

October 28, 2014

MEMORANDUM TO: William Gott, Chief
Fuel Cycle Transportation Security Branch
Division of Security Policy
Office of Nuclear Security and Incident Response

FROM: Alex Sapountzis, Senior Program Manager **/RA/**
Fuel Cycle Transportation Security Branch
Division of Security Policy
Office of Nuclear Security and Incident Response

SUBJECT: SUMMARY OF SEPTEMBER 24, 2014, PUBLIC MEETING
BETWEEN U.S. NUCLEAR REGULATORY COMMISSION AND
STAKEHOLDERS TO DISCUSS THE DRAFT REGULATORY BASIS
FOR THE TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS*
FOR THE PARTS 26 AND 73 RULEMAKING EFFORTS

On September 24, 2014, the United States Nuclear Regulatory Commission (NRC) hosted a public meeting. The purpose of this public meeting was to discuss and obtain stakeholder feedback on the NRC's draft regulatory basis available in the Agencywide Documents Access and Management System (ADAMS) under Accession No. ML14113A468. This meeting was transcribed and made available in ADAMS under Accession No. ML14293A459. The draft regulatory basis encompasses three rulemaking efforts:

- (1) Enhanced security at fuel cycle facilities;
- (2) Special nuclear material (SNM) transportation security; and
- (3) Security-Force fatigue at certain nuclear facilities.

In this meeting, the NRC staff gave presentations on:

- (1) Overview and Major Milestones Associated with the 10 CFR Parts 26 and 73 Rulemaking Efforts (see ADAMS ML14261A005).
- (2) Draft Regulatory Basis Sections 3, 4 and 5: Regulatory Problem, Basis for Change and Alternatives to Rulemaking (see ADAMS ML14261A004).
- (3) Draft Regulatory Section 8: Cost/Impacts and Regulatory Analysis (see ADAMS ML14261A006).
- (4) Security at Fixed Sites in the Protection of SNM (see ADAMS ML14261A003).
- (5) Transportation Security for the Protection of SNM (see ADAMS ML14265A077).

CONTACT: Alex Sapountzis, NSIR/DSP/FCTSB
301-287-3660

Overview and Major Milestones Associated with the 10 CFR Parts 26 and 73 Rulemaking Efforts

The NRC explained the new due dates for major milestones are a direct result of extending the comment period to one hundred twenty days on the draft regulatory basis to October 17, 2014. The NRC also emphasized the need for stakeholders to answer the *Federal Register* Notice (FRN) questions [references: *FRN* on June 18, 2014 (79 FR 34641) and on July 22, 2014 (79 FR 42474)]. One comment inferred that when the 10 CFR Part 73 rulemaking effort is completed, it will affect the recently completed 10 CFR Part 74 rulemaking.

Draft Regulatory Basis Sections 3, 4 and 5: Regulatory Problem, Basis for Change and Alternatives to Rulemaking

The focus was on providing stakeholder's clarity on the regulatory problem the NRC is addressing, the basis for changing the regulations and discusses alternatives to rulemaking. Other issues discussed are referenced below:

- The intent of the rulemaking effort is to create a security framework that is more uniform, clear and consistent for the different SNM categories.
- The NRC goal is to adopt the security orders into the regulation and rescind the security orders when possible.
- The intent of safety and security interface is to ensure changes do not adversely impact other program areas.
- Track and document security events in an event log for corrective actions.
- The dilution factor is defined as the weight of U-235, U-233 or Pu-239, and so forth divided by the total weight of the non-mechanically separable or matrix material.
- The scientific basis of changing the self-protecting dose rate of 100 R/hr to 6,000 R/hr since, at a dose of about 6,000 R over a short period, the individual maybe incapacitated or result in death. At 6,000 R/hr, the NRC also stated the material would not be a theft and diversion target.

Draft Regulatory Section 8: Cost/Impacts and Regulatory Analysis

The focus was on the cost and impacts associated with the rulemaking efforts. The NRC discussed very broadly cost impacts associated with the changes for this effort and stated that the cost impacts are largely qualitative. The NRC stated further that this is an opportunity for stakeholders to provide the NRC with more accurate cost and impact information to help inform the regulatory analysis. Stakeholder comments inferred that licensees can not give detailed cost and impact data since the regulatory basis with its security features lacks specific details or rule language that would enable developing a good cost and impact analysis.

Material Attractiveness

The current plan will not change how SNM is categorized. Essentially, the NRC will allow alternative measures to be employed to protect the SNM based on the level of dilution or concentration of the SNM in the matrix. Questions were raised from stakeholders on impacts of this effort related to Category III low enrichment facilities. The NRC clarified that there would be very little impact resulting from this effort. Other questions involved the details that are not

typically found in the regulations and whether those details would be in guidance documents. The NRC stated details would be found in guidance documents that will be proposed and issued with the proposed and final rules.

Security at Fixed Sites in the Protection of SNM

The NRC focused on details regarding fixed site physical security. The NRC discussed the basic structure and layout of the appendices in the regulatory basis is based on the SNM category and dilution. The NRC also discussed the different security features for the different categories of SNM. The NRC's goal is to develop regulations that are more performance based

and flexible. The purpose of the appendices was to provide as much details as possible on proposed security features for the different categories of SNM.

Transportation Security for the Protection of SNM

Unlike fixed sites, the transportation environment is very dynamic and subject to many variables. The NRC presented its desired changes (i.e., via a table) for physical protection measures during transport of SNM. Discussion opened up with transportation of Category I SNM and that the draft regulatory basis needs to be clear that the U.S. Department of Energy, Office of Secure Transport, is exempt from physical security transportation requirements. Other discussion focused on access control and how an agent at a port (e.g., port of Baltimore) maintains access control of the SNM shipment that is destined for outside the United States. The NRC clarified that the security features in the draft regulatory basis address the domestic portion of the shipment. Other comments were associated with Category III licensees and stated that during transport of SNM, covered vehicles are not currently required in the regulations, but during the presentation, it shows that covered vehicles will be required. The commenter went on to state that requiring a cover for shipments of SNM in a cask will add significant transportation costs.

Please direct any inquires to Alex Sapountzis at 301-287-3660 or Alexander.Sapountzis@nrc.gov.

Enclosures:

1. Agenda for Public Meeting to Discuss the Regulatory Basis for Enhanced Security at Fuel Cycle Facilities; Special Nuclear Material Transportations; Security Force Fatigue at Nuclear Facilities
2. Attendance List

W. Gott

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DISTRIBUTION:

A. Sapountzis	J. Adams	P. Habighorst	L. Harris	T. Harris	W. Gott
J. Danna	T. Young	N. St. Amour	R. Johnson	N. Siu	M. Rodriguez
S. Lynch	T. Pham	M. Baker	J. Bielecki	L. Mayos	J. Nakoski
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ADAMS Accession No. **ML14300A003**

OFFICE	NSIR/DSP/FCTSB	NSIR/DSP/FCTSB
NAME	A. Sapountzis	W. Gott
DATE	10/27/14	10/27/14

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U.S. NUCLEAR REGULATORY COMMISSION (NRC)
Agenda for Public Meeting on the Regulatory Basis for Enhanced Security at Fuel Cycle Facilities; Special Nuclear Material Transportations; Security Force Fatigue at Nuclear Facilities

September 24, 2014
8:00 A.M. – 4:00 P.M.

Teleconference: 888-790-9143; pass code: 7115900#
Webinar link: <https://www1.gotomeeting.com/register/446584529>

PURPOSE: To provide an opportunity for interested parties to comment on the NRC's draft regulatory basis to update security regulations within Title 10 of the *Code of Federal Regulations* (10 CFR) Parts 26 and 73, that includes enhanced security at fuel cycle facilities, transportation security for the protection of special nuclear material (SNM) and security force fatigue at nuclear facilities.

Note: This is a Category 2 meeting. The public will be provided the opportunity to participate in this meeting at designated points identified during the meeting by the NRC.

September 24, 2014 (times are approximate)

8:00 A.M.	Opening remarks, introduction and meeting focus (NRC: Christiana Lui and Alex Sapountzis)
8:15 A.M.	Remarks from the Public
8:45 A.M.	Draft Regulatory Basis (NRC: Alex Sapountzis)
9:15 A.M.	Sections 3, 4 and 5: Regulatory Problem, Basis for Change and Alternatives to Rulemaking (NRC: Tim Harris)
10:15 A.M.	Break
10:30 A.M.	Section 8: Cost/Impacts and Regulatory Analysis (NRC: Larry Harris)
11:00 A.M.	Material Attractiveness (NRC: Joe Rivers)
12:00 P.M.	Lunch
1:00 P.M.	Attachments: Fixed Site Physical Security (NRC: Tim Harris)
2:30 P.M.	Break
2:45 P.M.	Attachments: Transportation Physical Security (NRC: Gerry Jackson)
3:45 P.M.	Closing remarks (NRC: Alex Sapountzis)
4:00 P.M.	Adjournment

Attendance List

On September 24, 2014, the NRC met with stakeholders to obtain comments on the NRC's efforts to develop a draft regulatory basis to update 10 CFR Parts 26 and 73.

Name	Organization
John Adams	Nuclear Regulatory Commission/Nuclear Reactor Regulations
Marissa Bailey	Nuclear Regulatory Commission/Nuclear Materials Safety and Safeguards
Nick Baker	Nuclear Regulatory Commission/Nuclear Materials Safety and Safeguards
Kristi Branch	Pacific Northwest National Laboratory
Oleg Bukharin	Nuclear Regulatory Commission/Nuclear Security and Incident Response
John Carter	Babcock and Wilcox-Nuclear Operations Group
Gary Clark	MOX Service
A. J. Clore	Nuclear Energy Institute
Daniel Cronin	University of Florida
Shayne Curtis	Excelon Energy
Devon Englemen	SHINE Medical Technologies
Craig Erlanger	Nuclear Regulatory Commission/Nuclear Materials Safety and Safeguards
Tony Gody	Nuclear Regulatory Commission/Region II
Dealis Guyn	MOX Service-Savannah River Site
Al Haegar	Certrec
Ivan Hall	Nuclear Regulatory Commission/Region II
Larry Harris	Nuclear Regulatory Commission/Nuclear Security and Incident Response
Paul Harris	Nuclear Regulatory Commission/Nuclear Security and Incident Response
Tim Harris	Nuclear Regulatory Commission/Nuclear Security and Incident Response
Merri Horn	Nuclear Regulatory Commission/Federal State Materials and Environmental Management Programs
Gerry Jackson	Nuclear Regulatory Commission/Nuclear Security and Incident Response
Jessica Jensen	Excelon Energy
Robert Johnson	Nuclear Regulatory Commission/Nuclear Materials Safety and Safeguards
Jim Kay	AREVA
Christiana Lui	Nuclear Regulatory Commission/Nuclear Security and Incident Response
Ed Lyman	Union of Concerned Scientist
John Morgoven	Neal R. Gross
Michael Mosley	Secured Transportation Services
Jeremy Munson	Nuclear Regulatory Commission/Nuclear Materials Safety and Safeguards
Scott Murray	General Electric-Hitachi
John Nakoski	Nuclear Regulatory Commission/Research
Don Parker	AREVA
Nancy Parr	Westinghouse
Andy Randor	Babcock and Wilcox-Nuclear Operations Group
Joe Rivers	Nuclear Regulatory Commission/Nuclear Security and Incident Response
Jonathan Rund	Nuclear Energy Institute
Regina Russell	Nuclear Regulatory Commission/Region II
Alex Sapountzis	Nuclear Regulatory Commission/Nuclear Security and Incident Response
Andy Schisch	Nuclear Fuel Services

Janet Schlueter	Nuclear Energy Institute
Nathan Siu	Nuclear Regulatory Commission/Research
George Smith	Nuclear Regulatory Commission/Nuclear Security and Incident Response
Otis Smith	Nuclear Regulatory Commission/Region II
Will Smith	Nuclear Regulatory Commission/Nuclear Security and Incident Response
D. L. Spangler	Babcock and Wilcox-Nuclear Operations Group
Jay Spiva	Babcock and Wilcox-Nuclear Operations Group
Mike Suwala	Babcock and Wilcox-Nuclear Operations Group
Al Tardiff	Nuclear Regulatory Commission/Nuclear Security and Incident Response
Jordan Vaughan	Duke Energy
G. S. Waldron	Department of Energy/Naval Reactors
Sandra Williams	Babcock and Wilcox-Nuclear Operations Group
Doug Yates	MOX Service
Tom Young	Nuclear Regulatory Commission/Federal State Materials and Environmental Management Programs