



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

November 5, 1997

Knapp, RES
AF 53-2
4

COMMISSION VOTING RECORD

DECISION ITEM: SECY-97-228

TITLE: FINAL AMENDMENTS TO 10 CFR PART 73,
"CHANGES TO NUCLEAR POWER PLANT
SECURITY REQUIREMENTS"

The Commission (with Commissioners Dicus, Diaz and McGaffigan agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of November 5, 1997. The Chairman approved the paper with the exception of the change that would allow armed security guards to exit the protected area and reenter without being searched for firearms.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commissioners, and the SRM of November 5, 1997.



John C. Hoyle
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets
3. Final SRM

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
OGC
EDO
PDR
DCS

VOTING SUMMARY - SECY-97-228

RECORDED VOTES

	APRVD	DISAPRVD	ABSTAIN	NOT PARTICIP	COMMENTS	DATE
CHRM. JACKSON	X				X	11/4/97
COMR. DICUS	X					10/24/97
COMR. DIAZ	X					10/16/97
COMR. McGAFFIGAN	X				X	10/22/97

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments except the Chairman disapproved the item of the change that would allow armed security guards to exit the protected area and reenter without being searched for firearms. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on November 5, 1997.

AFFIRMATION VOTE

RESPONSE SHEET

TO: John C. Hoyle, Secretary

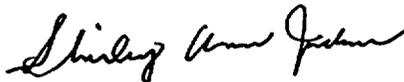
FROM: CHAIRMAN JACKSON

SUBJECT: **SECY-97-228 - FINAL AMENDMENTS TO 10 CFR PART 73,
"CHANGES TO NUCLEAR POWER PLANT SECURITY
REQUIREMENTS"**

Approved ^{w/ comment} XX Disapproved _____ Abstain _____

Not Participating _____ Request Discussion _____

COMMENTS:



Shirley Ann Jackson

SIGNATURE

November 4, 1997

DATE

Release Vote / XX /

Withhold Vote / /

Entered on "AS" Yes _____ No _____

Chairman Jackson's comments on SECY-97-228; Final Amendments to 10 CFR Part 73, "Changes to Nuclear Power Plant Security Requirements"

I approve this rulemaking in general, and commend the staff for identifying requirements that are marginal to safety, redundant, or no longer effective. However, I do not approve the first item - that would allow armed security guards to exit the protected area and reenter without being searched for firearms. The minor benefits of this change do not outweigh the strict access requirements that I believe should be maintained equally for all nuclear plant workers.

AFFIRMATION VOTE

RESPONSE SHEET

TO: John C. Hoyle, Secretary

FROM: COMMISSIONER DICUS

SUBJECT: **SECY-97-228 - FINAL AMENDMENTS TO 10 CFR PART 73,
"CHANGES TO NUCLEAR POWER PLANT SECURITY
REQUIREMENTS"**

Approved Disapproved Abstain

Not Participating Request Discussion

COMMENTS: *None*

Preta Jay Dicus
SIGNATURE

October 24, 1997
DATE

Release Vote

Withhold Vote

Entered on "AS" Yes No

AFFIRMATION VOTE

RESPONSE SHEET

TO: John C. Hoyle, Secretary

FROM: COMMISSIONER DIAZ

SUBJECT: **SECY-97-228 - FINAL AMENDMENTS TO 10 CFR PART 73,
"CHANGES TO NUCLEAR POWER PLANT SECURITY
REQUIREMENTS"**

Approved Disapproved Abstain

Not Participating Request Discussion

COMMENTS: no comments *hd*

Richard Diaz

SIGNATURE

10-16-97

DATE

Release Vote

Withhold Vote

Entered on "AS" Yes No

AFFIRMATION VOTE

RESPONSE SHEET

TO: John C. Hoyle, Secretary
FROM: COMMISSIONER MCGAFFIGAN
SUBJECT: **SECY-97-228 - FINAL AMENDMENTS TO 10 CFR PART 73,
"CHANGES TO NUCLEAR POWER PLANT SECURITY
REQUIREMENTS"**

Approved *with comment* Disapproved _____ Abstain _____

Not Participating _____ Request Discussion _____

COMMENTS:

I approve the notice of final rulemaking for publication, with the attached minor editorial corrections to the statements of consideration and the letters to Congress. In light of the significant burden reduction associated with this rulemaking, I believe the issuance of a press release along the general lines of the draft public announcement included with SECY-97-228 would be appropriate. The staff should coordinate the finalization of the public announcement with the Office of Public Affairs.

Edward M. Gaffigan Jr.

SIGNATURE

October 22 1997

DATE

Release Vote

Withhold Vote

Entered on "AS" Yes No _____

SUPPLEMENTARY INFORMATION:

Background

On February 20, 1997, the NRC published a proposed rule in the Federal Register (62 FR 7721) ~~revising~~ ^{that would revise} the NRC's regulations associated with an internal threat to nuclear power plants that are contained in 10 CFR Part 73, "Physical Protection of Plants and Materials." The five changes, which provide significant relief to licensees without compromising the physical security of the plants, ~~are as follows~~ ^{involve changes to}

1. Search requirements for on-duty guards, § 73.55(d)(1);
2. Requirements for vehicle escort, § 73.55(d)(4);
3. Control of contractor employee badges, § 73.55(d)(5);
4. Maintenance of access lists for each vital area, § 73.55(d)(7)(i)(A); and
5. Key controls for vital areas, § 73.55(d)(8).

The Commission received 9 letters commenting on the proposed rule. Eight were from utilities and one was from an industry group. Copies of the letters are available for public inspection and copying for a fee at the Commission's Public Document Room, located at 2120 L Street, NW (Lower Level), Washington, DC.

Discussion

The public comments supported the proposed rulemaking in general. Seven of the nine commenters recommended additional relief from the vehicle escort

under emergency conditions. Also under the current regulations, all vehicles must be escorted by a member of the security organization while inside the protected area except for "designated licensee vehicles." "Designated licensee vehicles" are those vehicles that are limited in their use to onsite plant functions and remain in the protected area except for operational, maintenance, repair, security, and emergency purposes. Under the current requirement, all other vehicles that are not "designated licensee vehicles" must be escorted at all times while in the protected area even when they are driven by personnel with unescorted access.

Comment. Seven commenters were concerned that the proposed rule would only allow a vehicle to be unescorted when being operated by licensee employees having unescorted access. These commenters wanted this extended to contractor employees *as well. who are cleared for unescorted access*

Response. This change has been made. Since both licensee employees and contractor employees are subject to equivalent access authorization programs, the level of trustworthiness is deemed to be equivalent. There is no compelling reason to *distinguish* ~~discriminate~~ between the two. The amended rule eliminates the requirement for escort of licensee-owned or leased vehicles entering the protected area for work-related purposes provided these vehicles are driven by personnel who have unescorted access. This change provides burden relief to licensees without significantly increasing the level of risk to the plant.

Comment. Five comments were made that limiting unescorted vehicles to those that were licensee-owned was unduly restrictive, and wanted this extended to licensee owned- or leased vehicles. One *commenter* ~~of these~~ wanted it further extended to contractor or vendor owned or leased vehicles.

Comment. All commenters supported these provisions.

Response. The final rule will be published as proposed.

The Commission desires to remind licensees that they are responsible for properly controlling access, and that the changes to § 73.55(d)(7)(i)(A) do not remove their responsibility to establish procedures to ensure that persons no longer needing unescorted access are not granted such access.

5. Key Controls for Vital Areas (§ 73.55(d)(8)).

Under the current regulations, licensees must change or rotate all keys, locks, combinations, and related access control devices at least once every twelve months. The rule also requires that these be changed whenever there is a possibility they have been compromised, or when an individual with access to the keys, locks, or combinations has been terminated for reasons of trustworthiness, reliability, or inadequate work performance. Additionally requiring such change every 12 months has been determined by the NRC to be only marginal to security.

This amended rule removes the requirement for changing access control devices at least every 12 months while retaining the requirement to ~~making~~^{make} changes for cause, and when an access control device has been, or there is a suspicion that it may have been ^⑤compromised.

Comment. One commenter requested that the words "inadequate work performance" in the rule language be removed or defined.

Response. The NRC sees no need to define "inadequate work performance" because the term characterizes many factors and judgements involving removal for cause. Further, the comment is outside the scope of this rulemaking.

2. Requirements for Vehicle Escort (73.55(d)(4)).

The regulatory burden on licensees will be reduced by requiring fewer vehicle escorts, which will allow personnel to be utilized more effectively or for other purposes. Resources could be redirected to areas in which they will be more cost effective. The decrease in security will be marginal, because unescorted access will be restricted to vehicles owned or leased by the licensee being driven by personnel with unescorted access.

Assuming the number of such entries of licensee owned or leased vehicles driven by personnel having unescorted access is 10 per day per site, the average time needed for escort is 3 hours, and the cost per hour for security personnel is \$30 (loaded), a rough estimate of the potential savings per site per year is about \$330,000 (10 escorts/day/site x 365 days/year x 3 hrs/escort x \$30/hr). With 75 sites, the savings to the industry per year will be approximately \$24,000,000.

3. Control of Contractor Employee Badges (§ 73.55(d)(5)).

The regulatory burden on licensees will be reduced by a more effective use of security personnel, who will no longer need to handle badges for contractor personnel who have unescorted access. There will be no reduction in plant security because adequate safeguards will be in place to ensure that badges are properly used and not compromised, and a system such as biometrics is in place to ensure that only the proper person uses the badge to gain access to the protected area.

Assuming that two security persons per working shift change, 5 shifts per day, one hour per shift are relieved from the duties of controlling contractor employee badges during an outage lasting 3 months. Further, assuming



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

The Honorable James M. Inhofe, 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:

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

The amendment deletes certain security requirements associated with an
internal threat following NRC's reconsideration of nuclear power plant
physical security requirements to identify those that are marginal to safety,
redundant, or no longer effective. The effect of this action is to reduce the
regulatory burden on licensees without compromising physical protection
against radiological sabotage required for public health and safety.

Sincerely,

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
Federal Register Notice

cc: Senator Bob Graham



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 ~~the~~ amendment to 10 CFR Part 73 to be published in the Federal Register. *AM*

The amendment deletes certain security requirements associated with an internal threat following NRC's reconsideration of nuclear power plant physical security requirements to identify those that are marginal to safety, redundant, or no longer effective. The effect of this action is to reduce the regulatory burden on licensees without compromising physical protection against radiological sabotage required for public health and safety.

Sincerely,

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
Federal Register Notice

cc: Representative Ralph Hall



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

IN RESPONSE, PLEASE
REFER TO: M971105B

November 5, 1997

SECRETARY

MEMORANDUM FOR: L. Joseph Callan
Executive Director for Operations

FROM: John C. Hoyle, Secretary

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION,
11:30 A.M., AND 3:00 P.M., WEDNESDAY,
NOVEMBER 5, 1997, COMMISSIONERS' CONFERENCE
ROOM, ONE WHITE FLINT NORTH, ROCKVILLE,
MARYLAND (OPEN TO PUBLIC ATTENDANCE)

A. 11:30 A.M. Session

I. SECY-97-232 - Final Rule on Exempt Distribution and Use of a
Radioactive Drug Containing One Microcurie of Carbon 14 Urea
(Parts 30 and 32)

The Commission approved a final rule amending 10 CFR Parts 30 and 32 to permit the exempt distribution and use of capsules containing one microcurie carbon-14 urea for "in vivo" diagnostic use. The staff should incorporate the following comments and the editorial changes provided in the attachment.

The staff response to comment 3 should be reviewed and revised by a staff Health Physicist with expertise in radiological assessments to ensure it accurately and clearly responds to the comment.

The Health and Safety Effects section of the Regulatory Analysis should be revised to clarify that individual and collective dose estimates do not consider the radiation dose received by the patient, and that the collective dose of 5 person-rem over a 50 year period discussed in paragraph 4 is not an annual dose.

Following incorporation of these comments and the editorial changes provided in the attachment, the Federal Register notice should be reviewed by the Rules Review and Directives Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

(EDO)

(SECY Suspense: 12/5/97)

B. 3:00 P.M. Session

I. SECY-97-228 - Final Amendments to 10 CFR Part 73, "Changes to Nuclear Power Plant Security Requirements"

The Commission approved a final rule amending 10 CFR Part 73 to change certain physical security requirements associated with an internal threat. The staff should coordinate the finalization of the public announcement with the Office of Public Affairs and issue a press release related to this rulemaking.

Following incorporation of the editorial changes provided in the attachment, the Federal Register notice should be reviewed by the Rules Review and Directives Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

(EDO)

(SECY Suspense: 12/5/97)

Attachments:
As stated

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
EDO
OGC
CIO
CFO
OCAA
OCA
OIG
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR - Advance
DCS - P1-17

Editorial Changes to the Final Rule in SECY-97-232

Changes to the Federal Register Notice

1. On page 1, line 4, replace 'a minimal' with 'an insignificant.'
2. On page 9, paragraph 2, line 8, delete the 's' on 'procedures.'
3. On page 12, paragraph 1, line 6, delete 'nothing will prevent' and insert 'are not required to' after 'manufacturers.' Also, delete 'from' and replace 'indicating' with 'indicate.'
4. On page 13, paragraph 2, line 1, replace 'no significant' with 'an insignificant.' In line 2, replace 'or' with 'and.'
5. On page 14, item (2), line 2, replace 'be prohibited by this rulemaking' with 'continue to require a specific license pursuant to Part 35 under this rulemaking.'
6. On page 14, last paragraph, line 5, delete the comma.
7. On page 16, last paragraph, line 2, delete 'not' and in line 3, replace 'significant' with 'insignificant.'
8. On page 22, paragraph 1, line 4, replace 'no significant' with 'an insignificant.'

Changes to the Regulatory Analysis

1. On page 3, paragraph 5, line 6, replace 'a minimal' with 'an insignificant.'
2. On page 7, first full paragraph, line 13, replace 'or' with 'and.' Also, add at the end of the paragraph: The routine exposure of patients was not considered when calculating the individual or collective doses resulting from the diagnostic tests.
3. On page 7, last paragraph, line 5, delete 'annual' and in line 6, delete 'next.' Also in line 6, delete the 's' on 'years' and insert 'period' after 'year.'
4. On page 8, last paragraph, last line, replace 'negligible' with 'insignificant.'

Changes to the Environmental Assessment

1. On page 1, paragraph 1, line 4, replace 'a minimal' with 'an insignificant.'

2. On page 1, paragraph 2, line 4, replace 'negligible' with 'insignificant.'
3. On page 2, paragraph 2, line 7, replace 'a minimal' with 'an insignificant.'
4. On page 2, last paragraph, line 1, replace 'no significant' with 'an insignificant.'
5. On page 3, paragraph 2, add at the end of the paragraph:
This is far below the EPA reporting level of 1 mrem/year required under the Clean Air Act for routine exposures to a member of the public, and the 4 mrem/year EPA limit for public drinking water.
6. On page 4, last paragraph, line 9, replace 'a minimal' with 'an insignificant.'

Changes to the Congressional Letters

1. In paragraph 2, line 5, replace 'a minimal' with 'an insignificant.'

Changes to the Public Announcement

1. On page 1, paragraph 3, lines 4 and 5, replace 'a minimal' with 'an insignificant' and insert 'diagnostic use of the' before 'drug.'
2. On page 2, paragraph 1, line 5, the 'C' in 'carbon-14' should be lower case.

Editorial Changes to the Final Rule in SECY-97-228

Changes to the Federal Register notice:

1. On page 2, paragraph 1, line 2, replace 'revising' with 'that would revise.' In line 6, replace 'are as follows' with 'involve changes to.'
2. On page 5, paragraph 2, line 4, insert 'who are cleared for unescorted access' after 'employees.' In paragraph 3, line 4, replace 'discriminate' with 'distinguish.' In the last paragraph, line 3, replace 'of these' with 'commenter.'
3. On page 8, paragraph 2 under item 5, line 2, replace 'making' with 'make' and in line 4, insert a comma after 'been.'
4. On page 11, last line, replace 'assume' with 'assuming.'

Changes to the Congressional letters:

1. In line 1, replace the last 'the' with 'an' so that it reads '... copy of an amendment to'