(11)

81 FR 13263
3/14/2016

PUBLIC SUBMISSION

As of: 5/16/16 10:25 AM
Received: May 13, 2016
Status: Pending_Post
Tracking No. 1k0-8plx-ht6x
Comments Due: May 13, 2016
Submission Type: Web

Docket: NRC-2015-0109
Physical Protection of Category 1 and Category 2 Quantities of Radioactive Materials

Comment On: NRC-2015-0109-0001
Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material; Request for Comment

Document: NRC-2015-0109-DRAFT-0015
Comment on FR Doc # 2016-05260

Submitter Information

RECEIVED
2016 MAY 16 AM 10: 34
RULES AND DIRECTIVES BRANCH

Name: Nima Ashkeboussi
Address:
1201 F Street NW, Suite 1100
Washington, DC, 20004
Email: nxa@nei.org
Organization: Nuclear Energy Institute

General Comment

May 13, 2016

SUNSI Review Complete
Template = ADM – 013
E-RIDS= ADM-03
Add= G. Smith (GES)

Ms. Cindy K. Bladey
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: NEI Input on 10 CFR Part 37 Program Review (81 Fed. Reg. 13263); Docket ID NRC-2015-0109

Project Number: 689

Dear Ms. Bladey:

On behalf of the nuclear energy industry, the Nuclear Energy Institute (NEI) appreciates the opportunity that the Nuclear Regulatory Commission (NRC) extended to stakeholders to provide general and specific comments on the overall effectiveness and clarity of the requirements for 10 CFR Part 37, "Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material." We commend the staff on their

extensive outreach for this effort by hosting four webinars and a public meeting to discuss their evaluation of Part 37 and obtain stakeholder comments.

After the events of September 11, 2001, the NRC and the Agreement States issued security orders to byproduct materials licensees requiring the implementation of enhanced security measures to control access to radioactive materials in quantities of concern. Fuel cycle and operating power reactor licensees were already required to implement robust security programs pursuant to 10 CFR Part 73 and separate orders. Part 37 regulations were intended to establish security requirements for the use and transport of Category 1 and 2 quantities by codifying the orders, applying lessons learned during the implementation of the orders, and incorporating stakeholder input. At the time, the proposed Part 37 rule stated, "Licensees whose activities are covered under the physical protection requirements of 10 CFR Part 73 would be exempt from the requirements of 10 CFR Part 37."

During public meetings associated with the rulemaking, the NRC staff stated this exemption would not cover radioactive materials stored at reactor and fuel facility sites if the materials were not specifically identified in a licensee's Part 73 security plan. The Part 37 Final Rule was published on March 19, 2013 and created greater regulatory uncertainty for licensees with Part 73 security plans. On July 12, 2014 NEI submitted a petition for rulemaking, PRM-37-1, to amend Part 37.11 to remove unnecessary and burdensome requirements on licensees with established physical security programs under Part 73. We strongly encourage the quick resolution of this petition to improve the clarity of Part 37 and remove unnecessary burden for fuel cycle and operating power reactor licensees.

Generally, from a risk perspective, radioactive material inside the protected area was secure under Part 73 security programs before the promulgation of Part 37 and since its effective date has added little, if any, security benefit while creating unnecessary requirements at a significant cost. Our specific comments on the questions asked in the Federal Register are attached. We appreciate your consideration of the comments and look forward to seeing these applied to improve Part 37 and the associated guidance documents.

Please contact me if you have any questions.

Sincerely,

Nima Ashkeboussi
Sr. Project Manager, Materials Safety

Nuclear Energy Institute
1201 F Street NW, Suite 1100
Washington, DC 20004
www.nei.org

P: 202-739-8022
E: nxa@nei.org

Attachments

05-13-16_NRC_Part 37 Implementation and Effectiveness

05-13-16_NRC_Part 37 Implementation and Effectiveness_Attachment

NIMA ASHKEBOUSSI
Sr. Project Manager, Materials Safety

1201 F Street, NW, Suite 1100
Washington, DC 20004
P: 202.739.8022
nxa@nei.org
nei.org

NUCLEAR ENERGY INSTITUTE

May 13, 2016

Ms. Cindy K. Bladey
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: NEI Input on 10 CFR Part 37 Program Review (81 Fed. Reg. 13263); Docket ID NRC–2015–0109

Project Number: 689

Dear Ms. Bladey:

On behalf of the nuclear energy industry, the Nuclear Energy Institute (NEI) appreciates the opportunity that the Nuclear Regulatory Commission (NRC) extended to stakeholders to provide general and specific comments on the overall effectiveness and clarity of the requirements for 10 CFR Part 37, "Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material." We commend the staff on their extensive outreach for this effort by hosting four webinars and a public meeting to discuss their evaluation of Part 37 and obtain stakeholder comments.

After the events of September 11, 2001, the NRC and the Agreement States issued security orders to byproduct materials licensees requiring the implementation of enhanced security measures to control access to radioactive materials in quantities of concern. Fuel cycle and operating power reactor licensees were already required to implement robust security programs pursuant to 10 CFR Part 73 and separate orders. Part 37 regulations were intended to establish security requirements for the use and transport of Category 1 and 2 quantities by codifying the orders, applying lessons learned during the implementation of the orders, and incorporating stakeholder input. At the time, the proposed Part 37 rule stated, "Licensees whose activities are covered under the physical protection requirements of 10 CFR Part 73 would be exempt from the requirements of 10 CFR Part 37."

During public meetings associated with the rulemaking, the NRC staff stated this exemption would not cover radioactive materials stored at reactor and fuel facility sites if the materials were not specifically identified in a licensee's Part 73 security plan. The Part 37 Final Rule was published on March 19, 2013 and created greater regulatory uncertainty for licensees with Part 73 security plans. On July 12, 2014 NEI submitted a petition for rulemaking, PRM-37-1, to amend Part 37.11 to remove unnecessary and burdensome

requirements on licensees with established physical security programs under Part 73. We strongly encourage the quick resolution of this petition to improve the clarity of Part 37 and remove unnecessary burden for fuel cycle and operating power reactor licensees.

Generally, from a risk perspective, radioactive material inside the protected area was secure under Part 73 security programs before the promulgation of Part 37 and since its effective date has added little, if any, security benefit while creating unnecessary requirements at a significant cost. Our specific comments on the questions asked in the Federal Register are attached. We appreciate your consideration of the comments and look forward to seeing these applied to improve Part 37 and the associated guidance documents.

Please contact me if you have any questions.

Sincerely,

Nima Ashkeboussi

Nima Ashkeboussi

Attachment

c: Mr. George Smith, NMSS/MSTR, NRC

Attachment

Response to Federal Register Notice on Part 37 Implementation and Clarity Questions

These comments respond to the FRN issued on March 14, 2016, providing feedback on 10 CFR Part 37 and supplement the NEI cover letter.

1.0 Comments on 10 CFR Part 37 Subpart A

1.1. The term "Activated Material" as used within Part 37.11(c) should be defined. NUREG-2155 provides clarification concerning what is meant to be considered as "Activated Material." A clear and concise definition of the term "Activated Material" and its application within Part 37 would be better placed within the rule as opposed to the NUREG.

1.2 The rule utilizes the undefined term "Physical Barrier." NUREG-2155 provides various examples of what could be considered a "Physical Barrier" as applied within Part 37. A more precise definition of "Physical Barrier" and "Continuous Physical Barrier" would lend clarity. In defining "Physical Barrier," consideration should also be given to better explain the term "Isolation" as it is used within Part 37.47(c)(1). There has been recent experience with contradictory interpretations on addressing the need to aggregate mobile devices. A mobile device itself would need to be breached in order to access the radioactive materials contained within. The fact that a mobile device forms a "Physical Barrier" would seem to indicate that each mobile device would meet the definition of a "Physical Barrier" and lead one to believe that the device is not subject to aggregation. Recent inspection results have contradicted this position.

1.3 "Approved Individual" is defined as an individual requiring the training specified within Part 37.43(c). The proper reference should be Part 37.23(a)(2). Part 37.23(a)(2) defines the access authorization requirements. Part 37.43(c) defines security related training requirements being commensurate with the individual's role in the protection of the materials. An individual may be authorized access to the materials without having a specific role in the security of those materials. Based on the current definition of "Approved Individual," this could require an unnecessary level of security training for individuals performing non-security related activities. It would be more consistent with other Part 37 sections if it were changed to "Authorized Individual." The portions of Part 37 dealing with granting access are contained within Part 37.23, titled, "Access Authorization Program Requirements".

1.4 A definition of "Exempted Waste" should be added to the rule. Part 37.11(c) defines radioactive waste that is "exempt" from Subparts B, C, and D of Part 37. The lack of clarity and understanding of what constitutes "Exempt Waste" continues to cause confusion for operating reactor licensees. NUREG-2155 did not provide the necessary clarity and three sets of additional Questions & Answers the NRC issued in an attempt to assist licensees in understanding this term has not fully provided clarity. Both the NUREG and rule should be changed based upon a clear definition of "Exempted Waste". For the purpose of Part 37.11(c), the definition should include radioactive material that has been either designated by the licensee for disposal as waste or those materials that could either be designated for disposal at a later date or stored indefinitely.

1.5 The definition of "Sabotage" and the references to the word sabotage found in Parts 37.11(c)(3), 37.11(c)(4), 37.43(c)(1)(iii), 37.43(c)(2), 37.45(a)(2), 37.45(d), 37.49(b), 37.49(d), 37.57(a), and 37.57(b) should be removed. The stated purpose of Part 37, as described in 37.1, is to "provide reasonable assurance of the security of category 1 or category 2 quantities of radioactive material by protecting these materials from theft or diversion." In the sections listed above, the wording includes several variations of "theft,

sabotage, or diversion." The inclusion of the term of "sabotage" is beyond the stated purpose of the rule. NUREG-2155 clearly reiterates the purpose as protection from theft or diversion, not sabotage.

1.6 The term "annual" should be defined and consideration should be provided to add a grace period. 10 CFR 37.43(c)(3) requires training to be conducted at a frequency not to exceed 12 months. 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.

1.7 Better alignment is needed for the definitions in Part 37 and NUREG-2155. For example, a number of terms used for mobile devices, such as "direct control" and "continuous surveillance" add confusion in Part 37.53. They do not seem to be applied in the same manner in the rule and guidance seems to be used interchangeably. The following pages in NUREG-2155 provide examples of how these terms are used differently within the document:

- Page 18 Q2/A2 – Direct continuous visual surveillance allows use of video surveillance
- Page 159 Q5/A5 – Direct control of the security zone by approved individuals at all times
- Page 159 Q7/A7 – Continuous direct surveillance (regarding direct control of temporary security zones)
- Page 160 37.47(c)(2) – Direct control of the security zone by approved individuals at all times
- Page 166 Q4/A4 – Direct continuous visual surveillance may be met using video surveillance
- Page 169 37.49(a)(2) – Direct visual surveillance by approved individuals located within the security zone or 37.49(a)(2)(v), direct visual surveillance by a licensee designated individual located outside the security zone
- Page 172 37.49(a)(3)(i)(B) – Continuous monitored video surveillance
- Page 172 37.49(a)(3)(i)(C) – Direct visual surveillance
- Page 188 37.53(a) – Direct control and constant surveillance

1.8 Part 37.11 outlines the specific exemptions for licensees with Part 73 security programs. However, additional clarity is needed for licensees that implement Part 72 security programs.

1.9 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.

2.0 Comments on 10 CFR Part 37 Subpart B

2.1 There is a lack of clarity surrounding the inclusion of references and requirements for access to Safeguards Information (SGI) and Safeguards Information – Modified Handling (SGI-M). Part 37 was written to not include the information associated with Category 1 and 2 materials to be designated as SGI or SGI-M. Despite this, Part 37.23(b)(3) requires a Reviewing Official (RO) associated with Part 37 Trustworthy and Reliability (T&R) determinations to have access to SGI or SGI-M if the associated licensee possesses either. It is strongly recommended that the references to SGI or SGI-M be removed from all sections of Part 37.

2.2 Part 37.23(b)(2) requires licensees to recertify the T&R of ROs every ten years. While there is no explicit timeframe within Part 73, licensees with SGI or SGI-M programs typically recertify the T&R of those granted access to either SGI or SGI-M every three to five years. Both Part 37, in its original writing, and Part 73.23, as it has been revised, specifically exclude applicability of SGI-M to Part 37. Part 37.23(b)(2) requires licensees with SGI programs to include their Part 37 RO under their SGI program and adds the unnecessary burden of more frequent T&R determinations. It is strongly recommended that the references to SGI or SGI-M be removed from all sections of Part 37.

2.3 There is a high degree of difference between Part 37 Subpart B and Part 73.56 with regard to background investigations for access to the materials and there should be alignment between the two Parts. Part 73.56 allows the licensee to determine the criteria for background investigations. For licensees with Part 73 security programs, Annex A provides no additional value. Those with security programs under Part 73 satisfy the T&R determination process through application of Part 73.56. NRC has approved the use of NEI 03-01, "Nuclear Power Plan Access Authorization Program" which defines the specific measures used to ensure standard application of Part 73.56. NEI 03-01 requires licensees to evaluate the previous three years of employment history for the initial unescorted access authorization. Part 37.25 requires licensees to look at the past seven years. This is a more onerous requirement than necessary. The NRC, within several documents, has stated applying the requirements defined within Part 73.56 exceeds the similar requirements defined within Part 37.

2.4 The Part 37 Subpart B Background Investigation requirements were not designed for nuclear power plants entering decommissioning. Nuclear Power Plants have implemented the background screening requirements under 10 CFR 73.56 and NEI 03-01 for many years. Most of the same screening elements required under Part 73.56 are also required under Part 37 Subpart B (i.e., verification of true identity, employment history, education, history, military history, character and reputation, and FBI criminal history check). However, the detail for completing the screening elements is not provided. Nuclear Power Plants entering decommissioning will have the advantage of using the detail provided in NEI 03-01 to assist them in adequately and satisfactorily completing the same background screening elements required by Subpart B.

2.5 The requirements of 37.23(e) place a huge burden of T&R on the reviewing official and additional clarification is required. There have been some cases (with regard to Part 73) where a licensee reviewing official had ruled against an individual during a T&R determination. However, a court overruled the licensee, stating that the T&R was acceptable, despite the fact that the individual did not meet the licensee's requirements. This has two consequences; first, the licensee is placed in the position of deciding whether to ignore the rule or to ignore a judge's order and second, the licensee is now responsible for an employee that they had not approved for the position.

2.6 We support the 10 year periodicity of reinvestigations under Part 37.25(c). While some licensees may choose to reinvestigate on a more frequent basis per their own risk assessment or programmatic needs, there does not appear to be a safety or security basis to justify modifying the rule.

2.7 Part 37.23(e)(5) requires updating the list of persons approved for access to Category 1and 2 materials no later than 7 days after any change which is 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."

3.0 Comments on 10 CFR Part 37 Subpart C

3.1 Part 37.41(b) establishes the General performance objective for Subpart C as, "monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to category 1 or category 2 quantities of radioactive material." Part 37.47, "Security Zones," defines the specific measures required to assure category 1 and category 2 materials are only able to be accessed by approved individuals deemed to meet T&R requirements based on measures required by Subpart B. Most licensees have defined their "security zones" as the Protected Area. Licensees having established security zones in accordance with Part 37.47 which allow access to individuals authorized under Subpart B are placed under the added burden of Part 37.49(a)(3)(i) and (ii) requiring the establishment of continuous monitoring of Category 1 materials and the weekly inventory of Category 2 materials. Monitoring required under Part 37.49, is in addition to the monitoring and detection measures required in maintaining an established security zones. These added material accountability measures provide little to no additional security, but do place licensees under added burden in establishing and maintaining an unnecessary material accountability program. There appears to be no logic tie between the general performance objectives of Subpart C and the material accountability requirements described in Part 37.49 as outlined above.

3.2 Part 37.53 requires, "two independent physical controls that form tangible barriers to secure the material from unauthorized removal". Without defining a specific threat, similar to Design Basis Threat (DBT), a licensee cannot state that the measures taken adequately address the needed security of a mobile device to establish a sufficient "tangible barrier" to secure the material from unauthorized removal.

3.3 Part 73 licensees are required to maintain an ongoing relationship with their LLEA. The requirements of Part 37 for LLEA coordination did little to enhance this relationship. Most, if not all, licensees with security programs required by Part 73 have moved all of their Part 37 Category 1 and 2 materials within their Protected Area (PA). Materials not moved within the PA are typically either Large Components or housed within Robust Structures, as defined within Enforcement Guidance Memorandum (EGM-14-001). These Large Components and materials within Robust Structures should have been fully exempted from Part 37 as allowed under Part 37.11(a), as submitted by NEI petition PRM 37-01. Despite the highly unlikely

nature of the risk to theft or diversion of either Large Components or materials within Robust Structures, licensees with security programs required by Part 73 have been required to develop and maintain either a revised or new separate agreement with LLEA that has put undue burden on the relationships between Part 73 licensees and LLEA. An additional MOU adds no value.

3.4 The rule is not clear as to what qualifies as an adequate physical barrier. As defined within Part 37.47(c)(1), the purpose of a physical barrier is to provide, "isolation of the category 1 or category 2 quantities of radioactive material within a security zone." Throughout Part 37 the term "physical barrier" is typically used along with the explicit accompaniment of "access control points." Neither Part 37 nor NUREG-2155 provides a specific technical explanation of the term, "Physical Barrier" or "Access Control Point." NUREG-2166 provides a great deal of detail defining aspects of a "Physical Barrier" and "Access Control Systems." While these details are contained within a NUREG, not the rule, they appear overly conservative for what may be needed to provide reasonable assurance of the security of Category 1 or 2 quantities of material. These measures seem similar to those required for providing high assurance of the security of special nuclear materials from radiological sabotage.

3.5 The lack of a defined threat on which to base either a "Physical Barrier" or an "Access Control System" may lead to unnecessary burden on licensees as they either design and implement overly complex barriers and access systems, or result in the issuance of unwarranted findings during inspection activities. Part 37 should explicitly define elements for what constitutes a "Physical Barrier" and an "Access Control System".

3.6 The wording in Part 37.57 should be modified to more clearly define the intent as stated within NUREG-2155. The opening sentence of 37.57(a) specifies "unauthorized entry" as the trigger to notify LLEA. This would seem to imply that any violation of a security zone would lead to LLEA notification. NUREG-2155, Rev 1., Pg. 199, Q6 provides clarity. Part 37.57(a) should be changed to read "unauthorized access" to the Part 37 materials, not "unauthorized entry" into the "security zone," as is currently implied in the rule.

3.7 Additional clarification should be considered for greater alignment of the requirements of Subpart C to 73.55.

4.0 Comments on 10 CFR Part 37 Subpart D

No Comments.

5.0 Comments on 10 CFR Part 37 Implementation Guidance

5.1 NUREG-2155 proved to be an invaluable tool throughout development of Part 37 security planning and implementation. The NUREG provided insight into the intent of several key portions of physical protection of Part 37 materials. However, following security plan implementation and progression into Temporary Instruction based inspections performed in accordance with TI 2800-041, NUREG-2155 became less useful and served as a source of confusion and contradiction to regional inspectors. Inspectors were not familiar with the NUREG-2155 content and inferred their own unique interpretation which in some cases contradicted earlier widespread beliefs. Much of this confusion is in dealing with the exemptions granted under Part 37.11 and the categorization of exempted waste materials. Additionally, the NUREG failed to address the measures required within the "security zones" established by Part 73 security measures as Protected Areas.

The NRC should revise NUREG-2155 as part of a revision to Part 37. The exemptions granted to facilities with Part 73 security measures should be more comprehensive and also more clearly stated.

5.2 Many of the examples of best practices in NUREG-2166 for the security of Part 37 materials are well in excess of the rule required measures. Some of the examples given exceed those measures required by Part 73 for the security of special nuclear materials. This is significant since Part 73 security is required to provide high assurance of the security of special nuclear materials from a clearly defined threat, while Part 37 is intended to provide only reasonable assurance of the security of Category 1 and 2 materials from an undefined and non-specific threat.

At a minimum some portion of the NUREG-2166 Abstract should clearly state that the best practices given within the document are beyond rule requirement. This would help both licensees and inspectors understand there is no expectation of a need to comply with the measure provided within NUREG-2166.

5.3 As Part 37 is revised, the NRC should give consideration to revising NUREG-2166 to better define the specific rule sections the best practices are intended to meet or exceed. As written now, there is little alignment between rule sections and NUREG sections. A format much like NUREG-2155 would seem more appropriate, although not in a Q&A format. Additionally, consideration for separating the Part 73 licensee information from the non-Part 73 licensees may provide additional clarification.

5.4 Recent inspector interpretation is not consistent with guidance and the TI. Within NUREG-2155, Rev. 1, Q&A's Q3 on Pg. 34 and Q3 on Page 36 address Category 1 and Category 2 materials associated with activated components of reactors, reactor systems, and reactor structures. Additionally, TI-2800/041-03 states:

"Radioactive material (activation products and fission products) contained in, or part of, a reactor structure, or reactor system components (e.g., in-process ion exchange resin beds or filter housings, and non-portable resin storage tanks) would not be subject to 10 CFR Part 37 requirements as long as this material remains an integral structure or component of a reactor system. Therefore, it is not necessary for licensees to include this material in their Part 37 material accountability process until this material is removed from the structure or system (for example, resin sluiced into a liner or high integrity container or filters removed from the reactor coolant clean-up system and placed in a portable storage container).

Despite these clear and repetitive statements concerning the applicability of Part 37 to reactor systems, structures, and components, recent interpretation by both regional

inspectors and NSIR staff is that Part 37 applies to reactors, reactor structures, and reactor system components independent of reactor condition or decommissioning status. Additionally, the guidance should be clarified to include radioactive material contained in, or part of, systems or components associated with reactor systems, so as not to inadvertently exclude systems that would otherwise meet the intent but not designated as a reactor structure or reactor system component.

5.5 We suggest that the EGM-14-001 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 1and 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 1and 2 materials is maintained as described 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 1and 2 materials is restricted.