

The Transboundary Radioactive Contamination (England) Direction 2020

In exercise of the powers conferred by regulation 62(1) of the Environmental Permitting (England and Wales) Regulations 2016^(a) (“the 2016 Regulations”), the Secretary of State directs the Environment Agency as follows.

The Secretary of State has consulted the Environment Agency as required by regulation 62(3) of the 2016 Regulations.

This Direction is made for the purpose of ensuring that the Environment Agency considers whether plans to dispose of radioactive waste are liable to result in the radioactive contamination, significant from the point of view of health, of water, soil or airspace of notifiable countries. This consideration must happen before the Environment Agency determines an environmental permit application involving the implementation of a plan to dispose of radioactive waste. The same consideration will be required before the Environment Agency determines an application to vary such a permit, unless the proposed variation will not increase any authorised limits placed on radioactive waste disposal activities. This Direction does not apply to military sites or activities.

The Environment Agency must give the Secretary of State details of its public consultations on environmental permit applications and permit variation applications.

Citation, commencement and application

1.—(1) This Direction may be cited as the Transboundary Radioactive Contamination (England) Direction 2020 and comes into force on 1 January 2021.

(2) This Direction applies to:

- (a) an environmental permit application made on or after 1 January 2021;
- (b) an environmental permit variation application made on or after 1 January 2021;
- (c) an environmental permit application made prior to 1 January 2021 for which no determination has yet been made by the Environment Agency;
- (d) an environmental permit variation application made prior to 1 January 2021 for which no determination has yet been made by the Environment Agency.

(3) The Direction does not apply to environmental permit applications or environmental permit variation applications regarding military sites or activities.

Interpretation

2. In this Direction—

“additional consultation” means an Environment Agency public consultation on only the information relevant to the application transboundary consideration or the variation transboundary consideration;

“application transboundary consideration” has the meaning given in paragraph 3(1);

“disposal” has the meaning given to it in paragraph 1 of Part 2 of Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2016;

(a) S.I. 2016/1154.

“environmental permit” means an environmental permit involving any planned disposal of radioactive waste associated with the operations listed below in gaseous, liquid or solid form in or to the environment—

- (a) the operation of nuclear reactors (except research reactors whose maximum power does not exceed 1 MW continuous thermal load);
- (b) the reprocessing of irradiated nuclear fuel;
- (c) the mining, milling and conversion of uranium and thorium;
- (d) U-235 enrichment of uranium;
- (e) the fabrication of nuclear fuel;
- (f) the storage of irradiated nuclear fuel in dedicated facilities (except storage of irradiated nuclear fuel in casks licensed for transport or storage, on existing nuclear sites);
- (g) the handling and processing of artificial radioactive substances on an industrial scale;
- (h) the predisposal management, including storage, of radioactive waste arising from operations (a) to (g) and (i);
- (i) the dismantling of nuclear reactors^(a), mixed-oxide (oxides of uranium and plutonium) fuel fabrication plants and reprocessing plants (except research reactors whose maximum power does not exceed 50 MW thermal load);
- (j) the emplacement of radioactive waste above or under the ground without the intention of retrieval; or
- (k) the industrial processing of naturally occurring radioactive materials.

“notifiable countries” means member States of the European Union and Norway;

“radioactive waste” has the meaning given to it in paragraph 3 of Part 2 of Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2016;

“waste” has the meaning given to it in paragraph 3 of Part 2 of Schedule 23 to the Environmental Permitting (England and Wales) Regulations 2016; and

“variation transboundary consideration” has the meaning given in paragraph 3(2).

Environment Agency required to consider potential transboundary radioactive contamination

3.—(1) Where the Environment Agency has received an environmental permit application, the Environment Agency must, before determining the application, consider whether the planned disposal of radioactive waste is liable to result in radioactive contamination, significant from the point of view of health, of water, soil or airspace of any of the notifiable countries (“application transboundary consideration”).

(2) Where the Environment Agency has received an environmental permit variation application, the Environment Agency must, before determining the application, consider whether the variation to the planned disposal of radioactive waste is liable to result in radioactive contamination, significant from the point of view of health, of water, soil or airspace of any of the notifiable countries (“variation transboundary consideration”).

(3) A variation transboundary consideration is not required where the proposed variation to the planned disposal of radioactive waste envisages unchanged or more restrictive authorised limits and associated requirements than in the existing permit.

(a) Decommissioning comprises all technical and administrative procedures, activities and measures taken after the final shutdown of a facility and up to the release of the site for unrestricted or other licence use. Within these activities “dismantling” comprises disassembling, cutting and demolition of contaminated or activated components, systems and structures including their packaging and transfer off-site.

Communication of information to the Secretary of State

4. When public consultation or additional consultation commences on an environmental permit application or an environmental permit variation application requiring an application transboundary consideration or a variation transboundary consideration, the Environment Agency must provide the electronic link to the public consultation webpage to the Secretary of State.

Content of public consultation

5. The Environment Agency's public consultation and any additional consultation on an environmental permit application or an environmental permit variation application requiring an application transboundary consideration or a variation transboundary consideration must include the applicant's assessment of whether their plans to dispose of radioactive waste are liable to result in the radioactive contamination, significant from the point of view of health, of water, soil or airspace of any of the notifiable countries.

Environment Agency required to take into account transboundary considerations

6. The Environment Agency must take into account the outcome of the public consultation and of any additional consultation on an environmental permit application or an environmental permit variation application when conducting an application transboundary consideration or a variation transboundary consideration, and when determining an environmental permit application or an environmental permit variation application.

Transitional arrangements

7.—(1) The Environment Agency must not make an application transboundary consideration or a variation transboundary consideration in accordance with this Direction if a submission of general data relating to the environmental permit application or the environmental permit variation application has been made to the European Commission pursuant to Article 37 of the Euratom Treaty.

(2) Where the Environment Agency is yet to determine an environmental permit application or an environmental permit variation application received before 1 January 2021 and to which paragraph (1) does not apply, the Environment Agency must conduct an additional consultation.

Signed by authority of the Secretary of State



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