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The Nuclear Decommissioning Authority and Environmental Principles

The Nuclear Decommissioning Authority (NDA) should be a world leader in environmentally sustainable decommissioning and clean up of legacy waste. It should give primacy to environmental and sustainability concerns, rather than commercial or economic ones. The Bill should give the NDA an overarching objective “to protect the health and safety of people, and to protect the environment, from the harmful effects of radiation during the decommissioning and clean up of those nuclear sites, which come under the NDA’s control and oversight.”¹

The White Paper, ‘Managing the Nuclear Legacy’, which proposed setting up the new Authority, claimed the arrangement ‘makes it clear that the Government’s priority is to ensure that clean up is carried out safely, securely, cost effectively and in ways which protect the environment for the benefit of current and future generations.’ However, the draft Bill miserably fails on this point. It does not have a clearly defined objective and lacks overarching environmental and human health protection principles. Whilst it confers duties on the NDA, with regard to maintenance of skills, promoting competition, and value for money in uncompromising terms [Clause [6](1)], it only requires the NDA to have ‘regard to the need to safeguard the environment’.

This lack of environmental principles could lead to inappropriate methods of nuclear waste management being promoted, decommissioning being used as an excuse for increased discharges of radioactivity to the environment, a failure to prioritise the most hazardous waste, and unnecessary transfers of nuclear waste from one site to another².

Meeting Regulatory Requirements

The NDA will have an “...obligation to secure best value for money consistent with regulatory requirements...”³. This is hardly going to overwhelm the NDA with the primacy of its environmental and sustainability objectives. Two Government Advisory Committees stress that:-

“An effective and efficient regulatory system will be one of the critical elements in enabling the [Nuclear Decommissioning Authority] to deal with the UK’s radioactive waste legacy ...”⁴

Yet the UK’s nuclear regulatory system is a mess. It’s unclear which parts of the 1995 White Paper on nuclear waste management (Cmnd 2919⁵) are still relevant⁶. And problems will remain until well after the NDA has been set up⁷. Draft Statutory Guidance for the Environment Agency, (Nov 2000), will not be finalised before spring 2004 at the earliest –

¹ For an idea of how this can work in legislation see the Australian Radiation Protection and Nuclear Safety Agency Act 1998. Although not perfect it is led by an overarching object. http://www.austlii.edu.au/au/legis/cth/consol_act/toc-A.html

² See for example RWMAC (March 2003) Advice to Ministers on Management of Low Activity Solid Radioactive Wastes within the United Kingdom, (www.defra.gov.uk/rwmac/press/p030324.htm) paras 6.38, 6.13 and A3.21

³ Draft MoU between the NDA and its regulators.

⁴ RWMAC/NuSAC Review of the regulation of nuclear safety and the management of radioactive materials and radioactive waste within the United Kingdom (The NuSAC/RWMAC joint regulatory review) March 2003. para 5

⁵ Review of Radioactive Waste Management Policy: Final Conclusions. HMSO July 1995 – the most recent policy document, but produced by the previous Government.

⁶ RWMAC 21st Annual report October 2001. para 3.3

⁷ Problems will remain at least until the Radioactive Waste Consultation process is completed in 2007.

probably after the NDA Bill has been through Parliament. Guidance to the NDA on the interim conditioning, packaging and storage of radioactive waste⁸ has yet to appear.

Even when the regulatory system has been 'patched up' by producing Guidance and Memorandums of Understanding (MoUs), it can be no substitute for including environmental principles in the primary legislation for the NDA. This is a publicly funded body, and it is quite right to expect it to go beyond the minimum regulatory requirements by reducing environmental contamination to As Low As Technically Achievable (ALATA).

Cost vs Environmental Principle

The Draft Guidance to the Environment Agency requires EA to minimize waste and 'concentrate and contain' radioactivity in preference to 'diluting and dispersing' it. It also says 'progressive reduction' of discharges should "*take primacy over other considerations, apart from safety*". The industry objects to this approach saying it is based on public acceptability, not safety,⁹ and doesn't give sufficient recognition to costs¹⁰. The Government says it's possible to take costs into account and achieve the progressive reductions we are committed to under an International Treaty¹¹. If this assumption turns out to be wrong, it will review the strategy¹². This battle between environmental principle and economics is clearly far from over, and it is impossible, to guess how the final Guidance to the Environment Agency will turn out. The NDA Bill should be clear and give the Authority a duty to regard "the unnecessary introduction of radioactivity into the environment"¹³ as objectionable.

The NII has no duty to consult the public, or to disclose information about wastes held on site¹⁴. Taken together with the commitment to "openness and transparency", giving the NDA environmental principles could also help solve the democratic deficit.

Conclusions

The NDA's overarching objective should be informed by principles which commit the NDA to:

- always seek to apply international best practice in radiation protection;
- avoid or minimise nuclear waste creation during its operations;
- give primacy to environmental and sustainability principles e.g. concentration and containment of waste rather than dilution and dispersal during its operations.

⁸ Managing Radioactive Waste Safely: first progress report to the House of Commons Environment, Food and Rural Affairs Committee, December 2002.

⁹ BNFL Memorandum to the Select Committee on Environment, Food and Rural Affairs (3rd Report), February 2002, Radioactive Waste: The Government's Consultation Process.

¹⁰ RWMAC 20th Annual Report November 2000. Annex 9.

¹¹ The OSPAR Convention for the Protection of the Marine Environment of the North East Atlantic.

¹² RWMAC/NuSAC joint regulatory review (March 2003) para 24.

¹³ See Statutory Guidance on the Regulation of Radioactive Discharges into the Environment from nuclear licensed sites: Consultation Paper, DEFRA, November 2000. para 41

¹⁴ House of Lords Science and Technology Committee Third Report (10 March 1999), Management of Nuclear Waste. Para 6.43