



DOCKET NUMBER
PROPOSED RULE

PR 2, 30, 40, 50, 52, 60, 63, 71, 72, 73, 76+150
(70FR 07196)

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Ref: RIN: 3150- AH57

STARS-05005

April 20, 2005

Secretary,
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001
ATTN: Rulemakings and Adjudications Staff

DOCKETED
USNRC

April 25, 2005 (4:27pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

**STRATEGIC TEAMING AND RESOURCE SHARING (STARS)
COMMENTS ON PROPOSED RULEMAKING;
PROTECTION OF SAFEGUARDS INFORMATION
(RIN: 3150-AH57) (70 FR 7196)**

Gentlemen:

The Strategic Teaming and Resource Sharing (STARS)¹ nuclear power plants have reviewed the proposed rulemaking, "Protection of Safeguards Information" (70 FR 7196) and the associated regulatory analysis. The STARS plants endorse the comments provided by NEI. In addition, specific STARS comments are provided below.

The STARS plants are concerned with the requirements for "portion marking" as proposed in section 73.22(d) of the rulemaking. The requirement for "portion marking" is a significant burden on licensees which is not properly justified. In addition, the requirement is not clear. For example, in some cases specific portions of a document may not be safeguards information when considered separately but would be considered safeguards information when viewed collectively. This requirement should be re-examined. In the opinion of the STARS plants, a document containing safeguards information should be marked as such and portion marking should not be required. It is good practice to separate safeguards information from non-safeguards information in separate documents although this practice should not be codified. Documents that contain safeguards information should be essentially all safeguards. When it is appropriate to produce documents which are mixed (contain both safeguards and non-safeguards information), attempts should be made to segregate the safeguards information into separate sections or attachments/appendices. In such cases, it would be reasonable to require "portion marking" but

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

not in all cases. Somehow the rule must reflect that portion marking is only to be required for documents transmitted to or from the NRC in which significant portions of the document are clearly non-safeguards. Although a requirement for "portion marking" exists in the current regulations, this requirement becomes even more burdensome with the increasing scope of SGI, the addition of SGI-M and the general increase in correspondence with the NRC containing SGI and SGI-M.

The rulemaking implies that one of the purposes of the activity is to make the regulations consistent with recent orders and advisory letters. While such orders and advisories may have been the tools of choice to act in a timely manner, the STARS plants concur with the philosophy of returning to regulating with regulations. Making the current regulations consistent with the orders and letters is a good first step. This may create some problems, however. Licensees may now have orders, letters and updated regulations all addressing the same issue but with different words. This can create ambiguity for implementation by the licensee and for enforcement for the NRC. It is imperative that the NRC follow-up such rulemaking activity with the deletion of or revisions to current orders and advisory letters. In the interim, the NRC should consider stating (in an order or in the regulations) that the revised regulations supersede all conflicting orders and advisory letters issued prior to the effective date of the revision to the regulations.

The STARS plants appreciate the opportunity to comment on this proposed rule. If there are any questions regarding these comments, please contact me at 254-897-6887 or dwoodla1@txu.com.

Sincerely,



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