and understanding between the Ministry of Defence ('MOD') and the Scottish Environment Protection Agency ('SEPA') relating to management and regulation of radioactive substances at Defence Premises. It sets out the arrangements for the administrative application by mutual agreement of EASR at Defence Premises in Scotland.

This MOU is not intended to be legally binding, and no legal obligations or legal rights shall arise from this MOU. The Participants enter into this MOU intending to honour all their obligations.

#### 1.2 Scope

This MOU is between MOD and SEPA. The MOU applies to radioactive substances activities carried out at Defence Premises in Scotland which are occupied by or on behalf of the Secretary of State for Defence. It does not apply to visiting forces, to Licenced sites or to activities or premises not controlled by the Secretary of State for Defence.

Unless provided otherwise in this MOU SEPA will apply EASR to an Authorised Site as it would a Licensed Site. At HM Naval Base Clyde, the Authorised Site covers only part of the naval base. The remainder of the naval base<sup>1</sup> will be treated by SEPA as though it were part of an Authorised Site for the purposes of this MOU. Where there are activities within this remainder area which ONR would regulate on a Licensed Site, these activities will be regulated by DNSR and not by SEPA.

In the event of inconsistencies between this MOU and legislative requirements, the latter take precedence.

#### 1.3 MOD Policy Framework

The Secretary of State for Defence is answerable to Parliament for the management of safety and environmental protection in the MOD. The Secretary of State's policy<sup>2</sup> requires that 'where Defence has exemptions, derogations or dis-applications from HS&EP legislation we maintain Departmental

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<sup>1</sup> Which is neither Authorised iaw Defence Regulations or Licensed iaw Civil Regulations.

<sup>2</sup> SofS Defence, Policy Statement on Health, Safety and Environmental Protection in Defence

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/879455/20200325\\_SofS\\_HSEP\\_Policy\\_Statement\\_eSig-O.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/879455/20200325_SofS_HSEP_Policy_Statement_eSig-O.pdf)

arrangements that produce outcomes that are, so far as is reasonably practicable, at least as good as those required by UK legislation'. This MOU is intended to assist in fulfilling this policy intent, and to provide an agreed basis on the application of specific legislation to MOD activities involving radioactive substances.

#### **1.4 Environmental Duties and Responsibilities of SEPA**

SEPA is a non-departmental public body, accountable through Scottish Ministers to the Scottish Parliament, responsible for the regulation of environmental protection in Scotland. Its purpose is to carry out its statutory functions to protect and improve the environment, including managing resources in a sustainable way. Except where inconsistent with that primary purpose, SEPA must also carry out its functions to contribute to improving the health and wellbeing of the people of Scotland and to the achievement of sustainable economic growth.

SEPA is responsible for regulation of various environmental legislation, which are relevant to MOD's activities, and can be broadly summarised into the following categories:

- (i) protection of the water environment;
- (ii) disposal and management of wastes;
- (iii) releases to the environment including to air from major industrial processes;
- (iv) management of radioactive substances activities;
- (v) contaminated land remediation;
- (vi) protection of specific habitats; and
- (vii) flood warning.

#### **1.5 Defence Nuclear Safety Regulator (DNSR)**

DNSR is the internal MOD regulator of nuclear and radiological safety and environmental protection management for Defence's Defence Naval Nuclear Propulsion Programme (NNPP), and Nuclear Weapon Programme (NWP). DNSR has a primary focus on regulating those aspects of these programmes that are exempt from legislation (including the design and operational deployment of propulsion plant and weapons). In carrying out this role, DNSR works very closely with the relevant statutory regulators, and provides assurance to the Secretary of State for Defence, through the Director General DSA that standards of nuclear and radiological safety throughout the programmes produce outcomes that are, so far as reasonably practicable, at least as good as those which have been required by legislation had there been no exemptions or derogations for MOD.

## 1.6 Defence and Security Activities

Where the nature of Defence and Security activities dictate, this MOU will be followed as far as is reasonably possible given the circumstances prevailing. Nothing in this paragraph is intended to curtail or restrain SEPA from carrying out investigation, reporting on their findings, etc. in accordance with this MOU.

## 2. Application of Legislation

This section describes legislation specific to radioactive substances activity and how it applies to MOD.

### 2.1 Environmental Authorisations (Scotland) Regulations 2018 (EASR)

EASR Part 17 Regulation 78 disapplies EASR in relation to Defence Premises. However, in accordance with the MOD policy framework (para 1.3), MOD will implement parallel administrative arrangements which would have been required by EASR and its applicable guidance had there been no exemptions or derogations for MOD, as set out in this MOU.

SEPA agrees to implement parallel administrative arrangements<sup>3</sup>, which would have been required by EASR and its applicable guidance had there been no exemptions or derogations for MOD, as set out in this MOU. In doing so SEPA will seek to apply the same environmental protection principles as would be applied at equivalent civil sites.

Further details for the implementation of EASR equivalent arrangements for radioactive substances at defence premises are given in section 3 but are summarised in table 1 below.

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<sup>3</sup> In support of the MOD policy framework and on behalf of MOD in accordance with this MOU.



Table 1: Types of sites and of who regulates what in each location

		<b>Management of sources and material</b>	<b>Management of Radioactive waste</b>
<b>Defence Premises</b>	<b>Authorised Sites</b>	DNSR AUTHORISATION	DNSR AUTHORISATION And SEPA APPROVAL
	<b>Non-Authorised Sites</b>	SEPA APPROVAL	SEPA APPROVAL
	<b>UK Operational Submarines</b>	DNSR AUTHORISATION	DNSR AUTHORISATION
	<b>LUSMS</b>	DNSR AUTHORISATION	DNSR AUTHORISATION And SEPA APPROVAL

## **2.2 The Nuclear Reactors (Environmental Impact Assessment of Decommissioning) Regulations 1999 NR(EIAD)R**

The Nuclear Reactors (Environmental Impact Assessment of Decommissioning) Regulations 1999 include provision for the Secretary of State to exempt an MOD project in certain circumstances, to be determined on a case-by-case basis (see Regulation 3). In the event of such an exemption being implemented, the project will be regulated by DNSR. DNSR may consult SEPA and other authorities in the conducting of their assessments.

## **2.3 Radioactive Contaminated Land (Scotland) Regulations 2007**

The Radioactive Contaminated Land (Scotland) Regulations 2007 modify the Environmental Protection Act 1990 (EPA90) to extend the Part IIA provisions thereof to contamination to land caused by radioactive contamination<sup>4</sup>. EPA90 is generally binding on the Crown, and Part IIA as it applies to radioactive contaminated land is enforced by SEPA. However, Part IIA does not apply in the case of certain nuclear sites (see modified section 78YB of the 1990 Act in regulation 15)<sup>5</sup>.

Any case of land contaminated with radioactively that meets the Part IIA criteria and on an Authorised site which may give rise to contamination with radioactivity that meets the Part IIA criteria of land that is not part of that site, i.e., beyond the site boundary will be subject to consultation between DNSR and SEPA.

<sup>4</sup> As a result of the Radioactive Contaminated Land (Scotland) Regulations 2007.

<sup>5</sup> Namely, a site for which a licence would be required under section 1 of the Nuclear Installations Act 1965 if those provisions applied to the Crown.

## 2.4 Transfrontier Shipment of Radioactive Substances

The Shipments of Radioactive Substances (EU Exit) Regulations 2019 require prior consent for the movement of sealed sources into the UK. The Transfrontier Shipment of Radioactive Waste and Spent Fuel (EU Exit) Regulations 2019 require prior authorisation for shipments of radioactive waste and spent fuel into or from the UK. SEPA is the competent authority in Scotland for both sets of regulations. Both regulations are made under the EU (Withdrawal) Act 2018 and are therefore UK regulations. These Regulations do not bind the Crown and consequently, MOD activities are outside their scope.

## 3 Arrangements for Radioactive Substances Regulation on Defence Premises under EASR

### 3.1 MOD Approvals for Radioactive Substances

EASR provides a 4-tiered approach to the authorisation of radioactive substances activities based on risk, consisting of

- General Binding Rules (GBRs);
- Notification;
- Registration; and
- Permit

SEPA have published an [“Authorisation guide for radioactive substances”](#) which explains activities that are covered by each authorisation tier. Lower risk activities are subject to General Binding Rules and simple notifications. Certain higher risk activities require a registration and the highest risk activities require a permit granted by SEPA.

Equivalent arrangements for Defence Premises will be implemented as set out in Table 2 below.

Table 2: Equivalent Arrangements to EASR for Defence Premises

<b>EASR Authorisation tier</b>	<b>MOD Approval nomenclature for Radioactive Substances</b>
General Binding Rule	T1 approval
Notification	T2 approval
Registration	T3 approval
Permit	T4 approval

### 3.1.1 T1 Approvals

The conditions and limitations of the General Binding Rules as detailed in Schedule 9 of EASR will be applied administratively by SEPA to MOD activities as they would have applied to equivalent civilian activities

### 3.1.2 T2 Approvals

MOD will notify SEPA of the following radioactive substances activities on Non-Authorised Sites.

Table 3: T2 Approvals<sup>1</sup>

<b>T2 Ref</b>	<b>Radioactive Substances Activity</b>	<b>Associated EASR Conditions to be applied administratively</b>	<b>Type of Defence Premises</b>
T2-01	The management (other than disposal) of a category 5 sealed source that contains an activity exceeding 200 kBq	Schedule 9, Part 1, Activity 1	Non-Authorised
T2-02	The management (other than disposal) of a tritium source that contains an activity exceeding 20GBq	Schedule 9, Part 1, Activity 3	Non-Authorised
T2-03	The management (other than disposal) of an electrodeposited source	Schedule 9, Part 1, Activity 4	Non-Authorised
T2-04	The management of an orphan source	None	Non-Authorised
T2-05	The management of radioactive waste resulting from decontamination of people following an incident	None	Non-Authorised
T2-06	The management of radioactive waste from firefighting activities following an incident	None	Non-Authorised

<sup>1</sup> The definitions in Part 2 and Part 3 of Schedule 9 of EASR will be applied

The notification for a T2 approval will be in the form of an email sent to the RS Notifications mailbox (RSnotifications@sepa.org.uk). The email will provide details of the type of notification, using the code in column 1 of Table 3, the location that the notified activity will take place at and contact details. T2-01 to T2-03 are subject to the conditions identified in column 3 of Table 3. These conditions will be applied administratively.

### 3.1.3 T3 Approvals

MOD will apply to SEPA for a T3 approval for the following activities.

Table 4: T3 Approvals

<b>T3 Reference</b>	<b>Radioactive Substances Activity</b>	<b>Type of Defence Premises</b>
T3-01	The management of unsealed radioactive substances that have an activity not exceeding 10GBq of Tc-99m and 20 MBq in total of all other radionuclides with no disposals other than those allowed by standard conditions SEPA's EASR Standard Conditions for Radioactive Substances Activities G3-G5	Non-Authorised
T3-02	The management (other than the disposal) of sealed sources normally kept in the UK out with Scotland.	Non-Authorised

T3 applications will be submitted to SEPA in writing in a form previously agreed by SEPA. SEPA will determine the applications within 28 days on a similar basis to that used to determine EASR registrations. If the determination is successful, the details of the approval will be issued to the relevant Head of Establishment/Commanding Officer of the relevant site and where appropriate a specified copy addressee in MOD. If the determination is unsuccessful, SEPA shall explain this decision in writing to the relevant Head of Establishment/Commanding Officer and, if appropriate, a specified copy addressee in MOD. Thereafter, the matter may be referred to the dispute resolution process outlined in para 5.1.

### 3.1.4 T4 Approvals

MOD will apply to SEPA for a T4 approval for the following activities:

Table 5: T4 Approvals

<b>T4 Reference</b>	<b>Radioactive Substances Activity</b>	<b>Type of Defence Premises</b>
T4-01	HASS <sup>6</sup> including mobile radioactive sources	Non-Authorised
T4-02	Non-HASS including mobile radioactive sources	Non-Authorised
T4-03	Management of radioactive substances at limits greater than those in T3-01.	Non-Authorised
T4-04	Management of Radioactive waste	Authorised or Non-Authorised

MOD will seek T4 approval by submitting an application to SEPA in writing in a form to be agreed with SEPA. SEPA will determine the applications on a similar basis to that used to determine

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<sup>6</sup> High Activity Sealed Source

equivalent EASR permits. Determination periods will typically be 4 months for T4-01 to T4-03. Where SEPA would normally seek advice from the civilian Counter Terrorism Security Advisors (CTSA) SEPA will seek advice from the MOD equivalent security advisors. T4-04 determination periods will generally be substantially longer than other determination periods as the process may include several consultation periods. Consultees may include Scottish Ministers, ONR, DNSR, FSS and any other relevant bodies or organisations that SEPA considers appropriate and the general public. The timescale for determination will be agreed between SEPA and the Head of Establishment /Commanding Officer.

If the determination is successful, the details of the approval will be issued to the relevant Head of Establishment /Commanding Officer and a specified copy addressee in MOD. If the determination is unsuccessful, SEPA shall explain this decision in writing to the relevant Head of Establishment/Commanding Officer and a specified copy in MOD. Thereafter the matter may be referred to the dispute resolution process outlined in para 5.1.

For the avoidance of doubt a T4 Approval is the same document as a Letter of Approval as referred to in Scottish Government Direction to SEPA “The Transboundary Radioactive Contamination (Scotland) Direction 2021” published on 15/3/2021.

### **3.2 Arrangements for Radioactive Substances on Submarines**

The management of all radioactive substances on operational submarines is regulated by DNSR. DNSR will regulate gaseous wastes released directly from the operational submarine and the release of ballast and trim water from the submarine. All other radioactive waste is taken ashore. Where this is to an Authorised Site for treatment and subsequent disposal, the transfer of waste will be regulated by DNSR in a manner that ensures that it is not discharged directly into the environment and its management and disposal from the Authorised Site will be regulated by SEPA through the appropriate T1-T4 approval. Where the shore-based facility receiving the waste from an operational submarine is not a Defence premises, MOD will require an appropriate T1-T4 approval from SEPA to cover the transfer of the waste from MOD to the civilian operator.

LUSMs in the Rosyth basin are an Authorised Site. The management of radioactive material will be regulated by DNSR. DNSR will also regulate gaseous wastes released directly from the LUSM and the release of ballast and trim water from the LUSM.

SEPA will regulate the management of all other radioactive waste on a LUSM through the appropriate T1-T4 approval. When the LUSM is no longer part of the Authorised Site all remaining radioactive substances regulation will fall to SEPA.

### **3.3 Compliance with MOD Approvals for Radioactive Substances**

SEPA will routinely inspect against the conditions of the relevant approvals. The frequency of this shall be determined by SEPA. SEPA will inform the relevant Commanding Officer or Head of Establishment of the outcome of these inspections.

In the event of any unsanctioned solid disposal or liquid discharge from a submarine which is on an Authorised Site directly to the Scottish environment, both DNSR and SEPA will have investigatory roles and will consult as necessary in carrying these out.

Where SEPA considers there to be a failure to comply with an approval, SEPA will deal with the matter using an approach consistent with that outlined in SEPA's Enforcement Policy as follows. SEPA will formally write to the Secretary of State for Defence and copied to the Commanding Officer and Head of Establishment, DSA and for approvals on Authorised Sites DNSR, providing details of the relevant failure to comply and an indication of the level of enforcement action that would have been taken with a civilian sector operator. Where appropriate this letter will describe remedial actions that would enable compliance as if the legislation applied.

In cases where MOD does not accept SEPA's compliance findings, the matter will be referred to the dispute resolution process outlined in para 5.1 of this MOU.

### **3.4 Charging**

MOD will pay SEPA the same fees that would apply to an analogous application under the EASR. Authorised Sites will be charged on the same basis as sites holding a Site Licence. Non-authorised Sites will be charged on the same basis as for a non-nuclear industry.

The Participants agree that subject to prior agreement with MOD (of the applicable activities and charging rates), SEPA may charge for activities not directly related to current approvals or notifications, such as giving advice on developing projects not yet implemented on a specific site.

### **3.5 Provision and Handling of information relating to Applications**

T2, T3 and T4 approvals relating to Non-authorised Sites will be co-ordinated through the relevant Defence Organisation who may also inform and seek advice from subject matter experts in MOD. Approvals relating to Authorised Sites will be managed locally by the site.

All information pertaining to the management of sealed sources and the related notifications will be treated by SEPA as OFFICIAL-SENSITIVE. This is in line with the Radioactive Substances (National Security) (Scotland) Direction 2018, which applies to similar information required under EASR. SEPA will be directed by MOD with regards to the security classification of information

relating to the management of other radioactive substances. This classification should be supplied to SEPA by MOD in writing at the application stage.

In line with EASR regulation 54 the details of any T3 or T4 approval shall be delivered as follows:

For non-Authorised sites, to Head Office HS&EP Directorate, Ministry of Defence, Floor 3, Zone E, MOD Main Building, Whitehall, London SW1A 2HB, [HSEP-GroupMailbox@mod.gov.uk](mailto:HSEP-GroupMailbox@mod.gov.uk); and

For Authorised sites, to the Secretary of State for Defence and copied to the Head of Establishment / Commanding Officer of the relevant site(s), and DNSR-Hd, Poplar -1, #2003, MOD Abbeywood, Bristol, BS34 8JH.

### **3.6 Review**

SEPA may review T4 approvals at any time. MOD will ensure that the information required by SEPA to conduct such a review is provided subject to para 4.2 of this MOU.

### **3.7 SEPA Access to Defence Premises**

MOD and SEPA agree the 'Arrangements for Access and Inspection for Radioactive Substances Regulation by SEPA officers on Defence Premises', as more particularly set out in Annex A to this MOU.

## **4. Information and Disclosure**

### **4.1 Access to Information**

#### **4.1.1 Clarification of US sourced information**

SEPA may seek to obtain clarification of the information provided to them by MOD, however the MOD may be constrained in providing US-sourced information under the terms of the 1958 Agreement and Polaris Sales Agreement (as amended for Trident). Where this relates to information on reactor design or operation or other matters out with the control of the site operator, then DNSR will provide the necessary assurances and clarification to SEPA within the bounds of the agreements.

#### **4.1.2 MOD Constraints**

MOD is constrained by certain international obligations such as those which flow from the 1958 Agreement and Polaris Sales Agreement, which need to be considered in the design of Nuclear Steam Raising Plant (NSRP), nuclear devices or Strategic Weapon Systems. While respecting

those agreements and obligations, the MOD will ensure that, where practical and operational constraints permit, the UK's environmental protection principles, strategies, and regulatory standards to minimise the creation of radioactive wastes, are rigorously applied to submarine reactor design<sup>7</sup>. MOD agrees to consult with SEPA on such matters to the maximum extent it can within the constraints mentioned above. However, SEPA recognises that the design of submarine propulsion plant, nuclear devices or Strategic Weapon System, and their operational deployment falls out of scope of this MOU. The Participants recognise that MOD decision on the extent MOD can provide information is final.

#### **4.2 Disclosure of Information to the public**

SEPA will consult MOD on any request under the Freedom of Information (Scotland) Act 2002 (FOI), or the Environmental Information (Scotland) Regulations 2004 (EIR), for the release of any information (including paper and electronic documents) originating or relating to the MOD. Unless information has been provided by MOD on the specific understanding from MOD that it will be published, SEPA will first consult MOD to ensure that all factors relevant to the assessment of the balance of public interests are understood and taken fully into account. SEPA and MOD will provide single points of contact for FOI enquiries<sup>8</sup> to ensure prompt and coordinated communication between SEPA and MOD. Both Parties acknowledge that each has obligations under the FOI and EIR and it is ultimately for the receiving party to determine how it will respond to any request for information.

#### **4.3 Management of Information**

EASR requires SEPA to maintain a publicly available register of information relating to the regulation of radioactive substances. SEPA will hold information like that required by EASR for civilian sites for MOD sites regulated under this MOU subject to its security classification. The information will be held on a register similar to the civilian equivalent.

MOD material classified Official-Sensitive and above will not routinely be released by SEPA or placed on a publicly available register but, where relevant, be held on a register similar to the civilian equivalent and managed in accordance with Her Majesty's Government Security Policy Framework and MOD's Defence Manual of Security (Joint Service Publication 440).

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<sup>7</sup> This does not imply a requirement for defined periodic review or formal communication with SEPA that such measures have been applied. This is intended to be a declaration by MOD that such measures will be applied to any design changes or new designs.

<sup>8</sup> MOD POC is via email to [cio-foi@mod.gov.uk](mailto:cio-foi@mod.gov.uk); SEPA POC is via email to [foi@sepa.org.uk](mailto:foi@sepa.org.uk).



SEPA will be provided, where practical, with access to security classified information on a MOD site rather than retain the information at SEPA or other premises.

#### **4.4 Reporting of Incidents**

The Participants agree that SEPA will be informed by MOD of radioactive substances related incidents for activities covered by the scope of this MOU. SEPA may provide information concerning such incidents to Scottish Ministers and/or third parties to obtain scientific or technical advice.

SEPA will inform the Head of Establishment / Commanding Officer and the DSA, via DNSR for incidents on Authorised Sites, when information concerning such incidents is to pass outside of SEPA. Where the information is classified at Official-Sensitive or above, SEPA will only disclose information to a third party with MOD's prior agreement. Such agreement will not be unreasonably withheld or delayed and will be given to SEPA in writing. Where MOD does not agree to the release of information, this shall be confirmed in writing detailing the reasons for non-agreement. The Secretary of State<sup>9</sup> will discharge their responsibilities by reporting incidents to Parliament as necessary.

### **5. Liaison and Resolution of Disputes**

#### **5.1 Resolution of Disputes**

Disputes or difficulties that cannot be resolved at local level should be referred to line management. The DSA, will liaise with SEPA at an appropriate level to facilitate their resolution.

In the first instance, this would be the Radioactive Substances Unit Manager, then as appropriate through the management chain.

This MOU is not legally binding and therefore any differences will be resolved administratively.

#### **5.2 Routine Liaison**

SEPA recognises the need to consult MOD as an operator of nuclear sites, user of radioactive substances and as a Department of State on changes to the way in which SEPA regulate the use of radioactive substances.

Meetings will be held every two years (where practicable) between D-HS&EP, DSA (represented by DNSR), DNO and SEPA Radioactive Substances Unit Manager to review the working of this MOU in the light of changes in policy and legislation and in the light of experience gained from the

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<sup>9</sup> MOD's ministerial reporting process is detailed in MOD Joint Service Publication 471 – Defence Nuclear Emergency Response.

application of the MOU at a working level. For matters relating to non-Authorised Sites DSA will seek representation from the appropriate Defence Organisation for the site in question.

### **5.3 Regulatory Liaison**

Meetings will be held at least annually between DNSR and SEPA (and other authorities as appropriate). These meetings will consider regulatory liaison, and where appropriate the detailed working of this MOU and any other associated documents. The meeting will consider issues that cannot be resolved at working level through extant regulatory liaison.

### **5.4 Termination of MOU**

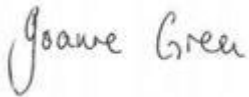
Either participant to this MOU may terminate this MOU on giving at least 6 months prior written notice of their intention to do so to the other participant.

## 6. Signatories

Participants agree that from the date of last signing, this MOU constitutes the entire MOU between the participants on matters relating to radioactive substances and supersedes the previous Agreement between the participants concerning matters relating to radioactive substances dated 2<sup>nd</sup> May 2018 (SEPA) and 10<sup>th</sup> October 2017 (DSA).

No variation of this MOU shall be effective unless it is agreed by both participants and in writing.

The signatories on behalf of the participants to this MOU are as follows: -



Signed \_\_\_\_\_

Dated \_\_\_\_\_ 18<sup>th</sup> October 2022 \_\_\_\_\_

Chief Executive

Scottish Environment Protection Agency



Signed \_\_\_\_\_

Date \_\_\_ 13<sup>th</sup> October 2022 \_\_\_\_\_

Director Health Safety and Environmental Protection

Ministry of Defence

**ANNEX A: Arrangements for Access and Inspection for Radioactive Substances Regulation by SEPA Officers on Defence Premises**

1. This annex details the procedures to be followed by SEPA and MOD in arranging, carrying out, and reporting on, inspections of Defence Premises.
2. There are 3 categories of inspection as carried out by SEPA officers:
  - i. planned
  - ii. routine unplanned/unannounced
  - iii. reactive
3. Most inspections will be planned and notified in advance. SEPA recognises that relevant MOD personnel need to be aware of the planned visit and be available to ensure an effective inspection. However, SEPA may carry out unannounced inspections. Reactive inspections are carried out as part of SEPA's response to incidents and investigation of incidents, and are intended for the purposes of locating and, if possible, preventing harm to the environment, which has occurred, or is likely to occur. The Commanding Officer or Head of Establishment will put in place arrangements to manage unannounced inspections.
4. In the event of a planned inspection the appropriate officer will contact the relevant MOD establishment prior to the inspection by telephone, email, or letter, to agree an appointment. The point of contact on the site will be the Commanding Officer or Head of Establishment unless another individual, responsible for compliance with the legislation as delegated by the Commanding Officer or Head of Establishment, has been identified to SEPA.
5. SEPA officers carry SEPA authorisation (the equivalent of a warrant card) and will use this to identify themselves. SEPA will also comply with any site security arrangements. For Authorised sites, this will include holding a site pass as appropriate.
6. Commanding Officers and Heads of Establishment are responsible for controlling access to the Defence Premises. If access is required to an operational submarine, the Head of the Establishment shall arrange any necessary agreement from the Commanding Officer of the submarine. During all inspection visits, the SEPA officer will be escorted. The SEPA officer will be permitted access to any part of the site, and to see any facilities on the site, which are relevant to the inspection, unless national security or operational readiness may be compromised by such access. In such cases, the Commanding Officer or Head of Establishment will provide written reasons with as much information as possible explaining denial of access to SEPA's Chief Executive.
7. MOD undertakes to ensure that SEPA officers are provided with personal safety information, particularly with respect to radiation doses incurred by SEPA officers while in controlled areas, in a form and at a time that does not impede their access to, or egress from, the site.
8. The use of radioactive substances by contractors / MOD partners working on Defence premises will be controlled by MOD and inspected according to the same arrangements as listed in this annex. When such an inspection is to be carried out the Commanding Officer, or Head of Establishment responsible for contractor management at the site in question, will be informed of the visit.
9. These arrangements also apply to aircraft at bases in Scotland, and to shipping in UK territorial waters. However, SEPA will not inspect any facilities whilst in transit.
10. The SEPA officer will discuss the findings of his or her inspection with the Commanding Officer, Head of Establishment, or nominated deputy prior to leaving the site when

practicable. Any remedial action necessary to correct deficiencies will be agreed orally. Such action will also be confirmed by letter from SEPA within 25 working days.