

**CONSULTATIVE DOCUMENT ON A PROPOSAL TO PUBLISH HSE CRITERIA FOR DELICENSING PARTS OF, OR ENTIRE SITES LICENSED UNDER THE NUCLEAR INSTALLATIONS ACT 1965.**

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Draft Policy Statement

# **PROPOSAL TO PUBLISH HSE CRITERIA FOR DELICENSING PARTS OF, OR ENTIRE SITES LICENSED UNDER THE NUCLEAR INSTALLATIONS ACT 1965.**

## **INTRODUCTION**

1. This Consultative Document seeks comments on a proposal by the Health and Safety Executive (HSE) to publish a policy statement that sets out its criteria for delicensing parts of, or entire sites licensed under the Nuclear Installations Act 1965.

## **BACKGROUND**

2. HSE receives requests from time-to-time to delicense parts of, or even entire sites licensed under the Nuclear Installations Act 1965. The Act requires that before allowing all or part of a site to be delicensed, HSE must be satisfied that “there has ceased to be any danger from ionising radiations from anything on the site or, as the case may be, on that part thereof”.

3. The future use of the UK’s nuclear sites was discussed in a recent Government consultation on nuclear decommissioning policy<sup>1</sup>. With an expected increase in requests for delicensing, HSE considers that the publication of a policy statement setting out its criteria for delicensing and interpretation of ‘no danger’ is timely. It will help make regulatory decision-making more transparent.

4. It will also provide a useful reference for anyone seeking information about delicensing. As the freeing up of increasing amounts of formerly licensed land may raise public concerns about the safety of using that land for other purposes, the Health and Safety Commission has agreed that HSE should consult publicly to ensure that the published policy statement is widely acceptable.

## **PROPOSED DATE OF PUBLICATION**

5. If the response to this consultation proposal is generally favourable, then we expect the policy statement to be adopted and formally published by autumn 2004.

## **COSTS AND BENEFITS**

6. Publishing the policy statement will establish a consistent and defensible basis for HSE’s assessments of delicensing applications, and will be of assistance to nuclear licensees in developing plans for restoration of their sites. The greater clarity achieved will also be consonant with the Government’s aim to encourage greater private sector interest in taking on the work of decommissioning and restoring the UK’s nuclear legacy sites.

## **COMMENTS WELCOMED**

7. We have already discussed these proposals with stakeholders during the process of drafting the policy statement and believe that there is broad acceptance of them. We would welcome any comments from those affected by, or interested in, these proposals by 30 July 2004.

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<sup>1</sup> ‘A Public Consultation on Modernising the policy for Decommissioning the UK’s Nuclear Facilities’. The consultation ran from November 2003 to February 2004. Details on the DTI website: <http://www.dti.gov.uk/nuclearcleanup/tl/tl-d.htm#decommissioning>

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Please complete and enclose this form with your reply to this CD.

Do you agree with HSE's proposed criteria for the evaluation of 'no danger' - in the context of delicensing - under the Nuclear Installations Act? <b>[Tick one box]</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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If you answered 'no' please explain why you don't agree with HSE's proposed criteria.  
**[Please add extra sheets if you wish]**

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## **HSE CRITERIA FOR DELICENSING NUCLEAR SITES**

## **Introduction**

1 This policy statement provides a basis for the considerations that need to be made by the Health and Safety Executive (HSE) in order to:

- a) Delicense a nuclear licensed site, or
- b) Vary a nuclear site licence (to exclude part of a licensed site), or
- c) Terminate the period of responsibility of a licensee

for sites licensed by HSE under the Nuclear Installations Act 1965, as amended<sup>1</sup>.

## **Objective**

2 This statement forms a policy basis from which HSE can establish from its own assessment, from the licensee's evidence, and through information from other regulatory bodies concerned with the site (e.g. the Environment Agency or the Scottish Environmental Protection Agency), that residual radioactivity on the site represents 'no danger'. Once the criteria of 'no danger' set by the Nuclear Installations Act is met, HSE will be able to make a decision on delicensing all or part of a site, or ending the period of responsibility.

## **What Is Delicensing?**

3 For the purposes of this policy statement we refer to the term delicensing as meaning the "ending of the period of responsibility under the Nuclear Installations Act". This is defined in section 5(3) of the Nuclear Installations Act and can only happen when the HSE gives notice in writing to the licensee that in its opinion there has "ceased to be any danger from ionising radiations from anything on the site or, as the case may be, on that part thereof".

4 Before delicensing any land on nuclear sites, HSE must satisfy itself that delicensing (as interpreted in this policy statement) is appropriate and that licensable activities are no longer being carried out on the site or the part of the site to be delicensed. This means, among other things, that no radioactive waste remains on the site or the part of the site to be delicensed.

## **No Danger**

5 Sections 3(6)(b) and 5(3)(a) of the Nuclear Installations Act contain a requirement that there is "no danger" and has "ceased to be any danger" from ionising radiations from anything on the site or that part of site under consideration for delicensing. These requirements apply to the release of a licensee from his period of responsibility under the Nuclear Installations Act. However, assessment of what constitutes 'no danger' is not a straightforward matter, particularly if a site has been subject to radioactive contamination. This is because it is assumed internationally that there is a linear harm/dose relationship for ionising radiation and that there is no threshold below which small doses are harmless. However, all materials contain low levels of naturally occurring background radioactivity and thus, interpreted in a literal way, HSE would never be able to delicense any part of a site. However, since the Nuclear Installations Act allows for delicensing, Parliament must

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<sup>1</sup> Sections 3(6) and 5(3) of the Nuclear Installations Act 1965, as amended.

have intended that sites (or parts of sites) should be capable, in some circumstances, of being delicensed.

### **HSE's Criteria For No Danger**

6 In HSE's view, requiring a licensee to demonstrate 'no danger' cannot mean asking the licensee to demonstrate that the site is 'completely safe'. Such absolute certainty could never be delivered, no matter how comprehensively a site is cleaned up and monitored. To us, it suggests that after termination of licensable activities on a site, and following rigorous decontamination and clean up, it may be acceptable for there to remain a small but finite radiological hazard, whose further detection and reduction would necessitate a disproportionate effort and cost. HSE would, however, require the licensee to show that any residual radiological hazard will not pose a significant ongoing risk to any person, regardless of the future uses to which the site, or anything left on the site, may be put.

7 Taking account of existing published guidance, HSE believes that the possibility of a fatality of 1 in a million per year (1 in 10<sup>6</sup>/y) might be regarded by society as a 'broadly acceptable' level of risk to a member of the public going about their normal business. For practical purposes, therefore, we will use this criterion as the minimum requirement of what we regard as 'no danger' for the purposes of sections 3(6)(b) and 5(3)(a) of NIA65. In addition, when interpreting 'no danger', HSE considers that this criterion should be supplemented by the As Low As Reasonably Practicable (ALARP) principle. This means that, in making an application for delicensing all or part of a site, the applicant should demonstrate that he has taken all reasonable practicable actions to reduce the residual risk below 1 in a million per year. The application of the 'no danger' risk criterion and ALARP is consistent with the approach outlined in HSE's 'Tolerability of Risk'<sup>2</sup> and 'Reducing Risks, Protecting People'<sup>3</sup> publications.

8 HSE considers that equating 'no danger' with these criteria is a pragmatic approach to satisfying the absolute and practically unachievable requirements of the Nuclear Installations Act. To place the residual risks we are considering here into a broader context, it should be noted that the average risk of death in the UK from naturally occurring radioactivity is estimated to be around 1 in 10,000 per year (1 in 10<sup>4</sup>/y)<sup>4</sup>.

### **Notification Of Delicensing Decisions**

9 In line with HSE's policy on openness and stakeholder involvement, HSE will inform local stakeholders of its decisions with respect to delicensing applications via routine Local Liaison Committee meetings and reports<sup>5</sup>.

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<sup>2</sup> 'The Tolerability of Risk from Nuclear Power Stations' HSE 1988, ISBN 011 883982 8

<sup>3</sup> 'Reducing Risks, Protecting People', HSE 2001, ISBN 0-7176-2151-0

<sup>4</sup> National Radiological Protection Board publication "Living with Radiation", ISBN 0-85951-419-6, 1998. This states (Page 24) that the average annual risk of death in the UK from all sources of ionising radiation, including medical and background, is about 1 in 7700.

<sup>5</sup> HSE reports to Local Liaison Committees (LLC) as part of the commitment to making information about inspection and regulatory activities relating to licensed nuclear sites available to the public. Each major licensed nuclear site has a liaison committee, run by the licensee, that includes local authorities, trade unions, interested local groups and members of the public. The LLC reports are distributed quarterly to members of the committees and cover activities associated with the regulation of safety at the sites. Site Inspectors of HSE's Nuclear Installations Inspectorate attend LLC

## **Summary**

10 In summary, HSE's requirements for establishing 'no danger' when considering an application to delicense all or part of a licensed nuclear site are:

- A demonstration that any radioactivity which remains on the site, which may have arisen from licensable activities, will lead to a risk of death to any member of the public of no greater than 1 in a million per year; and
- The application of the ALARP principle to ensure that all reasonably practicable steps have been taken to reduce the residual risk from remaining radioactivity.

**HSE**

**April 2004**