



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 18, 2021

Ms. Dalia Kulowiec, Chair
Fraternal Order of Police NIST
Labor Committee
100 Bureau Drive
Gaithersburg, MD 20899

SUBJECT: 2.206 PETITION ON CURRENT LICENSING FOR POLICE AT THE NATIONAL
INSTITUTE OF STANDARDS AND TECHNOLOGY (L-2020-CRS-0004)

Dear Ms. Kulowiec:

Your petition dated September 4, 2020 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML20283A668), addressed to the U.S. Nuclear Regulatory Commission (NRC) Executive Director for Operations, was referred to the Office of Nuclear Reactor Regulation pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.206, "Requests for action under this subpart." You requested the NRC to review and require that the current licensing basis for the National Institute of Standards (NIST) Center for Neutron Research (NCNR) explicitly include the term "Police Officers" in all licensing requirements and orders and not be changed to any other verbiage.

As the basis for your request, you stated that NIST Management's implication that "Armed Response" is the equivalent of a "Police Officer Response" is irresponsible and a safety concern that would allow anyone with a gun and no police training to respond to all police related incidents on the NIST site.

Our Petition Review Board (PRB) evaluated your submittal in accordance with Management Directive 8.11 (MD 8.11), "Review Process for 10 CFR 2.206 Petitions" (ADAMS Accession No. ML18296A043). The PRB's initial assessment was that your submittal did not meet the criteria for consideration under 10 CFR 2.206, in accordance with MD 8.11, Section III.C.1(b)(ii) because the issues raised in your petition have already been the subject of the NRC staff review and evaluation but none of the additional Section III.C.1(b)(ii) circumstances apply.

On November 12, 2020 (ADAMS Accession No. ML20310A184), by e-mail, you were informed of the PRB's initial assessment as stated above. On the agreed to date of December 15, 2020, a public teleconference was scheduled for you to clarify or supplement the petition for the PRB to consider (transcript found at ADAMS Accession No. ML20356A240). However, you were unable to come to the meeting due to personal reasons. Subsequently, we reached out to you by e-mail and text trying to reschedule the meeting and, up to this date, you have not taken steps to support rescheduling the meeting.

The PRB's final determination is unchanged from the initial assessment as your petition does not meet the criteria for consideration under 10 CFR 2.206 because the issues raised in your petition have already been the subject of the NRC staff review and evaluation as explained below.

NIST submitted an application dated October 11, 2019 (ADAMS Accession No. ML19289A494), to amend its Facility Operating License No. TR-5. The changes proposed by NIST modified a portion of the NCNR physical security plan (PSP). Specifically, the changes affect the disposition of the security force, and clarified the roles and responsibilities of the security force on the NIST campus and at the NCNR facility.

The NRC staff concluded on September 21, 2020 (ADAMS Accession No. ML20230A293), that the modified PSP meets the requirements in 10 CFR 73.67, "Licensee fixed site and in-transit requirements for the physical protection of special nuclear material of moderate and low strategic significance," for security organization structure, response capabilities, and coordination with response forces. The amended PSP also meets the guidance for security organizations as described in Revision 1 to Regulatory Guide (RG) 5.59, "Standard Format and Content for a Licensee Physical Security Plan for the Protection of Special Nuclear Material of Moderate or Low Strategic Significance," issued in February 1983. The amended PSP also meets the requirements in 10 CFR 73.60, "Additional requirements for physical protection at nonpower reactors," paragraph (f) for the protection against radiological sabotage.

The regulations in 10 CFR 73.67 set forth PSP requirements for licensees using, possessing, or transporting special nuclear material (SNM) of moderate or low strategic significance. The general performance objectives require licensees to establish and maintain a physical protection system that will minimize the possibility of unauthorized removal of SNM through early detection and assessment. The regulations in 10 CFR 73.67(d) state, in part, that licensees shall:

- (8) Establish a security organization or modify the current security organization to consist of at least one watchman per shift able to assess and respond to any unauthorized penetrations or activities in the controlled access areas,
- (9) Provide a communication capability between the security organization and appropriate response force,
- (11) Establish and maintain written response procedures for dealing with threats of thefts or thefts of these materials.

RG 5.59 provides guidance for the various provisions and requirements with respect to the physical protection of licensed activities against radiological sabotage or theft or diversion of SNM that could be used to meet the requirements of 10 CFR 73.67. RG 5.59 describes detection capabilities and security requirements for SNM in storage. RG 5.59 also gives guidance on responding to security events and communication procedures for contacting offsite response forces. Additionally, RG 5.59 specifies that security procedures may also be used to protect against theft of SNM, including random patrols by a watchman, in conjunction with detection devices.

The proposed changes to the PSP meet the guidance for security organizations as described in RG 5.59. The NRC staff has concluded, based on the considerations discussed above, that with respect to the amendment requests: (1) there is reasonable assurance that the health and safety of the public and common defense of the nation will not be endangered by granting said amendment; (2) such activities will be conducted in compliance with the Commission's regulations; and (3) the approval of this amendment will not be inimical to the common defense and security or the health and safety of the public. The NRC staff determined the approved license amendment continues to meet the standards of 10 CFR Part 73, "Physical Protection of Plants and Materials."

Having considered the review detailed above, the PRB's final determination is that your submittal does not meet the criteria for consideration under 10 CFR 2.206, in accordance with MD 8.11, Section III.C.1(b)(ii) because the issues raised in your petition have already been the subject of the NRC staff review and evaluation but none of the additional Section III.C.1(b)(ii) circumstances apply.

Thank you for bringing these issues to the attention of the NRC.

Sincerely,



Signed by Donoghue, Joseph
on 02/18/21

Joseph Donoghue, Director
Division of Safety Systems
Office of Nuclear Reactor Regulation

Docket No. 50-184
License No. TR-5

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FOR POLICE AT THE NATIONAL INSTITUTE OF STANDARDS AND
TECHNOLOGY (L-2020-CRS-0004) DATED: FEBRUARY 18, 2021

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ADAMS Accession Nos.: Package ML20283A661; Letter ML21032A336 NRR-106

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OFFICE	OGC	NRR/DANU/D	NRR/D	PRB Chair
NAME	RCarpenter	MShams	AVeil	JDonoghue
DATE	2/11/2021	2/12/2021	2/18/2021	2/18/2021

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