

REGULATORY IMPACT ASSESSMENT

1. Title

The Nuclear Industries Security Regulations 2003

2. Purpose and Intended Effect of the Measure

(i) The Issue and Objective

Issue: The current legislative basis for regulation of security in the civil nuclear industry needs updating and consolidating. It is currently somewhat disjointed, different parts of the industry being regulated under different statutes. While work on reforming this legislative framework had started before the events of 11 September 2001, those events gave additional impetus to this work.

Objective: The Regulations, to be made under the Anti-terrorism, Crime and Security Act 2001, will reform the civil nuclear security regulatory framework.

The regulations will provide a clear, unified regime for setting requirements for nuclear security and for assessing compliance with these requirements. While there will be some necessary strengthening, the overall aim is to provide a single, comprehensive legislative basis for regulation rather than to introduce significant new requirements. The main change will be to introduce direct regulation of the transport of nuclear material, which has hitherto been regulated indirectly through obligations on the nuclear operators. Similarly, a very small number of small scale licensed nuclear facilities and other locations where nuclear material is held, which have so far fallen outside formal security regulation, will be included. The enforcement provisions of s.77(2)(e) of the Anti-terrorism, Crime and Security Act 2001, which broadly correspond to those of the Health and Safety at Work Act 1974, will apply.

(ii) Risk Assessment

The UK needs a clear, effective system for ensuring that nuclear material, licensed nuclear sites and sensitive nuclear technology are protected from the risks of theft or sabotage by terrorists, proliferators and others, in order to meet both the needs of national security and the UK's international non-proliferation obligations and commitments. There is no realistic alternative to a formal, legally based regulatory regime, such as has been in existence since the beginnings of the civil exploitation of nuclear energy in the 1950s.

The deficiencies of the present regulatory framework are set out above. Though it is not possible to quantify the risk that these deficiencies present, the current legal framework does not meet the standards of clarity, consistency and effective enforcement required in modern regulation. It is also important for public confidence in the nuclear industry that its security regulatory framework can be readily understood and is perceived as robust.

3. Options

(i) Options Identified

Option 1 - Do nothing

Option 2 - Revise the regulatory framework to address the deficiencies above.

(ii) Issues of Equity or Fairness

No particular issues of equity or fairness arise since the changes proposed essentially involve rationalisation and strengthening of the current nuclear security regulatory regime. There are no significant implications for the general public or for stakeholders external to the industry.

4. Benefits

(i) Identify the Benefits

Benefits will flow from the improved effectiveness of the nuclear security regulatory regime and the associated reduction, however small, in the security risks arising in the UK nuclear industry, in particular for nuclear material being transported. The reformed regulatory framework will be comprehensive and consistent, ending previous gaps and anomalies, and be underpinned by a coherent system of enforcement. It will be flexibly adaptable to future structural change in the industry.

Nuclear operators will benefit from the reform as it will bring in a level regulatory playing field with, unlike at present, all operators facing the same legal obligations. In addition, these legal obligations, and the accompanying administrative arrangements, will be much clearer than at present. The reform will also transfer the obligation to ensure security during transport of nuclear material from site operators (who cannot effectively do this) to transporters of nuclear material (who can).

Indirect benefits include an increase in public confidence in the nuclear security regulatory regime and thus the nuclear industry generally; reinforcement of international confidence in the UK's nuclear security regime; and a contribution to the government's better regulation goals.

(ii) Quantifying and valuing the benefits

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 any particular improvement in the security framework. The security benefits arising from this reform will be positive, though modest, since the main aim is not significantly to tighten regulation but to put it on a clear, consistent and comprehensive basis.

The benefits of introducing clearer and more consistent legislation, including those for industry, are qualitative rather than susceptible to quantification.

5.1 Compliance Costs for Business, Charities and Voluntary Organisations

Business sectors affected Nuclear security regulation applies to the nuclear industry, which is comprised of the United Kingdom Atomic Energy Authority and about half a

dozen companies. The industry's turnover is about £5.5bn and it directly employs 35,000. The new areas of regulation mentioned above will also affect around 20 specialised transport companies, around 15 shipping companies and one or two air cargo agents who store nuclear material at airports temporarily prior to its transport by air. The proposals will also bring within security regulation 6 small scale licensed nuclear facilities and a few other locations where significant quantities of nuclear material may be held. Charities and voluntary organisations are not affected.

(ii) compliance costs for a typical business

The following costs arise from Option 2. There are no costs arising from Option 1.

Recurring costs: Once bodies currently regulated have familiarised themselves with the new requirements, and adapted their operations accordingly, there should be no increased costs of compliance compared with the current regime. Where new formal obligations arise (e.g. in transport) there will be very minor costs of compliance. These have been estimated to total about £115,000 per annum for industry as a whole. Please see the annex for a breakdown of these costs for the categories of companies concerned.

One-off costs: For the companies currently regulated there will be minor costs of adaptation to the new framework (e.g. some adaptation of procedures, documentation and systems) but these should be very modest. Where new formal requirements arise, some companies may face new costs, but the extent of these will depend on the robustness of companies' current practices. They are likely to be significant only where these practices are clearly deficient. The costs of initial compliance, i.e. principally preparation of documentation and approval by the regulator has been estimated to total around £190,000 for industry as a whole. Please see the annex for a breakdown of these costs for the categories of companies concerned.

Total compliance costs: Approximately £190,000 one-off costs and £115,000 per annum recurring costs for industry as a whole. Please see the annex for a breakdown of these costs for the categories of companies concerned.

6. Consultation with Small Business

The firms currently subject to regulation are large businesses, but those affected by new areas of regulation include a very small number of small companies including specialised transport companies, of which one or two may have fewer than 10 employees.

All those affected by the regulations were consulted formally in the public consultation exercise. In advance of the formal consultation exercise, DTI discussed the proposals with interested parties, including small businesses.

7. Other Costs

The measures will involve an increase in the regulator's recurring costs of around £60,000, which are recovered from the industry, and therefore included in the recurring costs above, and a one-off addition to the regulator's costs of £10,000 relating to the preparation of new guidance material and adjusting procedures.

8. Results of Consultations

Formal public consultation on the proposals took place in the summer of 2002. A total of 26 responses were received from nuclear operators, other industry interests, public sector organisations and private individuals. The response was broadly positive, with very little disagreement with the general approach proposed. A draft of this Regulatory Impact Assessment was included in the consultation document, but drew very little comment. Following the consultation, assessment of likely one-off costs has however been revised upwards very slightly (from around £185,000 to around £190,000), as we have become aware of one additional transport company and one additional minor nuclear site that will come within the Regulations' remit.

9. Summary and recommendations

	Option 2 Expected costs	Option 2 Expected benefits
Business	<p>Minor one-off costs of approx £190,000 to business as a whole for compliance in areas not so far formally regulated</p> <p>Minor recurring costs to business as a whole of compliance with new areas of regulation of approx £115,000 per annum</p>	<p>Modest lowering of security risks (especially in transport)</p> <p>All operators face the same legal obligations</p> <p>Legal obligations and administrative arrangements made clearer</p> <p>Some increase in public confidence</p> <p>Transport responsibilities rationalised</p>
Government	<p>Increased annual staff costs of around £60,000 for the regulator (recovered from nuclear industry) which are included in costs listed above; and one-off costs of £10,000.</p>	<p>More effective and transparent framework for nuclear security regulation</p> <p>Modest further lowering of security risks</p> <p>Proper basis for cost recovery by regulator.</p>
Public		<p>Improved perception of nuclear security regime</p> <p>Improved security</p>

International		Increased confidence in UK's nuclear security regime
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It is recommended that this programme of regulatory reform (Option 2) goes forward. It offers significant benefits while incurring only modest costs. Option 1, by contrast, carries risks in perpetuating the deficiencies of the current regime and would be difficult to defend.

10. Enforcement, Sanctions, Monitoring and Review

The regulatory regime in the new regulations will be implemented and monitored by the government's regulator (the Office for Civil Nuclear Security, part of the DTI). The enforcement provisions will correspond to those of the Health and Safety at Work Act 1974, as provided for by s.77 of the Anti-terrorism, Crime and Security Act 2001. The new regulatory framework will be reviewed formally by DTI three years after its introduction.

11. Ministerial Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by the Minister responsible:

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Brian Wilson
Minister for Energy and Construction

Date:

Contact Point

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NUCLEAR INDUSTRIES SECURITY REGULATIONS: COMPLIANCE COSTS

This annex sets out the likely compliance costs for these regulations for the following categories of persons.

These costs – which are costs per company – include companies' own costs and OCNS' fees.

Major nuclear site operators details will be available to these
Individually

(these will also face costs as holders of sensitive nuclear information outside nuclear premises, and as transporters of nuclear material in their own right – see below)

Tenants on licensed nuclear sites

One-off costs:	£1,250
Annually recurring costs:	£ 75

Smaller licensed sites not formally regulated and holders of Type A and Type B nuclear material outside licensed sites

One-off costs:	£3,000
Annually recurring costs:	£1,250

Those holding nuclear material temporarily outside licensed nuclear sites including Air Cargo Agents

One-off costs:	£3,600
Annually recurring costs:	£1,100

Road and rail transporters of nuclear material

One-off costs:	£3,400
Annually recurring costs:	£2,200

UK registered ships (not including roll-on roll-off ferries) transporting nuclear material

One-off costs:	£2,400
Annually recurring costs:	£2,500

UK registered roll-on roll-off ferries transporting nuclear material

One-off costs:	£2,400
Annually recurring costs:	£ 300

**Overseas registered ships (not including roll-on roll-off ferries)
transporting nuclear material**

One-off costs:	---
Annually recurring costs	£700

Overseas registered roll-on roll-off ferries transporting nuclear material

One-off costs:	---
Annually recurring costs	£300

Holders of sensitive nuclear information outside nuclear premises

One-off costs:	--- (for current holders)
Annually recurring costs:	£1,150