PUBLIC SUBMISSION

As of: 1/14/15 4:02 PM
Received: January 12, 2015
Status: Pending_Post
Tracking No. 1jz-8gle-e3ds
Comments Due: January 12, 2015
Submission Type: Web

Docket: NRC-2014-0172
Licensee Requirements for Physical Protection of Plants and Materials

Comment On: NRC-2014-0172-0004
Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material; Notice of Docketing of Petition for Rulemaking and Request for Comment

Document: NRC-2014-0172-DRAFT-0011
Comment on FR Doc # 2014-25540

Submitter Information

Name: Scott Bauer
Submitter's Representative: Steve Meyer
Organization: STARS Alliance LLC

General Comment

See STARS-15001 comment letter

Attachments

STARS 15001

STARS Alliance

www.starsalliance.com
1626 N. Litchfield Rd., Suite 230
Goodyear, AZ 85395
T : 623-209-7549

Alliance Members:
Callaway Energy Center
Diablo Canyon Power Plant
Palo Verde Nuclear Generating Station
Wolf Creek Generating Station

STARS-15001

January 12, 2015

Ms. Annette L. Vietti-Cook
Secretary
Attn: Rulemaking and Adjudications Staff
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Petition to Amend Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material: Request for Comments (*Federal Register Vol.* 79, 64149, dated October 28, 2014 - Docket ID NRC-2014-0172)

Dear Ms. Vietti-Cook:

The October 28, 2014 Federal Register Notice (FRN) (*79 Fed. Reg. 64149*) docketed (Docket ID NRC-2014-0172) a petition for rulemaking (PRM-37-01) to amend its regulations regarding "Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material," and requested comments by January 12, 2015. STARS Alliance LLC (STARS) endorses the petition and recommends the NRC promptly initiate rulemaking to implement the changes proposed.

STARS stations have always placed a priority on the security of nuclear facilities and materials and recognize the threat of theft or diversion posed to Category 1 and Category 2 quantities of radiological materials. STARS has a long history of addressing the security of all radioactive materials. STARS stations implement security measures consistent with existing rules and regulations as defined within 10 CFR 73, "Physical Protection of Plants and Materials." STARS believes that the security program in place in accordance with Part 73 exceeds the requirements of Part 37. STARS agrees with the petition and believes Part 37 imposes duplicative and burdensome requirements affording no greater protection of Category 1 and Category 2 materials.

STARS believes the proposed changes would have an immediate positive impact on reducing unnecessary regulatory burden as discussed in the petition. In addition to the basis for proposed changes provided by NEI, the proposed revision to 10 CFR 37.11(b) would eliminate numerous inconsistencies between Part 37 and Part 73 that do not improve the security of Category 1 and 2 materials. These inconsistencies require licensees to modify existing programs or develop new controls or programs to address the differences. The

following are examples of some of the differences between Part 37 and Part 73 that do not increase the level of protection for Category 1 or 2 radioactive materials at power reactors, but must be addressed by licensees unless each section of 10 CFR 37 is revised to be consistent with Part 73, or the change proposed by NEI to 37.11(b) is implemented.

- Part 37.23(e)(5) requires updating the list of persons approved for access to Category 1 and 2 materials no later than 7 days after any change in contrast to 10 CFR 73.56(j), *Access to Vital Areas,* which requires licensees to update the list of authorized individuals at least every 31 days for routine changes (favorable) to personnel on the list. In NRC Memorandum from Paul Goldberg to Adelaide Giantelli, dated March 13, 2014, Questions and Answers Concerning Application of 10 CFR Part 37 to Licensees with Part 73 Security Plans, questions 18 and 19 provide other examples of the differences between Part 37 and Part 73 regarding access authorization programs. There are numerous other differences not listed here. The NRC response, states, "The access authorization programs required by NRC regulations and orders for power reactors, non-power reactors, utilization facilities and fuel facilities are deemed adequate for compliance with Part 37 and licensees need not create a separate program."

- 10 CFR 37.43(c)(3) requires training to be conducted at a frequency not to exceed 12 months while 10 CFR 73, Appendix B, Section VI, *Nuclear Power Reactor Training and Qualification Plan for Personnel Performing Security Program Duties*, A.7, requires that annual requirements must be scheduled at a nominal twelve (12) month periodicity, but annual requirements may be completed up to three (3) months before or three (3) months after the scheduled date.

- 10 CFR 37.45, LLEA coordination, requires submittal of information to the Local Law Enforcement Agency (LLEA) that is different than that required by 10 CFR 73.55(k)(9), Law Enforcement Liaison, but the information does not change how LLEA would respond to attempted theft, sabotage or diversion of Category 1 or 2 material at a power reactor.

- 10 CFR 37.55(a) requires a periodic review of the security program at least annually which is different than 10 CFR 73.55(m), *Security Program Reviews,* which requires each element of the physical protection program be reviewed at least every 24 months and within 12 months following initial implementation of the physical protection program or a change to personnel, procedures, equipment, or facilities that potentially could adversely affect security, and, as necessary based upon site-specific analyses, assessments, or other performance indicators.

Additionally, the change proposed by NEI to 37.11(b) is needed to recognize licensees' 10 CFR 20 programs that implement radiation safety requirements which meet the 10 CFR 37.49(a)(3)(i) and 10 CFR 37.49(a)(3)(ii) requirements for detection of unauthorized removal of radioactive material from a security zone (e.g., 10 CFR 20.1601(a)(2) requiring a visible or audible alarm signaling an individual is entering a high radiation area and the supervisor of the activity is made aware of their entry; (a)(3) entryways are locked, except during periods when access to the areas is required, with positive control over each individual; or (b) in place of the controls required by paragraph (a) of this section for a high radiation area, the licensee uses

continuous direct or electronic surveillance that is capable of preventing unauthorized entry).

STARS agrees with the proposed change to 10 CFR 37.11(c), except that STARS recommends that this exemption not be limited to waste. The reason for this recommendation is that the purpose of the exemption is to address the Category 1 and 2 quantities of radioactive material with the specific characteristics listed, regardless of whether the radioactive material is considered waste or not (e.g., spare components, tools, shielding). Limiting this exemption to only those items that are considered waste, instead of radioactive material, does not increase the protection of Category 1 and 2 radioactive materials.

Finally, STARS recommends that the definition for Robust Structure be changed to:

> Robust structure means a closed concrete bunker or modular vault for which removal of the radioactive material contained within the structure can only be accomplished through the use of heavy equipment to remove structural components or large access blocks that weigh 2,000 kg (4,409 lbs) or more.

This proposed change deletes the characteristic in the current definition of a Robust Structure that is based on restricting access to radioactive materials by use of heavy equipment to remove structural components or large access blocks that weigh more than 2,000 kg, and instead, proposes a characteristic that is based on restricting the removal of the radioactive material by use of heavy equipment to remove structural components or large access blocks that weigh more than 2,000 kg. The reason for this proposed change is to allow robust structures to have access doors, provided that the same level of protection is maintained for the Category 1 and 2 materials. This proposed change directly associates the protective characteristics of a robust structure with the physical characteristics of the radioactive material being stored in the structure, such that the physical protection of Category 1 and 2 materials is maintained as in the current definition. The only difference being proposed is that a robust structure could contain an access point such as an inspection door, but the same level of protection is maintained by the restriction that the Category 1 and 2 material cannot be removed through the access door. In place of defining the robust structure by how access to the material is restricted, the proposed definition defines the robust structure by how removal of the Category 1 and 2 materials is restricted.

Please contact me at 623-239-4359, or scott.bauer@starsalliance.com, if you have any questions regarding this letter.

Sincerely,

Scott Bauer
Regulatory Affairs Functional Area Manager
STARS Alliance LLC

SJM