

RulemakingComments Resource

From: Parr, Nancy B. <parrnb@westinghouse.com>
Sent: Friday, October 17, 2014 4:49 PM
To: RulemakingComments Resource; Bladey, Cindy
Subject: Part 73 Draft Regulatory Basis Comments; Docket ID NRC-2014-0118
Attachments: LTR-RAC-14-31 Part 73 Reg Basis Comments.pdf

Please find the attached letter.

Sincerely,

Nancy Blair Parr

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Columbia Fuel Site
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USA

Ms. Cindy Bladey
Office of Administration
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001
ATTN: Rulemakings and Adjudications Staff

Direct tel: 803-647-3338
Direct fax: 803-695-3964
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Your ref:
Our ref: LTR-RAC-14-52

October 17, 2014

SUBJECT: WESTINGHOUSE PART 73 DRAFT REGULATORY BASIS COMMENTS;
DOCKET ID NRC-2014-0118

Dear Ms. Bladey,

Westinghouse Electric Company LLC (Westinghouse) is pleased to submit the following comments from the Columbia Fuel Fabrication Facility (CFFF) on the Nuclear Regulatory Commission (NRC) Draft Regulatory Basis to amend security-related regulations. This Draft Regulatory Basis was published in the Federal Register on June 18, 2014 for public comment.

Westinghouse is fully committed to protecting health, safety and security of the public, our employees and the environment, and as such, Westinghouse also continues to invest in year-over-year improvements in safety and security. Contrary to NRC's intent and stated objectives in the Draft Regulatory Basis, Westinghouse believes the approaches recommended by the NRC would result in an additional burden on licensees, with no measurable increase in safety or security.

As a Category III facility, Westinghouse has difficulties in understanding the **regulatory problem** which warrants rulemaking and the rationale for the addition of new fixed site and transportation requirements. For example, a lack of consistency, incorporation of security orders, and incorporating operation experience do not seem to constitute a problem. In addition, there are alternatives to rulemaking to address these items, if needed.

Also, there are perceived **new requirements** described in Attachments #8 and #15, which appear to be prescriptive, rather than risk-informed and performance-based. The security orders in place today recognize the diversity of the small fleet of fuel cycle facilities and effectively incorporate a facility-specific, risk-informed and performance-based approach. This same effective approach does not seem to carry over into the Draft Regulatory Basis. Furthermore, there are new or vague terms used in the document, which could be interpreted in many different ways and create problems as we have experienced in the past. Specific comments on these attachments are listed in the enclosure to this letter.

Furthermore, as discussed in ongoing Cumulative Effects of Regulation (CER) meetings, NRC is currently driving several safeguards-related, regulatory activities, which do not seem to be coordinated with this initiative. Examples of these other activities include the Part 74, Material Control and Accounting revisions and the cyber security initiatives. Integration and coordination of these collective safeguards-related initiatives is needed to gain **regulatory efficiencies** and reduce the potential for conflicting requirements and re-work.

Lastly, Westinghouse fully endorses the industry comments provided by the Nuclear Energy Institute (NEI) on October 17, 2014. Included in this NEI letter are responses to the six additional questions on which NRC was seeking input.

If you have any questions or require additional information, please feel free to contact me at parrnb@westinghouse.com or telephone me at (803) 647-3338.

Kindest regards,



Nancy Blair Parr, Manager
Licensing
Westinghouse Columbia Fuel Fabrication Facility
Docket 70-1151 License SNM -1107

Enclosure: Specific Comments on Attachments #8 and #15

cc:

U. S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, Maryland 20852-2738
Attn: Mr. Christopher Ryder
Mail Stop: EBB 2C40M

U. S. Nuclear Regulatory Commission, Region II
245 Peachtree Center Avenue NE, Suite 1200
Atlanta, GA 30303-1257
Attn: Mr. Manuel Crespo

Specific Comments on Attachments #8 and #15

Specific Comments for Attachment #8				
NUMBER	AREA	PAGE	REGULATORY BASIS	QUESTIONS/COMMENTS
1	GPO	H-1	Licenses should use the site corrective action program or security event log to track...	This appears to be a new requirement.
2	Access Controls	H-2	Access control portals should be located...	This appears to be a new requirement.
3	Access Control Devices	H-3	Access Control Devices should only be issued...	This appears to be a new requirement, e.g., annual inventory of access control badges.
4	Communication	H-4	The entire section	These appear to be new, prescriptive requirements.
5	Security Program Review	H-5	The entire section	These appear to be new, prescriptive requirements. Also, maintaining reports in an "audible" form appears to be a typo.

Specific Comments for Attachment #15

NO	AREA	REF NO	REGULATORY BASIS	QUESTIONS/COMMENTS
1	General	All	The term "SHOULD" is frequently used throughout the proposed changes.	What level of enforcement is anticipated for these "should" statements?
2	General	All	"LICENSEE"	In these proposed changes, the NRC appears to be placing responsibilities on licensees that are in excess of functional or legal authority and capability.
3	Transportation Security Plan	O-1	Licensee should develop, maintain and implement an NRC-approved Transportation Security Plan...	Will NRC provide guidance as to the required structure of this security plan and will it be in concert with, conflict with or in addition that currently required by DOT?
4	Security Organization	O-2	Licenses or their agents should establish and maintain a transportation security	Define "AGENT". Does that include agreements with local law enforcement and emergency responders? Define "SECURITY ORGANIZATION". The proposed

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			organization....having at least one member to direct activities.	structure is not clearly delineated as to make up and if it is under the direction of licensee or simply participated in by the licensee.
5	Access Controls	O-2	Licensees should control access to SNM loading and transfer areas, a conveyance and containers....	for international shipments(i.e. at ports of export, ocean and air vehicles in transit, foreign ports, etc.)
6	Access Controls	O-2	Licensees should implement a numbered photo identification badge program for all individuals who will have custody of a shipment.	This far exceeds limit of authority of licensee as it includes drivers, pilots, sea captains, etc., most of whom have no legal/regulatory responsibility to the licensee.
7	Access Controls	O-2	Licensee should limit unescorted access to the controlled access areas, transports, aircraft, rail cars....	Does this include ocean vessels? This exceeds limit of licensee authority and capability.
8	Access Controls	O-2	Licensee should control all keys, locks, combination, passwords, and related access control devices....	This far exceeds limit of authority of licensee as it includes drivers, pilots, sea captains, etc., most of whom have no legal/regulatory responsibility to licensee. Does this also include computer passwords?
9	Export and Import Shipments	O-2,3	Licensee who exports Cat III SNM should....up to the first point where the shipment is taken off the transport outside the United States.	This imposes the requirements of the transportation security up to and including foreign ports, which exceeds the licensee's capability.
10	Heightened Security	O-3	Licensee should establish, maintain and implement a threat warning system.....	NRC should clarify its intent with "THREAT WARNING SYSTEM".
11	Heightened Security	O-3	Licensee should.....a safe haven location.	NRC should clarify meaning of "SAFE HAVEN LOCATION" and if it includes the mandatory acceptance of 'threatened' SNM shipments by licensees who may not be responsible for at risk shipment.
12	Security Program Review	O-3	The transportation security program should be reviewed at	Define basis for 24 month review intervals. Define "INDEPENDENT".

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13	Records		O-4	least every 24 months by individuals independent.... The NRC may inspect, copy....and remove all reports, records, and documents required to be kept by regulations, orders, or license conditions....	This proposal conflicts with itself: "...NRC may...remove... documents required to be kept..." . Adherence to this would place the licensee in direct non-compliance.
14	Transportation Physical Protection Changes		40 Sec. 4.3.1	Staff proposes to require licensees or their agents provide for continuous determination of the position....GPS tracking.	GPS tracking has become somewhat routine domestically but is impossible/impractical in international transport (vessels, planes, etc.)
15	Transport Security Requirements		41 Table 4-4	Closed and locked conveyance or an open conveyance if the SNM package weighs more than 2000kg....	This will prohibit bulk shipments of heeled 30B UF6 cylinders, typically transported on open flatbeds (domestic) or flattracks (internationally), where such a cylinder averages approximately 1,500 kg each.