
Health and Safety Executive

Application of 'bulk quantities' in relation to the storage of radioactive matter for the purposes of Section 1 of the Nuclear Installations Act 1965 (NIA) and the Nuclear Installations Regulations 1971: supplementary consultation

Completing this questionnaire

You can move between questions by pressing the 'Tab' / 'Shift-Tab' or 'Page Up' / 'Page Down' keys or by clicking on the grey boxes with a mouse. Please type your replies within the rectangular grey boxes or click on the square grey boxes to select an answer (eg 'Yes' or 'No').

Respondent's details:

Name:	Elaine Boyes
Job title:	Executive Secretary
Organisation:	Nuclear Institute
Email:	e.boyes@nuclearinst.com
Street:	1-6 Yarmouth Place
Town:	Mayfair, London
Postcode:	W1J 7BU
Telephone:	0203 475 4701
Fax:	

Size of organisation:

Choose one option:

Not applicable

1 to 9 employees

10 to 49 employees

50 to 249 employees

250 to 1000 employees

1000+ employees

Self-employed

Confidentiality

Please put a cross in the box if you do not wish details of your comments to be available to the public. (NB if you do not put a cross in the box they will be made public. This takes precedence over any automatic notes on e-mails that indicate that the contents are confidential.)

What is your type of organisation:

Choose one option

Industry

Local government

National government

Non-governmental organisation

Non-departmental public body

Trade union

Charity

Trade association

Academic

Consultancy

Member of the public

Pressure group

Other

If 'Other' please specify:

In what capacity are you responding:

Choose one option:

 An employer An employee Trade union official Health and safety professional/Safety representative Training provider**Q1. Do you agree that we should address the potential anomalies from a risk perspective by changing the original proposal to have a single figure threshold?** Yes No**Please provide some comments to support your answer**

There are two main reasons we do not agree with the proposed change:

1. It is not necessarily the best way to address the concern raised by the original consultation which it purports to address.
2. It is an unnecessary complication (particularly as this is an interim position anyway), and unwarranted by the consideration of potential hazard and its proportionate regulation.

It does not really address the concern raised. We understand the concern was raised by one of the two licensees currently subject to ONR licensing under this area, but whose quantity of bulk storage is well below the limit proposed under the original consultation. The concern raised was that their regulation should be proportionate to the degree of hazard, such that their operation would not be significantly commercially disadvantaged relative to potential new facility operators who would not be subject to ONR licensing under the limit proposed in the original consultation.

We note ONR's view that the original decision to license the facility concerned was appropriate. On balance, we concur with this view; given that the technological process was a relatively novel application in the UK, it appears reasonable to apply the precautionary principle in this decision-making, which would favour licensing.

As we understand the ONR's proposal:

1. If a new facility is proposed using a similar technology with a similar risk profile (per unit activity) to that already licensed with a potential activity in the range 10 to 100xREPPiR, then determination would result from a comparison with the existing facility, which continues to be licensed, scaling up that facility's inventory to 100xREPPiR. If, for the sake of argument, the current licensed facility operates up to 10xREPPiR only, then this comparison would be made scaling up the facility's inventory by a factor of 10. Therefore any future facility in the range 10xREPPiR to 100xREPPiR would still not require a licence.
2. If a new facility is proposed using a different technology, which is likely to be novel, at least in the UK, then the ONR would apply the same risk assessment comparison using the HIRE reports. There would be no consideration of the novelty of the application, and hence consideration of applying the precautionary principle. This might mean that a facility using a UK-proven technology with a bulk quantity within the range 10xREPPiR to 100xREPPiR would now require a licence, whereas it would not under ONR's original proposals.

The proposals would also require prospective operators to prepare HIRE reports probably at an earlier stage and in greater depth (to enable ONR's proposed determination) than would otherwise be the case, so the impact may be greater than ONR suggest in the consultation document.

We don't see the value in ONR's revised approach as the proportionality is based on a comparison with existing licensed facilities; the determination that they needed a license may not have made purely on quantities or on assessed risk, but taking into consideration the then-novelty (in the UK at least) of the application. This no longer applies, given the operating history of the licensed facility to date. It is not a proportionality based on arguments of assessed risk. Even if it were, we still concur with ONR's view that a risk-based definition of bulk quantities is not appropriate.

The problem with the current legislation, or its interpretation of it, is that subsequent delicensing is on the basis of 'no danger'. In principle, it should be possible to review the license periodically with a view to delicensing an activity if the hazard is proven to be low and well managed (and the process understood and proven, no longer novel) such that continued licensing is not in the public interest.

We recommend that ONR reconsider their interpretation of 'no danger' to determine whether such flexibility to provide more appropriate proportionality can be enabled. We recognise this is outside the scope of the current ONR process; however the appropriate response short of this would be to ensure the existing licensing is appropriate and proportionate, if nothing else to ensure that ONR and licensee resources are not wasted on licensing such a low level hazard, potentially at the expense of diverting resources from regulating higher level hazards.

We recognise that the proposed approach is interim as it will potentially be affected by the outcome of the international negotiations on the Paris Convention. We welcome ONR's proposal to provide an interim interpretation rather than just waiting for the outcome of those deliberations. We also welcomed the approach outlined in the original consultation that was

both appropriate and relatively simple to implement, and to understand by facility operators as potential licensees. This revised approach loses the benefit of relative simplicity and clarity.

In summary, we recommend that ONR retain their original approach, with a simple limit. We were satisfied with ONR's original arguments for setting this at 100xREPPiR. However, on further consideration, it is unclear to the NI whether this figure captured the potential uncertainties associated with applying novel technology, and therefore whether a lower limit, such as 10xREPPiR might be more appropriate.

Q2. Do you agree that option 3 above is a reasonable way to address this?

Yes

No

Please provide some comments to support your answer

See response to Q1 above.

Q3. Do you think that option 3 above is a better overall approach to interpreting “bulk quantities” than the original single figure of 100 x REPIR Schedule 2?

Yes

No

Please provide some comments to support your answer

See response to Q1 above.

Q4. Are you aware of any current installations that, having taken account of statutory exemptions, and exempting sealed sources, would fall into the discretionary range?

Yes

No

Please provide some comments to support your answer

Q5. Are any businesses contemplating making a commercial decision to enter into this area of work where the use of the discretionary range as described would have an impact?

Yes

No

Please provide some comments to support your answer

Not as far as we are aware, but as a professional body and learned society we are not best placed to know business commercial developments.

Are there any further comments you would like to make on the issues raised in this consultation document that you have not already responded to in this questionnaire?

We wish to emphasise that the points made in NI's response to the original consultation (which broadly agreed with ONR's proposals) still stand, including questioning the value of running this as a separate stand-alone consultation.

Is there anything you particularly liked or disliked about this consultation?

Please send your response by 25 July 2012 to:

Julie Wareing
Communications Account Manager
ONR Communications team
Desk 10, 4S.3 Redgrave Court,
Merton Road
Bootle
Merseyside L20 7HS

Tel: 0151 951 5742
Fax: 0151 951 4004

E-mail: bulk.quantities@hse.gsi.gov.uk

Thank you for taking the time to complete this questionnaire