

Consultation document



The Draft Nuclear Industries Security (Amendment)
Regulations

DTI Consultation

DECEMBER 2005





The DTI drives our ambition of 'prosperity for all' by working to create the best environment for business success in the UK. We help people and companies become more productive by promoting enterprise, innovation and creativity.

We champion UK business at home and abroad. We invest heavily in world-class science and technology. We protect the rights of working people and consumers. And we stand up for fair and open markets in the UK, Europe and the world.

Alternative formats

If you would like this document in an alternative format such as large print, or in a different language, please contact:

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1. The Department of Trade and Industry (DTI) intends to make regulations to amend the Nuclear Industries Security Regulations 2003 to widen coverage over holdings of sensitive nuclear information. It is also intended to extend coverage to include uranium enrichment equipment and software held off a licensed nuclear site, being transported or stored off-site, as well as covering software being used or stored on-site. There is a final amendment to amend reporting requirements for transportation of category III nuclear material where it is moved by a UK approved shipping carrier between non-UK ports, by way of a vehicle driven on and then off a ship.

2. In this consultation DTI is seeking the views of interested parties about these draft regulations.

Issued 23 December 2005

Respond by 17 March 2006

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Executive Summary

3. The proposed regulations extend the obligations to protect sensitive nuclear information in regulation 22 of the Nuclear Industries Security Regulations 2003 (NISR) more widely to cover any person in the United Kingdom who has possession or control of such information and who is involved in activities on or in relation to a nuclear site or premises or involved in the enrichment of uranium or connected activities (whether in the United Kingdom or elsewhere). This will therefore include the Nuclear Decommissioning Authority (NDA) and those of its contractors and consultants not already subject to security regulation and possibly two patent agents.

4. Although we believe that companies working in these areas act responsibly, we consider it would be prudent to ensure that coverage is universal. However, to ensure this universal coverage we believe we will only actually be capturing up to six undertakings and those will actually incur little additional costs. We would welcome comments as to any others who might be affected.

5. The amendments also will extend coverage over uranium enrichment ("UE") equipment and software. UE equipment is defined as any equipment, including equipment that has not been assembled and its components, capable of being used in or in connection with the enrichment of uranium. UE software is defined as any software capable of being used in or in connection with the enrichment of uranium. People who possess or control UE equipment or software who are involved in or connected to UE activities, or producing, storing or transporting such equipment or software, will have to comply with the security requirements in regulation 22. We believe this will affect a further two entities but will welcome comments on this.

6. These regulations also amend regulation 4 of the NISR to make it clear that the approved security plan for premises will need to cover any software used or stored on premises in connection with activities involving nuclear or other radioactive material. Site operators security plans already include provision regarding the security of sensitive nuclear information and most if not all such software should thus be included in their plans.

7. There is also a minor amendment to the reporting requirements for transportation of Category III nuclear material in road vehicles, by sea, by a UK ship between non-UK ports, where the vehicle drives on and off of the carrier. The amendment ensures full reporting of all movements. We believe this will affect two carriers.

How to respond

8. You may respond to the proposals (paras 20-47 below – which contain questions to which you may wish to respond) in any way you wish. The questions

are listed below, with a separate response form at Annex C. When responding please state whether you are responding as an individual or representing the views of an organisation.

9. Please respond by 17 March 2006 by letter, fax or email to:

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10. Questions about the policy issues raised in the document can be addressed as above. Similarly if consultees wish to meet DTI to discuss the proposals they should contact us as above.

Confidentiality

11. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

12. If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

13. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

14. The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Help with queries

15. If you have comments or complaints about the way this consultation has been conducted, these should be sent to:

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Tel: 020 7215 6206

16. A copy of the Government Code of Practice on Consultation is in Annex B.

What happens after the consultation?

17. When we have received responses to this consultation we will carefully consider them and if necessary amend the draft regulations in the light of them.

18. We will then write to those bodies which we consulted to let them know the outcome of the consultation and publish this letter on the DTI website. This will take place within three months of the close of the consultation and may, due to the sensitive nature of some of the potential comments, generalise some of the content. If we do generalise some of the comments we will explain in the letter which parts of the Freedom of Information Act we rely on to do so. **This will make it more difficult for people to identify where comments have come from.**

19. We then intend that the regulations will be laid before Parliament. OCNS (the Office for Civil Nuclear Security) will issue revised guidance to those affected at least 3 months in advance of the date the regulations come into effect.

LIST OF QUESTIONS (Separate response form as Annex C)

QUESTION 1: do you agree that the obligations to protect sensitive nuclear information in Regulation 22 of the Nuclear Industries Security Regulations 2003 should be extended to all persons?

QUESTION 2: do you agree that the obligations to protect uranium enrichment software and equipment in Regulation 22 of the Nuclear Industries Security Regulations 2003 should be extended to cover the storage and transport of uranium enrichment equipment off a licensed nuclear site; as well as uranium enrichment software and equipment being used or stored either on or off-site?

QUESTION 3: do you agree that Regulation 20 (5) should be amended to ensure advance notification by UK ships carrying nuclear material between non-UK ports?

QUESTION 4: do you agree with the analysis in para 39 of the Consultation Document and the Regulatory Impact Assessment of likely compliance costs and benefits of the regulations? If not please indicate which section(s) of the costs breakdown you disagree with and why.

QUESTION 5: do you believe that that the extension of the regulations as indicated in paragraphs 29-38 may have unintended consequences or other implications?

Key changes proposed

20. A summary of the main points of the regulations is set out in paras 21-38 immediately below.

Sensitive nuclear information

21. There is a category of information held in the civil nuclear industry which, because of its sensitivity, requires protection. This includes information on detailed, confidential site security measures, security measures relating to transports of nuclear material or other material about future transports of nuclear material as well as information relating to the enrichment of uranium. Sensitive nuclear information (SNI) is defined in section 77(7) of the Anti-terrorism, Crime and Security Act 2001, as amended by the Energy Act 2004. It is proposed to extend the application of the regulations to any person who has possession or control of SNI and who is: involved in activities on or in relation to a nuclear site or nuclear premises or who is proposing to become so involved or involved in the enrichment of uranium or activities with a view to or in connection with the enrichment of uranium (with some exceptions).

Uranium enrichment equipment and software

22. This sensitive technology is being made subject to the requirements of regulation 22 of NISR including extending coverage to the transportation or storage off a licensed site of related equipment and software. It is also proposed to clarify that software used or held on a licensed site in connection with activities involving nuclear or other radioactive material and software used or stored on any premises in connection with activities involving nuclear material must be included in an approved security plan under Regulation 4.

Transport reporting requirements

23. The proposal is to amend Regulation 20 (5) to ensure advance notification by UK ships carrying nuclear material between foreign ports. This will only impact on two UK approved shipping companies when they transport a vehicle carrying nuclear material between non-UK ports and the driver remains on board. The current regulation does not provide the full notification over such movements as was envisaged when it was originally drafted.

Current regulation

24. The Nuclear Industries Security Regulations (NISR) 2003 require certain organisations that hold sensitive nuclear information to have in place measures to ensure its security.

25. Operators of licensed nuclear sites and other nuclear premises (and their tenants), who hold sensitive nuclear information on those sites, are required to have in place measures to ensure the security of the information, set out in a security plan approved by OCNS, the UK's civil nuclear security regulator, in conformity with Regulation 4 of NISR 2003. Similarly, approved carriers of nuclear material are required to detail their arrangements to protect sensitive nuclear information in the Transport Security Statement which they submit to gain approval.

26. Sensitive nuclear information held by site licensees (and others as in para 24) off licensed nuclear sites is regulated by Regulation 22 of NISR 2003.

27. Uranium enrichment equipment and software held off site is currently not regulated under regulation 22. Similarly, software used/stored in connection with activities involving nuclear or other radioactive material on-site is currently not regulated.

28. Transport reporting requirements currently do not require a UK ship to report a movement of nuclear material between non-UK ports if the transport is done by way of a drive on/drive off vehicle on board a ship. Clearly this omission needs to be corrected.

Scope and coverage of the proposed regulations

29. The proposed regulations will widen coverage of the 2003 regulations in relation to SNI so that it will include the Nuclear Decommissioning Authority (NDA) and those of its consultants and contractors who are not already regulated under the 2003 regulations. One of the benefits of a wider coverage of the regulations proposed is to ensure that as the industry evolves in the future the regulations do not need to be continually amended to cover new entities. The changes extend coverage of regulation to people who have in their possession

and control uranium enrichment equipment or software who are involved in the enrichment of uranium or activities with a view to or in connection with the enrichment of uranium or the production, storage or transportation of equipment or software on behalf of others to whom the regulation applies.

30. The NDA, a non-departmental public body, was set up by the Energy Act 2004 to take responsibility for the decommissioning and clean up of designated UK civil licensed nuclear sites. The NDA holds sensitive nuclear information both at its own premises and on licensed sites. It is under a duty from its founding legislation to have particular regard to the need to preserve nuclear security (s.9(1)(d) of the Energy Act 2004). The NDA employs a very limited number of consultants and contractors, in effect as members of its staff, who have access to this information. Contractors of the NDA which are site licensees are already regulated under Regulations 4 to 10 of NISR 2003. Where, however, they maintain offices not located on a licensed site but where they hold sensitive nuclear information, they are subject to the requirements of Regulation 22 of NISR in respect of this SNI. It is possible that a very small number of other contractors and consultants of the NDA will have access to this information, and we understand that that NDA believe the number of these to be 3 but we would welcome any comments as to the numbers affected.

31. Currently, some software that is used or held on premises in connection with activities involving nuclear or other radioactive material is not covered. Neither is uranium enrichment software or equipment (which is not part of the security plan), nor is the transport and production of this equipment or software. Only equipment which can be used in connection with activities involving nuclear material (on any premises) and other radioactive material (on licensed sites) is covered (by Regulation 4) and must form part of the security plan. Therefore Regulation 22 is being amended to rectify this gap.

32. Amending the reporting requirements in Regulation 20 of the NISR 2003 will correct an anomaly whereby a UK approved maritime carrier who transported a vehicle driven on and off a ship between non-UK ports did not have to make a report of the movement. This will, we believe, affect two UK approved shipping companies.

The requirements of the proposed regulations

33. The proposed regulations will extend the coverage of Regulation 22 of the NISR 2003 to “any person who has possession or control of SNI and who is involved in activities on or in relation to a nuclear site or nuclear premises or who is proposing to become so involved”, with an exception for material that is already in the public domain, otherwise than in breach of any contravention, and exceptions where the security of the information is covered elsewhere in an approved security plan or in an approved transport plan.

34. Under the proposed regulations those affected will be required to:
- (i) have in place, ensure relevant staff are familiar with and maintain such security measures and arrangements as are necessary to minimise the risk of loss, theft, unauthorised disclosure of, or unauthorised access to, sensitive nuclear information within its possession or control;
 - (ii) comply with security directions issued by OCNS (including requiring compliance with Government standards on information security). This will include ensuring that staff who have access to, or may have access to, sensitive nuclear information are appropriately vetted by OCNS; and to
 - (iii) report to OCNS:
 - (a) any theft or attempted theft, or any loss or unauthorised disclosure, or suspected theft, loss or unauthorised disclosure, of sensitive nuclear information;
 - (b) any unauthorised access, or attempt to gain access, to sensitive nuclear information;
 - (c) any other event or matter which might affect the security of sensitive nuclear information.

35. Those covered will be required to report any event or matter to OCNS as soon as is practicable, and in any event within 24 hours of it becoming known to them. They should make this report in writing unless this is not possible, in which case they should make the report orally and then confirm it in writing within 48 hours of the incident becoming known to them.

36. The amendment for UE equipment and software stored off-site or transported will also be under regulation 22 and will impose the same requirements as above. Software held or stored on a licensed nuclear site will be captured under Regulation 4 as it falls under the description of equipment used or stored on the premises and is covered under the security plan.

37. The amendment to Regulation 20(5) ensures that UK carriers are obliged to notify the Office for Civil Nuclear Security before making a maritime transport between non-UK ports of nuclear material by way of carrying a road vehicle which drives on and off of the vessel concerned. Carriers will have to provide, at least 7 days in advance, the dates on which the proposed transport will begin and end, the route (including any stops), the identity of persons carrying out the transport and the details of the container to be used (or vehicle). If a notification is not made within 7 days, the carrier will be required to gain approval from the Secretary of State before the movement can be made.

38. The likely compliance costs and benefits of the regulations are set out in para 39 immediately below and in the Regulatory Impact Assessment attached at

Annex A. Generalised costs are provided here for the use of others but if any commercially sensitive information would be included, it has been omitted.

Summary of likely compliance costs and benefits

39. This is as follows:

	Expected costs	Expected benefits
Government	Very minor increase in enforcement costs for OCNS, which are recovered from the NDA.	Reduction in security risk. The UK meets its international commitments.
NDA and its contractors and consultants	<p>Total likely costs for the NDA</p> <p>One off costs: Nil costs Annually recurring: Nil costs</p> <p>Total likely costs for all of NDA's contractors/consultants (not costs per company)</p> <p>One off costs: Nil costs Annually recurring: Nil costs</p>	<p>Reduction in security risk.</p> <p>Public confidence in nuclear security arrangements maintained.</p> <p>All those holding sensitive nuclear information face the same obligations.</p>

<p>Other Businesses BNFL Corporate Changes</p>	<p>One-off costs: Nil costs Annually recurring: Nil costs</p>	<p>Reduction in security risk.</p> <p>Public confidence in nuclear security arrangements maintained.</p> <p>All those holding nuclear information face the same obligations.</p>
<p>UE: Urenco/ET UK and its contractors</p>	<p>One-off costs: Nil costs Annually recurring: Nil costs</p>	<p>Reduction in security risk.</p> <p>Public confidence in nuclear security arrangements maintained.</p> <p>Robust legislation in place for UE equipment and software held off-site or in transport.</p>
<p>Transport Reporting Requirements: 2 UK approved shipping Companies operating roll on/roll off ships</p>	<p>One-off costs: Nil costs Annually recurring costs: £100</p>	<p>Reduction in security risk.</p> <p>Public confidence in nuclear security arrangements maintained.</p>

ENFORCEMENT

40. The enforcement provisions of the 2003 regulations (Regulations 23, 24 and 25) will apply to the proposed regulations.

41. Under these OCNS inspectors have powers of inspection, including powers of entry. OCNS will carry out periodic inspections to assess compliance, after which it will state its requirements. If necessary, OCNS will normally issue an informal warning that any repetition of failure to meet requirements may result in enforcement action being taken.

42. These enforcement provisions are not the subject of this current consultation. Guidance on application of the provisions will be available from OCNS once the consultation is complete and is expected to be very similar to existing requirements (for example, the inclusion of NDA will merely fall under existing guidance and the amendment for transport reporting requirements will be a minor change in OCNS guidance). All guidance should be available within 3 months before the new requirements come into force.

OFFENCES

43. Regulation 25 of the Nuclear Industries Security Regulations 2003 provides that failure to comply with certain regulations, including regulation 22 are offences punishable by the following maximum penalties:

- (a) on conviction or indictment, to imprisonment for a term not exceeding two years or a fine (or both), and
- (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both).

44. There is a defence in relation to regulation 22 for an accused to show that he was a member of the relevant personnel of another person to whom regulation 22 applies and that he was acting under the instruction of that other person at the time of the alleged offence.

45. These penalties are not the subject of this current consultation, but would extend to those found guilty of breaching the obligations imposed by the regulations.

FEES

46. Under the Nuclear Industries Security Regulations Fees Order 2005, OCNS will recover from holders of sensitive nuclear information the costs of carrying out inspections, reviews of security incidents and spot checks, providing security advice, vetting staff and contractors.

47. These arrangements for fee charging are not the subject of this current consultation, but the NDA already pays OCNS for its regulatory activities.

1. Title of Proposals

Amendment to the Nuclear Industries Security Regulations 2003 (NISR).

2. Purpose and intended effect of the regulations

(i) The objective

The objective of civil nuclear security is to protect nuclear material, civil licensed sites, sensitive nuclear technology and sensitive nuclear information from the risks of theft and sabotage from terrorists, proliferators and others.

The aim is to minimise risks to the Nuclear Industry by extending the civil nuclear security regulatory regime to make it as comprehensive as possible.

Devolution: nuclear security is not a devolved matter and so there are no devolution implications.

(ii) The background

The Nuclear Industries Security Regulations 2003 established a modern regulatory system for security in the civil nuclear industry. Among other things, the regulations provide for the protection of holdings of sensitive information held in the civil nuclear industry. This includes information on detailed, confidential site security measures, security measures relating to transports of nuclear information or other information about future transports of nuclear material and uranium enrichment. Sensitive nuclear information is defined in section 77(7) of the Anti-terrorism, Crime and Security Act 2001.

The civil nuclear industry has recently restructured, including the establishment of new institutions. The regulations need to be amended to ensure that all parts of the re-organised structure are under regulation.

The Nuclear Decommissioning Authority (NDA), a non-departmental public body, was set up by the Energy Act 2004 to ensure the decommissioning and clean up of designated UK civil licensed nuclear sites. In order for it to be able to carry out its functions effectively, the NDA will hold certain sensitive nuclear information. The NDA employs a very limited number of consultants and contractors, in effect as members of its staff, who will have access to this information. (Holdings of sensitive nuclear information by the NDA's contractors, which are nuclear site licensees are already regulated under the 2003 regulations). Additionally, given the changes to be affected by the introduction of the NDA, BNFL has re-organised its corporate structure to be fit for purpose. It is likely there will be further re-structuring in the industry in the future.

ANNEX A – PARTIAL RIA

At present, Uranium Enrichment equipment and software held or used off a licensed civil nuclear site or being transported is not covered under the NISR 2003. We propose to capture it under the standards and duties of Regulation 22, as well as covering all software being used or stored on-site in connection with activities involving nuclear and other radioactive material (which includes uranium enrichment software), under the standards and duties of Regulation 4.

Regulation 20 of NISR covers duties relating to the transport of Category III nuclear material. Sub-section (5) was intended to avoid onerous double reporting of movements but as drafted has not always had the desired effect. It is proposed to amend the wording to ensure that appropriate movements are reported whilst those involved approved carriers avoid the burden of double reporting.

It is right that we should amend the 2003 regulations to take account of all of these issues and developments.

(iii) Rationale for Government Intervention

It is important that the regulatory system for security in the civil nuclear industry is comprehensive. The civil nuclear industry has recently restructured, including the establishment of new institutions. The regulations need to be amended to ensure that all parts of the re-organised structure are under regulation and to reduce the need to have to do this each time the structure changes.

The proposed regulations will help protect sensitive nuclear information from the risks of theft by terrorists, proliferators and others. This will meet the needs of national security and the UK's non-proliferation obligations and commitments.

Without regulation matters would be subject to a voluntary compliance with a code of conduct and therefore could be affected by the financial pressures on those entities that are currently regulated. This could result in a weakening of the security regime and lead to the UK failing to meet international obligations for the protection of nuclear material and uranium enrichment technology. It also risks a public undermining of confidence in the nuclear industry at a time when UK is under pressure to meet environmental targets for reducing CO2 emissions, a noticeable benefit of nuclear power.

Most of those affected in fact operate to the standards required and these amendments will merely align the regulation with what is expected by those who will be under regulation.

3. Options

Option 1: Do nothing.

Option 2: Voluntary compliance.

ANNEX A – PARTIAL RIA

Option 3: Regulate to ensure a fully comprehensive, secure safety regime.

4. Benefits – Identifying and quantifying the benefits.

Option 1 - No benefits can be identified. The security needs above are not addressed and the regulatory system is not as robust as it could be.

Option 2 - No benefits can be identified. We could be relying on the goodwill of the civil nuclear industry to carry out the proposed requirements on a voluntary basis, but this could lead to the UK not meeting international obligations.

Option 3 - Amend the NISR 2003. This measure will ensure that these holdings of sensitive nuclear information will be covered by nuclear security regulation and should increase the security of this information. It will also contribute to the UK's objective of having a comprehensive system of security regulation for the civil nuclear industry and ensure we fully comply with our international obligations such as the Treaty of Almelo and the Convention on the Physical Protection of Nuclear Material.

Though the methodology used to assess security risk in the civil nuclear field is well established and highly sophisticated, it does not easily lend itself to quantification. It is not possible to give a precise measure of reduced risk arising from this particular measure i.e. we could not say that the likelihood of sensitive nuclear information being revealed would be reduced by x%.

It is not possible to quantify benefits of increased public and international confidence in nuclear security regulation. However, there would be undoubted benefits to the development of the civil nuclear industry as both domestic and international investors would be more comfortable being involved in a secure industry. A stable and secure civil nuclear industry contributes to the UK's balanced energy portfolio, currently producing 1/5th of the UK energy requirements and helping the UK meet its CO2 emission targets.

Business sectors affected

NDA:

The NDA is a public body responsible for nuclear clean up. The contractors and consultants it employs will be from the private sector. The majority of NDA funding is paid to large companies such as BNFL but NDA also employs some small undertakings (contractors and consultants). These may not have been covered by NISR but we believe such undertakings have acted as if they were.

Urenco:

ET UK at Capenhurst is a subsidiary of Enrichment Technology Company Ltd (ETC), a company of the Urenco Group. ETC undertakes all of Urenco's centrifuge design and manufacturing activities as well as its Research and Development activities in the field of centrifuge equipment and installations. ET UK is responsible for plant design and management of construction projects whilst subsidiaries in the Netherlands and Germany are responsible for design and manufacture. All may place contracts with UK companies.

ANNEX A – PARTIAL RIA

Nuclear Carriers:

Two UK companies will be affected by the proposals to change transport reporting requirements. These companies deal with carriage where a ship transports a vehicle carrying nuclear material. In such cases we believe that the companies already comply with the requirements being proposed so will be unaffected.

Issues of equity and fairness

It is fair that those holding sensitive nuclear information should be subject to the same regulatory requirements, and so that the NDA and its consultants and contractors are regulated in the same way as those currently regulated by Regulation 22 of the Nuclear Industries Security Regulations 2003.

5. Costs to regulate

Total likely costs for the NDA

One off costs	Nil costs
Annually recurring costs:	Nil costs

Total likely costs for the NDA's consultants and contractors (not costs per company)

One off costs:	Nil costs
Annually recurring costs:	Nil costs

As the NDA is already complying with the terms of the NISR 2003 under a voluntary arrangement and are already meeting Government security wide standards, there will be no additional regulatory costs to them as a direct result of the proposed amendments to the legislation.

Total likely costs for Urenco/ET UK and its contractors

One off costs:	Nil Costs
Annually recurring costs:	Nil Costs

Urenco, ET UK and its contractors are already using safeguard measures for UE information, equipment and software that meet the proposed amendments to the NISR 2003, hence there are no additional related costs.

Total likely costs for two UK approved shipping companies operating roll on/roll off ships

One off costs:	Nil costs
Annually recurring costs:	£100

There are no related one-off costs for the shipping companies as a result of the proposed amendments. The £100 annually recurring cost is based on the cost of the companies submitting their notifications to OCNS of their intent to carry nuclear material, and for OCNS to review it, based on two notifications per year.

Costs for other sectors

ANNEX A – PARTIAL RIA

The regulations will not impose any costs on the voluntary sector or charities.

6. Consultation with small business – Small Firms Impact Test

The Small Firms Impact Test (SFIT) requires that we contact small firms in order to establish if the proposed changes will have any impact on them. The SFIT applies to all businesses with up to 200+ employees.

The NDA's consultants and contractors do not include small firms at present, and this is unlikely to change. However, we would like to hear from consultees who are small businesses who feel they are likely to be affected by the proposed regulations.

7. Competition assessment

The measure is likely to have no significant effect on competition. There will be no adverse effects on new entrants to the market as all undertakings face the same regulatory standards and these additions do not change the situation.

The Competition Assessment filter results are at Annex E attached.

8. Enforcement and sanctions

The proposed new regulations will be enforced by the Office for Civil Nuclear Security (OCNS), the security regulator for the civil nuclear industry.

Failure to comply with the regulations will be a criminal offence, and will be subject to a maximum penalty of two years' imprisonment and/or a fine. We believe that there will not need to be any initial surge of outreach and advice as OCNS already issue comprehensive technical guidance for those in the civil nuclear industry. This guidance is regularly amended already and will be done so with these amendments. Those contractors who will now be formally covered have already acted in the past in the same way as those already covered.

9. Monitoring and review

DTI will review the regulations three years after they have come into force. The review will focus on whether coverage of the regulations remains both comprehensive and appropriate. It will also address any possible loopholes that have been exposed in the intervening period and examine the level of compliance with the regulatory regime over the period.

10. Consultation

In this consultation DTI is specifically seeking the views of the NDA (and therefore indirectly) its consultants and contractors not already regulated. DTI

ANNEX A – PARTIAL RIA

also seeks the views of the revised BNFL structure and those holding or transporting uranium enrichment information, equipment or software. Others, including the major companies in the nuclear industry and the Nuclear Industries Association, are most welcome to respond.

11. Summary and recommendations

	Option 3: expected costs	Option 3: expected benefits
Government	Very minor increase in enforcement costs for OCNS, which are recovered from the industry as charges.	Reduction in security risk. The UK meets its international commitments.
NDA and its contractors and consultants	Total likely costs for the NDA One off costs: Nil costs Annually recurring: Nil costs Total likely costs for all of NDA's contractors/consultants (not costs per company) One off costs: Nil costs Annually recurring: Nil costs	Reduction in security risk. Public confidence in nuclear security arrangements maintained. All those holding sensitive nuclear information face the same obligations.

ANNEX A – PARTIAL RIA

Date

Energy Minister, Department for Trade & Industry

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Code of Practice on Consultation



Foreword

by the Prime Minister



Effective consultation is a key part of the policy-making process. People's views can help shape policy developments and set the agenda for better public services. But we also need to make the process of consultation less burdensome and easier for people to engage with.

We have made progress in recent years. In November 2000, I launched the Code of Practice on Written Consultation, which set out principles for departments to follow. This has been effective in raising both the quality and quantity of consultation carried out by government.

We consult more extensively now than ever before. And, in the vast majority of cases, consultation periods are now at least 12 weeks long, enabling more time for responses and more people to be involved.

But there is much more we can do to improve the effectiveness of the way we consult with stakeholders. This new, revised code will help focus those efforts. It is shorter and clearer, and strengthens the commitment to providing respondents with feedback and to following better regulation best practice in developing policy options. I encourage all departments and relevant public bodies to use it effectively.

Tony Blair

January 2004

The six consultation criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

These criteria must be reproduced within all consultation documents.

Introduction

The code and the criteria within it apply to all UK public consultations by government departments and agencies, including consultations on EU directives.

UK non-departmental public bodies and local authorities are encouraged to follow this code. Devolved Administrations are free to adopt this code, but it does not apply to consultation documents issued by them unless they do so.¹

Though the code does not have legal force, and cannot prevail over statutory or mandatory external requirements (eg under European Community law), it should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure from it.

This code should be used in conjunction with the Code of Good Practice in Consultations and Policy Appraisal, which supports the Compact on Government's Relations with the Voluntary and Community Sector.

Ministers retain their existing discretion not to conduct a formal written consultation exercise under the terms of the code, for example where the issue is very specialised and where there is a very limited number of stakeholders who have been directly involved in the policy development process. In these circumstances the general principles of the code should still be followed as far as possible, and departments should consider how to ensure that the public is made aware of the policy, for example through a press notice or statement on the department's website. This should state the Minister's reason for their decision.

When you consult, care must be taken to comply with your legal duties, such as those that arise under the Human Rights Act, the Data Protection Act, the Freedom of Information Act and laws against discrimination and defamation. In addition, your Race Equality Scheme contains specific obligations relating to the assessment of the impact of proposed policies on the promotion of race equality and to consultation.

Any deviation from this code must be highlighted in the consultation document and should state the Minister's reasons for departing from the code, and what specific measures have been taken to ensure that consultation is as effective as possible.

The Cabinet Office are committed to reviewing the effectiveness of the code. Feedback is welcome to the address below:

Consultation Co-ordinator
Better Regulation Executive
Cabinet Office
4th Floor
Kirkland House
22 Whitehall
London SW1A 2WH
Tel: 020 7276 2198

E-mail: consultation.policy@cabinet-office.x.gsi.gov.uk

Web address: www.cabinet-office.gov.uk/regulation/consultation/code.htm

¹For non-Ministerial departments and other organisations, where 'department' is used it refers to the consulting organisation and where 'Minister' is used it means the decision-maker, for example the board, responsible for the consultation.

Criterion 1

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.

- 1.1 Consultation is a continuous process that needs to be **started early** in the policy development process.
- 1.2 It is important to identify proactively relevant interested parties and those whom the policy will be likely to affect. These groups should be contacted and engaged in discussion as early as possible in the policy development process.
- 1.3 Informal consultation with these stakeholders should be conducted prior to the written consultation period. Not only does this lead to a more informed consultation exercise but it also ensures that stakeholders are engaged early and have a better understanding of the policy.
- 1.4 The formal consultation period should always include a written consultation exercise. **This written consultation period should be a minimum of 12 weeks.** Departments should consider the specific circumstances of their stakeholders and consider longer consultation periods at certain times, for example during the summer holiday period.
- 1.5 Although there will sometimes be circumstances that require a consultation period of less than 12 weeks, this should be the exception and should be avoided wherever possible. Such circumstances may be timetables set out in statute; those unavoidably dictated by EU or other international processes; those tied to the Budget or other annual financial cycles; measures where there is a health and safety or security dimension; or some other urgent requirement for the introduction of new measures. Where re-consultation takes place on the basis of amendments made in the light of earlier consultation, a shorter period may also be appropriate.
- 1.6 Where a consultation takes place over a holiday period or lasts less than 12 weeks, extra effort should be made to ensure that the consultation is still effective, by supplementing the written exercise with other methods of consultation.
- 1.7 Where a consultation period is less than 12 weeks this must be highlighted in the consultation document, which should explain the Minister's reasons for this, and the extra efforts taken to ensure that the consultation is as effective as possible.
- 1.8 Some stakeholders, for example small businesses, children, consumers and those from minority communities, may be particularly difficult to reach. It is important to engage proactively with individuals, organisations and trade associations. Written consultation is not the only or even always the most effective means of consultation. Other forms of consultation may help in this process. These might include:

- stakeholder meetings;
- public meetings;
- web forums;
- public surveys;
- focus groups;
- regional events; and
- targeted leaflet campaigns.

Criterion 2

2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.

- 2.1 Ask focused questions, and be clear about the areas of policy on which you are seeking views. Responses that do not refer to the specific questions asked should still be accepted. Encourage respondents to provide evidence, where appropriate, to support their responses.
- 2.2 Explicitly state any assumptions made about those who are likely to be affected by the proposed policy. Encourage respondents to challenge these assumptions.
- 2.3 As far as possible, consultation should be completely open, with no options ruled out. However, if there are things that cannot be changed because, for example, they are part of a European Directive or due to prior Ministerial commitments, then make this clear. The risks and consequences of doing nothing should be outlined.
- 2.4 If there are particular areas where respondents' input would be especially valuable, make this clear as well. Responses are likely to be more useful and focused if the respondents know where to concentrate their efforts.
- 2.5 Representative groups should be asked when responding to give a summary of the people and organisations they represent.
- 2.6 Provide a list of consultees as an annexe to your consultation document and ask for suggestions of other interested parties who should be consulted. It may also be helpful to refer to any earlier or informal consultation.
- 2.7 Clearly state the deadline for responses and any alternative ways of contributing to the process in the consultation document.
- 2.8 Explicitly state both who to respond to and who to direct queries to, giving a name, address, telephone number and e-mail address. This may be the same person.

Criterion 3

3. Ensure that your consultation is clear, concise and widely accessible.

3.1 Clear

Use plain language: avoid jargon and only use technical terms where absolutely necessary. A consultation should be as accessible as possible. Explain complicated concepts as clearly as possible and, where there are technical terms, use a glossary.

3.2 Concise

Provide an executive summary to the written consultation document that covers the main points of the document, preferably no longer than two pages. Even if the document is technical, ensure that the executive summary is accessible to all. Having read the executive summary consultees should be in a position to decide whether the consultation is relevant to them, and whether they need to read further.

3.3 Accessible

Ensure that the consultation documents are available in paper format and with the fullest use of electronic means. They should be available and easily found on the internet from the day that the consultation is launched.

- 3.4 Efforts should be made to bring the consultation to the attention of all interested parties. As well as using the internet you should consider publicising the consultation in ways most appropriate for the groups you wish to reach.
- 3.5 Respondents should be able to respond electronically if they choose. Produce documents in electronic formats appropriate to achieving wide accessibility. Consider the range of electronic response methods to ensure that providing a response is simple, engages a broad range of people and encourages deliberation. Costs to users should never be such that they are an obstacle to effective consultation.
- 3.6 Consider groups who cannot access traditional written consultations or the online versions of these. It may be necessary to produce the document in different languages, including, for example, Welsh. There may be some circumstances in which written consultation is not the best way to reach your target audience.
- 3.7 With regard to equality issues, ensure that your consultation engages with the whole community. You may need to consider the format of the consultation to achieve this and to consider how to reach groups which could be overlooked. These groups could include black and minority ethnic communities, women or disabled people.
- 3.8 Ensure that the consultation is suitable for the topic and groups involved. Certain issues may demand particular approaches to consultation: for example, discussion groups or meetings may be appropriate, especially where representative groups' capacity to respond to formal consultation is limited and many bodies are seeking to consult with them.
- 3.9 The consultation criteria should be reproduced in all consultation documents. Explicitly state that the consultation should abide by these criteria. Invite respondents to comment on the extent to which the criteria have been adhered to and to suggest ways of further improving the consultation process. Explicitly state whom to contact if respondents have comments or complaints about the consultation process. This should be someone outside the team running the consultation, and is likely to be the consultation co-ordinator for the department.

Criterion 4

4. Give feedback regarding the responses received and how the consultation process influenced the policy.

- 4.1 Responses should be carefully and open-mindedly analysed. Do not simply count votes when analysing responses. Particular attention may need to be given to representative bodies, such as business associations, trade unions, voluntary and consumer groups and other organisations representing groups especially affected. In order to ensure that responses are analysed correctly, it is important to understand whom different bodies represent, and the methodology used to gain members' input into the response.
- 4.2 Particular attention should be paid to:
 - possible new approaches to the question consulted on;
 - further evidence of the impact of the proposals; and
 - strength of feeling among particular groups.
- 4.3 The consultation document should state the date when, and the web address where, the summary of responses will be published. As far as possible this should be within three months of the closing date of the consultation. Those without web access should be able to request a paper copy of this summary. Feedback should also be available in formats which are appropriate to the audience.
- 4.4 The summary should give an analysis of the responses to questions asked: for each question there should be a summary of responses to that question and then an explanation of how it is proposed to change the proposal in light of the responses received. There should also be information provided on themes that came out of the consultation which were not covered by the questions.
- 4.5 Wherever possible the summary of responses should also include a summary of the next steps for the policy, including reasons for decisions taken.
- 4.6 Explain that information provided in response will be dealt with in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations (2004). Please refer to the accompanying Guidance on the Code of Practice on Consultation <http://www.cabinetoffice.gov.uk/regulation/consultation/index.asp> for more information.
- 4.7 When providing copies of responses, it is legitimate to make a reasonable charge for copying and postage.

Criterion 5

- 5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.**
- 5.1 Each department should have a nominated consultation co-ordinator, who should ensure that the consultation code is followed. They should act as an adviser to those conducting consultation exercises.
- 5.2 Consultation should be evaluated for effectiveness, looking at numbers and types of responses, whether some methods of consultation were more successful than others, and how the consultation responses clarified the policy options and affected the final decision.
- 5.3 This evaluation should be used to inform future consultations in the department, and lessons learnt can be disseminated across government.
- 5.4 The consultation co-ordinator should collate information regarding how many national consultations the department has carried out and any deviations from the code, with the reasons given for these. This data should be available for the Cabinet Office to collate annually, and will be made available to the public.

Criterion 6

6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

- 6.1 When consulting on a review of a policy area, ensure consideration is given to opportunities for **reducing** bureaucracy and regulatory burdens, for example simplification or repeal of existing regulations.
- 6.2 Ensure that a **Regulatory Impact Assessment (RIA)** is attached, where required, highlighting the costs, benefits and risks of the proposal. Respondents should be encouraged to comment on and challenge the assumptions in the RIA where one is included. For more guidance on RIAs please see www.cabinet-office.gov.uk/regulation/scrutiny/betterpolicy.htm
- 6.3 Consider **alternatives** to regulations, such as voluntary codes, and encourage respondents to suggest alternatives when responding to the consultation exercise.
- 6.4 Consider any unintended consequences of the proposal and ask respondents to highlight these in their response.
- 6.5 When consulting, ensure that you ask about the practical enforcement and implementation issues of your policy, including asking respondents for alternative approaches to implementation. For guidance on implementation issues please see www.sbs.gov.uk/content/pdf/implementationguidelines.pdf
- 6.6 More generally, seek to ensure that the Principles of Good Regulation are followed whenever policy is being developed. These are:
 - proportionality;
 - accountability;
 - consistency;
 - transparency; and
 - targeting.
- 6.7 For more information about these and their application, please see www.brtf.gov.uk/taskforce/reports/entry%20pages/principlesentry.htm

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ANNEX C – QUESTIONS AND RESPONSE FORM

QUESTION 1: do you agree that the obligations to protect sensitive nuclear information in Regulation 22 of the Nuclear Industries Security Regulations 2003 should be extended to all persons?

Please indicate one of the following answers:

YES NO NOT SURE

Please write here any comments you may wish to make

QUESTION 2: do you agree that the obligations to protect uranium enrichment software and equipment in Regulation 22 of the Nuclear Industries Security Regulations 2003 should be extended to cover the storage and transport of uranium enrichment equipment off a licensed nuclear site; as well as uranium enrichment software and equipment being used or stored either on or off-site?

Please indicate one of the following answers:

YES NO NOT SURE

Please write here any comments you may wish to make

ANNEX C – QUESTIONS AND RESPONSE FORM

QUESTION 3: do you agree that Regulation 20 (5) should be amended to ensure advance notification by UK ships carrying nuclear material between non-UK ports?

Please indicate one of the following answers:

YES NO NOT SURE

Please write here any comments you may wish to make

QUESTION 4: do you agree with the analysis in para 39 of the Consultation Document and the Regulatory Impact Assessment of likely compliance costs and benefits of the regulations? If not please indicate which section(s) of the costs breakdown you disagree with and why.

Please indicate one of the following answers:

YES NO NOT SURE

Please write here any comments you may wish to make

ANNEX C – QUESTIONS AND RESPONSE FORM

QUESTION 5: do you believe that that the extension of the regulations as indicated in paragraphs 29-38 may have unintended consequences or other implications?

When answering this question do bear in mind the possible implications for the Nuclear Decommissioning Authority, contractors and consultants of the NDA, companies involved with the transport or storage of UE equipment and software and transport companies who move nuclear material.

Please indicate one of the following answers:

YES NO NOT SURE

Please write here any comments you may wish to make

Please provide your contact details below in case we wish to clarify your comments.

Name:

Address:

Tel Number:

Email address:

2005 No. [...]

ATOMIC ENERGY AND RADIOACTIVE SUBSTANCES

**The Nuclear Industries Security (Amendment) Regulations
2005**

Made - - - - - [...]
Laid before Parliament [...]
Coming into force - - - [...]

The Secretary of State, in exercise of the powers conferred by section 77(1) and (2)(e) of the Anti-terrorism, Crime and Security Act 2001(a) and after consulting the Health and Safety Commission and such other persons as he considers appropriate, in accordance with section 77(5), makes the following regulations—

Citation and commencement

1.—(1) These Regulations may be cited as the Nuclear Industries Security Regulations 2003 (Amendment) Regulations 2005.

(2) These Regulations come into force on [...] 2005.

(3) Except for regulation 6 these Regulations extend to Northern Ireland.

(4) In these Regulations—

(a) “the Principal Regulations” means the Nuclear Industries Security Regulations 2003(b);
and

(b) “the 2001 Act” means the Anti-terrorism Crime and Security Act 2001.

Amendment of regulation 2

2.—(1) In regulation 2(1) of the Principal Regulations —

(a) after the definition of “United Kingdom ship” insert—

““uranium enrichment equipment” means equipment(c) capable of being used in or in connection with the enrichment of uranium;

“uranium enrichment software” means any software capable of being used in or in connection with the enrichment or uranium.”

(a) C.24; section 77 of the 2001 Act was amended by section 77 of the Energy Act 2004 (c.20)

(b) SI 2003/403

(c) “equipment” is defined in the 2001 Act (as amended) as including equipment that has not been assembled and its components

Amendment of regulation 4

3. In regulation 4(2)(c) and (e)(ii) of the Principal Regulations after “equipment” insert “or software”.

Amendment of regulation 10

4. In regulation 10(2) of the Principal Regulations for “reasonably practicable” substitute “possible”.

Amendment of regulation 18

5. In regulation 18(2) of the Principal Regulations for “reasonably practicable” substitute “possible”.

Amendment of regulation 20

6. In regulation 20(5) of the Principal Regulations after “ship” on the first time it appears, insert “to or from the United Kingdom”.

Amendment of Part 4

7.—(1) For Part 4 of the Principal Regulations substitute—

“PART 4

SECURITY OF SENSITIVE NUCLEAR INFORMATION AND URANIUM ENRICHMENT SOFTWARE AND EQUIPMENT

Regulation of sensitive nuclear information, uranium enrichment equipment and software

22.—(1) Subject to the exceptions in paragraphs (2) and (3) this regulation applies—

- (a) to any person who has possession or control of sensitive nuclear information in the United Kingdom and who is involved—
 - (i) in activities on or in relation to a nuclear site or nuclear premises or who is proposing to become so involved;
 - (ii) in the enrichment of uranium (whether in the United Kingdom or elsewhere);
or
 - (iii) in activities with a view to, or in connection with, the enrichment of uranium (whether in the United Kingdom or elsewhere); and
- (b) to any person who has possession or control of uranium enrichment equipment or uranium enrichment software in the United Kingdom and who is involved or proposing to become involved (whether in the United Kingdom or elsewhere)—
 - (i) in the enrichment of uranium;
 - (ii) in activities with a view to or in connection with the enrichment of uranium;
or
 - (iii) in the production, storage or transport of equipment or software on behalf of a person falling within subparagraph (i) or (ii).

(2) This regulation does not apply—

- (a) to an approved carrier insofar as the security of the sensitive nuclear information that he has in his possession is the subject of an approved transport security statement or an approved transport plan; or

- (b) to any person, insofar as the information he has in his possession or control has previously been made available to the public anywhere in the world otherwise than in contravention of section 80(3) of the 2001 Act or of any other prohibition breach of which was an offence at the time when it was so made available (including, in a case in which it was made available outside but not within the United Kingdom, an offence under the law of one or more of the places where it was made available).

(3) This regulation applies to a responsible person only to the extent that he keeps sensitive nuclear information or uranium enrichment equipment or uranium enrichment software in premises other than premises for which there is an approved security plan.

(4) A person to whom this regulation applies must—

- (a) maintain such security standards, procedures and arrangements as are necessary for the purpose of minimising the risk of loss, theft or unauthorised disclosure of, or unauthorised access to, any sensitive nuclear information, uranium enrichment equipment or uranium enrichment software within his possession or control;
- (b) comply with any directions given by the Secretary of State requiring him to take such steps as are necessary or as are specified in the direction for that purpose;
- (c) ensure that each of his relevant personnel who is involved in any of the activities listed in any of the subparagraphs to subparagraph (1)(a) or (b) is familiar with the security standards, procedures and arrangements mentioned in subparagraph (4)(a) or steps specified in any direction given under subparagraph (4)(b) relevant to that activity;
- (d) ensure that each of his relevant personnel who—
 - (i) is specified in a direction given under subparagraph (4)(b) as a person whose suitability requires investigation and assessment by the Secretary of State, or
 - (ii) falls within a description of persons who are so specified,

is a person who has been approved by the Secretary of State as being of suitable character and integrity, having regard to the need to ensure the security of any sensitive nuclear information, uranium enrichment equipment or software within the possession or control of the person to whom this regulation applies, and

- (e) report to the Secretary of State any event or matter of a kind specified in paragraph (7) that relates to any sensitive nuclear information, uranium enrichment equipment or uranium enrichment software within his possession or control as soon as practicable and in any event within 24 hours of its becoming known to him, specifying the nature of the event or matter and, in the case of any event, the date and time it occurred and the apparent reason for it.

(5) If it is not possible for the person in question to make a written report under paragraph (4)(e) within the period specified in that paragraph, he must make the report orally and confirm it in writing within 48 hours of the event or matter becoming known to him.

(6) In any other case the report must be made in writing.

(7) The events and matters are—

- (a) any theft or attempted theft, or any loss or unauthorised disclosure of sensitive nuclear information, uranium enrichment equipment or uranium enrichment software, or any suspected such theft, loss or disclosure;
- (b) any unauthorised access to sensitive nuclear information, uranium enrichment equipment or uranium enrichment software, or any attempt to gain such access;
- (c) any other event or matter which might affect the security of any sensitive nuclear information, uranium enrichment equipment or uranium enrichment software .

(8) In proceedings for an offence under regulation 25 in relation to this regulation, it is a defence for the accused to show that he is a member of the relevant personnel of another

person to whom this regulation applies and that he was acting under the instruction of that other person at the time of the alleged offence.”.

Amendment of regulation 23

8. In regulation 23 of the Principal Regulations, for subparagraph (5), substitute—

“(5) In section 27(1) (obtaining of information)—

- (a) in paragraph (a), for “the Commission” substitute “the Secretary of State” and for “its” substitute “his”;
- (b) in the text after paragraph (b)—
 - (i) for “the Commission may, with the consent of the Secretary of State” substitute “the Secretary of State may”; and
 - (ii) for “furnish to the Commission” substitute “furnish to the Secretary of State”.

EXPLANATORY NOTE

(This note is not part of the Order)

ANNEX E – COMPETITION FILTER

Q1: In the market(s) affected by the new regulation, does any firm have more than 10 per cent market share?

Yes, although it is fair to say that the introduction of the NDA opens the market significantly and allows other companies to tender for nuclear clean-up work. Also it is debatable as to the extent of effect of the “new” regulation.

Q2: In the market(s) affected by the new regulation, does any firm have more than 20 per cent market share?

Yes, as Q1

Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50 per cent market share?

Yes.

Q4: Would the costs of the regulation affect some firms substantially more than others?

No, all firms are required to meet the same standards for security. The only difference in costs is down to scale and any economies of scale a larger firm might find.

Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?

No, see Q1 where the NDA will affect the market.

Q6: Would the regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet?

No, everyone meets the same standards.

Q7: Would the regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet?

No, as Q6.

Q8: Is the market characterised by rapid technological change?

Although a highly technical area, the civil nuclear industry is not subject to rapid technological change as say the IT or electronics industries.

ANNEX E – COMPETITION FILTER

Q9: Would the regulation restrict the ability of firms to choose the price, quality, range or location of their products?

No, as long as the security standards are met, OCNS are satisfied. OCNS does not specify how standards are met. Therefore firms' ability to choose how they operate their business is not compromised.

Summary

Less than half the questions produce a "Yes" result and even for those there is a justifiable explanation. **The amendments to regulation are therefore assessed as unlikely to affect the competitive process.** If new information comes to light, this result will be re-affirmed. If at any point new evidence suggests there may be an effect on competition a detailed assessment may be undertaken.