



PR 73  
(73FR51378)

U. S. Department of Justice

Office of Legal Policy

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Assistant Attorney General

Washington, D.C. 20530'

DOCKETED  
USNRC

OCT 10 2008

October 15, 2008 (4:16pm)

The Honorable Annette L. Vietti-Cook  
Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Attention: Rulemaking and Adjudications Staff

Dear Secretary Vietti-Cook:

The Department of Justice has the following comments on the Nuclear Regulatory Commission Notice of Proposed Rulemaking (NPRM) rule published on September 3, 2008 (73 FR 51378), Docket No. NRC-2008-0458; RIN 3150-AI31.

The Department supports NRC's creation of a concurrent jurisdiction offense for the introduction of weapons or explosives in NRC licensed facilities. There is sufficient Federal interest to justify the existence of a Federal crime, despite the private sector nature of the site of the offense. There is no reason to attempt to preempt state criminal statutes against possession of weapons or explosives in NRC licensed facilities.

The Department suggests one edit to the Supplementary Information portion of NRC's NPRM. On page 73 FR 51379, col. 2 the last sentence of the first full paragraph reads:

This proposed rule does not interfere with State prosecution of these crimes under State law, but it does allow the Federal Bureau of Investigation to investigate and the Department of Justice to prosecute in addition to, or instead of, the State Government.

The Department notes that while there are some offenses that are specific to nuclear facilities that would be investigated solely by the Federal Bureau of Investigation (FBI), there could be other Gun Control Act or National Firearms Act offenses that would be investigated by the Department's Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). Further, there also could be investigations conducted by the Department of Homeland Security (DHS) involving nuclear facilities that fall within DHS's jurisdiction.

Accordingly, the Department recommends that in the final NRC rule on this subject the sentence quoted above be revised to read as follows:

This rule does not interfere with State prosecution of these crimes under State law, but it does allow the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms,

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and Explosives, or other Federal law enforcement agencies to investigate and the Department of Justice to prosecute in addition to, or instead of, the State Government."

If you have any questions about the Department's comment, please contact Robert Hinchman of my staff at 514-8059.

Sincerely,

A handwritten signature in black ink that reads "Elisebeth C. Cook". The signature is written in a cursive style with a large initial 'E' and a distinct 'C'.

Elisebeth C. Cook  
Assistant Attorney General  
Office of Legal Policy

## Rulemaking Comments

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**From:** Carol Gallagher  
**Sent:** Wednesday, October 15, 2008 2:49 PM  
**To:** Rulemaking Comments  
**Subject:** Comment on Proposed Rule - Criminal Penalties; Unauthorized Introduction of Weapons  
**Attachments:** cook.pdf

Attached for docketing is a comment letter on the above noted proposed rule (73 FR 51378) from Elisebeth C. Cook, Department of Justice, that I received via the regulations.gov website on 10/10/08.

Carol

Received: from HQCLSTR01.nrc.gov ([148.184.44.79]) by OWMS01.nrc.gov  
([148.184.100.43]) with mapi; Wed, 15 Oct 2008 14:49:11 -0400  
Content-Type: application/ms-tnef; name="winmail.dat"  
Content-Transfer-Encoding: binary  
From: Carol Gallagher <Carol.Gallagher@nrc.gov>  
To: Rulemaking Comments <Rulemaking.Comments@nrc.gov>  
Date: Wed, 15 Oct 2008 14:49:10 -0400  
Subject: Comment on Proposed Rule - Criminal Penalties; Unauthorized  
Introduction of Weapons  
Thread-Topic: Comment on Proposed Rule - Criminal Penalties; Unauthorized  
Introduction of Weapons  
Thread-Index: Acku9rW60QRXQIbDS4mNQLL7tCpMEg==  
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