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HEALTH AND SAFETY COMMISSION

Guidance on the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999

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Issue

1. Proposed further consultation on the draft 'Guidance on the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (EIADR 99)'. Initial consultation in 1999 has led to further extensive and lengthy consultation and, a very substantial re-write.

Timing

2. We aim to start the consultation in March 2005.

Recommendation

3. You are invited to agree to the publication of the Consultative Document (see Annexes A and B).

Background

4. The EIADR99 implement European Council Directive 85/337/EEC, as amended by Council Directive 97/11/EC. Further details can be found in Annex C.

HSE Commitment to publish Guidance on EIADR99

5. HSE made a commitment to produce guidance on the regulations in a letter to a number of government departments dated 08/10/99, and an initial draft of the guidance was subject to public consultation in 1999. Following this consultation, a commitment was made to consultees (in 2000) to redraft the guidance and undertake further consultation before publication. The consultees included other government departments, licensees, and national pressure groups.
6. One of the reasons for delaying a further consultation was the demand from consultees for greater clarity on several unresolved issues. This has

proven to be a difficult and time-consuming task¹. For example, there was no clear definition of what constituted a ‘significant adverse impact’ relating to changes to projects that are already underway. The revised guidance (see Annex B) is now able to address these issues.

Argument

7. Given the public commitment made in 2000, and the changes made to the guidance, we feel it’s appropriate for HSE to undertake a further consultation.
8. The problem issues identified from the previous consultation have been addressed with interpretative advice included in the redrafted guidance. In addition, the experience gained during the application process to decommission the Hinkley Point A² and Bradwell nuclear power stations has enabled HSE’s Nuclear Safety Directorate to set standards as to what we expect from submissions and how these will be dealt with. Thus, it would benefit future applicants by highlighting these standards and requirements in related guidance.
9. The guidance has also been radically redrafted so that each regulation in the EIADR99 is now reproduced followed by interpretative guidance. We believe this new approach is more user-friendly and easier to understand.

Consultation

10. HSE’s Nuclear Safety Directorate and Solicitor’s Office have been consulted during the drafting of this guidance. Consideration was also given to the comments made during the previous consultation exercise.

Presentation

11. An electronic only version of the Consultative Document will be available on HSE’s website and publicised via a Press Release (although it is not proposed to produce paper copies of the Consultative Document on the grounds of cost, they will be obtainable on request).

Costs and Benefits

¹ The initial EIADR submissions were made in late 2000 and dealing with these to completion took until 2003. The work on these submissions included the development of policy on the application of EIADR (in discussion with other relevant regulators e.g. local planning authorities). The developed policy has been incorporated into the revised guidance, which was begun in 2003 and completed late 2004. The revised draft takes into account the earlier consultation draft and responses from that consultation.

² Work on this first ever application to undertake a decommissioning project under EIADR99 began late 2001 and took until mid 2003 before consent was granted (the time needed to grant consent to subsequent decommissioning applications under EIADR has reduced sharply – the introduction of EIADR guidance should help to further streamline the process)

12. The guidance is intended to be an on-line 'live document' and will be updated periodically as and when required. For example, next year some amendments will need to be made to the EIADR99. The guidance will be updated when the amendments come into force.

Financial/Resource Implications for HSE

13. The cost for producing the guidance (using a ready reckoner calculation based on the time spent drafting/commenting by officials in the Nuclear Safety Directorate, Policy Group and the Solicitors Office) and for placing it on HSE's website is estimated to be £26,985.
14. Existing resources within the Nuclear Safety Directorate, Policy Group and the Solicitors Office were used for producing the guidance, and existing resources within Policy Group will be used for administering the public consultation.

Environmental Implications

15. Minimal. The production of clear guidance may help speed up the EIADR application process, and result in quicker practical application of the plans, but the effect is likely to be marginal.

Other Implications

16. Local authorities, the Devolved Administrations, licensees, other government departments and relevant non-government organisations will be informed of the consultation exercise.

Action

17. The Commission is asked to agree the recommendation in paragraph 3. We will commence the consultation exercise from March 2005 and report back the findings to the Commission by late summer 2005.