



Enforcement

**Report justifying the issue of an Improvement Notice at the Devonshire Dock Complex
BAE Systems Marine Ltd**

Project Assessment Report ONR-BAE.-PAR-14-023
Revision 0
03 December 2014

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Published 04/15

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EXECUTIVE SUMMARY

Title

This report details ONR's basis for the enforcement decision following BAE Systems Marine Ltd failure to demonstrate they have:

- Adequate arrangements to demonstrate that only suitably qualified and experienced persons perform any duties which may affect the safety of operations on the site.

Background

A compliance inspection was conducted by ONR and the Defence Nuclear Safety Regulator (DNSR) from the 15 to 18 September 2014 to examine BAE Systems Marine Ltd's arrangements associated with:

- Licence Condition 10 'Training'; and
- Licence Condition 12 'Duly authorised and other suitably qualified and experienced persons'.

The inspection was planned as a result of significantly below standard shortfalls being identified during inspections conducted in March 2012 when arrangements necessary to comply with Licence Condition 10 and Licence Condition 12 were examined.

It was anticipated that the September 2014 inspection would provide the opportunity for BAE Systems Marine Ltd to demonstrate that adequate arrangements had been developed and adequately implemented.

The key finding of the September 2014 inspection was that the licensee's arrangements necessary for compliance with Licence Conditions 10 and 12 continue to be below or significantly below standard. This situation is particularly disappointing given the length of time since the issue was first raised with the licensee and also given the commitments that have previously been provided by the licensee to address compliance shortfalls.

Basis for Enforcement Decision

Licence Conditions 10 and 12 are closely related. Improvements to arrangements necessary to comply with Licence Condition 12 will also deliver improvements to arrangements necessary to comply with Licence Condition 10. It is therefore considered proportionate to base the enforcement decision with securing Licence Condition 12 compliance.

The following legal requirement was considered to inform the enforcement decision:

Licence Condition 12 (1) stipulates that the licensee shall make and implement adequate arrangements to ensure that only suitably qualified and experienced persons perform any duties which may affect the safety of operations on the site or any other duties assigned by or under these conditions or any arrangements required under these conditions.

BAE Systems Marine Ltd are unable to demonstrate that all personnel whose activities have the potential to impact on nuclear safety are suitably qualified and experienced to carry out their jobs.

Conclusions

BAE Systems Marine Ltd have failed to make and implement adequate arrangements to demonstrate that only suitably qualified and experienced persons perform any duties which may affect the safety of operations on the site.

Recommendation

The Superintending Inspector for the ONR Propulsion Sub-Programme is requested to accept that the issue of an Improvement Notice is necessary for contravening Nuclear Site Licence No. 42B, Licence Condition 12(1).

A schedule to the Improvement Notice is not recommended, however a covering letter containing further guidance relevant to the Improvement Notice should also be included.

The guidance should require BAESM to submit an adequate programme detailing work to comply with the Improvement Notice. The programme should contain key milestones, and that BAESM should provide evidence of progress against these milestones, to be submitted to ONR at suitable intervals to demonstrate commitment to close the Improvement Notice by 31st December 2015.

LIST OF ABBREVIATIONS

ALARP	As low as reasonably practicable
BAESM	BAE SYSTEMS Marine Limited
BSL	Basic Safety level (in SAPs)
BSO	Basic Safety Objective (in SAPs)
CNS	Civil Nuclear Security (ONR)
DNSR	Defence Nuclear Safety Regulator
HSWA	Health and Safety at Work etc. Act 1974
HOW2	(Office for Nuclear Regulation) Business Management System
HSE	The Health and Safety Executive
IAEA	The International Atomic Energy Agency
NDA	Nuclear Decommissioning Authority
NII	HM Nuclear Installations Inspectorate
ONR	Office for Nuclear Regulation
PCER	Pre-construction Environment Report
PCSR	Pre-construction Safety Report
PRT	Power Range Testing
PSA	Probabilistic Safety Assessment
PSR	Preliminary Safety Report
RGP	Relevant Good Practice
SAP	Safety Assessment Principle(s)
SFAIRP	So far as is reasonably practicable
SSC	System, Structure and Component
TAG	(ONR) Technical Assessment Guide

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1 PURPOSE OF THE REPORT

1. This report details the basis for ONR's enforcement decision following a compliance inspection conducted by ONR and the Defence Nuclear Safety Regulator (DNSR) at the Devonshire Dock Complex from 15 to 18 September 2014 (Ref. 1)

2 BACKGROUND

2. A compliance inspection was conducted from the 15 to 18 September 2014 to examine BAESM's arrangements necessary to demonstrate compliance with:
 - Licence condition 10 'Training'; and
 - Licence condition 12 'Duly authorised and other suitably qualified and experienced persons'.
3. This inspection was planned as a result of significantly below standard shortfalls being identified during March 2012, when inspecting arrangements necessary to comply with Licence Condition 10 and Licence Condition 12 were examined.
4. It was anticipated that the September 2014 inspection would be an opportunity for BAESM to demonstrate that adequate arrangements had now been developed and adequately implemented.

3 ONR AND DNSR LICENCE CONDITION COMPLIANCE INSPECTION FINDINGS

5. The key applicable finding of the September 2014 inspection (Ref. 1) was that the licensee's arrangements necessary for compliance with Licence Conditions 10 and 12 continue to be below or significantly below standard. This situation is particularly disappointing given the length of time since the issue was first raised with the licensee and also given the commitments that have previously been provided by the licensee to address compliance shortfalls.

4 REGULATORY INTERVENTION FINDINGS

6. From the 13 to 15 March 2012, a compliance inspection examining arrangements necessary to comply with licence condition 10 and 12 was conducted Ref (2). Compliance with both licence conditions 10 and 12 were judged to be significantly below standard. The key findings of that inspection were:

'BAESM are in the process of producing revised arrangements for LC10 and LC12, however presently they are not operating to their current arrangements. Despite this ONR judged from the knowledge of the site and the operations being undertaken at this time, that there was not an immediate safety concern which would warrant the stopping of all site operation.'

'In addition a large number of personnel have not attended company specific training which is required for BAESM to deem them suitably qualified and experienced to carry out the full range of activities associated with their role within the organisation. Although a review of these deficiencies has been undertaken by BAESM an adequate justification has not been recorded. Whilst this was not considered an immediate safety concern formal justifications were requested for the upcoming activities which could have safety implications.'

7. On the 25 September 2012, ONR wrote to BAESM (Ref. 3) setting out regulatory expectations with respect to compliance with licence condition 10 and 12.

8. This letter reiterated BAESMs proposals to deliver improvements in two phases:

'Phase I to bring the existing BAESM training arrangements, with some minor modifications, into compliance; Phase II to develop and implement competence management arrangements that meet modern standards.'

9. The letter continued to describe ONR's support and regulatory expectations:

'We support this outline plan and its intentions and will be monitoring its implementation through our regulatory interactions. Please therefore provide written implementation plans and milestones for both phases that we can use for this purpose within one month of receipt of this letter. We support your intention to prioritise these plans in accordance with safety significance of roles and where relevant the phases of the boat building programme.'

We anticipate reviewing progress quarterly through 2013/14, and are aiming for a team inspection two years from now, in Autumn 2014, when we hope to find arrangements for nuclear safety competence management that are both adequate and implemented. In the meantime we will also continue to give training our attention when there are regulatory hold-points.

We discussed that you intend to deliver Phase II through the MoD Submarine Enterprise 'STEP' initiative. We support this sharing of experience and knowledge, but as you know the duty under law, including the conditions of the nuclear site licence, lies with BAESM.'

10. During the September 2014 inspection (Ref. 1), BAESM provided a summary of progress. The inspection identified the following:

'.....it was apparent and confirmed by BAESM, that the programme of work to fully implement such developments is not complete and in many instances is still under development. During the inspection, ONR challenged various aspects of new proposed systems in regard to their scope, function, comprehensiveness and interface with one another and other elements of BAE corporate systems. BAESM were unable to always provide satisfactory responses to demonstrate that the proposed arrangements and process were complete and / or fit for purpose. It became apparent that often the full development of a process or system was not complete. It was also apparent that in several instances the need or desire to integrate LC10 and 12 arrangements into existing BAE corporate systems was problematic. This was sometimes due to technological inadequacies but also due to practical and organisational issues. It was unclear why this was the case and why such systems were intended to be used within the new arrangements.'

5 BASIS FOR ENFORCEMENT

11. Licence Conditions 10 and 12 are closely related. Improvements to arrangements necessary to comply with Licence Condition 12 will also deliver improvements to arrangements necessary to comply with Licence Condition 10. It is therefore considered proportionate to base the enforcement decision with securing Licence Condition 12 compliance.
12. The following legal requirement was considered to inform the enforcement decision:
13. Licence Condition 12 (1) The licensee shall make and implement adequate arrangements to ensure that only suitably qualified and experienced persons perform any duties which may affect the safety of operations on the site or any other duties

assigned by or under these conditions or any arrangements required under these conditions.

14. ONR Guide 'Training and Assuring Personnel Competence' (Ref. 4) clearly describes that:

'It is essential that all personnel whose activities have the potential to impact on nuclear safety are suitably qualified and experienced (SQEP) to carry out their jobs. This includes both those who directly carry out operations and others such as directors, managers, designers, safety case authors etc. whose roles, if inadequately conceived or executed, may affect safety in less visible ways – for example, through introducing latent technical or organisational weaknesses. The licensee should therefore put in place robust arrangements for identifying its competence needs and assuring these are met and maintained. The arrangements should clearly define the licensee's interpretation of SQEP, and should identify those who are required to be SQEP.'

15. BAE Systems Marine Ltd were unable to demonstrate that all personnel whose activities have the potential to impact on nuclear safety are suitably qualified and experienced to carry out their jobs.
16. This situation is particularly disappointing given the length of time, over two years, since the issue was first raised with the licensee and also given the commitments that have previously been provided by the licensee to address compliance shortfalls.

6 CONCLUSIONS

17. The ONR/DNSR inspection conducted from 15 to 18 September 2014 identified that BAESM could not demonstrate adequate compliance with Nuclear Site Licence No. 42B, Licence Condition 12(1).

7 RECOMMENDATIONS

18. The Superintending Inspector for the ONR Propulsion Sub-Programme is requested to accept that the issue of an Improvement Notice is required for contravening Nuclear Site Licence No. 42B, Licence Condition 12(1).
19. A schedule to the Improvement Notice is not recommended, however a covering letter containing guidance relevant to the Improvement Notice should also be included.
20. This guidance should require BAESM to submit an adequate programme detailing work to comply with the Improvement Notice. The programme should contain key milestones, and that BAESM should provide evidence of progress against these milestones, to be submitted to ONR at suitable intervals to demonstrate commitment to close the Improvement Notice by 31st December 2015.

8 REFERENCES

1. ONR Intervention Report – ONR-BAE-IR-2014-016, 15-18 September 2014, (TRIM 2014/357351)
2. ONR Intervention Report – ONR-BAE-IR-12-005, 13-15 March 2012, (TRIM 2012/152036)
3. ONR letter to BAE Systems Marine Ltd – Licence Conditions 10(1) and 12(1)), 25 September 2012 – (TRIM 2012/374317)
4. ONR Guide 'Training and Assuring Personnel Competence' NS-TAST-GD-027 Rev 4, July 2014.
5. The use of the Enforcement Management Model in ONR – April 2013, <http://www.onr.org.uk/operational/inspection/ns-enf-gd-002.pdf>