

March 28, 2007 (10:12am)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

Subject: **Comments on Proposed Power Reactor Security Requirements**

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Federal Register Notice 71FR62664 requested public comments on the proposed Power Reactor Security Requirements. FirstEnergy Nuclear Operating Company (FENOC) appreciates the opportunity to provide comments on these proposed requirements as requested by the Nuclear Regulatory Commission (NRC) in the Federal Register, dated October 26, 2006.

The supporting guidance for this rule change was not available at the time the NRC published the proposed rule for comments. The guidance is expected to provide insights into the intent of the rule-change, particularly for certain provisions that may be interpreted as new requirements. FENOC understands the guidance may be available in the June 2007 time frame and looks forward to re-engaging with the NRC staff at that time.

FENOC endorses the comments provided by the Nuclear Energy Institute (NEI) on March 26, 2007. In addition to the specific comments submitted by NEI, FENOC would like to call attention to the following issues.

The primary goal of the rulemaking was to codify the recent security orders into security regulations. While we agree that the existing regulatory requirements need to be consolidated via rulemaking, a literal reading of the proposed rule language has revealed a number of new requirements.

In addition, as was evidenced during the March 9, 2007, public meeting, the rule language that is being proposed is often ambiguous and a literal reading suggests a new requirement which was not intended. In the March 9, 2007, public meeting, the NRC staff explained that in many cases it is not the intent of the rule language to impose a new requirement. However, in the first public meeting on November 15, 2006, the NRC staff said the rule must stand on its own, which requires a literal reading of the proposed rule language.

These new requirements, even if unintended, will significantly impact existing plans, procedures, training, and industry guidance documents. As a result, sites will divert security, plant management, and supporting plant resources to address these new requirements. The diversion of security attention from the defense of the operating facility to the development of additional revisions to NRC approved security plans is counter productive. Therefore, the rule language should be reviewed carefully and revised to minimize misinterpretations and to avoid the inadvertent creation of new requirements.

One example is the proposed change to 10 CFR 73.55, which requires the placement of physical barriers in the owner controlled area that are designed and constructed to deter, delay, and prevent unauthorized access, facilitate the early detection of unauthorized activities, and control approach routes to the facility.

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The way that this requirement is written in the draft rule will require licensees to make significant physical security changes in the owner controlled area.

Some aspects included in the proposed changes to 10 CFR 73.56 are beyond the requirement of the Access Authorization Order, dated January 7, 2003. For example, the proposed language requires psychological reassessment of individuals within five years of the date on which it was last completed. This is a new requirement with significant cost and negligible benefit. Since all other aspects of the access authorization requirements are repeated at the five year interval already, and the Behavior Observation Program is continuous, nothing is gained by repeating the psychological reassessment. While the industry sees the need for the psychological assessment for granting access authorization, the continuous Behavior Observation Program obviates the need for such a reassessment for an individual maintaining access.

While FENOC agrees that the security-related requirements from the security Orders should be codified, the portions of the orders that are not security-related should not be included in the security rule. Appendix C, as proposed, too broadly attempts to make the safeguards contingency plan encompass the entire integrated plant response to all postulated events, including those beyond the Design Basis Threat.

For existing licensees, the Commission is already deploying a different and more appropriate regulatory scheme for addressing B.5.b conditions. B.5.b is being controlled with a performance-based license condition that is satisfied by voluntary licensee commitments to B.5.b Phase 2 and Phase 3 mitigating strategies. This regulatory scheme negates the need for any of the proposed changes or clarifications to Appendix C that cover how the onsite response effort is integrated to provide mitigating strategies that can be effectively implemented under the circumstances associated with loss of large areas of the plant due to explosions or fires. Putting this specific detail in the contingency plan actually limits the effectiveness of licensee strategies for dealing with unpredictable plant events. The existing regulatory approach and language should be retained.

As discussed above, it is of paramount importance that the final security rulemaking be carefully crafted. Each licensee currently has a recently NRC approved Security Plan that incorporates all security orders and new requirements, and has been the subject of NRC inspection. We encourage the Commission to permit the industry to work with the staff following the close of the public comment period to resolve industry comments and corresponding safeguards regulatory guidance to achieve clarity. If the proposed rule language is not changed, it will have a significant impact on the industry and will not contribute to providing a stable regulatory environment for the security function.

Gregory H. Halnon  
Director Fleet Regulatory Affairs  
FirstEnergy Nuclear Operating Company

**From:** Carol Gallagher  
**To:** SECY  
**Date:** Wed, Mar 28, 2007 10:31 AM  
**Subject:** Comment on Power Reactor Security Requirements

Attached for docketing is a comment letter on the above noted proposed rule from Gregory H. Halnon, FirstEnergy Nuclear Operating Company, that I received via the rulemaking website on 3/27/07.

Carol

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**Subject:** Comment on Power Reactor Security Requirements  
**Creation Date** Wed, Mar 28, 2007 10:31 AM  
**From:** Carol Gallagher  
**Created By:** CAG@nrc.gov

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