

1. SCOPE

The legitimacy of ASN's monitoring of nuclear activities is based on the provisions of section 2 of article 4 of the law of 13 June 2006 on transparency and safety in the nuclear field (TSN Act). This provides that *"The Nuclear Safety Authority monitors compliance with the general rules and special prescriptions as regards nuclear safety and radiation protection to which are subject: the basic nuclear installations defined in Article 28; the manufacture and use of pressurised equipment specially designed for these installations; the transport of radioactive substances; and the activities mentioned in Article L. 1333-1 of the Public Health Code and the persons mentioned in Article L. 1333-10 of said Code."*

ASN's monitoring activities concern the general rules and specific instructions to which the following must submit:

- operators of basic nuclear installations;
- those responsible for transporting radioactive substances;
- those responsible for other activities that include a risk of exposure to people and those working with ionising radiation;
- those responsible for manufacturing and using pressurised equipment specially designed for basic nuclear installations;
- organisations that it certifies to assist with inspection and monitoring in the field of nuclear safety and radiation protection.

The latter will be termed "operators" in the following text.

For this document, enforcement refers to the sanctions and measures prior to implementation that ASN may impose on an operator.

All enforcement measures may be taken or proposed by ASN in case of noncompliance with a law, a regulation or individual decisions that are applicable to an operator.

In case of a deviation noted during an inspection operation, ASN must act in a manner that is commensurate, objective and fair. This is the purpose of the general policy described below. Therefore, this document does not consider risk situations in which there is no observed breach of legal or regulatory provisions.

2. OBJECTIVES AND PRINCIPLES

The enforcement policy aims to:

- require the operator to conform to regulations and take appropriate action to reduce the most significant risks without delay;
- sanction the operator if it fails to comply with regulatory obligations and responsibilities ensuing from its activity.

The principles of the ASN's sanction policy are based on measures that are impartial, justified and adapted to the level of risk that the observed situation represents. Their severity is commensurate with the health and environmental stakes in the observed deviation and also takes into account internal factors relating to the behaviour of the offender and external factors concerning the context of the deviation.

ASN's Policy Concerning Enforcement Measures and Sanctions

ASN will determine administrative actions to remedy noncompliance with legal and regulatory provisions on the basis of observations made by its inspectors.

To fully exercise their prerogative, inspectors use their professional judgement so that the actions they propose are adapted to the observed situation. In case of serious and imminent risk, they inform those in charge at ASN without delay so that it can order emergency measures.

In the framework of coordinating public services, ASN informs other concerned government departments of enforcement measures and sanctions taken concerning the operators.

3. RESOURCES

The law provides ASN and its inspectors with the resources to enforce compliance with the provisions that they monitor by providing enforcement measures and sanctions that are applicable in case of infraction.

ASN has a graded series of enforcement measures and sanctions, including:

- measures that are not legally binding:
 - o inspector's observation to the operator;
 - o an official letter from ASN's services to the operator;
- formal demand to the operator to rectify an administrative situation or comply with certain required conditions within a specified time period;
- administrative sanctions announced, after a formal demand has been made, for basic nuclear installations and the transportation of radioactive substances:
 - o deposit with a public accountant of a sum to cover the cost of work to be performed;
 - o court-ordered completion of work at operator expense;
 - o suspension of facility operation or the course of operations until the operator is in compliance;
- for other nuclear activities, the suspension or withdrawal of authorisation or approval in compliance with applicable legislative and regulatory provisions.

ASN's inspectors observe deviations and can, when they are qualified and under oath, respond to them with an official report. The official reports are sent to the public prosecutor who determines if there is just cause to pursue legal action.

So that inspectors can assess the issues, ASN provides them with tools to take a decision that considers the complexity and diversity of situations that may be observed.

These tools:

- cannot cover the complexity of actual situations. The inspector retains a major role for assessing the situation;
- provide a structure for taking a decision that is consistent for all inspectors and complies with the policy defined by ASN;
- constitute a learning vector for inexperienced inspectors;
- add to the transparency of ASN's decisions.

ASN's resources for enforcement and sanction serve its basic objective, which is to protect workers, patients, the public and the environment from risks related to ionising radiation.