

Decrees, orders, circulars**General texts****Ministry for Ecology, Sustainable Development and Spatial Planning**

Decree 2007-1557 of 2 November 2007 concerning basic nuclear installations and the supervision of the transport of radioactive materials with respect to nuclear safety

NOR: DEVQ0762539D

The Prime Minister,

Based on the report from the *Minister of State*, Minister for Ecology, Sustainable Development and Spatial Planning, and the Minister for the Economy, Finance and Employment,

Having regard to the Treaty establishing the European Atomic Energy Community, in particular its article 37;

Having regard to the Environmental Code;

Having regard to the Penal Code, in particular its articles 132-11, 132-15 and R. 610-1;

Having regard to the Public Health Code, in particular chapter III of title III of book III of the first part;

Having regard to the Labour Code, in particular its article L. 236-2;

Having regard to the Town Planning Code, in particular its article L. 126-1;

Having regard to Act 2000-321 of 12 April 2000 concerning the rights of the citizens in their dealings with government departments, in particular its article 21;

Having regard to Act 2004-811 of 13 August 2004 modernising civil security;

Having regard to Act 2006-686 of 13 June 2006 concerning transparency and security in the nuclear field;

Having regard to Planning Act 2006-739 of 28 June 2006 concerning the sustainable management of radioactive materials and waste;

Having regard to decree 63-1228 of 11 December 1963 as amended, concerning nuclear installations;

Having regard to decree 84-810 of 30 August 1984 as amended, concerning the safeguarding of human life, habitability on-board ships and the prevention of pollution;

Having regard to decree 95-540 of 4 May 1995 as amended, concerning the discharge of liquid and gaseous effluent and water intake by basic nuclear installations;

Having regard to decree 95-1029 of 13 September 1995 as amended, concerning the Interministerial Commission for the Transport of Hazardous Materials;

Having regard to decree 99-1046 of 13 December 1999 concerning pressure vessels;

Having regard to decree 2001-492 of 6 June 2001 implementing chapter II of title II of Act 2000-321 of 12 April 2000 and concerning acknowledgement of receipt of applications submitted to the administrative authorities;

Having regard to decree 2001-592 of 5 July 2001 concerning the safety and radiation protection of defence-related nuclear installations and activities;

Having regard to decree 2004-490 of 3 June 2004 concerning administrative and financial procedures relative to preventive archaeology;

Having regard to decree 2005-1158 of 13 September 2005 concerning off-site emergency plans for certain fixed structures or installations and implementing article 15 of Act 2004-811 of 13 August 2004 concerning the modernisation of civil security;

Having regard to decree 2006-672 of 8 June 2006 concerning the creation, membership and working of the consultative administrative committees;

Having regard to decree 2007-830 of 11 May 2007 concerning the list of basic nuclear installations;

Having regard to the opinion of the Interministerial Water Delegation dated 18 September 2006;

Having regard to the opinion of the Nuclear Safety Authority, dated 24 January 2007;

Having heard the Council of State (Public Works Section),

Decrees:

PART I

THE CONSULTATIVE COMMITTEE
FOR BASIC NUCLEAR INSTALLATIONS

Article 1

A consultative committee for basic nuclear installations is created and reports to the ministers responsible for nuclear safety. It comprises:

1° A member of the Council of State, holding the rank of a State Counsel at least, Chairman;

2° The High Commissioner for Atomic Energy, Vice-Chairman;

3° A representative of the ministers responsible for nuclear safety;

4° A representative of the Minister of Defence;

5° A representative of the Minister for the Economy ;

6° A representative of the Minister for Energy;

7° A representative of the Minister for the Environment;

8° A representative of the Minister for Research;

9° A representative of the Minister for Health;

10° A representative of the Minister for Civil Security;

11° A representative of the Minister for Labour;

12° The Delegate for nuclear safety and radiation protection for national defence installations and activities, or his representative;

13° A representative of the National Agency for Radioactive Waste Management;

14° A representative of the Atomic Energy Commission;

15° A representative of the National Centre for Scientific Research;

16° A representative of the Institute for Radiation Protection and Nuclear Safety;

17° A representative of the nuclear fuel production and reprocessing companies;

18° A representative of the nuclear electricity generating companies;

19° Three qualified personalities from the nuclear field, including one designated at the suggestion of the Minister for Health.

Deputy members are designated for each standing member, with the exception of the Chairman, Vice-Chairman and qualified personalities.

The Chairman and standing members plus deputies are appointed by order of the ministers responsible for nuclear safety, for a period of five years.

The Chairman of the Nuclear Safety Authority, or his representative, may attend the meetings of the committee and present his comments.

The committee may obtain assistance from persons competent to examine a specific question and may conduct any consultations that it deems necessary.

Article 2

The ministers responsible for nuclear safety submit to the consultative committee for basic nuclear installations, for its opinion, all draft decrees concerning authorisation applications for the creation, modification, shutdown and decommissioning, or shutdown and transition to the surveillance phase of basic nuclear installations.

They also submit to it, for its opinion, the draft decrees implementing title IV of the above-mentioned Act of 13 June 2006, ministerial draft orders, except for approval orders, or regulatory decisions by the Nuclear Safety Authority mentioned in article 3 of this decree.

The committee may also be called on by each of the ministers responsible for nuclear safety and radiation protection, to deal with all questions concerning basic nuclear installations.

The committee has a period of two months from the date of referral in which to issue its opinion. This period may be shortened to fifteen days by the referring authority, in the event of a duly justified emergency.

The opinions of the consultative committee for basic nuclear installations are enclosed with the draft decisions submitted to the Nuclear Safety Authority for its opinion.

The committee is subject to the provisions of the above-mentioned decree of 8 June 2006.

The committee drafts its own internal regulations.

PART II

GENERAL PROVISIONS CONCERNING BASIC NUCLEAR INSTALLATIONS

Article 3

I. – The general rules specified by article 30 of the Act of 13 June 2006 are set by order of the ministers responsible for nuclear safety.

II. – The regulatory decisions from the Nuclear Safety Authority, the purpose of which is to supplement the provisions regarding implementation of the decrees and orders concerning nuclear safety, are transmitted for approval to the ministers responsible for nuclear safety, who issue an order after receiving the opinion of the consultative committee for basic nuclear installations. Any refusal to grant approval must be justified.

III. – Any individual decisions issued by the Nuclear Safety Authority and subject to approval, are transmitted to the ministers responsible for nuclear safety who, within two months of being called on, make known their position through an order published in the Official Journal of the French Republic and notified to the Nuclear Safety Authority. Any refusal to grant approval must be justified. The two-month period can be increased to four months by a decision of all or one of the ministers, with the Nuclear Safety Authority being notified of said decision. If the order is not published within the specified time, approval is deemed to have been granted.

The decisions specified in IV of article 41 of the Act of 13 June 2006 are subject to approval as defined in the previous section, with the exception of the stipulated times, which are reduced to fifteen days and one month respectively.

IV. – The Nuclear Safety Authority's decisions which have been approved, are published in the Official Journal of the French Republic.

Article 4

The time allotted to examination of applications for authorisation to create, shut down and decommission, or shut down and make the transition to the surveillance phase as mentioned in I, V and VI of article 29 of the Act of 13 June 2006 and of the modification licence applications mentioned in chapter VIII of title III of this decree, is set at three years.

The time allotted to examination of commissioning license applications mentioned in I of article 29 of the Act of 13 June 2006 and the modification notifications specified in article 26 of this decree, is set at one year.

Article 5

The Nuclear Safety Authority keeps an up-to-date list of basic nuclear installations, including installations which have been delicensed pursuant to VIII of article 29 of the Act of 13 June 2006.

At their request, the Nuclear Safety Authority sends the ministers responsible for nuclear safety, health or civil security, any information concerning basic nuclear installations required for the performance of their duties.

PART III

CREATION AND OPERATION OF A BASIC NUCLEAR INSTALLATION

Chapter I

Request for opinions concerning the safety options for a future basic nuclear installation

Article 6

Any person intending to operate a basic nuclear installation may, prior to initiating the authorisation decree procedure related to the creation stage as specified in article 29 of the Act of 13 June 2006, ask the Nuclear Safety Authority for its opinion concerning all or some of the options it has chosen to ensure the safety of this installation.

In its opinion, issued and published in conditions to be determined by itself, the Nuclear Safety Authority specifies the extent to which the safety options presented by the applicant are such as to prevent or limit the risks to the interests mentioned in I of article 28 of the Act of 13 June 2006, in the light of the current technical and economic conditions. It may stipulate any additional studies and justifications as necessary for a possible authorisation decree application. It may set a validity period for its opinion.

The applicant is notified of this opinion, which is forwarded to the ministers responsible for nuclear safety.

Chapter II

Authorisation decree for creation of a basic nuclear installation

Article 7

The application for the decree authorising the creation of a basic nuclear installation is filed with the ministers responsible for nuclear safety by the person in charge of operating the installation. This person then takes on the status of operator as of submission of the application.

When several basic nuclear installations are to be operated by the same person on the same site, they can be covered by a joint application and authorisation procedure.

The operator sends the Nuclear Safety Authority a copy of its application together with the file and the notice specified in article 8 below.

Article 8

I. – The application is accompanied by a file comprising:

1° The name, forenames and status of the operator and his domicile or, if the applicant is a corporate person, then its corporate name or description, head offices and status of the signatory of the application;

2° A document describing the nature of the installation, its technical characteristics, the operating principles, the operations to be performed in it and the various phases involved in its construction;

3° A 1/25,000 scale map locating the planned installation;

4° A 1/10,000 scale site plan indicating the proposed perimeter of the installation and, within a one-kilometre strip around this perimeter, the buildings with their current uses, the railways, public highways, water supply points, canals and watercourses and gas and electricity transmission networks;

5° A detailed drawing of the installation at a minimum scale of 1/2500;

6° The impact assessment specified in article L. 122-1 of the Environmental Code, the content of which, notwithstanding the requirements of article R. 122-3, is defined in article 9;

7° The preliminary safety case, the content of which is specified in article 10;

8° The risk control study, the content of which is clarified by article 11;

9° If the operator requests public protection restrictions pursuant to article 31 of the Act of 13 June 2006, the description of these restrictions;

10° The decommissioning plan, which presents the methodological principles and the steps envisaged for decommissioning of the installation and rehabilitation and subsequent supervision of the site. The plan in particular justifies the dismantling time envisaged

between the final shutdown of the installation and its decommissioning. It can refer to a document drawn up by the operator for all its nuclear installations and enclosed with the file;

11° For a radioactive waste disposal installation, the decommissioning plan is replaced by a document presenting the envisaged procedures for final shutdown and subsequent supervision of it. This document comprises an initial analysis of the safety of the installation after final shutdown and transition to the surveillance phase;

12° If the plan for creation of the basic nuclear installation is the subject of a public debate pursuant to article L. 121-8 of the Environmental Code or a consultation pursuant to I of article L. 121-9 of the same code, the report and results of this public debate or the minutes of this consultation.

The studies, reports and other documents mentioned in this article concern all the installations or equipment operated or planned by the operator which, owing to their proximity to or link with the installation subject to licensing, are such as to modify its dangers or drawbacks.

The operator may, in a separate file, provide information which, if disclosed, would be such as to compromise the interests mentioned in I of article L. 124-4 of the Environmental Code.

II. – The operator also submits a notice comprising:

a) A presentation of its technical capabilities, in particular indicating the technical resources at its disposal, the organisation put into place in this area and its experience in the operation of nuclear installations;

b) A presentation of its financial capabilities, together with the annual accounts for the past three fiscal years and, as applicable, the names of the companies which have direct or indirect power over it. This presentation shows how it aims to comply with the requirements defined in article 20 of the above-mentioned Act of 28 June 2006;

c) If it is not the owner of the land used for construction of the installation, a document issued by the owner stating that it has approved this use of its land and that it has been informed of its possible obligations pursuant to article 44 of the Act of 13 June 2006;

d) A document presenting the provisions for compliance with the legislative and regulatory requirements concerning personnel health and safety, particularly the steps taken for application of the radiation protection principles and rules defined by the Public Health Code, the Labour Code and their implementing provisions.

Article 9

The content of the impact assessment specified in 6° of I of article 8 must be commensurate with the size of the planned installation and its foreseeable impact on the environment, with respect to the interests mentioned in I of article 28 of the Act of 13 June 2006.

The impact assessment comprises:

1° An analysis of the state of the site and its environment before the siting of the installation which is the subject of the application. This analysis in particular concerns the natural resources and natural agricultural, forestry, maritime or leisure spaces, as well as the property and the cultural heritage liable to be affected by the project; it includes a radiological inventory of the environment, concerning the site and its vicinity;

2° An analysis of the direct and indirect, temporary and permanent effects of the installation on the environment, in particular on public health, salubrity and safety, on the climate, on the quality of life in the neighbourhood, as a result of noise, vibration, odours or light emissions, on the sites, landscapes and natural environment, on the fauna, flora and biological balance, on agricultural production and on the protection of property and the cultural heritage. As necessary, this analysis will differentiate between the various phases of construction and operation of the installation. It takes account of seasonal and climatic variations.

This analysis presents the water intake and liquid effluent discharges envisaged; it specifies the various types of effluent to be processed and their respective origins, their quantity, their physical characteristics, their composition, both radioactive and chemical, the treatment processes used, the conditions in which discharges are to be made into the host environment and the composition of the effluent to be discharged. It states the effect of the installation on the water resource, the aquatic environment, the flow, level and quality of water, including run-off, as well as on each of the elements mentioned in article L. 211-1 of the Environmental Code.

It also presents the envisaged atmospheric discharge of the effluent, including fall-out and settling of aerosols and dust. It states the impact of the installation on the quality of the air and of the soil.

It assesses public exposure to ionising radiation as a result of the installation, in particular taking account of the irradiation caused directly by the installation and the transfer of radionuclides by various means, including through the food chains.

Finally, it presents the waste that is to be produced by the installation, whether or not radioactive. It mentions its volume, nature, harmfulness and envisaged means of disposal.

The impacts of the installation on the environment are assessed in particular with respect to the atmosphere protection plans defined in article L. 222-5 of the Environmental Code as well as the quality standards and objectives and the limit values defined pursuant to articles L. 211-2, L. 211-4 and L. 221-2 of the same code.

The analysis justifies the compatibility of the installation:

- a) With the water planning and management and water management master plans as laid down in articles L. 212-1 and L. 212-3 of the Environmental Code;
- b) For the radioactive waste to be produced by the installation or stored or disposed of in it, with the national radioactive materials and waste management plan, stipulated in article L. 542-1-2 of the same code;
- c) For the other waste, with the requirements of the plans mentioned in sub-section 1 of section 3 of chapter I of title IV of book V of the same code;

3° The reasons for which, in particular from the viewpoint of the environmental concerns, the project was selected over the other options envisaged;

4° The measures envisaged by the operator to prevent, limit and if possible compensate for the inconveniences created by the installation, along with an estimate of the corresponding expenses. A description of these measures specifies :

- a) The envisaged planning and operational measures and their detailed characteristics;

b) The expected performance, in particular with regard to the protection of underground water, the treatment, evacuation and supervision of residual water and gaseous emanations;

c) The conditions for transport to the installation of the materials to be processed in it, transport of manufactured products and the rational use of energy;

d) The solutions adopted to minimise the impact of water intake, reduce the volume and radiological, chemical and biological toxicity of the waste produced and optimise management of this waste, with emphasis on reuse and reprocessing;

5° An analysis of the methods used for assessing the effects of the installation on the environment, mentioning any technical or scientific difficulties encountered in drawing up this assessment;

6° A non-technical summary of the study, such as to ensure easier understanding by the public of the information contained therein.

Subject to the requirements defined above, the requirements concerning the impact assessments mentioned in section 1 of chapter II of title II of book 1 of the Environmental Code apply to basic nuclear installations, although their application in no way obviates the need for an impact assessment of the operations subject to such an obligation by this decree.

Article 10

The preliminary safety case specified in 7° of I of article 8 takes the place of the hazard assessment required in article L. 551-1 of the Environmental Code until commissioning of the installation. It comprises an inventory of the risks of whatever origin arising from the planned installation, as well as an analysis of the steps taken to prevent these risks and the description of the measures designed to minimise the probability of accidents and their effects. Its content must be commensurate with the scale of the hazards from the installation and, in the event of an incident, their foreseeable effects on the interests mentioned in I of article 28 of the Act of 13 June 2006.

It in particular presents the possible hazards from the installation in the event of an accident, whether or not radiological. It thus describes:

1° The accidents that could occur, whether the cause is on-site or off-site, including a malicious act;

2° The nature and scope of the potential effects of a possible accident;

3° The steps envisaged to prevent these accidents or minimise the probability or effects thereof.

With regard to accidents of off-site origin, the operator takes account of the impact of installations which, whether or not under its responsibility and owing to their proximity to the planned installation, are liable to aggravate the risk and effects of any accident.

The preliminary safety case confirms that in view of the current state of knowledge, current practices and the vulnerability of the installation environment, the project is able to achieve a risk level that is as low as possible in economically acceptable conditions.

It includes a section called the "on-site emergency plan sizing study". This study concerns the accidents mentioned in the previous paragraphs, which require protective measures on or off the site, or which are likely to affect the interests mentioned in I of article 28 of the Act of 13 June 2006. It describes the various accident scenarios and their consequences for the safety of the installations and the protection of persons. It presents the operator's intended organisation of its own emergency resources aimed at combating the effects of a possible incident or accident.

The preliminary safety case describes and justifies the measures relative to the management of radioactive sources necessary for operation of the basic nuclear installation, including with regard to transport of these sources, in order to ensure protection of the workers, the public and the environment against the risks of irradiation and contamination.

If the installation corresponds to a model for which the safety options have already been covered in an opinion from the Nuclear Safety Authority in the conditions defined in article 6, the report identifies the questions already examined within this framework, the additional studies carried out and the additional justifications provided, in particular those requested by the Nuclear Safety Authority in its opinion. As applicable, it presents the modifications or additions made to the options which were the subject of the Authority's opinion.

Article 11

The risk control study mentioned in 8° of I of article 8 gives an inventory of the risks presented by the planned installation, an analysis of the steps taken to prevent these risks and measures designed to limit the probability of accidents and their effects, as they appear in the preliminary safety case, in a form appropriate to the local consultations and public inquiry mentioned in article 13. Its content must be commensurate with the scale of the hazards from the installation and, in the case of an incident, their foreseeable effects on the interests mentioned in I of article 28 of the Act of 13 June 2006.

The risk control study therefore includes:

- a) An inventory of the risks presented by the installation, whether their origin is on-site or off-site;
- b) An analysis of operating feedback from comparable installations;
- c) A presentation of the methods adopted for analysis of the risks;
- d) An analysis of the consequences of any accidents for man and the environment;
- e) A presentation of the steps envisaged for risk control, including prevention of accidents and mitigation of their effects;
- f) A summary presentation of the supervision systems and the emergency arrangements and resources;
- g) a non-technical summary of the study, such as to ensure easier understanding by the public of the information contained therein.

The risk management study confirms that in view of the current state of knowledge, current practices and the vulnerability of the installation environment, the project is able to achieve a risk level that is as low as possible in economically acceptable conditions.

Article 12

The ministers responsible for nuclear safety transmit the authorisation application and the corresponding file to the *Prefect* in the *department* in which the local consultations and public inquiries are to be held. When the local procedures concern several *departments*, the ministers responsible for nuclear safety may task one of the *Prefects* concerned with coordinating these procedures.

For application of the measures concerning preventive archaeology, defined by the above-mentioned decree of 3 June 2004, the ministers responsible for nuclear safety send a copy of the application and the corresponding file to each regional *Prefect* concerned.

At their own initiative, or on proposals from the operator or the Nuclear Safety Authority, the ministers responsible for nuclear safety exclude from the file to be transmitted those elements that they consider, if disclosed, would be such as to compromise the interests mentioned in I of article L. 124-4 of the Environmental Code. They inform the operator and the Nuclear Safety Authority accordingly.

Article 13

I. – The *Prefect* submits the authorisation application and the corresponding file to a public inquiry in the conditions laid down in articles R. 123-1 to R. 123-23 of the Environmental Code, subject to the particular requirements of this article.

The inquiry is opened in at least each of the *communes* any part of which is less than five kilometres from the perimeter proposed by the operator.

The public inquiry file mentioned in 1° of II of article R. 123-6 of the Environmental Code comprises the file transmitted pursuant to article 12 above, with the exception of the preliminary safety case and, if these opinions had been issued before the public inquiry was opened, the opinion of the Nuclear Safety Authority issued pursuant to article 6 and, as applicable, the opinion issued by the Minister for the Environment, pursuant to article L. 122-1 of the Environmental Code.

The preliminary safety case can be consulted by the public throughout the duration of the public inquiry, in accordance with procedures set by the order organising the inquiry.

II. – When a part of the territory of a foreign State is less than five kilometres from the perimeter of the installation or, even if this distance condition is not met, when – at his own initiative or at the request of the authorities of a foreign State – he considers that the installation could have significant consequences on the environment of this State, the *Prefect* carries out the consultations specified in III of article R. 122-11 of the Environmental Code.

III. – In each *department* and *commune* in which the public inquiry is to be held, the *Prefect* consults the General Council of the *department* and the municipal councils on the date of opening of the public inquiry at the latest. Only the opinions communicated to the *Prefect* within fifteen days following closure of the inquiry will be taken into consideration.

In the same way, the *Prefect* consults the competent local water commission if one of the *communes* mentioned in I is situated in full or in part within the perimeter of a water planning and management plan, as well as any local information committee set up in accordance with article 22 of the Act of 13 June 2006.

The *Prefect* consults the State's maritime representative if the territory mentioned in I above is, at least in part, located in the maritime domain.

IV. – No later than fifteen days after receiving the report and conclusions from the inquiry commissioner, the *Prefect* forwards them to the ministers responsible for nuclear safety, along with his opinion and the results of the consultations held in accordance with this article.

Article 14

The ministers responsible for nuclear safety send the operator a preliminary draft decree. The operator has a period of two months in which to submit its observations.

The ministers responsible for nuclear safety finalise the draft decree and submit it to the consultative committee for basic nuclear installations for their opinion, along with the file submitted to the public inquiry.

The operator may request a hearing before the committee or designate a representative for this purpose. At least fifteen days in advance, it is informed by the committee's secretary of the date and place of the committee's meeting. A representative of the local information committee concerned may be heard in accordance with the same procedures.

Article 15

In the conditions laid down in article 5 of the Act of 13 June 2006, the ministers responsible for nuclear safety send the Nuclear Safety Authority the draft decree, modified if necessary to take account of the opinion of the consultative committee for basic nuclear installations and accompanied by the opinions issued pursuant to article 13 of this decree.

Article 16

I. – The authorisation decree is issued further to the report from the ministers responsible for nuclear safety.

The authorisation decree for an installation liable to discharge radioactive effluent into the ambient environment can only be issued after receipt of the opinion of the Commission of the European Communities, issued pursuant to article 37 of the Treaty establishing the European Atomic Energy Community or, in the absence of such an opinion, after expiry of a period of six months following the date of referral to the Commission.

II. – The authorisation decree for a basic nuclear installation:

1° Mentions the identity of the operator, the nature of the installation and its maximum capacity;

2° Defines the perimeter of the installation, which in particular includes:

a) The installations, structures and equipments placed under the responsibility of the operator and necessary for the operation of the basic nuclear installation;

b) The installations or structures placed under the responsibility of the operator, which are covered by the regime applicable to basic nuclear installations or to classified facilities for the protection of the environment or by that created by section 1 of chapter IV of part I of book II

of the Environmental Code and which, owing to their proximity to the installation that is the subject matter of the license, are liable to modify its risks to or drawbacks on the interests mentioned in I of article 28 of the above-mentioned Act of 13 June 2006.

The perimeter may however exclude some of these installations, structures or equipments if already situated within the perimeter of another basic nuclear installation or, with regard to the equipment and installations mentioned in a above, they are not used solely for the operation of the basic nuclear installation that is the subject of the licence;

3° Sets the duration of the licence, if granted for a limited period;

4° Sets the installation commissioning timeframe mentioned in X of article 29 of the Act of 13 June 2006;

5° Stipulates the essential elements required for protection of the interests mentioned in I of article 28 of the Act of 13 June 2006; it may require the approval of the ministers responsible for nuclear safety or of the Nuclear Safety Authority for performance of certain particular operations in the light of their impact on these interests;

6° Sets the frequency of the periodic safety reviews mentioned in III of article 29 of the Act of 13 June 2006 if the particular characteristics of the installation warrant a frequency other than every ten years, and may require that the first safety review be held within a particular time to take account of the tests and checks carried out when operation of the installation begins.

Article 17

The decree authorising the creation of the installation and the opinion of the Nuclear Safety Authority are published in the Official Journal of the French Republic.

The ministers responsible for nuclear safety notify the decree to the operator. They send it to the *Prefect* for communication to the local authorities mentioned in I of article 13 and to the local information committee.

At the expense of the operator, the *Prefect* has a notice published in a local or regional newspaper distributed throughout the *departments* concerned.

If the procedure for consultation of foreign authorities mentioned in II of article 13 has been implemented, the *Prefect* communicates the decision required by article R. 122-11 of the Environmental Code.

Chapter III

Nuclear Safety Authority requirements

applicable to a basic nuclear installation

Article 18

I. – When, pursuant to the authorisation decree, the Nuclear Safety Authority intends to issue technical requirements concerning the design, construction or operation of the Basic Nuclear

Installation, it forwards the draft to the operator, which has two months in which to submit its observations.

II. – When the envisaged requirements concern water intake, effluent discharge into the ambient environment and the prevention or limitation of detrimental effects by the installation on the public and the environment, the Nuclear Safety Authority forwards the draft requirements, together with a presentation report, to the *Prefect* mentioned in I of article 13 and to the local information committee.

The *Prefect* submits the draft requirements and presentation report to the departmental council for the environment and health and technological risks, mentioned in article R. 1416-16 of the Public Health Code. The operator may request a hearing before the council, or appoint a representative for this purpose. It is informed by the *Prefect*, at least fifteen days in advance, of the date and place of the council meeting. A representative of the local information committee may request a hearing in the same conditions. The chairman of the Nuclear Safety Authority, or his representative, may attend the meeting of the departmental council and present his observations. The departmental council has a period of three months in which to issue its opinion, which is then sent by the *Prefect* to the Nuclear Safety Authority.

Within the same period, the local information committee may send its observations to the Nuclear Safety Authority.

III. – The procedure stipulated in I and II can be carried out at the same time as the authorisation decree application review procedure.

The Nuclear Safety Authority's decision specifying the requirements is only issued after the authorisation decree has entered into force.

IV. – The requirements specified by the Nuclear Safety Authority may in particular concern:

1° The steps to be taken to prevent accidents or incidents or limit their effects. In this respect, individual or collective preventive measures to protect the population against the effects of accidents may be defined and must be implemented by the operator;

2° The conditions in which the installation may carry out water intake or direct or indirect discharge of effluent, whether or not radioactive into the ambient environment; as applicable and subject to the reservations stipulated in article L. 227-1 of the Environmental Code, the requirements take account of the regional air quality plans as well as the quality standards and objectives and limit values mentioned in articles L. 222-1, L. 211-2, L. 211-4 and L. 221-2 of the Environmental Code respectively; they must be compatible with the water planning and management master plans and the water planning and management plans mentioned in articles L. 212-1 and L. 212-3 of the same code;

3° Limitation of noise from the installation;

4° The management and disposal of waste, whether or not radioactive, produced by the installation or stored or disposed of in it; the requirements concerning radioactive waste must be compatible with the requirements of the national plan for the management of radioactive materials and wastes mentioned in article L. 542-1-2 of the Environmental Code; the requirements concerning other wastes must, as applicable, be compatible with the waste disposal plans mentioned in sub-section 1 of section 3 of chapter I of title IV of book V of the Environmental Code;

5° The management of the radioactive sources required for operation of the installation, including with regard to transport of these sources;

6° The resources necessary for the analyses and measurements of use in monitoring the installation and supervising its effects on the environment, as well as the conditions in which the results of these analyses and measurements are made known to the Nuclear Safety Authority and, as applicable, the department in charge of water supervision and the regional directorate for industry, research and the environment;

7° The information and reports the operator must supply to the Nuclear Safety Authority periodically or in the event of a particular situation;

8° The practical aspects of public information about the safety of the installation and its impact on human health and the environment, as well as about the steps to be taken in the event of an accident.

The requirements may require Nuclear Safety Authority approval for the performance of certain particular operations in the light of their impact on the interests mentioned in I of article 28 of the Act of 13 June 2006.

The requirements may be common to several installations or equipments on a same site, placed under the responsibility of the same operator and covered by the basic nuclear installation regulations.

V. – When the requirements set limits applicable to effluent discharges from the installation into the ambient environment, the Nuclear Safety Authority sends its decision, together with the presentation report and opinions collected as stipulated in II, to the ministers responsible for nuclear safety, for approval in the conditions defined in article 3.

VI. – The Nuclear Safety Authority publishes the decision defining the other requirements in its *Official Bulletin*. It informs the operator accordingly and communicates it to the ministers responsible for nuclear safety and to the *Prefect*, as well as to the local information committee.

The *Prefect* forwards the requirements defined in II above to the local authorities mentioned in I of article 13 and, at the expense of the operator, has a notice published in a local or regional newspaper distributed throughout the *department* or *departments* concerned.

If the authorisation decree for the installation was subject to the foreign authorities consultation procedure, the *Prefect*, at the request of the Nuclear Safety Authority, informs these authorities of those requirements concerning the installation's impact on the territory of the State of these authorities.

VII. – The Nuclear Safety Authority may decide to exclude from the publications and communications stipulated in VI any requirements that, if disclosed, it considers would be such as to compromise the interests mentioned in I of article L. 124-4 of the Environmental Code.

Article 19

The temporary measures mentioned in the last paragraph of I of article 29 of the Act of 13 June 2006 are taken by decision of the Nuclear Safety Authority after consultation of the operator, which has a period of two months in which to present its observations. This time may be shortened, in the event of an emergency, by a duly justified decision.

The provisions of VI and of VII of article 18 above apply to these measures.

Chapter IV

Commissioning of a basic nuclear installation

Article 20

I. – The commissioning of a basic nuclear installation, subject to licensing pursuant to I of article 29 of the Act of 13 June 2006, corresponds to the first utilisation of radioactive materials in the installation or the first operation of a particle beam.

II. – Prior to commissioning of the installation, the operator sends the Nuclear Safety Authority a file comprising:

1° The safety case comprising the updated preliminary safety case and the data provided for assessment of installation conformity with the requirements of the authorisation decree and the construction requirements defined pursuant to article 18;

2° The general operating rules the operator intends to implement, as of commissioning of the installation, for protection of the interests mentioned in I of article 28 of the Act of 13 June 2006;

3° A study of installation waste management, specifying the operator's objectives for limiting the volume and radiological, chemical and biological toxicity of the waste produced in its installations and, by reuse and reprocessing of the waste thus produced, for reducing the size of the repository reserved for ultimate waste. This study takes account of all installation waste management channels up until disposal. It can cover the waste produced by all the installations and equipment located within the perimeter;

4° The on-site emergency plan mentioned in article L. 1333-6 of the Public Health Code, which is mandatory for basic nuclear installations, together with the opinion of the health, safety and working conditions committee, obtained in accordance with article L. 236-2 of the Labour Code;

5° Except for a radioactive waste repository, an update as necessary of the decommissioning plan mentioned in 10° of I of article 8.

III. – The on-site emergency plan mentioned in 4° of II above, on the basis of the sizing study included in the safety case, defines the organisational measures, the response methods and the necessary resources implemented by the operator in the event of an emergency situation, to protect the personnel, the public and the environment from ionising radiation, and preserve or restore the safety of the installation. If an off-site emergency plan was drawn up pursuant to the above-mentioned decree of 13 September 2005, the on-site emergency plan specifies the details of how the operator is to carry out the measures incumbent upon it under the off-site emergency plan.

The on-site emergency plan takes into account the steps to be taken by the operator in the event of an accident, as defined in the safety case.

At the initiative of the operator or at the request of the Nuclear Safety Authority, the on-site emergency plan may be common to several neighbouring Basic Nuclear Installations with the same operator. As applicable, it takes the place of the on-site operations plan required by

article R. 512-29 of the Environmental Code for installations classified on environmental protection grounds located within the perimeter of the Basic Nuclear Installation.

IV. – After checking that the installation complies with the objectives and rules defined by chapter I of title IV of the Act of 13 June 2006 and its implementing provisions, the Nuclear Safety Authority authorises commissioning of the installation. It may make this authorisation dependent on the operator taking account of its previous observations to the operator concerning the application file, and aimed at protecting the interests mentioned in I of article 28 of the Act of 13 June 2006.

The Nuclear Safety Authority may postpone its decision to authorise commissioning until introduction of the public protection restrictions mentioned in article 31 of the Act of 13 June 2006. It informs the operator accordingly before expiry of the time period specified in article 4 of this decree.

The authorisation decision is mentioned in the *Official Bulletin* of the Nuclear Safety Authority. The Authority notifies the operator of its decision and communicates it to the ministers responsible for nuclear safety and to the *Prefect*. It also forwards it to the local information committee, subject to the requirements of VII of article 18.

V. – The decision authorising commissioning sets a deadline by which the operator is required to present the Nuclear Safety Authority with an end of installation start-up file comprising:

1° A summary report on the installation start-up tests;

2° A summary of acquired operating experience, with a view to protecting the interests mentioned in I of article 28 of the above-mentioned Act of 13 June 2006;

3° Updates of the documents mentioned in II of this article.

It can also define intermediate steps in the start-up process and make performance of these steps dependent on the supply of information by the operator to the Nuclear Safety Authority or on approval from this authority.

VI. – Before carrying out or completing the procedure defined in II, IV and V above, the Nuclear Safety Authority may, through a decision mentioned in its *Official Bulletin*, authorise partial commissioning of the installation corresponding to one of the following categories of operations:

1° Performance of particular operating tests on the installation requiring the introduction of radioactive materials into it;

2° Arrival of nuclear fuel within the perimeter of a reactor, with the exception of any fuel load for this reactor.

The authorisation is granted on the basis of a file produced by the operator and comprising the relevant elements of the documents mentioned in 1° and 2° of II. The authorisation defines the authorised operations. It can be granted for a limited period. The Nuclear Safety Authority may ask for the file to be completed by a version of the on-site emergency plan corresponding to the situation of the installation.

The partial commissioning thus authorised is not taken into account for application of X of article 29 of the Act of 13 June 2006 and of article 21 of this decree.

VII. – The documents mentioned in II are kept up to date by the operator during operation of the installation. The entry into force of the updates is, as necessary, subject to requirements concerning modifications to the installation or its operating conditions, as described in chapter VII of this part.

Article 21

If it observes that a basic nuclear installation has not been commissioned within the time set by the authorisation decree, the Nuclear Safety Authority informs the ministers responsible for nuclear safety accordingly.

If they decide to implement the first paragraph of X of article 29 of the Act of 13 June 2006, the ministers responsible for nuclear safety ask the operator to present its observations within a period of two months.

The ministers responsible for nuclear safety define the draft decree terminating the installation's authorisation and submit it to the Consultative Committee for basic nuclear installations for its opinion. The operator may request a hearing before the Committee, or designate a representative for this purpose. At least fifteen days in advance, it is informed by the Committee's secretary of the date and place of the Committee meeting. A representative of the local information committee concerned may be heard in accordance with the same procedures.

In the conditions laid down in article 5 of the Act of 13 June 2006, the ministers send the Nuclear Safety Authority for its opinion the draft decree, possibly modified to take account of the opinion of the Consultative Committee for basic nuclear installations.

The decree issued further to the report from the ministers responsible for nuclear safety is notified, communicated and published as specified in article 17.

Chapter V

Short-term authorisations

Article 22

Pursuant to article 36 of the Act of 13 June 2006 and notwithstanding the requirements of chapter II of this part, the creation of a basic nuclear installation which is intended to operate for less than six months can be authorised by order of the ministers responsible for nuclear safety.

The contents of the short-term authorisation application file are defined by order of the ministers responsible for nuclear safety on the opinion of the Nuclear Safety Authority. The file in particular comprises an impact assessment and a study of the hazards mentioned in articles L. 122-1 and L. 551-1 of the Environmental Code.

The ministers forward the file to the *Prefect* of the *department* in which the installation is to be sited, who then refers the matter to the departmental council for the environment and health and technological risks. This council then has two months in which to issue its opinion.

Consultation of the public is organised by electronic publication of the application file for a period of one month, in order to collect observations using the same channels. The *Prefect*

announces this consultation by a notice specifying the dates and procedures. The notice is posted in the town hall of the *commune* in which the installation is to be sited and, at the expense of the operator, is publicised as stipulated in 2° of I of article R. 122-12 of the Environmental Code.

The file, accompanied by the opinions of the *Prefect* and the departmental council and the results of the public consultation, is submitted to the Consultative Committee for basic nuclear installations and to the Nuclear Safety Authority for their opinion.

The short-term authorisation is granted within six months of receiving the file. It constitutes the authorisation, final shutdown and decommissioning decree. The content of the short-term authorisation comprises the elements specified in 1°, 2°, 3°, 4° and 5° of II of article 16 and in 2° and 3° of II of article 38.

The Nuclear Safety Authority determines the contents of the file that the operator has to present to obtain the commissioning licence. It can impose particular requirements on the operator to protect the interests mentioned in I of article 28 of the Act of 13 June 2006.

The order constituting the short-term authorisation and the decision determining the requirements concerning effluent discharge or the prevention or limitation of detrimental effects on the public or the environment, are published in the *Official Journal* of the French Republic. They are notified to the operator by the ministers responsible for nuclear safety and by the Nuclear Safety Authority respectively. They are published in a notice, at the expense of the operator, in at least one local or regional newspaper distributed in the *department* in which the installation is to be sited.

The consultations and publication measures specified in this article are implemented subject to the requirements of the last paragraph of article 12 and of VII of article 18 of this decree.

A short-term authorisation can be extended as-is, provided that the total duration of the short-term authorisations does not exceed one year. After this time, the installation cannot operate without an authorisation decree issued in accordance with the procedure defined in chapter II of this part.

The provisions of this article do not apply to radioactive waste disposal installations.

Chapter VI

Periodic reports

concerning a basic nuclear installation

Article 23

The operator sends the Nuclear Safety Authority a copy of the annual report required by article 21 of the Act of 13 June 2006 no later than on expiry of a period of six months following the year in question.

Article 24

The time allowed for performance of the periodic safety reviews specified in III of article 29 of the Act of 13 June 2006 starts as of one of the following two dates, whichever occurs first:

- the end of the time set for submission of the end of start-up file, as defined in V of article 20;
- the end of the time set by the authorisation decree for commissioning of the installation, plus five years.

The safety review obligation is considered to have been met when the operator sends its report on this review to the ministers responsible for nuclear safety and to the Nuclear Safety Authority.

As applicable the operator may, in a separate report, submit elements that, if disclosed, it considers would compromise the interests mentioned in I of article L. 124-4 of the Environmental Code.

Apart from the reservations mentioned in the previous paragraph, the safety review report can be communicated to the public in the conditions defined in article 19 of the Act of 13 June 2006.

The conditions for the performance of the safety review and the issues to be covered in the report can be specified for all basic nuclear installations or for certain categories by the Nuclear Safety Authority.

After analysing the operator's report, the Nuclear Safety Authority may set new technical requirements.

Chapter VII

In-service modifications

requested by the Nuclear Safety Authority

Article 25

I. – To protect the interests mentioned in I of article 28 of the Act of 13 June 2006, the Nuclear Safety Authority may modify or supplement the requirements issued pursuant to article 18. It can also cancel any requirements no longer justified by the protection of these interests.

Other than in the event of a justified emergency, the applicable procedure is that described in I and II of article 18.

The particular requirements issued in the event of a threat, pursuant to IX of article 29 of the Act of 13 June 2006 are subject to the same provisions.

II. – If, owing to an exceptional situation, the continued operation of a basic nuclear installation were to require a temporary modification of certain requirements, and if this operation were to constitute a public necessity, the Nuclear Safety Authority may decide on this modification without conducting the prior consultations required by this article. This temporary modification ceases to be effective no later than at the end of the normal modification procedure, if initiated or, failing which, on expiry of a period of one year.

III. – The Nuclear Safety Authority's decision taken under the terms of this article is publicised, notified and communicated as stipulated in VI of article 18, subject to the provisions of VII of the same article.

If the modification, addition or cancellation of requirements demands consultation of the Commission of the European Communities as stipulated in article 37 of the Treaty establishing the European Atomic Energy Community, the Nuclear Safety Authority's decision cannot be taken before issue of the required opinion or, failing which, after expiry of a period of six months following referral to the Commission.

If the decision concerns effluent discharge limits from the installation into the ambient environment, it must be approved by the ministers responsible for nuclear safety.

Article 26

When the operator envisages a modification to the installation which is not covered by article 31 of this decree, or a modification to the installation's general operating rules or on-site emergency plan such as to affect the interests mentioned in I of article 28 of the Act of 13 June 2006, it sends notification to the Nuclear Safety Authority, forwarding a file containing all useful justification data, in particular the necessary updates of the elements in the authorisation decree or installation commissioning files and, in the event of a modification to the on-site emergency plan, the opinion issued by the health, safety and working conditions committee pursuant to article L. 236-2 of the Labour Code. The operator also states whether it considers that this modification requires an update of the applicable requirements.

The operator may not implement its project before expiry of a six-month period, barring express approval by the Nuclear Safety Authority, which can also extend this period if it considers that further review or issue of additional requirements is necessary.

If it decides on new requirements, it notifies the operator accordingly and communicates them to the ministers responsible for nuclear safety. Except for information that, if disclosed, the Nuclear Safety Authority considers would compromise the interests mentioned in I of article L. 124-4 of the Environmental Code, its decision is published in its *Official Bulletin*.

If the Nuclear Safety Authority considers that the envisaged modification significantly alters the conditions of the installation's authorisation decree, it asks the operator – in case it would confirm its project – to submit an application for modification of the authorisation decree to the ministers responsible for nuclear safety.

Article 27

The Nuclear Safety Authority may exonerate the operator from the notification procedure specified in article 26 for the performance of minor operations, provided that the operator sets up a system of internal checks offering sufficient guarantees of quality, independence and transparency.

The decision, which may concern one or more operator installations, specifies:

a) The nature of the operations exempted from prior declaration. These operations should not significantly compromise the installation's safety case nor significantly increase the installation's impact on the interests mentioned in I of article 28 of the Act of 13 June 2006;

b) The procedures for periodic information of the Nuclear Safety Authority concerning the operations envisaged and decided on, as well as the means of archiving the results of the internal checks conducted by the operator on the operations performed.

The decision also constitutes approval of the system of internal checks to be put into place. Prior to any operation, this must in particular provide for an opinion from a body independent of the persons directly in charge of operations.

It is notified, communicated and publicised as defined in VI of article 18, subject to the reservations mentioned in VII of the same article.

The Nuclear Safety Authority may, at any moment, suspend or terminate application of the decisions described in this article. Except in the event of an emergency, the operator is first of all offered an opportunity to present its observations.

Article 28

In the event of sale of the land on which a basic nuclear installation is built, before it is delicensed, the seller sends a notification of sale to the *Prefect* and to the Nuclear Safety Authority, together with a document drawn up by the buyer, certifying that it has been informed of its potential obligations pursuant to article 44 of the above-mentioned Act of 13 June 2006.

Should this confirmation not be produced, the seller shall remain liable for these obligations.

Chapter VIII

Modification of the authorisation decree

for a basic nuclear installation

Article 29

Any person wishing to start operating an existing basic nuclear installation must submit an authorisation application to the ministers responsible for nuclear safety.

The application is accompanied by a file containing:

1° The names, first names and status of the applicant and his domicile or, if the applicant is a corporate person, then its corporate name or description, head offices and the status of the signatory of the application;

2° A presentation of the technical capabilities of the applicant, in particular indicating the technical resources at its disposal, the organisation put into place in this field and its experience in the operation of nuclear installations;

3° A presentation of the applicant's financial capacity, along with the annual accounts for the previous three financial years and, if the application provides for direct operation of the installation by the State, a version of the report concerning the related costs and provisions, as required by III of article 20 of the Act of 28 June 2006, established jointly by the operator and the applicant and stating how the latter intends to meet the obligations arising from

application of this Act. As applicable, it designates any companies which have direct or indirect authority over the operator;

4° A document describing the installation covered by the application;

5° A document confirming the operator's agreement and specifying the planned date for the transfer of responsibility of operation.

The operator sends a copy of the application along with the file to the Nuclear Safety Authority.

The draft modifying decree is the subject of the procedures specified in articles 14 and 15.

The decree authorising the change in operator sets the time by which the new operator must provide the Nuclear Safety Authority with proof of its compliance with the obligations arising from application of article 20 of the Act of 28 June 2006. After this specified period, the authorisation may be revoked in the same conditions as those applicable to withdrawal of an authorisation decree.

The authorisation takes effect on the date on which, by a decision subject to the same publicity rules as the commissioning authorisation, the Authority observes that the new operator has complied with the obligations arising from application of article 20 of the Act of 28 June 2006.

Article 30

If the operator of a basic nuclear installation wishes to modify the perimeter of its installation, it files an application with the ministers responsible for nuclear safety.

The application is accompanied by a file comprising:

1° The names, first names and status of the applicant and his domicile or, if the applicant is a corporate person, then its corporate name or description, head offices and the status of the signatory of the application;

2° A 1/25,000 scale map showing the location of the installation;

3° A 1/10,000 scale site plan showing the current perimeter of the installation and the new perimeter requested, in particular showing the buildings with their current uses, the railways, public highways, water supply points, canals and watercourses and the energy and energy products transmission networks;

4° A memorandum presenting the perimeter modification proposal, in accordance with the requirements of 2° of II of article 16;

5° A detailed drawing of the installation to a minimum scale of 1/2500.

The operator sends a copy of the application, along with the file, to the Nuclear Safety Authority.

The application is covered by the procedures stipulated in articles 14 and 15.

Article 31

The following constitute a significant modification of a basic nuclear installation as defined by II of article 29 of the Act of 13 June 2006:

1° A change in its nature or a rise in its maximum capacity;

2° A modification of the elements essential for protection of the interests mentioned in I of article 28 of the Act of 13 June 2006, which appear in the authorisation decree pursuant to article 16;

3° An addition of a new basic nuclear installation within the perimeter of the existing installation.

The operator which wishes to make a significant modification to its installation sends an authorisation application to the ministers responsible for nuclear safety in the conditions defined in articles 7 and 8. The file accompanying the application concerns the installation as it would be after the envisaged modification and specifies the impact of this modification on the various aspects of the current authorisation.

The application is examined and is the subject of a decision in accordance with the procedures defined in chapter II of title III.

In the case mentioned in 3° above, the authorised modification requires a commissioning authorisation issued in accordance with the procedures defined in article 20.

Article 32

Other than in the cases described in articles 29 to 31, the requirements of the authorisation decree for a basic nuclear installation can be modified in the following conditions:

1° If the modification is requested by the operator, it submits its application, along with a file, to the ministers responsible for nuclear safety. This file proves that the requested modification is compatible with the interests mentioned in I of article 28 of the Act of 13 June 2006. It states which file documents specified in articles 7 and 8 are affected by this modification and supplies an updated version of these documents. The operator sends a copy of the application, along with the file, to the Nuclear Safety Authority. The ministers responsible for nuclear safety transmit a copy to the Minister for Civil Security and a copy to the Minister for Health.

2° If the modification is requested by the Nuclear Safety Authority, it sends a fully justified application to the ministers responsible for nuclear safety and informs the operator accordingly.

3° If the modification is envisaged at the initiative of the ministers responsible for nuclear safety, they inform the operator and the Nuclear Safety Authority accordingly.

Article 33

The modifying decree implementing the provisions of this chapter is notified, communicated and publicised as mentioned in article 17.

If several modifications covered by the requirements of this chapter are to be applied to a basic nuclear installation, the application is accompanied by a file containing all the elements requested for each modification. If one of the modifications is covered by article 31, the procedure specified in this article applies to the project as a whole.

Chapter IX

Provisions applicable in the event of serious risks

Article 34

I. – If a basic nuclear installation presents serious risks for the interests mentioned in I of article 28 of the Act of 13 June 2006, the Nuclear Safety Authority informs the ministers responsible for nuclear safety accordingly.

By means of an order, the ministers may declare complete or partial suspension of operation of the installation. Except in the case of a justified emergency, the operator is informed of the planned suspension and the time available for it to present its observations. The ministers ask the Nuclear Safety Authority to forward its opinion within a specified time.

The suspension order defines the scope of the suspension and as necessary specifies any measures required to make the installation safe.

The order, along with the opinion of the Nuclear Safety Authority, is published in the Official Journal of the French Republic and communicated to the *Prefect* and to the local information committee.

The suspension is ended by order of the ministers responsible for nuclear safety issued further to the advice of the Nuclear Safety Authority after it has confirmed the implementation of measures such as to eliminate the risks which justified the suspension. The operator is notified of the order terminating the suspension, which is publicised and communicated as mentioned in the previous paragraph.

II. – In the event of a serious and imminent risk, the Nuclear Safety Authority may declare complete or partial suspension of operation of the installation as an interim measure, which may not exceed three months. The Nuclear Safety Authority notifies the operator of its decision and without delay informs the ministers responsible for nuclear safety, the *Prefect* and the local information committee.

Article 35

If a basic nuclear installation presents serious risks for the interests mentioned in I of article 28 of the above-mentioned Act of 13 June 2006, which cannot be prevented or adequately limited, the ministers responsible for nuclear safety first inform the Nuclear Safety Authority and then send out a draft decree ordering final shutdown and decommissioning of the installation pursuant to article 34 of the Act of 13 June 2006, to the operator, the *Prefect* and the local information committee, who may then submit their observations within a time allotted by the ministers. The ministers forward the project to the consultative committee for basic nuclear installations for its opinion, in the conditions specified in article 14.

The draft decree, modified as necessary to take account of the observations and opinions collected, is sent by the ministers to the Nuclear Safety Authority, which forwards its opinion

within a period of two months. This period may be shortened to fifteen days in the event of an emergency. The Authority notifies the operator of its opinion.

The decree issued by the Council of State ordering final shutdown and decommissioning is issued on the basis of the report from the ministers responsible for nuclear safety. Full reasons are given and its contents are in conformity with the requirements of II of article 38. It is notified, communicated and publicised as defined in article 17.

The Nuclear Safety Authority determines the requirements necessary for the protection of the interests mentioned in I of article 28 of the Act of 13 June 2006 in the conditions defined in III of article 38.

PART IV

FINAL SHUTDOWN AND DECOMMISSIONING
OF A BASIC NUCLEAR INSTALLATION

Chapter I

General Provisions

Article 36

The provisions of this chapter do not apply to installations which, pursuant to article 22, benefit from a short-term authorisation, nor to radioactive waste disposal installations, unless all the waste contained has been removed.

article 37

I. – The operator of a Basic Nuclear Installation who wishes to cease operations of its installation once and for all, informs the ministers responsible for nuclear safety and the Nuclear Safety Authority accordingly. At least three years before the date envisaged for final shutdown, it sends this Authority an updated decommissioning plan, mentioned in 10° of I of article 8, in particular presenting the operations to prepare for final shutdown, the equipment that will be needed for decommissioning of the installation and the envisaged waste management channels.

II. – At least one year before the date scheduled for final shutdown, the operator submits the authorisation request to the ministers responsible for safety.

The operator sends the Nuclear Safety Authority a copy of its application, along with the file and the notice described below.

The application is accompanied by a file comprising:

1° The names, first names and status of the applicant and his domicile or, if the applicant is a corporate person, then its corporate name or description, head offices and the status of the signatory of the application;

2° A document containing a description of the installation before its final shutdown and decommissioning;

3° An updated decommissioning plan, describing the steps envisaged for decommissioning and the subsequent state of the site. This plan presents the anticipated subsequent uses of the site and clarifies the supervision and maintenance measures which will be necessary following decommissioning;

4° A 1/25,000 scale map showing the location of the installation to be decommissioned;

5° A 1/10,000 scale site plan indicating the proposed perimeter of the installation and in particular mentioning the buildings with their current uses, the railways, public highways,

water supply points, canals and watercourses, energy and energy products transmission networks, as well as any public protection restrictions created pursuant to article 31 of the Act of 13 June 2006;

6° If the application comprises a modification of the installation perimeter, a memorandum presenting the new requested perimeter and the installations, structures and equipment included therein, pursuant to 2° of II of article 16;

7° The impact assessment required by article L. 122 -1 of the Environmental Code covering the elements mentioned in article 9 applying to the state of the site before decommissioning and to the impact of the decommissioning operations and in particular presenting the procedures envisaged for removal of the waste resulting from decommissioning;

8° A preliminary version of the safety case concerning the installation final shutdown and decommissioning operations. This report, which complies with the requirements of article 10, constitutes the hazard assessment stipulated in article L. 551-1 of the Environmental Code;

9° A risk management study concerning the installation final shutdown and decommissioning operations and complying with the requirements of article 11, for use in the local consultations and inquiries required by I of article 38;

10° The general supervision and maintenance rules applicable, to protect the interests mentioned in I of article 28 of the Act of 13 June 2006, from the beginning of final shutdown up to possible delicensing;

11° As applicable, the public protection restrictions provided for by article 31 of the Act of 13 June 2006 that the operator intends to implement, after decommissioning, on the land on which the installation is built, and the modifications it proposes making to the protection restrictions already in place around this site.

In a separate file, the operator may submit elements that, if disclosed, it considers would be such as to compromise the interests mentioned in I of article L. 124-4 of the Environmental Code.

III. – It also supplies a notice comprising:

a) An update of the presentation of its technical capabilities, as defined in a) of II of article 8, in particular stating the experience, resources and organisation at its disposal for performance of the decommissioning operations;

b) A presentation of its financial capacity, in particular containing an updated version of the report stipulated in article 20 of the Act of 28 June 2006;

c) If it is not the owner of the land on which the installation was built, a document issued by the owner certifying that it has been informed of the final shutdown and decommissioning project and of its potential obligations pursuant to article 44 of the Act of 13 June 2006;

d) A document demonstrating the conformity of the operations envisaged with the legislative and regulatory requirements concerning personnel health and safety and presenting the steps planned to ensure compliance with these requirements. With regard to radiation protection, this document presents the steps taken to ensure application of the principles and rules defined by the Public Health Code, the Labour Code and their implementing provisions.

I. – The final shutdown and decommissioning authorisation application is subject to the consultations and inquiries applicable to the authorisation decree applications, in accordance with the same procedures and conditions.

II. – The decree authorising final shutdown and decommissioning of a basic nuclear installation:

1° Mentions the identity of the operator and the installation to be decommissioned;

2° With respect to the interests mentioned in I of article 28 of the Act of 13 June 2006, describes the essential elements of the decommissioning operations, the state of the site after decommissioning and the operations incumbent upon the operator after decommissioning;

3° Sets the deadline for decommissioning and, as applicable, the various steps involved in it;

4° May modify the installation's authorisation decree in order to adapt the frequency of the periodic safety reviews or the perimeter of the installation, according to the progress of decommissioning operations, and set the conditions for this adaptation process.

The steps mentioned in 4° only take effect after a decision by the Nuclear Safety Authority confirming that the stipulated conditions have been met. This decision is publicised in the same way as commissioning authorisations.

If, following final shutdown, the installation is liable to discharge radioactive effluent into the ambient environment at levels higher than those discharged before final shutdown, the final shutdown authorisation cannot be granted before completion of consultation of the Commission of the European Communities as stipulated in article 37 of the Treaty establishing the European Atomic Energy Community.

III. – The requirements previously set pursuant to the third paragraph of I of article 29 of the Act of 13 June 2006 constitute requirements for the purposes of application of the third paragraph of V of the same article. They are modified and supplemented as needed, as defined in article 25.

The general supervision and maintenance rules mentioned in 10° of II of article 37 take the place of the general operating rules mentioned in 2° of II of article 20. Their entry into force is dependent on the provisions applicable to a modification of these general operating rules as defined in article 26. The provisions of this decree concerning the general operating rules apply to the general supervision and maintenance rules.

IV. – The provisions of chapters VII and VIII of part III apply to modifications concerning a basic nuclear installation undergoing final shutdown or decommissioning or after decommissioning but before delicensing, with the references to the file mentioned in articles 8 and following being replaced by the references to the file mentioned in II of article 37 and with reference to the authorisation decree being replaced by reference to the final shutdown and decommissioning authorisation. For the purposes of application of these provisions, modifications to the essential elements mentioned in 2° of II of this article are considered to be significant.

Before the beginning of the final shutdown and decommissioning operations, the operator as necessary and in the conditions laid down in article 26, sends the Nuclear Safety Authority an updated version of the on-site emergency plan.

The safety case, the on-site emergency plan and the general supervision and maintenance rules are kept up to date by the operator in the conditions laid down in VII of article 20.

Article 40

I. – The operator of a decommissioned basic nuclear installation which no longer requires the supervisory measures stipulated in the Act of 13 June 2006 sends the Nuclear Safety Authority a delicensing application. It informs the ministers responsible for nuclear safety accordingly.

The delicensing application file comprises:

1° The names, first names and status of the operator and his domicile or, if the operator is a corporate person, then its corporate name or description, head offices and the status of the signatory of the application;

2° A 1/25,000 scale map indicating the location of the decommissioned installation;

3° A 1/10,000 scale site plan indicating the perimeter of the installation and in particular mentioning the buildings with their current uses, the railways, public highways, water supply points, canals and watercourses, energy and energy products transmission networks, as well as any public protection restrictions created pursuant to article 31 of the Act of 13 June 2006;

4° A presentation of the state of the site after decommissioning, in particular containing an analysis of the state of the soil and a description of any remaining installation structures and their condition, with regard to the interests mentioned in I of article 28 of the Act of 13 June 2006. As applicable, this document specifies the installations, structures or equipment remaining within the perimeter of the installation and falling into the categories included in one of the nomenclatures mentioned in article L. 214-2 and L. 511-2 of the Environmental Code, indicating those that are covered by the regime applicable to basic nuclear installations until delicensing. For these latter, the document must contain the information requested pursuant to articles L. 214-6 or L. 513-1 of the same code for installations benefiting from entitlements acquired under the regime created by chapter IV of title I of book II of the same code or the regime of installations classified on environmental protection grounds, set up by title I of book V of the same code;

5° If the operator is not the owner of the land used for the installation, a document drawn up by the owner, certifying that it has been informed of its potential obligations, even after delicensing, pursuant to article 44 of the Act of 13 June 2006; if the operator is the owner of the land, a declaration of whether or not it intends to retain this ownership;

6° A document presenting the future use of the site .

II. – The Nuclear Safety Authority forwards the file to the *Prefect* with a memorandum explaining the effect of a delicensing measure. The *Prefect* obtains the opinions of the *communes* concerned, which have a period of three months in which to make their position known. The *Prefect* sends the Nuclear Safety Authority the opinions he has collected, along with his own opinion.

The Nuclear Safety Authority sends the application file, along with the explanatory notice, to the local information committee, which has a period of three months in which to submit its opinion.

III. – The Nuclear Safety Authority sends the delicensing project to the ministers responsible for nuclear safety, who obtain the opinion of the consultative committee for basic nuclear installations.

IV. – After approval, the delicensing decision is notified, communicated and publicised as defined in VI of article 18.

The Nuclear Safety Authority may make entry into force of a delicensing decision dependent on the introduction of the public protection restrictions mentioned in article 31 of the Act of 13 June 2006, which guarantee that the underlying land and the vicinity of the installation will be managed in a way appropriate to the risks remaining after its decommissioning, in particular with regard to the future use of the site.

V. – If, as a result of the delicensing granted pursuant to this article, an installation or equipment item, previously subject to the regime applicable to basic nuclear installations, is now subject to the regime set up by chapter IV of title I of book II of the Environmental Code or the regime for installations classified on environmental protection grounds, as set up by part I of book V of the same code, the installation or equipment item may continue to operate with no further authorisation or notification, provided that it meets the requirements of 4° of I of this article.

The same applies to installations or equipment mentioned in the second paragraph of V of article 28 of the Act of 13 June 2006 which, as a result of delicensing, cease to fall within the perimeter of a basic nuclear installation.

Article 41

When it determines that a basic nuclear installation has not been in operation for a continuous period of more than two years, the Nuclear Safety Authority informs the ministers responsible for nuclear safety.

If they wish to prohibit the resumption of operation of this installation, pursuant to the second paragraph of X of article 29 of the Act of 13 June 2006, the ministers responsible for nuclear safety consult the Consultative Committee for basic nuclear installations concerning a draft order banning this resumption and giving the operator formal notice to submit an application for final shutdown and decommissioning, within a time to be set by itself. The operator may obtain a hearing in the conditions defined in article 14. The ministers responsible for nuclear safety then consult the Nuclear Safety Authority, which has a period of two months in which to make its position known.

The order from the ministers responsible for nuclear safety is notified, communicated and publicised in the same way as the authorisation decree, as specified in article 17.

When resumption of operation is prohibited as described in this article, the Nuclear Safety Authority as necessary defines the provisional requirements necessary to protect the interests mentioned in I of article 28 of the Act of 13 June 2006, in accordance with the procedures defined in article 25.

Chapter II

Requirements specific to radioactive waste disposal installations

Article 42

The requirements of this chapter apply to basic Nuclear Installations whose activity is the disposal of radioactive waste as defined in article L. 542-1-1 of the Environmental Code.

A radioactive waste disposal installation is considered to be in final shutdown when it ceases to receive any new waste.

Article 43

I. – The operator of a radioactive waste disposal installation wishing to proceed with final shutdown of its installation and make the transition to the surveillance phase, submits an authorisation application to the ministers responsible for nuclear safety.

The operator sends the Nuclear Safety Authority a copy of its application, along with the file and notice described below.

II. – The application is accompanied by a file containing:

1° The names, forenames and status of the operator and his domicile or, if the operator is a corporate person, then its corporate name or description, head office and status of the signatory of the application;

2° A document describing the installation before its final shutdown and inventorying the waste disposed of in the installation;

3° A document describing the operations envisaged to ensure that once reception of waste ceases, the installation is placed in a state minimising the possible risks and detrimental effects for the interests mentioned in I of article 28 of the Act of 13 June 2006; this document specifies the supervision and maintenance measures that will be required subsequent to these operations;

4° A 1/25,000 scale map showing the location of the installation;

5° A 1/10,000 scale site plan indicating the perimeter of the installation and in particular mentioning the buildings with their current uses, the railways, public highways, water supply points, canals and watercourses, energy and energy products transmission networks, as well as any public protection restrictions introduced pursuant to article 31 of the Act of 13 June 2006;

6° If the application comprises a modification of the installation perimeter, a memorandum presenting the new requested perimeter and what it includes with regard to the requirements of 2° of II of article 16;

7° The impact assessment specified in article L. 122-1 of the Environmental Code comprising the elements mentioned in article 9 applied to the state of the site before and after shutdown and in the long term;

8° A safety case concerning the final shutdown operations and the installation supervision phase. This safety case, which complies with the requirements of article 10, constitutes the hazard assessment required by article L. 551-1 of the Environmental Code;

9° A risk management study concerning the final shutdown operations and the installation surveillance phase and complying with the requirements of article 11, for use in the local consultations and inquiries;

10° The general supervision rules to be followed, to protect the interests mentioned in I of article 28 of the Act of 13 June 2006, during the final shutdown operations and during the surveillance phase;

11° The public protection restrictions specified in article 31 of the Act of 13 June 2006 that the operator may propose introducing on the land on which the installation is located after its final shutdown, and the modifications it proposes making to the restrictions created around this site.

In the form of a separate file, the operator may provide elements that, if disclosed, it considers would compromise the interests mentioned in I of article L. 124-4 of the Environmental Code.

III. – The operator also provides a notice comprising:

a) An updated presentation of the operator's technical capabilities, as defined in a) of II of article 8, in particular stating the experience, resources and organisation at its disposal for performance of the operations described in its application;

b) A presentation of the operator's financial capacity, in particular comprising an updated version of the report mentioned in article 20 of the Act of 28 June 2006;

c) If the operator is not the owner of the land on which the installation is built, a document issued by the owner certifying that it has been informed of the planned final shutdown and transition to surveillance phase, as well as of its potential obligations pursuant to article 44 of the Act of 13 June 2006;

d) A document showing that the envisaged operations could be carried out in accordance with the legislative and regulatory personnel health and safety requirements and presenting the steps planned to ensure compliance with these requirements. With regard to radiation protection, this document presents the steps taken to ensure application of the principles and rules defined by the Public Health Code, the Labour Code and their implementing provisions.

Article 44

I. – The authorisation application and its corresponding file are subject to the consultations and inquiries applicable to authorisation decree applications.

II. – The decree authorising final shutdown and the transition to the installation surveillance phase:

1° States the identity of the operator and the installation in question;

2° With respect to the interests mentioned in I of article 28 of the Act of 13 June 2006, describes the essential elements of the final shutdown operations and the operations for which the operator is responsible following this shutdown;

3° Sets the time within which transition to the surveillance phase must be effective;

4° May modify the installation's authorisation decree so that, depending on the progress of the operations, the frequency of the periodic safety reviews or the perimeter of the installation can be adapted and the prerequisites for these adaptations can be defined.

The measures mentioned in 4° only take effect after a decision by the Nuclear Safety Authority further to its confirmation that the conditions set have been met. This decision is publicised in the same way as commissioning authorisations.

The decree is notified, communicated and publicised as defined in article 17.

III. – If, following its final shutdown, the installation is liable to discharge radioactive effluent into the ambient environment at levels higher than those discharged before final shutdown, the decree cannot be issued before receiving the opinion of the Commission of the European Communities, as stipulated in article 37 of the Treaty establishing the European Atomic Energy Community or, in the absence of such an opinion, before the expiry of a period of six months following referral to the Commission.

IV. – The requirements previously determined pursuant to the third paragraph of I of article 29 of the Act of 13 June 2006 are equivalent to requirements for the purposes of application of the third paragraph of VI of the same article. They are modified and supplemented as required in accordance with the procedures defined in article 25, but without requiring ministerial approval.

The general supervision rules mentioned in 10° of II of article 43 take the place of the general operating rules mentioned in article 20. Their entry into force is subject to the requirements applicable to a modification of the general operating rules. The requirements of this decree concerning the general operating rules apply to the general supervision rules.

V. – chapters VII and VIII of part III apply to the modifications made to a radioactive waste disposal installation undergoing final shutdown or which has made the transition to the surveillance phase. For application of these provisions, any change to the essential elements mentioned in 2° of II above is considered to be significant, with the references to the file specified in article 8 being replaced by references to the file specified in article 43 and any reference to the authorisation decree being replaced by a reference to the final shutdown and transition to surveillance phase authorisation.

Article 45

Before the final shutdown operations begin, and as necessary, the operator sends the Nuclear Safety Authority an updated on-site emergency plan.

The safety case, on-site emergency plan and general supervision rules are kept up to date by the operator in the same conditions as those mentioned in VII of article 20.

PART V

INSTALLATIONS OPERATING
ON THE BASIS OF PREVIOUS ENTITLEMENTS

Article 46

The notification specified in article 33 of the Act of 13 June 2006 is accompanied by a file containing the elements mentioned in 1°, 2°, 3°, 4° and 5° of I of article 8 of this decree. The notification states the identity of the owner of the land on which the installation is built.

Furthermore, if the installation was previously subject to the regime created by chapter IV of title I of book II of the Environmental Code or the regime applicable to installations classified on environmental protection grounds defined in part I of book V of the same code, the notification so mentions and the file is supplemented by a copy of the authorisation order or the acknowledgement of notification as required by this regime.

If the installation is covered by public protection restrictions pursuant to articles L. 515-8 to L. 515-12 of the Environmental Code, these restrictions are indicated on the site plan specified in 4° of I of article 8.

Article 47

I. – When the Nuclear Safety Authority receives a notification in compliance with the requirements of article 46, it forwards it to the ministers responsible for nuclear safety so that they can issue an order to determine the perimeter of the installation.

II. – The notification and the order determining the perimeter are registered by the Nuclear Safety Authority.

For the installation, the registration decision takes the place of the authorisation decree. It is notified, communicated and publicised as specified in article 17. It is also notified to the owner of the land on which the installation is built, if the owner is not the operator.

III. – If the installation was previously subject to the regime created by chapter IV of title I of book II of the Environmental Code or the regime applicable to installations classified on environmental protection grounds defined in part I of book V of the same code, it remains subject to the requirements applicable to it under this regime. These requirements are equivalent to requirements from the Nuclear Safety Authority for the purposes of application of the second paragraph of article 33 of the Act of 13 June 2006. They can be modified or supplemented in accordance with the procedures defined in article 25. The competent departments responsible for water supervision or inspection of installations classified on environmental protection grounds send the Nuclear Safety Authority, at its request, any information, studies or reports in their possession concerning the installation, structure, works or activity and which allow an assessment of its situation with regard to the interests mentioned in article L. 214-2 or L. 511-1 of the Environmental Code.

The Nuclear Safety Authority may ask the operator to provide all or some of the elements mentioned in 6°, 7° and 10° of I and in a), b) and d) of II of article 8 within a period of three years, although this period can be shortened in the event of a proven emergency.

IV. – If, when classified as a basic nuclear installation, the installation benefited from public protection restrictions defined pursuant to articles L. 515-8 to L. 515-12 of the Environmental Code, these restrictions constitute restrictions under article 31 of the Act of 13 June 2006.

Otherwise, these public protection restrictions may be created in the conditions defined in part VI.

V. – Before the registration mentioned in II, the Nuclear Safety Authority may take interim measures as defined in article 19.

Article 48

The installations mentioned in article 33 of the Act of 13 June 2006 are subject to the publication of a periodic safety review as defined in III of article 29 of the same Act. For implementation of this requirement, the relevant times are counted as of the registration described in article 47 or, if there is no such registration, from publication of the decree mentioned in the first paragraph of the same article 33 of the Act.

Article 49

When an installation, duly authorised under the regime applicable to defence-related nuclear activities and installations mentioned in III of article 2 of the Act of 13 June 2006 and which has been delicensed in compliance with this regime, then becomes covered by the regime applicable to basic nuclear installations, the competent Minister informs the ministers responsible for nuclear safety and the Nuclear Safety Authority accordingly. Subject to the provisions concerning national defence confidentiality, the competent Minister also sends the Nuclear Safety Authority all information necessary for its regulatory task.

In the light of the elements forwarded by the competent Minister, the Nuclear Safety Authority decides to register the installation in accordance with the procedures and conditions specified in article 47.

The authorisations and requirements of the orders licensing water intake and liquid and gaseous discharges in force as at the date of delicensing, are communicated to the Nuclear Safety Authority by the competent Minister. They are equivalent to requirements from the Nuclear Safety Authority as defined in article 29 of the Act of 13 June 2006 until they are modified in conditions defined by this decree with regard to requirements from the Nuclear Safety Authority specified by this article 29.

The time allocated for performance of the safety review specified in III of article 29 of the Act of 13 June 2006 begins at delicensing.

PART VI

PUBLIC PROTECTION RESTRICTIONS

AROUND BASIC NUCLEAR INSTALLATIONS

Article 50

The public protection restrictions specified in article 31 of the Act of 13 June 2006 are established to:

1° Prevent or mitigate the effects of a radiological emergency situation as defined in article R. 1333-76 of the Public Health Code and, as applicable, the effects of the events mentioned in article R. 515-26 of the Environmental Code;

2° Prevent the effects of radioactive or chemical pollution of the soil.

The restrictions take account of the potential effects of all the installations located within the perimeter of the basic nuclear installation, in particular installations and equipment mentioned in V of article 28 of the Act of 13 June 2006 and falling within a category of installations mentioned in IV of article L. 515-8 or in article L. 515-12 of the Environmental Code.

Article 51

The public protection restrictions are established in accordance with the procedure specified in articles R. 515-24 to R. 515-31 of the Environmental Code.

In addition to the persons mentioned in article R. 515-25 of the same code, the Nuclear Safety Authority may also request the introduction of such restrictions.

If the restrictions concern a new installation, the public inquiry may be held jointly with the inquiry specified in article 13.

The Nuclear Safety Authority, the operator and the mayor of the *commune* concerned are informed by the *Prefect*, at least eight days in advance, of the date and place of the meeting of the Departmental Council for the environment and health and technological risks, during which the planned restrictions will be examined. They receive a copy of the file transmitted to this council. They may attend the council meeting and present their observations.

The *Prefect* forwards the restrictions project, modified if necessary to take account of the opinion of the Departmental Council for the environment and health and technological risks, to the Nuclear Safety Authority, which then has a period of two months in which to make its position known.

The creation of restrictions leads to compensation by the installation operator or, failing which, by the State in accordance with the procedures defined in article L. 515-11 of the Environmental Code.

When the restrictions concerning the land underlying and surrounding a delicensed basic nuclear installation for which the operator no longer exists, the file handling, publicity and compensation costs are borne by the State.

Article 52

The restrictions may be modified when requested by or at the initiative of persons or organisations so empowered. The draft modification is examined, subject to consultation and adopted in accordance with the methods and procedures defined in this part. However, those modifications the sole purpose of which is to eliminate or limit the restrictions may be exempted from the public inquiry.

PART VII

POLICING MEASURES AND PENALTIES

Article 53

The requirements of this part apply to basic nuclear installations and, in the conditions defined in chapter III of title IV of the Act of 13 June 2006, to the transport of radioactive materials.

Chapter I

Administrative measures

Article 54

When the operator of a basic nuclear installation or the person responsible for the transport of radioactive materials has not complied with the formal notice sent to it by the Nuclear Safety Authority pursuant to I or II of article 41 of the Act of 13 June 2006, the Authority sends it a draft of the measures it intends to take, on the basis of the same provisions, stipulating the period of eight days from reception in which it can submit its observations, although said period may be shortened in the event of an emergency.

The formal notices and the measures taken pursuant to I or II of article 41 of the Act of 13 June 2006, when approved according to the procedure set in article 3 of this decree, are notified by the Nuclear Safety Authority to the operator or to the person responsible for transport. They are communicated to the *Prefect* and to the local information committee.

In the event of an emergency declared by the Nuclear Safety Authority at the moment it makes its decision, the decision becomes immediately enforceable and requires no ministerial approval. The Authority forwards its decision without delay, along with justification of the declaration of an emergency, to the ministers responsible for nuclear safety. They may terminate it by means of an order offering full justification, sent to the Nuclear Safety Authority and the operator or the person concerned and published in the Official Journal of the French Republic.

The interim measures taken by the Nuclear Safety Authority pursuant to III of article 41 of the Act of 13 June 2006 are notified to the operator or the person responsible for transport and communicated to the *Prefect* and to the local information committee.

Article 55

In the event of defaulting on the part of a Basic Nuclear Installation operator, the ministers responsible for nuclear safety or the Nuclear Safety Authority, as part of their respective duties, inform the landowner of the measures they intend to take against it, pursuant to article 44 of the Act of 13 June 2006. The letter of information concerns the certification issued by the party concerned pursuant to articles 8, 28, 37, 40 or 43 or, failing which, mentions all elements such as to prove that the owner had been duly informed of its potential obligations with regard to the installation situated on its land. The owner has a period of two months in which to submit its observations.

The measures are taken in accordance with the procedures specified for the purposes of application of V, IX or X of article 29 or articles 33, 34, 41 or 42 of the Act of 13 June 2006, the owner then taking the place of the operator for implementation of the applicable procedures.

Chapter II

Penalties

Article 56

The following shall be subject to the penalties corresponding to the most serious (class 5) infringements:

1° Operation or decommissioning of a basic nuclear installation in breach of the general rules and the regulatory decisions issued pursuant to article 3, or in breach of the conditions stipulated by the authorisation decrees issued pursuant to I, II, V or VI of article 29 of the Act of 13 June 2006, or the requirements or measures issued by the Nuclear Safety Authority pursuant to I, III, V, VI, IX or X of this same article 29, article 33 of the same Act of 13 June 2006 or article 22 of this decree;

2° Commissioning of a basic nuclear installation without the authorisation mentioned in I of article 29 of the Act of 13 June 2006;

3° Operation of a basic nuclear installation without performing the periodic safety review mentioned in III of article 29 of the Act of 13 June 2006 within the time stipulated, or failure to transmit the report comprising the conclusions of this review, within the time stipulated;

4° Operation of a basic nuclear installation without having implemented the provisions of the on-site emergency plan;

5° Failure to send the Nuclear Safety Authority information or documents as required by the provisions of this decree;

6° Modification of the installation mentioned in article 26 before expiry of the time period stipulated in this article;

7° Carrying out of the operations mentioned in article 27 without implementing the system of internal checks defined by the Nuclear Safety Authority in the same article;

8° Sell-off of the land on which the basic nuclear installation or former installation is built, without issuing the notification required in article 28;

9° Obstruction of the performance of the work or measures mentioned in b) of I of article 41 of the Act of 13 June 2006.

Any repeat infringement as defined in this article is penalised in accordance with articles 132-11 and 132-15 of the Penal Code.

PART VIII

OTHER INSTALLATIONS LOCATED WITHIN THE PERIMETER

OF A BASIC NUCLEAR INSTALLATION

Article 57

I. – The installations, structures, works and activities, located or carried out within the perimeter of a basic nuclear installation but without being necessary for its operation, and which are subject to authorisation or notification under the regime created by chapter IV of title I of book II of the Environmental Code or the regime applicable to installations classified on environmental protection grounds created by part I of book V of the Environmental Code, remain subject to the legislative and regulatory requirements of these regimes, provided that the following provisions are implemented.

II. – The authorisation applications and the notifications are sent to the Nuclear Safety Authority, which forwards the authorisation applications to the *Prefect* so that he can organise the consultations and inquiries stipulated in section 1 of chapter IV of title I of book II of the Environmental Code or part I of book V of the same code. The *Prefect* sends the Nuclear Safety Authority the result of the consultations and inquiries, along with his opinion.

If the operator simultaneously sends the Nuclear Safety Authority an authorisation application under one of the regimes mentioned in I of this article and an authorisation application mentioned in I, II, V or VI of article 29 of the above-mentioned Act of 13 June 2006, the consultations and inquiries concerning these various applications may be held jointly.

III. – The Nuclear Safety Authority takes the place of the *Prefect* or the Minister responsible for installations classified on environmental protection grounds for the purposes of receiving information or taking the individual decisions stipulated by the regimes mentioned in I, except for those mentioned in article L. 515-9 of the Environmental Code.

The decisions of the Nuclear Safety Authority taken pursuant to the previous paragraph are notified, communicated and publicised as specified by these regimes. The decisions that need to be published under the terms of these regimes are also published in the Authority's Official Bulletin. As applicable, this publication takes the place of publication in the compendium of administrative acts issued by the office of the *Prefect*.

IV. – If an installation covered by this article is to be the subject of public protection restrictions pursuant to article L. 515-8 of the Environmental Code, the restrictions are defined overall for this installation and for the basic nuclear installations included within the perimeter, according to the procedure defined in part VI of this decree.

V. – The Nuclear Safety Authority draws up the reports intended for the Departmental Council for the environment and health and technological risks pursuant to the texts concerning the regimes mentioned in I above. The Chairman of the Nuclear Safety Authority or his representative then presents them to the meetings of the Council.

VI. – If the operator of the basic nuclear installation is neither the holder of the authorisation nor the party responsible for notification of an installation, structure, works or activity mentioned in I, an agreement, requiring approval by the Nuclear Safety Authority, must define the division of responsibilities and the various forms of cooperation between the parties concerned, with a view to protection of the interests mentioned in I of article 28 of the Act of 13 June 2006. Any failure to comply with the stipulations of this agreement produces the same effects as a breach of the requirements issued by the Nuclear Safety Authority pursuant to article 29 of the same Act or the relevant regime mentioned in I of this article.

Any change in the operator of an installation classified on environmental protection grounds mentioned in I requires authorisation as defined in article L. 512-16 of the Environmental Code. Authorisation is granted in the conditions defined in article R. 516-1 of the same code, with the Nuclear Safety Authority taking the place of the *Prefect*. The same provisions apply to a change in the operator of an installation or the person responsible for the works, structures or activities subject to the regime created by chapter IV of title I of book II of the Environmental Code and mentioned in I of this article.

Article 58

I. – When an installation, structure, works or an activity are subject to the provisions of the second paragraph of V of article 28 of the Act of 13 June 2006, owing to the creation or modification of the perimeter of a basic nuclear installation, the requirements to which they were previously subject under the terms of an order from the *Prefect* or an individual order from the Minister responsible for installations classified on environmental protection grounds, remain applicable. They may be modified by a decision of the Nuclear Safety Authority issued as defined in III of article 57.

The competent departments responsible for water supervision or the inspectorate for installations classified on environmental protection grounds, send the Nuclear Safety Authority the texts stipulating the requirements mentioned in the previous paragraph, as well as the information, studies or reports in their possession concerning the installation, structure, works or activity that they consider would be useful for assessing their situation with respect to the interests mentioned in article L. 214-2 or L. 511-1 of the Environmental Code. At the request of the Nuclear Safety Authority, these departments or this inspectorate forward to it any additional documents in their possession.

II. – When an installation, structure, works or activity, previously subject to the requirements of the second paragraph of V of article 28 of the above-mentioned Act of 13 June 2006, are no longer covered by these requirements owing to the modification of the perimeter of a basic nuclear installation or delicensing of it, the requirements to which they were previously subject pursuant to a decision by the Nuclear Safety Authority, issued in accordance with the procedures defined in III of article 57, remain applicable. They can be subsequently modified in accordance with the procedures laid down by section 1 of chapter IV of title I of book II of the Environmental Code or part I of book V of the same code.

The Nuclear Safety Authority sends the competent departments responsible for water supervision or the inspectorate for installations classified on environmental protection grounds the authorisation decree, the requirements and, as applicable, the delicensing decision describing the administrative situation of the installation, structure, works or activity

on the date they cease to be covered by the Act of 13 June 2006. Together with these documents, the Authority encloses the information, studies or reports in its possession concerning the installation, structure, works or activity, that it considers to be useful for assessing their situation with respect to the interests mentioned in I of article 28 of the Act of 13 June 2006. At the request of the departments in charge of water supervision or the inspectorate for installations classified on environmental protection grounds, the Authority sends them any additional documents in its possession.

Article 59

The Minister for the Environment sends the Nuclear Safety Authority, for information, the draft orders based on article L. 512-5 or L. 512-10 of the Environmental Code, when they concern categories of installations subject to regulation by the Authority, pursuant to the second paragraph of V of article 28 of the Act of 13 June 2006.

The Nuclear Safety Authority sends the Minister for the Environment, at its request, any information concerning these installations.

PART IX

PROVISIONS CONCERNING PRESSURE VESSELS IN BASIC NUCLEAR
INSTALLATIONS

Article 60

The pressure vessels specially designed for basic nuclear installations, mentioned in 2° of article 4 of the Act of 13 June 2006, are the equipment defined by order pursuant to IV of article 2 of the above-mentioned decree of 13 December 1999.

When they apply to the equipment mentioned in the first paragraph, the draft orders from the ministers responsible for nuclear safety defining the general rules specified in article 30 of the Act of 13 June 2006 and the technical regulatory decisions issued by the Nuclear Safety Authority pursuant to the second paragraph of 2° of article 4 of the same Act, are subject to the procedures defined in article 3 of this decree. They are also subject to the opinion of the Central Committee for Pressure Vessels mentioned in article 26 of the decree of 13 December 1999, which is given a period of three months in which to make its position known.

Article 61

The above-mentioned decree of 13 December 1999 is modified as follows:

I. – In IV of article 2, the words: "on the advice of the Interministerial Commission for basic nuclear installations created by the above-mentioned decree of 11 December 1963 and the Central Committee for Pressure Vessels mentioned in article 26 below" are replaced by the words: "on the advice of the Consultative Committee for Basic Nuclear Installations, the Central Committee for Pressure Vessels mentioned in article 26 below and the Nuclear Safety Authority";

II. - article 24 is replaced by the following provisions:

"Art. 24. – Notwithstanding articles 17 to 21 and 25 to 29, the following special provisions apply to pressure vessels specially designed for Basic Nuclear Installations:

"1° The conditions for application of article 17 to this equipment are set by the orders from the ministers responsible for nuclear safety and the regulatory decisions from the Nuclear Safety Authority issued as defined by article 60 of decree no. 2007-1557 of 2 November 2007 concerning basic nuclear installations and, with regard to nuclear safety, concerning the transport of radioactive materials;

"2° The staff mentioned in II of article 17, in the third paragraph of article 19 and in articles 28 and 29 are the staff of the nuclear safety authority designated by it for this purpose;

"3° The duties assigned to the Minister for Industry or to the *Prefect* by articles 18 and 20 and by appendix 3 of this decree are performed by the Nuclear Safety Authority;

"4° The inspection services recognised pursuant to article 19 can only carry out their inspection and regulation duties on equipment mentioned in the first paragraph if authorised to do so by the Nuclear Safety Authority, which can define the particular methods and procedures applicable to these operations;

"5° The organisations or bodies qualified in accordance with article 21 may only intervene if approved by the Nuclear Safety Authority;

"6° The notification specified in article 25 is sent simultaneously to the *Prefect* and to the Nuclear Safety Authority. The authorisation to modify the state of the premises and the installations concerned by the accident is granted by the Nuclear Safety Authority. The inquiry is conducted by the Nuclear Safety Authority, which forwards the conclusions to the ministers responsible for nuclear safety;

"7° The Central commission for pressure vessels mentioned in article 26 issues its opinion when called on by the ministers responsible for nuclear safety or by the Nuclear Safety Authority, in their respective fields of competence;

"8° For the purposes of application of article 27, the Nuclear Safety Authority may, in the conditions laid down in article 60 of the above-mentioned decree of 2 November 2007, define particular methods and procedures for application of part III of this decree and its implementing orders, when they concern a category of pressure vessels for basic nuclear installations. The authorisations mentioned in III of the same article 27 are granted by the Nuclear Safety Authority;

"9° The duties assigned to the Minister for Industry or to the *Prefect* by articles 28 and 29 are carried out by the Nuclear Safety Authority.

"Until 31 December 2007, organisations approved in accordance with article 21 may issue approvals in the conditions defined in 3.1.2 or in 3.1.3 of appendix 1 to this decree, without requiring the approval mentioned in 5°."

III. - article 26 is supplemented by a paragraph drafted as follows:

"The Chairman of the Nuclear Safety Authority, or his representative, may attend the meetings of the Commission and submit his observations to it."

PART X

PROVISIONS CONCERNING THE TRANSPORT
OF RADIOACTIVE MATERIALS

Article 62

I. – With regard to the transport of radioactive materials, the Nuclear Safety Authority is the authority in France with competence for taking decisions and issuing the certificates required by the international agreements and regulations concerning the transport of hazardous goods and their implementing provisions. The shipment notifications stipulated by these provisions are transmitted by the consignor to the Nuclear Safety Authority and to the Minister responsible for civil security. The Nuclear Safety Authority in particular issues package model approvals and shipment approvals, including for special arrangement shipments.

II. – The Nuclear Safety Authority is called on for its opinion, as applicable, by either the Minister for Transport or the Minister with responsibility for maritime affairs, concerning all regulations mentioned in I and dealing with the transport of radioactive materials. It has a period of two months in which to issue its opinion. In the event of an emergency, this time can be shortened by the relevant Minister. The Nuclear Safety Authority's opinion is forwarded to the ministers responsible for nuclear safety.

The Nuclear Safety Authority may make technical regulatory decisions to supplement the procedures for application of the texts mentioned in the first paragraph, with regard to the transport of radioactive materials. Depending on the relevant field of competence, these decisions are submitted for an opinion to the interministerial committee for the transport of hazardous materials, created by the decree of 13 September 1995 or the central safety committee mentioned in article 14 of the decree of 30 August 1984. The committee called upon has a period of three months in which to make its position known. The decisions of the Nuclear Safety Authority require approval by the ministers responsible for nuclear safety according to the procedures defined in article 3.

PART XI

INTERIM AND FINAL PROVISIONS

Article 63

The Interministerial Commission for basic nuclear installations created by article 7 of the decree of 11 December 1963, with its membership as resulting from the last order nominating its members, acts as the consultative committee for basic nuclear installations created by article 1 of this decree, until such time as this committee is constituted.

The provisions of this decree concerning the consultative committee for basic nuclear installations may be modified or renewed by decree.

Article 64

The general technical regulations applicable to basic nuclear installations, resulting from the orders implementing article 10 bis of the decree of 11 December 1963, and the general technical requirements concerning the limits and the methods and procedures for water intake and effluent discharges by basic nuclear installations, resulting from the orders implementing article 14 of the decree of 4 May 1995, constitute general rules as defined in article 30 of the Act of 13 June 2006.

As of the date of publication of this decree, the Nuclear Safety Authority takes the place of the Director General for Nuclear Safety and Radiation Protection or the *Prefect*, as the competent authority for receipt of the documents established or the information concerning the operations performed by the operators of basic nuclear installations or for issue of agreements or approvals to them, in the conditions laid out in the orders mentioned in the first paragraph.

The Nuclear Safety Authority has competence for granting the individual waivers provided for in these same orders. Its decisions are communicated to the ministers responsible for nuclear safety and published in the Authority's Official Bulletin.

The regulatory decisions by the Nuclear Safety Authority, issued according to the procedure set in article 3, may describe in detail the implementation of the orders mentioned in the first paragraph.

Article 65

When a basic nuclear installation, authorised on the basis of the decree of 11 December 1963, is not commissioned on the date of publication of this decree, its commissioning must take place within the time set in the authorisation decree and in the conditions laid out in article 20.

Article 66

As of publication of this decree, the information or reports requested from the operator of a basic nuclear installation authorised on the basis of the decree of 11 December 1963, are transmitted to the Nuclear Safety Authority in the conditions laid out in this decree.

The requirements contained in the decree authorising the creation of basic nuclear installations before this present decree enters into force and which are the competence of the Nuclear Safety Authority may be modified by this Authority as described in article 25.

When the operator of a basic nuclear installation, authorised pursuant to the decree of 11 December 1963, envisages proceeding with final shutdown of the installation within less than three years from publication of this decree, it will send the Nuclear Safety Authority the decommissioning plan required in I of article 37 no later than one year following this publication.

Article 67

The basic nuclear installations which were notified pursuant to article 14 of the decree of 11 December 1963 but which, since that time, have not been the subject of an authorisation or final shutdown decree based on the same decree, are registered as specified in I and II of article 47 of this decree, without production of the notification required in article 46. Registration takes place no later than following the first safety review of the installation. The

Nuclear Safety Authority may ask the operator to send it all information necessary for this registration. The provisions of article 48 do not apply to this registration.

Article 68

The requirements of III of article 29 of the Act of 13 June 2006 concerning periodic safety reviews apply to the basic nuclear installations mentioned in articles 65, 66 and 67, in the following conditions:

1° If, prior to publication of this decree, the installation has been the subject of reviews declared by the Nuclear Safety Authority as being in compliance with the safety review objectives defined by the Act of 13 June 2006, the interval of time for performing future reviews is counted as of the date of the last of these reviews;

2° In the case of an installation not yet commissioned, as mentioned in article 65, the interval of time for performing the safety reviews is determined using the methods and procedures defined in the first three paragraphs of article 24;

3° In all other cases, the interval of time for performing the safety reviews is counted as of the date of publication of this decree.

A decree issued according to the procedure applicable to the modifications mentioned in article 32 may stipulate different requirements for an installation.

Article 69

I. – For basic nuclear installations which were the subject of an authorisation order pursuant to articles 11 or 13 of the decree of 4 May 1995, the requirements of this order are equivalent to the requirements of the Nuclear Safety Authority under the terms of article 29 of the Act of 13 June 2006. They may be modified according to the methods and procedures set in article 25.

II. – As of the date of publication of this decree, the orders mentioned in I are, notwithstanding any provision to the contrary, applied as follows:

1° The information or reports requested from the operator are transmitted to the Nuclear Safety Authority;

2° Unless otherwise specified in this decree, the approvals required for certain operations, certain installation operating stages, certain documents issued by the operator or for certain temporary waivers, are granted by a decision of the Nuclear Safety Authority communicated to the ministers responsible for nuclear safety;

3° The procedures applicable in the event of modification of the installation or of its operating conditions, are those defined in chapter VII of part III.

Article 70

I. – The authorisation applications, the final shutdown authorisation applications and the applications for modifications to the authorisation decree or final shutdown applications submitted pursuant to the decree of 11 December 1963 before the publication of this present decree, will continue to be examined in accordance with the procedures specified by the

decree of 11 December 1963. These applications are accepted or rejected by a decree based on the report from the ministers responsible for nuclear safety and further to the opinion of the Nuclear Safety Authority, in accordance with the methods and procedures defined in articles 15 and 16 of this present decree. The decree comprises the requirements specified in article 16 or article 38 of this present decree and constitutes the authorisation or final shutdown and decommissioning decree as defined in article 29 of the Act of 13 June 2006.

II. – The authorisation or modification applications submitted pursuant to the decree of 4 May 1995 before the publication of this present decree, continue to be examined in accordance with the procedures set by this decree of 4 May 1995, with the Nuclear Safety Authority taking the place of the General Directorate for Nuclear Safety and Radiation Protection, for the purposes of application of article 6 of this decree. The decisions concerning these applications are issued by the Nuclear Safety Authority in accordance with the methods and procedures defined in IV, V VI and VII of article 18 of this present decree.

III. – For a period of one year from publication of this present decree, a operator who submits an authorisation application or notification of modification may, in the file enclosed with this application or notification, replace:

1° The impact assessment or its update by a document complying both with the requirements of article R. 122-3 of the Environmental Code and those of 4° of article 8 of the decree of 4 May 1995;

2° The preliminary safety case, the safety case, or their updates, by a document complying with the definition, as applicable, of the preliminary safety case specified in I of article 3 of the decree of 11 December 1963, or the provisional safety case specified in II of article 4 of the same decree, or the final safety case specified in III of the same article 4, or the safety case specified in article 6 ter of the decree of 11 December 1963;

3° The risk management study or its update by a document complying with the requirements of 5 of I of article 3 of the decree of 11 December 1963.

Article 71

In article R. 122-8 of the Environmental Code, 6° of II is replaced by the following provisions:

"6° a) Work requiring authorisation pursuant to the legislation on installations classified on environmental protection grounds;

"b) Work requiring an authorisation decree or a short-term authorisation or final shutdown and decommissioning authorisation or final shutdown and transition to surveillance phase authorisation, pursuant to article 29 of Act 2006-686 of 13 June 2006 concerning transparency and security in the nuclear field;"

Article 72

I. – In the list of public protection restrictions affecting the use of the land, specified in the appendix to chapter VI of title II of book I of the Town Planning Code, section B entitled "Public Safety" of heading IV entitled "Restrictions concerning public health and safety" is supplemented by the following paragraph:

"Public protection restrictions created pursuant to article 31 of Act 2006-686 of 13 June 2006 concerning transparency and security in the nuclear field."

II. – In article R. 425-27 of the Town Planning Code, the words "the authorisation specified in article 3 of decree 63-1228 of 11 December 1963 concerning nuclear installations", are replaced by the words: "the authorisation decree specified in article 29 of Act 2006-686 of 13 June 2006 concerning transparency and security in the nuclear field".

Article 73

In the table appended to article R. 214-1 of the Environmental Code, section 5.2.1.0: "Radioactive effluent from a basic nuclear nstallation (BNI) (A)" is deleted.

Article 74

The last paragraph of article 33 of the decree of 21 September 1977 is abrogated.

Article 75

The decrees of 11 December 1963 and 4 May 1995 are abrogated subject to the provisions of article 70 of this present decree.

Article 76

The Nuclear Safety Authority may, in a decision taken as defined in article 3, specify the technical methods and procedures for implementation of this present decree, in particular the elements to be included in the files to be transmitted to it, as well as the technical and methodological criteria to be considered when drafting the documents mentioned in this present decree.

In the same way, it may set the conditions in which the files mentioned in the first paragraph, or certain of their elements, may or must be presented in electronic form, in particular with a view to their subsequent electronic publication.

Article 77

The Minister for Ecology, Sustainable Development and Planning, the Minister for the Economy, Finance and Employment and the Minister for Justice are, each within their own field of competence, responsible for execution of this present decree, which will be published in the Official Journal of the French Republic.

Done in Paris, on 2 November 2007.

François Fillon

By the Prime Minister:

The *Ministre d'Etat*, Minister for Ecology,
Sustainable Development and Spatial Planning,
Jean-Louis Borloo

The Minister for the Economy,
Finance and Employment,
Christine Lagarde

The Keeper of the Seals, Minister of Justice,
Rachida Dati