

Regulator Assessment: Qualifying Regulatory Provisions

Title of proposal	REVISED INVESTIGATION PROCESS AND GUIDE
Lead Regulator	Office for Nuclear Regulation

Date of assessment	6th June 2016
Commencement date	10th June 2016
Origin	Domestic
Does this include implementation of a Cutting Red Tape review?	No
Which areas of the UK will be affected?	GB

Summary of costs and benefits

Price base year	Implementation date	Duration of policy (years)	Net Present Value	Business Net Present Value	Net cost to business (EANDCB)	BIT score
2016	10/06/2016	10	0	0	0	0

Brief outline of proposed new or amended regulatory activity

1. The Office for Nuclear Regulation (ONR) produces guidance for the nuclear industry on how to comply with its regulations, and also publishes guidance for its inspectors so that the nuclear industry knows what to expect when they are inspected. ONR has revised this latter guidance on its investigation process and produced a supporting guide for use solely by ONR inspectors. However, for openness and transparency reasons the guide will be published on the ONR website and hence be available to duty holders to read.
2. ONR was previously a part of the Health and Safety Executive (HSE), and as such, much of the guidance that ONR still refer to carries the HSE branding, or is HSE-owned. It therefore refers to investigation processes in regulated sectors in general. There is a gradual move to separate ONR's processes from HSE as this becomes necessary.
3. The changes to guidance considered in this BIT Assessment provide a document and description of the process that is more specific to the nuclear industry to increase transparency to duty holders on how and why formal investigations might be conducted. However, the process itself will remain unchanged.
4. The revisions should engender a more consistent ONR approach across ONR's areas of inspection responsibility (nuclear safety, nuclear security, radioactive materials transport and nuclear site health and safety).
5. The revisions will not change the likelihood that ONR will undertake a formal investigation or recommend a prosecution.

Which type of business will be affected? How many are estimated to be affected?

6. ONR has estimated, based on its dutyholder base (see description below) and the levels of traffic that are received on its website that approximately 82 dutyholders will initially be affected in respect of familiarisation. The new guidance would be immediately relevant to 10 dutyholders per year, which is the approximate number of formal investigations annually. Most investigations are carried out on large businesses although a range of sizes of businesses are regulated by ONR.

Please set out the impact to business clearly with a breakdown of costs and benefits

7. The direct effects expected relate to one-off and then ongoing familiarisation with guidance documents, as the content and practices outlined in the guidance have not been amended from the previous versions (owned by HSE).
8. ONR regulates the civil nuclear sector, and its main duty holders are the large entities that own and operate civil nuclear sites in the UK – both operating and in decommissioning phases. There are 37 of these dutyholders with primary responsibility for the safety of the sites they are licensed to run, with a number of contracting entities on each site (not directly liable) on each site, and a number of sites that hold sensitive nuclear information – which brings the number up to approximately 250 separate entities in the UK that would have an interest in this guidance, as it could affect them. ONR is responsible for nuclear safety, security and conventional health and safety on such sites. In addition, there is a larger base of those who transport radioactive materials around the UK – these are primarily SMEs.
9. The number of duty holders that could potentially be affected (i.e. the entire dutyholder base) is calculated as approximately 250 with regard to aspects of ONR on-site regulation (this number bounds and encompasses those regulated for nuclear, radiological and conventional health and safety matters, and security sites); plus approximately 2,000 for radioactive materials transport, which is the only sector to include small businesses. No duty holder is required to read the inspection guide. However, ONR would expect that around 2% of duty holders (pop. 45) will read the updated guide, based on ONR's website analytics (the number of times similar new guidance was accessed on ONR's website during the first year of it being published).
10. The investigation guide is approximately 24 pages and comprises 8,450 words in total. It could easily be read and digested over 2.1 hours, which would comprise three full reads of the entire document¹. ONR anticipates from past experience with this type of guidance that a single representative of each of the 37 nuclear licensed sites will voluntarily read the guide for background information at the time of its publication incurring a cost of approximately 1 duty holder personnel x 2.1 hours x 82 duty holders (45 dutyholders (from para 7) + 37 licensed sites) x hourly rate (est £47.86²) = £8,241.50 one-off cost in Year 1.
11. It is realistic that a number of employees of the duty holder who is subject to formal investigation may wish to read the guide for background information. However, given that the behaviour of the regulator and the dutyholder has not been changed, and such guidance (of a near-identical length) would have been read by any investigated dutyholder before it was updated, we do not consider this to incur any additional cost.

¹ Based on RAS Group Guidance: valuation of guidance gives an estimate of around 200 words per minute, and assuming that three readings are required for understanding (2 hours, 6 minutes).

² Based on ASHE 2015 figures for 'professional occupation' of £716.70 per week which we have doubled to £1433.40, given the skilled nature of nuclear assessment work and the profit margins of an operating facility (diversion of labour), over a 36 hr week and uplifted by 20.2% to account for non-wage labour costs

12. The revised process places no new or changed requirements on duty holders and does not increase the number of formal investigations to be undertaken or the likelihood of a subsequent decision to prosecute, and is therefore unlikely to produce any further direct costs.
13. An intangible benefit is that ONR's approach to when and how it conducts formal investigations will be more transparent to duty holders, and will facilitate (in a small way) our duties under the Regulators' Code. Also, the revisions will facilitate a more consistent ONR approach, which could help promote business confidence, and reduce regulatory uncertainty.

Please provide any additional information (if required) that may assist the RPC to validate the BIT Score

14. As the net impact to business is estimated at less than £50,000 per annum, the BIT score is rounded to zero, in accordance with the Better Regulation Framework Manual.