

August 2, 2010

Mr. Erhard W. Koehler
Senior Technical Advisor, N.S. Savannah
U. S. Department of Transportation
Maritime Administration (MAR-640.2)
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

SUBJECT: N.S. SAVANNAH - REVISED POWER REACTOR SECURITY RULE

Dear Mr. Koehler:

This letter is being sent as a follow on to the July 20, 2010 webinar on the applicability of the power reactor security regulations to Part 50 licensees. The purpose of this letter is to provide clarification on this issue and notify licensees of additional actions that may be required. The revised Power Reactor Security Rule (74 *Federal Register* (FR) 13926) became effective on May 26, 2009, with compliance required by March 31, 2010. The requirements in 10 CFR 73.55 are referenced in the protection requirements (10 CFR 72.212(b)(5)) for the general license issued under 10 CFR 72.210. The U.S. Nuclear Regulatory Commission (NRC) recognizes that some Part 50 licensees (e.g., a Part 50 licensee with a facility undergoing decommissioning or a Part 50 licensee that has only a general licensed Independent Spent Fuel Storage Installation (ISFSI) under 10 CFR 72.210 with no plant or a plant in decommissioned status) may not have recognized the applicability of the revised Power Reactor Security Rule to their facility. As a result, Part 50 licensees with facilities in decommissioning or decommissioned status may be out of compliance with the current 10 CFR 73.55 security requirements.

The NRC believes that there are currently no security or health and safety gaps at these facilities that may not be in compliance with the current 10 CFR 73.55 requirements. This is because the security programs at these facilities meet the baseline requirements of the previous version of 10 CFR 73.55 and also meet the requirements in subsequent security orders.

For facilities which may not be in compliance with the current 10 CFR 73.55, the NRC will consider, as appropriate on a case-by-case basis, the use of enforcement discretion in accordance with Section VII.B.6 of the Enforcement Policy, "Violations Involving Special Circumstances" for a period of time until the exemption process is completed. The NRC will consider a licensee's demonstration of good-faith attempt to interpret and implement the new rule, the licensee's prompt corrective actions, and the NRC's recognition of ambiguity regarding the scope of the rule when applying this discretion. Potential findings that are apparent violations of orders or applicable regulations and not attributable to good-faith interpretation and implementation problems, potential noncompliances that involve willfulness or deliberately uncorrected deficiencies, or potential noncompliances that either were not attributable to good-faith interpretation and implementation problems or involved willfulness will be dispositioned through the normal enforcement processes.

Licensees need to evaluate the applicability of the current 10 CFR 73.55 to their specific facility and either make appropriate changes to the Physical Security Plan or ISFSI physical protection system or apply for exemptions, as necessary. As a matter of clarity, the new 10 CFR 73.55 rule does not obviate licensees from implementing the Additional Security Measures (ASMs) of 2007. Therefore, the requirements in the ASMs remain in effect. Exemptions granted to requirements in the previous version of 10 CFR 73.55 automatically transfer provided the language in 10 CFR 73.55 has not changed substantively. Consistent with past practice, NRC will consider allowing a licensee in a decommissioning status or a Part 50 licensee that has only a general licensed ISFSI under 10 CFR 72.210 with no plant or a plant in decommissioned status to decrease their security requirements through the exemption process.

The NRC expects that licensees will comply with the requirements in 10 CFR 73.55 or request exemptions from those requirements in 10 CFR 73.55 that the licensee believes are not applicable to their facility. Exemptions requests, and if applicable, license amendment requests should provide the basis for the request. Any necessary responses, exemption requests, or amendments must be submitted 120 days after receipt of this letter. The staff understands that there may be no special nuclear material (SNM) on the N.S. Savannah. You may want to review exemptions that have been previously granted for sites without SNM (Agencywide Documents Access and Management System Accession Nos.: ML022800500 and ML081060313). Please contact John B. Hickman at 301-415-3017 or John.Hickman@nrc.gov with questions.

Sincerely,

/RA/

Bruce A. Watson, Chief
Reactor Decommissioning Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 50-238

cc: NS Savannah Service List

Licensees need to evaluate the applicability of the current 10 CFR 73.55 to their specific facility and either make appropriate changes to the Physical Security Plan or ISFSI physical protection system or apply for exemptions, as necessary. As a matter of clarity, the new 10 CFR 73.55 rule does not obviate licensees from implementing the Additional Security Measures (ASMs) of 2007. Therefore, the requirements in the ASMs remain in effect. Exemptions granted to requirements in the previous version of 10 CFR 73.55 automatically transfer provided the language in 10 CFR 73.55 has not changed substantively. Consistent with past practice, NRC will consider allowing a licensee in a decommissioning status or a Part 50 licensee that has only a general licensed ISFSI under 10 CFR 72.210 with no plant or a plant in decommissioned status to decrease their security requirements through the exemption process.

The NRC expects that licensees will comply with the requirements in 10 CFR 73.55 or request exemptions from those requirements in 10 CFR 73.55 that the licensee believes are not applicable to their facility. Exemptions requests, and if applicable, license amendment requests should provide the basis for the request. Any necessary responses, exemption requests, or amendments must be submitted 120 days after receipt of this letter. The staff understands that there may be no special nuclear material (SNM) on the N.S. Savannah. You may want to review exemptions that have been previously granted for sites without SNM (Agencywide Documents Access and Management System Accession Nos.: ML022800500 and ML081060313). Please contact John B. Hickman at 301-415-3017 or John.Hickman@nrc.gov with questions.

Sincerely,

Bruce A. Watson, Chief
Reactor Decommissioning Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 50-238
cc: NS Savannah Service List

Distribution:
DWMEP r/f

J Joustra, RI

D Garner, NSIR

ML102070403

OFC	RDB/PM	RDB/LA	RDB/PM	RDB/BC
NAME	JHickman	CHolston	JBuckley	BWatson
DATE	8/2/2010	07 / 27 / 2010	8/2/2010	8/2/2010

OFFICIAL RECORD COPY

NS Savannah Service List - John Buckley, Project Manager

cc:

Mr. John C. Wiegand
Decommissioning Program Manager
U.S. Department of Transportation
Maritime Administration (MAR-640.21)
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

Mr. Greg Thornton
N.S. SAVANNAH Facility Site Manager
U.S. Department of Transportation
Maritime Administration (MAR-640.22)
N.S. SAVANNAH
2215 Harbor Road
Newport News, VA 23607

Mr. Jeffrey McMahon
Ship Operations and Maintenance officer (SOMO)
Maritime Administration
Norfolk International Terminals
7737 Hampton Boulevard
Building 4D, Rm 211
Norfolk, VA 23505