

<b>As of:</b> 5/23/17 3:57 PM
<b>Received:</b> May 22, 2017
<b>Status:</b> Pending_Post
<b>Tracking No.</b> 1k1-8wjd-y8a5
<b>Comments Due:</b> June 13, 2017
<b>Submission Type:</b> Web

# PUBLIC SUBMISSION

**Docket:** NRC-2015-0070

Regulatory Improvements for Power Reactors Transitioning to Decommissioning

**Comment On:** NRC-2015-0070-0178

Regulatory Improvements for Power Reactors Transitioning to Decommissioning; Request for Comment on Draft Regulatory Basis

**Document:** NRC-2015-0070-DRAFT-0195

Comment on FR Doc # 2017-05141

---

## Submitter Information

**Name:** Jack Gadzala

---

## General Comment

There is no Need for Exemption from 10 CFR 73.55(p)(1)(i) and (ii) for Severe Weather

Although NRC has granted numerous exemptions from 10 CFR 73.55(p)(1)(i) and (ii) to allow certified fuel handlers the authority to suspend security measures in the event of severe weather, the existing regulations already permit this activity (current rule ambiguity results in licensees submitting, and NRC staff processing, unnecessary exemption requests).

### REGULATORY BASIS

(p) Suspension of security measures. (1) The licensee may suspend implementation of affected requirements of this section under the following conditions:

(i) In accordance with 50.54(x) and 50.54(y) of this chapter, the licensee may suspend any security measures under this section in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent. This suspension of security measures must be approved as a minimum by a licensed senior operator before taking this action.

(ii) During severe weather when the suspension of affected security measures is immediately needed to protect the personal health and safety of security force personnel and no other immediately apparent action consistent with the license conditions and technical specifications can provide adequate or equivalent protection. This suspension of security measures must be approved, as a minimum, by a licensed senior

operator, with input from the security supervisor or manager, before taking this action.

The Statements of consideration (74 FR 13946) supporting this regulation provide the following insights as to the meaning of "as a minimum."

The allowance for suspensions of security measures for severe weather conditions is based on the preexisting 50.54(x) and (y) which explicitly requires, at a minimum, approval by a licensed senior operator. Under this provision, the security supervisor recommends when security measures must be suspended; and, consistent with the pre-existing 50.54(x) and (y), a licensed senior operator must, at minimum, approve that decision to ensure that other operational and safety concerns have been fully considered and that there will be no adverse effects or undue risk to the public health and safety as a result of the suspension. Refer to NRC Regulatory Issue Summary 2008- 26 "Clarified Requirements of Title 10 of the Code of Federal Regulations (10 CFR) Section 50.54(y) When Implementing 10 CFR Section 50.54(x) to Depart from a License Condition or Technical Specification," dated October 29, 2008 (ML080590124), for further discussion of the requirements associated with which licensee personnel may approve licensee departures from license conditions or technical specifications.

RIS 2008-26 states the following:

Section 50.54(y) of 10 CFR does not require that the decision to depart from the license or technical specifications be made only by a licensed senior operator or that the individual making the decision possess a senior operator's license. Rather, such a decision could be made either by any licensed senior operator or any individual in a superior position to a licensed senior operator. As stated in the SOC, if "more senior licensee personnel" are available, "the decision to depart from the license in an emergency would pass to them (as higher authorities in the chain of command)." There is nothing in the rule to indicate that the "more senior licensee personnel" are also required to be licensed senior operators. In addition, there is nothing in the rule that would require the "more senior licensee personnel" to obtain the concurrence of a licensed senior operator to make such a decision, and the SOC does not contain any discussion suggesting such Commission intent.

Recommendation: NRC staff should clarify the rule language (via the current proposed rulemaking process) that any individual in a superior position to a licensed senior operator (or appropriately designated licensee personnel in the event the licensee no longer has licensed senior operators) may approve the decision to depart from the license in an emergency.