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III. OTHER DISPOSITIONS

NUCLEAR SAFETY COUNCIL

8705 Instruction number IS-42, of 26th July 2016, of the Nuclear Safety Council, by which the criteria on notification of certain events to the Council of the transport of radioactive material are established.

Article 2.a) of the Law 15/1980, of 22nd April, by which the Nuclear Safety Council was created, attributes to this Public Entity the power "to create and pass Instructions, Circulars and Technical Guides related to the field of nuclear and radioactive facilities and to activities related to nuclear safety and radiation protection".

The requirements for the transport of radioactive material are established in the international regulations for the transport of dangerous goods in its various forms: by road, rail, air and sea, applicable in Spain, such as the following, which are provisions to be introduced in the national legislation:

European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), which is referred to in the Royal Decree 97/2014, of 14th February, by which transport operations of dangerous goods in Spanish territory are regulated.

Regulation concerning the International Carriage of Dangerous Goods by Rail (RID), which is referred to in the Royal Decree 412/2001, of 20th April, by which various aspects related to the transport of dangerous goods by rail are regulated.

Technical instructions for the Safe Transport of Dangerous Goods by Air from the International Civil Aviation Organization (ICAO), which is referred to in the Royal Decree 552/2014, of 27th June, in which the Regulation of air is developed and common operational provisions for services and air navigation procedures and the Royal Decree 57/2002, of January 18, is amended by which the Air Traffic Regulations are approved.

International Maritime Dangerous Goods (IMDG) Code of the International Maritime Organization (IMO).

Among the general provisions of these modal regulations, it is stated that: "In case of accidents or incidents during the transport of radioactive material, emergency provisions must be observed, as the relevant national and/or international organisations deem necessary to protect people, property and the environment."

In the Basic Guideline for civil protection planning against radiological risks, approved by the Royal Decree 1564/2010, of 19th November, Article 5 on incidents notification states that: "The holder of a licence to use a facility or to perform an activity that may lead to a situation of emergency that poses radiological risks will be responsible for prompt reporting of the incidents or accidents occurring to the competent bodies on civil protection of the Autonomous Communities, Delegations or Sub-delegations of the Government of the geographical area concerned as well as the Nuclear Safety Council." However, the scope of this Basic Guideline states that it will not be applicable to neither "the emergencies produced during the transport of radioactive material which are regulated by the Basic Guideline for civil protection planning against radiological risks of accidents in the transport of dangerous goods by road and rail," nor "the emergencies that may occur during the transport of radioactive materials by sea, unless they occur in the port area."

The Basic Guideline for civil protection planning against potential accidents in the transport of dangerous goods by road and rail, that was passed through the Royal Decree 387/1996, of 1st March, in relation to the reporting of accidents states that: "In case of an accident of conveyance transporting dangerous goods, the driver or the authority or agent receiving the initial information shall immediately report the event to the Operations Coordination Center designated in the corresponding plan of the Autonomous Community or, otherwise, the Civil Government of the province where the accident happened."

In the same vein, the Royal Decree 97/2014, of 14th February, by which transport operations of dangerous goods by road in Spanish territory are regulated, provides the communication and performance standards in case of breakdowns or accidents in Article 20.1.a): "the crew ... will proceed to report the breakdown or accident to the pertinent emergency telephone number, in accordance with the information that is published periodically in the Official State Gazette to that effect, through the Resolution of the Directorate General for Civil Defence and Emergencies of the Ministry of Internal Affairs. Whenever possible, it shall also be communicated to the shipping company and the consignor company, identified as such in the waybill

or transport documents." Moreover, in this Royal Decree, the information is specified that must be included in the reporting of a breakdown or accident to those emergency telephone numbers.

Moreover, Instruction IS-10, Revision 1, of 30th July 2014, on the criteria that nuclear power plants must follow to report events to the CSN and Instruction IS-18, of 2nd April 2008, on the criteria for reporting events and radiological incidents at radioactive facilities both establish the requirements with which licensees of nuclear power plants and radioactive facilities must comply. However, in its scope, specific criteria for reporting events in the transport of radioactive material when such facilities have acted as consignor, consignee or carrier have not been included.

For this reason, the requirements on notifying events in the transport of radioactive materials to the CSN are not developed enough in the aforementioned regulations. This may lead to different interpretations that could affect the powers of the CSN concerning the management of nuclear and radiological emergencies during transport. Therefore, it is considered necessary to establish clear provisions that reflect the criteria on notifying the CSN about events that occur during the transport of radioactive materials.

Consequently, the main objectives pursued with this Instruction are:

Identifying what type of events occurred during the transport of radioactive materials must be notified, and the appropriate time to notify it to the CSN.

Thoroughly explaining the minimum information to be provided in a notification. Identifying the people in charge of notifying and drawing up a subsequent report on the event. In light of the aforementioned and in accordance with the legal authorisation explained in Article 2.a) of the Law 15/1980, of 22nd April, by which the Spanish Nuclear Safety Council was created, after consulting the sectors concerned, and after the appropriate technical reports, this Council, in its meeting on 26th July 2016, has agreed on the following:

First. Subject matter and scope of application.

This Instruction establishes the criteria for notifying the CSN about certain events that may occur or are detected during the transport of radioactive material in Spanish territory and those events that occur or are detected outside of the Spanish territory when Spain has been the origin of the transport, notwithstanding notifications to other competent authorities in compliance with the regulations applicable to the transport of dangerous goods or other transport legislation.

This Instruction applies to consignors, loaders, unloaders and consignees of radioactive material facilities located in Spain and companies that transport radioactive material established within or outside Spain.

From this Instruction, events that occurred during transport by sea or air, or

that were detected outside the port area or airport are excluded respectively. The criteria established in the CSN's Instruction IS-34, of 18th January 2012, will still be applicable to notify the Council about non-conformities in the transport of radioactive material. This Instruction addressed the criteria concerning radiation protection measures, reporting non-conformities, the availability of people and resources in emergency cases and monitoring the load when transporting radioactive material.

Second. Definitions.

The terms used in this Instruction are defined in:

Law 15/1980, of 22nd April, by which the Spanish Nuclear Safety Council was created.

The Royal Decree 1836/1999, of 3rd December, which approved the Regulation on Nuclear and Radioactive Facilities.

Law 25/1964, of 29th April, on Nuclear Energy.

The Royal Decree 783/2001, of 6th July, which approved the Regulation on Protection against Ionising Radiations.

The Royal Decree 97/2014, of 14th February, by which transport operations of dangerous goods in Spanish territory are regulated.

European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), still in force.

Regulations concerning the International Carriage of Dangerous Goods by Rail (RID), still in force.

Technical Instructions for the Safe Transport of Dangerous Goods by Air from the International Civil Aviation Organization (ICAO), still in force.

International Maritime Dangerous Goods (IMDG) Code of the International Maritime Organization (IMO), still in force.

Moreover, the following definitions only apply in the context of this Instruction:

Safety barriers for a package: a set of components, systems or structures used in the design of a package for the containment of radioactive material, radiation shielding, thermal protection and maintaining these conditions of sub-criticality, in case of the transport of fissile materials, in order to avoid undue exposure to the public and workers.

Non-conformity: non-compliance with a requirement under the regulation of transport of dangerous goods or deviation from the design of a package that could compromise its safety.

Radiation Protection Program: set of regulatory provisions created to give a proper consideration to radiation protection measures, with regard to the radiation protection program required by the regulation of transport of dangerous goods for all activities related to the transport of radioactive material.

Event in the transport of radioactive material: any incident or accident that occurs or is detected in the process of loading, transport, storage-in-transit or unloading that had or could have posed a risk to the radiation protection of the packages or the shipment.

Third. Nuclear Safety Council criteria in relation to the criteria for reporting events in the transport of radioactive material

1. If the carrier of radioactive material during transport detects that an event such as those listed in paragraph 2 of this article has occurred, he must notify the consignor and proceed to notify the CSN within the periods indicated.

If the loader or unloader of the radioactive material detects that an event such as those listed in paragraph 2 of this article has occurred, he must notify the consignor and proceed to notify the CSN within the periods indicated.

If the consignee, when receiving the radioactive material, detects that an event such as those listed in paragraph 2 of this article has occurred, he must notify the consignor and proceed to notify the CSN, within the periods which are indicated, (unless he confirms that it has already been notified by the carrier, the loader, unloader or the consignor).

If the consignor of radioactive material detects or is aware that some event such as those listed in paragraph 2 of this article has occurred, he must notify the CSN within the periods which are indicated (unless it has already been notified by the carrier, the loader, unloader or the consignor).

2. Events in the transport of radioactive material that must be notified to the CSN.

a) The disappearance (loss or theft) of radioactive material in excepted packages, industrial packages or Type A packages produced or detected during transport, storage-in-transit, the intermediate step by airports, ports, etc., as well as its detection when it reaches the final destination, will be notified within 24 hours after the time when the incident is recognised. Before reporting a disappearance of said types of packages, it must be confirmed that the required steps were taken to find the packages yet with an unsuccessful result.

b) The disappearance (loss or theft) of radioactive material in Type B (U), Type B (M) Type C packages or packages containing fissile material, produced or detected during transport, storage-in-transit, the intermediate step by airports, ports, etc., as well as its detection when it reaches the final destination, must be notified with immediate effect within an hour from the time when the incident is first recognised.

c) The breakdown of conveyance, which involves its complete disablement, in the case that it has been warned that there has been a loss of any of the safety barriers of the packages containing radioactive materials or when the shipment's minimum level of safety cannot be guaranteed, will be notified with immediate effect, within an hour from the time when the incident is first recognised.

d) The transport accident in which there are doubts or warnings that show that there has been a loss of any of the safety barriers of packages containing radioactive materials or when a sufficient level of safety cannot be guaranteed, must be notified with immediate effect, within an hour from the time when the incident is first recognised.

e) The transport accident in which there are doubts or warnings that show there has been any loss of any safety barriers of packages containing radioactive materials or when a sufficient level of safety can be guaranteed, must be notified within 24 hours after the time when the incident is first recognised.

f) The fall or other incident that has occurred during the handling of transport packages of radioactive material in the loading and unloading processes, in which there are serious doubts or warnings that show there has been a loss of any of the safety barriers of packages containing radioactive materials, must be notified with immediate effect, within an hour from the time when the incident is first recognised.

g) The threat to the security of the transport, such as an attempt at trespassing or sabotage of the conveyance, the intentional act of deteriorating its security, blocking roads or a credible bomb threat, must be notified with immediate effect, within an hour from the time when the incident is first recognised.

3. Notifications must be carried out in CSN's Emergency Room (Salem). The initial notification can be submitted by telephone, while the following notification must be made in writing, by fax or email, by providing, at least, the information indicated in the format of Annex I: Notification of events in the transport of radioactive material.

4. The CSN may ask for additional information about an event at any moment.

5. In the case that there is any discrepancy between the CSN and the notifier about if an event must be or not notified, the opinion of the CSN will prevail and the notification will be made according to the reasonable criteria that the CSN indicates.

6. Regardless of the notification, the consignor of the radioactive material, the carrier, the loader, the unloader or the consignee who has notified an event in the

transport of radioactive material must submit to the CSN, within a period of 30 days from notification, a detailed report that includes an analysis of the causes of the event and the corrective or preventive actions taken or to be taken. The CSN will have a report model available to all users to send such information.

7. If deemed appropriate, the CSN may require the submission of additional information to the subsequent report referred to in paragraph 6, from the consignor, the carrier, the loader, the unloader or the consignee of radioactive material involved in the event, even when they were not the notifiers. It may also require the review of the report if it is considered to be necessary for its understanding.

Fourth. Development of a Procedure of Notification of events to the CSN

Within a period of six months from the entry into force of this Instruction, the consignors, the loaders, the unloaders, the consignees and the carriers of radioactive materials must have a procedure that contains the criteria to notify incidents that occur during the transport of radioactive material, as is set out in Article 3.

Fifth. Violations and Sanctions.

This Nuclear Safety Council's Instruction is legally binding in accordance with the provisions of Article 2.a) of Law 15/1980, of 22nd April, creating the Nuclear Safety Council; therefore, non-compliance will be punished as indicated in Chapter XIV (articles 85-93) of Law 25/1964, of 29th April, on Nuclear Energy.

Sole derogatory provision.

Any regulation of equal or lower status that is opposed against this Instruction is abolished.

Sole final provision.

This Instruction shall come into force on the day following its publication in the 'Official State Gazette'.

The President of the Nuclear Safety Council, Fernando Martí Scharhausen. Madrid, July 26th 2016.

ANNEX I

Notification of events in the transport of radioactive material

Contact person: (ID of the person who submits the notification).

Organisation/Company:

Phone:

Email address:

Date (day/hour):

Exact location of the incident:

Mode of Transport: Road/Air/Sea/Railway.

Consignor(s):

Consignee(s):

Carrier:

Loader/Unloader:

Type of Event:

Disappearance of material:

Breakdown of conveyance:

Load/unload incident:

Accident:

Security threat:

Description of the materials that have been carried (The information in this paragraph may be provided with transport documents: transport document, declaration of dangerous goods).

Number of radioactive packages:

Type of packages: (excepted, Industrial package Type 1, Industrial package Type 2, Industrial package Type 3, Type A, Type B(U), Type B(M), Type C and packages containing fissile material).

Number of United Nations:

For each package the following information is required:

Radioactive isotopes:

Activity:

Transport Index (TI):

Criticality Safety Index (CSI): (when required).

Description of the event (including the possible causes):

Damaged packages:

Damaged conveyance:

Immediate corrective actions (when taken):
Entities and/or Authorities involved in this event:

<http://www.boe.es>

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