

JUSTIFICATION OF NEW REACTORS A RUSHED PROCESS IN A CROWDED SCHEDULE

- Government is currently consulting on the 'Justification' for new reactors – one of the most important regulatory requirements for any new nuclear build in the UK.
- Justification is one of many processes taking place within a crowded and inappropriately sequenced proposed new nuclear build schedule.
- Once the Justification decision has been taken it will be difficult if not impossible to reopen nuclear safety and radiation risk concerns.
- Given that Justification, once finalised, may foreclose future discussion, it is vital that this process is opened up in order to allow for full and fair examination of all of the evidence.
- Government should hold an independent inquiry, as allowed for under the regulations governing Justification.

What is Justification?

Department of Energy and Climate Change (DECC)ⁱ state:

Justification is a requirement of EU law under which before any new class or type of practice involving ionising radiation can be introduced it must first undergo a high-level, generic assessment to determine whether its overall benefit outweighs any associated health detriment.

This should include a 'cradle to grave' approach, from uranium mining through to final waste disposal, and risk to reactors from accident, incident and terrorist attack.

There are already major uncertainties on key issues such as how high-level radiation spent fuel from any new build may be stored and disposed

What's happening now?

Government has decided that the Secretary of State (SoS) for Energy and Climate Change will be the Justifying Authority (JA), and decide whether or not new nuclear build is a new and 'Justified' process. He'll take advice from departmental advisers from the Office of Nuclear Development (OND), other agencies and the devolved administrations (Scotland, Wales and Northern Ireland). In the end, the SoS will make the decision.

Since the SoS has already expressed a strong bias in favour of new nuclear (as has the OND in DECC), it's difficult to see how he can reach an objectively justifiable decision.

The SoS concludes:

We've taken some big steps towards next generation nuclear in the year since the publication of our White Paper, the industry continues to gear up to invest and we are on course to see new nuclear feeding into the grid by 2018ⁱⁱ.

A remit of the Office of Nuclear Development is:

To facilitate new nuclear investment in the UK: to enable operators to build and operate new nuclear power stations in the UK from the earliest possible date and to enable new nuclear to make the fullest contribution it is capable of, with no public subsidy, and with unnecessary obstacles removedⁱⁱⁱ.

There is also concern that DECC are failing to address real Justification issues such as: what is new nuclear power actually going to contribute, in a realistic timescale, to lower greenhouse gas atmospheric levels, or to energy security, or to controlling weapons proliferation?

Once the first round of consultation is over, DECC officials will hold public engagement sessions - however, past experience of these events is not encouraging, and there are concerns that those attending the sessions won't hear from 'all sides of the story'.

Justification - once decided, no further examination

Independent legal advice suggests^{iv}:

Once the Justification decision has been taken it will be difficult if not impossible for objectors to reopen the major issues of policy in relation to particular nuclear practices wherever they are proposed to be sited.

Issues decided under Justification will not be revisited under a planning inquiry^v:

The expectation is that planning inquiries should not consider the general high level questions of the health and safety aspects of nuclear power, for example "is nuclear power safe?". The planning inquiry should proceed on the assumption that the relevant evidence on these topics has been considered as part of the Justification decision by the Secretary of State.

The Planning Act 2008 has reduced the opportunity for any local level inquiry to reopen issues (already considered under Justification) to virtually zero.

Discussion of evidence presented on Justification will be considered behind closed doors, preventing public examination on key issues.

What issues might not be discussed once Justification is finalised?

There is great uncertainty on how reactor operators intend to manage their high-level radiation spent fuel. Unfortunately much essential data on this is unavailable at present.

The Nuclear Installations Inspectorate (NII) and the Environment Agency (EA) are currently going through the Generic Design Assessment (GDA) process for 2 new reactor designs (including Areva's EPR and Westinghouse's AP1000). On both designs, HSE report that:

There is no attempt to demonstrate that the waste streams would meet the appropriate criteria for disposal in a LLW facility or an intermediate level waste (ILW)/spent fuel repository. HSE will therefore be seeking further detail of the

acceptability for disposal of waste arising during subsequent steps of the GDA process. Equally, there is no demonstration that facilities will be provided for through-life storage of wastes and spent fuel and we will be asking ... for further information for GDA Step 3.

Stage 3 of the GDA process will not be completed until late 2009 at the earliest. The EA's consultation phase under GDA process (which will cover issues such as discharges and spent fuel disposal) will not be completed until mid-2010. The GDA process will not be finalised until 2011.

This means that key information needed to resolve Justification will only be available long after a decision has already been taken on Justification.

Recent evidence reveals further problems with both storage and disposal of spent nuclear fuel^{vi}. Until these issues are given fuller consideration and critically examined in an open public forum, even an interim position on how to handle high-level radioactive spent fuel cannot be reached. In this context, the current Justification process remains still-born.

What should happen?

Because the Justification of new nuclear power in the UK represents a key issue for trust in governance concerning energy policy and the control of radiation risk, we believe the Government should hold an independent inquiry, as allowed for under the regulations governing Justification: *The Justification of Practices Involving Ionising Radiation Regulations 2004 (No. 1769), Regulation 17:*

Without prejudice to any other power to hold an inquiry or other hearing, the Justifying Authority may cause an inquiry or other hearing to be held if it appears to him expedient to do so in connection with the exercise of any of his functions under these Regulations.

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- i <http://www.berr.gov.uk/whatwedo/energy/sources/nuclear/whitepaper/actions/justification/page45386.html>
 - ii [DECC press release 27th January 2009](http://www.berr.gov.uk/whatwedo/energy/sources/nuclear/office/page47701.html)
<http://nds.coi.gov.uk/environment/fullDetail.asp?ReleaseID=390875&NewsAreaID=2&NavigatedFromDepartment=True>
 - iii <http://www.berr.gov.uk/whatwedo/energy/sources/nuclear/office/page47701.html>
 - iv <http://www.greenpeace.org.uk/files/pdfs/nuclear/government-legal-advice.pdf>
 - v <http://www.berr.gov.uk/files/file31931.pdf>
 - vi <http://www.greenpeace.org/international/news/frances-nuclear-failures-020209>. For the research the Greenpeace press release was based on see:
http://www.posiva.fi/publications/Posiva_YVA_selostusraportti_en_lukittu.pdf