

### National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

### Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325, telephone number (202) 512-1800.

### Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with states is not required.

*Background:* On July 18, 1995, RUS published a final rule (60 FR 36882) establishing new RUS policies and requirements for mortgages used to secure direct and guaranteed loans made to electric distribution borrowers. The final rule became effective on August 17, 1995. On December 29, 1995, RUS published a final rule (60 FR 67396) to establish new RUS policies and requirements for loan contracts ordinarily required for loans made to electric distribution borrowers; this rule became effective on January 29, 1995. These new policies and requirements reduced RUS oversight of borrowers' operational decisions, allowing RUS to tailor its operational control to a borrower's individual lending circumstances and credit risks.

The "new" forms of mortgages and loan contracts (Current Documents) used by RUS for distribution loans and loan guarantees made after January 29, 1996 reflect these policies and requirements. Distribution borrowers (Legacy Borrowers) with loans and loan guarantees made prior to January 29, 1996 under the "old" forms of mortgages and loan contracts (Legacy Documents) have been encouraged to execute the Current Documents, and to

date approximately 88% of Legacy Borrowers have replaced their Legacy Documents with Current Documents, either by obtaining a new loan or loan guarantee from RUS or by substituting New Documents for Legacy Documents.

The December 29, 1995 rulemaking also established Subpart M. The purpose of Subpart M was to cut back the broad reach of certain operational controls contained in the Legacy Documents through waivers and exemptions, thereby bringing the operational controls applicable to Legacy Borrowers more in line with those applicable to distribution borrowers under the Current Documents.

RUS believes that maintaining two sources of operational controls (i.e. the Current Documents, and the Legacy Documents supplemented by Subpart M) creates a confusing dual system that is no longer necessary to provide RUS with an appropriate level of operational control over its distribution loans and loan guarantees. As stated above, the vast majority of RUS electric borrowers have transitioned to the Current Documents, and all future loans and loan guarantees to Legacy Borrowers will be made using the Current Documents. Legacy Borrowers who do not anticipate new RUS loans may, by request, execute the Current Documents for their existing loans, and are encouraged to do so. For those Legacy Borrowers who chose to retain the Legacy Documents, RUS will conduct operational control decision making on a case-by-case basis, taking into consideration the unique characteristics of each Legacy Borrower and, in most cases, applying that level of operational controls contemplated in the Current Documents. For these reasons, RUS proposes to eliminate the provisions of, and reserve, Subpart M.

### List of Subjects in 7 CFR Part 1717

Administrative practice and procedure, Electric power, Electric power rates, Intergovernmental relations, Investments, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, chapter XVII of title 7 of the Code of Federal Regulations, is proposed to be amended as follows:

### PART 1717—POST-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1717 continues to read as follows:

*Authority:* 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

### Subpart M—Operational Controls

2. Subpart M is removed and reserved.

Dated: October 29, 2004.

**Curtis M. Anderson,**

*Acting Administrator, Rural Utilities Service.*

[FR Doc. 04-24789 Filed 11-5-04; 8:45 am]

BILLING CODE 3410-15-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 73

[Docket No. PRM-73-12]

### Committee To Bridge the Gap, Receipt of Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of receipt.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking, dated July 23, 2004, which was filed with the Commission by Daniel Hirsch, President, Committee to Bridge the Gap (CBG). The petition was docketed by the NRC on September 29, 2004, and has been assigned Docket No. PRM-73-12. The petitioner requests that the NRC amend its regulations to upgrade the "design basis threat" regulations ((DBT), or the magnitude of threat that the facility's security systems must be capable of defeating) and associated requirements for protection of domestic reactors from nuclear terrorism to a level that encompasses, with a sufficient margin of safety, the terrorist capabilities evidenced by the attacks of September 11, 2001.

**DATES:** Submit comments by January 24, 2005. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include the following number PRM-73-12 in the subject line of your comments. Comments on petitions submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

*Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.

*E-mail comments to:* [SECY@nrc.gov](mailto:SECY@nrc.gov). If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415-1966. You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol Gallagher (301) 415-5905; e-mail [cag@nrc.gov](mailto:cag@nrc.gov). Comments can also be submitted via the Federal eRulemaking Portal <http://www.regulations.gov>.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone (301) 415-1966).

*Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at (301) 415-1101.

Publicly available documents related to this petition may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at <http://ruleforum.llnl.gov>.

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-7163 or toll free: 800-368-5642.

**SUPPLEMENTARY INFORMATION:**

**Background**

The petitioner states that CBG has been active in attempting to increase

protection at nuclear facilities against the risk of nuclear terrorism for a quarter of a century. The NRC's current DBT regulations for nuclear power plants were issued in the 1974-1976 period (February 24, 1977; 42 FR 10836), with only one substantive modification in the ensuring thirty years, the truck bomb rule (August 1, 1994; 59 FR 38889). The petitioner states that DBT regulations established in the mid-seventies do not require nuclear plant security be designed to protect against:

- (a) More than one insider;
- (b) More than several external attackers;
- (c) Attackers capable of operating as more than one team (*i.e.*, capable of employing "effective team maneuvering tactics"); and
- (d) A group or individual using weapons of greater sophistication than hand-held automatic weapons.

The petitioner states that the original DBT regulations essentially required the attacks to be on foot, by not requiring protection from truck bombs, or attacks by boat or air.

The petitioner asserts that despite the facts that the original September 11, 2001, plot considered attacking U.S. nuclear plants, that the terrorist risk has increased since September 11, 2001, and that U.S. authorities warn that Al Qaeda is planning even more spectacular and deadly attacks in the U.S., nearly three years after the September 11, 2001, attacks, U.S. nuclear reactor facilities remain unprotected against air attacks or against ground attacks involving the September 11, 2001, number of attackers. The petitioner believes something must be done promptly to protect these facilities—and the American public. Increased threats, however, can be countered by measures that can be implemented for modest cost but which will provide substantial protection against events with such potentially catastrophic consequences.

**The Petitioner's Request**

*NRC Security Requirements for Protection of Nuclear Power Plants From Terrorist Attack*

The petitioner requests that 10 CFR 73.1(a) be revised to encompass attacking forces equal to those of the terrorist attack on September 11, 2001, plus a margin of safety, in numbers, teams, capabilities, planning, willingness to die, and other characteristics. The terrorist attack on September 11, 2001, involved 19 attackers in 4 teams. The DBT regulations should be changed to

include at least 19 attackers, plus a margin of safety above that level.

The NRC should also take into consideration the inclusion of multiple coordinated teams. The petitioner believes that the attackers should be presumed to use a full range of potential weapons of which a group such as Al Qaeda would be capable, to include shaped charges, shoulder-fired rockets, mortars, anti-tank weapons, large quantities of explosives, *etc.* The explosives, weapons, and equipment need not be limited to hand-carried items, as stated in the current regulations (10 CFR 73.1(a)(1)(i)(D)). The attackers should be presumed to be ruthless, highly motivated, willing and even intent on dying, very creative, thorough, and capable of extended planning and preparation. The DBT regulations should include a minimum of three insiders, in addition to the 19 external attackers, rather than the current 1 insider as stated at 10 CFR 73.1(a)(1)(i)(B) and (ii). The insiders should be presumed to play both a passive role (*e.g.*, supplying information) and active capacity (*e.g.*, directly participating in a coordinated attack or separate sabotage actions), a land vehicle should not be limited to a four-wheel drive car or truck, as is now the case at 10 CFR 73.1(a)(1)(i)(E) and (iii), but include the full range of trucks and other vehicles that a group like Al Qaeda might employ for such an attack.

The petitioner states that the DBT regulations should include attacks by foot or by land vehicle (*e.g.*, vehicle bombs), as well as by boat and by air. The DBT regulations addressing air attack should include a fully loaded jumbo jet of maximum size in commercial service and full fuel tanks, and more maneuverable smaller planes and helicopters. The petitioner states that the NRC should consider explosives potentially present in the aircraft as well as the mass of the plane and the effect of its fuel when igniting. The DBT regulations should protect both against direct impact of the aircraft on sensitive facilities at the nuclear plant and against use of the aircraft or helicopter for dropping explosives on those facilities. The petitioner also states that the NRC should consider the coordination of an air attack with assistance from insiders at the plant and/or external attackers (*i.e.*, damage to systems from the air attack coupled with failure of backup systems due to coordinated action on the ground).

*Mandate Security Plans, Systems, Inspections, and Force-on-Force Exercises Protect Against the Amended DBT*

The petitioner states that the security plans and physical systems implementing those plans, inspections and force-on-force Operational Safeguards Response Evaluation (OSRE) program exercises must be upgraded to conform to the proposed DBT regulations. The petitioner believes they must demonstrate high confidence to be able to repel a September 11, 2001, level assault.

*Require Prompt Construction of Shields From Air Attack at Standoff Distances From Key Support Structures at Nuclear Plants "Beamhenge"*

The petitioner states that nuclear power plants were not designed to withstand the attack by a fully loaded jumbo jet nor the intentional use of airplanes for terrorist purposes.

The petitioner proposes the construction of shields composed of I-beams with steel or other cabling and netting between them at standoff distances around the key structures at nuclear plants. Airplanes or jets attempting to attack sensitive structures would instead crash into the surrounding Beamhenge shield, leaving intact the reactor, spent fuel pool, and support facilities, thus protecting the public from damage that could result in substantial radioactivity releases. The Beamhenge concept may also provide some measure of protection against such weapons as shoulder-launched rockets, causing them to detonate before reaching their intended target.

The petitioner states that I-beams are relatively inexpensive, and their installation can be done quickly and with modest expenditures. The petitioner estimates that Beamhenge shields could be constructed for a fraction of one percent of the original construction cost of the nuclear plant. The petitioner believes that with such a low price and relative ease of deployment, the burden is on the Commission to justify why implementation of the Beamhenge approach should not be mandated immediately. This petitioner requests that the shields against air attack be required to be promptly constructed at the nation's nuclear plants, on a time urgent basis.

**Conclusion**

The petitioner states that the Commission's DBT regulations remained essentially unchanged, with one exception, for nearly thirty years,

despite dramatic increases in terrorist incidents, casualties, and capabilities. The petitioners seek a revision of the threat basis to include attack from the air by airplanes and jets, and attacking forces by land, water, or air—at least equal to the nineteen terrorists involved in the September 11, 2001, attacks in numbers, capacity, ruthlessness, dedication, skills, planning, and willingness to die and create large numbers of casualties. Additionally, the petitioners propose that the security requirements in part 73 be upgraded to provide high confidence in the ability of the security system to protect against the proposed upgraded September 11, 2001-equivalent DBT. In particular, the petitioners propose requiring, under a time-urgent schedule, construction at reactor sites of shields consisting of I-beams and cabling (Beamhenge) at stand-off distances from buildings and other assets important to safety at reactor sites so that airplanes or jets attempting to attack sensitive structures would instead crash into the surrounding Beamhenge shield, leaving intact the reactor, spent fuel pool, and support facilities, thus protecting the public from damage that could result in substantial radioactivity releases.

Dated in Rockville, Maryland, this 1st day of November, 2004.

For the Nuclear Regulatory Commission.

**Annette Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 04-24803 Filed 11-5-04; 8:45 am]

**BILLING CODE 7590-01-P**

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 2003-CE-65-AD]

**RIN 2120-AA64**

**Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG-800B Sailplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Supplemental notice of proposed rulemaking (NPRM); Reopening of the comment period.

**SUMMARY:** The FAA proposes to revise an earlier proposed airworthiness directive (AD) that applies to all Glaser-Dirks Flugzeugbau GmbH (DG Flugzeugbau) Model DG-800B sailplanes equipped with a SOLO 2625 engine or a Mid-West AE 50T engine. The earlier NPRM would have required

you to modify the coolant pump and fuel pump electrical circuits, replace the non-resettable circuit breaker with a resettable circuit breaker, and (for a version of the Mikuni carburetor) secure the choke butterfly valve axis. The earlier NPRM resulted from mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. This proposed AD is the result of further analysis by FAA of the service information and FAA determining that important actions were omitted in the NPRM and should be incorporated. Since these required actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these additional actions.

**DATES:** We must receive any comments on this proposed AD by December 13, 2004.

**ADDRESSES:** Use one of the following to submit comments on this proposed AD:

- *By mail:* FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003-CE-65-AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

- *By fax:* (816) 329-3771.

- *By e-mail:* 9-ACE-7-

*Docket@faa.gov.* Comments sent electronically must contain "Docket No. 2003-CE-65-AD" in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII.

You may get the service information identified in this proposed AD from DG Flugzeugbau, Postbox 41 20, D-76625 Bruchsal, Federal Republic of Germany; telephone: 011-49 7257-890; facsimile: 011-49 7257-8922.

You may view the AD docket at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003-CE-65-AD, 901 Locust, Room 506, Kansas City, Missouri 64106. Office hours are 8 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4130; facsimile: (816) 329-4090.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

*How do I comment on this proposed AD? We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under ADDRESSES. Include "AD Docket No. 2003-CE-65-AD" in the subject*