

From: [YOUNG, David](#)
To: [RulemakingComments Resource](#)
Subject: [External_Sender] Nuclear Energy Institute Comments on Proposed Rule, "Law Enforcement Response in Power Reactor Physical Protection Programs" [Docket ID NRC-2024-0167]
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THE ATTACHMENT CONTAINS THE COMPLETE CONTENTS OF THE LETTER

March 3, 2025

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
ATTN: Rulemakings and Adjudications Staff

Subject: Nuclear Energy Institute Comments on Proposed Rule, "Law Enforcement Response in Power Reactor Physical Protection Programs" [Docket ID NRC-2024-0167]

Project Number: 689

Submitted via Regulations.gov

Dear Rulemakings and Adjudications Staff:

On behalf of the nuclear energy industry, and as requested by the U.S. Nuclear Regulatory Commission (NRC) in 90 Fed. Reg. 5743, the Nuclear Energy Institute (NEI)^[1] is pleased to submit comments on the Proposed Rule, "Law Enforcement Response in Power Reactor Physical Protection Programs." Nuclear power plants continue to be among the best-protected private sector facilities in the nation, possessing robust physical defenses, redundant security systems, and highly trained security officers to implement contingency plans. NEI appreciates the NRC's efforts to provide "flexibility to applicants and licensees by allowing them to consider the assistance of law enforcement responders as part of the physical protection program." We believe this approach is prudent and offer the following comments for NRC's consideration.

We appreciate the opportunity to provide our perspectives on this important regulatory matter. If you have questions or require additional information, please contact David Young at dly@nei.org.

Sincerely,

David Young
Senior Technical Advisor
Security and Incident Preparedness

[1] The Nuclear Energy Institute (NEI) is responsible for establishing unified policy on behalf of its members relating to matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect and engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations involved in the nuclear energy industry.

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1. As noted in the statements of consideration, the NRC intends to issue regulatory guidance for developing an acceptable site-specific Security Bounding Time (SBT) and the associated response plans with law enforcement agencies. The NRC also intends to issue regulatory guidance to assist licensees in determining whether Commission approval would be required prior to implementing an SBT at a power reactor facility. This guidance will describe a method that the NRC would consider

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acceptable for determining whether a proposed SBT implementation would decrease the safeguards effectiveness of the plan, and therefore require prior NRC review and approval.

NEI supports the development of this guidance and stands ready to participate in any NRC public meetings conducted to solicit stakeholder comments. When developing the SBT implementation guidance, we ask that the staff:

- Consider the approach developed by NEI and submitted to the NRC in NEI White Paper, "Determination of a Site-Specific Security Bounding Time," dated January 2019;
 - Incorporate the principles found in NUREG/KM-0016, "Be riskSMART," so that reasonable assurance is provided; and
 - Consider the SBT-related aspects of the guidance for the "Alternative Physical Security Requirements for Advanced Reactors" proposed rule and the "Risk-Informed, Technology-Inclusive Regulatory Framework for Advanced Reactors" proposed rule, including the NEI comments on both of these proposed rules.
2. The NRC should consider expanding the interpretive rule to allow implementation of site-specific SBTs at Category I Fuel Cycle Facilities (FCFs). Like power reactor facilities, FCFs must be able to protect against the Design Basis Threat of Radiological Sabotage. In addition, the relevant security requirements for these facilities, listed in 10 CFR 73.45 and 73.46, are similar to those found in § 73.55 for power reactors. For example, both §§ 73.55(k)(9) and 73.46(h)(2) require licensees to have response arrangements and agreements with local law enforcement agencies. Making the requested change would allow FCFs to realize the same SBT-related benefits as those described for power reactor facilities.

We appreciate the opportunity to provide our perspectives on this important regulatory matter. If you have questions or require additional information, please contact David Young at dly@nei.org.

Sincerely,



David Young
Senior Technical Advisor
Security and Incident Preparedness

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