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## HEALTH AND SAFETY COMMISSION

### Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations 2006

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#### Issue

1. Proposal for regulations to amend the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (EIADR99).

#### Timing

2. Routine. We propose the regulations come into force on the next common commencement date 6 April 2006.

#### Recommendation

3. The Commission is invited to note the main points from the consultation exercise (Annex A) and approve the draft regulations for submission to the Minister (Annex B).

#### Background

4. HSC/05/83 set out the reasons why amendments to EIADR99 are necessary. In summary, these are to:
  - a) Implement amendments made to the EIADR99's parent EC Directive by the coming into force of Directive 2003/35/EC. This Directive aims to ensure public participation in drawing up certain plans and programmes relating to the environment. While the EIADR99 is already compliant with these requirements, this is not explicit in wording of the regulations – hence the need to amend;
  - b) simplify arrangements around decommissioning. Where there is a change or extension to a decommissioning project, only the part(s) of a site where the change/extension may have a significant effect on the environment is subject to the requirements of the regulations (this could save the Nuclear Decommissioning Authority and the nuclear industry £8 - £27 million over the lifetime of a typical project); and to
  - c) correct some minor typographical errors identified by the Joint Committee on Statutory Instrument (JCSI).
5. The Commission agreed a consultation exercise that was held during the period 1 August – 31 October 2005.

## **Argument**

### Comments from Consultation Exercise

6. HSE received 13 responses after consulting nearly 500 stakeholders (including the nuclear industry, TUC, CBI, and non-governmental organisations). 8 respondents were in favour of the draft regulations, 3 offered further suggested changes, one made no comment and there was one negative response from an individual. Both the level and content of responses suggest stakeholders were broadly content with the proposals.
7. The main comments received included factual queries on the decommissioning costs for defence-related projects and whether the proposed amendments fully implement the changes made to the EIADR99's parent EC Directive (see points 1, 7 and 8 of Annex A for details). In response HSE has amended the decommissioning cost figure for sites storing defuelled nuclear submarines and has adjusted regulation 2(1) to implement the change made to Article 1(2) of the EIADR99's parent EC Directive by Directive 2003/35/EC.
8. More significantly, one respondent suggested that the proposed amendment to allow decommissioning to continue on the part(s) of the site unaffected by the change/extension was inappropriate. This was because consideration wasn't made on the knock-on effect for the whole decommissioning project. HSE does not agree on the grounds that any potential knock-on effect - whether direct, indirect, secondary, cumulative, short, medium and long-term, permanent and temporary - would still need to be considered as part of the change/extension assessment (see point 3 of Annex A for details).
9. The other amending regulations proposed in the consultation exercise are unchanged. A list of the respondees to the consultation exercise, the comments made and HSE 's response are detailed in Annex A.

### Further reasons for proposed amendments

10. There is a legal requirement to address the typographical errors identified by the JCSI and to transpose the changes made to the parent Directive. The proposed HSE amendment to simplify arrangements around decommissioning (as detailed in paragraph 4(b) of this paper) was also raised as an issue by the Nuclear Decommissioning Authority in its response to a recent consultation exercise on guidance to the EIADR99. This amendment will improve efficiency and reduce cost.

## **Consultation**

11. HSE's Nuclear Safety Directorate (NSD), Legal Advisers Office and Economic Advisers Unit.

## **Presentation**

12. Respondents to the consultation and other key stakeholders will be notified when the amendment regulations are scheduled to come into force. A Welsh language version of the regulations will be available.

## **Costs and Benefits**

13. An assessment of the costs and benefits of these amendments are detailed in the attached Regulatory Impact Assessment (see Annex C).

14. It is expected that the amendments required by JCSI will be cost neutral. The efficiency amendment could save the Nuclear Decommissioning Authority and the nuclear industry £8 - £27 million. The amendments driven by changes to the EIADR99's parent directive will present additional administrative costs to MoD, ODPM and HSE (although we expect the additional costs for HSE to be absorbed by existing resources within NSD).

#### **Financial/Resource Implications for HSE**

15. The cost for analysing the comments received from the consultation exercise, drafting the Commission paper, amendment regulations and related correspondence (ready reckoner calculation based on the time spent by HSE (officials) is estimated to be approximately £5000.

#### **Environmental Implications**

16. None.

#### **Other Implications**

17. None

#### **Action**

18. The Commission is asked to approve the draft amending regulations for submission to the Minister.