

AF 36-1

(5)



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

April 3, 1995

MEMORANDUM TO: William Russell, Director
Office of Nuclear Reactor Regulation

James Lieberman, Director
Office of Enforcement

Martin G. Malsch, Deputy General Counsel
for Licensing and Regulations
Office of the General Counsel

Michael Lesar, Acting Chief
Rules Review and Directives Branch
Division of Freedom of Information
and Publications Services
Office of Administration

Gerald F. Cranford, Director
Office of Information Resources Management

FROM: Eric S. Beckjord, Director
Office of Nuclear Regulatory Research

SUBJECT: OFFICE REVIEW AND CONCURRENCE ON PROPOSED RULEMAKING
"CHANGES TO NUCLEAR POWER PLANT SECURITY REQUIREMENTS
ASSOCIATED WITH CONTAINMENT ACCESS CONTROL" (10 CFR PART 73)

Your concurrence is requested on the attached Federal Register notice (Attachment 1) for the subject proposed rule.

1. Title: Changes to Nuclear Power Plant Security Requirements Associated with Containment Access Control (10 CFR Part 73)
2. Task Leader: S. D. Frattali (415-6261)
3. Cognizant Individuals: R. Fonner, OGC
R. Skelton, NRR
4. Requested Action: Concurrence
5. Requested Completion Date: April 14, 1995
6. Background: On February 18, 1994, the Commission directed the staff to implement the changes to § 73.55 that were recommended as a result of re-examining security requirements associated with an internal threat (SECY-93-326). One of the recommendations was the deletion of the

9501764

requirement for additional access control to reactor containments during periods of high traffic such as refueling outages (§ 73.55(d)(8)), because the deletion would provide burden relief to the licensees without compromising the physical protection of the public health and safety against radiological sabotage at licensed nuclear power reactors. The enclosed proposed rule responds to that recommendation.

7. Resources to implement this rulemaking are already included in the FY 1995 - 1999 Five-Year Plan. A copy of this concurrence package has been forwarded to the Office of the Controller for coordination of resource issues per the EDO memorandum of June 14, 1991.

Attachments:

1. FR Notice
2. Weekly Report
3. Congressional Letters
4. Public Announcement
5. Approved for Publication

cc w/Atts:

ACRS

CRGR

R. M. Scroggins, OC

D. C. Williams, IG

R. Fonner, OGC

R. Skelton, NRR

S. Gagner, OPA

ATTACHMENT 1
FEDERAL REGISTER NOTICE

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

RIN:

CHANGES TO NUCLEAR POWER PLANT SECURITY REQUIREMENTS
ASSOCIATED WITH CONTAINMENT ACCESS CONTROL

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to revise 10 CFR 73 to delete certain security requirements for controlling the access of personnel and materials into reactor containment during periods of high traffic such as refueling and major maintenance. This action would relieve nuclear power plant licensees of the requirement to separately control access to reactor containments during periods of high traffic, such as refueling and major maintenance outages. Deletion of this requirement would decrease the regulatory burden for the licensees without degradation of physical security. This action follows reconsideration by the NRC of nuclear power plant physical security requirements to identify those that are marginal to safety, redundant, or out of date.

DATES: Submit comments by (insert date 30 days after publication in the Federal Register). 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: Comments may be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attn: Docketing and Service Branch. Hand deliver comments to 11545 Rockville Pike, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on this rulemaking are also available for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number (800) 303-9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT-100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321-3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321-3339 to contact FedWorld, the NRC

subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP, that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555, telephone (301) 415-5780; e-mail AXD3@nrc.gov.

Single copies of this proposed rulemaking may be obtained by written request or telefax ((301) 415-2260) from: Distribution Services, Printing and

Mail Services Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001. Certain documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC. These same documents may also be viewed and downloaded electronically via the Electronic Bulletin Board established by NRC for this rulemaking as indicated above.

FOR FURTHER INFORMATION CONTACT: Dr. Sandra Frattali, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6261, e-mail sdf@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

In 1991, the Commission staff re-examined the NRC's nuclear power plant security requirements contained in 10 CFR Part 73, "Physical Protection of Plants and Materials," associated with an internal threat. Requirements were identified that were redundant, out of date, or marginal to safety (SECY-92-272). Following public meetings held to discuss these requirements, the NRC staff recommended changes to § 73.55 (SECY-93-326). One of the recommended changes was the deletion of § 73.55(d)(8), which contains a requirement for separate access control to reactor containments, which is unneeded, and a requirement for locks and alarms, which is contained elsewhere in Part 73. If this paragraph were removed it would provide burden relief to the licensees without compromising the physical protection of the health and

safety of the public against radiological sabotage. The NRC is proposing this rulemaking in response to the above recommendation. The other recommendations will be addressed in other NRC actions.

Discussion

Paragraph (d)(8) in § 73.55 requires physical protection for access into reactor containment. The paragraph contains two requirements, one is a requirement for locks and alarms. The second requires control, by a guard or watchman, of access of personnel and material into containment during periods of high traffic such as refueling and major maintenance outages.

The requirement of paragraph (d)(8) dealing with access control was originally promulgated to provide additional protection for reactor containment against the insider threat in the absence of specific access authorization regulations. Subsequent rulemakings have been promulgated directed at protecting against the insider threat, namely § 73.56, "Personnel access authorization requirements for nuclear power plants," and § 73.57, "Requirements for criminal history checks of individuals granted unescorted access to a nuclear power facility or access to Safeguards Information by power reactor licensees." Moreover, since the area surrounding reactor containment is itself a vital area, access of personnel and material into containment during periods of high traffic, such as refueling and major maintenance outages, is already controlled by the guards or watchmen controlling access to the surrounding vital area. After reactor containment is secured following periods of heavy traffic, existing NRC requirements for walkdown inspections and security searches apply and assure the security of

the containment. Hence, the requirement that access into the reactor containment itself be separately controlled by a guard or watchman provides little or no additional security.

In addition, because a reactor containment is a vital area, it is subject to the vital area requirements for locks and alarms contained in other sections of § 73.55, as well as all other policies and procedures related to vital areas and equipment. Thus, the requirement for locks and alarms in paragraph (d)(8) is redundant.

For these reasons, the NRC believes that deletion of § 73.55(d)(8) would relieve licensees of an unnecessary burden, without degradation of physical security. Moreover, since security personnel would no longer be required to be assigned to a radiation control area, there would be a decrease in occupational exposure. It should be noted that this change would apply only to access from vital areas into reactor containment (which continues to remain a vital area) and does not relieve the licensee of requirements to provide radiological controls or of other requirements for personnel accountability.

Environmental Impact: Categorical Exclusion

The Commission has determined that this proposed rule is the type of action described as a categorical exclusion in 10 CFR 51.22 (c)(⁽²⁾~~(3)~~(1)). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule contains no new or amended information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150-0002.

Regulatory Analysis

Elimination of § 73.55(d)(8) would relieve licensees of the requirement to station security personnel at entrances to containment during periods of high traffic. The potential savings to the licensees from the elimination of this requirement are substantial. Assuming, on the average, 3 security personnel are needed to control access to containment during the time the reactor is open, and assuming that the containment is open 50 days per major outage, with 2 major outages every three years, and a wage of approximately \$30 per hour (loaded) for security personnel, the total savings per reactor per year would be:

$$\begin{aligned} & 3 \text{ guards/reactor} \times 50 \text{ days/outage} \times 2/3 \text{ outages/year} \times \\ & \$30/\text{hr-guard} \times 24 \text{ hrs/day} = \$72,000/\text{year-reactor}. \end{aligned}$$

With 110 operating nuclear power reactors, the total savings for the industry are potentially \$7,920,000/year.

Moreover, deletion of paragraph (d)(8) would result in a decrease in occupational exposure since security personnel would no longer be required to be within the radiation controlled area directly adjacent to containment.

Based on the above discussion, the NRC concludes that eliminating § 73.55(d)(8) would provide relief to the licensees, and lower occupational exposure, without compromising physical protection of the public health and safety against radiological sabotage at licensed nuclear power reactors.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act OF 1980, 5 U.S.C. 605(b), the Commission certifies that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect only licensees authorized to operate nuclear power reactors. These licensees do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act, or the Small Business Size Standards set out in regulations issued by the Small Business Administration Act, 13 CFR part 121.

Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed amendment because this amendment would not impose new requirements on existing 10 CFR Part 50 licensees. It is voluntary and should the licensee decide to implement this amendment, it is a reduction in burden to the licensee. Therefore, a backfit analysis has not been prepared for this amendment.

List of Subjects in 10 CFR part 73

Criminal penalties, Hazardous materials transportation, Export, Incorporation by reference, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and record keeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is ^{proposing to} ~~adopting~~ the following amendments to 10 CFR Part 73.

PART 73 -- PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for Part 73 continues to read as follows:

AUTHORITY: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

2. In § 73.55(d), paragraph (8) is removed and subsequent paragraphs are renumbered.

Dated at Rockville, Maryland, this ____ day of _____, 1995.

For the Nuclear Regulatory Commission.

James M. Taylor,
Executive Director for Operations.