



Office for  
Nuclear Regulation

**Response to the informal consultation  
on the draft guidance document:  
Transporting radioactive material -  
Guidance on emergency planning and  
notification for the transport of class 7  
goods**



October 2019

Response to the informal  
consultation on the draft guidance  
document:

Transporting radioactive material -  
Guidance on emergency planning  
and notification for the transport of  
class 7 goods

© Office for Nuclear Regulation 2019



## Table of Contents

Executive summary .....	1
Introduction .....	2
Public consultation.....	2
Response demographics.....	3
Response by sector.....	3
Respondents' Comments .....	3
Theme of respondents' comments and ONR responses.....	4
General Comments .....	4
Request for clarity between regulations and non-statutory guidance.....	4
References to regulations .....	5
GB Competent Authorities .....	5
The mismatch between REPP19 and CDG09(19) in relation to exemptions.....	5
National Plan for Radiation Emergencies.....	5
Future proofing the document .....	6
Additional guidance.....	6
Main themes in specific comments .....	6
Emergency Plans.....	6
Emergency Exposures .....	6
Duties of drivers, escort commanders etc. ....	7
Principles and purposes of emergency plans.....	7
Duty to provide a handover report.....	7

## Executive summary

Council Directive 2013/59/EURATOM lays down basic safety standards for protection against the dangers arising from exposure to ionising radiation. As part of the transposition of this directive, the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 were amended by the Carriage of Dangerous Goods (Amendment) Regulations 2019, made by Parliament on 12<sup>th</sup> March 2019. The Office for Nuclear Regulation (ONR) has drafted non-statutory guidance to aid duty holders to comply with the amended regulations in relation to emergency planning and notification of incidents. ONR undertook an informal consultation on the non-statutory guidance, between 7<sup>th</sup> June to 19<sup>th</sup> July 2019, to seek stakeholder comments.

In total, over 200 comments were received from 16 stakeholders representing both the nuclear and non-nuclear transport sectors.

The consultation responses identified the following common themes:

- No “showstoppers” were identified by respondents and none advocated major changes to the draft guidance. Most responses were detailed and technical in nature.
- A number of respondents identified issues of interpretation. This occurred as a result of a formatting error in the final branding of the draft guidance prior to the launch of the consultation.
- No contradictory responses were identified. However, some respondents (including duty holders) highlighted concerns about duties placed on carriers in relation to emergency response and notification of incidents despite these duties having existed since the regulations were previously amended in 2011.
- A number of respondents commented on matters outside the scope of the ONR non-statutory guidance such as the scope and content of the regulations themselves.

Overall, the responses to the consultation have helped to shape the non-statutory guidance by making it more user friendly and improving the clarity and focus in a number of areas. In particular ONR has highlighted the need for emergency planning to be proportionate to the scale of the radiation emergency that may occur during the transport of class 7 goods.

## Introduction

ONR has updated its existing [non-statutory guidance](#) to aid duty holders transporting class 7 goods by road, rail or inland waterway in Great Britain to comply with the requirements of Regulation 24 and Schedule 2 of the [Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009 as amended in 2019 \(CDG09\(19\)\)](#).

The regulations were amended by the [Carriage of Dangerous Goods \(Amendment\) Regulations 2019](#) (CDG(A)R19) mainly to implement certain articles of [Council Directive 2013/59/Euratom](#) known as the Basic Safety Standards Directive (BSSD).

The amendments relating to class 7 goods will come into effect on 21<sup>st</sup> April 2020. These changes are in parallel with the implementation of the same articles of the BSSD for premises in the [Radiation \(Emergency Preparedness and Public Information\) Regulations 2019](#) (REPP19). The CDG09(19) non-statutory guidance has been drafted to maintain consistency, so far as possible, with the [Approved Code of Practice and Guidance \(ACoP\)](#) for REPP19.

## Public consultation

The informal on-line based public consultation ran for six weeks, from 7<sup>th</sup> June 2019 until 19<sup>th</sup> July 2019.

The public consultation was communicated via the ONR website and by proactive targeted emails to key stakeholders with a particular interest in the guidance including known consignors, carriers, local government, professional bodies and other regulators.

All comments received by email or in writing were considered in making changes to the non-statutory guidance. However, comments provided on the Regulations themselves were noted for reference only as they came into force on 21<sup>st</sup> April 2019. The amending Regulations were subject to a separate [public consultation](#) by Government in 2017. All comments on the non-statutory guidance received were collated and considered as having equal status.

ONR received over 200 comments from 16 stakeholders during the informal consultation. This document provides a thematic summary of those comments and the ONR responses.

Following the publication of the non-statutory guidance and this summary document, individual responses will be sent to everyone who responded to the consultation.

## Response demographics

Responses to the consultation were received from a wide range of stakeholders including those from industry, NHS, MoD-owned establishments, local government, non-departmental public bodies and professional bodies.

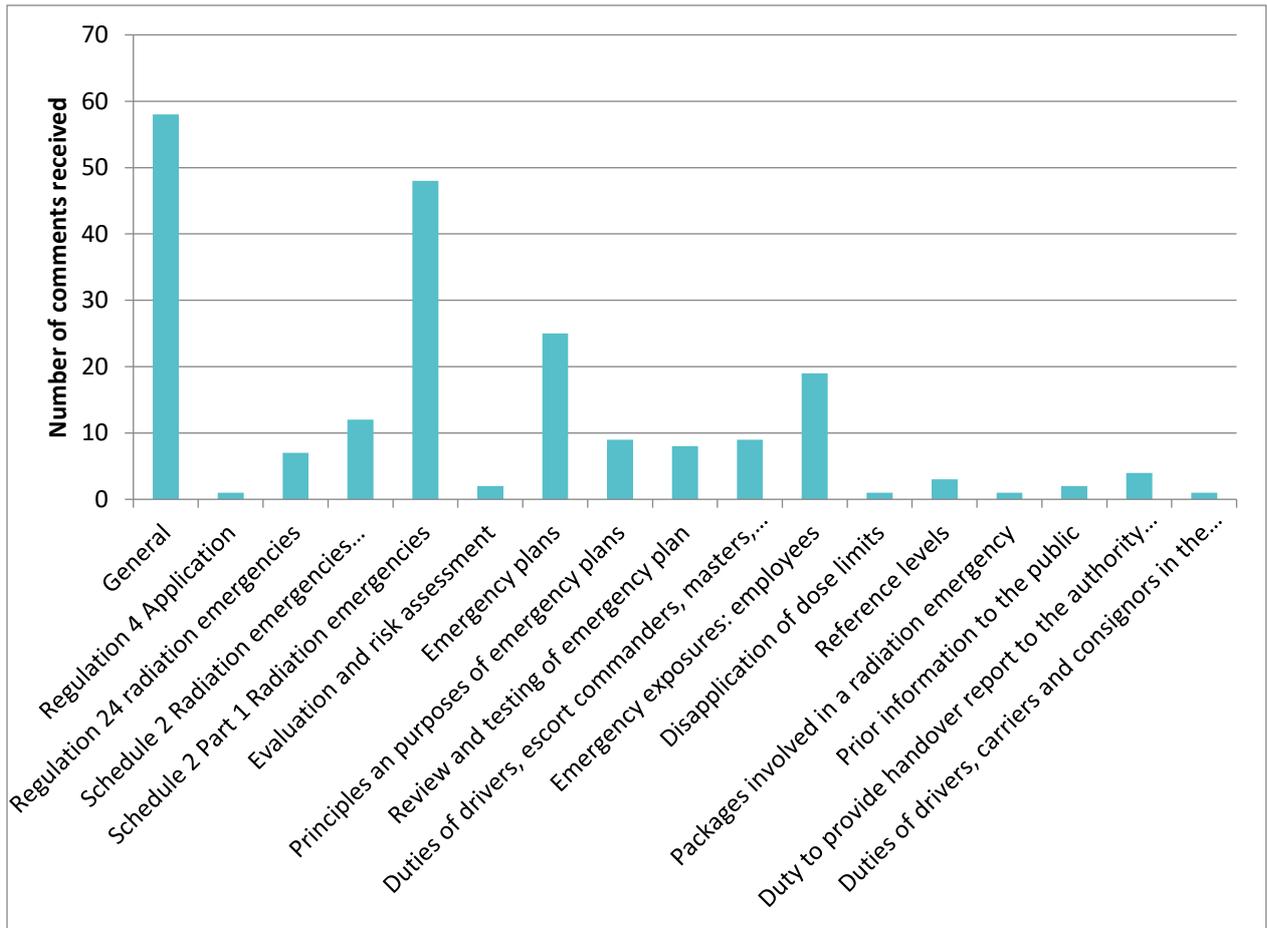
## Response by sector

Sector	Number of responses
Civil nuclear	4
Medical	3
Industrial	1
Defence	4
Local government	2
Professional bodies	1
Non-departmental public bodies	1
Total	16

## Respondents' Comments

Respondents made approximately 200 comments on the non-statutory guidance, many of which were general or non-specific in nature. However, the majority of comments were related to a specific paragraph of schedule 2 or regulation 24 of CDG09(19).

The highest frequency of specific comments related to part 1 of schedule 2 of CDG09(19), which refers to requirements for emergency planning. This was followed by paragraph 3 of schedule 2 of CDG09(19) "emergency plans" and paragraph 7 of schedule 2 of CDG09(19) "emergency exposures". An approximate breakdown of these comments is shown in the chart below.



## Theme of respondents' comments and ONR responses

The responses can be broken down into the themes below.

### General Comments

#### Request for clarity between regulations and non-statutory guidance

Respondents noted a number of cases where the text of the regulations appeared to be reproduced within the guidance for no clear purpose and sub paragraphs of quoted legislation were represented as bulleted lists.

ONR Response: The intention had been to include the legislation with the guidance to aid duty holder understanding of the related non-statutory guidance. The legislative text should have been presented in italics and followed the paragraph numbering of the legislation to differentiate between legal requirements and the non-statutory guidance presented in a plain font. Unfortunately, this formatting was lost and some sub paragraphs turned into bulleted lists in the final stage of formatting prior to the consultation. These formatting errors have been corrected in the final draft and the text reviewed to ensure that there is clarity between the legislative text and the non-statutory guidance.

## References to regulations

It was highlighted that there were inconsistencies in the referencing of regulations. In particular the CDG(A)R19, which could lead to confusion as to which parts of CDG09(19) (Regulations and Schedule 2) the non-statutory guidance was supporting.

ONR Response: All references have been updated to consistently reference CDG09(19) throughout the non-statutory guidance.

## GB Competent Authorities

Respondents highlighted the fact that ONR is not the sole GB Competent Authority (CA) for the transport of class 7 goods, although the draft non-statutory guidance listed ONR as the CA wherever reference was made to the CA in CDG09(19).

ONR Response: The non-statutory guidance has been updated to make reference to the relevant CA. Reference to ONR only has been maintained in the requirement to provide prior information as this duty is exclusively placed on ONR.

## The mismatch between REPP19 and CDG09(19) in relation to exemptions

It was noted that REPP19 provides exemptions for [unlimited amounts of] radioactive material on premises in Type B and Type C transport packages, and “special form” sources (as defined by transport legislation) in addition to exemptions for “non-dispersible” sources and amounts of material below REPP19 Schedule values. It was asked whether similar exemptions could be applied to CDG09(19) regarding such material and packages and whether allowances could be made for Type A and excepted packages.

ONR response: REPP19 specifically exempts certain material and packages on premises but CDG09(19) does not. Duty holders must therefore, as informed by their IRR17 radiation risk assessment, consider the possibility of a radiation emergency for such material when it is transported (including when it is temporarily stored during transport). In the case of Type A, Industrial and Excepted packages, the doses involved from the routine transport for such packages would be typically low however during accident conditions such packages are expected to release a significant proportion of their contents. In a transport accident damage to shielding and subsequent direct exposure from any type of package or material (including “special form”, Type B and Type C) is not excluded from consideration as a radiation emergency. According to the IAEA modelling (IAEA Publication [SSG-226](#)) an accident involving even a single Type A package may result in effective doses significantly in excess of 1mSv over a short period of time.

## National Plan for Radiation Emergencies

Respondents requested information on both the content and expected publication date of the government’s proposed national plan for radiation emergencies. This is referenced in the non-statutory guidance and in the [government’s response to the consultation on revised requirements for radiological protection: emergency preparedness and response](#).

ONR Response: This document is referenced in the non-statutory guidance as it is expected to provide further related detailed guidance for duty holders in the event of a radiation emergency (including transport events). The document is being drafted by government.

Requests for information about this document will be directed to BEIS as the government department holding the policy lead on this topic.

## Future proofing the document

Respondents noted that the non-statutory guidance made use of the future tense in relation to the arrangements required for the implementation of CDG09(19). It was suggested that this was inappropriate and the tense should reflect that this document will be in use for many years.

ONR response: The intention in the draft was to take account of the fact that the non-statutory guidance was being provided in advance of the date that the regulations would come into effect. The tense has been updated throughout the document to reflect the use after 21<sup>st</sup> April 2020 (the “relevant day” when the amendments to the regulations come into effect for class 7).

## Additional guidance

Respondents requested additional and more detailed guidance on a range of matters.

ONR response: ONR has stated that it will engage with stakeholders twelve months after the non-statutory guidance has been published to review the need for additional guidance. ONR will take account of both operational experience from inspections, on compliance with the amendments in CDG09(19), and feedback from duty holders, on their experience of applying the non-statutory guidance, to develop arrangements to demonstrate compliance with those requirements.

## Main themes in specific comments

### Emergency Plans

Some respondents indicated confusion about the purpose and clarity about the reason for the inclusion of Table 1 in the non-statutory guidance.

ONR Response: The non-statutory guidance has been amended to provide an explanation of the purpose of Table 1. The purpose is to enable duty holders to use the potential radiation dose they have assessed that might result from an emergency to determine other types of serious consequences, to human life, health and safety etc. without the need to carry out further explicit assessment of these other consequences. Table 1 has been updated to reflect the wording and design of the equivalent table provided in the REPP19 ACoP and Guidance.

### Emergency Exposures

Respondents indicated some confusion over the application and status of the requirement for emergency exposures not to exceed 500 mSv.

ONR Response: ONR has noted that the implementation of the BSSD requirement to place a dose constraint on emergency exposures of 500 mSv in CDG09(19) is neither completely consistent with the intention of the BSSD nor with the implementation in REPP19 and has the effect of placing a limit of 500 mSv on such exposures. ONR has brought this to the attention of the relevant government department (BEIS) for consideration.

## Duties of drivers, escort commanders etc.

Several respondents expressed concern regarding duties placed on carriers and drivers by the regulations in responding to an emergency and making notifications. These included whether the carrier should be required to arrange for the safe disposal of a load involved in an emergency and whether the driver was a suitable person to initiate the emergency arrangements and make certain notifications.

ONR Response: ONR has noted the concerns of duty holders. These duties have not been introduced by CDG(A)R19 but were existing duties either under the regulations as they were originally made or when they were amended in 2011. ONR cannot change the scope or extent of these duties through non-statutory guidance. The recently made available amended version of the [CDG09\(19\)](#) on legislation.gov.uk should aid duty holders' understanding of current requirements.

## Principles and purposes of emergency plans

The greater detail provided in the regulations on the principles to be followed when making emergency plans and the purposes of those plans was welcomed by many respondents. However, some queried the application to non-nuclear duty holders transporting Type A, Industrial and Excepted packages of class 7 goods.

ONR Response: ONR welcomes the clarity provided by the CDG09(19) as operational inspection experience often identified confusion regarding the appropriate content of emergency plans. The non-statutory guidance has been amended to emphasise the fact that there is a continuing requirement for the emergency plans and the process of planning to be proportionate to the risk that is being addressed.

## Duty to provide a handover report

Some respondents expressed confusion regarding the role of the report and the recovery authority to which it should be provided.

ONR Response: ONR recognises that the use of “recovery authority” in CDG09(19) may be confused with the use of “recovery” in relation to the recovery of a package or class 7 goods during the emergency response. The non-statutory guidance has been amended to try and clarify that the “recovery authority” is the authority which will take over management of the situation as the emergency response ends i.e. when the “emergency exposure situation” becomes an “existing exposure situation”. Further clarity has been provided on the purpose of the handover report to explain that it is only required as a result of an emergency and is simply to provide information to aid the recovery authority.