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| Meeting: | NuLeAF Steering Group, 15 July 2009 |
| Agenda Item: | 8 |
| Subject: | Consultations on Radioactive Substances Regulation |
| Author: | Fred Barker |
| Purpose: | To report on current consultations relating to radioactive substances regulation |

Introduction

This report provides an outline of current consultations covering:

- Government guidance on Radioactive Substances Regulation under the Environmental Permitting Programme
- Proposals for a future Exemptions Regime under the Radioactive Substances Act 1993 and the Environmental Permitting Regulations 2010
- Proposals for restructuring the HSE's Nuclear Directorate

Recommendation

That authority be delegated to the Executive Director and Chair to submit comments on the consultations as appropriate.

Contribution to Achieving Strategic Objectives

The proposals in the consultations do not relate directly to specific NuLeAF strategic objectives.

1 Government Guidance on Radioactive Substances Regulation under the Environmental Permitting Programme

The Environmental Permitting (England and Wales) Regulations 2007 were implemented on 6 April 2008. The regulations brought waste management licensing and pollution prevention control permitting into a single consistent framework, with the aim of reducing the administrative burden for business, regulators and others while maintaining environmental standards and protecting public health.

The current phase of the Environmental Permitting Programme (EPP) is looking to extend the regulations to cover other regimes, including radioactive substances regulation (RSR). A consultation on the proposed regulations took place between 16 February and 11 May 2009. This has been followed by the current consultation on Government guidance, which ends on 29 July (see [Consultation on Environmental Permitting Programme \(EPP\)](#)).

Under the new regime, any operator who wishes to engage in keeping or using radioactive substances or accumulating or disposing of radioactive waste will require a permit. Through the permit application and determination process, the Environment Agency is expected to ensure the delivery of key aspects of Government policy on the management of radioactive wastes. This includes, for example, the application of the waste hierarchy and the preparation of waste management plans by operators.

The proposed regulations will also provide the necessary powers to the Environment Agency to grant an environmental permit under a staged regulation process for the siting of radioactive waste disposal facilities. Staged regulation is principally intended for development of a Geological Disposal Facility, where decisions taken early in the siting process could have the effect of compromising the environmental safety case, which is ultimately necessary for disposal to take place. The Environment Agency will have the power to apply staged regulation to other disposal facilities, for example, near-surface facilities for LLW.

The proposed regulations also address the inter-site transfer of radioactive wastes. The draft guidance explains that:

“For solid waste disposals to another permitted operator, it is no longer necessary in most cases to specify in the permit the specific site at which the waste will ultimately be disposed of. Permits can allow transfer to any site where the operator of that site holds a permit to accumulate or dispose of the relevant type of waste”

“... To ensure the current level of transparency is maintained, the Environment Agency should ensure that permits contain a condition requiring those who receive radioactive waste for the first time from a particular consignor to inform their local authority before they receive the waste.” (p21-22)

In addition to being informed in advance of the first receipt of radioactive waste, it is important that the relevant local authorities are engaged when:

- The consigning operator is undertaking option assessments to inform a decision about a preferred disposal route.
- The receiving operator is applying for a permit to dispose of radioactive wastes.

In the latter case, the operator should enter into discussion with the Waste Planning Authority, to take advice on whether planning permission might also be required. This will need to be

considered on a case by case basis, taking into account the original permissions and conditions for operation of the site.

The Executive Director is attending a workshop on the proposed guidance on 7 July and will raise the additional points above. A verbal update will be provided at the SG meeting.

2 Proposals for a future Exemptions Regime under the Radioactive Substances Act 1993 and the Environmental Permitting Regulations 2010

Consultation on the Government's proposals was launched on 12 June and closes on 4 September 2009.

The consultation document requests comments on proposals to revise the current exemption regime under the Radioactive Substances Act, with the aim of meeting "modern requirements for the regulation of ubiquitous and low risk radioactive materials and waste" (see [Proposals for a future exemptions regime](#)). If materials or waste are exempt, they will not be subject to control under the Act, or will be subject to a lower level of control.

The key features of the new regime are:

- some materials and wastes are to be removed from the scope of the Act;
- replacement of the present suite of Exemption Orders with one that provides conditional exemptions only;
- use of numerical values based on internationally-accepted standards, with supporting radiological impact assessments to demonstrate that environmental standards are maintained and that there is adequate protection for the public and the environment;
- common definitions and conditions for all exemption provisions, so far as possible;
- compatibility with the Basic Safety Standards Directive and anticipated possible future changes to it;
- providing as much detail as possible in supporting guidance rather than legislation to provide a more flexible method of dealing with any future changes.

In England and Wales, it is proposed that the revised regime will be incorporated directly into the Environmental Permitting Regulations which are proposed to come into force in April 2010.

The ED is attending a workshop on the Government's proposals on 9 July and will provide a verbal update at the SG.

3 Proposals for Restructuring the HSE's Nuclear Directorate

The purpose of this joint DECC and Department for Work and Pensions consultation is to seek views on the Government's proposals to restructure the Health and Safety Executive's Nuclear Directorate. The consultation opened on 30th June and will run until 22nd September 2009.

The proposals are designed to improve the organisational framework for the delivery of robust, effective and efficient nuclear regulation in the UK, and would effect two key changes:

- the creation of a new sector-specific independent regulator, with a pre-dominantly non-executive Board, which reports to: (i) Ministers in respect of its regulatory functions; and (ii) Ministers and the HSE in respect of strategies and business planning; and
- the transfer of the statutory responsibilities for the exercise of transport, security and safeguards functions from the Secretaries of State for Transport and Energy and Climate Change to the new regulator.

Benefits are argued to include enhanced transparency and accountability. Government states that the restructuring will not change the substance or standards of regulation or compromise the independence of the nuclear regulatory body, and will not affect the decisions it takes or the international obligations the Government requires it to meet.

It is proposed that a Legislative Reform Order (LRO) under the Legislative and Regulatory Reform Act 2006 is used to re-establish the Nuclear Directorate as a Statutory Corporation - referred to in the consultation document as the Nuclear Statutory Corporation (NSC).

The Environment Agency would continue to regulate the environmental aspects of nuclear activities.

At the time of writing, the ED has not had opportunity to review the detail of the proposals. It is therefore proposed that the SG delegate authority to the ED and Chair to make any comments that might need to be made.