



[7590-01-P]

## **NUCLEAR REGULATORY COMMISSION**

**10 CFR Parts 26 and 73**

**[NRC-2014-0118]**

**RIN 3150-AJ41**

### **Enhanced Security at Fuel Cycle Facilities; Special Nuclear Material Transportation**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft regulatory basis; request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is requesting comments on a draft regulatory basis to support the potential amendments to revise a number of existing security-related regulations relating to physical protection of special nuclear material (SNM) at NRC-licensed facilities and in transit, as well as the fitness for duty programs for security officers at certain fuel cycle facilities. Potentially affected licensees include fuel cycle facilities, non-power reactors, research and development facilities, industrial facilities, and certain medical isotope production facilities.

**DATES:** Submit comments by **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the NRC is only able to ensure consideration of comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2014-0118. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For technical questions, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.
- **E-mail comments to:** [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov). If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.
- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.
- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.
- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677. For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.
- **Comments that contain proprietary or sensitive information:** Please contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document to determine the most appropriate method for submitting these comments.

**FOR FURTHER INFORMATION CONTACT:** Alex Sapountzis, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-287-3660, e-mail: [Alexander.Sapountzis@nrc.gov](mailto:Alexander.Sapountzis@nrc.gov).

## SUPPLEMENTARY INFORMATION:

### I. Obtaining Information and Submitting Comments.

#### A. Obtaining Information.

Please refer to Docket ID NRC-2014-0118 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal rulemaking Web Site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2014-0118.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**  
You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "[ADAMS Public Documents](#)" and then select "[Begin Web-based ADAMS Search](#)." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The draft regulatory basis document is available in ADAMS under Accession No. ML14113A468.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

## B. Submitting Comments.

Please include Docket ID NRC-2014-0118 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## II. Discussion.

The NRC is requesting comment on a draft regulatory basis to support rulemaking to amend portions of Parts 26 and 73 of Title 10 of the *Code of Federal Regulations* (10 CFR) to strengthen physical protection of SNM at NRC-licensed facilities and in transit, as well as strengthen fatigue programs for security officers at certain fuel cycle facilities. The draft regulatory basis supports potential rulemaking efforts related to: (1) enhanced security at fuel cycle facilities; (2) special nuclear material transportation security; and (3) security-force fatigue at certain nuclear facilities.

The specific objectives of these rulemaking efforts are to update SNM physical protection requirements to: (1) Improve consistency and clarity; (2) make generically applicable security requirements similar to those imposed by security orders issued after the terrorist attacks of September 11, 2001; (3) consider risk insights from new National Laboratory studies, operational oversight and inspection activities, and international guidance; and (4) use a risk-informed and performance-based structure. The scope of the regulatory basis includes physical protection of SNM at fuel cycle facilities and other facilities that possess and use SNM, and the physical protection of SNM in transit. Potentially affected licensees include fuel cycle facilities, non-power reactors, research and development facilities, industrial facilities, and certain medical isotope production facilities. The regulatory basis, in part, explains why the NRC believes the existing regulations should be updated, revised and enhanced, presents alternatives to rulemaking, and discusses cost and other impacts of the potential changes.

### **III. Specific Requests for Comments.**

The NRC requests that stakeholders consider answering the following questions when commenting on the draft regulatory basis:

- Is the NRC considering an appropriate approach for each objective described in the draft regulatory basis? Should implementing material attractiveness and its associated physical protection measures be “voluntary” or should it be “mandatory?” Given that the potentially revised regulations would be material-based rather than facility-based, are the potential regulatory changes sufficiently performance-based to allow licensees of different facility types to effectively implement the potential physical protection performance objectives and strategies for the various categories of special nuclear material?

- Section 3 of the draft regulatory basis discusses the regulatory problems the NRC expects to address through rulemaking. Section 4 presents the desired regulatory changes to address those regulatory problems and Section 5 discusses alternatives to rulemaking considered by the NRC staff. Are there other regulatory problems within or related to the scope of the rulemaking efforts (see Section 1) that the NRC should consider? Are there other approaches or alternatives the NRC should consider to resolve those regulatory problems?

- Section 8 of the draft regulatory basis presents the NRC staff's initial assessment of cost and other impacts for a number of key aspects of the potential regulatory changes (i.e., fixed site physical protection, transportation physical protection, safety-safeguards interface and fitness-for-duty impacts). The NRC staff recognizes that this initial assessment is based on limited data. As such, staff is seeking additional data and input relative to expected and/or unintentional impacts from the desired regulatory changes. What would be the potential impacts to stakeholders/licensees from implementing any of the desired regulatory changes described in this draft regulatory basis (e.g., what would be a reasonable cost estimate for implementation of fatigue requirements for security officers at Category I facilities in accordance to 10 CFR Part 26, Subpart I, including startup and annual costs)?

- The NRC staff recognizes that the security officer work hour data provided voluntarily by licensees in the past and summarized in Attachment 2 of the draft regulatory basis is limited. As such, are there additional data or information (e.g., procedures that demonstrate the licensee has fatigue measures in place for security officers at their site, updated security officer work hour data from the most recent 2-month period and so forth) that would inform the NRC staff's assessment or analysis?

#### **IV. Publicly Available Documents.**

The NRC may post additional materials related to this rulemaking activity to the Federal rulemaking Web site at [www.regulations.gov](http://www.regulations.gov), under Docket ID NRC-2014-0118. By making these documents publicly available, the NRC seeks to inform stakeholders of the current status of the NRC's rulemaking development activities and to provide preparatory material for future public meetings.

The Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: 1) navigate to the docket folder (NRC-2014-0118); 2) click the "Sign up for E-mail Alerts" link; and 3) enter your e-mail address and select how frequently you would like to receive e-mails (daily, weekly, or monthly).

#### **V. Plain Writing.**

The Plain Writing Act of 2010 (Pub. L. 111-274) requires Federal agencies to write documents in a clear, concise, well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain

Language in Government Writing,” published June 10, 1998 (63 FR 31883). The NRC requests comment on this document with respect to the clarity and effectiveness of the language used.

Dated at Rockville, Maryland, this 10<sup>th</sup> day of June, 2014

For the Nuclear Regulatory Commission.

Christopher G. Miller, Director,  
Division of Intergovernmental Liaison  
and Rulemaking  
Office of Federal and State Materials  
and Environmental Management Programs

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