

UNIVERSITY of MISSOURI

RESEARCH REACTOR CENTER

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Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

ATTN: Rulemakings and Adjudications Staff

SUBJECT: Request for Public Comment on "Physical Protection of Irradiated Reactor Fuel in Transit,"
(75 FR 62695); Docket ID NRC-2009-0163

The University of Missouri Research Reactor (MURR) appreciates the opportunity to provide comments on the proposed rule to amend the U.S. Nuclear Regulatory Commission's (NRC) security regulations pertaining to the transport of irradiated reactor fuel as published in the Federal Register (Volume 75, No. 197 / October 13, 2010) and entitled "Physical Protection of Irradiated Reactor Fuel in Transit."

The MURR has extensive knowledge and experience in the transportation of irradiated reactor fuel. On October 8, 2002, the NRC issued an Order (EA-02-109) which modified Amended Facility License R-103 with respect to the transportation of spent nuclear fuel for quantities greater than 100 grams to require compliance with specified interim safeguards and security compensatory measures. On May 21, 2003, and as supplemented by letter dated July 3, 2003, the MURR submitted to the NRC for review the "University of Missouri-Columbia Road Transportation Security Plan (TSP)," which implemented the requirements of this Order. On August 12, 2003, the NRC concluded that Revision 0 to the "University of Missouri-Columbia Road TSP" met the performance objectives and general requirements of 10 CFR 73.37 and the Commission's supplemental requirements.

On January 26, 2004, and as supplemented by letter dated April 21, 2004, the MURR submitted to the NRC for review Revision 1 to the "University of Missouri-Columbia Road TSP." The changes were requested based upon the experience gained during the first two spent fuel shipments conducted under the new TSP. MURR felt the changes fully met the intent of the NRC Order dated October 8, 2002, and helped further enhance the safety and security of each spent fuel shipment. On May 19, 2004, the NRC concluded that Revision 1 to the "University of Missouri-Columbia Road TSP" met the performance objectives and general requirements of 10 CFR 73.37 and the Commission's supplemental requirements.

Therefore, the following comments regarding the proposed rule to amend the Commission's security regulations pertaining to the transport of irradiated reactor fuel are based on the development of Revisions 0 and 1 to the "University of Missouri-Columbia Road TSP," and their subsequent approval by the NRC, and the 22 spent fuel shipments completed by MURR since issuance of the Order.



Section 73.37(b)(1)(v) Each licensee shall...“Arrange with local law enforcement authorities along the shipment route, including U.S. ports where vessels carrying spent nuclear fuel shipments are docked, for their response to an emergency or a call for assistance.”

Comment: These arrangements are typically made through the State Governor’s Designees and not individually with local entities within a given state for emergency response. Recommend adding State Governor’s Designees as an option for arranging emergency response.

Section 73.37(b)(3)(iv) “The movement control center personnel and the armed escorts must maintain a written log for each spent nuclear fuel shipment, which will include ...”

Comment: As explained in the January 26, 2004, letter to the NRC requesting approval of Revision 1 to the “University of Missouri-Columbia Road TSP,” the movement control center maintains a detailed log of all events during the shipment. Additionally, the TRANSCOM Center generates backup logs outlining any major events during the shipment. Almost all State Local Law Enforcement Agencies (LLEA) perform “rolling handoffs” where their escort duties and responsibilities are transferred to one another without stopping their vehicles. In conversation with the LLEAs, they informed us that this method is far safer and more secure than stopping and placing the shipment at greater risk. Keeping a log of the shipment is a major distraction for the LLEA escorts and takes away from their primary function of driving and observing the shipment. However, non-LLEA escorts, i.e. private armed escorts, should be required to maintain a written log.

Section 73.37(b)(3)(vii)(B)&(C) “Provide that the shipment escorts make calls to the movement control center at random intervals, not to exceed 2 hours, to advise of the status of the shipment...”

Comment: As explained in the January 26, 2004, letter to the NRC requesting approval of Revision 1 to the “University of Missouri-Columbia Road TSP,” based on discussions with the State Agencies, all communications between the movement control center and the LLEA escorts are handled through the respective State Emergency Management Agency or the Governor’s Designee. However, non-LLEA escorts, i.e. privately armed escorts, should be required to make calls to the movement control center as stated.

Additionally, we suggest that at the beginning of this section a general comment be inserted to the effect that LLEA armed escorts are absolved from several of the items that are required by this section.

Section 73.37(c)(1)(i)&(ii) “In addition to the provisions of paragraph (b) of this section, the physical protection system for any portion of a spent nuclear fuel shipment by road shall provide that:

(1) The transport vehicle is:

(i) Occupied by at least 2 individuals, 1 of whom serves as an armed escort, and escorted by armed member of the LLEA in a mobile unit of such agency; or...”

Comment: MURR feels that these requirements can not be met. The transport vehicle second driver can not be armed since research reactors use commercial carriers, which do not use armed drivers, and as to the alternate option, the States can not provide two armed escorts (one in front and one in the back) for the shipment. Considering the financial condition of most of the states, it is difficult enough for them to provide one armed escort. Typically, the States provide one armed escort and, at times, a second vehicle with unarmed radiation protection personnel.

Section 73.38(a)(3) “By (30 days after the final rule is published in the **Federal Register**), each licensee that is subject to this provision on (effective date of final rule) shall implement the requirements of this section through revisions to its physical security plan.”

Comment: We feel that the requirements of this section should have the flexibility to be implemented through either the Physical Security Plan or the Transportation Security Plan. Additionally, we suggest a 90-day period for implementation instead of the stated 30 days since it will place a large burden on MURR with limited resources to comply.

Section 73.38(c)(1)(iv)&(d) “...Licensee shall subject the following individuals to an access authorization program:

(i) Any individual to whom a licensee intends to grant unescorted access to spent nuclear fuel in transit, including employees of a contractor or vendor; ...”

Comment: Licensees have no control over background checks performed for state employees (non LLEAs) that have access to the shipment during transit, and hence, the regulations must state that licensees are not responsible for these background checks. This responsibility should be deferred to the State Governor’s Designees. LLEAs are exempted from background investigations by Section (d).

Section 73.38(h) “Reinvestigations. Licensees shall conduct fingerprinting and FBI identification and criminal history records check, a criminal history review, and credit history re-evaluation every 10 years for any individual who has unescorted access authorization to spent fuel in transit...”

Comment: MURR feels that research reactors should have relief from this requirement since it will cause a financial burden to the facility with minimal gain. Additionally, as stated above, licensees have no control over background checks performed for state employees (non LLEAs) that have access to the shipment during transit, and hence, licensees can not be responsible for their background checks. Furthermore, we feel that credit history evaluations should only be performed if the results obtained during the fingerprinting and FBI identification and criminal history records check and criminal history review are inconsistent. They should not be routinely required.

Thank you for the opportunity to comment. Should you have any questions, please feel free to contact me at 573-882-4211; ButlerRa@missouri.edu or John Fruits at 573-882-5319; FruitsJ@missouri.edu.

Sincerely,



Ralph A. Butler, P.E.
Director