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Secretary,
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ATTN: Rulemakings and Adjudications Staff

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OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

**STRATEGIC TEAMING AND RESOURCE SHARING (STARS)
COMMENTS ON PETITION FOR RULEMAKING;
EVALUATION OF CHANGES, TESTS AND EXPERIMENTS FOR
RADIOLOGICAL SABOTAGE AND OF AERIAL ACCIDENTS
PRM-50-80 (68 FR 35585)**

Gentlemen:

The Strategic Teaming and Resource Sharing (STARS)¹ nuclear power plants are hereby providing comments on the petition for rulemaking filed by the Union of Concerned Scientists and the San Luis Obispo Mothers for Peace. The petition requests that the NRC amend regulations to require licensees to formally evaluate whether proposed changes, tests, and experiments cause protection against radiological sabotage to be decreased and to require licensees to formally evaluate specified intentional or accidental aerial hazards and make necessary changes to ensure that the plant can achieve and maintain safe shutdown. STARS does not believe either of these requests to be necessary or beneficial. Therefore, STARS requests that the NRC deny the petition for rulemaking. Specific comments are attached.

The STARS plants appreciate the opportunity to comment on the petition for rulemaking. If there are any questions regarding the STARS comments, please contact me at 254-897-6887 or email me at dwoodla1@txu.com.

Sincerely,

D. R. Woodlan, Chairman
Integrated Regulatory Affairs Group
STARS

¹ STARS is an alliance of six plants (eleven nuclear units) operated by TXU Energy, AmerenUE, Wolf Creek Nuclear Operating Corporation, Pacific Gas and Electric Company, STP Nuclear Operating Company and Arizona Public Service Company.

Attachment

STARS Comments On Petition For Rulemaking; Evaluation of Changes, Tests And Experiments For Radiological Sabotage and of Aerial Accidents

The petition request can be divided into two general conceptual areas. The first is associated with activities governed by 10 CFR 50.59 and 10 CFR 50.54(p). The second is a concern posed by aerial hazards similar to those used in the tragedy of September 11, 2001.

Evaluation of Changes, Tests and Experiments for Radiological Sabotage

To address the first issue, STARS will draw on NEI 96-07, "Guidelines for 10 CFR 50.59 Implementation," revision 1. This guidance document was endorsed by the NRC and has been committed to by the nuclear power industry. In so doing, the industry has implemented its contents and guidance.

10 CFR 50.59 addresses changes, tests and experiments and is applied to many activities performed by licensees. As allowed by 10 CFR 50.59 (c) (4), other "change" regulations may be applied to the activity if more appropriate. The petitioner incorrectly asserts that the application of other regulations is to the exclusion of 10 CFR 50.59 criteria. As discussed in NEI 96-07, section 4.1.1, all applicable regulations must be applied to an activity. NEI 96-07 states, "However, there may be certain activities for which a licensee would need to apply both the requirements of 10 CFR 50.59 and that of another regulation. For example, a modification to a facility involves additional components and substantial piping reconfigurations as well as changes to protection system setpoints. The protection system setpoints are contained in the facility technical specifications. Thus, a license amendment to revise the technical specifications under 10 CFR 50.90 is required to implement the new system setpoints. 10 CFR 50.59 should be applied to the balance of the modification, including impacts on required operator actions." This reasoning, as it applies to fire protection, is reiterated in section 4.1.5 of NEI 96-07, "Changes to the fire protection program should be evaluated for impacts on other design functions, and 10 CFR 50.59 should be applied to the non-fire protection related effects of the change, if any." Therefore, the guidance does not allow for exclusion of integrated impact of an activity. If an activity that resides primarily in the world of security impacts a design function of the plant it should be considered under 10 CFR 50.59 in addition to 10 CFR 50.54(p). The reverse is also true. If an activity that modifies the plant also impacts the security of the plant, it should not only be evaluated using 10 CFR 50.59 but 10 CFR 50.54(p) as well.

In addition, licensees are required to assess and cope with radiological sabotage in accordance with 10 CFR 50.34(c) and (d), 10 CFR 50.54(p) and 10 CFR part 73 (as enhanced by the Safeguards and Threat Advisories and Orders issued by the NRC since September 11, 2001). These requirements clearly include radiological sabotage. Subsequent evaluations in accordance with 10 CFR 50.54(p) to determine if there is a

decrease in safeguards effectiveness will include the potential impact of radiological sabotage within the bounds defined by the regulatory requirements listed above.

All requirements and regulations that apply must be invoked. Therefore, the first portion of the rulemaking is unnecessary as it is already accounted for by the guidance endorsed by the NRC.

Evaluation of Aerial Accidents

Nuclear plant design takes into consideration diverse and divided trains and shut down capabilities. This is required by regulation for original as well as future design considerations. Therefore, STARS believes the second issue, sabotage committed by aerial devices, is addressed by current regulation. In addition, the industry and NRC have independently validated the effects of a large airborne object on nuclear plant structures (including used fuel pools and used fuel dry facilities) and have found alleged claims of mass destruction and release to the environment to be erroneous. Specifically, using the size and location of the target described by the petitioner does not lend itself to greater or different vulnerability than that already analyzed. STARS disagrees that the design analysis requested by the petitioner would have been required had a nuclear facility been a target on September 11, 2001. STARS also believes that the industry would be engaged in security activities no more conservative than those they are implementing today in response to the current environment.

Conclusion

Therefore, based on the issues discussed above, STARS requests the NRC deny the petition for rulemaking that would revise 10 CFR 50.59 and 50.54(p), and require additional analysis of design.