

Civil nuclear regulation if there's no Brexit deal

Summary

How the ownership, movement and safeguarding of nuclear material will be regulated if the UK leaves the EU with 'no deal'.

Detail

If the UK leaves the EU in March 2019 without a deal, find out how this would affect:

- nuclear safeguards
- ownership and movement of nuclear material, equipment and technology
- management of spent fuel and radioactive waste
- reporting and notifications to the European Commission.

A scenario in which the UK leaves the EU without agreement (a 'no deal' scenario) remains unlikely given the mutual interests of the UK and the EU in securing a negotiated outcome.

Negotiations are progressing well and both we and the EU continue to work hard to seek a positive deal. However, it's our duty as a responsible government to prepare for all eventualities, including 'no deal', until we can be certain of the outcome of those negotiations.

For two years, the government has been implementing a significant programme of work to ensure the UK will be ready from day 1 in all scenarios, including a potential 'no deal' outcome in March 2019.

It has always been the case that as we get nearer to March 2019, preparations for a no deal scenario would have to be accelerated. Such an acceleration does not reflect an increased likelihood of a 'no deal' outcome. Rather it is about ensuring our plans are in place in the unlikely scenario that they need to be relied upon.

This series of technical notices sets out information to allow businesses and citizens to understand what they would need to do in a 'no deal' scenario, so they can make informed plans and preparations.

This guidance is part of that series.

Also included is an overarching framing notice explaining the government's overarching approach to preparing the UK for this outcome in order to minimise disruption and ensure a smooth and orderly exit in all scenarios.

We are working with the devolved administrations on technical notices and we will continue to do so as plans develop.

Purpose

This notice explains to the civil nuclear industry and stakeholders how the sector will be affected in the UK in the unlikely event that the UK leaves the EU and the European Atomic Energy Community (Euratom) in March 2019 with no agreement in place.

This notice covers:

- nuclear safeguards
- ownership and movement of nuclear material, equipment and technology
- management of spent fuel and radioactive waste
- reporting and notifications to the European Commission.

Nuclear safeguards

Before 29 March 2019

The European Commission currently implements nuclear safeguards in respect of nuclear material for all EU countries, including the UK.

The UK has already passed new legislation so that the Office for Nuclear Regulation (ONR) can oversee domestic safeguards instead of Euratom and signed new international agreements with the International Atomic Energy Agency (IAEA) to replace the existing trilateral agreements between the IAEA, Euratom and the UK.

After 29 March 2019 if there's no deal

On exit from the EU, a new domestic nuclear safeguards regime will come into force.

Implications

The new regime will be run by the ONR, which already has regulatory oversight of nuclear safety and nuclear security. The new regime is not dependent on there being a deal with the EU and Euratom.

The ONR will publish guidance on the new inspection arrangements on its website.

Actions for businesses and other stakeholders

All operators in the UK civil nuclear sector will need to comply with the new domestic safeguards regime as it applies to them. This will be underpinned by regulations and administered by the ONR. The regime will include new domestic arrangements for nuclear material accountancy. Operators are encouraged to submit their views on [the draft Nuclear Safeguards Regulations](#), which are open to public consultation until 14 September 2018.

Ownership of special fissile material

Before 29 March 2019

Under Euratom Treaty arrangements, all special fissile material in any EU country is legally “owned” by Euratom. Operators that hold the legal title to the material have the unlimited right to use and consume the material as long as they comply with obligations in the Euratom Treaty.

After 29 March 2019 if there’s no deal

On exit from the EU, Euratom ownership of special fissile material in the UK will end.

Implications

Operators that hold the legal title to special fissile material in the UK will have full ownership from this date, and their associated rights will remain unaffected.

For special fissile material on Euratom territory, Euratom rules will continue to apply until the material is exported from Euratom territory.

Actions for businesses and other stakeholders

Operators with special fissile material on UK or Euratom territory will not need to take any action in relation to the ownership of special fissile material. Operators’ legal title to this material and any associated rights will be unaffected by the UK’s withdrawal.

Supply contracts for nuclear material

Before 29 March 2019

Under current arrangements operators in the EU, including the UK, are required to obtain approval from the Euratom Supply Agency and, depending on the nature of the contract, the European Commission, before they conclude a supply contract for nuclear material.

After 29 March 2019 if there's no deal

On exit from the EU, Euratom Supply Agency approval will no longer be required for contracts agreed by UK-established operators, except where these involve an EU27-established operator. For EU27-established operators, Euratom Supply Agency procedures will continue to apply as currently.

Implications

The EU has set out its view that some existing contracts will need to be re-approved. Further details of the actions to be taken are set out below.

Actions for businesses and other stakeholders

The steps that UK and EU27 operators may wish to consider taking will depend on when their contract was, or is due to be, concluded.

On exit from the EU, some existing supply contracts will need to be re-approved as a result of the UK's withdrawal. This will apply only to supply contracts that:

- involve both a UK-established operator and an EU27-established operator
- have been co-signed by the Euratom Supply Agency prior to the UK's withdrawal
- have a supply period which extends beyond the date of the UK's withdrawal.

For existing supply contracts of this type, UK and EU27 operators affected should engage with the Euratom Supply Agency on the process for re-approval and agree with their counterparts on any steps that will need to be taken to manage the period during which this process takes place. We will continue to work with the UK operators concerned to ensure that appropriate contingency supply arrangements are in place.

For UK-established operators, Euratom Supply Agency approval will only be required after the day of withdrawal if the contract involves an EU27-established operator. Operators will need to comply with standard Euratom Supply Agency processes.

For EU27-established operators, Euratom Supply Agency procedures will continue to apply as currently.

Further information

Further details on the Euratom Supply Agency's standard procedures can be found on the [Euratom Supply Agency's website](#).

Export licence arrangements

Before 29 March 2019

The controls that apply to the export and transfer of dual-use goods and technology are implemented by the [EU Dual-Use Regulation \(428/2009\)](#). At present, an export licence is required to move certain sensitive nuclear materials, facilities and equipment between the UK and other EU countries.

After 29 March 2019 if there's no deal

On exit from the EU, there will be a continued requirement for operators to obtain export licences for certain sensitive nuclear materials, facilities and equipment.

Implications

Further details of the export licence arrangements that will apply are set out in the [Exporting Controlled Goods technical notice](#).

Actions for businesses and other stakeholders

Operators can find further detail on export licensing and information on the steps they will need to take in the [Exporting Controlled Goods technical notice](#).

Further information

Further information on how to apply for export licences is available from the [Export Control Joint Unit](#).

Ownership and Movement of Nuclear Material, Equipment and Technology

Import licence arrangements

Before 29 March 2019

The current import licensing regime set out in the [Notice to Importers 2867](#) means that the import of relevant nuclear materials from EU countries does not require operators to obtain an import licence.

After 29 March 2019 if there's no deal

The Notice to Importers 2867 will be updated in time for Exit Day to set out the arrangements that will apply following the UK's withdrawal from the EU.

Implications

Under the updated arrangements, importers may need to obtain an import licence for imports of relevant nuclear materials from the EU. The UK will engage with importers on any new arrangements that will apply from this date and provide further guidance on these.

Actions for businesses and other stakeholders

Importers should check the updated Notice to Importers for details of the import licence arrangements that will apply after the date of the UK's exit from the EU. Further guidance will also be published on the website below.

Further information

Further information can be found on the import control arrangements [GOV.UK page](#).

Nuclear Cooperation Agreements

Before 29 March 2019

Euratom is currently party to a number of Nuclear Cooperation Agreements (NCAs) with third countries which provide the framework for the UK's civil nuclear trade with these countries.

After 29 March 2019 if there's 'no deal'

Discussions to agree bilateral NCA arrangements with priority countries are on track to be completed before the UK leaves the EU, and the UK has already signed new bilateral NCAs with a number of third countries. This will ensure that civil nuclear trade can continue unimpeded.

Implications

Civil nuclear trade and cooperation will continue under the UK's bilateral agreements.

Actions for businesses and other stakeholders

Operators do not need to take any action in relation to NCAs.

Further information

Further information is available from the [Nuclear Cooperation Agreement Factsheet](#).

Management of spent fuel and radioactive waste

Before 29 March 2019

The current Euratom arrangements provide the framework for the movement of spent fuel and radioactive waste between countries. This includes authorisations for shipments under the [Supervision and Control of Shipments of Radioactive Waste and Spent Fuel Directive 2006 \(Directive 2006/117/Euratom – “the 2006 Directive”\)](#).

Under these arrangements, a number of EU countries have contracts in place for the reprocessing of spent fuel and the treatment and processing of radioactive waste in the UK. The UK government’s policy is not to accept overseas origin radioactive waste for disposal in the UK except in specific circumstances which are set out in the relevant UK government policy documents.

After 29 March 2019 if there’s no deal

The UK’s current arrangements for the reprocessing of spent fuel and treatment of radioactive waste will continue after the UK’s withdrawal from Euratom.

On exit from the EU, the process for authorising new shipments of spent fuel and radioactive waste from the UK to EU27 will change to reflect the fact that the UK will no longer be within the EU. The UK will engage with operators on any new arrangements that will apply for the authorisation of new shipments of spent fuel and radioactive waste from the EU27 to the UK, and will provide further guidance on these.

Beyond this, arrangements for new shipments of spent fuel and radioactive waste from EU27 countries to the UK for the purposes of management will not be affected. Under EU rules, there will be some small changes applicable to shipments of radioactive waste for the purposes of disposal, but the UK government’s policy on accepting such shipments will remain unaffected.

Implications

The management of EU27 spent fuel and radioactive waste in the UK will continue in line with existing contractual arrangements.

For new shipments of spent fuel and radioactive waste between the UK and EU27, all operators will need to comply with the arrangements that apply to third countries when shipping spent fuel and radioactive waste from the UK to EU27 countries. Further guidance will be provided on the arrangements that will apply for authorisations of spent fuel and radioactive waste from the EU27 to the UK.

The government will continue working with the Scottish government, Welsh government and Northern Ireland Civil Service to ensure that these arrangements work for the whole of the UK.

The current arrangements that determine which state has ultimate responsibility for the safe and responsible disposal of any spent fuel and radioactive waste generated will not be affected by the UK's exit for either the UK or EU27 countries.

Actions for businesses and other stakeholders

The management of spent fuel and radioactive waste in the UK and EU27 will continue as now. UK and EU27 operators will not need to take any action.

Please note that if the existing contract is considered to be a supply contract under Euratom Supply Agency arrangements, operators should check the section of this technical notice on 'Supply Contracts for Nuclear Material'.

For new shipments, all operators wishing to ship radioactive waste or spent fuel from the UK to an EU27 country will need to comply with the arrangements for third countries as set out in the 2006 directive. This means that shipments from the UK to EU27 countries will require authorisation from competent authorities in both the originating and destination states, and that EU27 competent authorities will no longer be subject to the current two-month deadline to grant authorisations.

Operators wishing to secure new authorisations to ship radioactive waste or spent fuel from EU27 countries to the UK should check the website below for further guidance of the arrangements that will apply after this date.

EU27 operators will be able to continue to enter into management contracts for spent fuel and radioactive waste in the UK.

Under the [Community Framework for the Responsible and Safe Management of Spent Fuel and Radioactive Waste Directive \(Directive 2011/70/EURATOM\)](#), EU27 operators will need to comply with the arrangements that apply to third countries prior to any shipment of radioactive waste for the purposes of disposal in the UK. This will not affect new shipments of spent fuel and radioactive waste in the UK for the purposes of processing, treatment or reprocessing.

Further information

Further guidance on authorisations for shipments of radioactive waste and spent fuel will be published on the [radioactive waste and spent fuel GOV.UK page](#).

Reporting and notification obligations under Article 37 of the Euratom Treaty

Before 29 March 2019

Under Article 37 of the Euratom Treaty, the UK government (on behalf of operators) submits information to the European Commission on plans to dispose of radioactive waste. Operators must receive a positive opinion from the Commission before obtaining domestic environmental permits or proceeding with a project.

After 29 March 2019 if there's no deal

On exit from the EU, the requirement for the UK to notify the European Commission of plans for the disposal of radioactive waste will no longer apply.

Implications

Operators will not need to secure the Commission's opinion before obtaining domestic environmental permits or proceeding with their radioactive waste disposal plans.

The UK will consult with stakeholders on any future measures to keep neighbouring states informed of these types of activity in the UK that will apply after this date.

Actions for businesses and other stakeholders

UK operators should continue to follow the requirement to notify the Commission of plans to dispose of radioactive waste until the date of the UK's exit from the EU. This includes continuing to work with the Department for Business, Energy and Industrial Strategy to complete and return submissions and secure Commission opinions.

Further information

Further details of the application of the current requirements are set out in [Commission Recommendation 2010/635/Euratom](#).

Reporting and notification obligations under Article 41 of the Euratom Treaty

Before 29 March 2019

Under Article 41 of the Euratom Treaty operators with plans for certain nuclear investments must report the details of these to the Commission. The type of nuclear investments that require notification are defined in [Council Regulation \(Euratom\) 2587/1999](#), and the required content of the reports is set out in [Commission Regulation \(EC\) 1209/2000](#).

After 29 March 2019 if there's no deal

On exit from the EU, the requirement for nuclear operators to inform the Commission of investment projects in the UK civil nuclear sector will no longer apply. The EU Regulations defining the content of Article 41 submissions (Council Regulation 2587/1999 and Commission Regulation 1209/2000) as they apply in the UK will be repealed.

Implications

UK and EU operators will no longer need to inform the Commission of planned investments in the UK civil nuclear sector after the date of the UK's exit from the EU.

Actions for businesses and other stakeholders

UK and EU operators should continue to follow the requirement to inform the Commission of planned investments in the UK civil nuclear sector until the date of the UK's exit from the EU. This includes continuing to complete and return submissions and discuss the submissions with the Commission. After the date of the UK's exit from the EU, operators will no longer need to comply with this requirement.

Further information

Further details of the current requirements are set out in [Council Regulation \(Euratom\) 2587/1999](#) and [Commission Regulation \(EC\) 1209/2000](#).

Notification of radioactive source shipments

Before 29 March 2019

Before any shipment of radioactive sources between EU countries, radioactive source holders must obtain a prior written declaration from the receiver of the source, noting that they have complied with national requirements for the safe storage, use and disposal of the source being received. These requirements are set out in [Council Regulation 1493/93/Euratom](#).

After 29 March 2019 if there's no deal

UK radioactive source holders who plan to send material to other EU states will continue to comply with Regulation 1493/93 by obtaining prior written declarations until the date of withdrawal. The UK will engage with operators on any new arrangements that will apply after this date, and provide further guidance on these.

Implications

The UK will provide further guidance on the arrangements that will apply after the date of the UK's exit from the EU. Any changes to these notification procedures will not prevent the shipment of radioactive sources into the UK after exit.

Actions for businesses and other stakeholders

Operators should continue to comply with the notification requirements for radioactive source shipments until the date of the UK's exit from the EU. Operators should check the website below for further guidance of the arrangements that will apply after this date.

Further information

Further guidance will be published on the [radioactive waste and spent fuel GOV.UK page](#).

This notice is meant for guidance only. You should consider whether you need separate professional advice before making specific preparations.

It is part of the government's ongoing programme of planning for all possible outcomes. We expect to negotiate a successful deal with the EU.