

Nuclear Free Local Authorities briefing



Date: 20 December 2000

Subject: **Statutory Guidance on the Regulation (by the Environment Agency) of Radioactive Discharges into the Environment from Nuclear Licensed Sites**

1. Introduction

On 23 November 2000 the Government published a consultation paper setting out proposals for Statutory Guidance to the Environment Agency. The purpose of the Guidance is to identify factors which the Environment Agency must consider when setting discharge levels.

Introducing the draft Guidance in Parliament the Environment Minister said it is intended to reinforce the Government's commitment to progressively cut discharges and discharge limits. He continued:

Central to the Guidance is the need to ensure the protection of the public, not only within the UK but beyond our borders...

Keeping radioactive waste to a minimum must be the key to reducing discharges...

Each case will be considered on its merits but the presumption now will be that discharges should be minimised by requiring radioactivity to be trapped and immobilised for subsequent storage or treatment, rather than discharged into the environment.

The Guidance will encourage operators to keep their discharges to a minimum by setting strict limits on how much they can discharge...

2. Scope

The Guidance refers specifically to authorisations in England. No reference is made to parallel consultations in Wales, Scotland or Northern Ireland. Nonetheless all member councils are urged to use this briefing to respond to the consultation since authorisations to sea and air from licensed nuclear sites in England have impacts within the UK as a whole and 'beyond our borders'.

3. Deadline

Comments are invited no later than 31 January 2001 by letter, fax or email to:

Statutory Guidance Consultation
DETR
4/E7 Ashdown House
123 Victoria Street
London SW1E 6DE

THE LOCAL GOVERNMENT VOICE ON NUCLEAR ISSUES



Manchester City Council, Town Hall, Manchester, M60 2LA

The NFLA Secretariat understands that the consultation paper has gone to all UK local authorities but it can be easily downloaded from the DETR website. If requested, the NFLA Secretariat can forward the consultation documentation by email.

The consultative documentation comprises draft statutory guidance and a draft explanatory note. Comments below are confined to the draft statutory guidance.

4. **NFLA Secretariat Comments on the Draft Guidance**

Consultative Process: The consultation period spans 9 weeks and includes the Christmas and New Year break. This is an inadequate period for meaningful consultation. New Cabinet Office guidance published last November entitled *Code of Practice on Written Consultation* (though applying to consultations opened *after* 1 January 2001) lays down a minimum 12 week period. The Cabinet Office Code also requires future consultative documents to carry a concise 2 page 'executive summary'; to be drafted to ensure everyone is helped to identify quickly whether they are affected; and in Wales be available in the Welsh language. The absence of these features from this DETR consultation document diminishes public access and discourages a public response.

Justification: The guidance says nothing about the application of the first fundamental principle of radiological protection - *justification*. The radiological protection principle of *justification* requires that no practice involving exposures to radiation should be adopted unless it produces sufficient benefit to the exposed individuals or to society to offset the radiation detriment it causes. Any new or amended discharge authorisation must be publicly justified to demonstrate that benefits can outweigh costs. If this cannot be demonstrated then authorisation must be refused.

Waste Minimisation: The greatest source of radioactive discharges to sea and air in England is the Sellafield nuclear site and these discharges largely arise from the continuing practice of reprocessing spent nuclear fuel at the site and the resulting waste treatment. The most effective means to ensure discharge (and solid waste) minimisation is to end nuclear reprocessing at the earliest practicable opportunity. This requires the early closure of the remaining Magnox nuclear stations and storage pending disposal of fuels from other nuclear stations.

Waste Prevention: There no mention of s5(i) Environment Act 1995 "The Agency's pollution control powers shall be exercisable for the purpose of *preventing* or minimising, or remedying or mitigating the effects of pollution of the environment." The draft guidance only refers to the need for waste minimisation and says nothing about the need for waste *prevention*.

Concentrate and Contain: The draft guidance (para. 15) refers to the concentration and containment of wastes, rather than dilution and dispersal through site discharges, as the 'preferred option'. The guidance should require that the Environment Agency demand from a site operator an account of the measures required which would enable wastes for which discharge authorisation is sought to be 'concentrated and contained' so that the public has the opportunity to consider and comment on the viability of waste management on site rather than discharges to rivers, seas and air.

Critical Groups: (Paras. 16 & 17) Models used by the Environment Agency to determine the most exposed members of the public as a result of radioactive discharges require constant review. Patterns of human behaviour change over time and new 'critical groups' could emerge e.g. sailboarders off the Sellafield coast or self sufficient smallholders on land near licensed nuclear sites. In any event, principles of sustainability require that discharge levels must not be permitted which would place an individual at risk if they chose in future to pursue such activity, irrespective of whether any individual actually pursues it now.

Community Food Intervention Levels: The guidance (para. 24) says CFILs "...should not, in general, be set at levels where CFILs may be exceeded." Levels of discharge of technetium-99 from Sellafield which peaked in the mid 1990s resulted in recorded concentrations of this radionuclide in some shellfish 42 times above the CFIL (which are the precautionary European Community intervention levels to be applied in a radiological emergency). This concentration of Tc-99 in shellfish was unforeseen and demonstrates the difficulty of predicting the ways in which radionuclides behave in the environment over time and underlines the need for a precautionary approach.

Other Species: The guidance does not refer to the need to protect other living species.

Progressive Discharge Reductions: This principle (para. 27) is strongly supported, but a foreseeable contrary trend is already identifiable.

In May 2000 BNFL announced a revised lifetime strategy for its Magnox nuclear power stations which will directly contradict the policy of progressive reduction of discharges. The lifetime extension requires the B205 Magnox reprocessing line at Sellafield to continue operation to at least 2012 *providing increased reprocessing throughput can be achieved*. This increased throughput is necessary to deal with current and projected Magnox spent fuel arisings.

Recent B205 performance has been poor: BNFL reprocessed Magnox spent fuel at a rate of 600 tonnes in 96-97, 520 tonnes in 97-98 and 465 tonnes in 98-99. With the new Magnox station closure dates, BNFL will have a total of around 12,000 tonnes of spent fuel to reprocess before B205 closure i.e. doubling annual throughput to about 1,000 tonnes per year and *significantly increasing discharges*. Of course, there must be doubt surrounding BNFL's ability to achieve its 2012 target in which case B205 reprocessing is likely to continue, and its discharges could jeopardise Government targets under OSPAR for discharge reduction by 2020.

Para. 35 says increases in discharges "...may be permissible...But this will require a specific detailed case in each instance." The guidance must clarify what 'a specific detailed case' means. It must be clarified to clearly mean that any proposed increase will be the subject of full public consultation and that documentation for that consultation will include sufficient information about alternative waste management strategies to enable an informed public view to be developed on the costs and benefits of different options.

In the case of new plant which will give rise to new discharges, this consultation is required before plant construction begins and not, as in the case of the Sellafield MOX Plant, after it is completed.

Transparency in Discharge Reduction: Para 40 says "It is not necessary to set a discharge limit for every individual radionuclide that is discharged. It is possible to identify those of greatest significance...". Public confidence in the achievement of progressive discharge reduction would best be maintained through the provision of information clearly identifying for each discharge authorisation application, the historical levels of discharges for each nuclide, the proposed discharge limits and expected actual discharges within those limits for the period of any new authorisation, and a projection of future discharges through to 2020 - the date by which discharges should be reduced under the OSPAR Treaty, and the Government's discharge strategy, to levels where the additional concentrations in the marine environment above historic levels are close to zero.

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