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Instruction IS-09, of 14th June 2006, of the Nuclear Safety Council, establishing the criteria to be applied for the systems, services and procedures of physical protection for nuclear facilities and materials.

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Article 2 f) of the Act 15/1980, dated 22 April, on the Creation of the Spanish Nuclear Safety Council, as amended by the 1st Supplementary Provision to the Law 14/1999, dated 4 May, on the Prices and Fees for Public Services Rendered by the Nuclear Safety Council, grants this public body the function 'to cooperate with competent authorities in the definition of compliance criteria for Off-Site emergency plans and physical protection plans in nuclear and radioactive facilities and in transportation activities and, once such plans have been developed, to take part in their approval'.

Royal Decree 158/1995, dated 3 February, on the Physical Protection of Nuclear Materials, establishes that activities with nuclear materials such as handling, processing, storage, domestic transport, import, and export will be considered regulated practices and therefore shall be first requested by the interested party and may only be completed when specifically authorised by the Spanish Directorate General for Energy Policies and Mines (from the Ministry of Industry, Tourism and Trade) upon evaluation of specific reports from the Nuclear Safety Council and the Ministry of the Interior in accordance with their own regulations. Furthermore, this Royal Decree defines the minimum level of protection for each category of nuclear material according to the quantity of fissile material contained.

In March 2000, the Nuclear Safety Council issued the Security Guide GS 8.1, 'Physical Protection of Nuclear Materials at Nuclear and Radioactive Facilities', with recommendations on the development and implementation of physical protection plans for nuclear materials in order to achieve the minimum levels of protection defined by the aforementioned Royal Decree. GS 8.1 established the basic criteria that should be considered when developing physical protection plans.

The terrorist attacks in September 2001 in New York and Washington, and later those of Madrid, in March 2004, and London, in July 2005, revealed the existence of a series of threats that had not been considered and that could potentially affect and target both nuclear and radioactive facilities and materials.

Thus, the various regulatory authorities for the physical protection of nuclear facilities and nuclear materials requested the license-holders of such facilities and materials to review and to strengthen their physical protection systems with the utmost care. The Nuclear Safety Council reacted similarly, requesting the licence-holders of nuclear power plants, in particular, and the operators of other nuclear facilities, in general, to modify their internal systems for physical protection taking into consideration these new threats and the criteria established by the United States Nuclear Regulatory Commission on the physical security

systems of nuclear plants and materials as a consequence of these attacks, as well as other additional criteria established by the Nuclear Safety Council.

Furthermore, the Nuclear Safety Council and the State Secretariat for Security (of the Ministry of the Interior), together with the license-holders of nuclear installations, started a collaboration programme to perform an in-depth review both of the design basis threats that had been considered so far and of the levels of protection applicable to nuclear power plants and nuclear facilities, with the purpose of preventing not only the unauthorised removal of nuclear material, but also the consequences from a radiological sabotage against such facilities or materials.

In June 2002, the operators of nuclear power plants presented the Integrated Security Model to the Nuclear Safety Council, based on three fundamental concepts: On Site security, for which the licence-holder is responsible; Off Site security, in charge of the State Security Forces and Bodies; and an intelligence plan, in charge of the State Intelligence Services.

On 19 June 2002, the Nuclear Safety Council approved the Integrated Security Model and issued an Instruction requesting the licence-holders of the plants to adapt their physical protection plans to the new model. On the same date, it implemented a physical security improvement programme for nuclear materials and other nuclear facilities. The programme was adapted from the Integrated Model according to a principle of proportionality between the measurements for physical protection and the risk associated for each facility or practice.

The design, development, and implementation of On Site security measurements are, therefore, the responsibility of the operators of the facilities or practices. The Nuclear Safety Council, in turn, is to establish the corresponding technical criteria for the capability of such measurements to comply with the Integrated Security Model.

Given the specific nature of this matter and its close ties with the functions and responsibilities of other National Authorities, the Nuclear Safety Council, together with the State Secretariat for Security (of the Ministry of the Interior) and the Directorate General for Energy Policies and Mines (of the Ministry of Industry, Tourism and Trade) and taking into consideration the contributions of subject-matter specialists from the different organisations of the nuclear facilities and practices, has defined a set of technical criteria for the physical security of nuclear facilities, practices, and materials.

On the other hand, and in accordance with the principles established by the Convention on Physical Protection of Nuclear Materials, ratified by Spain on 6 September 1991, in order to ensure the effectiveness of physical protection plans, it is necessary that the details on the security measurements of each facility, as well as the corresponding compliance criteria remain confidential. This is to prevent third parties from using the knowledge on the nature and scope of such measurements to develop threats exceeding the existing levels of protection.

By virtue of the foregoing, and in accordance with the legal authorisation provided by Article 2, Part a) of the Law 15/1980, dated 22 April, on the Creation of the Spanish

Nuclear Safety Council, as amended by the first supplementary provision to the Act 14/1999, dated 4 May, prior consultation to affected sectors, and after having issued all appropriate technical reports, this Nuclear Safety Council, in its meeting on 14 June 2006, has agreed upon the following provisions:

First. *Scope of Application.*

This Instruction shall apply to all facilities activities, and materials included in the scope of application of Royal Decree 158/1995 on the Physical Protection of Nuclear Materials.

Second. *Responsibility of Operators.*

The design, development, implementation, operation, maintenance, and upgrade of the On Site physical protection measurements of nuclear facilities and materials shall be the responsibility of the holders of the authorisations set forth in Article 3 of Royal Decree 158/1995.

Third. *Security Criteria.*

The On Site physical protection measurements of the facilities, practices and materials referred to in Section One of this Instruction shall conform to the security criteria approved herewith by the Nuclear Safety Council. In order to take into account the principle of proportionality between the scope and nature of the physical protection measurements of each facility and the facilities' intrinsically associated risks, any practical implementation shall be carried out in accordance with the Applicability Matrix included in the criteria themselves.

Fourth. *Confidentiality.*

In order to guarantee the effectiveness of the On Site physical protection measurements of the facilities, practices, and materials referred to in Section One of this Instruction, access to information on such measurements and on their compliance criteria shall be restricted to those persons specifically authorised by virtue of their duties.

Fifth. *Publication.*

The Nuclear Safety Council shall provide –via secure means– to the licence-holders of the facilities, practices and materials under the scope of application of this Instruction with the compliance criteria required for their physical protection plans.

Furthermore, the Nuclear Safety Council, after performing all checks it may deem appropriate in cooperation with the Ministry of the Interior, shall provide –via secure means– to the applicants for new authorisations for the physical protection of nuclear materials with the criteria referred to in Section Three of this Instruction.

Sixth. *Review and Update.*

1. When advisable, the Nuclear Safety Council shall review this Instruction, along with the criteria referred to in Section Three hereof, in view of circumstances such as: the existing level of threat, the experience gained in the practical implementation of this Instruction, and the technological progress achieved in the techniques, systems, and procedures used for the physical protection of nuclear facilities and materials.

2. Should any extraordinary incident suddenly raise the perceived level of threat against nuclear facilities or materials, the Nuclear Safety Council may require the licence-holders of nuclear facilities or materials, as referred to in Section One hereof, to apply additional physical protection measurements. The urgent implementation of such additional measurements shall not be delayed by the criteria adaptation process described in Section Three hereof.

Seventh. *Adaptation Period.*

The licence-holders of the facilities, practices, and materials under the scope of application of this Instruction shall adapt their physical protection plans and systems to the criteria set forth herein within a maximum period of 12 months upon the day after the secure receipt of the criteria. This adaptation shall take into consideration the Applicability Matrix included in the criteria themselves.

Eighth. *Exemptions.*

The licence-holders of the activities regulated by this Instruction may apply for a temporary exemption from fulfilment as long as that they provide adequate justification for such request, together with a security analysis and a description of their alternative procedure to comply with the established criteria.

Ninth. *Infractions and Penalties.*

The failure to comply with the provisions of this Instruction on security shall suppose a infraction of a regulatory requirement and shall therefore give rise to what is established in Articles 91 to 95, both inclusive, of Law 25/1964 on Nuclear Energy.

This I communicate to you for your knowledge and pertinent effects.

In Madrid, on this 14th June 2006

The President,
Ms. María-Teresa Estevan Bolea