

DOCKET NUMBER
PROPOSED RULE **PR-70,72 etal** (11)
(50 FR 34708)

DOCKET NUMBER
PROPOSED RULE **PR-Misc Notice**
(Reg. Guide)



DOCKETED
DEC 24 1985

*85 DEC 24 12:57

KMC, Inc.
801 18TH STREET, N.W.
SUITE 300
WASHINGTON, D.C. 20006
(202) 293-4200

December 24, 1985

Secretary of the Commission
Nuclear Regulatory Commission
Washington, D.C. 20555

ATTN: Docketing and Service Branch

Comments on changes to
Safeguards Reporting
Requirements
(10 CFR 73.71 and
Regulatory Guide 5.62)

Dear Sir:

The Physical Security Coordinating Group is pleased to provide comments on the proposed rule to amend the NRC regulations for the reporting of safeguards events. The utility members of the Physical Security Coordinating Group own and operate nuclear power plants subject to the proposed rule and have concluded that its adoption as written will have substantially more impact than believed by the Commission. A list of utility members is enclosed as Attachment 1. Our comments are directed only toward those reporting requirements of proposed Section 73.71, published on August 27, 1985 (50 Fed. Reg. 34710), which are applicable to nuclear power reactors.

It has been our experience that interpretations of NRC security regulations by inspectors in the field, as well as by NRC plant security reviewers, are frequently more restrictive and burdensome than interpretations based on a reasonable reading of the regulations themselves. In many cases, imposition of these more rigorous interpretations has been much more costly to implement than was envisioned when the regulations were proposed, and has proven to be non-productive for good security at nuclear power plants.

We recognize and appreciate that the NRC is attempting to introduce greater specificity into the safeguards reporting rule. However, our reading of the proposed rule indicates that, as written, it will lead to an increased, unnecessary burden on

8512310388 851224
PDR PR
70 50FR34708 PDR

DS10
add: Joseph Gaudeman, 88155
Priscella A. Dwyer, 88155
Wm. Almstead, 9604MNBB
Ed Hill, 113055

Acknowledged by card..... DEC 30 1985

pd

licensees and that this burden is not at all compensated by an increased level of protection of the public health and safety. Indeed, NRC justifies the proposed rule in large part by the need to develop "an adequate data base for generic analysis" (50 Fed. Reg. at 34708). The increased burden which the proposed rule would impose is caused by the need for greater internal review by licensees of more events to determine which events require reporting, and the addition of a completely new and "stand alone" logging system. Therefore, the cost decrease predicted by NRC (50 Fed. Reg. at 34709) will not occur and indeed costs are likely to increase. We recommend strongly that the Commission revise its proposed reporting requirements to require only the information it needs to perform its public health and safety responsibilities. Licensee reporting requirements which impose significant cost and resource burdens and which are needed only in order to perform "generic analyses" of unspecified usefulness, should be eliminated. Specifically, all requirements for the unnecessary 24-hour log and subsequent quarterly submittals should be eliminated. We also recommend that phrases such as "required barriers" (cf. Appendix G, paragraph I(c)) be clearly and unambiguously defined or clearer terminology adopted.

In general, the members of the Physical Security Coordinating Group support the change in written reporting requirements from 5 or 15 days to 30 days (for example, proposed § 73.71(a)(4)). We also support abolishing the need for duplicative reports (LERs). However, we note that NRC Forms 366 and 366A (required to be used by proposed § 73.71(d)) were created specifically to address a class of safety (in contrast with safeguards) events and to provide information for a data collection system which tracks these safety events. Thus, we strongly believe that these forms are inappropriate for use in reporting safeguards events which would not otherwise be reportable as LERs under 10 C.F.R. § 50.73. Events which are reportable only under proposed § 73.71 are of a separate and distinct character than those reportable as LERs. There is no basis for including them within the LER system. The use of a common reporting form blurs this important distinction.

From an overall perspective, information on theft or diversion of special nuclear material should continue to have a requirement for prompt reporting. Similarly, safeguards incidents where a person or persons either committed sabotage or provided credible threats of committing sabotage should be promptly reported. However, interruption of normal reactor operation due to unauthorized use or tampering (proposed Appendix G, Section I(a)(3)) is simply too broad in that it would treat as a reportable safeguards event a plant shutdown caused by a worker mistakenly working on wrong piece of plant equipment. The provision should be restricted to malicious tampering. Security system (equipment or people) failures which persist for some threshold period of time after discovery and would allow unauthorized persons undetected access into protected or vital areas should be reported. However, we do not believe the 24 hour log and the subsequent quarterly reporting (Appendix G, Section II) are worth

the substantial effort or that they would assist the Commission in performing its safeguards responsibilities. Information which would be required to be centrally logged is now available in licensee's computer and maintenance records or in other forms depending in the nature of the event being tracked. We are not aware of any problems with the currently-used information systems, which include the logging of appropriate information without any requirement for subsequent quarterly reports.

Our recommendation against initiating quarterly reports does not imply we believe equipment and/or personnel failures should be ignored. Applicable events will continue to be reported or recorded, and records will continue to be available in systems currently used by licensees (logs, data sheets, maintenance records, computer stored, etc.). This information will continue to be available for the NRC inspectors to review if they choose to do so during inspections. A requirement for a licensee to log each and every security system fault in a dedicated log and send a package of such reports every three months to the NRC is non-productive. Likewise, the proposed requirement that a security event report be resubmitted in its entirety, rather than supplemented, when new information is discovered has not been justified and is non-productive for good security.

The comparative text (see Attachment 2) on the reporting requirements of Section 73.71 as related to power reactors reflects our general comments. Many of our proposed changes reflect the need to clarify vague and unspecific terminology (for example, "discovered noninherent vulnerability"). We are convinced that the revised reporting requirements set forth in Attachment 2 would provide the licensee the proper incentives by requiring reports that are necessary for good security, without burdening the system with disincentives. One such disincentive is created by NRC's proposed requirement to report any system malfunction; any licensee choosing to conduct added drills, tests, or surveillance would likely thereby increase its reporting burden as well as give a misleading statistical appearance of increased security problems. In our proposed revision to Section 73.71(c)(1), we have tied discovery of a safeguards event to the licensee's security organization because as written it could include any licensee employee, including those not responsible or qualified to make that determination. We would also recommend a minimum record retention time of one year rather than three years to reduce the storage of unneeded paperwork. No basis has been set forth for three year retention. We urge the NRC to adopt our recommended changes.

We have also reviewed the Proposed Revision 1 to Regulatory Guide 5.62 on "Reporting of Physical Security Events." That guide provides the staff's interpretation of its proposed revised rule. For most utilities, it will increase -- not decrease -- the amount of reporting required. Generally we note that the proposed Regulatory Guide is consistent with the proposed rule as now written. As commented above and in Attachment 2, we have a number of concerns about the requirements of the rule and have recommended

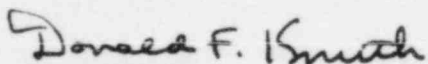
changes in it. We recommend that the Regulatory Guide be rewritten to be consistent with the final version of the rule. We are willing to work with the NRC staff to accomplish this.

In particular, we believe there is a need for a glossary of terms in the Regulatory Guide and/or additional definitions in 10 C.F.R. § 73.2. For example, in Table I what is a "recovered shipment?" Must possession of such an item be reestablished or is an unverified telephone call from the shipper considered to be adequate? Also, the Introduction of the Regulatory Guide should delete reference to any requirement for the recording and transmitting of quarterly event reports to the NRC, and the Discussion section should state that the NRC's requirement is only for the reporting of safeguards events or significant problems with the required performance of safeguards equipment or procedures.

Finally, we note that many of the examples provided in Sections 2.6 and 3.2 of the Regulatory Guide should be clarified, deleted or accorded lesser importance. For example, what is an "incendiary device?" (Does a person possessing a book of matches and scrap paper in one of the listed areas constitute a one-hour reportable event?) We are similarly concerned that one-hour reporting is not appropriate for the unavailability of the minimum number of security personnel or an imminent strike by the security force, or for a member of the security force found asleep. Nor do we believe that a general "civil disturbance within 1 mile of plant site" is sufficiently grave to require one-hour notification. More clarification is needed for these examples.

We would be pleased to discuss our views with the staff or answer any questions you may have on our comments.

Sincerely,



Donald F. Knuth
President

Encl.

ATTACHMENT 1

PHYSICAL SECURITY COORDINATING GROUP

Arizona Public Service Co.
Carolina Power & Light Co.
Commonwealth Edison Co.
Consolidated Edison Co. of N.Y.
Consumers Power Co.
Duke Power Co.
Duquesne Light Company
Florida Power & Light Co.
Nebraska Public Power District
Niagara Mohawk Power Corp.
Northeast Utilities Service Co.
Northern States Power Co.
Omaha Public Power District
Pacific Gas & Electric Co.
Pennsylvania Power & Light Co.
Portland General Electric Co.
Public Service Electric & Gas Co.
Public Service Company of New Hampshire
Rochester Gas & Electric Co.
Sacramento Municipal Utility District
Southern California Edison Co.
Toledo Edison Co.
Wisconsin Electric Power Co.
Wisconsin Public Service Corp.
Yankee Atomic Electric Co.

ATTACHMENT 2

COMPARATIVE TEXT COMMENTS ON 73.71

§ 73.71 Reports of unaccounted for shipments, suspected thefts, or unlawful diversions and other safeguards events.

(a)(1) Each licensee subject to the provisions of §§ 73.25, 73.26, 73.27(c), 73.37, 73.67(e), or 73.67(g) shall notify the NRC Operations Center within one hour after discovery of the loss of any shipment of SNM or spent fuel, and within one hour after recovery of or accountability for such lost shipment.

(2) This notification must be made to the NRC Operations Center listed in Appendix A of Part 73 of this chapter via the Emergency Notification System, if the licensee is party to that system. If the Emergency Notification System is inoperative or unavailable, the licensee shall make the required notification via commercial telephonic service or other dedicated telephonic systems or any other method that will ensure that a report is received by the NRC Operations Center within one hour. The exemption of § 73.21(g)(3) applies to all telephonic reports required by this section.

(3) The licensee shall, upon request of the NRC, maintain an open and continuous communications channel with the NRC Operations Center.

(4) The initial telephonic notification must be followed within a period of thirty (30) days by a written report submitted to the U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, D.C. 20555. The licensee shall also submit one copy each to the appropriate NRC Regional Office listed in Appendix A

to this part and if applicable the appropriate NRC Resident Inspector.

(5) Significant supplemental information which becomes available after the initial telephonic notification to the NRC Operations Center or after the submission of the written report must be telephonically reported to the NRC Operations Center listed in Appendix A of Part 73 of this chapter and also submitted in a revised written report to the Regional Office, the Document Control Desk and if applicable the appropriate Resident Inspector. Errors discovered in a written report must be corrected in writing. ~~a revised report. The revised report must replace the previous report; therefore, the update must be a complete entity and not contain only supplementary or revised information.~~ Each licensee shall maintain a copy of the written report of an event submitted under this section as a record for a period of three years from the date of the report.

(b)(1) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.55, 73.60 and 73.67 shall notify the NRC Operations Center listed in Appendix A of Part 73 of this chapter within one hour of discovery of the safeguards events described in paragraph I.(a)(1) of Appendix G to this part. Licensees subject to the provisions of §§ 73.20, 73.37, 73.55, 73.60 and each licensee possessing strategic special nuclear material (SSNM) and subject to §§ 73.67(d) and (e) shall notify the NRC Operations Center within one hour after discovery of the safeguards events described in paragraphs I.(a)(2), (3), (b), and (c) of Appendix G to this part.

(2) This notification must be made in accordance with the requirements of paragraphs (a)(2), (3), (4), and (5) of this section.

(c)(1) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.55, 73.60, and each licensee possessing SSNM and

subject to §§ 73.67(d), and 73.67(e) shall ~~maintain-a-current-log~~ and record the safeguards events described in paragraphs II.(a) ~~and-(b)~~ of Appendix G to this part within 24 hours of discovery by a licensee's ~~employee-or-member-of-the-licensee's-contract-security~~ organization; security organization (to include the licensee's contract security force if applicable). The licensee shall retain the ~~log-of-events~~ record recorded-under-this-section-as-a-record ~~for-three~~ for one years. ~~after-the-last-entry-is-made-in-each-log~~

~~(2)--Every-three-months,-each-licensee-shall-submit-to-the NRG-copies-of-all-safeguards-event-log-entries-not-previously submitted;-Each-licensee-shall-submit-one-copy-of-each-of-its-log entries-to-the-U.S.-Nuclear-Regulatory-Commission;-Document Control-Desk;-Washington;-D.C.-20555;-and-if-applicable-the appropriate-NRG-Resident-Inspector;~~

(d) Each licensee shall submit to the Commission the 30-day written reports ~~and-copies-of-the-safeguards-event-log-entries~~ required under the provisions of this section that are of a quality which will permit legible reproduction and micrographic processing. ~~If-the-facility-is-subject-to-§-50.73-of-this-chapter,-the-licensee-shall-prepare-the-written-report-on-NRG-Forms 366-and-366A;-If-the-facility-is-not-subject-to-§-50.73-of-this chapter,-the~~ Each licensee shall ~~not-use-these-forms-but-shall~~ prepare the written report in letter format unless the event is of such nature that NRC Forms 366 and 366A are submitted under § 50.73 of this chapter. In either case the report must include sufficient information for NRC analysis and evaluation.

(e) Duplicate reports are not required for events that are also reportable in accordance with §§ 50.72 and 50.73 of this chapter.

4. A new Appendix G is added to read as follows:

Appendix G - Reportable Safeguards Events

Pursuant to the provisions of 10 CFR §73.71(b) and (c), licensees subject to the provisions of 10 CFR §§ 73.20, 73.37, 73.50, 73.55, 73.60, and 73.67 shall report or record, as appropriate, the following safeguards events.

I. Events-to-be-reported-within-one-hour-of-discovery,-followed
Upon discovery and establishment of a reasonable belief that
the event poses a credible threat to the facility, the
following events must be reported within one hour of detec-
tion, followed by a written report within thirty days.

(a) Any event in which there is reason to believe that a person has committed or caused, or attempted to commit or cause, or has made a credible threat to commit or cause:

- (1) A theft or unlawful diversion of special nuclear material; or
- (2) ~~Significant~~ Intentional physical damage to any facility possessing SSNM or its equipment or carrier equipment transporting nuclear fuel or spent nuclear fuel, or to the nuclear fuel or spent nuclear fuel a facility or carrier possesses; ~~or~~ , whereby the public health and safety could be endangered by exposure to radiation;
- (3) ~~Interruption-of-normal-operation-of~~ Malicious tampering ~~with~~ a licensed nuclear power reactor ~~through-the~~ unauthorized-use-of-or-tampering-with or its machinery, components, or controls including the security system.

(b) Any discovered failure of a safeguards system ~~or-discovered-noninherent-vulnerability-in-a-system-that-could-allow~~ unauthorized-or-undetected which persists without proper compensation 10 minutes after establishment of a reasonable belief that it

could be exploited by unauthorized personnel to gain undetected access to a protected area, material access area, controlled access area, vital area or transport, ~~for which proper compensatory measures have not been established.~~ --A-"proper compensatory measure" "Proper compensation" for a particular safeguards event as used in this Appendix ~~means a measure~~ includes but is not limited to measures that ~~is~~ are specified in a security or contingency plan or security procedure. ~~If the particular safeguards event is not described in a plan or procedure, then a "proper compensatory measure" means a measure implemented within 10 minutes of an event's discovery that provides a level of security essentially equivalent to that existing before the event.~~

(c) Any unauthorized discovered entries of unauthorized persons through a required barrier any required physical barrier as defined in §73.2 of this part. ~~{whether or not the event is properly compensated}.~~

II. Events to be recorded within 24 hours. and submitted in quarterly log.

(a) Any failure of a safeguards system or discovered vulnerability in a system that could ~~allow unauthorized or~~ be exploited by unauthorized personnel to gain undetected access to a protected area, material access area, controlled access area, vital area, or transport for which proper compensatory measures have been established.

~~{b}--Any other failure of a safeguards system not included in paragraph II.(a) of this appendix if the failure degrades the effectiveness of the system.~~