

NUCLEAR REGULATORY COMMISSION

10 CFR Part 76

[Docket No. PRM-76-1]

United Plant Guard Workers of America; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by John M. Driskill on behalf of Local 111 of the United Plant Guard Workers of America. The petition has been docketed by the Commission and has been assigned Docket No. PRM-76-1. The petitioner requests that the NRC amend its regulations concerning security at gaseous diffusion plants to address sites that have both special nuclear material security concerns and protection of classified matter concerns; to require that these facilities be able to detect, respond to, and mitigate threats of a sabotage event; and to require that the security force be armed and empowered to make arrests in limited situations. The petitioner believes that these amendments are necessary to address the protection of classified information, equipment and materials, and special nuclear material at the gaseous diffusion plants.

DATE: Submit comments by July 24, 2000. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rulemakings and Adjudications staff.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays.

For a copy of the petition, write to David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

You may also provide comments via the NRC's interactive rulemaking website at <http://ruleforum.llnl.gov>. This site provides the capability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415-5905 (e-mail: CAG@nrc.gov).

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-415-7162 or Toll-free: 1-800-368-5642 or E-mail: DLM1@NRC.GOV.

SUPPLEMENTARY INFORMATION:

Background

On March 30, 2000, the Nuclear Regulatory Commission (NRC) docketed a March 13, 2000, letter from John M. Driskill, President of Local 111 of the United Plant Guard Workers of America, to William Travers, the NRC's Executive Director for Operations, as a petition for rulemaking under 10 CFR 2.802. In this letter, Mr. Driskill requested that the NRC's regulations applicable to safeguards and security at gaseous diffusion plants be amended under 10 CFR

2.206. The §2.206 process is applicable to actions that would suspend, modify, or revoke a license. Requests to add, amend, or remove a regulation are processed under 10 CFR 2.802. Therefore, Mr. Driskill's request was docketed under the procedures applicable to petitions for rulemaking contained in § 2.802.

The Regulations

The gaseous diffusion plants located in Piketon, Ohio and Paducah, Kentucky have obtained a certificate of compliance issued under the provisions of 10 CFR Part 76. This ensures that these plants operate in compliance with those requirements considered necessary to protect the public health and safety from radiological hazards and to provide for the common defense and security. The regulations in Subpart E of Part 76 address safeguards and security requirements for the gaseous diffusion plants.

The gaseous diffusion plants process Category III levels of special nuclear material as described in 10 CFR 73.2. The petitioner notes that these types of quantities require a minimum level of security, as specified in 10 CFR 73.67, to minimize the possibility for the unauthorized removal of special nuclear material. The specified level of security is intended to be consistent with the potential consequences of such an action. The petitioner also notes that the regulations in 10 CFR Part 95 establish security requirements for the protection of classified matter at the levels of confidential restricted data and secret restricted data. The petitioner further notes that these two security protocols are not similar.

The Requested Actions

The petitioner requests that the NRC amend its regulations applicable to safeguards and security at the Portsmouth and Paducah gaseous diffusion plants. The requested amendments would –

1. Require more stringent security programs to protect both the special nuclear material and classified matter;
2. Require that these facilities be able to detect, respond to, and mitigate threats of a sabotage event; and
3. Require the security force to be armed and empowered to make arrests in limited situations, such as for violations of the Atomic Energy Act.

Material Security and Classified Matter

The petitioner asserts that the regulations do not adequately address sites that have both nuclear material security concerns and classified matter concerns. The petitioner believes that the applicable regulations were not appropriately merged in the regulations governing gaseous diffusion plants to address a site that covers the protection of classified information, equipment and materials, and special nuclear material.

The petitioner provides an example of this situation in the Controlled Area Fence Line. The petitioner explains that the fence line serves as a minimum level of protection against the unauthorized removal of special nuclear material contained in 10 and 20 ton cylinders. The petitioner explains that the portals and gates are in place to ensure that personnel who gain access to the controlled access area have the proper clearance or are under escort and ensuring that prohibited articles are not allowed into the controlled area. The petitioner believes that the missing element of security is whether the fence line, which the petitioner believes does

minimize the unauthorized removal of special nuclear material of 10 and 20 ton cylinders, adequately protects against the unauthorized removal of restricted information, equipment, and other materials or the unauthorized access to these types of materials.

The petitioner asserts that other facilities that possess Category III quantities of special nuclear material regulated by the NRC do not share the level of concern for classified matter, equipment, and technology that exists at the gaseous diffusion plants. The petitioner suggests that the regulations concerning security programs at the gaseous diffusion plants, such as escort requirements and physical security measures, should be amended to be made more stringent to protect this technology.

Sabotage Events

According to the petitioner, the NRC typically relies on local law enforcement agencies to respond to incidents of workplace violence or sabotage at material licensee facilities. The petitioner states that the scope and complexity of a gaseous diffusion plant makes it far different from other types of NRC licensed materials facilities. Furthermore, the petitioner believes that these differences result in unique problems in relying on local law enforcement agencies to protect such a facility from violent incidents. The petitioner indicates that local law enforcement agencies in the vicinity of the Paducah plant have stated, for the record, that they should not be viewed as a replacement for on-site security because of their lack of knowledge of the plant site, the types of hazards contained in the plant, and their limited resources. The petitioner presents two letters, attached to the petition, from law enforcement agencies in the vicinity of the Paducah plant that support this contention.

Because of the unique nature of gaseous diffusion plants and the importance of their operation, the petitioner believes that a violent incident or an act of sabotage would affect

national security. The petitioner also asserts that, because of the many radiological and toxicological hazards associated with these plants, an act of sabotage could adversely affect the safety of plant workers and the public.

The petitioner believes that these dangers were not addressed as part of the certification process. According to the petitioner, current NRC standards do not require a security force that is capable of preventing a sabotage event. The petitioner requests that the regulations be amended to require that security forces at the gaseous diffusion plants be able to detect, respond to, and mitigate violent incidents or acts of sabotage.

The petitioner also notes that current regulations do not require that the security force be armed or empowered to enforce the Atomic Energy Act. The petitioner requests that security officers at the gaseous diffusion plants be armed and empowered to make arrests in limited situations, such as for violations of the Atomic Energy Act.

Dated at Rockville, Maryland, this 4th day of May, 2000.

For the Nuclear Regulatory Commission.

/RA/

Annette Vietti-Cook,
Secretary of the Commission.