

NUCLEAR ENERGY INSTITUTE'S SECURITY FREQUENTLY ASKED QUESTION (SFAQ)

"SFAQ 18-01; KOMBUCHA TEA OR OTHER PRODUCTS THAT HAVE < 0.5% OF ALCOHOL"

The following is quoted from the Nuclear Energy Institute's draft frequently asked question that was provided to the Nuclear Regulatory Commission staff on December 14, 2018.

Description of Question

There have been reports submitted to the NRC under 10 CFR 26.719(b) related to the presence of Kombucha Tea within the protected area of nuclear power plants. With the lack of specific guidance regarding the need to report consumption and/or presence of alcohol within a protected area that contains an amount of alcohol less than as defined in 27 CFR 16, should licensees continue to submit reports to the NRC under 10 CFR 26.719(b)?

Background

The definition of "alcoholic beverage" is provided in 27 CFR 16. "Alcoholic beverage" is defined as a beverage in liquid form which contains not less than one-half of one percent (0.5%) of alcohol by volume and is intended for human consumption. This definition is the same as in the Alcoholic Beverage Labeling Act of 1988 (1988 Act). The 1988 Act requires such beverages to have a specific Government Warning about the risk to pregnancies, impairment of abilities and potential health problems.

§26.719(b)(2) discusses 10 CFR 55, "Operator's Licenses." The Federal Register Notice associated with a 1991 change to 10 CFR 55 addressed the term "use of alcohol" in the Summary of Public Comments section as follows: "The rule has been rewritten to indicate that the "use of alcohol" means consumption of alcoholic beverages."

NRC's comments in the 1991 Federal Register Notice (FRN) for changes to 10 CFR 55 clarified that the intent of the changes was to prohibit the consumption of "alcoholic beverages" (defined as containing an alcohol content of not less than 0.5% by volume) by operators. A specific limit for the consumption of alcohol by others in the protected area is not discussed in the 1991 FRN. However, it is reasonable to assume the NRC staff intended that the same restrictions apply to non-operators.

Proposed Solution

The objective of Part 26 is to prohibit the use or presence of alcohol within the protected area with the objective of preventing the misuse or abuse of alcohol that can impair individuals. Consumption of products containing alcohol that contain less than the limit requiring labeling for alcoholic beverages (less than 0.5% alcohol) or age restrictions to purchase are not considered to be reasonably capable of causing impairment or preventing individuals from performing their safety-related duties. Therefore, Kombucha Tea or other products that are less than 0.5% alcohol by volume, and not labeled with the Government Warning for alcoholic beverages, would not be reportable under §26.719(b). Furthermore, this reporting causes licensees to focus time and resources on an issue of low regulatory/safety/security significance with generally non-actionable or time-sensitive critical information, compared to other 4-hour reportable events (e.g., 50.72).