

# PUBLIC SUBMISSION

As of: 5/16/16 10:23 AM  
 Received: May 13, 2016  
 Status: Pending\_Post  
 Tracking No. 1k0-8plw-w72r  
 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-0013

Comment on FR Doc # 2016-05260

(10)

## Submitter Information

81 FR 13263  
 3/14/2016

**Name:** Wayne D'Angelo

## General Comment

See attached file(s)

## Attachments

FINAL NRC physical protection requirements

RECEIVED

2016 MAY 16 AM 10:34

RULES AND DIRECTIVES  
 BRANCH

SUNSI Review Complete

Template = ADM - 013

E-RIDS= ADM-03

Add= G. Smith (GES)

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

**WASHINGTON HARBOUR, SUITE 400**

**3050 K STREET, NW**

**WASHINGTON, DC 20007**

NEW YORK, NY  
LOS ANGELES, CA  
CHICAGO, IL  
STAMFORD, CT  
PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICE  
MUMBAI, INDIA

FACSIMILE

(202) 342-8451

www.kelleydrye.com

(202) 342-8400

WAYNE J. D'ANGELO

DIRECT LINE: (202) 342-8525

EMAIL: wdangelo@kelleydrye.com

May 13, 2016

**Via Regulations.gov**

Mr. George Smith  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Re: Response to Request for Comment: Physical Protection of Category 1 and  
Category 2 quantities of Radioactive Material. Docket ID NRC-2015-0109 (81  
Fed. Reg. 13,263 (March 14, 2016))

Dear Mr. Smith:

The Steel Manufacturers Association ("SMA") and the Specialty Steel Industry of North America ("SSINA") provide these comments in response to the U.S. Nuclear Regulatory Commission's ("NRC's") Request for Comments assessing the physical protection requirements for Category 1 and Category 2 quantities of radioactive material. SSINA is a national trade association comprised of 17 producers of specialty steel products, including stainless, electric, tool, magnetic, and other alloy steels. SSINA members produce steel by melting scrap metal in electric arc furnaces ("EAF") and account for over 90 percent of the specialty steel manufactured in the United States.

The SMA is the primary trade association of EAF carbon steel producers, often referred to as steel "minimills." SMA's 28 member companies recycle scrap metal in EAFs to produce various steel products, including carbon and alloy steels, and account for over 75 percent of U.S. steel production.

SMA and SSINA submit these comments to confirm the inapplicability of the 10 C.F.R. Part 37 regulations to its members and to urge NRC to provide compliance flexibility to those facilities possessing multiple lower-activity sources in the same large fixed component that, when aggregated, meet or exceed Category 2 thresholds.

## **I. Applicability of the Physical Protection Requirements in 10 C.F.R. Part 37**

While we are not aware of any EAF steel mill with a single source exceeding the Category 2 values in Appendix A to 10 C.F.R. Part 37, some mills possess multiple lower-activity sources that have cumulative activity levels in excess of the Category 2 values. Largely, the lower-activity sources possessed by steel mills are fixed gauges used to measure the density of molten steel as it passes through the caster or to measure the thickness of steel that is being rolled into sheet, bar, or other products.

Depending on the precise application in which they are being used, these sources are housed in large stationary components well in excess of 2,000 kg and which cannot be removed without heavy machinery and/or specialized equipment. Other sources are permanently bolted or welded to the mill or large stationary components within the mill. Spare or replacement sources are stored in locked storage rooms or containers to protect against unauthorized access.

Because many of these sources are fixed in place, housed within large stationary components, or are otherwise locked away from other sources, they are not “accessible by the breach of a single physical barrier that would allow access to radioactive material. . .”<sup>1</sup> Accordingly, per NRC’s physical security regulations and numerous interpretations thereof, these facilities do not need to aggregate the total activity of these sources in determining whether the facility possesses “an aggregated category 1 or category 2 quantity of radioactive material.”<sup>2</sup>

Additionally, in some instances a single large component may house multiple sources with cumulative activity levels in excess of Category 2 thresholds. Even where component provides the same physical barrier to the sources (e.g., because of a common access panel), SMA and SSINA believe these sources should not be considered aggregated because access to them requires the breach of several barriers and security protections.

The size and fixed nature of the equipment within which the sources are housed provides a significant physical barrier, but still only one of several lines of protection against the theft of radioactive sources. Steel mills also utilize perimeter fencing, access controls to the rolling mill and melt shop, key cards, security patrols, and training programs to secure their facilities. Additionally, many steel mills utilize radiation detection equipment at multiple locations within a facility, including entry and exit points. While the primary purpose of those detection systems is to protect the mill from the presence of radioactive “orphan” sources in the scrap supply and ensure the quality of finished products, they also provide an added layer of security against the potential theft of radioactive material.

## **II. Conclusion**

---

<sup>1</sup> 10 C.F.R. § 37.5.

<sup>2</sup> See 10 C.F.R. § 37.1; 10 C.F.R. § 37.5. See also *Physical Security Best Practices for the Protection of Risk-Significant Radioactive Material* (NUREG-2166); See also *Implementation Guidance for 10 C.F.R. Part 37, “Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material* (NUREG-2166); See also *Enforcement Guidance Memorandum 2014-001*.

**KELLEY DRYE & WARREN LLP**

SMA and SSINA appreciate the opportunity to provide these comments. If NRC disagrees with any aspect of our analysis of the inapplicability of the physical security requirements to steel mills as described above, we would appreciate being informed and provided an opportunity to supplement these comments. If you have any questions, please feel free to contact Wayne D'Angelo at 202.342.8525/wdangelo@kelleydrye.com.

Best regards,

A handwritten signature in black ink, appearing to read 'Wayne J. D'Angelo', with a stylized flourish at the end.

Wayne J. D'Angelo