

August 11, 1995

MEMORANDUM TO: James M. Taylor  
Executive Director for Operations

FROM: David L. Morrison, Director /s/ David L. Morrison  
Office of Nuclear Regulatory Research

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

Attached for your signature is a final rule to be published in the Federal Register that amends 10 CFR 73.55, "Physical Protection of Plants and Materials" (Attachment 1). This amendment reduces the security requirements at a nuclear power plant by deleting certain security requirements for controlling the access of personnel and materials into containment during periods of high traffic without degradation of physical security.

**Background:** On May 10, 1995 (60 FRN 24803), the Commission published the proposed rule for public comment. Twenty-two comments were received, all in agreement with the Commission. Therefore, the final rule is the same as the proposed rule.

**Notices:** A notice to the Commission that the EDO has signed this final rule is attached (Attachment 2). The appropriate Congressional Committees will be notified (Attachment 3). A copy of the final rule will be sent to all affected licensees and other interested persons. A public announcement will be issued (Attachment 4)

**Resources:** Resources to implement this rulemaking are included in the FY 1995-1999 Five-Year Plan, and no additional resources are required for its implementation.

**Coordination:** The Offices of NRR, ADM, OE, and IRM concur in this amendment. This rulemaking has been coordinated with OC. The CRGR and the ACRS have been informed and decided not to review this rulemaking. OGC has reviewed this final rulemaking and has no legal objection.

**Attachments:**

1. Federal Register Notice of Final Rulemaking + disk
2. Daily Staff Notes
3. Congressional Letters
4. Public Announcement
5. Approval for Publication

**Distribution:**

RDB/Rdg/Subj/central

[Document Name: G:\RDB\FRATTALI\7355SDF.EDO] \*see previous concurrence

OFEC	RDB:DRA	RDB:DRA	RDB:DRA	RDB:DRA
NAME	SFrattali /jw	TMartin	BMorris	DMorrison
DATE	8 / 3/95	8/4/95	8/10/95	8/11/95
COPY	Yes - No	Yes - No	Yes - <u>NO</u>	Yes - No

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(RES File Code) RES

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Resources: Resources to implement this rulemaking are included in the FY 1995-1999 Five-Year Plan, and no addition resources are required for its implementation.

Coordination: The Offices of Nuclear Reactor Regulation, Administration, Enforcement, and Information Resources Management concur in this amendment. This rulemaking has been coordinated with Office of the Controller. The CRGR and the Advisory Committee on Reactors have been informed and decided not to review this rulemaking. The Office of the General Counsel has reviewed this final rulemaking and has no legal objection.

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NAME	SFrattali 8/4/95 JW	TMartin	BMorris	DMorrison
DATE	8 / 3/95	/ /95	/ /95	/ /95
COPY	Yes - No	Yes - No	Yes - No	Yes - No

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(RES File Code) RES



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

August 11, 1995

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Attachments:

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2. Daily Staff Notes
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Attachment 1  
Federal Register Notice

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

RIN: 3150-AF36

Changes to Nuclear Power Plant Security Requirements  
Associated with Containment Access Control

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations 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 relieves nuclear power plant licensees of the requirement to separately control access to reactor containments during these periods. Deletion of this requirement decreases the regulatory burden for the licensees without degradation of physical security.

EFFECTIVE DATE: [30 days after publication in the Federal Register]

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](mailto:sdf@nrc.gov).

## SUPPLEMENTARY INFORMATION:

### Background

In 1991, the Commission re-examined the NRC's nuclear power plant security requirements associated with an internal threat contained in 10 CFR Part 73, "Physical Protection of Plants and Materials." In a report to the Commission dated August 4, 1992 (SECY-92-272), the NRC staff identified requirements that were redundant, out of date, or marginal to safety. Following public meetings held to discuss these requirements, the NRC staff submitted a subsequent report to the Commission dated December 12, 1993 (SECY-93-326), with recommended changes to § 73.55. One of the recommended changes was the deletion of § 73.55(d)(8), which contained a requirement for separate access control to reactor containments, which is unneeded, and a requirement for locks and alarms, which is contained elsewhere in 10 CFR Part 73. The Commission has decided to remove this paragraph to provide burden relief to licensees without compromising the physical protection of licensed activities against radiological sabotage. The other recommendations contained in SECY-93-326 will be addressed in another NRC rulemaking action.

### Proposed Rule and Public Comments

On May 10, 1995 (60 FR 24803), the NRC published, with a public comment period of 30 days, a proposed rule that would delete § 73.55(d)(8). Twenty-two comments were received: 20 from utilities, 1 from an industry group, and 1 from a labor union. All commenters supported the proposed rule. The commenters agreed that the proposed action would reduce the regulatory burden

but would not degrade the physical security of nuclear power plants. The industry group further commented that significant savings could result from this rulemaking. One of the utilities commented that it would enable utilities to make more efficient use of their resources.

One utility questioned whether the same relief would apply when access to containment is from an area provided with access controls and other security features but not formally designated as a vital area. The same relief would not generically apply to these situations because the level of control varies for each area. However, the NRC will consider each situation on a case-by-case basis.

Another utility asked if its approved security plan, which already had requirements for access to containment directly from a protected area, was affected by this rulemaking. This rule affects access controls only from vital areas into containment. This rule does not affect access controls from protected areas into containment, thus, it does not affect any approved security plan for access to containment from a protected area. When access from a protected area into containment is necessary, existing access controls must remain in effect at the entrances to containment.

### Final Rule

Based on the public comments, the NRC staff considers that no change to the final rule is necessary. Thus, the final rule remains the same as the proposed rule.

The final rule deletes paragraph (d)(8) of § 73.55. This amendment relieves licensees of an unnecessary burden, without degrading physical

security. Moreover, since security personnel are no longer required to be assigned to a radiation control area, there will be a decrease in occupational exposure. NRC notes that this change applies only to access control from vital areas into reactor containment for the purpose of physical security and does not relieve a licensee of requirements established for the purpose of radiological control and emergency planning.

#### Environmental Impact: Categorical Exclusion

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

#### Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to 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) relieves 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, two 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 3 years, and a wage of approximately \$30 per hour (loaded) for security personnel, the total savings per reactor per year will be:

$$\begin{aligned} &2 \text{ guards/reactor} \times 50 \text{ days/outage} \times 2/3 \text{ outages/year} \times \\ &\$30/\text{hr-guard} \times 24 \text{ hrs/day} = \$48,000/\text{year-reactor}. \end{aligned}$$

With 110 operating nuclear power reactors, the total savings for the industry are potentially \$5,280,000/year. Moreover, deletion of § 73.55(d)(8) results in a decrease in occupational exposure because security personnel will no longer be required to be within the radiation controlled area directly adjacent to containment.

When paragraph (d)(8) was promulgated there were no specific access authorization regulations, thus no additional protection for reactor containment against the insider threat. Subsequent rulemakings have been promulgated directed at protecting against the insider threat (§§ 73.56 and 73.57). Reactor containment or adjacent areas that provide access to containment are already vital areas. Thus, access of personnel into containment is already controlled. In addition, having security personnel control access of materials into containment provides no substantial benefit since material access into the protected area is already controlled and the containment is located within the protected area. Furthermore, 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 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.

Based on the above discussion, the NRC concludes that eliminating § 73.55(d)(8) provides relief to the licensees and lowers occupational exposure without compromising physical protection of licensed activities against radiological sabotage at 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 rule does not have a significant economic impact on a substantial number of small entities. This rule affects 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 size standards established by the NRC (10 CFR 2.810).

#### Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule because this amendment does 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, 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 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, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f).

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).

§73.55 [amended]

2. In § 73.55, paragraph (d)(8) is removed and paragraph (d)(9) is redesignated as (d)(8).

Dated at Rockville, Maryland, this \_\_\_\_ day of \_\_\_\_\_, 1995.

For the Nuclear Regulatory Commission.

\_\_\_\_\_  
James M. Taylor,  
Executive Director for Operations.

§73.55 [amended]

2. In § 73.55, paragraph (d)(8) is removed and paragraph (d)(9) is redesignated as (d)(8).

Dated at Rockville, Maryland, this \_\_\_\_ day of \_\_\_\_\_, 1995.

For the Nuclear Regulatory Commission.

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RECORD NOTE: A copy of the final rule was sent to the  
OIG for information on 7/24/95.

[Document Name: G\FRATTALI\7355FRN.sdf]

\*see previous concurrences

OFFICE	DRA:RDB	DRA:RDB	D:DRA	D:NRR	D:IRM
NAME:	SFrattali* /jw	TMartin*	BMorris*	WRussell*	GCranford*
DATE:	7/13/95	7/13/95	7/18/95	7/31/95	7/27/95
OFFICE	OE	GC	D:ADM	D:RES <i>[initials]</i>	D:EDO
NAME:	JLieberman by phone	KCyr*	PNorry*	DMorrison	JTaylor
DATE:	8/2/95	7/26/95	7/31/95	8/11/95	1 / 95

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[Document Name: G:\FRATTALI\7355FINL.FRN] <sup>TSE</sup> <sup>7/11/95</sup> *GMK/...*

OFFICE	DRA:RDB	DRA:RDB	D:DRA	D:NRR	D:IRM
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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

cc: Morris  
Martin  
Frattali  
File

dm

*July 31, 1995*

MEMORANDUM FOR: David L. Morrison, Director  
Office of Nuclear Regulatory Research

FROM: David L. Meyer, Chief *W-L Meyer*  
Rules Review and Directives Branch  
Division of Freedom of Information  
and Publications Services  
Office of Administration

SUBJECT: OFFICE CONCURRENCE ON FINAL RULE ENTITLED  
"CHANGES TO NUCLEAR POWER PLANT SECURITY  
REQUIREMENTS ASSOCIATED WITH CONTAINMENT  
ACCESS CONTROL"

The Office of Administration concurs on the final rule package that amends Part 73. We have attached a marked copy of the final rule that presents additional editorial comments.

When the document is forwarded for publication, please include a 3.5-inch diskette that contains a copy of the document in WordPerfect 5.0 or 5.1 as part of the transmittal package. The diskette will be forwarded to the Office of the Federal Register and the Government Printing Office for their use in typesetting the document.

If you have any questions, please contact Alice Katoski, 415-6862, or Michael Lesar, 415-7163, Division of Freedom of Information and Publications Services.

Attachment: As stated

**From:** Herbert Parcover (HMP)  
**To:** NCD2.TW9.SDF  
**Date:** Thursday, July 27, 1995 10:27 am  
**Subject:** FR, CHANGES TO...SECURITY REQUIREMENTS...

Reference FR, 10 CFR 73, Changes to Nuclear Power Plant Security Requirements Associated with Containment Access Control.

IRM concurs in the publication of the referenced rulemaking.



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

July 27, 1995

MEMORANDUM TO: Michael Lesar, Chief  
Rules Review Section  
Rules Review and Directives Branch  
Division of Freedom of Information and  
Publications Services  
Office of Administration

FROM: *for* Brenda Jo. Shelton, Chief  
Information and Records Management Branch  
Office of Information Resources Management

SUBJECT: REQUEST FOR COMMENT AND CONCURRENCE ON A FINAL RULE  
ENTITLED, "CHANGES TO NUCLEAR POWER PLANT SECURITY  
REQUIREMENTS ASSOCIATED WITH CONTAINMENT ACCESS CONTROL"

In response to your subject request, the Information and Records Management Branch (IRMB) provides the following:

- ☒ The Paperwork Reduction Act Statement (PRAS) is correct.
- ☐ Change the PRAS to Attachment 1.
- ☒ The "Information Collection Requirements: OMB Approval" section is correct.
- ☐ Do not publish the "Federal Register Notice" until further notice.
- ☒ The "Federal Register Notice" can be published.
- ☐ Attached is a copy of the memo to the program office addressing our concerns.
- ☐ A copy of the IRMB memorandum to the program office addressing our concerns will be forwarded at a later date.
- ☒ An IRMB memorandum to the program office is not required.

cc: S. Frattali, RES ✓

**From:** Carol F. Abbott (CFA)  
**To:** SDF  
**Date:** Wednesday, August 2, 1995 6:35 pm  
**Subject:** OC Concurrence - 10 CFR Part 73

**NOTE TO:** Sandra Frattali, RES

**FROM:** Carol Abbott, OC/DBA

**SUBJECT:** OC REVIEW OF FINAL RULEMAKING "CHANGES TO NUCLEAR  
POWER PLANT SECURITY REQUIREMENTS ASSOCIATED WITH  
CONTAINMENT ACCESS CONTROL" (10 CFR PART 73)

OC has reviewed the subject rulemaking in response to D.L. Morrison's June 24, 1995 request for OC coordination. We find that there are no resource-related issues associated with the implementation of the rule and concur in the final rulemaking package.

Please ensure that the memo transmitting the final package for review and signature includes appropriate resource information (i.e., that there are resources in the budget to implement the rule and that the package has been coordinated with OC).

###

DBA Action Item: DBA-5-195  
DBA File: RSS-1.5

**CC:** DJC2, JDE, BKG, LAS3

Attachment 2

Daily Report

DAILY STAFF NOTES

OFFICE OF NUCLEAR REGULATORY RESEARCH

Final Rule Signed by EDO

On \_\_\_\_\_, 1995, the Executive Director for Operations approved a final rule that amends 10 CFR Part 73, "Physical Protection of Plants and Materials," by deleting § 73.55(d)(8) which required access control of personnel and materials into containment at power reactors during periods of high traffic. This requirement was made unnecessary by the implementation of the rules for protection against the insider threat.

This notice informs the Commission that, in accordance with the rulemaking authority delegated to the EDO, the EDO has signed this final rule and proposes to forward it on \_\_\_\_\_ to the Office of the Federal Register for publication, unless otherwise directed by the Commission.

Attachment 3  
Congressional Letters



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

The Honorable Dan Schaefer, Chairman  
Subcommittee on Energy and Power  
Committee on Commerce  
United States House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Enclosed for the information of the Subcommittee is a copy of the final amendment to 10 CFR Part 73 to be published in the Federal Register.

The amendment will relieve nuclear power plant licensees of the requirement to separately control access to reactor containments during periods of high traffic, such as refueling outages. Deletion of this requirement will decrease the regulatory burden for the licensees without degradation of physical security. Moreover, since the assignment of security personnel to a radiation control area will no longer be required, there will be a decrease in occupational exposure.

All public comments were in favor of the proposed rule.

Sincerely,

Dennis K. Rathbun, Director  
Office of Congressional Affairs

Enclosure:  
Federal Register Notice

cc: Representative Frank Pallone

The Honorable Dan Schaefer, Chairman  
Subcommittee on Energy and Power  
Committee on Commerce  
United States House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

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Federal Register Notice

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7/14/95



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

The Honorable Lauch Faircloth, Chairman  
Subcommittee on Clean Air, Wetlands, Private  
Property and Nuclear Safety  
Committee on Environment and Public Works  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

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Enclosure:  
Federal Register Notice

cc: Senator Bob Graham

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Subcommittee on Clean Air, Wetlands, Private  
Property and Nuclear Safety  
Committee on Environment and Public Works  
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Office of Congressional Affairs

Enclosure:  
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Attachment 4  
Public Announcement

NRC AMENDS REGULATIONS ON  
PHYSICAL SECURITY AT NUCLEAR POWER PLANTS

In view of the Nuclear Regulatory Commission's requirement that access to areas surrounding nuclear reactor containments must be controlled at all times, and that persons with unescorted access to the areas be subject to trustworthiness evaluations, the agency is eliminating a regulation that called for extra guards to control access to the containment itself during periods of high traffic.

The requirement for extra guards during periods of high traffic, such as refueling and major maintenance, was originally issued to provide additional protection against the possibility that an insider might take malevolent action. However, subsequent regulations were also directed at providing protection against that threat. They direct nuclear power plant licensees to establish special programs to ensure reliability and trustworthiness of persons authorized to have unescorted access to protected and vital areas of the plant, including the containment. These programs must include a background investigation, psychological assessment, behavioral observation and drug testing--all developed to provide high assurance that the individuals are trustworthy and reliable. The background investigation includes a check of possible criminal history.

It was decided that having extra guards for containment during periods of high traffic provides little or no additional security, since the purpose is to control access, which has

already been controlled. In addition, after reactor containment is secured following periods of heavy traffic, existing NRC requirements for walkdown inspections and searches apply and ensure the safe operability of systems in the containment. As part of the comprehensive nuclear power plant security system required by the NRC, other measures, such as physical barriers, locks and alarms for vital areas, provide additional physical protection of the reactor containment.

Deletion of the requirement to station security personnel at entrances to containment during periods of high traffic will also result in a decrease in occupational radiation exposures, because security personnel will no longer be required to be within the radiation-controlled area directly adjacent to containment.

The action to eliminate the extra guards is part of the NRC's reevaluation of nuclear power plant physical security requirements to identify those considered marginal to safety, redundant, or out of date. The NRC believes the revision will reduce the regulatory burden on licensees without compromising public health and safety.

A proposed rule on this subject was published in the Federal Register for public comment on May 10. All commenters supported the revision, and no changes have been made as a result of the comments received.

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Attachment 5  
Approval for Publication

Approved For Publication

The Commission delegated to the EDO (10 CFR 1.31(c)) the authority to develop and promulgate rules as defined in the APA (5 U.S.C. 551 (4)) subject to the limitations in the NRC Management Directive 9.17, Organization and Functions, Office of the Executive Director for Operations, paragraphs 0213, 038, 039, and 310.

The enclosed final rule, entitled "Changes to Nuclear Power Plant Security Requirements Associated with Containment Access Control," will amend Part 73 by eliminating certain redundant requirements for controlling the access of personnel and materials into containment.

This final rule does not constitute a significant question of policy, nor does it amend regulations contained in 10 CFR Parts 7, 8, or 9 Subpart C concerning matters of policy. I, therefore, find that this final rule is within the scope of my rulemaking authority and am proceeding to issue it.

\_\_\_\_\_  
Date

\_\_\_\_\_  
James M. Taylor,  
Executive Director for Operations