

# National Legislative and Regulatory Activities

## Belarus

### *Organisation and structure*

*The Statute on the State Supervision in the Field of Nuclear Safety and Radiation Protection (2008)*

This statute has been adopted pursuant to the Law on Radiation Protection of the Public, and it defines the main features of state supervision activities (competence, responsibilities and legal penalties). It was approved by the Government on 31 December 2008 (No. 2056).

The Department for Nuclear Safety and Radiation Protection (Gosatomnadzor)<sup>1</sup> is the body responsible for state supervision in the field of radiation protection, under the Ministry for Emergency Situations. Its jurisdiction extends to the safety of activities in which radiation sources are involved and controlling the implementation of safety and security requirements by operators.

### *Radiation Protection*

*Amendment to the Law on Radiation Protection of the Public (2008)*

The amendment to the 1998 Law on Radiation Protection of the Public (see *Nuclear Law Bulletin* Nos. 60 and 61) aims at defining the responsibilities of authorities, the arrangements for transboundary movements of radiation sources, the prevention of radiation source trafficking and the general requirements for the management of radioactive waste. The law provides for notification and authorisation procedures. Other acts in this field are the Law on the Legal Status of the Contaminated Territories due to the Accident at the Chernobyl Nuclear Power Plant and the Law on the Sanitary and Epidemic Well-being of the Population.

State authorities in the field of radiation protection have, *inter alia*, the following obligations:

**The President** of the Republic of Belarus defines the overall state policy.

#### **The Government:**

- implements the overall state policy as defined by the President;
- defines, in accord with the President, the list of radiation sources whose transboundary transport should be limited and their authorisation;
- stipulates the roles and interactions of state authorities in situations where orphan radiation sources are found or after incidents during unauthorised activities;

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1. See *Nuclear Law Bulletin* No. 81 (2008/1), No. 82 (2008/2).

- defines the conditions and roles of state supervision authorities in the field of radiation protection;
- determines the rules for state registration and accounting of radiation sources;
- approves the Statute of the National Commission on Radiation Protection and its staff;
- takes decisions on the siting of radioactive waste facilities.

**The Ministry for Emergency Situations:**

- co-ordinates the activities of state authorities in the field of radiation protection;
- supervises the implementation of radiation protection provisions;
- authorises transboundary transport of radiation sources.

**The Ministry for Public Health:**

- carries out state sanitation supervision in the area of radiation protection;
- ensures the proper functioning of the state dose register.

**The Ministry of Natural Resources and Preservation of the Environment:**

- carries out state control in the field of environmental protection;
- organises radiation monitoring on the territory of Belarus.

A National Commission on Radiation Protection has been established at the government level. The Commission prepares recommendations on radiation protection for state authorities, and assesses scientific data in order to recommend further application of nuclear technologies.

Article 10-1 of the Law on Radiation Protection of the Public differentiates between state supervision (the responsibility of the Ministry for Emergency Situations) and state sanitation supervision (the responsibility of the Ministry for Public Health). *State supervision* includes regulation of radiation sources management, of the licensing requirements for radiation sources, of radioactive waste management, of the security of radiation sources and radioactive waste facilities and of protection measures for the safety of personnel and the public in the event of a radiological incident. *State sanitation supervision* includes controlling compliance with sanitation norms, rules and regulations for radon influence and natural gamma-radiation, food production and drinking water consumption, medical exposure, radiation sources and radioactive waste management.

With regard to the transport of radiation sources, it should be noted that it is only possible to store or dispose of radioactive waste which originates from activities within Belarus. According to the polluter pays principle, it is the operator which has to compensate damages which may occur as a result of radiation exposure during the transport of radiation sources.

The general requirements in the act with respect to radioactive waste management impose the following obligations on the operator:

- to generate radioactive waste at the minimal practically achievable level;
- to collect and separate radioactive waste according to regulations;
- to provide for the isolation of radioactive waste from the environment;
- to arrange for the environmental impact assessment of a particular facility;
- to take appropriate measures for the protection of the public.

The operator of a radioactive waste facility is required to prepare and agree upon a scheme for the management of radioactive waste in co-operation with the Ministry for Emergency Situations, the Ministry of Natural Resources and Preservation of the Environment, the responsible state sanitation supervision institution and local administrative authorities.

### ***Environmental protection***

#### *Environmental impact assessment laws (2009)*

There are two laws in the field of environmental impact assessment (EIA): the 1992 Act on the Preservation of the Environment and the 1993 Act on State Ecological Expertise. Belarus ratified the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) in 2001 and the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) in 2006. A regulation on EIA for certain economic activities with a list of these activities is being applied in Belarus as required by the Act of the Ministry of Natural Resources and Preservation of the Environment (the contact point) from 17 June 2005 (No. 30).

#### *The Statute on the Discussion of Questions of the Public in the Field of Atomic Energy (2009)*

This statute has its basis in the Law on the Use of Atomic Energy<sup>2</sup> and defines the main arrangements for stakeholders' activities and interactions as well as public hearings, including the "public" in foreign countries which may be affected by an eventual nuclear incident. It was approved by the Government on 4 May 2009 (No. 571).

Communication with the public is an obligation of local authorities, the Ministry of Energy and other state authorities in the field of atomic energy. The relevant bodies must explain the possible adverse consequences of economic activities, prepare and publish safety reports in the media including on the internet, until 1 March of every year. The operator, by contrast, must publish its application to engage in a particular economic activity, provide access to ecological information and send the environmental impact assessment report to concerned foreign authorities etc.

For nuclear energy projects, a public hearing must take place and notification thereof must be provided 30 days in advance. During this period, the operator or designer of the facility must attach an environmental impact assessment to its application. As a rule, public hearings are not to take longer than one month.

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2. See *Nuclear Law Bulletin* No. 82 (2008/2).

## **Belgium**

### ***Radiological protection***

#### *Decree regarding the minimum criteria for X-ray apparatus use in veterinary medicine (2009)*

Royal Decree of 20 July 2001 concerning the protection of the public, workers and the environment against the dangers of ionising radiation stipulates that, as from 1 January 2001, equipment exclusively destined for the use in veterinary medicine must comply with the international norm IEC 60601-1-3:2008. In accordance with the transitional measure stipulated in this royal decree, applications to exclusively use equipment in veterinary medicine will continue to be approved by the Federal Agency for Nuclear Control until 2011, and it will therefore define the acceptability criteria. In this transitional period no distinction is made between applications that are new and those already in use.

The decree of 29 July 2009<sup>3</sup> is an update of the Agency's Decree of 17 July 2008 regarding the minimum criteria for X-ray apparatus use in veterinary medicine.

#### *Decree of the Federal Agency for Nuclear Control on the determination of exemption levels (2009)*

This decree of 9 July 2009<sup>4</sup> is supplementary to Table A (Annex IA) of the general regulation on the protection of the public, workers and the environment against the dangers of ionising radiation (Royal Decree of 20 July 2001) and provides the exemption levels which determine whether or not a facility is exempted from an authorisation or notification.

For radionuclides not listed in the table, the Federal Agency for Nuclear Control determines appropriate levels of activity which are supplementary to those stipulated in the Royal Decree of 20 July 2001.

## **Estonia**

### ***General legislation***

#### *National Development Plan (2009)*

The Estonian Government approved the National Development Plan for Radiation Protection for 2007-2017 (NRPDP) in April 2008. The plan sets out both measures designed to guarantee radiation protection and the primary tasks of radiation protection in four main sections: radioactive waste management, medical exposure, emergency preparedness and natural radiation.

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3. Published in the Belgian Law Gazette of 29 July 2009, entered into force on 8 August 2009.

4. Published in the Belgian Law Gazette of 20 August 2009, entered into force on 20 August 2009.

## ***Organisation and structure***

### *New Radiation Safety Department (2009)*

On 1 February 2009, the Estonian Radiation Protection Centre (ERPC) was merged into a new organisation, the Environmental Board, as the Radiation Safety Department. The Environmental Board is a governmental agency which reports to the Ministry of Environment. It is the regulatory body for licensing of radiation practises and qualified experts. The Environmental Board has about 420 staff members, 15 of which work in the Radiation Safety Department. The tasks of the department include:

- licensing and inspecting (together with the Environmental Inspectorate) radiation practices;
- keeping the registers of radioactive sources, radioactive waste and radiation practice licences;
- radiation monitoring;
- emergency preparedness; and
- analytical measurements.

## ***Radiation protection***

### *Amendment to the Radiation Protection Act (2009)*

The Radiation Protection Act was amended in 2009 in order to take into account changes in the regulatory system. In 2006, the Radiation Protection Act had been amended in order to transpose the requirements of 2003/122/Euratom Directive of 22 December 2003 on the control of high-activity sealed radioactive sources and orphan sources. The amendments included three new definitions – spent sealed source, container of the radioactive source and high activity sealed source. There are now additional requirements for the licence holder of high activity sources:

- To keep records about radioactive sources, including giving each source a unique identification number and an overview of the source, container, transportation package and, in case of need, information about related equipment.
- To ensure that every sealed source which is no longer in use, will be handed over to another radiation practice licence holder or to the radioactive waste management organisation
- In the procurement process for sealed sources with an activity level higher than 10 MBq. at least for 15 years after importation, preference must be given to suppliers who agree to take the source back.

## Germany

### ***Radioactive waste management***

#### *Ordinance on the Shipment of Radioactive Waste or Spent Fuel (2009)*

Ordinance on the Shipment of Radioactive Waste or Spent Fuel of 30 April 2009<sup>5</sup> implements Council Directive 2006/117/EURATOM of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel.<sup>6</sup> It repeals the 1998 Ordinance on the Shipment of Radioactive Waste (*Nuclear Law Bulletin* No. 68 p. 59) and entered into force on 7 May 2009.

### ***Transport of radioactive material***

#### *Amendments to Acts and Ordinances on the Transport of Dangerous Goods (2009)*

On 7 July 2009, a consolidated version of the Act on the Transport of Dangerous Goods of 29 September 1998 as last amended by Article 1 of the Act of 6 July 2009<sup>7</sup> was published in *Bundesgesetzblatt* 2009 I p. 1774. The act regulates the transport of dangerous goods by all means of transport. The amended act will enter into force on 1 January 2010.

A new version of the Ordinance on the inland and transboundary transportation of dangerous goods by road, railroad and internal waterways was published on 17 June 2009.<sup>8</sup> The Ordinance implements Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods.<sup>9</sup> It replaces the 2006 version of the Ordinance [see *Nuclear Law Bulletin* No. 79 (2007/1), p. 53].

### ***Regulations on nuclear trade (including non-proliferation)***

#### *Amendments to the 1961 Foreign Trade Act and 1993 Foreign Trade Ordinance (2009)*

The Foreign Trade Act of 1961 (*Nuclear Law Bulletin* No. 79, p.64) and the 1993 Foreign Trade Ordinance were amended<sup>10</sup> and a new consolidated version of the act was published on 27 May 2009 in *Bundesgesetzblatt* 2009 I p. 1150.

The Foreign Trade Ordinance was further amended by Ordinance of 25 June 2009 (*Bundesanzeiger* 2009 p. 2237) and by Ordinance of 24 August 2009 (*Bundesanzeiger* 2009 p. 2944). The latter Ordinance, *inter alia*, implements Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of export, transfer, brokering and transit of dual use items (EU O.J. 2009 No. L 134 p.1).

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5. *Bundesgesetzblatt* 2009 I p. 1000.

6. EU O. J. 2006 No. L 337 p. 21; *Nuclear Law Bulletin* No. 79 (2007/1), p. 77.

7. *Bundesgesetzblatt* 2009 I p. 1704.

8. *Bundesgesetzblatt* 2009 I p. 1389.

9. EU O. J. 2008 No. L 260 p. 1389.

10. 13<sup>th</sup> Act of 18 April 2009 to Amend the Foreign Trade Act and the Foreign Trade Ordinance (*Bundesgesetzblatt* 2009 I p. 770).

A new version of the Export List – Annex AL to the Foreign Trade Ordinance – was published by the Ordinance to Amend the Foreign Trade Ordinance of 14 July 2009 (*Bundesanzeiger* 2009 p. 2585). At the time of its drafting, Section C of the Export List was identical in substance to the current version of Annex I of the EC Dual Use Ordinance. Meanwhile, the then applicable EC Ordinance was replaced by EC Ordinance No. 428/2009. Since EC Ordinances are directly applicable in the member states, Annex I of the EC Ordinance will apply in Germany as long as the Export List is not adjusted to the EC Ordinance.

A new version of the Import List, Annex AL to the Foreign Trade Act, as last amended by the Ordinance to Amend the Import List of 16 December 2008 (*Bundesanzeiger* 2008 p. 4805) was published by the Ordinance of 1 March 2009 (*Bundesanzeiger* 2009 p. 826).

## Italy

### *General legislation*

*Law No. 99 of 23 July 2009 including provisions on the resurgence of nuclear energy (2009)*

On 23 July 2009, the Italian Government issued Law No. 99 which entered into force on 15 August 2009 (published in the Official Journal No. 176 of 31 July 2009). With regard to nuclear energy, Articles 25, 26 and 29 of that law are of major relevance (reproduced on pages 147 *et. seq.* of this Bulletin).<sup>11</sup>

Article 25 provides that implementing decrees shall be issued within six months from the date of entry into force of this law (i.e. by February 2010). The legislative decrees shall provide, *inter alia*, detailed rules for the siting of nuclear power plants, nuclear fuel fabrication plants, temporary storage facilities for spent fuel and radioactive waste, and of a final repository for radioactive waste, as well as rules on related licensing processes and qualification criteria for investors.

Further, secondary legislation shall implement, *inter alia*, the compulsory application of strategic environmental assessment and environmental impact assessment, the principle of providing for a combined construction and operation licence, and the principle of strengthening international co-operation of regulators in design assessment and licensing.

In implementing the legislation, the government has to guarantee high standards of safety and security, public health and environmental protection. The government also has a duty to carry out a national information campaign on nuclear matters and to implement appropriate information procedures for the population involved in the construction of new nuclear power plants.

Article 26 provides that the Interdepartmental Committee for Economic Planning (CIPE) shall issue, within six months from the entry into force of the law, a resolution defining which kind of nuclear power plants may be constructed and operated in Italy. The CIPE shall also issue the criteria and the measures to be adopted in order to promote the creation of consortia for the construction and operation of nuclear power plants in Italy formed by electricity producers and industries.

Finally, Article 29 of the law establishes a Nuclear Safety Agency, the “*Agenzia per la sicurezza nucleare*”. It is a collegial board composed of a President, nominated by the Prime Minister,

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11. For more ample information see Iaccarino, F., “Resurgence of Nuclear Energy in Italy”, pp. 65 *et seq.* of this Bulletin.



and four members (two nominated by the Minister for the Environment and two by the Minister for Economic Development). They will serve for a term of seven years. They must have adequate capability, knowledge and experience in the nuclear field.

The Agency is in charge of ensuring, in general, the safety of all activities related to the peaceful uses of nuclear energy. It is specifically in charge of radiation protection, technical regulations as well as the control of the management of radioactive waste and nuclear materials and the construction, operation and safeguarding of nuclear power plants and nuclear materials. Each authorisation concerning nuclear energy matters will be subject to the agency's prior binding opinion. The agency has inspecting, assessing and specific enforcement powers including the power to levy monetary fines and to suspend and revoke licences.

## **Romania**

### ***General legislation***

#### *Decision on the prohibition of dangerous labour for children (2009)*

On 29 June 2009, the Romanian Government adopted Decision No. 867 on the prohibition of dangerous labour for children.<sup>12</sup> This act implements the provisions of Article 4(1) of the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. It stipulates that labour which exposes children to ionizing radiation risks is a type of work which is likely to harm the health, safety and morals of children as referred to in Article 3(d) of the convention.

### ***Organisation and structure***

#### *Amendment to the regulations on the organisation and operation of CNCAN (2009)*

By Decision No. 623 of 20 May 2009,<sup>13</sup> the Romanian Government approved amendments to the regulations on the organisation and operation of the National Commission for Nuclear Activities Control (CNCAN).<sup>14</sup> According to the amended regulation, CNCAN becomes a public institution of national interest, a legal entity subordinated to the Government, fully financed from its own funds and co-ordinated by the Prime Minister through a state counsellor. The President of CNCAN reports annually or at any time the Prime Minister so requests, on the state of control of nuclear activities in Romania.

### ***Regime of radioactive materials (including physical protection)***

#### *Decision on the repatriation of nuclear material to the Russian Federation (2009)*

Government Decision No. 750 of 24 June 2009<sup>15</sup> approves the repatriation of nuclear material which contains highly enriched non-irradiated and unused uranium of Russian origin back to the Russian

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12. The decision was published in the Official Journal of Romania, Part I No. 568 of 14 August 2009.

13. Published in No. 364 of Part I of the Official Gazette of Romania of 29 May 2009.

14. As approved by Government Decision No. 1627 of 2003.

15. Published in the Official Gazette of Romania Part, I No. 452 of 1 July 2009.



Federation. The material is currently held by the Autonomous Regie for Nuclear Activities (RAAN) – Pitesti Nuclear Research Branch (SCN). The repatriation can be realised based on an export contract concluded between the two parties.<sup>16</sup>

#### *Decision on the processing of uranium stocks (2009)*

On 2 September 2009, the Romanian Government adopted Decision No. 1009 on the processing of uranium concentrates stocks established in the period from 1993 to 2008.<sup>17</sup> According to this decision, stocks will be reprocessed at the National Uranium Company – Feldioara Branch, in order to recover the sintered uranium dioxide powder for the fabrication of nuclear fuel, necessary for Units 1 and 2 of Cernavoda Nuclear Power Plant.

#### ***Environmental protection***

##### *General requirements on environmental impact assessment (2009)*

Decision No. 445 of 8 April 2009 of the Romanian Government sets up the general requirements for environmental impact assessments of certain private and public projects that can have major effects on the environment. The environmental impact assessment is an integral part of the construction authorisation procedure.

The environmental impact assessment identifies, describes and assesses in an adequate manner the direct and indirect consequences of a project on the following factors: humans, fauna and flora, ground, water, air, climate and landscape, material goods and cultural patrimony, and interaction between these factors.

The environmental impact assessment is managed by the central public authorities or by the territorial public authorities for the protection of the environment. Interested persons have the right to take part in the procedure in due time, to inform themselves and to send proposals and/or recommendations to the relevant public authorities, when all options are possible and before making a decision on the development approval.

Where a project in Romania may have a significant impact on the environment of another state or when another state which might be significantly affected requires information on the project, the central public authority is to send to that state, as soon as possible but no later than when its own public is informed, at least the following information: a description of the project together with available information on its possible transboundary impact and on the type of decision which might be taken. Further, it must offer that state a certain period of time in which to decide if it wants to take part in the procedure.

Paragraph 2(b) of “The List of Projects Subject to the Assessment of the Impact upon the Environment”, the Appendix to the Decision, enumerates nuclear reactors and other nuclear plants, including their decommissioning or disabling, except for research installations for producing and transforming fissionable and fertile materials, with a maximum power which does not exceed a kilowatt of continuous thermal energy. Paragraph 3 enumerates installations for reprocessing

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16. Contract concluded between the Nuclear Research Institute from Pitesti – subsidiary of the Romanian Authority for Nuclear Activities – and the Joint Stock Company “State Scientific Centre Research Institute of Atomic Reactors” from the Russian Federation.

17. The decision was published in the Official Journal of Romania, Part I No. 641 of 29 September 2009.

irradiated nuclear fuel, for producing and enriching nuclear fuel, for treating irradiated nuclear fuel or high-level radioactive waste, for final storage of nuclear irradiated fuel, for final storage of radioactive waste and for installations exclusively intended for storing nuclear irradiated fuel or radioactive waste for a period exceeding ten years, located elsewhere than at its place of production.

## **Spain**

### ***Radioactive waste management***

#### *Regulation on the transboundary shipments of radioactive waste and spent fuel (2009)*

Royal Decree<sup>18</sup> on the supervision and control of shipments of radioactive waste and spent nuclear fuel among member states, or with origin or destination to a third state transposes Directive 2006/117/Euratom<sup>19</sup> and the Decision of the Commission 2008/312/Euratom which establishes the uniform document for the control of shipments of radioactive waste.

Under the new regime, based on Directive 2006/117/Euratom, supervision and control includes the shipment of spent fuel for its reprocessing while the previous directive (92/3/Euratom) only dealt with the shipment of radioactive waste. Apart from that, the new regime offers simplified procedures for the shipment of radioactive waste among member states and it ensures the consistency with other community and international laws particularly the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.

The Royal Decree reproduces the content of the mentioned directive and repeals former Royal Decree 2088/1994. The competent authority in Spain for supervision and control of these shipments is the General Direction for Energy Policy and Mines at the Ministry of Industry, Tourism and Trade.

### ***Radiological protection***

#### *Regulation on installation and use of X-ray devices for medical diagnostic purposes (2009)*

Royal Decree 1085/2009<sup>20</sup> approves this regulation which enables government authorities to monitor the proper functioning of such devices. They may regulate the use of equipment, the licensing regime, the qualification of workers in charge of these devices and the certification of technical characteristics by the technical units of radiological protection.

The competent authorities in Spain as regards the implementation of this regulation are: the autonomous communities which are competent to register enterprises in the regional register and to issue licences, after a favourable report by the Nuclear Safety Council; the Ministry of Industry, Tourism and Trade which manages the central register; and the Nuclear Safety Council which authorises radiological protection services and accredits adequate knowledge to monitor and operate these installations.

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18. No. 243/2009 of 27 February 2009 published in the Official Gazette of 2 April 2009.

19. On the supervision and control of shipments of radioactive waste and spent fuel.

20. Of 3 July 2009, published in the Official Gazette of 18 July 2009 repeals former Royal Decree 1891/1991 on the same matter.

## United Arab Emirates

### *General legislation*

#### *Federal law on the peaceful use of nuclear energy (2009)*

On 4 October 2009, UAE President issued Federal Law No. 6 of 2009 on the peaceful uses of nuclear energy. The law represents a key component of the legal infrastructure necessary for the successful implementation of a peaceful nuclear energy programme.

The law establishes a national nuclear regulatory authority, the “Federal Authority of Nuclear Regulation” to oversee the nuclear energy sector in the UAE and to promote the highest standards of nuclear safety, nuclear security and radiological protection.

It also provides for a system of licensing and control of nuclear material in accordance with criteria set by the International Atomic Energy Agency (IAEA). It prohibits the development, construction or operation of uranium enrichment or spent fuel reprocessing facilities in the UAE. Instead, the UAE will obtain nuclear fuel from international suppliers, in line with co-operation agreements with the USA, signed on 15 January 2009.

The law further establishes a system of civil and criminal penalties for violations, including unauthorised use, theft, transport or trade in nuclear materials.

The UAE’s Cabinet of Ministers has adopted a resolution appointing the members of the board of management to the new regulatory body. It will be headed by Dr. Ahmed Al Mazroui as Chairman and Dr. William Travers, former senior technical advisor at the IAEA and former Executive Director for Operations of the U.S. Nuclear Regulatory Commission, will be the first Director-General of the regulatory body.

Under the law, members of the Board of Management enjoy significant legal protections designed to prevent any conflicts of interests with their role as regulators, as well as to preserve their independence in making regulatory or licensing decisions.

## United States

### *Regime of nuclear installations*

#### *Final regulations criminalising unauthorised introduction of dangerous weapons (2009)*

On 14 October 2009, the U.S. Nuclear Regulatory Commission (NRC) issued final regulations criminalising the wilful unauthorised introduction of dangerous weapons, explosives or other dangerous instruments likely to produce substantial personal injury or property damage in certain NRC-regulated nuclear facilities. The regulations become effective on 12 April 2010.<sup>21</sup>

Section 654 of the Energy Policy Act of 2005 authorised the NRC to issue regulations that make it a Federal crime to wilfully introduce, without authorisation, weapons or explosives into facilities

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21. Unauthorized Introduction of Weapons, 74 Fed. Reg. 52,667 (14 October 2009).

regulated by the NRC.<sup>22</sup> Prior to this act, Federal criminal law only covered facilities owned or occupied by the NRC or the U.S. Department of Energy. Before the enactment of Section 654 and the final implementing regulations, when individuals brought unauthorised weapons into NRC-regulated facilities, the NRC could take enforcement action against its licensees for violating security requirements but could not refer the individuals for Federal criminal prosecution. Applicable state criminal laws, if any, were the only available source of criminal liability.

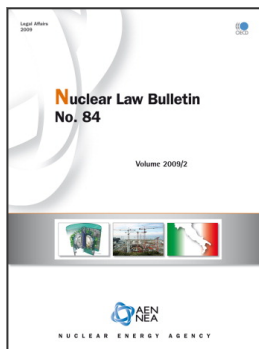
The act also allows NRC regulations to specify which types of NRC-regulated facilities would be covered. The new regulations apply to nuclear reactors, uranium enrichment, uranium conversion and nuclear fuel fabrication facilities, high-level radioactive waste storage and disposal facilities and independent spent fuel storage installations. At these facilities, the regulations will apply only in protected areas or other areas where security plans are required under other NRC rules. NRC licensees are also required to post conspicuous warning signs at the entrances to facility areas covered by the new regulations in order to notify plant personnel and visitors of the new rules. Other areas and facilities containing regulated nuclear materials, including hospitals, are not covered by the new regulations. State criminal laws, however, may still apply in those areas. In addition, states may continue to apply their own criminal laws to prosecute crimes covered under the new NRC regulations. Punishment for those individuals convicted of the new Federal crime includes criminal fines and imprisonment.

The new NRC regulations define “dangerous weapon” broadly to include any device that is used for, or readily capable of, causing death or serious bodily injury. The NRC explained that these regulations are intended “to criminalize the introduction of items” that “would pose a legitimate security threat if brought into a protected facility”. The NRC further noted that “licensee security plans should already be prohibiting” these items “as part of their existing security efforts”. The agency clarified that “unremarkable personal items such as pocket knives (with blades less than 2.5 inches long) attached to key chains, butter knives in lunch boxes etc. are not intended to be covered by this rule”.

Under pre-existing NRC regulations, NRC licensees are already required to promptly report to the NRC any completed or attempted unauthorised introductions of contraband. This would include dangerous weapons, explosives or other dangerous instruments or materials introduced into protected areas of their facilities. Licensees are also encouraged to report such incidents to law enforcement authorities.

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22. P.L. 109-58, 119 Stat. 812 (8 August 2005) (codified at 42 U.S.C. § 2278a).



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