Draft Regulations laid before Parliament under section 2(2) of the European Communities Act 1972, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No. 0000

HEALTH AND SAFETY
ENVIRONMENTAL PROTECTION

The Justification Decision (Generation of Electricity by the AP1000 Nuclear Reactor) Regulations 2010

Made - - - -	***
Coming into force - -	***

Whereas:

(a) this instrument is made in accordance with the requirements of regulation 14(1) of the Justification of Practices Involving Ionising Radiation Regulations 2004(**1**);

(b) the Secretary of State has consulted the persons required to be consulted under regulation 18 of those Regulations and such other persons as the Secretary of State considered it appropriate to consult and has taken such steps as the Secretary of State considered appropriate to bring the proposed decision contained in this instrument to the attention of any person likely to be affected by the decision;

(c) a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament; and

(d) the Secretary of State is designated for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the making of measures relating to basic safety standards for the health protection of the general public and workers against the dangers of ionising radiation(**3**),

the Secretary of State, in the exercise of the powers conferred by that section, makes the following Regulations:

(**1**) S.I. 2004/1769.
(**2**) 1972 c. 68.
(**3**) S.I. 1991/2289.

Title and commencement

1. These Regulations may be cited as the Justification Decision (Generation of Electricity by the AP1000 Nuclear Reactor) Regulations 2010 and come into force on the day after the day on which they are made.

Interpretation

2. In these Regulations—

"the 1996 Directive" means Council Directive 96/29/Euratom laying down basic safety standards for the protection of health of workers and the general public against the dangers arising from ionising radiation(**4**);

"the AP1000 practice" means the class or type of practice which is the generation of electricity from nuclear energy using oxide fuel of low enrichment in fissile content in a light water cooled, light water moderated thermal reactor known as AP1000 designed by Westinghouse Electric Company LLC, and where the specification of that reactor matches that set out in Annex 6B to the document "Consultation on the Nuclear Industry Association's Application to Justify New Nuclear Power Stations - Volume 3: Appendix B: Annexes to the Application" published in December 2008 by the Department of Energy and Climate Change, URN 08/1507;

"class or type or practice" bears the same meaning as it bears under Article 6(1) of the 1996 Directive;

"justified" in relation to a class or type of practice means justified by its economic, social or other benefits in relation to the health detriment it may cause;

"spent fuel" means nuclear fuel that has been irradiated in and permanently removed from a reactor core.

Justification decision

3. For the purposes of Article 6(1) of the 1996 Directive, subject to regulation 4, the following are justified(**5**)—

(a) the AP1000 practice; and

(b) any class or type of practice which is—

(i) a development of the AP1000 practice; and

(ii) so similar to the AP1000 practice that the balance of benefits and detriments from that class or type of practice does not materially differ from the balance of benefits and detriments from the AP1000 practice(**6**).

Mixed oxide fuel and reprocessing

4. The justification decision in regulation 3 does not extend to—

(a) the use of mixed oxide fuel in; or

(b) the reprocessing of spent fuel which arises from,

a class or type of practice justified under that regulation.

(**4**) OJ No L 159, 29.6.1996, p 1.

(**5**) In November 2009 the Secretary of State determined that the AP1000 practice was a new class or type of practice for the purposes of the 2004 Regulations details of which determination can be found at: http://www.decc.gov.uk/assets/decc/What%20we%20do/UK%20energy%20supply/Energy%20mix/Nuclear/whitepaper08/actions/regjust/1_20091106131726_e_@@_justificationpracticesdetermination.pdf.

(**6**) ()The Secretary of State's analysis of the benefits and detriments associated with the AP1000 practice can be found athttp://www.decc.gov.uk/en/content/cms/what_we_do/uk_supply/energy_mix/nuclear/new/reg_just/reg_just.aspx