



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

AF 53-1

(12)

July 5, 1996

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

James Lieberman, Director
Office of Enforcement

William J. Olmstead, Associate General Counsel
for Licensing and Regulation
Office of the General Counsel

Gerald F. Cranford, Director
Office of Information Resources Management

David L. Meyer, Chief
Rules Review and Directives Branch
Division of Freedom of Information
and Publications Services
Office of Administration

FROM: David L. Morrison, Director *Bill Morrison for*
Office of Nuclear Regulatory Research

SUBJECT: OFFICE REVIEW AND CONCURRENCE ON PROPOSED RULEMAKING:
"CHANGES TO NUCLEAR POWER PLANT SECURITY REQUIREMENTS,
10 CFR PART 73" (WITS-950117)

Your concurrence is requested on the attached Commission paper which includes the Federal Register notice for the subject proposed rule.

1. Title: Changes to Nuclear Power Plant Security Requirements,
10 CFR Part 73
2. Task Leader: S. D. Frattali (415-6261)
3. Cognizant Individuals: R. Fonner, OGC
R. Dube, NRR
4. Requested Action: Concurrence - Due to EDO 9/6/96
5. Requested Completion Date: July 19, 1996
6. Summary: On May 11, 1996, the staff presented a rulemaking plan to the Commission (SECY 96-105), which discussed amending nuclear power reactor physical security requirements to implement the changes to § 73.55

recommended as a result of re-examining security requirements associated with an internal threat (SECY-93-326). The Commission indicated that since it had no objection to the rulemaking plan, the staff should proceed. The enclosed proposed rule has been developed according to the approved rule plan.

7. Resources to implement this rulemaking are already included in the 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.

Attachment:
Commission Paper w/att.

cc w/Att:
CRGR
ACRS
R. M. Scroggins, OC
T. J. Barchi, IG
R. Fonner, OGC
R. Dube, NRR

COMMISSION PAPER

FOR: The Commissioners
FROM: James M. Taylor, Executive Director for Operations
SUBJECT: PROPOSED RULE ON CHANGES TO NUCLEAR POWER PLANT SECURITY REQUIREMENTS, 10 CFR PART 73

PURPOSE:

To request Commission approval to publish in the Federal Register a proposed revision to 10 CFR Part 73 that would change certain security requirements associated with an internal threat.

BACKGROUND:

In a memorandum of September 3, 1991 (COMFR-91-005), the Commission requested the NRC staff to re-examine the security requirements associated with an internal threat to nuclear power plants that are contained in 10 CFR Part 73, "Physical Protection of Plants and Materials." After the NRC staff completed its re-examination and recommended some changes in Part 73 to the Commission (SECY-92-272, August 4, 1992), the Commission in a Staff Requirements Memorandum dated November 5, 1992, directed the staff to work with the Nuclear Management and Resources Council (NUMARC) now known as the Nuclear Energy Institute (NEI) to obtain their comments. Following three public meetings with NUMARC, the NRC staff recommended to the Commission (SECY-93-326, December 2, 1993) additional changes to Part 73 that would provide significant relief to licensees without compromising the physical security of the plants. In a Staff Requirements Memorandum dated February 18, 1994, the Commission directed the staff to proceed with a rulemaking. The staff developed a rulemaking plan and submitted it to the Commission (SECY-96-105, May 14, 1996). The Commission in a memorandum dated June 11, 1996, informed the staff that they had no objection to the development of a proposed rule as described in the rulemaking plan and staff proceeded with the proposed rulemaking.

CONTACT:

Sandra Frattali, RES/DRA
(301) 415-6261

The six recommended changes being addressed in this proposed rulemaking are as follows:

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);
5. Locking of vital area doors, § 73.55(d)(7)(i)(D); and
6. Key controls for vital areas, § 73.55(d)(9).

The first change would allow armed security guards who are on duty and have exited the protected area on official business to reenter the protected area without being searched for firearms (by a metal detector). Unarmed guards and watchpersons would continue to meet all search requirements. All guards would continue to be searched for explosives and incendiary devices because they are not permitted to carry these devices into the plant.

The second change would eliminate the requirement for escort of licensee-owned vehicles entering the protected area for work-related purposes provided that these vehicles are driven by licensee employees who have unescorted access. (This rule change would still preclude periodic entry without an escort of a delivery truck.) This change would provide burden relief to licensees without significantly increasing the level of risk to the plant.

The third change would allow contractor employees to take their badges offsite. Because contractors and licensees are subject to the same programs required for unescorted access, there is no reason to employ more stringent badge control requirements for contractor employees than for licensees. This change would allow contractor employees to take their badges offsite under the same conditions that apply to licensee employees.

The fourth change would replace separate access authorization lists for each vital area of the facility by a single listing of all persons who have access to any vital area. It would also change the requirement that the list must be reapproved at least once every 31 days to annually. The reapproval consists of a review to ensure that the list is up to date and that only those individuals requiring routine access to a vital area are included. Given the relatively low turnover of staff at a site and the requirement for a manager or supervisor to update the list at least every 31 days, conducting this comprehensive reapproval every 31 days is of marginal value.

The fifth changes the option of not locking the doors to a vital area provided that the security of the plant would not be compromised. To leave a vital area unlocked, the licensee would have to ensure that the area is equipped with an alarmed access control system that will alarm on unauthorized entry, and that the doors to the area can be locked remotely. Licensees would be expected to continue to maintain a record of personnel access, and licensees not already doing so would have to commit to examine for explosives, with equipment specifically designed for that purpose, all hand-carried packages entering any protected area within which there is an unlocked vital area. The

use of equipment specifically designed for detecting the presence of explosives in hand-carried packages is not currently required by the Commission's regulations. Also, licensees would be required to demonstrate a capability to protect against an external adversary.

The sixth change would remove the requirement that the licensee change or rotate all keys, locks, combinations, and related access control devices every twelve months while retaining the requirement for changing for cause, that is when an access control device has been compromised or there is a suspicion that it may be compromised.

COORDINATION:

The Offices of Nuclear Reactor Regulation, Nuclear Regulatory Research, Enforcement, Administration, and Information Resources Management have concurred in the issuance of this proposed rulemaking. The Office of the General Counsel has no legal objection to this paper.

RECOMMENDATION:

That the Commission:

1. Approve the notice of proposed rulemaking for publication (Attachment 1).
2. Certify that this rule, if promulgated, will not have a negative economic impact on a substantial number of small entities in order to satisfy requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b).3.

Note:

- a. The rulemaking would be published in the Federal Register for a 75-day public comment period;
- b. The Chief Counsel for Advocacy of the Small Business Administration will be informed of the certification regarding economic impact on small entities and the reasons for it as required by the Regulatory Flexibility Act;
- c. Copies of the Federal Register notice of proposed rulemaking will be distributed to all affected Commission licensees. The notice will be sent to other interested parties upon request.
- e. The appropriate Congressional committees will be informed (Attachment 2);
- d. A public announcement will be issued (Attachment 3); and

- f. This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

James M. Taylor
Executive Director
for Operations

Attachments:

1. Federal Register Notice
2. Draft Congressional Letter
3. Draft Public Announcement
4. Comparative text

ATTACHMENT 1

FEDERAL REGISTER NOTICE

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

RIN:

Changes to Nuclear Power Plant Security Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to revise 10 CFR Part 73 to delete certain security requirements associated with an internal threat. 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. The effect of this action would be to reduce the regulatory burden on licensees without compromising physical protection against radiological sabotage required for public health and safety.

DATES: Submit comments by (insert date 75 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 20555-0001. Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

For information on submitting comments electronically, see the discussion under Electronic Access in the Supplementary Information Section.

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 discussed under Electronic Access in the Supplementary Information Section.

FOR FURTHER INFORMATION CONTACT: Dr. Sandra Frattali, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6261, e-mail sdf@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

In a memorandum of September 3, 1991 (COMFR-91-005), the Commission requested the NRC staff to re-examine the security requirements associated with an internal threat to nuclear power plants that are contained in 10 CFR Part 73, "Physical Protection of Plants and Materials." The NRC staff

completed its re-examination and recommended some changes in Part 73 to the Commission (SECY-92-272, August 4, 1992). In a Staff Requirements Memorandum dated November 5, 1992, the Commission directed the staff to work with the Nuclear Management and Resources Council (NUMARC) now known as the Nuclear Energy Institute (NEI). Following three public meetings with NUMARC, the NRC staff recommended to the Commission (SECY-93-326, December 2, 1993) additional changes to Part 73 that would provide significant relief to licensees without compromising the physical security of the plants. In a Staff Requirements Memorandum dated February 18, 1994, the Commission directed the staff to proceed with a rulemaking.

Seven areas in Part 73 were identified as candidates for modification through rulemaking. One of the recommended changes, relating to access of personnel and materials into reactor containments during periods of high traffic, has been addressed by a separate rulemaking. It was published as a final rule on September 7, 1995 (60 FR 46497).

Discussion

The six remaining recommended changes are being addressed in this proposed rulemaking:

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);
5. Locking of vital area doors, § 73.55(d)(7)(i)(D); and

6. Key controls for vital areas, § 73.55(d)(9).

1. Search Requirements for On-duty Guards (§ 73.55(d)(1))

Under current regulations, armed security guards who leave the protected area as part of their duties must be searched for firearms, explosives, and incendiary devices upon re-entry into the protected area. Having a guard go through an explosives detector or searching packages carried by the guard protects against the introduction of contraband. Because an armed guard carries a weapon on site, passage of the guard through the metal detector, the principal purpose of which is to detect firearms, serves little purpose. The guard has to either remove the weapon while passing through the detector or be subject to a hand search. Either approach makes little sense for the guard who is authorized to carry a weapon on site. Further, removing and handling the guard's weapon could present a personnel safety risk.

This proposed rulemaking would allow armed security guards who are on duty and have exited the protected area on official business to reenter the protected area without being searched for firearms (by a metal detector). Unarmed guards and watchpersons would continue to meet all search requirements. All guards would continue to be searched for explosives and incendiary devices because they are not permitted to carry these devices into the plant.

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

The present requirement for a searched, licensee owned vehicle within the protected area to be escorted by a member of the security organization, even when the driver is badged for unescorted access, does not contribute significantly to the security of the plant. Under the current regulations, all vehicles must be searched prior to entry into the protected area except under emergency conditions. Further, all vehicles must be escorted by a member of the security organization upon entry into 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 this requirement, those licensee-owned 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.

This proposed rule would eliminate the requirement for escort of licensee-owned vehicles entering the protected area for work-related purposes provided that these vehicles are driven by licensee employees who have unescorted access. (This rule change would still preclude periodic entry without an escort of a delivery truck.) This change would provide burden relief to licensees without significantly increasing the level of risk to the plant.

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

Contractor employees with unescorted access are required to return their badges when leaving the protected area. Current regulatory practice allows licensee employees to leave the protected area with their badges if adequate safeguards are in place to ensure that the security of the badge is not jeopardized. Because contractors and licensees are subject to the same programs required for unescorted access, there is no reason to employ more stringent badge control requirements for contractor employees.

This proposed rulemaking would allow contractor employees to take their badges offsite under the same conditions that apply to licensee employees.

4. Maintenance of Access Lists for Each Vital Area (§ 73.55(d)(7)(i)(A))

Maintaining separate access lists for each vital area and reapproval of these lists on a monthly basis is of marginal value. At many sites, persons granted access to one vital area also have access to most or all vital areas. Therefore, licensees presently derive little additional benefit from maintaining discrete lists of individuals allowed access to each separate vital area in the facility. Also, licensee managers or supervisors shall update the access lists at least once every 31 days to add or delete individuals from these lists when appropriate. There is also a requirement to reapprove the list every 31 days. However, reapproval of all individuals on the lists at least every 31 days, that is reviewing the lists to validate that they have been maintained in an accurate manner, is unnecessarily burdensome.

This rulemaking would replace separate access authorization lists for each vital area of the facility by a single listing of all persons who have access to any vital area.

The proposed rulemaking would also change the requirement that the list must be reapproved at least once every 31 days to annually. The reapproval consists of a review to ensure that the list is up to date and that only those individuals requiring routine access to a vital area are included. Given the relatively low turnover of staff at a site and the requirement for a manager or supervisor to update the list at least every 31 days, conducting this comprehensive reapproval every 31 days is of marginal value.

5. Locking of Vital Area Doors (§ 73.55(d)(7)(i)(D))

Under current regulation, doors to unoccupied vital areas must be locked and protected by an activated intrusion alarm system. However, the potential exists that locked doors may prevent authorized workers, especially emergency response personnel, from entering a vital area until they obtain a key to open a lock. To address this concern, this proposed rulemaking would give licensees the option of not locking a door to a vital area provided that the security of the plant would not be compromised. If an unauthorized worker entered an unlocked vital area, an alarm would activate and the licensee would be able to respond and investigate. This approach would strike a better balance between the need for security and the operational and emergency needs for rapid access to vital areas.

To leave a vital area unlocked, the licensee would have to ensure that the area is equipped with an alarmed access control system that will alarm on

unauthorized entry, and that the doors to the area can be locked remotely. For example, access to an unlocked vital area would be controlled by means of an individualized key card and reader, configured with a door alarm that will sound if the door is opened without use of an authorized key card. Licensees would be expected to continue to maintain a record of personnel access, and licensees not already doing so would have to commit to examine for explosives, with equipment specifically designed for that purpose, all hand-carried packages entering any protected area within which there is an unlocked vital area. The use of equipment specifically designed for detecting the presence of explosives in hand-carried packages is not currently required by the Commission's regulations. Also, licensees would be required to demonstrate a capability to protect against an external adversary.

The staff believes that with these additional license commitments, licensees will be able to leave vital areas unlocked and still meet the general performance objective of 10 CFR 73.55(a) of establishing and maintaining an onsite physical protection system that will provide high assurance that the activities at the site do not pose an unreasonable risk to public health and safety.

6. Key Controls for Vital Areas (§ 73.55(d)(9))

Under current regulation, licensees change or rotate all keys, locks, combinations, and related access control devices at least once every twelve months. Because the rule also requires that these be changed whenever there is a possibility of their being compromised, requiring change at least every 12 months has been determined by staff to be only marginal to security.

This proposed rulemaking would remove the requirement for change every 12 months while retaining the requirement for changing for cause, that is when an access control device has been compromised or there is a suspicion that it may be compromised.

Electronic Access

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 the rulemaking are also available, as practical, 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 Mail." 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 20555-0001, telephone (301) 415-5780; e-mail AXD3@nrc.gov.

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)(3)(i). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Because the rule will reduce existing information collection requirements, the public burden for this collection of information is expected to be decreased by 102 hours per licensee. This reduction includes the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. The NRC is seeking public comment on the potential impact of the collection of information contained in the proposed rule and on the following issues:

1. Is the proposed collection of information necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?

2. Is the estimate of burden accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the collection of information be minimized, including the use of automated collection techniques?

Send comments on any aspect of this proposed collection of information, including suggestions for further reducing the burden, to the Information and Records Management Branch (T-6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-____), Office of Management and Budget, Washington, DC 20503.

Comments to OMB on the collections of information or on the above issues should be submitted 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 assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Regulatory Analysis

A discussion of each of the six changes proposed in this rule is provided above in the supplementary information section. The costs and benefits for each of the changes proposed in this rulemaking are as follows:

1. Search Requirements for On-duty Guards (§ 73.55(d)(1))

The regulatory burden on licensees would be reduced by eliminating unnecessary weapon searches of guards who are already allowed to carry a weapon, which would result in better utilization of licensee resources. There would be no reduction in plant security, since the potential for reduction in security personnel hours does not impact the total size of the security force. Further, the potential safety risk to personnel caused by removing and handling a guard's weapon would be eliminated.

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

The regulatory burden on licensees would be reduced by requiring fewer vehicle escorts, which would allow personnel to be utilized more effectively. Resources could be redirected to areas in which they would be more cost effective. The decrease in security would be marginal, since unescorted access would be restricted to vehicles owned by the licensee and driven by licensee employees with unescorted access.

Assuming the number of entries by licensee-owned 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 would be approximately \$24,000,000.

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

The regulatory burden on licensees would be reduced by more effective use of security personnel, who would no longer be needed to handle badges for contractor personnel who have unescorted access. There would be no reduction in plant security, since adequate safeguards would be in place to ensure that the security of the badge is not jeopardized.

Assuming that one security person per working day (8 hours) is relieved from the duties of controlling contractor employees badges and that the cost per hour for security personnel is \$30 (loaded), a rough estimate of the potential savings per site per year is about \$88,000 (8 hours/day x 365 days/year x \$30 hr). With 75 sites, the savings to the industry per year would be approximately \$6,600,000.

4. Maintenance of Access Lists for Each Vital Area (§ 73.55(d)(7)(i)(A))

The regulatory burden on licensees would be reduced since licensees would have to keep only one access list for all vital areas and reapprove it annually, rather than keep individual access lists for each vital area that must be reapproved monthly.

Assuming that the time to reapprove each of the individual lists is 1 hour per month, that a combined list would take 1.5 hours per month, that the average number of vital areas per site is 10, and that the cost of a clerk including overhead is \$30 per hour (loaded), a rough estimate of the potential savings per site per year is about \$3,500 [(1 hr/month x 10 vital areas x 12 months/year) - 1.5 hr/year) x \$30/hr]. With 75 sites, the savings to the industry per year would be approximately \$270,000.

5. Locking of Vital Area Doors (§ 73.55(d)(7)(i)(D))

This proposed change gives the licensee an alternative. If the licensee does not choose the proposed alternative, no change is required and there are no required costs to the licensee. It can be assumed that the licensee will choose the alternative that is most cost effective for the specific site.

6. Key Controls for Vital Areas (§ 73.55(d)(9))

The regulatory burden on the licensees would be reduced since fewer resources would be needed to maintain the system.

Assuming that of the approximately 60 locks per year, half of them had been changed for cause, leaving 30 locks unchanged which would take a locksmith one day to change at a cost(including overhead) of \$45 per hour, a rough estimate of the potential savings per site per year is about \$360 (8 hrs/year x \$45/hr). With 75 sites, the savings to the industry per year would be approximately \$27,000.

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. The proposed changes to physical security are voluntary and should the licensee decide to implement this amendment, will be 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 recordkeeping 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 73.1

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. Section 73.55, is amended by revising paragraphs (d)(1), (d)(4), (d)(5), (d)(7)(i)(A), and (d)(7)(i)(D) to read as follows

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

* * * * *

(d)(1) The licensee shall control all points of personnel and vehicle access into a protected area. Identification and search of all individuals

unless otherwise provided herein must be made and authorization must be checked at these points. The search function for detection of firearms, explosives, and incendiary devices must be accomplished through the use of both firearms and explosive detection equipment capable of detecting those devices. The licensee shall subject all persons except bona fide Federal, State, and local law enforcement personnel on official duty to these equipment searches upon entry into a protected area. Armed security guards who are on duty and have exited the protected area on official business may reenter the protected area without being searched for firearms.

* * * * *

(d)(4) All vehicles, except under emergency conditions, shall be searched for items which could be used for sabotage purposes prior to entry into the protected area. Vehicle areas to be searched shall include the cab, engine compartment, undercarriage, and cargo area. All vehicles, except as indicated below, requiring entry into the protected area shall be escorted by a member of the security organization while within the protected area and, to the extent practicable, shall be off loaded in the protected area at a specific designated materials receiving area that is not adjacent to a vital area. Escort is not required for designated licensee vehicles or licensee-owned vehicles entering the protected area and driven by licensee employees having unescorted access.

* * * * *

(d)(5) A numbered picture badge identification system shall be used for all individuals who are authorized access to protected areas without escort.

An individual not employed by the licensee but who requires frequent and extended access to protected and vital areas may be authorized access to such areas without escort provided that he or she displays a licensee issued picture badge upon entrance into the protected area which indicates:
(i) Non-employee-no escort required, (ii) areas to which access is authorized, and (iii) the period for which access has been authorized. Badges shall be displayed by all individuals while inside the protected area.

* * * * *

(d)(7)(i)(A) Establish a current authorization access list for all vital areas. The access list must be updated by the cognizant licensee manager or supervisor at least once every 31 days and must be reapproved at least annually.

* * * * *

(d)(7)(i)(D) Lock and protect by an activated intrusion alarm system all unoccupied vital areas. Alternatively, the licensee may keep doors to any or all vital areas unlocked provided that each door can be locked on demand from both the central and secondary alarm station, that the licensee is able to demonstrate a capability to protect against an external adversary, and that the vital area is alarmed at all times such that unauthorized entry can be detected. When using this alternative, the licensee shall search for explosives, with equipment specifically designed for that purpose, all hand-carried packages entering any protected area within which there is an unlocked vital area.

* * * * *

(d)(9) All keys, locks, combinations, and related access control devices used to control access to protected areas and vital areas must be controlled to reduce the probability of compromise. Whenever there is evidence or suspicion that any key, lock, combination, or related access control devices may have been compromised, it must be changed or rotated...

* * * * *

Dated at Rockville, Maryland, this ____ day of _____, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,
Secretary of the Commission.

recommended as a result of re-examining security requirements associated with an internal threat (SECY-93-326). The Commission indicated that since it had no objection to the rulemaking plan, the staff should proceed. The attached proposed rule has been developed according to the approved rule plan.

- 7. Resources to implement this rulemaking are already included in the 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.

Attachment:
Commission Paper w/att.

cc w/atts.:
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 ACRS
 R. M. Scroggins, OC
 T. J. Barchi, IG
 R. Fonner, OGC
 A. C. Thadani, NRR
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*see previous concurrence

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Commission Paper w/att.

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