



## RULEMAKING ISSUE (Notation Vote)

December 9, 1996

SECY-96-248

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

NOTE: TO BE MADE PUBLICLY AVAILABLE WHEN THE  
FINAL SRM IS MADE AVAILABLE

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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. The staff proceeded with the proposed rulemaking.

The six changes proposed in the rule plan were 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)(8).

The change concerning locking vital area doors would have provided the option of leaving doors to vital areas unlocked provided that the security of the plant would not be compromised. To have made use of this option to leave a vital area unlocked, the licensee would have had to ensure that the area was equipped with an alarmed access control system alarmed on unauthorized entry and that the doors to the area could be locked remotely. Licensees would be expected to continue to maintain a record of personnel access. Licensees not already doing so would have had 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 have been required to demonstrate a capability to protect against an external adversary. Generic Letter 96-02 issued February 13, 1996 included this option as one which licensees might want to make to their physical security plans without having to wait for the rule changes. No licensee has submitted a request for this option to date.

As a result of recent events at the St. Lucie reactor (Enclosure 1, Executive Summary: Inspection report 50-355/96-16 and 50-389/96-16) the staff revisited the changes recommended in the plan and reconsidered the possible consequences of allowing vital area doors to remain unlocked. If the doors to a vital area are left unlocked, but alarmed, every alarm could require extensive and careful followup, since the potential consequences of overlooking something could be significant in terms of safety. The potential exists for insidious damage to be inflicted in much less time than could be assumed for a reasonable response, and the identity of someone causing the alarm may not be known. In July and August of this year tampering events were discovered within vital areas of a reactor. The first search missed significant tampering with safety-related switches. If vital areas are unlocked but alarmed, the response to an entry by an unauthorized individual could require a considerable time and level of effort to assure that important equipment was not damaged. Maintaining VA doors locked limits the number of people who have access to the area and ensures that personnel who enter are identified. In light of this, the option of leaving vital area doors unlocked is not being

considered. Hence, only changes 1,2,3,4, and 6 are being proposed in this rulemaking.

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 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 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 last 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, when an access control device has been compromised or there is 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:

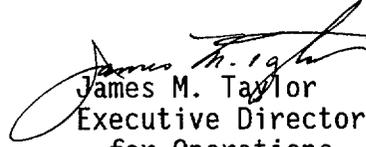
That the Commission:

1. Approve the notice of proposed rulemaking for publication (Enclosure 1).
2. Certify that this rule, if promulgated, will not have a significant 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.
- d. The appropriate Congressional committees will be informed (Enclosure 3);
- e. A public announcement will be issued (Enclosure 4); 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

Enclosures:

1. Executive Summary: Inspection report  
50-355/96-16 and 50-389/96-161.
2. Federal Register Notice
3. Congressional Letters
4. Public Announcement
5. Comparative text

Commissioners' comments or consent should be provided directly to the Office the Secretary by COB December 24, 1996.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT December 17, 1996, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

DISTRIBUTION:

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**ENCLOSURE 1**

**EXECUTIVE SUMMARY: INSPECTION REPORT  
50-355/96-16 AND 50-389/96-161**

## EXECUTIVE SUMMARY

### St. Lucie Nuclear Plant, Units 1 & 2 NRC Inspection Report 50-335/96-16, 50-389/96-16

A Chronological Sequence of Events was established by the inspection team. That listing is contained in Enclosure 2, Attachment A to this report.

Overall, the licensee's response to the potential and actual tampering events between May and August 1996 was satisfactory. Some response deficiencies were identified and are discussed in the details of the report. In addition, two violations of regulatory requirements were identified for (1) failure to make a report to NRC under 10 CFR 73 concerning damaged locks and (2) failure to follow procedure concerning control of keys to critical controls. An unresolved item (URI) was identified concerning differences between the Updated Final Safety Analysis Report (UFSAR) description of the Hot Shutdown Panel (HSDP) for Unit 1 and the instrumentation actually installed. An inspector follow item (IFI) was identified for follow up on final implementation of interim actions to detect new tampering in a more timely manner.

In May and June 1996, the licensee identified two pressure relief valves which, when tested, were found to have pressure setpoints 55 percent and 9 percent above their design values. These valves were also found to have broken wire seals. The licensee's documented technical evaluation identified, as possible root causes, tampering or unauthorized work by plant personnel. Licensee management subsequently determined the valve anomalies were not due to tampering.

Through discussions with the licensee and documentation review, the inspectors concluded that the licensee's policy on the use of wire seals was inconsistent. There were no clear instructions to apply wire seals and, as a result, a number of valves did not have seals attached.

Based on independent review of the documented facts, observations of the installed valve configurations, and the effort required to access the valve spring tension mechanisms, the inspectors concluded that tampering, although it could not be conclusively ruled out, was not likely to have occurred in either of these specific cases. A person knowledgeable enough about relief valve operation to tamper with the valves could use an easier method to prevent proper operation of the valve. The more likely cause for the misadjusted valve was poor maintenance practices.

The inspectors verified through documentation review that the two valves were either replaced or repaired.

The inspectors verified through documentation review, that the V2325 setpoint was adjusted, properly tested and the valve reinstalled in the system.

The inspectors concluded that site management appropriately pursued identification of the cause for relief valve V3483 having a high setpoint. In addition, because of the broken wire valve seal, appropriate walkdowns were conducted to determine the extent of possible valve tampering. Once the extent was established, management appropriately evaluated and dispositioned the deficiencies.

Since tampering with valves V2325 and V3483 could not be conclusively ruled out, management's decision to alert Security of the tampering possibility was appropriate. However, due to a communications lapse, site Security was not notified. The inspectors also concluded that failure to follow through on alerting Site Security precluded actions to enhance security force awareness to other possible tampering events.

The inspectors determined that the event would not have been required to be reported to the NRC. However, the Security Manager should have been informed of the event because Security Procedure, Reporting of Safeguards Events, SP-0006125, Paragraph 5.2 states that "the plant security supervisor is responsible for making report ability determination under 10 CFR Part 73.71."

On July 26, 1996, eleven examples of actual padlock and door lock tampering were identified. Nine padlocks and two door locks were found to have been intentionally damaged by having foreign material injected into the lock cores. These locks controlled personnel access to various pieces of plant equipment.

The damaged locks were repaired and verified operational.

Although the licensee's response to the damaged locks was completed in a timely manner, the extent of condition evaluation did not identify keylock switches as other locking devices that needed to be checked for damage.

Management's response to the July event was not thorough in that keylock switches were not checked for damage until August.

Identification of tampering of components within the vital area of the plant demonstrated that additional tampering could likely occur. Therefore, the licensee should have considered additional measures to detect new tampering of equipment at the site in addition to alerting the Security force.

The Corporate investigative staff adequately reviewed the event.

The licensee failed to follow their procedure and report the confirmed tampering with the security equipment (locks) to NRC within one hour. This is a violation of regulatory requirements.

On August 14, 1996, three additional examples of actual lock tampering were identified. The lock mechanisms of the two keylock switches on the Unit 2 HSDP and the keylock switch on the Unit 1 HSDP were found to be intentionally damaged by having foreign material injected into the lock cores. These were the only keylock switches on the panels.

The inoperable Unit 1 power operated relief valve (PORV) control switch and the Unit 2 "A" and "B" channel safety injection actuation system (SIAS) bypass switches were replaced and operability was adequately verified.

Following extensive reviews done by the licensee and independent verifications by NRC, the inspectors concluded there was no evidence of additional tampering.

The inspectors identified that keys to operations equipment were not properly maintained in accordance with procedural requirements. This represents a violation for failure to follow procedural requirements.

Site management satisfactorily evaluated, consistent with the known examples of tampering, the operational capability of the plant safety systems to perform their intended safety functions.

Site management satisfactorily evaluated plant areas for foreign material and abnormalities.

Site management did not use all available plant documentation of equipment deficiencies (e.g., plant work orders) in its search for additional examples of tampering.

Site management should have been more proactive in establishing interim actions to detect new tampering in a more timely manner by using plant staff observers as well as Security force members. The interim actions subsequently identified by plant management, if properly implemented, should provide reasonable assurance that new tampering were be promptly detected.

The security force implemented good preventative measures to detect or prevent new tampering with plant equipment.

The licensee took appropriate and extensive actions to determine the individual(s) involved in the lock tampering event(s).

With one exception, the design and installation of the HSDPs for St. Lucie Units 1 and 2 were in accordance with the licensing basis of the plants. The FSAR description of the controls and instruments installed on the HSDP for St. Lucie Unit 1 did not match the installed equipment in that the FSAR description did not indicate the installed nuclear instruments. The failure of the FSAR to correctly describe the installed equipment is identified as an URI.

Control of access to the HSDP rooms of St. Lucie Unit 1 and 2 was in accordance with the approved PSP for the site.

The licensee was in compliance with the site PSP regarding access controls, patrols, alarm station operations, fitness for duty and access authorization.

During this site inspection, the inspectors independently reviewed a large number of plant records of Condition Reports (CRs) and Nuclear Plant Work Orders (NPWOs) in an attempt to identify any previously unidentified tampering events. No new tampering events were identified by the team.

Enclosure 2, Attachment B contains information provided to St. Lucie site management by NRC to assist in the site's response to the events. The attachment contains NRC Information Notice 83-27 concerning deliberate acts directed against plant equipment and internal NRC guidance for plant system checkout following suspected sabotage.

Enclosure 2, Attachment C contains illustrative photographs of the valves, padlocks and keylock switches that were the subject of this inspection.

**ENCLOSURE 2**

**FEDERAL REGISTER NOTICE**

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

RIN: AF11

Changes to Nuclear Power Plant Security Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to revise its regulations 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 requirements that are marginal to safety, redundant, or no longer effective. This action would 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 7:30 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 dated 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 10 CFR Part 73 to

the Commission (SECY-92-272, August 4, 1992). In a Staff Requirements Memorandum dated November 5, 1992, the Commission directed the NRC 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 NRC staff to proceed with a rulemaking.

#### DISCUSSION

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. This recommended change was adopted in a final rule published on September 7, 1995 (60 FR 46497). Six others originally considered for this rulemaking were the subject of Generic Letter 96-02 issued February 13, 1996. This generic letter identified certain areas in which licensee might chose to revise their physical security plans without having to wait for issuance of the rule plan. One of these (discussed in detail later), an option to leave vital area doors unlocked provided certain compensatory measures are taken, has been reconsidered in light of recent tampering events. Consequently, that change is not being proposed in this rulemaking.

The five remaining 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); and
5. Key controls for vital areas, § 73.55(d)(8).

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. Requiring a guard to 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 rule 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 amendment would still preclude periodic entry of a delivery truck without an escort.) 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 are required to 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, to validate that the lists 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 current and that only those individuals requiring routine access to a vital area are included. Because of

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

Under current regulations, 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 the NRC to be only marginal to security.

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

#### Locking of Vital Areas

As noted earlier, Generic Letter 96-02, described, among other things, conditions under which licensees could leave vital areas unlocked. Specifically, to leave a vital area unlocked, the licensee would have had to ensure that the area is equipped with an alarmed access control system that will alarm on unauthorized entry; ensure that the doors to the area can be locked remotely; continue to maintain a record of personnel access; 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; and to demonstrate a capability to protect against an

external adversary.<sup>1</sup> This change was considered for inclusion in this rulemaking but as a result of recent events, it has been rejected. If vital areas are unlocked but alarmed, the response to an entry by an unauthorized individual could require a considerable time and level of effort to assure that important equipment was not damaged. Maintaining VA doors locked limits the number of people who have access to the area and ensures that personnel who enter are identified.

In July and August of this year tampering events were discovered within vital areas of a reactor. The first search missed significant tampering with safety-related switches. If vital areas are unlocked but alarmed, an entry by an unauthorized individual, deliberate or inadvertent, could require a considerable level of effort to assure that important equipment was not damaged. It is also uncertain that such alarms would always initiate the level of response needed to evaluate the safety systems within the impacted vital area. In addition, most safety equipment is automatic and rapid access to vital areas is generally not required. Thus, this option of leaving a vital area unlocked is no longer being considered.

#### Electronic Access

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic

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<sup>1</sup> Generic Letter 96-02 (February 13, 1996) identified those areas in which licensees might choose to revise their security plans without having to wait for the issuance of the rule changes. One change would have provided the option of not locking the doors to a vital area provided that the security of the plant would not be compromised.

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](http://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 20555-0001, 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, (3150-0002), 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 five 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, because 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, because 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, because 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 because 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 x 10 vital areas - 1.5 x 1 combined vital area)hr/month x 12 months/year x \$30/hr]. With 75 sites, the savings to the industry per year would be approximately \$240,000.

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

The regulatory burden on the licensees would be reduced because 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 as amended, 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, 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 proposing to adopt 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 sec. 1701, 106 Stat. 2951, 2952 (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).

2. Section 73.55 is amended by revising paragraphs (d)(1), (d)(4), (d)(5), (d)(7)(i)(A), (d)(7)(i)(D) and (d)(8) 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.

\* \* \* \* \*

(4) All vehicles, except under emergency conditions, must be searched for items which could be used for sabotage purposes prior to entry into the protected area. Vehicle areas to be searched must include the cab, engine compartment, undercarriage, and cargo area. All vehicles, except as indicated below, requiring entry into the protected area must be escorted by a member of the security organization while within the protected area and, to the extent practicable, must 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.

(5) A numbered picture badge identification system must 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.

\* \* \* \* \*

(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)(8) 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. The licensee shall issue keys, locks, combinations and other access control

devices to protected areas and vital areas only to persons granted unescorted facility access. Whenever an individual's unescorted access is revoked due to his or her lack of trustworthiness, reliability, or inadequate work performance, keys, locks, combinations, and related access control devices to which that person had access 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.

**ENCLOSURE 3**

**CONGRESSIONAL LETTERS**



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:

Enclosed for the information of the subcommittee is a copy of the proposed amendment to 10 CFR Part 73 to be published for public comment in the Federal Register.

The proposed amendment would 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.

Sincerely,

Dennis K. Rathbun, Director  
Office of Congressional Affairs

Enclosure:  
Federal Register Notice

cc: Senator Bob Graham

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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Sincerely,

Dennis K. Rathbun, Director  
 Office of Congressional Affairs

Enclosure:  
 Federal Register Notice

cc: Senator Bob Graham

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\*See previous concurrences

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7/3/96



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 proposed amendment to 10 CFR Part 73 to be published for public comment in the Federal Register.

The proposed amendment would 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.

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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The proposed amendment would 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.

Sincerely,

Dennis K. Rathbun, Director  
 Office of Congressional Affairs

Enclosure:  
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cc: Representative Frank Pallone

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\*See previous concurrences

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1/3/96

**ENCLOSURE 4**

**PUBLIC ANNOUNCEMENT**

## PUBLIC ANNOUNCEMENT

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.

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

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. 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. 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, may 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.

3. 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. Since 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. Maintaining separate access lists for each vital area and reapproval of these lists on a monthly basis may be 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. 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 require the list to be reapproved 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. Under current regulation, licensees change or rotate all keys, locks, combinations, and related access control devices at least once every 12 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 is considered 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.

**ENCLOSURE 5**

**COMPARATIVE TEXT**

## COMPARATIVE TEXT

### 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 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. 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 [~~must~~] 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 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 . . . 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 ~~[receives]~~ a licensee issued picture badge upon entrance into the protected area ~~[which must be returned upon exit from the protected area and]~~ 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 ~~[each]~~ all vital areas. The access list must be updated ~~[and reapproved]~~ by the cognizant licensee manager or supervisor at least once every 31 days and must be reapproved at least annually.

\* \* \* \* \*

(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. ~~All such keys, locks, combinations, and related access control devices must be changed or rotated at least every 12 months.~~ 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.

\* \* \* \* \*