

## **Proposals for amendments to the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (EIADR99)**

This consultative document is issued by the Health and Safety Commission in compliance with its duty to consult, under sections 16(2) and 50(3) of the Health and Safety at Work etc. Act 1974, bodies which appear to it appropriate before submitting proposals for the making of Regulations and the issue of Approved Codes of Practice.

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To reach the section no later than **31 October 2005**

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Responses to this consultative document are invited on the basis that anyone submitting them agrees to their response being dealt with in this way. Responses, or part of them, will be withheld from the Information Centre only at the express request of the person making them (under the Freedom of Information Act 2000; Environment Information Regulations 2004 and the Data Protection Act 1998). In such cases, a note will be put in the index to the responses identifying those who have commented and have asked that their views, or part of them, be treated as confidential.

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**CONSULTATIVE  
DOCUMENT**

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# **CONSULTATIVE DOCUMENT ON PROPOSALS FOR AMENDMENTS TO THE NUCLEAR REACTORS (ENVIRONMENTAL IMPACT ASSESSMENT FOR DECOMMISSIONING) REGULATIONS 1999 (EIADR99)**

## **Contents**

### **CONSULTATIVE DOCUMENT**

Introduction  
Background  
Summary of Proposed Amendments  
Timing  
Costs and benefits  
Comments welcomed

### **Appendix 1**

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

### **Appendix 2**

Regulatory Impact Assessment

# **PROPOSAL FOR AMENDMENTS TO THE NUCLEAR REACTORS (ENVIRONMENTAL IMPACT ASSESSMENT FOR DECOMMISSIONING) REGULATIONS 1999 (EIADR99)**

## **INTRODUCTION**

1. This Consultative Document seeks comments on a proposal by the Health and Safety Commission (HSC) to amend the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (EIADR99).

## **BACKGROUND**

2. The purpose of this amendment regulation is to correct two typographical errors identified by the Joint Committee on Statutory Instruments (JCSI); to achieve greater administrative clarity and efficiency through cost savings; and to implement the (relevant) amendments made to the EIADR99's parent directive; the Environmental Impact Assessment (EIA) Directive 85/337/EC, as amended by 97/11/EC, by Directive 2003/35/EC.<sup>1</sup>

## **SUMMARY OF PROPOSED AMENDMENTS**

3. In order to implement these amendments, the HSC propose to make amending regulations to be known as the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) (Amendment) Regulations 2006. These draft regulations can be viewed in Appendix 1 of this Consultative Document.

### The typographical errors identified by JCSI

4. These will be corrected by the proposed amendments of 4(b) and 12(6).

### Amendment to achieve greater administrative clarity and efficiency

5. The amendment to achieve this is proposed by redrafting regulation 13(1). Regulation 13(1) of EIADR99 currently puts the initial responsibility onto the licensee to consider whether a change or extension to a decommissioning project may have a significant adverse effect on the environment (SAEE). If a SAEE is likely, then the licensee must apply to HSE for a determination as to whether the decommissioning project shall be subject to an Environmental Impact Assessment (EIA). However, the whole decommissioning project has to stop until HSE has made a determination, and cannot restart if HSE decides an EIA is required which, subject to the requirements of regulation 13, requires a public consultation of three months.

6. The amendment to regulation 13(1) provides HSE with the option of considering that if a change/extension occurs to a decommissioning project that has a significant

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<sup>1</sup> Directive 2003/35/EC (OJ:L156/17/2003) on public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC

adverse effect on the environment, then only that part(s) of the site affected would be subject to the requirements of regulation 13. Therefore, work on the other parts of the site, unaffected by this change/extension, could continue if HSE decides ceasing such work is unnecessary.

### Implementation of the (relevant) amendments made to the EIA Directive

7. In order to implement the relevant changes made to the EIADR99's parent directive; the Environmental Impact Assessment (EIA) Directive 85/337/EC, as amended by 97/11/EC, by Directive 2003/35/EC, the following amendments are proposed:

- *Regulation 3(3)* is to be amended in order to remove the blanket exemption for defence projects and replace it with a case-by-case assessment on whether an application to EIADR is needed;
- *Regulation 9(1)(a)* is to be amended so that it's clear the decommissioning project is subject to the EIA procedure; and
- *Regulation 11(c)* needs amending in order to include information about the public participation process;

### TIMINGS

8. If the response to this consultation proposal is generally favourable, then we expect the amending regulations to come into force spring 2006.

### COSTS AND BENEFITS

9. The costs and benefits from these amendments are detailed in the Regulatory Impact Assessment (see Appendix 2 of this Consultative Document).

10. In essence, there are no additional costs or savings from the amendments required by JCSI. These are designed to correct typographical errors.

11. The amendment to regulation 13(1) is expected to save the Nuclear Decommissioning Authority and the nuclear industry somewhere in the region of £40 - £60 million per site, *if only part(s)* of the site where the change/extension to the decommissioning project provides a (SAEE), need to stop until an Environment statement has been produced and consulted on.

12. The amendments driven by some of the changes to the EIADR99'S parent directive will present some additional administrative costs to MoD and HSE (although we expect the costs for HSE to be absorbed by the existing resources with NSD).

### COMMENTS WELCOMED

13. We have already consulted key stakeholders during the process of drafting the amendments to EIADR99, and believe there is broad acceptance of them.

14. We would welcome any comments from those affected by, or interested in, the drafted amendments to EIADR99 by **31 October 2005**.

Comments (and/or requests for a paper copy of the Consultative Document) should be sent to:

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

In your view how well does this Consultative Document set out the amendments to the Nuclear Reactors (Environmental Impact Assessment for Decommissioning) Regulations 1999 (EIADR99)?  [Tick one box]	Very well  Not well	Well  Poorly
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If you answered 'Not well' or 'Poorly' how do you suggest things might be improved for the future? [Please add extra sheets if you wish]

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