



NUCLEAR ENERGY INSTITUTE

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U.S. Nuclear Regulatory
Commission
Washington, DC 20555

Desk Officer for NRC
(3150-0002 and 3150-new)
Office of Management and Budget
Washington, DC 20503

SUBJECT: Information Collection Requirements for Proposed Rule, *Power Reactor Security Requirements*; Proposed Rule (71 Fed. Reg. 62664, October 26, 2006), RIN 3150-AG63

The Nuclear Energy Institute¹ appreciates the opportunity to comment on the *Draft Supporting Statement for 10 CFR Part 73, Power Reactor Security Requirements Proposed Rule* (3150-0002 and 3150-new).

We do not understand the reason the supporting statement is a draft. The proposed rule is comprehensive and complex and we appreciate the effort required to estimate the costs for recordkeeping and reporting. However, we believe that when a rule is published for comment those costs should be well enough defined so that stakeholders can comment on a final statement. Further, the guidance for implementing the proposed rule is not available. Without the guidance it is not possible to completely understand how the NRC staff envisions that the many new rule provisions would actually be implemented at licensee sites. This makes it difficult for stakeholders to determine whether the burden estimates are accurate. We request OMB delay approval of the recordkeeping and reporting requirements until the statement is final and the NRC provides guidance documents to the stakeholders.

Four questions are posed at 71 FR 62844 regarding the statement: Our responses to the applicable questions are contained in Enclosures 1 through 3.

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plants designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

In summary however, we have three significant points regarding these questions. The first is that § 73.71(a), the requirement to report to NRC imminent or actual threats against a licensee facility no later than 15 minutes after discovery has no practical utility. It should be removed from the rule.

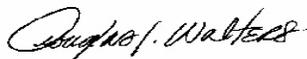
The second is that we believe the NRC significantly underestimated both the one time burden and the annual burden to licensees. The one time burden is underestimated by at least 61 million dollars and the annual burden is underestimated by at least 79 million dollars based on our review of several sections of the proposed rule. Given the complex nature of the proposed rule it was not possible to perform a complete detailed section-by-section analysis. Nonetheless, the *Draft Supporting Statement for 10 CFR Part 73, Power Reactor Security Requirements Proposed Rule* should be revised with industry input to provide an accurate burden estimate to OMB.

The final major point is that the supporting statement Table 1 contains approximately 30 pointers to § 73.55(a)(1) from other sections each requiring development of a separate procedure. It is difficult to understand how NRC concluded that the burden is only 62.23 hours given that nearly 30 procedures need to be developed, reviewed, and processed through the procedure review and approval process.

We appreciate the NRC's and OMB's consideration of the industry's comments.

Please contact John Rycyna at 202.739.8127 or me to discuss this comment.

Sincerely,



Douglas J. Walters

Enclosures

Response to Question 1 at 71 FR 62844

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

Industry Response: The industry believes the requirement in § 73.71(a) to report to NRC imminent or actual threats against a licensee facility no later than 15 minutes after discovery has no practical utility. The NRC is not a response organization and brings no resources to bear to resist an actual threat. The resources and time would be better spent communicating with local resources which actually would assist in defending the licensee facility.

Response to Question 2 at 71 FR 62844

Question: Estimate of the burden?

Industry Response: As documented below, we believe the one time burden is underestimated by at least 61 million dollars and the annual burden underestimated by at least 79 million dollars.

One Time Burden (All burden in hours. Cost calculated using \$217 per hour based on section 12 of the supporting statement.)

Section	NRC Total One Time Burden	Industry Burden per Site	Industry Total One Time Burden	Difference between NRC and Industry Estimate	Cost of Difference
73.55(a)(1)	5,414.3	120	7,800	2385.7	\$517,696.9
73.55(b)(4)	1,733.3	2,000	130,000	128,266.7	\$27,833,873.9
73.55(e)(2)	See note	100	6,500	6,500	\$1,410,500
73.55(f)(4)	See note	80	5,200	5,200	\$717,011.4
73.58(a)(1)–(2)	1,895.8	80	5,200	3,304.2	\$1,692,600
App. C, II.(i)(2)	See note	120	7,800	7,800	\$27,833,873.9
App. C, II.(j)(2)	1,733.3	2,000	130,000	128,266.7	\$51,7696.9
Total Difference				281,723.30	\$61,133,956.1

For § 73.55(a)(1), the industry believes a minimum of 120 hours would be spent at one site to develop, review, and process the contingency plan through the review and approval process. This includes many new requirements; the most significant concerning loss of large areas of the plant due to explosions or fires. In addition, the plan must provide emergency action levels to ensure that threats result in at least a notification of unusual event. The plan also must include specific procedures, guidance, and strategies describing cyber incident response and recovery. Total burden is result of site burden multiplied by 65 sites following NRC methodology.

For § 73.55(b)(4) the industry estimates the burden as essentially a full time equivalent position to develop or revise a complete set of security procedures in order to implement the many new requirements in the proposed rule. This is based on industry experience implementing NRC orders since 2001.

For § 73.55(e)(2), Table 1 includes no entry. However, the rule requires licensees retain all analyses, comparisons, and descriptions of the physical barriers and barrier systems used to satisfy the requirements of this section and protect these records as safeguards information. Section § 73.55(e)(4) contains a new requirement for owner controlled area barriers which will require analyses, comparisons, and descriptions which must be maintained as required in § 73.55(e)(2). Based on industry experience since 2001, it will take approximately 100 hours per site to generate this record.

For § 73.55(f)(4), Table 1 in the statement indicates “Burden shown under Appendix C, II.(i)(1).” However, Appendix C, II.(i)(1) is not included in Table 1. The industry believes a minimum of 80 hours would be spent at one site to develop, review, and process one procedure through the procedure review and approval process. Total burden is result of site burden multiplied by 65 sites following NRC methodology.

For § 73.58(a)(1)-(2), the industry believes a minimum of 80 hours would be spent at one site to develop, review, and process one procedure through the procedure review and approval process. Total burden is result of site burden multiplied by 65 sites following NRC methodology.

For Appendix C, (i)(1), Table 1 includes no entry. However, the industry estimates the burden as 120 hours to develop or revise a protective strategy in order to accommodate the many new requirements in the proposed rule. This is based on industry experience implementing NRC orders since 2001.

For Appendix C, (j)(2), the industry estimates the burden as essentially a full time equivalent position to develop or revise an integrated response plan in order to implement the many new requirements in the proposed rule. This is based on industry experience implementing NRC orders since 2001.

Annual Burden (All burden in hours. Cost calculated using \$217 per hour based on section 12 of the supporting statement.)

Section	NRC Total Annual Burden	Industry Burden per Site (See notes.)	Industry Total Annual Burden (See notes.)	Difference between NRC and Industry Estimate	Cost of Difference
73.18(o)(1)	201	15	975	774	\$167,958
73.55(e)(7)(iv)	1,300	2,000	130,000	128,700	\$27,927,900
73.55(e)(9)(iv)	195	40	2,600	2,405	\$521,885
73.55(m)(3)(ii)	650	80	5,200	4,550	\$987,350
73.55(n)(4)	1,560	80	5,200	3,640	\$789,880
73.56(i)(1)(v)(A)	1632	-	99,000	97,368	\$21,128,856
73.56(o)	2,600	2,000	130,000	127,400	\$27,645,800
Total Difference				364,837	\$79,169,629

For § 73.18(o)(1), the industry estimates 15 responses per site taking one hour rather than 12 minutes as in Table 4. The one hour includes the time for the security officer to be fingerprinted as well as for the technician taking the prints. It also includes time to submit the prints to the NRC and time to adjudicate the response from the NRC and record the results.

For § 73.55(e)(7)(iv), the industry estimates the burden as essentially a full time equivalent position between safety aspects and security responses. The recordkeeping is essentially the performance of and related documentation of the task required by the rule. Total burden is result of site burden multiplied by 65 sites following NRC methodology.

For § 73.55(e)(9)(iv), the industry believes a continuous communication with the agencies performing the function. Records of that communication must be maintained. The industry estimates 40 hours for this effort. Total burden is result of site burden multiplied by 65 sites following NRC methodology.

For § 73.55(m)(3)(ii), the industry believes maintenance of the required procedures requires field work in the plant as well as a review of operating experience and other documents. The procedure revision must then be reviewed and approved in accordance with site processes for security procedures. A minimum of 80 hours per site is required to complete this scope of work rather than 10 as NRC estimated.

For § 73.55(n)(4), the industry believes the periodic evaluation of the cyber-security program for effectiveness and the resulting update as needed to ensure protection against changes to internal and external threats will take far more than the 24 hours per site that NRC estimates. Based on industry experience with this type of

work, a minimum of 80 are required for a thorough review of the program and changes to it resulting from new technologies and new threats.

For § 73.56(i)(1)(v)(A), the industry analyzed only the impact of the five year psychological re-assessment. The time spent by one individual, the access staff and the psychologist is required to generate a record and is conservatively estimated at five hours. This includes two hours to take the screening test, access staff test monitoring time, test scoring time, scheduling time, time for the psychological interview and report, and travel time. In 2006, there were about 99,000 people badged (a monthly average) to access commercial nuclear power plants in the United States. To simplify, divide 99,000 by five to linearly model the process after the initial re-assessment, then multiply by five hours and the result is 99,000 hours annually.

For § 73.56(o), the industry estimates the burden as essentially one full time equivalent at each site plus five full time equivalents to operate the common vehicle. The result is then 2000 multiplied by 70 resulting in 140,000 hours

Response to Question 4 at 71 FR 62844

Question: How can the burden of the information collection be minimized, including the use of automated collection techniques?

Industry Response: The industry believes burden of the requirement in § 73.71(a) to report to NRC imminent or actual threats against a licensee facility no later than 15 minutes after discovery should be completely automated if it is not removed as suggested in Enclosure 1. The automatic feature should be a push button that notifies NRC that a threat exists. Only after the threat is neutralized should licensees be required to provide additional details to the NRC.