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STATUTORY INSTRUMENTS

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**2019 No. 196**

**The Nuclear Safeguards (EU Exit) Regulations 2019**

**PART 2**

Accountancy and control, records and the provision of information by an operator

**Declaration of basic technical characteristics**

**3.—**(1) In the case of a qualifying nuclear facility<sup>M1</sup> existing immediately before commencement day the operator must declare to the ONR the basic technical characteristics of the qualifying nuclear facility, using the relevant questionnaire shown in Part 1 of Schedule 1, before the end of the period of 30 days beginning with commencement day.

(2) In the case of a new qualifying nuclear facility, which comes into existence on or after commencement day, the operator must declare to the ONR—

- (a) the preliminary basic technical characteristics of the facility as soon as the decision to construct or authorise construction has been taken;
- (b) the basic technical characteristics of the facility, based on the final design for the qualifying nuclear facility, using the relevant questionnaire shown in Part 1 of Schedule 1, not later than 200 days prior to and ending on the day on which construction is started; and
- (c) the basic technical characteristics of the facility as built, using the relevant questionnaire shown in Part 1 of Schedule 1, not later than 200 days before the day on which—
  - (i) qualifying nuclear material is first received at the facility;
  - (ii) in the case of a qualifying nuclear facility, which only treats or stores conditioned or retained waste, the treatment or storage begins; and
  - (iii) in the case of a qualifying nuclear facility, whose principal activity is the extraction of ores in the United Kingdom, the operations start.

(3) An operator must inform the ONR of a change in the basic technical characteristics within the period of 30 days beginning with the day on which the change is completed unless advance notification to the ONR of such a change is required by any particular safeguard provisions imposed on the operator by regulation 5.

(4) The reference in paragraph (3) to a change in the basic technical characteristics of a qualifying nuclear facility includes a change in respect of a qualifying nuclear facility which is in the process of being closed down or decommissioned until such time as the ONR has confirmed in writing to the operator that the qualifying nuclear facility has been fully decommissioned.

(5) On a written request by the ONR, an operator must supply further details, explanations, amplifications or clarifications of any information set out in the relevant questionnaire within the period of 15 days beginning with the day on which the operator receives the request from the ONR.

#### Commencement Information

- I1** Reg. 3 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Marginal Citations

- M1** “Qualifying nuclear facility” is defined in section 76A(7) of the Energy Act [2013 c. 32](#).

### Programme of activities

4.—(1) An operator of a qualifying nuclear facility must send to the ONR an annual outline programme of activities using the information described in Part 8 of Schedule 1, indicating, in particular, provisional dates for taking a physical inventory.

(2) Each year, an operator must send the annual outline programme of activities for the following calendar year to the ONR so that it is received by the ONR by 30th September.

(3) An operator must inform the ONR of the programme of activities for the taking of a physical inventory at least 40 days before the day on which the physical inventory is taken.

(4) An operator must communicate to the ONR without delay a change which affects or may affect the outline programme of activities and, in particular, the taking of physical inventories.

#### Commencement Information

- I2** Reg. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

### Particular safeguard provisions

5.—(1) Acting on the basic technical characteristics, submitted by an operator under regulations 3 or 31, and having, where necessary, discussed the relevant technical characteristics with the operator, the ONR may impose particular safeguard provisions on an operator in respect of a qualifying nuclear facility, which—

- (a) relate to the matters set out in paragraph (4); and
- (b) take account of any relevant operational and technical constraints on the operator and the qualifying nuclear facility.

(2) The ONR must provide the operator with written notice of any particular safeguard provisions which it has imposed.

(3) If an operator has received a written notice referred to in paragraph (2) it must, from the date of receipt or from the date set out in the notice if later, comply with the requirements of the particular safeguard provisions.

(4) The particular safeguard provisions may include the following—

- (a) the material balance areas and the selection of key measurement points for determining the flow and stocks of qualifying nuclear material;
- (b) the changes in basic technical characteristics for which advance notification is required;
- (c) the procedures for keeping records of qualifying nuclear material for each material balance area and for drawing up reports;
- (d) the frequency of, and procedures for, taking physical inventories;
- (e) the safeguards equipment;

- (f) the arrangements for sample taking by the operator;
- (g) the content of subsequent communications from the operator required under regulation 4 (programme of activities);
- (h) the conditions under which shipments and receipts of qualifying nuclear material require advance notification.

#### Commencement Information

- I3** Reg. 5 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

### Accountancy and control of qualifying nuclear material

6.—(1) An operator of a qualifying nuclear facility must maintain a system of accountancy and control of the relevant qualifying nuclear material in each qualifying nuclear facility.

(2) The system referred to in paragraph (1), must include in respect of the qualifying nuclear material—

- (a) the operating and accounting records required by regulations 10 and 11;
- (b) information on the quantities, category, form and composition of qualifying nuclear material;
- (c) its actual location;
- (d) the additional obligations set out in regulation 19; and
- (e) details of the recipient or shipper in the case of transfer.

(3) The components of an accountancy and control system are set out in Schedule 2, and an operator must implement the relevant components in a manner which is proportionate to and appropriate for the basic technical characteristics of the qualifying nuclear facility as reported to the ONR under regulation 3 or 31.

(4) An operator must retain the information referred to in paragraph (2) for a period of at least five years, beginning with the date on which each item of information is first recorded, and must, on the basis of the records described in sub-paragraph (a) of paragraph (2), be able to produce and substantiate the information which it provides to the ONR in accordance with the requirements of these Regulations.

(5) An operator must, if requested by the ONR, make the operating records, referred to in regulation 10, and the accounting records, referred to in regulation 11, available for inspection by the ONR at the relevant qualifying nuclear facility. The records may be made available in electronic form if they are kept in this form by the operator.

(6) The system of measurements on which the records used for the preparation of reports are based must conform with the relevant international standards.

#### Commencement Information

- I4** Reg. 6 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

### Accountancy and control plan

7.—(1) An operator of a qualifying nuclear facility must produce an accountancy and control plan which sets out the accounting and control system for the qualifying nuclear material in that facility.

(2) An operator of a qualifying nuclear facility must send to the ONR an accountancy and control plan for the qualifying nuclear material in that facility within the period of 30 days beginning on 1st January 2021.

(3) In the case of a new qualifying nuclear facility, which comes into existence after 1st January 2021, the operator must send to the ONR an accountancy and control plan as soon as possible and in any event not later than 200 days prior to the day on which qualifying nuclear material is first received at the facility.

(4) The accountancy and control plan must describe in writing the arrangements and procedures adopted or to be adopted by an operator to establish and maintain the system of accountancy and control of qualifying nuclear material as required by regulation 6.

(5) The ONR may consider the accountancy and control plan, or any part of the plan, and may approve all or any part of the plan.

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#### Commencement Information

**I5** Reg. 7 in force at 1.1.2021, see reg. 1(3)

### Replacement, amendment and revocation of accountancy and control plan

8.—(1) In the event of a change in the basic technical characteristics of a qualifying nuclear facility, notified to the ONR under regulation 3(3) or 31(5)(a), which is relevant to the accountancy and control plan, the operator must amend the accountancy and control plan for the qualifying nuclear facility and send the amended plan to the ONR within the period of 30 days beginning with the day on which the change is made.

(2) Subject to paragraph (1), an operator of a qualifying nuclear facility may not amend any part of the accountancy and control plan for the qualifying nuclear facility that has been approved by the ONR without the prior written consent of the ONR.

(3) An operator of a qualifying nuclear facility may at any time amend those parts of the accountancy and control plan for the qualifying nuclear facility that have not been approved by the ONR and send a copy to the ONR.

(4) The ONR may consider the amended accountancy and control plan, or any part of the plan, and may approve all or part of the plan.

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#### Commencement Information

**I6** Reg. 8 in force at 1.1.2021, see [reg. 1\(3\)](#)

### Operation of an accountancy and control plan

9.—(1) An operator must implement and comply with the arrangements and procedures described in the accountancy and control plan.

(2) An operator is not to be regarded as having failed to comply with those arrangements and procedures by reason of any matter if the ONR has previously informed the operator in writing that that matter is, in the ONR's opinion, unlikely to be prejudicial to the maintenance of the system of safeguards in respect of qualifying nuclear material at the qualifying nuclear facility.

#### Commencement Information

**I7** Reg. 9 in force at 1.1.2021, see reg. 1(3)

### Operating records

**10.**—(1) In respect of each material balance area an operator must ensure that the operating records set out—

- (a) those operating data which are used to determine changes in the quantities and composition of qualifying nuclear material;
- (b) a list of inventory items, updated to the best extent possible, and their location;
- (c) the data, including derived estimates of random and systematic errors, obtained from the calibration of tanks and instruments as well as from sampling and analysis;
- (d) the data resulting from quality control measures applied to the accountancy system for the qualifying nuclear material, including derived estimates of random and systematic errors;
- (e) a description of the sequence of the actions taken to prepare for, and take, a physical inventory and to ensure that the inventory is correct and complete;
- (f) a description of the actions taken in order to ascertain the cause and magnitude of any accidental or unmeasured loss that might have occurred; and
- (g) the isotopic composition of plutonium, including its decay isotopes, and reference dates, if recorded at the qualifying nuclear facility for operational needs.

(2) An operator must send the data referred to in paragraph (1) to the ONR within 14 days of the receipt of a written request from the ONR.

#### Commencement Information

**I8** Reg. 10 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

### Accounting records

**11.**—(1) In respect of each material balance area an operator must ensure that the accounting records show the following—

- (a) all inventory changes, so that the book inventory can be determined at any time;
- (b) all measurement and counting results used to determine the physical inventory; and
- (c) all adjustments and corrections that have been made in respect of inventory changes, book inventories and physical inventories.

(2) An operator must ensure that the accounting records relating to any inventory change or physical inventory show, in respect of each batch of qualifying nuclear material, the material identification, batch data and source data.

(3) An operator must ensure that the records account separately for each category of qualifying nuclear material.

(4) For each inventory change, an operator must indicate the date of the change and, when appropriate, the originating and dispatching material balance area and the receiving material balance area or the shipper and the recipient.

(5) An operator must communicate the data referred to in paragraph (1) to the ONR on request.

#### Commencement Information

- I9** Reg. 11 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Accounting reports

**12.—(1)** An operator must provide the ONR with accounting reports in accordance with regulations 13 to 20 in respect of each material balance area.

(2) An operator must ensure that the accounting reports contain up to date information and must correct the information at a later date if necessary.

(3) On a written request by the ONR, an operator must supply further details, explanations, amplifications or clarifications of any information set out in the relevant accounting report within the period of 15 days beginning with the day on which the operator receives the request from the ONR.

#### Commencement Information

- I10** Reg. 12 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Initial book inventory

**13.** An operator of a qualifying nuclear facility must, within the period of 15 days beginning with commencement day, send to the ONR, an initial inventory of all the qualifying nuclear material in each material balance area of a qualifying nuclear facility on commencement day, using the format set out in Part 4 of Schedule 1.

#### Commencement Information

- I11** Reg. 13 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Inventory change report

**14.—(1)** For each material balance area, the operator must send to the ONR an inventory change report in respect of all qualifying nuclear material using the format set out in Part 2 of Schedule 1.

(2) Unless otherwise specified in the particular safeguard provisions imposed under regulation 5, the operator must send to the ONR an inventory change report within the period of 15 days beginning with the end of each month, in which the operator must state all inventory changes to the qualifying nuclear material which have occurred or become known to the operator during that month.

(3) In respect of any month in which a physical inventory is taken and the physical inventory taking date is not the last day of the month, the operator must send two separate inventory change reports to the ONR—

- (a) a first inventory change report containing any inventory changes up to and including the date on which the physical inventory was taken, to be sent to the ONR with the physical inventory listing and the material balance report, which are referred to in regulation 15 and are to be sent to the ONR as soon as possible and at the latest within a period of 15 days beginning with the day on which the physical inventory was taken; and

- (b) a second inventory change report, to be sent within a period of 15 days beginning with the end of the month in which the physical inventory was taken, containing all inventory changes from the first day after the physical inventory was taken up to and including the last day of the month.
- (4) In respect of a month in which no inventory changes occur, when the operator sends the inventory change report to the ONR in accordance with paragraph (1), the operator must carry over the ending book inventory of the previous month.
- (5) In order that they may be reported as a single inventory change, small inventory changes, such as transfers of samples for the purpose of analysis, may be grouped together, unless otherwise stated in the particular safeguard provisions for the relevant qualifying nuclear facility.
- (6) Inventory change reports may include comments explaining the inventory changes.

**Commencement Information**

**I12** Reg. 14 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

**Material balance report and physical inventory listing**

- 15.**—(1) For each material balance area, the operator must send to the ONR—
- (a) material balance reports, in the format set out in Part 3 of Schedule 1, showing—
    - (i) the beginning physical inventory;
    - (ii) inventory changes (first increases, then decreases);
    - (iii) ending book inventory;
    - (iv) ending physical inventory; and
    - (v) material unaccounted for; and
  - (b) a physical inventory listing, in the format set out in Part 4 of Schedule 1, showing all batches separately.
- (2) An operator must send the reports and the listing to the ONR as soon as possible and at the latest within the period of 15 days beginning with the day on which the physical inventory was taken.
- (3) Unless otherwise specified in the particular safeguard provisions for the qualifying nuclear facility, a physical inventory for each material balance area must be taken every calendar year and the period between two successive physical inventory takings must not exceed 14 months.

**Commencement Information**

**I13** Reg. 15 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

**Special report**

- 16.**—(1) An operator must send to the ONR a special report whenever the circumstances referred to in regulation 17 or 23 arise.
- (2) The ONR may—
- (a) request further details or explanations in connection with a special report; and

(b) specify, in the particular safeguard provisions for a qualifying nuclear facility, additional requirements concerning the type of information to be supplied in a special report.

(3) If the ONR requests further detail or explanation in connection with a special report, the operator must send it to the ONR without delay.

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**Commencement Information**

**I14** Reg. 16 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**Unusual occurrences**

**17.—(1)** The circumstances referred to in regulation 16(1) are—

- (a) as a result of any unusual incident or circumstances, an operator believes that there has been or might be an increase in or a loss of qualifying nuclear material; or
- (b) the containment of qualifying nuclear material has unexpectedly changed to a point where an unauthorised removal of qualifying nuclear material has become possible.

(2) An operator must submit a special report as soon as it becomes aware of any such loss or increase or sudden change in the containment conditions, or of anything which leads them to believe that there has been such an occurrence.

(3) An operator must also inform the ONR of the causes of an unusual occurrence described in paragraph (1)(a) or (b) as soon as the operator becomes aware of them.

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**Commencement Information**

**I15** Reg. 17 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**Reporting of nuclear transformations**

**18.—(1)** In respect of a qualifying nuclear facility, which contains a reactor, an operator must include in the inventory change report calculated data on nuclear transformations and include this data on or before the time when irradiated fuel is transferred from the reactor material balance area.

(2) In addition, the ONR may specify alternative procedures for recording and reporting nuclear transformations in the particular safeguard provisions.

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**Commencement Information**

**I16** Reg. 18 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

**Additional reporting obligations arising from relevant international agreements and from obligations resulting from international trade**

**19.—(1)** When an operator provides the ONR with the information which is listed in paragraph (2), the operator must identify, separately for each obligation in each of the reports and notifications listed in the relevant international agreement, unless otherwise stipulated by that agreement, any qualifying nuclear material which is subject to a relevant safeguards obligation and must use the appropriate obligation code if one has been published by the ONR.



- (2) The following information is listed in this paragraph—
- (a) an initial book inventory, provided for in regulation 13;
  - (b) an inventory change report, including an ending book inventory, provided for in regulation 14;
  - (c) a material balance report and a physical inventory listing provided for in regulation 15;
  - (d) advance notification of intended imports and exports provided for in regulations 21 and 22.
- (3) Where an operator—
- (a) holds qualifying nuclear material, which has been transferred into the United Kingdom, under obligations or requirements concerning international trade, which ensure that qualifying nuclear material is only available for peaceful purposes, and are respectively described in paragraph (4) (“obligations concerning international trade”) and in paragraph (5) (“requirements concerning international trade”); and
  - (b) provides the ONR with the information which is listed in paragraph (2),

the operator must identify, separately for each obligation and requirement concerning international trade in each of the reports and notifications, unless otherwise stipulated by the relevant obligation or requirement, any qualifying nuclear material which is subject to an obligation or requirement concerning international trade and must use the appropriate obligation code if one has been published by the ONR.

(4) The obligations concerning international trade arise where an operator holds qualifying nuclear material which has been transferred into the United Kingdom before commencement day, either directly or through a third country, in accordance with any of the following—

- (i) the Agreement for co-operation in the peaceful uses of nuclear energy between the European Atomic Energy Community and the Government of the Republic of Kazakhstan, signed in Brussels on 5th December 2006;
- (ii) the Agreement for co-operation in the peaceful uses of nuclear energy between the European Atomic Energy Community and the Government of the Republic of Uzbekistan, signed in Brussels on 6th October 2003;
- (iii) the Agreement between the European Atomic Energy Community and the Cabinet of Ministers of Ukraine for Co-operation in the Peaceful Uses of Nuclear Energy, signed in Kiev on 28th April 2005;
- (iv) the Agreement for co-operation in the peaceful uses of nuclear energy between the European Atomic Energy Community (Euratom) and the Government of the Argentine Republic, signed at Brussels, on 11th June 1996;
- (v) the Agreement between the European Atomic Energy Community (Euratom) and the Government of the United States of Brazil for cooperation concerning the peaceful uses of atomic energy, signed at Brasilia, on 9th June 1961; and
- (vi) a contract, to which the operator is a party, concluded, before commencement day, on the basis of Articles 52(2), 64, 75(c) or another relevant provision in Chapter 6 of the Treaty establishing the European Atomic Energy Community.

(5) The requirements concerning international trade arise where an operator holds qualifying nuclear material which has been transferred into the United Kingdom before, on or after commencement day, under the terms of a requirement, which is set out in a licence issued by the ONR under the Import of Goods (Control) Order 1954<sup>M2</sup> or an order made by the Secretary of State under section 1 of the Import, Export and Customs Powers (Defence) Act 1939<sup>M3</sup>.

(6) In respect of each relevant international agreement and each obligation and requirement concerning international trade, the ONR must publish on its website, and make available in writing

on request, any obligation codes which must be used by an operator in respect of that relevant international agreement or obligation or requirement concerning international trade.

(7) Unless specifically prohibited in the relevant international agreement or obligation or requirement concerning international trade, the separate reporting requirements set out in paragraphs (1) and (3) do not preclude the physical mixing of qualifying nuclear materials.

(8) Paragraphs (1) to (7) do not apply to the Agreement with the Agency nor to the Additional Protocol, dated 7th June 2018, entered into between the United Kingdom and the Agency and which is additional to the Agreement with the Agency.

#### Commencement Information

**I17** Reg. 19 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

#### Marginal Citations

**M2** S.I. 1954/23 as amended by S.I 2014/251.

**M3** 1939 c.69 2 and 3 Geo 6 s amended by Customs and Excise Management Act 1979 (c.2) and the Export Control Act 2002 (c.28) sections 15(2)(a), 16(2) and 16(7).

### Weight units and categories of qualifying nuclear materials

**20.**—(1) When any person supplies information under these Regulations, any quantity of qualifying nuclear materials—

- (a) must be expressed to at least the nearest gram; and
- (b) may be rounded down, when the first decimal is 0 to 4, and rounded up when the first decimal is 5 to 9.

(2) The corresponding accounting records must be kept—

- (a) in grams or in smaller units; and
- (b) in such a manner as to render them secure and reliable.

(3) Unless otherwise provided for in the particular safeguard provisions, any notification under these Regulations must include the following—

- (a) the total weight of the elements uranium, thorium and plutonium, and also, for enriched uranium, the total weight of the fissile isotopes; and
- (b) separate reports for each material balance area as well as separate line entries in inventory change reports, material balance reports and in physical inventory listings for each category of qualifying nuclear material.

#### Commencement Information

**I18** Reg. 20 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

**Changes to legislation:**

There are currently no known outstanding effects for the The Nuclear Safeguards (EU Exit) Regulations 2019, PART 2.