

JUSTIFICATION

1. GENERAL PART

In accordance with the approved Plan for the Preparation of Decrees by Central Government Authorities for 2024, the draft was not subject to RIA and no final regulatory impact assessment report was prepared.

a) Explanation of the necessity of the proposed legislation and justification of its main principles

The State Office for Nuclear Safety (Státní úřad pro jadernou bezpečnost – SÚJB) is submitting a draft decree amending Decree No 377/2016 on requirements for the safe management of radioactive waste and on the decommissioning of a nuclear installation or category III or IV workplace. Decree No 377/2016 implements Act No 263/2016, the Atomic Act (hereinafter the ‘Atomic Act’). The SÚJB is authorised to issue the decree by § 236 of the Atomic Act. Decree No 377/2016 lays down, in accordance with the obligations laid down by the Atomic Act, the details relating to the management of radioactive waste and the decommissioning of a nuclear installation or workplace in the Czech Republic. The draft decree responds to the knowledge and experience of past years in the field of radioactive waste management and decommissioning of nuclear installations. Its aim is to take into account the relevant requirements of international documents, to eliminate some inaccuracies, and to adjust a few areas in which the need for change has been identified by practice.

b) Assessment of the draft legislation’s conformity with the Act it is to implement, including conformity with the statutory empowerment for its issue

The SÚJB is empowered to issue a decree pursuant to § 236 of this Act; the present draft decree is in accordance with the Atomic Act. The amended provisions of the Decree are provisions implementing § 24(7) and § 111(3)(a) to (c) of the Atomic Act. The proposed amendments to § 2, 3, 6, 8, 9, 10, and 13 respond to the knowledge gained in the application of the Decree in practice, to developments at the international level, and supplement and revise the provisions of the Decree within the limits of the statutory powers.

c) Assessment of compliance of the proposed legislation with European Union legislation, European Union case law and the general principles of European Union law

At the Euratom level, Council Directive 2011/70/Euratom of 19 July 2011 establishes a framework to ensure the responsible and safe management of spent fuel and radioactive waste in order to avoid imposing undue burdens on future generations. It is a framework directive, transposed into Czech law primarily by Act No 263/2016, the Atomic Act. Decree No. 377/2016, as well as the present amendment to this Decree, builds on the Atomic Act and implements and specifies the requirements and obligations laid down therein. The legislation, both in Decree No 377/2016 and in the present amendment, is in compliance with the Atomic Act and, by extension, with Council Directive 2011/70/Euratom. Legislation on the decommissioning of category III and IV workplaces takes into account Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom,

which is transposed into Czech law mainly by the Atomic Act and Decree No 422/2016 on radiation protection and the safeguarding of a radionuclide source. The proposed amendment to Decree No 377/2016 also complies with this Directive.

The proposal is also a technical regulation within the meaning of Article 1(1)(f) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 on the procedure for the provision of information in the field of technical regulations and of rules on Information Society services, and therefore needs to be notified as such.

d) Assessment of the existing provisions and justification of the need to amend them

The current legislation does not fully take into account the requirements of international documents, namely the WENRA Safety Reference Levels, the WGWD (Working Group on Waste and Decommissioning), and the International Atomic Energy Agency (IAEA) GSR Safety Standard Part 5, Pre-disposal Management of Radioactive Waste. The draft legislation eliminates this inconsistency and at the same time takes into account practical experience from SÚJB's supervisory activities concerning holders of radioactive waste management permits. The proposed changes to the text of the decree are also intended to allow for more technical solutions to selected problems in radioactive waste management and decommissioning of nuclear installations.

e) Expected economic and financial impacts of the proposed legislation on the national budget, other public budgets and the business environment in the Czech Republic

The proposed legislation will not affect the state budget or other public budgets. Nor will the legislation have a negative economic and financial impact on economic operators, including small and medium-sized enterprises. The legislation merely specifies and clarifies pre-existing obligations.

f) Assessment of social impacts, including impacts on specific groups of the population, in particular the socially vulnerable, persons with disabilities and national minorities, impacts on the protection of children's rights and environmental impacts

The draft implementing decree is not expected to have any negative social impact, including impact on specific population groups, especially socially disadvantaged persons, disabled persons and ethnic minorities, as the entire legislation is of no relevance in this respect. The proposed regulation will also not have negative impacts on the environment.

g) Assessment of the current situation and impact of the proposed policy in relation to the prohibition of discrimination and in relation to gender equality

The proposed legislation does not contain any provisions that would have an impact on the issue of discrimination, nor does it foresee any impact on gender equality.

h) Assessment of the impact of the proposed solution in relation to the protection of privacy and personal information

The proposed legislation does not create new processing of personal data nor does it change the existing processing of personal data. It does not regulate any obligations or rights of the personal data subject.

i) Assessment of corruption risks

There are no corruption risks associated with the draft legislation. It contains details of the obligations laid down in the Atomic Act relating to entities dealing with radioactive waste or decommissioning a nuclear installation or category III or IV workplace.

j) Assessment of impact on state security or defence

The proposed legislation does not foresee any negative impact on national security or defense.

k) Assessment of the impact on families, in particular with regard to the fulfilment of the functions of a family, the number of dependent members, the possible presence of disabled members, single-parent families, families with three or more children, and other specific life situations, as well as strengthening family integrity and stability, enhancing family harmony, achieving a better work-family balance, and strengthening intergenerational and wider family relationships

The draft decree is not related to this issue and therefore will not have any impact on families.

l) Evaluation of territorial impacts, including impacts on local self-governing units

The proposed legislation has no territorial implications. The draft does not affect the autonomous or delegated powers of territorial self-governing units.

m) Assessment of the compliance of the proposed solution with the principles of digitally-friendly legislation, including an assessment of the risk of exclusion or limitation of access to certain services for specific groups of persons due to the digitalisation of their provision (digital exclusion).

The draft legislation does not conflict with the principles of digitally-friendly legislation.

2. SPECIAL PART

Re: Article I

Re: Amendment points 1 and 2

§ 2(2)(f) and (g); § 2(2)(h) (new)

The obligation to use passive functions that do not require activation, mechanical propulsion, or the supply of media or energy from another system, where reasonably practicable, to ensure the requirements set out in § 2(1)(a) to (e) is added to the list of obligations of the holder of a radioactive waste management permit. The requirement to use passive functions of systems, structures and components is enshrined in § 12(2)(b) of Decree No 329/2017 on requirements for the design of a nuclear installation. However, it concerns only nuclear installations and selected passive installations. However, radioactive waste management facilities are also part of installations other than nuclear installations, and the obligation to use passive functions as a matter of priority is not laid down in the current legislation for these installations. This deficiency was brought to the attention of the SÚJB representative in WENRA - WGWD in March 2021. WENRA WGWD P-35 requirement (*'The licensee shall design the facility to ensure that safety is achieved through the use of safety features with preference for passive safety features as far as practicable. The licensee shall give preference to prevention over mitigation'*) is fully complied with in the Czech Republic only for radioactive waste management facilities that are nuclear installations or part thereof. For category III and IV workplaces that are not nuclear installations, this requirement is not specified in the current version of the legislation. The draft amendment rectifies this shortcoming.

Re: Amendment point 3

§ 3(4)(a)

§ 3(4) of Decree No 377/2016 classifies solid radioactive waste. The first class of solid radioactive waste is transitionally active waste which, after storage for a maximum of 5 years, shows an activity below the clearance levels. However, the limitation of storage to 5 years does not correspond to the current practice, where transitional waste is stored for significantly longer than 5 years before it is released from the workplace, and at the same time is not supported by IAEA documents, in particular GSG-1 (Classification of Radioactive Waste). This document defines the radioactive waste class *'very short-lived waste'*, which may be released from the workplace after storage limited to several years. The draft amendment – i.e. specifying that this involves transitionally active waste containing short-term radionuclides and extending the non-compliant 5-year period to 20 years – aims to bring the definition of transitionally active waste closer to the IAEA very short-lived waste classification in the above-mentioned IAEA document, while taking into account the requirements of the storage practice for such radioactive waste.

Re: Amendment point 4

§ 6(4)(f)

This amendment extends the obligation laid down in § 6(4)(f) of Decree No 377/2016 to include solid radioactive waste. From a substantive point of view, it is not clear why the obligation (i.e. the obligation to immediately, but no later than two years after the start of storage of radioactive waste meeting the conditions of acceptability of the operated radioactive waste repository, to transfer that radioactive waste to the Administration for

disposal) is limited to solidified radioactive waste only. The aim of this provision is to minimise the storage time of all radioactive waste that can be stored in radioactive waste repositories in operation. In relation to the requirement of § 8(2) of Decree No 377/2016, which stipulates that only solid or solidified radioactive waste that fulfils the conditions of acceptability for disposal may be disposed of, this obligation should apply to both solid and solidified radioactive waste.

Re: Amendment point 5

§ 6(5)

Amendments made to § 6(5)(a)(5); § 6(5)(b) § 6(5)(c)

The term ‘protective sump’ used is not generic enough to be applicable to all premises with a similar protective function in new nuclear installation projects. The proposed addition of ‘or other system, structure and component’ is intended to ensure that another suitable system, structure and component, e.g. a room with a tank that would be suitably adapted, can also perform the function. The legislative short-cut ‘protective containment system’ is introduced in the text of the draft decree for this ‘sump or other system, structure and component’ system.

Amendment made to § 6(5)(e)

Substantive clarification of the text, which in its current version combines the management of liquid radioactive waste with the management of liquid waste that may or may not be contaminated with radionuclides. A common practice in the management of liquid waste is its collection in tanks and subsequent treatment. The process also includes monitoring radionuclide contamination and, if clearance levels are not exceeded, the release of waste from the workplace. This practice is not taken into account in the current text of § 6(5)(e) of Decree No 377/2016. The deletion of the words ‘with the exception of collection tanks intended for the collection of liquid radioactive waste that may be contaminated by radionuclides’, which do not concern the management of liquid radioactive waste, will clarify the text.

Amendment to § 6(5)(f)

The proposed amendment to the text aims to allow for more technical solutions to the problem. The original requirement to slope the floor (the requirement ‘the floor must be sloped into an impermeable sump without drainage’) is a very strict criterion with a significant impact on the building structure. This requirement is not always fully applicable to projects for new nuclear sources, and its application can lead to extensive changes in the entire design of rooms. The proposed amendment to this requirement - ‘the floor must be equipped with a protective retention system without drainage’ - will allow the problem to be addressed in a way other than simply by the slope of the floor. The change is in line with NS-G-1.13, where sloping floors are merely one of the options for collecting leaks, and not a necessity.

The text of the entire new paragraph has been slightly modified stylistically compared to the original version to make it more concise and linguistically accessible.

Re: Amendment point 6

§ 8(2)

According to the current version of Decree No 377/2016, in accordance with § 3(4)(a), transitionally active waste may also be considered radioactive waste and, pursuant to § 8(2), it may be disposed of if it meets the conditions for acceptability. However, this is in contrast with the requirement to minimise radioactive waste. In addition, the category of transitionally active waste was introduced to allow this waste to be released from the workplace after an appropriate storage period. The proposed addition [explicit exclusion of transitionally active radioactive waste from the scope of § 8(2) of Decree No 377/2016] should solve this problem.

Re: Amendment point 7

§ 9(3)

The limits and conditions set out in § 9(3) of Decree No 377/2016 apply not only to facilities for managing radioactive waste prior to its disposal, but also to radioactive waste repositories (hereinafter also 'RWR'). The current version of § 9(3) was inspired by the limits and conditions of the Dukovany RWR in force at the time. The content of the limits and conditions for a facility for managing radioactive waste prior to its disposal and for a RWR do not differ in any way. In addition, the related § 9(4)(a) of Decree No 377/2016 on the details of admissibility conditions does not apply to the RWR under the current wording, which does not correspond to international requirements (IAEA, WENRA) and national practice. The proposed deletion rectifies this situation.

Re: Amendment point 8

§ 10(4)

The draft amendment clarifies the current obligations of producers of radioactive waste. It is specified that the characterisation of radioactive waste according to the radioactive waste characterisation programme is part of the activities carried out in the context of the collection, sorting, processing and treatment of radioactive waste. The proposal is in line with the requirements of the IAEA GSR Safety Standard Part 5, Pre-Disposal Management of Radioactive Waste, which states in Requirement 9: 'At the various stages of radioactive waste management, radioactive waste must be characterised and classified in accordance with requirements laid down or approved by the regulatory authority.'

The content requirements of the programme for the characterisation of radioactive waste, i.e. the document which the currently applicable decree required to be drawn up, are further specified, but no additional details of its content are provided. The introduction of framework requirements for the content of this programme should ensure that radioactive waste meets the acceptance criteria for its management. Based on the characterisation, it will be possible to determine whether the waste can be released from the workplace and then, for example, recycled or landfilled, or whether it needs to be treated as radioactive waste. Radioactive waste characterisation is thus an important means of minimising radioactive waste under § 111 of the Atomic Act and as required by the IAEA. The draft amendment responds to practical experience, addressing cases where waste meeting the criteria for clearance was treated as radioactive waste due to insufficient characterisation.

In addition, § 10(4) is clarified by the requirement that the transferor must also be obliged to hand over for further management waste meeting the conditions of acceptability of a holder of a radioactive waste management permit.

Re: Amendment point 9

Footnote 1

Due to amendment of Decree No 23/2008, footnote 1 is amended accordingly.

Re: Amendment points 10 and 11

§ 13(1)(e)(5); § 13(1)(e), point 6 (new)

The amendment to § 13(1)(e)(5) of Decree No 377/2016 is due to the addition of § 13(e)(6).

§ 13(1)(e)(6) of Decree No 377/2016 supplements and specifies ways of limiting the possibility of release of radioactive substances due to seepage and leaks. The original text contained points concerning the limitation of the possibility of release of liquid radioactive substances and did not contain any way of limiting the possibility of release of gaseous radioactive substances.

Re: Amendment point 12

§ 13(5)(d); § 13(5)(e)

Addition of technical safety among the aspects that must be taken into account in the safety report pursuant to § 13(5)(d) and (e). This aspect of safety had been omitted from the list.

Re: Article II

The amendment to Decree No 377/2016, like Decree No 377/2016 itself, is a technical regulation within the meaning of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 on the procedure for the provision of information in the field of technical regulations and of rules on Information Society services, and was accordingly notified as such.

Re: Article III

The effective date of the amendment to Decree No 377/2016 is set for 1 July 2025. This effective date respects the provisions of § 9(2) of Act No 222/2016 on the Collection of Laws and International Treaties and on the creation of legislation promulgated in the Collection of Laws and International Treaties, as well as the three-month standstill period laid down in Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.

