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NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

RIN 3150-AF36

Changes to Nuclear Power Plant Security Requirements Associated With Containment Access Control

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to delete certain security requirements for controlling the access of personnel and materials into reactor containment during periods of high traffic such as refueling and major maintenance. This action relieves nuclear power plant licensees of the requirement to separately control access to reactor containments during these periods. Deletion of this requirement decreases the regulatory burden for the licensees without degradation of physical security.

EFFECTIVE DATE: October 10, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Sandra Frattali, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6261, e-mail sdf@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

In 1991, the Commission re-examined the NRC's nuclear power plant security requirements associated with an internal threat contained in 10 CFR Part 73, "Physical Protection of Plants and Materials." In a report to the Commission dated August 4, 1992 (SECY-92-272), the NRC staff identified requirements that were redundant, out of date, or marginal to safety. Following public meetings held to discuss these

requirements, the NRC staff submitted a subsequent report to the Commission dated December 12, 1993 (SECY-93-326), with recommended changes to § 73.55. One of the recommended changes was the deletion of § 73.55(d)(8), which contained a requirement for separate access control to reactor containments, which is unneeded, and a requirement for locks and alarms, which is contained elsewhere in 10 CFR Part 73. The Commission has decided to remove this paragraph to provide burden relief to licensees without compromising the physical protection of licensed activities against radiological sabotage. The other recommendations contained in SECY-93-326 will be addressed in another NRC rulemaking action.

Proposed Rule and Public Comments

On May 10, 1995 (60 FR 24803), the NRC published, with a public comment period of 30 days, a proposed rule that would delete § 73.55(d)(8). Twenty-two comments were received: 20 from utilities, 1 from an industry group, and 1 from a labor union. All commenters supported the proposed rule. The commenters agreed that the proposed action would reduce the regulatory burden but would not degrade the physical security of nuclear power plants. The industry group further commented that significant savings could result from this rulemaking. One of the utilities commented that it would enable utilities to make more efficient use of their resources.

One utility questioned whether the same relief would apply when access to containment is from an area provided with access controls and other security features but not formally designated as a vital area. The same relief would not generically apply to these situations because the level of control varies for each area. However, the NRC will consider each situation on a case-by-case basis.

Another utility asked if its approved security plan, which already had requirements for access to containment directly from a protected area, was affected by this rulemaking. This rule affects access controls only from vital areas into containment. This rule does not affect access controls from protected areas into containment, thus, it does not affect any approved security plan for access to containment from a protected

area. When access from a protected area into containment is necessary, existing access controls must remain in effect at the entrances to containment.

Final Rule

Based on the public comments, the NRC staff considers that no change to the final rule is necessary. Thus, the final rule remains the same as the proposed rule.

The final rule deletes paragraph (d)(8) of § 73.55. This amendment relieves licensees of an unnecessary burden, without degrading physical security. Moreover, since security personnel are no longer required to be assigned to a radiation control area, there will be a decrease in occupational exposure. NRC notes that this change applies only to access control from vital areas into reactor containment for the purpose of physical security and does not relieve a licensee of requirements established for the purpose of radiological control and emergency planning.

Environmental Impact: Categorical Exclusion

The Commission has determined that this rule is the type of action described as a categorical exclusion in 10 CFR 51.22 (c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150-0002.

Regulatory Analysis

Elimination of § 73.55(d)(8) relieves licensees of the requirement to station security personnel at entrances to containment during periods of high traffic. The potential savings to the licensees from the elimination of this requirement are substantial. Assuming, on the average, two security personnel are needed to control access to containment during the time the reactor is open, and assuming that the containment is open 50 days per major outage, with 2 major outages every 3 years, and a wage of approximately \$30 per hour (loaded) for security personnel,

the total savings per reactor per year will be:

$$2 \text{ guards/reactor} \times 50 \text{ days/outage} \times \frac{2}{3} \text{ outages/year} \times \$30/\text{hr-guard} \times 24 \text{ hrs/day} = \$48,000/\text{year-reactor}.$$

With 110 operating nuclear power reactors, the total savings for the industry are potentially \$5,280,000/year. Moreover, deletion of § 73.55(d)(8) results in a decrease in occupational exposure because security personnel will no longer be required to be within the radiation controlled area directly adjacent to containment.

Reactor containment or adjacent areas that provide access to containment are already vital areas. Thus, access of personnel into containment is already controlled. In addition, having security personnel control access of materials into containment provides no substantial benefit since material access into the protected area is already controlled and the containment is located within the protected area. Furthermore, after reactor containment is secured following periods of heavy traffic, existing NRC requirements for walkdown inspections and security searches apply and assure the security of the containment. Hence, the requirement that access into the reactor containment itself be separately controlled provides little or no additional security.

In addition, because a reactor containment is a vital area, it is subject to the vital area requirements for locks and alarms contained in other sections of § 73.55, as well as all other policies and procedures related to vital areas and equipment. Thus, the requirement for locks and alarms in paragraph (d)(8) is redundant.

Based on the above discussion, the NRC concludes that eliminating § 73.55(d)(8) provides relief to the licensees and lowers occupational exposure without compromising physical protection of licensed activities against radiological sabotage at nuclear power reactors.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule affects only licensees authorized to operate nuclear power reactors. These licensees do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act, or the size standards established by the NRC (10 CFR 2.810).

Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule because this amendment does not impose new requirements on existing 10 CFR Part 50 licensees. It is voluntary and should the licensee decide to implement this amendment, it is a reduction in burden to the licensee. Therefore, a backfit analysis has not been prepared for this amendment.

List of Subjects in 10 CFR Part 73

Criminal penalties, Hazardous materials transportation, Export, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 73.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended; sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended; sec. 204, 88 Stat. 1242, as amended, 1245; sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

§ 73.55 [Amended]

2. In § 73.55, paragraph (d)(8) is removed and paragraph (d)(9) is redesignated as (d)(8).

Dated at Rockville, Maryland, this 21st day of August 1995.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 95-22187 Filed 9-6-95; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 201

[Release No. 34-36174; File No. S7-40-92]

RIN 3235-AF91

Rules of Practice; Technical Amendments and Corrections

AGENCY: Securities and Exchange Commission.

ACTION: Technical amendments and corrections to final rules.

SUMMARY: This document contains technical amendments and corrected comments for the Securities and Exchange Commission's Rules of Practice adopted on June 9, 1995 and published Friday, June 23, 1995 (60 FR 32738). The Rules of Practice are the procedural rules that govern Commission administrative proceedings.

EFFECTIVE DATE: September 5, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew Z. Glickman, Office of the General Counsel at (202) 942-0870; U.S. Securities and Exchange Commission; 450 Fifth Street, NW., Stop 6-6; Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

Background

The Commission recently consolidated its inspection and examination functions from the Divisions of Market Regulation and Investment Management into a new office—the Office of Compliance Inspections and Examinations. See 60 FR 39643 (Aug. 3, 1995) (establishment of office and delegation of authority). This release contains technical amendments to reflect these changes in the Rules of Practice and corrections to the comments associated with the changed rules. This release also corrects a citation error.

Comments (a) and (b) to Rule 230 (which originally appeared in the Supplementary Information section on page 32762, in the tenth line of the first column) are corrected to read as follows:

Comment (a): A respondent's right to inspect and copy documents under this rule is automatic; the respondent does not need to make a formal request for access through the hearing officer. Generally, the rule requires that the Division of Enforcement make available for inspection and copying documents obtained by the Division from persons not employed by the Commission during the course of its investigation prior to the institution of proceedings.