

AD 30-2

PDR 002



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

December 3, 1991

MEMORANDUM FOR: Michael Lesar, Chief  
Rules & Review Section  
Division of Freedom of Information and Publications  
Services  
Office of Administration

FROM: Brenda Jo. Shelton, Chief  
Information and Records Management Branch  
Division of Information Support Services  
Office of Information Resources Management

SUBJECT: REQUEST FOR COMMENT AND CONCURRENCE ON THE PROPOSED RULE,  
10 CFR 73, PHYSICAL FITNESS PROGRAM AND DAY FIRING  
QUALIFICATIONS FOR SECURITY PERSONNEL AT CATEGORY I FUEL  
CYCLE FACILITIES

Please release the subject rule for publication.

- The IRM concerns have been resolved.
- Change the Paperwork Reduction Act Statement as indicated on the attached.
- Add/Change the "Information Collection Requirements: OMB Approval" section as indicated on the attached.

A handwritten signature in cursive script, appearing to read "Brenda Jo. Shelton".

Brenda Jo. Shelton, Chief  
Information and Records Management Branch  
Division of Information Support Services  
Office of Information Resources Management



DOCKETS IN FILE  
PROPOSED RULE **PR-73**  
(56 FR 65024)

**AD30-2**  
**PDR 003**

DOCKETED  
USNRC

Nuclear Fuel Services, Inc.  
1205 Banner Hill Rd  
Erwin, TN 37650  
(615) 743-9141

'92 MAR -2 P3:09

24G-92-0026  
GOV-01-55-15

OFFICE OF SECRETARY  
DOCKETING & SERVICE

①

February 27, 1992

Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555

Attention: Docketing and Service Branch  
Reference: Federal Register/Vol. 56, No. 240  
Proposed Rules dated Friday, December 13, 1991

Gentlemen:

Enclosed are our comments to the reference above. Should you have any questions concerning this submittal, please feel free to contact Mr. Scott C. Johnson, Security Director.

Sincerely,

**NUCLEAR FUEL SERVICES, INC.**

Donald Paine, Ph.D.  
Vice President  
Safety & Regulatory Management

LKE/DP/ts

Attachment(s)

~~0306 0075~~

**Nuclear Fuel Services, Inc. (NFS)**  
**Physical Fitness Program and Day Firing Qualification**

NFS has carefully reviewed the proposed rules and would like to comment on aspects of both the fitness program and the firing qualification requirements.

**A. Physical Fitness**

As proposed, the fitness program rules need clarification on several items and, in NFS's opinion, revision on several items. First, paragraph (b)(11)(i) requires that the Tactical Response Team perform to certain levels on a fitness test and that all other armed positions must perform to a certain lesser level. NFS suggests that a third provision be made in performance testing criteria which exempts individuals who serve in static response positions (i.e., CAS/SAS operators, EECP guards, etc.). This seems consistent with the statement in paragraph (b)(10)(ii) which requires exercise programs to be consistent with the environments in which persons must be prepared to perform their duties.

Second, NFS requests that the wording be changed in the rules to allow flexibility in the assessment schedule. Currently, the regulation calls for fitness assessment each four months. A requirement which reads, "assessment three times each year," would allow for those individuals who were on sick leave, vacation, etc., when the four month period elapses.

NFS notes that the aerobic exercise requirement seems excessive in consideration of the actual performance criteria to be used. It is suggested that the training sessions specified in paragraph (b)(10)(i)(A) be brought more in line with the performance criteria by reducing the frequency and/or intensity of the aerobic sessions. NFS also suggests that development of different training regimes be allowed for each category of positions: TRT, Armed Response and Guard.

**B. Weapons**

The weapons qualification proposals require a level of proficiency that, while appropriate for TRT, seems excessive for armed guards and particularly for static response positions (CAS/SAS, EECP, etc.). NFS suggests that the same rationale used in allowing multiple physical fitness qualifications be used in development of multiple weapons qualifications. These qualifications, like the physical qualifications, would reflect consistency with the environments in which individuals must perform their duties.

In consideration of operational practicalities, NFS believes that failure to qualify should result in a three day suspension from armed duty rather than seven days as specified in the proposed rules. The real effect of this requirement is that failure to qualify may cause the person to be out of a job for seven days before he could re-qualify. Normally, NFS would utilize the non-qualified person in an unarmed position, but very few of those positions exist at our site. Since this situation could in turn, force a lay-off of the individual, a three day limit seems more reasonable.

Several specific issues should be addressed concerning the Minimum Day Firing Criteria:

- Based on past experience, handgun qualification should be limited to 25 yards or less. Long guns are available to the guard for shots of greater distance.
- The handgun course position description "reload with six rounds" should be changed to "reload." The automatic pistol shooter will reload in a different manner than the revolver shooter.
- The handgun course shows several target distances of 14 yards. These should be changed to 15 yards for consistency.
- Timing is not realistic for handgun stages 1 and 4 (string 3) when shooting a revolver. Additional time should be considered. A similar problem is noted in Rifle Stage 2 at 20 yards. Additional time should be considered.
- The shotgun course should allow use of 00 buckshot or rifled slugs. Our facility does not utilize rifled slugs.
- Clarification is required on the footnote 4 of the rifle course. It appears that this should read, "Stages 5 and 6 only are to be used for .30 caliber or larger rifles."
- The position column of the rifle course states: "safety on at the beginning of each string." NFS uses a substantially different version of half-load which requires that the weapon be uncocked with the magazine inserted. The Colt AR-15 requires cocking in order to use the safety selector, thus the difficulty with the NRC proposed course. NFS believes in the inherent safety of our unloaded configuration and our personnel have been trained extensively to operate in the method described. NFS requests that the position column of the rifle course be amended to allow use of NFS's half load configuration.

Finally, NFS believes that 180 days is not enough time to implement programs of such impact. It is requested that the time period for implementation be extended to one year from the date of NRC approval of the revised Fixed Site Physical Protection Plan.

NFS appreciates your consideration of these issues.



**Babcock & Wilcox**

a McDermott company

DOCKET NUMBER  
PROPOSED RULE

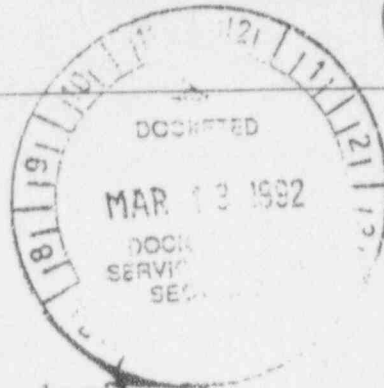
PR 73  
(56 FR 65024)

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PDR 004

Naval Nuclear Fuel Division

P. O. Box 785  
Lynchburg, Virginia 24505-0785  
(804) 522-6000



March 12, 1992

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Secretary  
U.S. Nuclear Regulatory Commission  
ATTN: Docketing and Service Branch  
Washington, DC 20555

Dear Sir:

Babcock and Wilcox, Naval Nuclear Fuel Division, has reviewed the proposed amendments to 10 CFR 73 which were published in Volume 56, Number 240 of the Federal Register dated December 13, 1991. Based on this review, B&W believes the proposed amendments are unnecessary, burdensome, and expensive. B&W believes the need for these additional requirements has not been sufficiently established and the financial impact upon licensees has not been adequately evaluated.

Specific comments which support our conclusions are enclosed. Suggestions for alternate, less burdensome requirements to achieve the stated objectives are included in our comments. However, as stated, B&W believes no additional requirements are warranted.

Sincerely,

*J. A. Conner*

J. A. Conner  
Vice President & General Manager

Enclosure

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Babcock & Wilcox, Naval Nuclear Fuel Division

Comments on Proposed Amendments to 10 CFR 73  
Security Personnel Performance  
FR 56240

A. Physical Fitness

1. The need for increased levels of physical fitness has not been clearly established. Referenced surveys conducted by California State University at Hayward (CSUH) indicated that some officers may not have sufficient cardiovascular reserve for TRT response. B&W is not aware of any performance testing which has shown response deficiencies.

Security officers are currently required to meet the physical performance standards required by Part 73, Appendix B. In addition to meeting these requirements, licensee security officers have consistently demonstrated acceptable levels of physical fitness while responding to realistic adversary encounters during required Tactical Response Exercises. These exercises are the most accurate evaluations of officers' abilities to perform during a tactical response situation which requires high intensity exertion in order to reach the scene of an incident or a designated post. B&W is not aware of any identified tactical exercise deficiencies related to physical fitness of security officers.

The level of performance demonstrated during tactical exercises indicates that additional requirements are unnecessary.

2. The costs of a supervised or monitored physical fitness program are excessive. Two basic options were evaluated for implementing the proposed physical fitness program. The first option requires building and equipping a fitness center. The costs of this option are shown below:

First Year Costs

Building & Equipment	\$ 400,000
Physical Examinations	44,600
Officer Pay	448,800
Administrative	30,000

\$ 923,400

Recurring Annual Costs

Officer Pay	\$ 448,800
Administrative	30,000
	<hr/>
	\$ 478,800

The second option requires memberships at a local commercially operated fitness center. Annual operating costs include the following:

Officer Pay	\$ 556,720
Annual Dues	46,200
Administrative	30,000
Mileage	48,048
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	\$ 680,968

Considering that no quantifiable improvement in security program performance will result from implementation of the proposed rule, this cost burden is considered to be excessive and unwarranted.

3. If a need for increased physical fitness can be established, B&W recommends that licensee responsibility be limited to employing only those personnel who are capable of meeting or exceeding physical performance testing criteria. This is the current philosophy applied to other areas of the physical protection program to determine initial and continued employment eligibility, e.g., educational development and current physical and mental qualifications.

Increasing and standardizing the minimum physical fitness testing criteria, as outlined in the proposed rule, will assure improved officer performance levels with minimum additional cost.

B. Firearms Qualification

1. The need for more stringent firearms qualification has also not been clearly established. No performance reasons for the proposed rule have been identified. Contrary to statements contained in the Federal Register Notice, the amended courses of fire represent a significant increase in difficulty compared to the day fire qualification courses currently approved by the NRC for use at Babcock

& Wilcox. Specifically, the proposed courses of fire contain more stringent time constraints, and require more weapon manipulation, reloading, and changes in firing position during timed sequences of fire. The proposed courses also require unsupported weak hand firing, head shots, firing from greater distances and more stringent scoring criteria.

Current approved qualification courses at B&W are patterned after those used by area public law enforcement agencies and are considered an adequate measure of officer proficiency. The difficulty in obtaining the minimum qualifying score on the proposed courses of fire constitutes an additional burden on the licensee where no need for more stringent criteria has been established.

B&W's experience indicates that adoption of the proposed courses will result in more failures to qualify, potentially creating a shortage of cleared, qualified personnel to perform armed security duties.

2. The most significant and potentially costly change in the proposed rule is the waiting periods between qualification attempts.

B&W assumes that the waiting periods are being proposed to preclude licensees from allowing an individual an unlimited number of attempts at qualification without retraining to correct identified deficiencies. However, no justification for this change is given in the Federal Register Notice and no documented retraining is required by the amendment.

Current commitments in the B&W Training & Qualification Plan require that an officer who fails to achieve the minimum qualifying firearms score undergo a documented period of retraining prior to subsequent attempts to qualify or requalify. It is B&W's position that this documented retraining is sufficient to meet the objectives of the proposed minimum waiting periods.

Extending the compulsory waiting period beyond the time required to retrain the officer will unnecessarily lengthen the time that an officer is limited in his ability to contribute to the security program. Needless overtime costs for other officers assigned to perform the suspended officers armed duties constitutes an additional cost burden for the licensee. The waiting period does not strengthen the security program nor increase the officer's confidence or effectiveness with assigned weapons.



By mandating suspension periods from armed officer status for a minimum of seven days, the NRC is apparently declaring:

- a) Seven days of retraining are required for officers who fail to qualify regardless of the reason for failure, actual score achieved, or type weapon(s) involved, or;
- b) The officer and licensee should incur some degree of hardship as a result of the officer's inability to qualify during one attempt.

The punitive implications of the waiting period are even more apparent considering the twelve month suspension from armed duty for officers who fail to qualify in three successive attempts. Any suspension from regular duties which exceeds the time required for the officer to improve his weaponcraft skills does not in any way improve the effectiveness of the security program.

Furthermore, recent regulatory upgrades have severely curtailed the number of unarmed security officers that Category I licensees can utilize at their sites. Unarmed status can be a crucial factor in determining whether an officer will be allowed to continue his employment.

B&W proposes that the amendment be revised to require that an officer who fails to achieve the minimum qualifying score be removed from armed officer duty and complete a documented period of retraining prior to any subsequent attempt to qualify or requalify. If the NRC needs additional assurance that unlimited qualification attempts are not being allowed, this can be accomplished by not allowing an officer to fire for record more than once on the same calendar day. If an officer fails to qualify on two (2) successive attempts, he would receive additional training and be required to fire two consecutive qualifying scores prior to being reassigned to armed officer duties.

Permitting only one attempt to qualify during any calendar day should be sufficient, when coupled with mandatory retraining and multiple consecutive passing scores, to provide the increased weapons proficiency levels that appear to be the goal of the proposed amendments. However, B&W believes no changes in the rule are warranted.

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(56 FR 65024)

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March 16, 1992

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Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
Attention: Docketing and Service Branch  
Washington, D. C. 20555

Subject: Proposed Revision to 10 CFR Part 73, Physical Fitness Programs and Day Firing Qualifications for Security Personnel at Category I Licensee Fuel Cycle Facilities; Duke Power Company Comments

Duke Power Company has reviewed the proposed revisions to the subject rule, and offers the following comments for consideration. While not directly affected by the proposed revisions, Duke feels that the goal of maintaining consistency among the various security-related rules is best served by providing comments at each stage of the rulemaking process.

The first comment relates to the proposed requirement (§ 73.46 (b)(11)(iii)) that "[w]ithin thirty days prior to participation in the physical performance testing, Tactical Response Team members, armed response personnel, and guards shall be given a medical examination... This requirement shall apply to initial and all subsequent physical performance testing." The requirement that the medical examination precede the performance testing by no more than 30 days, which previously appeared in Appendix B to Part 73, was deleted in 1988. What is the rationale for reinstating that requirement?

The second comment concerns the medical/fitness assessments required by § 73.46 (b)(10)(ii). Neither the methods for performing the assessment, nor any criteria for determining the acceptability of the results of the assessment, are specified. With regard to the methods to be used; is a physical assessment performed by medical personnel required, or is a questionnaire-type documentation of an individual's recent medical history and fitness-related activities sufficient? If the former is intended, it would result in unnecessarily repetitive medical evaluations.

An assessment to "determine the continued effectiveness of the ongoing physical fitness training program" (from § 73.46 (b)(10)(ii)) implies that the assessment will be compared to some defined acceptance criteria; and, where appropriate, corrective

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actions will be applied to ensure that the fitness training program will remain effective. No such criteria or actions are provided in the proposed rule. As such, the "assessment" becomes simply another record-keeping requirement. In summary, the requirement for the assessment of general fitness every four months should be deleted. Barring any sudden changes in an individual's medical status due to illness or injury, an annual medical examination is adequate to ensure the capability of TRT members, armed response persons, or guards, to fulfill their duties.

A final comment is offered relative to the fitness program qualification criteria specified in § 73.46 (b)(11)(i)-(v). Duke has undertaken an extensive effort to establish a validated program which meets the intent of the physical fitness requirements of 10 CFR 73. The proposed revisions do not recognize the existence of such validated programs, in that they prescriptively delineate qualification criteria for fitness tests which may or may not be part of a validated program. The rule should consider the equivalency of such programs validated by the NRC, by requiring that criteria specified in the rule, or equivalent criteria contained in validated programs, be met.

If there are any questions, or we may provide any additional comments, please contact Scott Gewehr (704/373-7581) or Ron Eller (704/373-2583).

Very truly yours,

  
H. B. Tucker

trtqual/sag

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March 16, 1992  
Page 3

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