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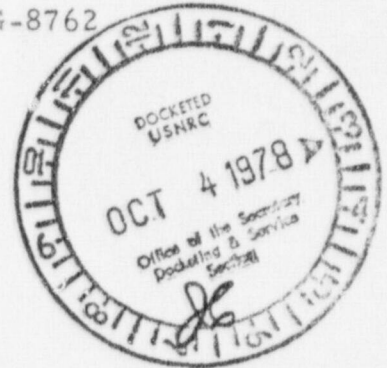
PR-70,73(43FR3532)

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

Attention: Docketing and Service Branch

Gentlemen:

Subject: Commentary on Revised Proposed Rule on Physical  
Protection of Plants and Materials, 10 CFR Part 73



We have reviewed the revised proposed amendments to the regulations for strengthened physical protection for facilities and Strategic Special Nuclear Materials recently published for public comment and submit the following comments and recommendations for your consideration.

First, we wish to call attention to our original comments on the proposed new security requirements as published on July 5, 1977, in which we expressed our concern about those proposed new regulations being "... another step in the continuing escalation of special nuclear material safeguards requirements". We now note that following the receipt and consideration of the extensive comments on that first publication, the currently proposed amendments are more restrictive with even more stringent requirements than in the originally proposed revisions in July 1977. In addition, there is no assurance that additional requirements in the form of license conditions will not continue to be imposed on individual licensees with the implementation of new regulations as interpreted by individual NRC staff. Since each new set of requirements imposes additions and physical modifications to existing facilities, licensees are faced with continuing increases in expenditures of resources, some of which become obviated as the regulatory requirements evolve. We submit that a concentrated effort must be directed to defining acceptable security requirements and systems so that licensees can plan facilities, budgets and schedules in a confident manner.

This proposed revision to 10 CFR 73 is so extremely comprehensive and involves so many approaches that it is impractical to make a totally quantitative assessment and evaluation of the operational requirements and impact within the comment period. More importantly, we submit that the impact can be ascertained only after a new detailed

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security plan and methodology have been developed and an indication of the NRC reception of such a plan has been received. However, we have attempted to develop preliminary implementation costs based on our interpretation of the proposed revisions as applied to our site and it appears that the amendments to 10 CFR 73 will require an initial expenditure of between \$1,000,000 and \$1,500,000 for clearances and facility modifications and additions and an increased annual operating cost of \$1,000,000 to \$1,500,000 on a program currently with an annual operation budget of approximately \$4,000,000 to \$5,000,000. Approximately 40 percent of our current annual operating budget is spent on Security Safeguards. We question seriously if the additional expenditure would significantly add to our current security system which has been determined satisfactory after numerous NRC audits.

Our specific comments in the order indicated on the established proposed amendments include the following:

1. In the Purpose and Scope of the regulation, Section 73.1, we recommend that the following paragraph be added:

"Nothing in these regulations shall be deemed to require any action by licensees which would be contrary to the laws of their respective jurisdictions."

While the sense of the above statement is included in the "Supplementary Information" with respect to the "Use of Deadly Force" on page 35323 of the August 9, 1978, Federal Register, and the "Use of Automatic Weapons" on page 35325, we feel that the matter is of sufficient concern that it should be set forth explicitly in the regulations themselves, rather than in the explanatory material related only to two sections thereof.

2. We are not convinced that the conspiracy defined in Section 73.20(a)(3) is a completely valid one. We believe that, through knowledge of background information, the normal selection procedures for individuals in responsible positions, and continuing observation of personnel job performance, the opportunity for "conspiracy between individuals in any position . . ." is severely limited and thus, the requirement for absolute prevention of theft or sabotage through any conspiracy is not completely necessary.
3. We would reiterate here that the proposed Sections 73.45(d) and (e) indicate the kind of knowledge and control of placement and movement of special nuclear material that can only be obtained by perpetual realtime inventory of all Special Nuclear Material. We understand from informal discussions with NRC staff that this is not the intent, and we believe it is not required to provide the necessary physical protection of the material.

4. Section 73.46(b)(4) requires "Each guard, watchman, armed response person, and other member of the security organization . . ." to requalify in accordance with Appendix B of this part at least every 12 months, and such requalification shall be documented. We submit that there are a number of "other members" in typical industrial security organizations who might have some involvement in the protection of special nuclear material and do not need to meet all the requirements of Appendix B; e. g., lock and key control personnel, investigators, identification badge fabricators, and this should be recognized here. In addition, we recommend that the frequency requirement for requalification be changed to read, "annually, with the period not to exceed 14 months". The requirement "at least every 12 months" generally forces the licensee to conduct his requalification at about 11 month intervals to avoid exceeding the "at least every 12 months" requirement, and this adds an unnecessary 8 to 10 percent per year to his training and qualification costs.
5. We believe the intent of Section 73.46(b)(5) is to prevent any one guard or alarm station operator from having "direct operational control over more than one of the redundant elements". Certainly management personnel in the Security organization have control over essentially the complete security system, and this should be recognized in the rulemaking.
6. We find the requirements in Section 73.46(c)(5) unduly redundant. Paragraph (c)(5)(ii) requires an additional "penetration resistant container" for the special nuclear material, already stored in a vault. With the requirements on container size and storage spacing and amount of material that can be stored in a single container because of criticality considerations, it is not at all clear that penetration-resistant (which is undefined) containers provide any real additional protection for the material.

It is also not clear just how much additional protection for the material is gained by having "barriers that provide significant delay" around the processing area and whether it is really required, since the material is always attended or locked in special compartments when not stored in a vault.
7. Section 73.46(d)(2) requires "NRC or DOE material access authorizations" for all individuals who will be given unescorted access to vital areas, material access areas and controlled access areas. While it is recognized that such access authorizations do not guarantee that all individuals will not become involved in efforts to divert or steal special nuclear material,




we believe that more credit should be given to this requirement than appears from the many subsystems, elements, components, and procedures included in measures specified in paragraphs (b) through (h) of Section 73.46.

8. Sections 73.46(d)(9), (10), (11), and (12), which require separate searches of individuals exiting material access areas, measurements of wastes by two individuals without access to material processing and storage areas, separation of shipping areas from processing and storage areas, and searches of packages exiting a material access area by two individuals not authorized access to the area, appear to be unduly stringent and not completely necessary to control the conspiracy opportunity, particularly with the access authorization requirements, together with the other preventative measures against the conspiracy.
9. The requirement in Section 73.46(h)(3) to have a "minimum of five guards available at the facility to fulfill assessment and response requirements" does not recognize the availability of backup security personnel and extensive external response capability by local law enforcement agencies. We submit that, with the type and extent of resources available to law enforcement and committed to response teams when requested by a security organization, that minimum availability is not required for acceptable protection of the Special Nuclear Material. We believe the proposed regulation should provide for this type of flexibility on the basis of site specific evaluations.

As we indicated here, these proposed amendments will have a major cost, schedule, performance, community and employee relations impact. We appeal for a thorough detailed evaluation of the physical protection requirements and methods of achieving the necessary objectives before publishing effective amendments to the regulations. Our concern is significantly great that we should like to personally discuss these matters at your convenience.

Sincerely yours,

  
R. G. Jones  
Vice President and Controller  
Finance and Administration  
Energy Systems Group