

**RULEMAKING ISSUE**  
**NOTATION VOTE**

**RESPONSE SHEET**


**TO:** Carrie M. Safford, Secretary  
**FROM:** Commissioner Crowell  
**SUBJECT:** SECY-22-0072: Proposed Rule: Alternative Physical Security Requirements for Advanced Reactors (RIN 3150-AK19)

Approved  Disapproved  Abstain  Not Participating

COMMENTS: Below  Attached  None

**Entered in STAR**

Yes   
No

  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Date 5/9/24

## **Commissioner Crowell's Comments on SECY-22-0072, "Proposed Rule: Alternative Physical Security Requirements for Advanced Reactors (RIN 3150-AK19)"**

In Staff Requirements Memorandum (SRM)-SECY-18-0076 "Staff Requirements – SECY-18-0076 – Options and Recommendation for Physical Security for Advanced Reactors," the Commission approved the staff's recommendation to proceed with a limited-scope rulemaking to revise 10 CFR 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," and its associated guidance to incorporate advanced reactor designs. The proposed revisions presented in SECY-22-0072 would provide specific alternative physical security requirements and guidance that could be used by advanced reactor applicants and licensees licensed under 10 CFR Parts 50 or 52 that can demonstrate that any consequences would be sufficiently low if presented with a threat.

I appreciate the staff's engagement with stakeholders as it developed a comprehensive list of recommended alternatives commensurate with the risks posed by advanced reactor technologies. Additionally, I join my colleagues in appreciating and recognizing the staff for providing differing views regarding the potential risks and consequences of implementing the proposed alternative requirements for advanced reactors. The agency's organizational culture and resulting work products are healthier when we have an environment that fosters staff engagement such as this.

I agree with aspects of the differing view on risks associated with licensee over-reliance on law enforcement (whether local, State, or Federal), expressed in enclosure 5. Uncertainties in this area are objectively higher based on a number of factors, including: currently limited operating experience with advanced reactors, the wide spectrum, and possible disparities, of responses that could be provided by law enforcement, and assumptions that a given security event requiring off-site law enforcement response is occurring in isolation, such that emergency responders are able to prioritize assistance for a licensee within the credited timeframes. Moreover, licensees and the NRC do not have jurisdiction over law enforcement. I am not persuaded by the reasoning in the disposition of this differing view that "there are limited circumstances where an advanced reactor applicant or licensee would need to credit reliance on law enforcement to demonstrate eligibility to use the proposed physical security alternatives." As we hear from advanced reactor developers, staffing costs are a large driver of plant economics, and licensees will be incentivized to reduce these however possible, including by increased reliance on local law enforcement. Accordingly, the staff should seek comment on this important topic. This could be accomplished either by augmenting the second specific request for comment or adding a new specific request for comment to address two items: (1) whether the proposed requirement in 10 CFR 73.55(s)(2)(ii) is adequate to address physical security risks that may be associated with crediting local law enforcement given reduced licensee security presence, and (2) whether the proposed requirement is adequate to address potential usage models involving a combination of licensee security staff and law enforcement (e.g., the "hybrid approach" referred to in the paper).

I approve the publication of this draft proposed rule for public comment, subject to including the additional questions for comment that I have described. I believe there are provisions in this proposed rule that would appropriately recognize and accommodate the inherent differences between large light water reactors and advanced reactors given that these designs are likely to have attributes which may result in slower accident progression and thus reduced radiological risk to public health and safety. The existing physical security regulations not otherwise addressed by this proposed rule would remain as an important framework to protect against the design basis threat of radiological sabotage. The staff has provided the Commission with an acceptable proposed limited-scope rulemaking that would retain the current overall physical security framework in 10 CFR 73.55; provide flexibility for advanced reactors; and recognize that smaller power outputs, a smaller inventory of fission products, advanced fuels, and the incorporation of simplified, inherent, or passive design features can reduce the potential health and safety risks posed by advanced reactor technology.

Additionally, I note the connection between this proposed rule and another security-related proposed rule, "Technical Evaluation of the Security Bounding Time Concept for Operating Nuclear Power Plants" (SECY-20-0070), which provided an alternative for reliance on law enforcement or offsite armed responders to fulfill interdiction and neutralization functions. Consistent with my vote on SECY-20-0070, providing for public comment as related to reliance on law enforcement in this proposed rule will allow us to continue to assess how to appropriately credit law enforcement resources.