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HEALTH AND SAFETY COMMISSION

Publication of ‘HSE Criterion for Delicensing Nuclear Sites’

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Issue

1. Proposal to publish the policy statement ‘HSE Criterion for Delicensing Nuclear Sites’. This has been slightly modified following the consultation exercise held last year¹. The policy statement will be reviewed periodically to ensure that it remains relevant and appropriate.

Timing

2. Routine. We propose to publish the policy statement at the beginning of August.

Recommendation

3. The Commission is invited to note the main points made from the consultation exercise (Annex A) and the proposed policy statement (Annex B).

Background

4. Under the Nuclear Installations Act 1965, HSE can only delicense any part of a nuclear licensed site when it is satisfied that there has ceased to be any danger from ionising radiation. However, assessment of what constitutes “no danger” is not a straightforward matter, particularly if any radioactive contamination remains. Since 1960, a small number (13) of complete sites (mainly small research reactors and experimental facilities) have been delicensed. Over that period, a slightly larger number of licences (15) have been ‘varied’ to exclude unused or non-contaminated parts of existing licensed sites. As more nuclear installations close down, HSE expects to receive an increasing number of applications for whole, and partial, site delicensing. The newly established Nuclear Decommissioning Authority (NDA) are aiming to accelerate the clean-up and restoration of the UK’s nuclear legacy sites and, where possible, will look to the complete removal of regulatory control. It is therefore timely to issue a public statement of our policy on delicensing. It will also make our regulatory process more transparent, in line with the Government’s policy on better regulation.

¹ This paper is not related to the paper HSC/05/09 ‘Guidance on the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999’ (EIADR99), presented to the Commission earlier this year (8 February). The EIADR 99 regulations apply only the process of decommissioning a nuclear reactor and/or nuclear power station but do not deal with the ultimate delicensing of a licensed site.

5. Following Commission agreement to consult on the delicensing policy statement, a consultation exercise was held during the period 1 May – 31 July 2004. HSE then consulted further with its Nuclear Safety Directorate and Risk Policy Unit, with key external stakeholders, and with NuSAC, in order to secure broad support for the revised statement

Comments from Consultation Exercise

6. The main comments made from the consultation exercise and a list of the respondees are summarised in Annex A. 32 comments were received from a variety of sources (industry, government departments, NGOs, individuals). There were 17 negative responses, 11 positive and 4 non-committal. All² of the comments are available for viewing in HSE's information centres.
7. The negative comments varied. Some respondees suggested that the proposed definition for 'no danger'³ was too onerous and advocated a higher permissible risk⁴. Support for this view came mainly from the nuclear industry. Others, mainly those with concerns for the environment, cited the draft recommendations of the International Commission on Radiological Protection (ICRP) for a minimum dose constraint, which suggest an allowable residual radiological risk lower by a factor of about 2 than the 1 in a million criterion proposed here.
8. In addition, some respondents objected to the requirement that ALARP be applied because its proposed use went beyond its normal application (normally applied to risks between 1 in 100,000 and 1 in a million rather than beyond 1 in a million).

Argument

9. The 1 in a million criterion is consistent with the requirements placed by HSE on licensees in all recently approved delicensing proposals. Therefore, although the less onerous risk criterion advocated by some respondees would result in cheaper and easier clean-up, any move by HSE to allow a higher level of residual risk may be seen as being counter to our general duties, and could undermine public confidence that enough was being done to ensure the safety of future users of delicensed sites. Furthermore, as discussed in the consultation document, the proposed risk level is consistent with HSE's approach to regulating risk in other industries. We consider that the proposed criterion would require clean-up to a level of residual radioactivity that would be 'broadly acceptable'⁵ and do not propose to amend this further.
10. The ICRP recommendations are still in draft and have generated a lot of international debate. It is by no means certain that the minimum dose exemption levels suggested in the ICRP recommendations will remain in the final document. Given that uncertainty, and the need for HSE to issue this policy statement, we will not await the ICRP recommendations before publishing the proposed the proposed criterion⁶.

² Except one comment made – requested not to be made publicly available.

³ Proposed as a 1 in a million risk of death from residual radioactivity + the application of ALARP

⁴ To a 1 in 100,000 risk of death from residual activity + ALARP as a guide rather than as a requirement.

⁵ Residual activity refers to a measurable level above the average local background radioactivity

⁶ A consultation on the 'foundation documents' linked to the proposed ICRP recommendations will be undertaken in the near future. ICRP recommendations aren't legally binding but if the European Commission eventually transposes them - in the form of an EC Directive - then the timetable for this and subsequent changes to UK law would be 5-7 years away.

11. Although the Health and Safety at Work Act requires that operators reduce all risks ALARP, the arguments against the proposed use of ALARP in the delicensing policy statement have some merit. We agree that the consultation draft implied that HSE would require operators to clean-up nuclear sites to risk levels which were normally well below regulatory concern. This would be inconsistent and is not our intention. We have therefore clarified this point in the policy statement.
12. In the revised draft, we make it clear that although HSE may judge that a demonstration of the no danger criterion has been satisfactorily made, we would still expect the operator to demonstrate that he has also *considered* the overarching ALARP requirements. This may be simple to achieve and may amount to showing that there are no further, low-cost clean-up activities that can be easily carried out.

Consultation

13. HSE's Nuclear Safety Directorate, Solicitor's Office and Risk Policy Unit plus relevant government departments were consulted in redrafting this policy statement. The revised policy statement has the support of HSE's Nuclear Safety Advisory Committee (NuSAC).

Presentation

14. It is proposed that the policy statement will be published on HSE's website, and publicised via a press release. Respondents to the consultation and other key stakeholders (including local authorities, licensees, government departments and relevant NGOs) will be notified of the publication. A Welsh language version of the policy statement will be available on HSE's website

Costs and Benefits

15. There is a benefit to society in removing nuclear sites wholly or partly from regulatory control. If 'no danger' is interpreted too stringently, this could only be achieved, if at all, at a grossly disproportionate cost. On the other hand, if the 'no danger' criterion is too loose, a delicensed site may continue to pose a non-negligible radiological risk; this is likely to inhibit future re-use of the site and may erode public confidence in regulation.

Financial/Resource Implications for HSE

16. The cost for analysing the comments received from the consultation exercise and for redrafting the policy statement (ready reckoner calculation based on the time spent by officials in Policy Group) is estimated to be £15,395. Existing resources within Policy Group were used for redrafting the policy statement.
17. The assessment guidance document, which being prepared by NSD, is estimated to cost approximately £17,000 (comprising consultant's and staff costs).

Environmental Implications

18. Whilst HSE may consider that a site has been cleaned up sufficiently to satisfy the 'no danger' requirement of the Nuclear Installations Act 1965, this cannot guarantee that other, particularly environmental, legislation will not impose continuing management requirements on the delicensed land. In the revised policy statement, owners or managers of delicensed sites are advised to seek the views of the appropriate government department, environment agency, and local planning authority on whether

other regulatory controls continue to apply.

Other Implications

19. There are no other substantive implications arising from this proposal.

Action

20. The Commission is asked to note the proposal to publish the policy statement at the beginning of August.